



**International Competitive Bidding (ICB)
(RE-TENDER)
BIDDING DOCUMENT NO: IGM/NGS – LOT # I
Single Stage - One Envelope Bidding Procedure
FOR
Procurement of
Plant, Design, Supply, Civil Works, Installation, Testing &
Commissioning of (Coastal/Non-Coastal areas)**

Static VAR Compensator (SVC), (+150/-50 MVAR capacity) along with allied equipment at 132kV Grid Stations at Gawadar Old and Panjgoor, on Turnkey Basis, for interconnection of Isolated Gawadar/Makran area with National Grid System of Pakistan

July – 2020

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IGM/NG- LOT # II

Single Stage- One Envelope Bidding Procedure Documents Structure Flowchart

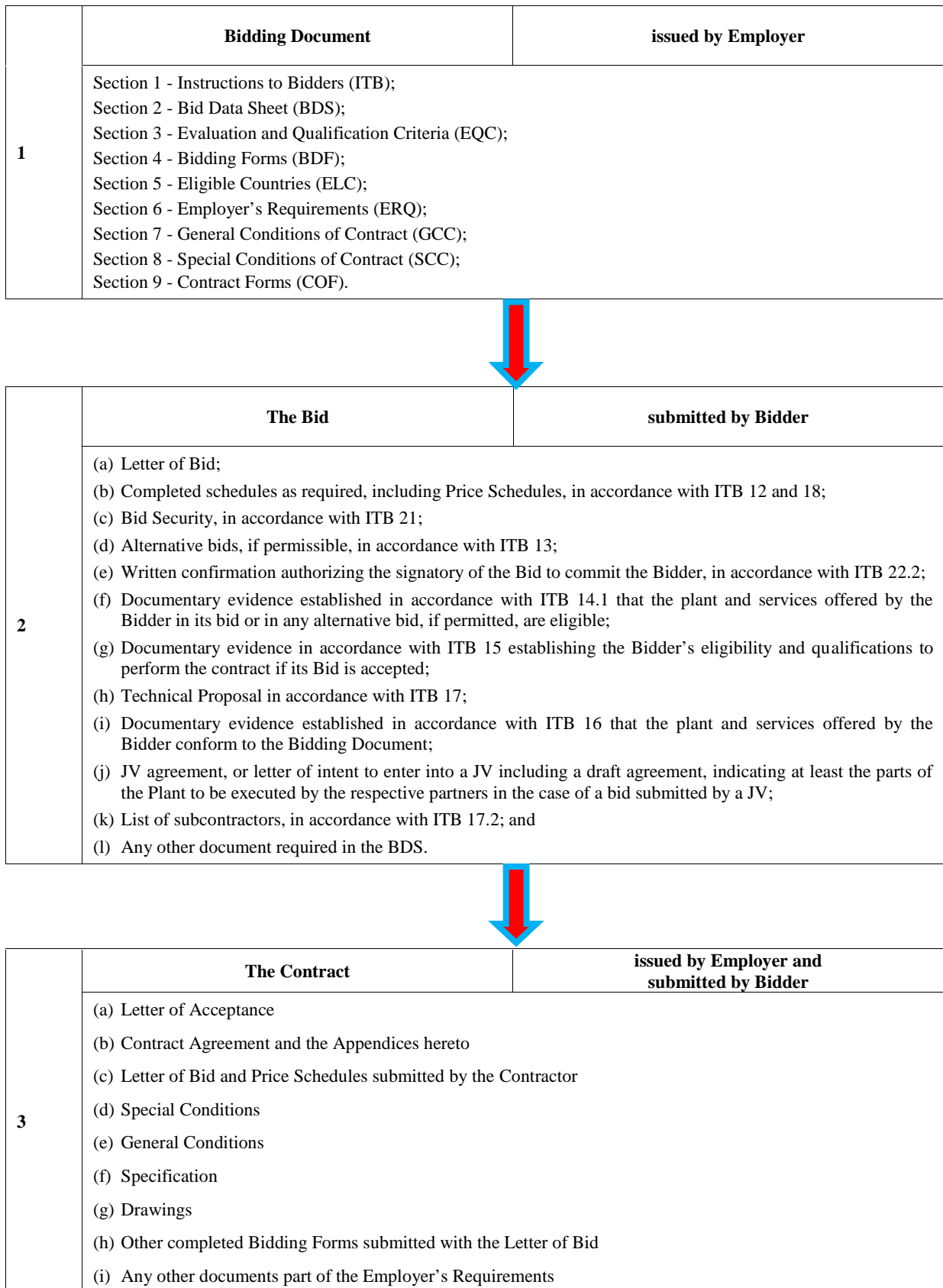


Table of Contents - Summary Description

VOLUME-I

PART I BIDDING PROCEDURES

Section 1 - Instructions to Bidders (ITB) -----	1-1
This section specifies the procedures to be followed by Bidders in the preparation and submission of their Bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of contract.	
Section 2 - Bid Data Sheet (BDS) -----	2-1
This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section 1 - Instructions to Bidders.	
Section 3 - Evaluation and Qualification Criteria (EQC) -----	3-1
This Section contains all the criteria that the Employer shall use to evaluate bids and qualify Bidders. In accordance with ITB 36 and ITB 38, no other methods, criteria and factors shall be used. The Bidder shall provide all the information requested in the forms included in Section 4 (Bidding Forms).	
Section 4 - Bidding Forms (BDF) -----	4-1
This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid.	
Section 5 - Eligible Countries (ELC) -----	5-1
This section contains the list of eligible countries.	

PART II REQUIREMENTS

Section 6 - Employer's Requirements (ERQ) -----	6-1
This Section contains the Specification, the Drawings, and supplementary information that describe the plant and services to be procured.	

PART III CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section 7 - General Conditions of Contract (GCC) -----	7-1
This Section contains the general clauses to be applied in all contracts. These Conditions are subject to the variations and additions set out in Section 8 (Special Conditions of Contract).	

Section 8 - Special Conditions of Contract (SCC) ----- 8-1
This Section supplements the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The clause number of the SCC is the corresponding clause number of the GCC.

Section 9 - Contract Forms (COF)----- 9-1
This Section contains the Letter of Acceptance, the Contract Agreement and Appendices to the Contract Agreement which, once completed, will form part of the Contract.

List of IEE's and Environmental Management Plan

VOLUME-II

- 1- TECHNICAL SPECIFICATIONS**
- 2- CIVIL WORKS SPECIFICATIONS**
- 3- DRAWINGS**

Section 1 - Instructions to Bidders

Table of Clauses

A. General.....	1-3
1. Scope of Bid	1-3
2. Source of Funds	1-3
3. Fraud and Corruption	1-3
4. Eligible Bidders.....	1-4
5. Eligible Plant, and Services.....	1-5
B. Contents of Bidding Document.....	1-6
6. Sections of Bidding Document.....	1-6
7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting.....	1-6
8. Amendment of Bidding Document	1-7
C. Preparation of Bids	1-7
9. Cost of Bidding	1-7
10. Language of Bid	1-7
11. Documents Comprising the Bid.....	1-8
12. Letter of Bid and Schedules	1-8
13. Alternative Bids	1-8
14. Documents Establishing the Eligibility of Plant and Services	1-9
15. Documents Establishing the Eligibility and Qualifications of the Bidder	1-9
16. Documents Establishing Conformity of the Plant and Services	1-9
17. Technical Proposal, Subcontractors	1-9
18. Bid Prices and Discounts	1-10
19. Currencies of Bid and Payment	1-12
20. Period of Validity of Bids	1-12
21. Bid Security/Bid Securing Declaration	1-12
22. Format and Signing of Bid.....	1-13
D. Submission and Opening of Bids	1-13
23. Submission, Sealing and Marking of Bids.....	1-13
24. Deadline for Submission of Bids	1-14

25. Late Bids 1-14

26. Withdrawal, Substitution, and Modification of Bids 1-14

27. Bid Opening 1-15

E. Evaluation and Comparison of Bids 1-15

28. Confidentiality 1-15

29. Clarification of Bids 1-16

30. Deviations, Reservations, and Omissions 1-16

31. Determination of Responsiveness 1-16

32. Nonmaterial Nonconformities 1-16

33. Correction of Arithmetical Errors 1-17

34. Conversion to Single Currency 1-17

35. Margin of Preference 1-17

36. Evaluation of Bids 1-17

37. Comparison of Bids 1-19

38. Eligibility and Qualification of the Bidder 1-19

39. Employer's Right to Accept Any Bid, and to Reject Any or All Bids 1-19

F. Award of Contract 1-19

40. Award Criteria 1-19

41. Notification of Award 1-20

42. Signing of Contract 1-20

43. Performance Security 1-20

Section 1 - Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 In connection with the Invitation for Bids indicated in the Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues this Bidding Document for the procurement of plant and services as specified in Section 6 (Employer's Requirements). The name, identification, and number of lots (contracts) of the International Competitive Bidding (ICB) are provided in the BDS.
 - 1.2 Unless otherwise stated, throughout this Bidding Document definitions and interpretations shall be as prescribed in Section 7 (General Conditions of Contract).
2. **Source of Funds**
 - 2.1 The Employer shall finance the project both for the foreign component of the list of goods & services as well as erection & civil works etc. in Pak Rupees from Federal PSDP.
3. **Fraud and Corruption**
 - 3.1 Employer Anticorruption Policy requires that Bidders, suppliers, and contractors under contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, :
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice" means 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) "coercive practice" means 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;
 - (iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
 - (v) "integrity violation" means any act, as defined under QESCO's Integrity Principles and Guidelines, which violates QESCO's Anticorruption Policy including corrupt, fraudulent, coercive, or collusive practice, abuse, and obstructive practice;
 - (vi) "obstructive practice" means (a) deliberately destroying, falsifying, altering or concealing of evidence material to QESCO's investigation; (b) making false statements to investigators in order to materially impede a QESCO's investigation; (c) failing to comply with requests to provide information, documents or records in connection with an Office of Anticorruption and Integrity (OAI) investigation; (d) 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 (e) materially impeding Employer contractual rights of audit or access to information.

- (b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;
- (c) will have the right to require that a provision be included in bidding documents and in contracts financed by Employer, requiring Bidders, suppliers and contractors to permit Employer or its representative to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by Employer.

3.2 Furthermore, Bidders shall be aware of the provision stated in the General Conditions of Contract (GCC 9.6 and 42.2.1 (c)).

4. Eligible Bidders

4.1 A Bidder may be a natural person, private entity, government-owned entity - subject to ITB 4.5 - or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV).

- a) A foreign firm can only participate as a Joint Venture (JV) with a Pakistani Company in accordance with Pakistan Engineering Council (PEC) byelaws. S.R.O. 568(I)/87 #7 (Selection and Tendering process)
- b) The Bidder including all members of joint venture must be duly licensed by Pakistan Engineering Council (PEC) in (C-1) and above category having specialization code of CE-10, EE-05 renewed for the year 2019-20. However in case of a foreign bidder (as a member of JV), the foreign bidder shall obtain license in (FC-1) and above category from Pakistan Engineering Council in accordance with PEC Bye-Laws before start of any activity and submit an undertaking to this effect.
- c) All partners shall be jointly and severally liable in case of a JV. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the partners of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.

4.2 A Bidder, and all partners constituting the Bidder, shall have a nationality of an eligible country, in accordance with Section 5 (Eligible Countries). A Bidder shall be deemed to have the nationality of a country if the Bidder is a national or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.

4.3 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 be in a conflict of interest with one or more parties in this bidding process if, including but not limited to:

- (a) they have controlling shareholders in common; or
- (b) they receive or have received any direct or indirect subsidy from any

of them; or

- (c) they have the same legal representative for purposes of this bid; or
- (d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to material information about or improperly influence the bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
- (e) a Bidder participates in more than one bid in this bidding process, either individually or as a partner in a joint venture, except for alternative offers permitted under ITB Clause 13. This will result in the disqualification of all Bids in which it is involved. However, subject to any finding of a conflict of interest in terms of ITB 4.3 (a) - (d) above, this does not limit the participation of a Bidder as a subcontractor in another bid or of a firm as a subcontractor in more than one bid; or
- (f) a Bidder or any affiliated entity, participated as a consultant in the preparation of the design or technical specifications of the plant and services that are the subject of the bid; or
- (g) a Bidder was affiliated with a firm or entity that has been hired (or is proposed to be hired) by the Employer as Project Manager for the contract.

4.4 A firm shall not be eligible to participate in any procurement activities while under sanction by Employer pursuant to its Anticorruption Policy (see ITB 3), whether such sanction was directly imposed by Employer, or imposed by Employer pursuant to the Agreement for Mutual Enforcement of Debarment Decisions. A bid from a sanctioned or cross-debarred firm will be rejected.

4.5 Government-owned entities in the Employer's country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under the principles of commercial law, and that they (iii) are not dependent agencies of the Employer.

4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.

4.7 Firms shall be excluded if 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 Employer's country prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.

4.8 In case a prequalification process has been conducted prior to the bidding process, this bidding is open only to prequalified Bidders.

5. Eligible Plant, and Services

5.1 The plant and services to be supplied under the Contract shall have their origin in eligible source countries as defined in ITB 4.2 above and all expenditures under the Contract will be limited to such plant, and services.

5.2 For purposes of ITB 5.1 above, "origin" means the place where the plant, or component parts thereof are mined, grown, produced or manufactured, and from which the services are provided. Plant components are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product

results that is substantially in its basic characteristics or in purpose or utility from its components.

B. Contents of Bidding Document

- 6. Sections of Bidding Document**
- 6.1 The Bidding Document consists of Parts I, II, and III, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.
- PART I Bidding Procedures**
- Section 1 - Instructions to Bidders (ITB)
 - Section 2 - Bid Data Sheet (BDS)
 - Section 3 - Evaluation and Qualification Criteria (EQC)
 - Section 4 - Bidding Forms (BDF)
 - Section 5 - Eligible Countries (ELC)
- PART II Requirements**
- Section 6 - Employer's Requirements (ERQ)
- PART III Conditions of Contract and Contract Forms**
- Section 7 - General Conditions of Contract (GCC)
 - Section 8 - Special Conditions of Contract (SCC)
 - Section 9 - Contract Forms (COF)
- 6.2 The Invitation for Bids issued by the Employer is not part of the Bidding Document.
- 6.3 The Employer is not responsible for the completeness of the Bidding Document and its addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
- 7. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting**
- 7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS or raise his enquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. The Employer will respond to any request for clarification, provided that such request is received no later than 21 days prior to the deadline for submission of bids. The Employer's response shall be in writing with copies to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 8 and ITB 24.2.
- 7.2 The Bidder is advised to visit and examine the site where the plant is to be installed 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 the provision of plant and services. 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 The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for in the BDS. 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, as far as possible, to submit any questions in writing, to reach the Employer not later than one week before the pre-bid meeting.
- 7.6 Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 6.3. 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.
- 7.7 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 communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 6.3.
- 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 24.2

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 not 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 the English language. 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 into the English language, in which case, for purposes of interpretation of the Bid, such translation shall govern.

- 11. Documents Comprising the Bid**
- 11.1 The Bid submitted by the Bidder shall comprise the following:
- (a) Letter of Bid;
 - (b) completed schedules as required, including Price Schedules, in accordance with ITB 12 and 18;
 - (c) Bid Security or Bid Securing Declaration, in accordance with ITB 21;
 - (d) alternative bids, if permissible, in accordance with ITB 13;
 - (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 22.2;
 - (f) documentary evidence establishing in accordance with ITB 14.1 that the plant and services offered by the Bidder in its bid or in any alternative bid, if permitted, are eligible;
 - (g) documentary evidence in accordance with ITB 15 establishing the Bidder's eligibility and qualifications to perform the contract if its Bid is accepted;
 - (h) Technical Proposal in accordance with ITB 17.
 - (i) documentary evidence establishing in accordance with ITB 16 that the plant and services offered by the Bidder conform to the Bidding Document;
 - (j) in the case of a bid submitted by a JV, JV agreement, or letter of intent to enter into a JV including a draft agreement, indicating at least the parts of the Plant to be executed by the respective partners;
 - (k) List of subcontractors, in accordance with ITB 17.2; and
 - (l) any other document required in the BDS.
- 12. Letter of Bid and Schedules**
- 12.1 The Bidder shall complete the Letter of Bid, including the appropriate Price Schedules, using the relevant forms furnished in Section 4 (Bidding Forms). The forms must be completed as instructed in each form.
- 13. Alternative Bids**
- 13.1 The BDS indicates whether alternative bids are allowed. If they are allowed, the BDS will also indicate whether they are permitted in accordance with ITB 13.3, or invited in accordance with ITB 13.2 and/or ITB 13.4.
- 13.2 When alternatives to the Time Schedule are explicitly invited, a statement to that effect will be included in the BDS, and the method of evaluating different time schedules will be described in Section 3 (Evaluation and Qualification Criteria).
- 13.3 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the Employer's requirements as described in the bidding document must also provide: (i) a price at which they are prepared to offer a plant meeting the Employer's requirements; and (ii) all information necessary for a complete evaluation of the alternatives by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed installation methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.
- 13.4 When bidders are invited in the BDS to submit alternative technical solutions for specified parts of the facilities, such parts shall be described in Section 6 (Employer's Requirements). Technical alternatives for the

- specific parts of the facilities that comply with the performance and technical criteria specified for the plant and services shall be considered by the Employer on their own merits, pursuant to ITB 36.
- 14. Documents Establishing the Eligibility of Plant and Services**
- 14.1 To establish the eligibility of the plant and services in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section 4 (Bidding Forms).
- 15. Documents Establishing the Eligibility and Qualifications of the Bidder**
- 15.1 To establish its eligibility and qualifications to perform the Contract in accordance with Section 3 (Evaluation and Qualification Criteria), the Bidder shall provide the information requested in the corresponding information sheets included in Section 4 (Bidding Forms).
- 15.2 Domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility as described in ITB 35.
- 16. Documents Establishing Conformity of the Plant and Services**
- 16.1 The documentary evidence of the conformity of the plant and services to the Bidding Document may be in the form of literature, drawings and data, and shall furnish:
- (a) a detailed description of the essential technical and performance characteristics of the plant and services, including the functional guarantees of the proposed plant and services, in response to the Specification;
 - (b) a list giving full particulars, including available sources, of all spare parts and special tools necessary for the proper and continuing functioning of the plant for the period named in the BDS, following completion of plant and services in accordance with provisions of contract; and
 - (c) a commentary on the Employer's Specification and adequate evidence demonstrating the substantial responsiveness of the plant and services to those specifications. Bidders shall note that standards for workmanship, materials and equipment designated by the Employer in the Bidding Document are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The Bidder may substitute alternative standards, brand names and/or catalog numbers in its bid, provided that it demonstrates to the Employer's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Specification.
- 16.2 In order to facilitate evaluation of bids, deviations, if any, from the terms and conditions or Specification shall be listed as indicated in ITB 18.2.
- 17. Technical Proposal, Subcontractors**
- 17.1 The Bidder shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section 4 (Bidding Forms), in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the work requirements and the completion time.
- 17.2 For major items of plant and services as listed by the Employer in Section 3 (Evaluation and Qualification Criteria), which the Bidder intends to purchase or subcontract, the Bidder shall give details of the name and nationality of the proposed Subcontractors, including manufacturers, for each of those items. In addition, the Bidder shall include in its bid

information establishing compliance with the requirements specified by the Employer for these items. Bidders are free to list more than one Subcontractor against each item of the plant and services. Quoted rates and prices will be deemed to apply to whichever Subcontractor is appointed, and no adjustment of the rates and prices will be permitted.

- 17.3 The Bidder shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB 4, and that any plant, or services to be provided by the Subcontractor comply with the requirements of ITB 5 and ITB 15.1

18. Bid Prices and Discounts

- 18.1 Unless otherwise specified in the BDS and/or Section 6 (Employer's Requirements), bidders shall quote for the entire plant and services on a "single responsibility" basis such that the total bid price covers all the Contractor's obligations mentioned in or to be reasonably inferred from the bidding document in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation and completion of the plant. This includes all requirements under the Contractor's responsibilities for testing, pre-commissioning and commissioning of the plant and, where so required by the bidding document, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the Bidding Document, all in accordance with the requirements of the General Conditions. Items against which no price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items.

- 18.2 Bidders are required to quote the price for the commercial, contractual and technical obligations outlined in the bidding document. If a Bidder wishes to make a deviation, such deviation shall be listed in the relevant form in Section 4 (Bidding Forms). The Bidder shall also provide the additional price if any, for withdrawal of the deviation.

- 18.3 Bidders shall give a breakdown of the prices in the manner and detail called for in the Price Schedules included in Section 4 (Bidding Forms). Where no different Price Schedules are included in the Bidding Document, bidders shall present their prices in the following manner: Separate numbered Schedules included in Section 4 (Bidding Forms) shall be used for each of the following elements. The total amount from each Schedule (1 to 4) shall be summarized in a Grand Summary (Schedule 5) giving the total bid price(s) to be entered in the Bid Form.

Schedule No. 1(A & B): Plant and Mandatory Spare Supplied from Abroad

Schedule No. 2(A & B): Plant and Mandatory Spare Supplied within the Employer's Country

Schedule No. 3: Design Works

Schedule No. 4(A & B): Installation and other Services (including Civil works)

Schedule No. 5: Grand Summary

Bidders shall note that the plant and equipment included in Schedule No 1 and 2 above exclude materials used for civil, building and other construction works. All such materials shall be included and priced under Schedule No. 4(A & B), Installation and other Services (including Civil works).

- 18.4 In the Schedules, bidders shall give the required details and a breakdown of their prices as follows:
- (a) Plant to be supplied from abroad (Schedule No. 1):
 - (i) The price of the plant shall be quoted CIP-named place of destination basis specified in the BDS;
 - (ii) All custom duties and other taxes paid or payable in the Employer's country on the plant if the contract is awarded to the Bidder; and
 - (iii) The total price for the plant
 - (b) Plant supplied from within the Employer's country (Schedule No. 2):
 - (i) The price of the plant shall be quoted as per Incoterms specified in the BDS,
 - (ii) Sales tax and all other taxes payable in the Purchaser's country on the plant if the contract is awarded to the Bidder, and
 - (iii) The total price for the plant.
 - (c) Design Services. (Schedule No. 3).
 - (d) Installation and other Services shall be quoted separately (Schedule No. 4) and shall include rates or prices for local transportation, insurance and other services incidental to delivery of the plant, all labor, contractor's equipment, temporary works, materials, consumables and all matters and things of whatsoever nature, including operations and maintenance services, the provision of operations and maintenance manuals, training, etc., where identified in the Bidding Document, as necessary for the proper execution of the installation and other services, including all taxes, duties, levies and charges payable in the Employer's country as of 28 days prior to the deadline for submission of bids.
- 18.5 The current edition of Incoterms, published by the International Chamber of Commerce shall govern.
- 18.6 The prices shall be either fixed or adjustable as specified in the BDS.
- (a) In the case of Fixed Price, prices quoted by the Bidder shall be fixed during the Bidder's performance of the contract and not subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as non responsive and rejected.
 - (b) In the case of Adjustable Price, prices quoted by the Bidder shall be subject to adjustment during performance of the contract to reflect changes in the cost elements such as labor, material, transport and contractor's equipment in accordance with the procedures specified in the corresponding Appendix to the Contract Agreement. A bid submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero. Bidders are required to indicate the source of labor and material indices in the corresponding

Form in Section 4 (Bidding Forms).

- 18.7 If so indicated in BDS 1.1, bids are being invited for individual lots (contracts) or for any combination of lots (packages). Bidders wishing to offer any price reduction (discount) for the award of more than one contract shall specify in their Letter of Bid the price reductions applicable to each package, or alternatively, to individual contracts within the package, and the manner in which the price reductions will apply.
- 19. Currencies of Bid and Payment**
- 19.1 The currency(ies) of the bid shall be, as specified in the BDS.
- 19.2 Bidders may be required by the Employer to justify, to the Employer's satisfaction, their local and foreign currency requirements.
- 20. Period of Validity of Bids**
- 20.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Employer. A bid valid for a shorter period shall be rejected by the Employer as non responsive.
- 20.2 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 21, it shall also be extended for a corresponding 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.
- 21. Bid Security/Bid Securing Declaration**
- 21.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, a bid securing declaration or a bid security in original form and in the amount and currency as specified in the BDS.
- 21.2 A Bid Securing Declaration shall use the form included in Section 4 (Bidding Forms). The Employer will declare a Bidder ineligible to be awarded a Contract for a specified period of time if the Bid Securing Declaration is executed, as provided in the BDS,
- 21.3 The bid security shall be a demand guarantee, at the Bidder's option, in any of the following forms:
- (a) an unconditional bank guarantee; or
 - (b) an irrevocable letter of credit; or
- from a reputable source from an eligible country. The bid security shall be submitted either using the Bid Security Form included in Section 4 (Bidding Forms), in the case of a bank guarantee, or in another format approved by the Employer. In either case, the form must include the complete name of the Bidder. The bid security shall be valid for 28 days (28) beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 20.2.
- 21.4 If a bid security is specified, any bid not accompanied by a substantially compliant bid security or bid securing declaration shall be rejected by the Employer as non responsive.
- 21.5 If a bid security is specified pursuant to ITB 21.1, the bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security pursuant to ITB

43.

- 21.6 If a bid security is specified pursuant to ITB 21.1, 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.
- 21.7 The bid security may be forfeited or the bid securing declaration executed:
- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid Form, except as provided in ITB 20.2 or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 42; or
 - (ii) furnish a performance security in accordance with ITB 43; or
 - (iii) accept the arithmetical corrections of its Bid in accordance with ITB 33.
- 21.8 The bid security or the bid securing declaration of a JVCA shall be in the name of the JVCA that submits the bid. If the JVCA has not been legally constituted at the time of bidding, the Bid Security or the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent referred to in ITB 4.1.

22. Format and Signing of Bid

- 22.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE". In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the bid shall be typed or written in indelible ink and 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 attached to 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.
- 22.3 A bid submitted by a JV shall be signed so as to be legally binding on all partners.
- 22.4 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

23. Submission, Sealing and Marking of Bids

- 23.1 Bidders may always submit their bids by mail or by hand. When so specified in the BDS, bidders shall have the option of submitting their bids electronically. Procedures for submission, sealing and marking are as follows:
- (a) Bidders submitting bids by mail or by hand shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking

the envelopes as "ORIGINAL", "ALTERNATIVE" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB sub-Clauses 23.2 and 23.3.

- (b) Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the BDS.

23.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Employer in accordance with ITB 24.1;
- (c) bear the specific identification of this bidding process indicated in the BDS 1.1; and
- (d) bear a warning not to open before the time and date for bid opening.

23.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

24. Deadline for Submission of Bids

24.1 Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS.

24.2 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.

25. Late Bids

25.1 The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 24. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

26. Withdrawal, Substitution, and Modification of Bids

26.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 22.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

- (a) prepared and submitted in accordance with ITB 22 and ITB 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "Withdrawal," "Substitution," "Modification;" and
- (b) received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 24.

26.2 Bids requested to be withdrawn in accordance with ITB 26.1 shall be returned unopened to the Bidders.

26.3 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 Form or any extension thereof.

27. Bid Opening

- 27.1 The Employer shall conduct the bid opening in the presence of Bidders' designated representatives who choose to attend, and at the address, date and time specified in the BDS. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB Sub-clause 23.1, shall be as specified in the BDS.
- 27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.
- 27.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the Bid Price(s), including any discounts and alternative bids; the presence of a bid security, if required; and any other details as the Employer may consider appropriate. Only discounts and alternative bids read out at bid opening shall be considered for evaluation. Unless otherwise specified in the BDS, all pages of the original Letter of Bid and Price Schedules are to be initialed by at least three representatives of the Employer attending bid opening. No bid shall be rejected at bid opening except for late bids, in accordance with ITB 25.1.
- 27.4 The Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, including any discounts and alternative bids; and the presence or absence of a bid security or a bid securing declaration, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted bids in time, and posted online when electronic bidding is permitted.

E. Evaluation and Comparison of Bids**28. Confidentiality**

- 28.1 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 such process until information on Contract award is communicated to all Bidders.
- 28.2 Any attempt 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.
- 28.3 Notwithstanding ITB 28.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to

the bidding process, it should do so in writing.

- 29. Clarification of Bids**
- 29.1 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. 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 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 33.
- 29.2 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.
- 30. Deviations, Reservations, and Omissions**
- 30.1 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.
- 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 ITB11.
- 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 plant and services 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 in particular to confirm that all requirements of Section 6 (Employer's Requirements) have been met without any material deviation or reservation.
- 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. Nonmaterial Nonconformities**
- 32.1 Provided that a bid is substantially responsive, the Employer may waive any nonconformities in the bid that do not constitute a material deviation, reservation or omission.

- 32.2 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.
- 32.3 Provided that a bid is substantially responsive, the Employer shall rectify nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section 3 (Evaluation and Qualification Criteria).
- 33. Correction of Arithmetical Errors**
- 33.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:
- (a) where there are errors between the total of the amounts given under the column for the price breakdown and the amount given under the Total Price, the former shall prevail and the latter will be corrected accordingly;
 - (b) where there are errors between the total of the amounts of Schedule Nos. 1 to 4 and the amount given in Schedule No. 5 (Grand Summary), the former shall prevail and the latter will be corrected accordingly; and
 - (c) 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 arithmetical error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 33.2 If the Bidder that submitted the lowest evaluated bid does not accept the correction of errors, its bid shall be disqualified and its bid security may be forfeited, or its bid securing declaration executed.
- 34. Conversion to Single Currency**
- 34.1 For evaluation and comparison purposes, the currency(ies) of the bid shall be converted into a single currency as specified in the BDS .
- 35. Margin of Preference**
- 35.1 Unless otherwise specified in the BDS, a margin of preference shall not apply.
- 36. Evaluation of Bids**
- 36.1 The Employer shall use the criteria and methodologies indicated in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 36.2 **Technical Evaluation**
- The Employer will carry out a detailed technical evaluation of the bids not previously rejected as being substantially non-responsive, in order to determine whether the technical aspects are in compliance with the Bidding Document. In order to reach such a determination, the Employer will examine and compare the technical aspects of the bids on the basis of the information supplied by the bidders, taking into account the following:

- (a) overall completeness and compliance with the Employer's Requirements; deviations from the Employer's Requirements; conformity of the plant and services offered with specified performance criteria; suitability of the plant and services offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the bid. The bid that does not meet minimum acceptable standards of completeness, consistency and detail will be rejected for non-responsiveness;
 - (b) type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services; and
 - (c) other relevant factors, if any, listed in Section 3 (Evaluation and Qualification Criteria).
- 36.3 Where alternative technical solutions have been allowed in accordance with ITB 13, and offered by the Bidder, the Employer will make a similar evaluation of the alternatives. Where alternatives have not been allowed but have been offered, they shall be ignored.
- 36.4 **Economic Evaluation**
- To evaluate a bid, the Employer shall consider the following:
- (a) the bid price, excluding provisional sums and the provision, if any, for contingencies in the Price Schedules;
 - (b) price adjustment for correction of arithmetical errors in accordance with ITB 33.1;
 - (c) price adjustment due to discounts offered in accordance with ITB 18.7;
 - (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 32.3;
 - (e) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 34; and
 - (f) the evaluation factors indicated in Section 3 (Evaluation and Qualification Criteria).
 - (g) The evaluation of the bid will exclude the Provincial Sales Tax (PST) and it shall not be taken into the Price.
- 36.5 If price adjustment is allowed in accordance with ITB 18.6, 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.
- 36.6 If this Bidding Document allows Bidders to quote separate prices for different lots (contracts), and the award to a single Bidder of multiple lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid Form, is specified in Section 3 (Evaluation and Qualification Criteria).
- 36.7 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 Price Schedules, to demonstrate the internal consistency of those prices with the methods and time schedule proposed. After evaluation of the price analyses, taking into consideration the terms of 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.

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| 37. Comparison of Bids | 37.1 | The Employer shall compare all substantially responsive bids to determine the lowest evaluated bid, in accordance with ITB 36.4. |
| 38. Eligibility and Qualification of the Bidder | 38.1 | The Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is eligible and meets the qualifying criteria specified in Section 3 (Evaluation and Qualification Criteria). |
| | 38.2 | The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 15. |
| | 38.3 | An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Employer shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily. |
| | 38.4 | The capabilities of the manufacturers and subcontractors proposed in its Bid for the major items of plant and services to be used by the lowest evaluated Bidder will also be evaluated for acceptability in accordance with Section 3 (Evaluation and Qualification Criteria). Their participation should be confirmed with a letter of intent between the parties, as needed. Should a manufacturer or subcontractor be determined to be unacceptable, the Bid will not be rejected, but the Bidder will be required to substitute an acceptable manufacturer or subcontractor without any change to the bid price or the accepted technical specifications. Prior to signing the Contract, the corresponding Appendix to the Contract Agreement shall be completed, listing the approved manufacturers or subcontractors for each item concerned. |
| 39. Employer's Right to Accept Any Bid, and to Reject Any or All Bids | 39.1 | The Employer reserves the right to accept or reject any bid, as per PPRA Rules 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 bids submitted and specifically, bid securities, shall be promptly returned to the Bidders. |

F. Award of Contract

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| 40. Award Criteria | 40.1 | The Employer shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be eligible and qualified to perform the Contract satisfactorily. |
| | 40.2 | The Employer reserves the right to accept any of the deviations submitted in accordance with ITB 18.2 by the lowest evaluated bidder, at the price shown |

for the deviation in the bid.

- 41. Notification of Award**
- 41.1 Prior to the expiration of the period of bid validity, the Employer shall notify the successful Bidder, in writing, that its bid has been accepted.
- 41.2 At the same time, the Employer shall also notify all other Bidders of the results of the bidding. The Employer will publish in an English language newspaper or well-known freely accessible website the results identifying the bid and lot numbers, and the following information: (i) name of each bidder who submitted a bid; (ii) bid prices as read out at bid opening; (iii) name and evaluated prices of each bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of award, unsuccessful bidders may request in writing to the Employer for a debriefing seeking explanations on the grounds on which their bids were not selected. The Employer shall promptly respond in writing to any unsuccessful Bidder who, after Publication of contract award, request for a debriefing.
- 41.3 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 41.4 The Employer shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 41.1, requests in writing the grounds on which its bid was not selected.
- 42. Signing of Contract**
- 42.1 Promptly after notification, the Employer shall send the successful Bidder the Contract Agreement.
- 42.2 Within 28 days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the Employer.
- 43. Performance Security**
- 43.1 Within 28 days of the receipt of notification of award from the Employer, the successful Bidder shall furnish the performance security of 10% of the amount quoted in the Contract agreement, in accordance with the conditions of contract, subject to ITB 36.7, using for that purpose the Performance Security Form included in Section 6 (Employer's Requirements), or another form acceptable to the Employer.
- 43.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security or execution of the bid securing declaration. In that event, the Employer may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.

Section 2 - Bid Data Sheet

This section consists of provisions that are specific to each procurement and supplement the information or requirements included in Section 1 (Instructions to Bidders).

A. General

<p>ITB 1.1</p>	<p>The number of the Invitation for Bids is:</p> <p>BIDDING DOCUMENT NO: IGM/NGS – LOT # I</p> <p>The Employer is: Quetta Electric Supply Company Limited(QESCO)</p> <p>Lot # I: Procurement of Plant, Design, Supply, Civil Works, Installation, Testing & Commissioning of Static VAR Compensator (SVC), (+150/-50 MVAR capacity) along with allied equipment at 132kV Grid Stations at Gawadar Old and Panjgoor, on Turnkey Basis, for interconnection of Isolated Gawadar/Makran area with National Grid System of Pakistan</p>
<p>4.1 (b)</p>	<p>The Bidder including all members of joint venture must be duly licensed by Pakistan Engineering Council (PEC) in (C-1) and above category having specialization code of CE-10, EE-05 renewed for the year 2019-20. However in case of a foreign bidder (as a member of JV), the foreign bidder shall obtain license in (FC-1) and above category from Pakistan Engineering Council in accordance with PEC Bye-Laws before start of any activity and submit an under taking to this effect.</p>

B. Bidding Document

<p>ITB 7.1</p>	<p>For <u>clarification purposes</u> only, the Employer's address is:</p> <p>Project Director (GSC), QESCO Bazai Qila Banglow # 3 Airport road Quetta, Pakistan. Telephone: +92 - 81- 2881089 Fax: +92 - 81- 2307054 Email: pdgscqescoqta@gmail.com</p>
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ITB 7.4	<p>A Pre-Bid meeting will take place.</p> <p>Date: 26th August, 2020 Day: Wednesday</p> <p>Time: 11:00 AM (local time)</p> <p>Place: Project Director (GSC), QESCO, Quetta (Pakistan).</p> <p>A site visit will not be organized by the Employer. However if required the Employer can arrange a site visit on the request of the bidders. In this case, all the expenses will be borne by individual bidders.</p>
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C. Preparation of Bids

ITB 11.1 (I)	<p>The Bidder shall submit with its bid the following additional documents:</p> <ul style="list-style-type: none"> i) Type Test Certificates for equipments (Valid for last 5 years) ii) Schedule of technical data, type test reports, drawings, complete literature, catalogues, and brochures in respect of the equipment to be installed. iii) Clause by Clause commentary on purchase Specifications in context of deviation from Specifications.
ITB 13.1	Alternative bids are not permitted.
ITB 13.2	An Alternative to the Time Schedule is not permitted.
ITB 13.4	Alternative technical solutions shall not be permitted.
ITB 16.1 (b)	The period following completion of plant and services in accordance with provisions of contract shall be five (5) years.
ITB 18.1	Bidders shall quote for the entire plant and services (as per scope) on a single responsibility basis.
IT B18.4(a)(i)	As defined in Incoterms 2010 (as per the latest revision) for quoting plant to be supplied from abroad are CIP (Gawadar and Panjgoor)
ITB 18.4(b)(i)	The Incoterms 2010 (as per the latest revision) for quoting plant manufactured within the Employer's country is Ex-Works at (Gawadar and Panjgoor)

ITB 18.4(d)	Please add to this Clause that the “Provincial Sales Tax (PST) shall be applicable”
18.4 (b)	<p>Custom Duties and Sales Tax (shall be reimbursed (on actual basis) by the employer using its own funds)</p> <p>Provincial Sales Tax, if levied and applicable, will be paid by the Contractor and will be reimbursed as per actual by the Employer upon production of necessary documentary evidence and proof of payment.</p> <p>If the bidder fails to submit proof of Provincial Sales Tax Payment, his future invoices shall not be entertained.</p>
ITB 18.6	The prices quoted by the Bidder shall be Fixed.
ITB 19.1	<p>The currencies of the bid shall be as follows:</p> <p>(a) A bidder shall quote the prices in Pak Rupees (PKR), Local currency only.</p>
ITB 19.2	This Clause is hereby deleted.
ITB 20.1	The bid validity period shall be 120 days .
ITB 21.1	<p>Bids shall include a Bid Security issued by bank using the form included in Section 4 (Bidding Forms). All Bids must be accompanied by a Bid Security in an amount not less than 2 % of the Total Bid Price in format prescribed in the Bidding Documents. (Excluding Provisional Sum)</p> <p>The Bid Security shall be drawn in the favor of Project Director (GSC), QESCO, Quetta (Pakistan).</p> <p>A Bid Securing Declaration shall not be used as a Bid Security.</p>
ITB 22.1	In addition to the original of the bid, the number of copies is: Three (3) .
ITB 22.2	<p>The written evidence of the authority or other documentary evidence satisfactory to the employer to sign on behalf of the bidder, shall consist of:</p> <p>a) A Power of Attorney demonstrating the authority of the signatory to sign the bid. A Board Resolutions granting authority to the signatory to sign the bid for bidders that are corporations.</p> <p>b) Bids submitted by an existing or intended JV shall include an undertaking signed by all parties (i) stating the scope of work to be undertaken by each partner and further stating that all parties shall be jointly and severally liable, and (ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during</p>

	contract execution. c) Lead partner in the JV agreement must be indicated.
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D. Submission and Opening of Bids

ITB 23.1	Bidders shall not have the option of submitting their bids electronically. The Bidder shall submit in addition to the Hard Copy a Soft Copy of the Price Schedule made in MS-EXCEL on CD with the bid. However the hard copy of the bid shall prevail over the soft copy in case there is any discrepancy.
ITB 23.1 (b)	NOT APPLICABLE
ITB 24.1	For bid submission purposes only, the Employer's address is Project Director (GSC), QESCO Bazai Qila Banglow # 3 Airport road Quetta, Pakistan. Telephone: +92 - 81- 2881089 Fax: +92 - 81- 2307054 Email: pdgscqescoqta@gmail.com
ITB 27.1	Bids must be submitted on or before 10 th September, 2020 at 2:00 PM The bid opening shall take place at 2:30 PM on same day. The office of Project Director (GSC), QESCO Bazai Qila Banglow # 3 Airport road Quetta, Pakistan. Telephone: +92 - 81- 2881089 Fax: +92 - 81- 2307054 Email: pdgscqescoqta@gmail.com
ITB 27.1	Electronic Bid Submission “ NOT APPLICABLE ”

E. Evaluation, and Comparison of Bids

ITB 36.4 (g)	The evaluation of the bid will exclude the Provincial Sales Tax (PST) and it shall not be taken into the Price.
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ITB 35.1	A margin of preference does apply. The application methodology will be as specified in Section 3 (Evaluation and Qualification Criteria).
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Section 3 - Evaluation and Qualification Criteria

Table of Criteria

1.	Evaluation.....	2
1.1	Technical Evaluation.....	2
1.2	Economic Evaluation.....	2
1.2.1	Quantifiable Deviations and Omissions.....	2
1.2.2	Time Schedule.....	2
1.2.3	Operating and Maintenance Costs.....	2
1.2.4	Functional Guarantees of the facilities.....	2
1.2.5	Work, services, facilities, etc., to be provided by the Employer.....	3
1.2.6	Specific additional criteria.....	3
	Multiple Contracts.....	3
1.2.7	Domestic Preference.....	3
1.3	Technical Alternatives.....	4
	Not Applicable.....	4
2.	Qualification.....	5
2.1	Eligibility.....	5
2.3	Financial Situation.....	6
2.3.1	Historical Financial Performance.....	6
2.3.2	Average Annual Turnover.....	6
2.3.3	Financial Resources.....	6
2.4	Experience.....	8
2.4.1	General Experience.....	8
2.4.2	Specific Experience.....	8
(a)	Contracts of Similar Size and Nature.....	8
	Experience in Key Activities (May be complied by specialist subcontractors. Employer shall require evidence of subcontracting agreement from the Bidder.).....	910
2.5	Personnel.....	10
2.6	Equipment.....	1112
2.7	Subcontractors.....	1213

1. Evaluation

1.1 Technical Evaluation

In addition to the criteria listed in ITB 36.2 (a) – (c) the following factors shall apply:

1.2 Economic Evaluation

Any adjustments in price that result from the procedures outlined below shall be added, for purposes of comparative evaluation only, to arrive at an “Evaluated Bid Price.” Bid prices quoted by bidders shall remain unaltered.

1.2.1 Quantifiable Deviations and Omissions

Quantifiable Deviations and Omissions from the contractual obligations: the evaluation shall be based on the evaluated cost of fulfilling the contract in compliance with all contractual obligations under this bidding document. The Employer will assess the cost of such a deviation for the purpose of ensuring fair comparison of bids.

The cost of minor omissions or missing items in the scope of supply, services, etc. shall be added to the Bid Price to allow for bid comparison on an equal basis. The price adjustment shall be based on a reasonable estimate of the cost by the executing agency, engineer, consultant or bid evaluation committee, taking into consideration the corresponding quoted prices from other conforming bids. The price adjustment shall be based on the price equal to the highest price quoted for the same item by the other Bidders.

1.2.2 Time Schedule

Time to complete the plant and services from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of commissioning activities shall be **450** days maximum. The adjustment rate in the event of completion beyond the minimum period shall be half of a percent (**0.5%**) for each week of delay with maximum period of 70 days. Tolerance above, the bid will be rejected. No credit will be given for completion earlier than the minimum designated period.

1.2.3 Operating and Maintenance Costs

NOT APPLICABLE

1.2.4 Functional Guarantees of the facilities

For the purpose of evaluation, the efficiency of the transformer will be examined and capitalized cost of the Transformer losses will be added in the bid price. The Transformer losses to be taken will be the guaranteed losses of the manufacturer for the no-load losses at 100% voltage and for load losses & auxiliary consumption at 100% load corresponding to upper rated power and reference temperature of 75°C. Capitalized cost of no-load losses & load losses and auxiliary consumption will be worked out at rates indicated in the relevant transformer specifications i.e.

Capitalized Cost of no-load losses	= US \$ 5200/- per kilowatt
Capitalized Cost of load losses	= US \$ 1200/- per kilowatt.
Capitalized Cost of auxiliary consumption	= US \$ 1200/- per kilowatt

1.2.5 Work, services, facilities, etc., to be provided by the Employer

The Employer shall provide no services, facilities etc. to the contractor, other than those described in the contract, i.e. such as site access.

1.2.6 Specific additional criteria**Multiple Contracts**

For the Works grouped in multiple contracts, pursuant to Sub-Clause 36.6 of the Instruction to Bidders, the employer will evaluate and compare bids on the basis of a contract, or a combination of contracts, or as a total of contracts in order to arrive at the least cost combination for the Employer by taking into account discount offered by Bidders in case of award of multiple contracts. If a bidder submits several successful (lowest evaluated substantially responsive) bids, the evaluation will also include an assessment of the bidder's capacity to meet the aggregated requirements regarding:

- Financial situation and cash flow
- Current contract commitments
- Equipment to be allocated, and Personnel to be fielded

1.2.6.1 Deviation in Terms of Payment

If a bid deviates from the terms of payment/payment conditions as specified in the Conditions of Contract and if such deviation is considered acceptable to the Employer for a range of 10%, mark-up earned for any earlier payments involved in the terms outlined in the bid as compared to those stipulated in the Conditions of Contract shall be calculated at the following mark-up rates:

- for foreign currency component : 5 % per annum
- for local currency component :10 % per annum

And shall be added to the Corrected Total Bid Price for comparison purposes only.

The invoice will be done as per the actual work done at Site.

1.2.7 Domestic Preference

A margin of preference will be granted to eligible domestically produced Plant and Equipment in accordance with the following provisions:

- (a) The preference margin shall not be applied to the whole facilities but only to the eligible domestically produced Plant and Equipment within the contract;
- (b) Plant and Equipment offered from outside the Purchaser's country shall be quoted CIP (Section 4, Bidding Forms, Schedule No. 1 (A & B) and Plant and Equipment offered locally shall be quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off the-shelf, as applicable) free of sales and similar taxes (Section 4, Bidding Forms, Schedule No. 2(A & B).
- (c) all other cost components for services and works such as costs for design, local handling, transportation, storage, installation, and commissioning shall be quoted separately (Section 4, Bidding Forms, Schedule No 4(A & B): (Installation and other services including Civil works), Schedule 3(A & B): Design Services.
- (d) in the comparison of Bids, only the CIP price component of each Bid for the Plant and Equipment offered from outside the Purchaser's country shall be increased by the applicable duty and other taxes payable by a non-exempt importer or by fifteen percent (15%) whichever is less;
- (e) no margin of preference shall be applied to any of the services or works included in the contract; and

- (f) Bidders shall not be permitted or required to modify the mix of local and foreign Plant and Equipment after bid opening.

1.3 Technical Alternatives

Not Applicable

2. Qualification

The bidding procedure will be subject to post qualification process as per following criteria.

2.1 Eligibility

As mentioned in the Instructions to Bidder, the bidder as Single entity or as Joint Venture (each partner), must meet the requirement where specified.

2.2 Pending Litigation

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	

2.2.1 Pending Litigation

All pending litigation shall be treated as resolved against the Bidder and so shall in total not represent more than fifty (50) percent of the Bidder's net worth.	must meet requirement by itself or as partner to past or existing JV	not applicable	must meet requirement by itself or as partner to past or existing JV	not applicable	Form LIT - 1
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2.3 Financial Situation

Criteria	Compliance Requirements			Documents	
Requirement	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	

2.3.1 Historical Financial Performance

Submission of audited balance sheets and income statements or, if not required by the law of the Bidder's country, other financial statements acceptable to the Employer, for the last three (3) years to demonstrate the current soundness of the Bidders financial position and its prospective long-term profitability. As a minimum, a Bidder's net worth calculated as the difference between total assets and total liabilities should be positive.	must meet requirement	not applicable	must meet requirement	not applicable	Form FIN - 1 with attachments
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2.3.2 Average Annual Turnover

The bidder should have an average annual turnover in the last three (3) years equal to or more than the Total Bid Price excluding Provisional Sums in the form of authenticated audit sheets. In case, the bidder is a joint venture, the lead partner shall meet not less than 40% of these qualifying requirements and the other partner(s) 25%.	must meet requirement	must meet requirement	must meet 25% of the requirement	must meet 40% of the requirement	Form FIN - 2
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2.3.3 Financial Resources

Using Forms FIN - 3 and FIN - 4 in Section 4 (Bidding Forms) the Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet: (1) cash-flow requirement 25% of the total contract price, and (2) The overall cash flow requirements for this contract and its current works	must meet requirement	must meet requirement	must meet 25% of the requirement	must meet 50% of the requirement	Form FIN - 3 and FIN-4
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Comment [KM1]: Mention the amounts of cash flow requirements here.

commitment.					
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Note: Complete Financial Situation or any other given data, if provided other than English language, must be duly notarized and attested by Competent Authority, in English language.

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2.4 Experience

Criteria Requirement	Single Entity	Compliance Requirements			Documents Submission Requirements
		Joint Venture			
		All Partners Combined	Each Partner	One Partner	

2.4.1 General Experience

<p>1- Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last ten (10) years prior to the bid submission deadline. Subcontractors experience and resources shall not be taken into account in determining the Bidders compliance with the qualification criteria.</p> <p>2- Experience under contracts in the role of contractor, subcontractor, or management contractor for at least the last five (5) years prior to the bid submission deadline.</p>	<p>must meet requirement, as mentioned at point no. 1, in column no. 1 of 2.4.1</p>	<p>not applicable</p>	<p>must meet requirement, as mentioned at point no. 2, in column no. 1 of 2.4.1</p>	<p>must meet requirement, as mentioned at point no. 1, in column no. 1 of 2.4.1</p>	<p>Form EXP - 1</p>
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2.4.2 Specific Experience

(a) Contracts of Similar Size and Nature

<p>1. Experience Requirements on Substation (Lot-1)</p> <p>The Bidder (individual firm or joint venture) should have at least <u>ten (10) years</u> experience in construction, installation, testing & commissioning of Static VAR Compensator (SVC), at 132 kV or higher voltage A.I.S substations on turnkey basis as a main contractor himself and have completed at least 2 similar projects during the last 10 years and such substations shall have been operating successfully after energization for at least two (2) years..</p> <p>If the Bidder has executed the above contract(s) as a JV partner, he must substantiate that he has carried out all the activities mentioned here above. In case the bid is submitted by a joint venture, one of the partners must meet the experience criteria given above. However, other JV/Consortium partner should have five (5) years' experience of construction contracts of Grid stations</p>	<p>must meet requirement</p>	<p>must meet requirement</p> <p>At least one of the partners of joint venture shall satisfy the relevant experience criteria specified</p>	<p>not applicable</p>	<p>not applicable</p>	<p>Form EXP - 2(a)</p>
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<p>of similar voltage or above as main contractor or approved subcontractor.</p> <p>The Bidder shall submit with the Bid evidence in this regard including inter alia copies (with English translation) of the contract agreement(s) and substantial completion certificate(s), Defect Liability Certificate, Performance certificate duly notarized, for the contract(s).</p> <p>All of the above experiences shall be supported by user's certificates duly notarized in their letterhead indicating their address, email, telephone & fax number and detail of project (i.e. name, address & nationality of customer details of contract; voltage & equipment; completion period, commissioning date/commercial operation date, contract value).</p>					
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(b) Experience in Key Activities (May be complied by specialist subcontractors. Employer shall require evidence of subcontracting agreement from the Bidder.)

<p>For the above or other contracts executed during the period stipulated in 2.4.2(a) above, a minimum experience in the following key activities:</p>	<p>must meet all requirements</p>	<p>must meet all requirements</p>	<p>not applicable</p>	<p>not applicable</p>	<p>Form EXP - 2(b)</p>
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<p>Civil Works Design for sub-station</p> <p>The contractor or Sub contractor/Designer should have an experience of Structural and detail Design of at least 02 Nos. Grid Stations (electrical works) and civil/structural works (buildings, foundations etc.) of similar nature and other relevant civil works, for installation of 132 kV or higher voltage Substation plant with major equipment like Power Transformers, Circuit breakers, instrument transformers, Disconnectors, Control and Relay Panels, 11 KV Switchgear, Telecommunication etc. in last Ten (10) years of similar nature i.e. 132 kV or higher voltage and such projects should have been completed successfully.</p>						
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2.5 Personnel

The Bidder must demonstrate that it has the personnel for the key positions that meet the following requirements: The Bidder must have in his employment "capable technical personnel" and should have adequate equipment for the proper execution of the work and must fill in the details of equipment to be deployed on the Project.

No.	Position	Minimum Criteria [years]	Minimum Criteria Similar Work [years]
1	Project Manager	15	10
2	Design Engineer (Civil)	10	5
3	Design Engineer (Electrical)	10	5
4	Construction Manager	10	5
5	Site Engineer (Civil)	5	3
6	Site Engineer (Electrical)	5	3
7	Plant erectors	7	5
8	Testing & Commissioning Engineer	10	5

Each engineer/manager as listed in the Table above, must be a university graduate and hold degree in engineering discipline.

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Information Forms included in Section 4 (Bidding Forms).

2.6 Equipment

The Bidder must demonstrate that it has or can demonstrate access to the key equipment listed hereafter:

Sr. No.	Equipment Type & Characteristics	Qty.
1	Vibrator	01
2	Flatbed Compactor	01
3	Scaffolding	02
4	Crane	01
5	CONCRETE MIXTURE MACHINE	02
6	Mechanical excavators	01
7	Trucks/Loaders	02
8	General tools for tube connection	03
9	Instruments for testing & commissioning of 132kV AIS plant including protection & signaling	01 Set
10	Standard Instruments for erection of AIS plant	01 Set
11	Gas filling plant	01
12	General tools for erection of 132kV Equipment	01 Set
13	Relevant T&P and machinery required for successful execution, Testing and commissioning for completion of the works.	As per requirement

The Bidder shall provide further details of proposed items of equipment using the relevant Form in Section 4 (Bidding Forms)

2.7 Subcontractors

Subcontractors/manufacturers for the following major items of supply or services must meet the following minimum criteria, herein listed for that item. Failure to comply with this requirement will result in rejection of the subcontractor.

Item No.	Description of Item	Minimum Criteria to be met
1	<p>132 KV or Higher voltage Grid Station Plant of similar or higher size: i.e.</p> <ol style="list-style-type: none"> 1. 1-Phase Power Transformer, 50MVA, 132/22kV (or as required). 2. SF6 Circuit Breaker, 132kV. 3. Disconnecter, 132kV. 4. Current and Potential Transformer, 132kV, 22kV (or as applicable). 5. Surge Arrestor (L.A), 132kV, 22kV (or as applicable). 6. Insulators (Disc and Post), 132kV, 22kV (or as applicable). 7. Poles, Gantries and Structures. 8. Control and Protection Relay equipment. 9. Capacitor and Reactors. 10. Thyristor Control equipment. 11. Hardware, Connectors etc. 12. Control and Power cables. <p>Note: The requirement of the type tests have been given in detail in clause S1-15 of Section-6.</p>	<p>Bidder to submit end-user certificates of the supplied equipment/plant to demonstrate manufacturing and operational experience as follows:</p> <p><u>Manufacturing Experience</u> The manufacturer(s) of the offered Grid Station equipment must demonstrate i) at least five (05) years experience in the design, manufacturing of similar equipment for 132KV or higher voltage Grid Station and ii) manufacture and supply of at least 80 % of the quantities of the equipment and plant of similar or higher capacity to be installed under this contract. Such equipment must have been operating satisfactorily for a period of at least three (03) consecutive years within the last ten (10) years prior to Bid Date.</p> <p><u>Operational Experience</u> The equipment offered in the Bidder's bid shall have been operating satisfactorily for a period of at least 3 consecutive years within the last ten (10) years on bid opening date. For this purpose, the bidder shall provide documentary proof in form of contract agreements and performance certificates from the end users of the supplied equipment/plant.</p>
2	Static VAR Compensator (SVC), (+150/-50 MVAR)	<p><u>Manufacturing Experience</u> The manufacturer must have at least TEN (10) years experience in design, manufacture and supply of (+150/-50 MVAR MVAR Static Var Compensator (SVC) capable of high-speed response, to control system transient voltage stability, The manufacturer should have supplied at least 02 Nos. such plants, of similar or higher capacity, as offered in the bid.</p> <p><u>Operational Experience</u> Such equipment/plants shall have been operating satisfactorily for a period of at least three (3) consecutive years on bid opening date. For this purpose, the bidder shall provide documentary proof in</p>

		form of contract agreements and performance certificates from the end users of the supplied equipment/plant.
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In the case of a Bidder who offers to supply and install major items of supply under the contract that the Bidder did not manufacture or otherwise produce, the Bidder shall provide the manufacturer's authorization, using the form provided in Section 4 (Bidding Forms), showing that the Bidder has been duly authorized by the manufacturer or producer of the related plant and equipment or component to supply and install that item in the Employer's country. The Bidder is responsible for ensuring that the manufacturer or producer complies with the requirements of ITB 4 and 5 and meets the minimum criteria listed above for that item.

Note: The bidder is required to fill the schedule of Technical Data of all the major equipment in the prescribed format provided in the Tender Document.

Section 4 - Bidding Forms

This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid.

Table of Forms

Letter of Bid	4-2
Price Schedules.....	4-4
Schedule No. 1. Plant and Mandatory Spare Supplied from Abroad	
Schedule No. 2. Plant and Mandatory Spare Supplied from within the Employer's Country	
Schedule No. 3. Design Works	
Schedule No. 4. Installation and other Services (including Civil work)	
Schedule No. 5. Grand Summary.....	
Bid Security.....	4-6
Undertaking of Bid Security.....	4-7
Technical Proposal.....	4-8
Site Organization	4-9
Method Statement	4-10
Mobilization Schedule.....	4-11
Construction Schedule.....	4-12
Personnel	4-13
Form PER – 1: Proposed Personnel	4-13
Form PER – 2: Resume of Proposed Personnel	4-14
Equipment	4-15
Proposed Subcontractors/Manufacturers for Major Items of Plant and Services	4-16
Manufacturer's Authorization	4-17
Time Schedule	4-18
Bidders Qualification.....	4-19
Form ELI - 1: Bidder's Information Sheet.....	4-20
Form ELI - 2: JV Information Sheet.....	4-21
Form LIT - Pending Litigation.....	4-22
Form FIN - 1: Financial Situation	4-23
Form FIN - 2: Average Annual Turnover.....	4-24
Form FIN - 3: Financial Resources	4-25
Form FIN- 4: Current Contract Commitments	4-26
Form EXP - 1: General Experience.....	4-27
Form EXP - 2(a): Specific Experience	4-28
Form EXP - 2(b): Specific Experience in Key Activities.....	4-29

Letter of Bid

Date:

ICB No.:

Invitation for Bid No.:

To:

Project Director (GSC)
QESCO, Quetta (Pakistan).

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) 8;
- (b) We offer to design, all associated civil works, manufacture, test, deliver, install, precommission and commission complete in all respect, in conformity with the Bidding Documents of the following Plant and Services:
- (c) The price of our Bid, excluding any discounts offered in item (d) below is the sum of: [amount of foreign currency in words], [amount in figures], and [amount of local currency in words], [amount in figures]
- (d) The discounts offered and the methodology for their application are:
- (e) Our bid shall be valid for a period of 120 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;
- (g) We, including any subcontractors or manufacturers for any part of the contract, have or will have nationalities from eligible countries, in accordance with ITB-4.2;
- (h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 4.3;
- (i) We are not participating, as a Bidder, in more than one bid in this bidding process in accordance with ITB 4.3, other than alternative offers submitted in accordance with ITB 13;
- (j) Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible by Employer, under the Employer's country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council;
- (k) We are not a government owned entity / We are a government owned entity but meet the requirements of ITB4.5; *

- (l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract: **

Name of Recipient	Address	Reason	Amount
.....
.....

- (m) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (o) We agree to permit Employer or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name

In the capacity of

Signed

Duly authorized to sign the Bid for and on behalf of

Date

.....

* Use one of the two options as appropriate
 ** If none has been paid or is to be paid, indicate "none"

Price Schedules

PREAMBLE

General

1. The Price Schedules are divided into separate Schedules as follows:
Schedule No. 1. Plant and Mandatory Spare Supplied from Abroad
Schedule No. 2. Plant and Mandatory Spare Supplied from within the Employer's Country
Schedule No. 3. Design Works
Schedule No. 4. Installation and other Services (including Civil work)
Schedule No. 5. Grand Summary
2. The Schedules do not generally give a full description of the plant to be supplied and the services to be performed under each item. Bidders shall be deemed to have read the Employer's Requirements and other sections of the Bidding Document and reviewed the Drawings to ascertain the full scope of the requirements included in each item prior to filling in the rates and prices. The entered rates and prices shall be deemed to cover the full scope as aforesaid, including overheads and profit.
3. The quantities given in the Price Schedule are estimated quantities.
4. If bidders are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with ITB 7 prior to submitting their bid.

Pricing

5. Prices shall be filled in indelible ink, and any alterations necessary due to errors, etc., shall be signed by the Bidder.
As specified in the Bid Data Sheet and Special Conditions of Contract, prices shall be fixed and firm for the duration of the Contract, or prices shall be subject to adjustment in accordance with the corresponding Appendix (Price Adjustment) to the Contract Agreement.
6. Bid prices shall be quoted in the manner indicated and in the currencies specified in the Instructions to Bidders in the Bidding Document.
For each item, bidders shall complete each appropriate column in the respective Schedules, giving the price breakdown as indicated in the Schedules.
Prices given in the Schedules against each item shall be for the scope covered by that item as detailed in Section 6 (Employer's Requirements) or elsewhere in the Bidding Document.
7. Payments will be made to the Contractor in the currency or currencies indicated under each respective item.
8. When requested by the Employer for the purposes of making payments or partial payments, valuing variations or evaluating claims, or for such other purposes as the Employer may reasonably require, the Contractor shall provide the Employer with a breakdown of any composite or lump sum items included in the Schedules. The provisions of this Para shall only apply in the context envisaged i.e. for the purposes of making payments or partial payments and not for evaluation.

Bid Security

Bank Guarantee

.....*Bank's Name, and Address of Issuing Branch or Office*.....

Beneficiary: *Quetta Electric Supply Company Limited*

Date:

Bid Security No.:

We have been informed that *name of the Bidder*. (hereinafter called "the Bidder") has submitted to you its bid dated (hereinafter called "the Bid") for the execution of *name of contract* under Invitation for Bids No. ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we *name of Bank*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *amount in figures* (. *amount in words*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract Agreement, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB.

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy your notification to the Bidder of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

.....*Bank's seal and authorized signature(s)*.....

Note: All italicized text is for use in preparing this form and shall be deleted from the final document

UNDERTAKING OF BID SECURITY

We _____ undertake that Bid Security in accordance with Clause IB-15.1 of the bidding document is enclosed with our Price Bid.

NOT APPLICABLE

Signature and Seal of the Bidder

Technical Proposal

Site Organization

Method Statement

Mobilization Schedule

Construction Schedule

Personnel

Equipment

Proposed Subcontractors for Major Items of Plant and Services

Manufacturer's Authorization

Time Schedule

Site Organization

Method Statement

Mobilization Schedule

Construction Schedule

Personnel

Bidders should provide the names of suitably qualified personnel to meet the requirements specified in Section 3 (Evaluation and Qualification Criteria). The data on their experience should be supplied using the Form below for each candidate.

Form PER – 1: Proposed Personnel

1.	Title of position*
	Name
2.	Title of position*
	Name
3.	Title of position*
	Name
4.	Title of position*
	Name

*As listed in Section 3 (Evaluation and Qualification Criteria).

Form PER – 2: Resume of Proposed Personnel

Position		
Personnel information	Name	Date of birth
	Professional qualifications	
Present employment	Name of employer	
	Address of employer	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present employer

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

From	To	Company / Project / Position / Relevant technical and management experience

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 3 (Evaluation and Qualification Criteria). A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

Item of Equipment		
Equipment Information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current Status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment 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	

Proposed Subcontractors/Manufacturers for Major Items of Plant and Services

The following Subcontractors and/or manufacturers are proposed for carrying out the item of the facilities indicated. Bidders are free to propose more than one for each item

Major Items of Plant and Services	Proposed Subcontractors/Manufacturers	Nationality

Manufacturer's Authorization

[The Bidder shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Bidder shall include it in its bid, if so indicated in the BDS.]

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

ICB No.: *[insert number of bidding process]*

To: *[insert complete name of Employer]*

WHEREAS

We *[insert complete name of Manufacturer or Manufacturer's authorized agent]*, who are official manufacturers or agent authorized by the manufacturer of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby authorize *[insert complete name of Bidder]* to submit a bid the purpose of which is to provide the following goods, manufactured by us *[insert name and or brief description of the goods]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 27 of the General Conditions of Contract, with respect to the goods offered by the above firm.

Signed: *[insert signature(s) of authorized representative(s) of the Manufacturer]*

Name: *[insert complete name(s) of authorized representative(s) of the Manufacturer]*

Title: *[insert title]*

Duly authorized to sign this Authorization on behalf of: *[insert complete name of Bidder]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Time Schedule

To be used by Bidder when alternative Time for Completion is invited in ITB 13.2.

Bidders Qualification

To establish its qualifications to perform the contract in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder. If the bidding was preceded by a prequalification process then the forms included in this section and used earlier during the prequalification process need to be completed only if the information submitted at the time of prequalification requires updating.

1. Form ELI-1: Bidder's Information Sheet
2. Form ELI-2: JV information Sheet
3. Form LIT- Pending Litigation
4. Form FIN- 1: Financial Situation
5. Form FIN- 2: Average Annual Turnover
6. Form FIN- 3: Financial Recourses
7. Form FIN- 4: Current Contract Commitments
8. Form EXP-1: General Experience
9. Form EXP- 2(a): Specific Experience
10. Form EXP- 2(b): Specific Experience in Key Activities

Form ELI - 1: Bidder's Information Sheet

Bidder's Information	
Bidder's legal name	
In case of JV, legal name of each partner	
Bidder's country of constitution	
Bidder's year of constitution	
Bidder's legal address in country of constitution	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	
<p>Attached are copies of the following original documents.</p> <p><input type="checkbox"/> 1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2.</p> <p><input type="checkbox"/> 2. Authorization to represent the firm or JV named in above, in accordance with ITB 22.2.</p> <p><input type="checkbox"/> 3. In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1.</p> <p><input type="checkbox"/> 4. In case of a government-owned entity, any additional documents not covered under 1 above required to comply with ITB 4.5.</p>	

Form ELI - 2: JV Information Sheet

Each member of a JV must fill in this form

JV Information	
Bidder's legal name	
JV Partner's legal name	
JV Partner's country of constitution	
JV Partner's year of constitution	
JV Partner's legal address in country of constitution	
JV Partner's authorized representative information (name, address, telephone numbers, fax numbers, e-mail address)	
<p>Attached are copies of the following original documents.</p> <p><input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 4.1 and 4.2.</p> <p><input type="checkbox"/> 2. Authorization to represent the firm named above, in accordance with ITB 22.2.</p> <p><input type="checkbox"/> 3. In the case of government-owned entity, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB 4.5.</p>	

Form LIT - Pending Litigation

Each Bidder or member of a JV must fill in this form

Pending Litigation			
<input type="checkbox"/> No pending litigation in accordance with Criteria 2.2 of Section 3 (Evaluation and Qualification Criteria)			
<input type="checkbox"/> Pending litigation in accordance with Criteria 2.2 of Section 3 (Evaluation and Qualification Criteria)			
Year	Matter in Dispute	Value of Pending Claim in local currency PKR	Value of Pending Claim as a Percentage of Net Worth

Form FIN - 1: Financial Situation

Each Bidder or member of a JV must fill in this form

Financial Data for Previous 3 Years [local currency]		
Year 1:	Year 2:	Year 3:

Information from Balance Sheet

Total Assets			
Total Liabilities			
Net Worth			
Current Assets			
Current Liabilities			

Information from Income Statement

Total Revenues			
Profits Before Taxes			
Profits After Taxes			

- Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last three years, as indicated above, complying with the following conditions.
- All such documents reflect the financial situation of the Bidder or partner to a JV, and not sister or parent companies.
 - Historic financial statements must be audited by a certified accountant.
 - Historic financial statements must be complete, including all notes to the financial statements.
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

Form FIN - 2: Average Annual Turnover

Each Bidder or member of a JV must fill in this form

Annual Turnover Data for the Last three (3) Years			
Year	Amount Currency	Exchange Rate	local currency PKR
Average Annual Turnover			

The information supplied should be the Annual Turnover of the Bidder or each member of a JV in terms of the amounts billed to clients for each year for contracts in progress or completed, converted to PKR (Local Currency only) at the rate of exchange at the end of the period reported.

Form FIN – 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 indicated in Section 3 (Evaluation and Qualification Criteria)

Financial Resources		
No.	Source of financing	Amount (local currency) PKR
1		
2		
3		

Form FIN- 4: Current Contract Commitments

Bidders and each partner to 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.

Current Contract Commitments					
No.	Name of Contract	Employer's Contact Address, Tel, Fax	Value of Outstanding Work [local currency, PKR]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [local currency PKR]
1					
2					
3					
4					
5					

Form EXP – 1: General Experience

Each Bidder or member of a JV must fill in this form

General Experience				
Starting Month Year	Ending Month Year	Years	Contract Identification and Title Name and Address of Employer Brief Description of the Works Executed by the Bidder	Role of Bidder

Form EXP – 2(a): Specific Experience

Fill up one (1) form per contract.

Contract of Similar Size and Nature		
Contract No of	Contract Identification	
Award Date	Completion Date	
Role in Contract	<input type="checkbox"/> Contractor <input type="checkbox"/> Management Contractor <input type="checkbox"/> Subcontractor	
Total Contract Amount	US\$	
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Employer's Name Address Telephone/Fax Number E-mail		
Description of the similarity in accordance with Criteria 2.4.2(a) of Section 3		

Form EXP - 2(b): Specific Experience in Key Activities

Fill up one (1) form per contract

Contract with Similar Key Activities		
Contract No of	Contract Identification	
Award Date	Completion Date	
Role in Contract	<input type="checkbox"/> Contractor <input type="checkbox"/> Management Contractor <input type="checkbox"/> Subcontractor	
Total Contract Amount	US\$	
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount
Employer's Name Address Telephone Number Fax Number E-mail		
Description of the key activities in accordance with Criteria 2.4.2(b) of Section 3		

Section 5 - Eligible Countries

All countries of the world with whom Pakistan has Trade/Commercial relations.

Section 6 - Employer's Requirements

Table of Contents

1	Scope of Supply of Plant and Services	2
2.	Specification.....	4
3.	Drawings.....	6
4.	Supplementary Information.....	8
5.	Bank Guarantees and Certificates	25
	5.1 Form of Performance Security	26
	5.2 Form of Advance Payment Security.....	27
	5.3 Form of Completion Certificate	28
	5.4 Form of Operational Acceptance Certificate	29
6.	Change Orders	30
	6.1. Change Order Procedure.....	31
	6.1.1 General	30
	6.1.2 Change Order Log	31
	6.1.3 References for Changes.....	31
	6.2 Change Order Forms	32
	6.2.1 Request for Change Proposal Form.....	32
	6.2.2 Estimate for Change Proposal Form.....	33
	6.2.3 Acceptance of Estimate Form	34
	6.2.4 Change Proposal Form	35
	6.2.5 Change Order Form	37
	6.2.6 Pending Agreement Change Order Form	38
	6.2.7 Application for Change Proposal Form.....	39

1. Scope of Supply of Plant and Services

Procurement of Plant, Design, Supply, Civil Works, Installation, Testing & Commissioning of Static VAR Compensator (SVC), (+150/-50 MVAR capacity) along with allied equipment at 132kV Grid Stations at Gawadar Old and Panjgoor, on Turnkey Basis, for interconnection of Isolated Gawadar/Makran area with National Grid System of Pakistan

1- Gawadar Old G/S

1.1 132kV Incoming Bay consisting of:

- i) 1 No. 132kV 3-Pole Line isolator with Earthing switch.
- ii) 1 No. 132kV 3-Pole SF6 Circuit breaker.
- iii) 3 No. 120kV 1-Pole Bus Isolators.
- v) 132kV 1-Pole Bus System.

1.2 4No. 1-Phase, 50MVA, Star/Delta, 132/22kV (or as required), Power Transformers.

1.3 22kV Capacitor/Reactor System.

- i) 22kV (LV) Bus Bar System with insulators and Structures.
- ii) LV Capacitor/ Reactor Banks along with Harmonic filters.
- iii) Thyristor Control equipment for automatic switching ON and OFF of capacitor/Reactor units.
- iv) Control, Protection, Metering equipment/panels.
- v) Battery and battery Charger system.
- vi) Control and Power Cables.
- vii) Control, Protection, Metering panel for Automatic switching ON and OFF Commands/monitoring of Capacitor, Reactor units in accordance with the requirements of 132kV system network.

Note: LV rating of the Capacitor/Reactor system is proposed as 22kV. However, the Contactor may quote as their own voltage of manufacturer.

2- Panjgoor G/S

2.1 132kV Incoming Bay consisting of:

- i) 1 No. 132kV 3-Pole Line isolator with Earthing switch.
- ii) 1 No. 132kV 3-Pole SF6 Circuit breaker.
- iii) 3 No. 120kV 1-Pole Bus Isolators.
- v) 132kV 1-Pole Bus System.

2.2 4No. 1-Phase, 50MVA, Star/Delta, 132/22kV(or as required), Power Transformers.

2.3 22kV Capacitor/Reactor System.

- i) 22kV (LV) Bus Bar System with insulators and Structures.
- ii) LV Capacitor/ Reactor Banks along with Harmonic filters.
- iii) Thyristor Control equipment for automatic switching ON and OFF of capacitor/Reactor units.
- iv) Control, Protection, Metering equipment/panels.
- v) Battery and battery Charger system.
- vi) Control and Power Cables.
- vii) Control, Protection, Metering panels for Automatic switching ON and OFF commands/monitoring of Capacitor, Reactor units in accordance with the requirements of 132kV system network.

Note: LV rating of the Capacitor/Reactor system is proposed as 22kV. However, the Contactor may quote as their own voltage of manufacturer.

2. Specifications

Technical Specifications

1. **GENERAL**

- 1.1 All designs, equipments, materials and workmanship shall comply with and be tested in accordance with requirements of the specifications. Equipment or parts, which are not covered by the specifications, shall comply with rules, codes and regulations of the international electro-technical commission or approved National Standardizing bodies.
- 1.2 The general inlet of these specifications is to require the supply of equipment and materials equal or superior to those actually described herein. Unless otherwise stated, reference to the brand or manufacture, if make is only for the sake of comparison as to type, design, character or quality of the equipment and materials desired and shall not be interpreted as eliminating other equipment and materials of equal performance, quality and durability.

2. **SPECIFICATIONS AND DRAWINGS**

- 2.1 The contract shall be executed in strict conformity with the specifications and/or Drawings given or mentioned in this section and the supplier shall do no 'Work' without proper specifications, instructions and/or Drawings.
- 2.2 Specifications and/or drawings are intended to complement each other so that if any thing is shown on the drawings as required but not mentioned in the specifications or vice versa. It shall be of like effect as if shown or mentioned in both. If any errors, omissions or discrepancies are found in the figures, specifications and/or drawings or, if any feature shall appear to the supplier to be indefinite or unclear, the same shall be referred to the Employer whose written explanation and/or clarification shall be obtained before proceeding with the work.
- 2.3 The Contractor/Manufacturer shall submit to Employer within 30 days of the issuance of the Notification of Award, for approval of the Employer, four (4) copies of all drawings technical literature, data, operation and maintenance instruction books and/or manuals required under the specifications and such other documents as per required in the Technical Specifications or other provisions of the bidding documents or, if Employer deems necessary, require changes or modifications to be made therein, Employer shall return two copies to the Contractor/Manufacturer marked. "Approved", "Approved as Noted" or "Returned for Correction". Each drawing, which is noted "Returned for Correction"..
- 2.4 The Contractor/Manufacturer after incorporating the desired changes in the drawing shall resubmit four (4) sets of the same to the Employer for approval. Two prints of which shall be stamped "APPROVED" by the Employer and returned to the Contractor/Manufacturer for his record.

- 2.5 On completion of the Contract, the Contractor / Manufacturer shall deliver to the Employer four (4) prints of all approved drawings, technical literature, data which show the work in the final or "as built" condition. The said drawings and documents shall be permanent and non-fadable. In addition to above, two soft copies of above mentioned final drawings made on AutoCAD (latest version) on two separate CDs shall also be provided to the Employer.
- 2.6 The Contractor/Manufacturer shall allow 14 days for the Employer's approval of drawings in his schedule of work and in the time allowed for completion of the Contract. Extra time required for approval of drawings due to deficiencies in design or errors in submitted drawings shall be the responsibility of the Contractor/Manufacturer and no extension in time will be allowed on this account.
- 2.7 All drawings and documents furnished by the Contractor/Manufacturer in accordance with the Contract shall become the property of the Employer.
- 2.8 Wherever reference is made in the Technical Specifications to specific standards and codes to be met by the goods and materials to be furnished or tested, the provisions of the latest current edition or revision of the relevant standards or codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national or relates to a particular country or regions, other authoritative standards that ensure substantial equivalence to the standards and codes specified will be acceptable.

3 LANGUAGE

- 3.1 All correspondence, literature, drawings, name plates, diagrams, applicable data, equipment details, instructions and maintenance books and manuals, spare parts, books and descriptive data shall be in the English language.

4 TESTS

- 4.1 The ordered plant/equipment shall be subject to tests as per relevant provisions of the specification. The Bidder shall also supply type test reports from reputed independent laboratory along with the bid for the equipment offered as per NTDC Type Test Policy (revised to date).

In case the type test reports furnished by the bidder are not from one of reputed independent testing laboratories accredited by STL (Short Circuit Testing Liaison) or HV&SC Rawat Lab Pakistan or not relevant to the equipment offered or do not meet or comply with the rating and other requirements of the Purchaser's specifications included in this bidding document or are otherwise not to the satisfaction of the purchaser in any respect, the bidder will have to **arrange necessary type testing** in case of award at any of the reputed/ recognized independent testing laboratory

accredited by STL or HV&SC Rawat Lab Pakistan, entirely at his cost and arrangements, including the expenses for witnessing the type test by one representative of the Employer and one representative of Consultant covering all the expenditures of the each member of inspection team for living, boarding lodging in an A Class Hotel, inland transportation, return air tickets, etc. will be borne by the contractor whereas daily allowance will be US\$ 200/- per day per person for foreign visit and Rs. 5,000/- for local visit, without effecting stipulated delivery schedule.

The employer and Project Manager or their designated representatives shall be entitled to attend and witness the aforesaid tests (Factory Acceptance/Pre-shipment) of plant/equipment/material and/or inspection, provided that the Contactor shall bear all costs and expenses incurred in connection with such attendance, covering all the expenditures of the each member of inspection team for living, boarding lodging in an A Class Hotel, inland transportation, return air tickets, etc. will be borne by the contractor whereas daily allowance will be US\$ 200/- per day per person for foreign visit and Rs. 5,000/- for local visit, without effecting stipulated delivery schedule.

- 4.2 In case the Goods fail to withstand any test, the cost of repeating such test and the cost of witnessing such test by the approved representatives shall be borne by the Contractor and the equipment released or modified to the satisfaction of the Employer without any additional cost to him.

5. SPECIFICATIONS

1. Bidding Document Specifications
2. SVC Specifications
3. Civil Works Specifications
4. Drawings

3. Drawings

Please refer to the following annexure;

1. General Layout of the Grid Station-GLO

Note: - These are tentative, conceptual and preliminary drawings to be used for tendering purpose only.

4. Supplementary Information

SI-01 ACQUAINTANCE WITH SITE

The Contractor shall be deemed to have inspected and examined the various sites and its surroundings and information available in connection therewith before submitting his/her Bid. This includes but not limits to, the form and nature thereof, including the subsurface conditions, the hydrological and climatic conditions, the extent and nature of work, Goods and materials necessary for the completion of the Work, the means of access to the Site and the accommodation he may require and, in general, shall be deemed to have obtained all necessary information, subject as above mentioned, as to risks, contingencies and all other circumstances which may influence or affect his Bid.

SI-02 DESCRIPTION OF PROJECT

The Requirement

Please refer to the Scope of Supply of Plant and Services (Page # 6-2)

SI-02.1 POSSESSION OF SITE

Save, in so far as the Contract may prescribe, the extent of portions of the Site of which, the Contractor is to be given possession from time to time and the order in which such portions shall be made available to him and subject to any requirement in the Contract as to the order in which work shall be executed. QESCO shall, give to the Contractor possession of so much of the Site as may be required to enable the Contractor to commence and proceed in accordance with the program given by the contractor and agreed by the employer. Otherwise in accordance with such reasonable proposals of the Contractor as he shall, by notice in writing to the Employer, make and will, from time to time as work proceeds, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with due dispatch in accordance with the said program or proposals (as the case may be).

SI-02.2 LOCATION OF SITES

Gawadar and Panjgoor in Baluchistan, Pakistan.

SI-03 SITE CONDITIONS

SI-03.1 Site Conditions and Meteorological Data

The site is subject to dust storms and insects and vermin are prevalent. Particular care must be taken in design to prevent the ingress of dust,

insects, and vermin and to ensure resistance to attack by insects and vermin.

QESCO does not guarantee the correctness of any data provided herein nor any interpretations, deductions or conclusions relative to subsurface conditions at Site. The Contractor must form his own opinion of the character of the work and of the materials to be excavated. He must make his own interpretations, and satisfy himself by his own investigations and research regarding all conditions affecting the work to be done. The Contractor must assume all responsibility for deductions and conclusions as to the nature or conditions of the materials to be excavated and of doing other work affected by the geology at the Site.

Meteorological data of the Substation in respect of the following parameters may also be taken into account for designing purpose.

1.	Temperature, Degree C	Max	51.0
		Min	1.0
2.	No. of Thunder Storm days/year	Max	30
		Min	07
3.	No. of Fog days per year	Max	25
		Min	07
4.	No. of Rain fall days/year	Max	16
		Min	0
5.	No. of Drizzles/year	Max	85
		Min	03
6.	Relative humidity (%) yearly Mean- Monthly	Max	88.7
		Min	21.2
	Mean-Yearly	Max	77
		Min	42
7.	Pressure in mill bars (Station Level)	Max	992.9
		Min	971.1
8.	Rain fall in a month, cm	Max	47
		Min	0
9.	Rain fall in 24 hours, cm	Max	22.81
		Min	0

10.	Wind, km/hour	Max	144.3
11.	Height above sea level (meters)		<1000

SI-04.1 Material and Workmanship

- (1) All services in context of Installation of SVC at Gawadar Old and Panjgoor Grid stations (Control House Building, all type of foundations along with associated works shall comply with the requirements of the Contract Documents. All Services, Work or parts shall comply with the applicable standards, rules, codes and regulations of the internationally approved standardizing bodies.
- (2) The intent of these Specifications is that the services and workmanship of Work under this Contract should be equal to or superior than those actually described herein.
- (3) In choosing materials (**IF ANY**) and their finishes due regard shall be given to the conditions prevailing at Site.
- (4) All matters relating as to the acceptability or otherwise of the services, Work and materials offered under this Contract shall be decided by the Employer whose decision shall be final.

SI-05 WORK BY CONTRACTOR

SI-05.1 Scope of Work

The scope of the work to be executed under this Contract comprises of following but not limited to:

- a. Documentation of the work from the Employer/Project Manager and Procurement of Plant, Design, Supply, all associated Civil Works, Installation, Testing and Commissioning of SVCs at Gawadar Old and Panjgoor Grid stations ,all type of foundations along with the halls/control building, office, foundations for transformers and gantries, approach road, transformer way, yard fence, gate, walkways, clearing (removal and disposal of debris, plants, grass etc.) and levelling of open space within switchyard, laying of gravel where required, etc. as mentioned in above SI-02 above.
- b. Provisions of all guarantees, insurances, field offices / camps storage camps, labour, services, facilities and contractor's tools and equipment to construct, complete, test and commission the above said work in accordance with the requirements of the Contract documents.
- c. Provision of access roads/paths where necessary.
- d. Erecting plant.
- e. Clearing right of way including disposal of cleared materials (the responsibility for provision of right of way shall be of QESCO).

- f. Subsoil investigation of the site including laboratory tests and preparation and submission of sub-soil investigation report.
- g. Excavation, dewatering, shuttering, levelling / grading, slope protection (where necessary), backfill, and compaction including disposal of surplus excavated material.
- h. Preparation and submission of progress reports including site photographs, as built data (including computer compact diskettes: CD) manuals including project completion report.
- i. Testing and commissioning of all above said works
- j. Handing over of all surplus goods and materials after completion of work for which the contractor has taken payment from the employer
- k. Landscaping of unused open space within the premises of the Plant including clearing, levelling, plantation of grass and trees.
- l. Any other work not mentioned above but deemed necessary by the Contractor/Employer for the completion of the work and its successful/smooth operation will be considered a part of the scope of work under the contract.

NOTE:-

- (1) QESCO will not supply any material / goods, which is to be installed / erected at the site.
- (2) QESCO shall not give any equipment/ T&P for survey, civil works, and erection to the contractor for this project and the same shall have to be arranged by the contractor.
- (3) The detail of equipment/T&P, which the bidder possesses or to be arranged must be furnished with the bid.

SI-06 DRAWINGS

SI-06.1 Drawings in Contract

SI-06.1.1 Specification Drawings

The specification drawings contained in the Bidding Documents show the scope of Work to be performed by the Contractor. These drawings shall not be used for execution of the Work unless the Employer gives specific instructions for such use.

SI-06.1.2 Approved Drawings

The Work shall be performed in accordance with the approved drawings in terms of Clause 20 of the General Conditions of Contract.

SI-06.2. Drawings and Data

Approval of the Employer of all the construction drawings and data prior to execution is mandatory.

SI-06.2.1 Data Other Than Drawings

All of the applicable requirements of this Clause with reference to drawings to be prepared by the Contractor shall apply equally to catalogues, illustrations, printed specifications, or other data submitted for approval.

SI-06.3 Submission and Approvals

SI-06.3.1 Drawings/data for Approval

Drawings/data for approval shall be distributed through international couriers to addresses and in number as specified in Clause SI-06.3.6 hereof.

All drawings/data submitted for approval shall be provided with a blank white space, approximately 90 mm in height by 120 mm in width, near the lower right-hand corner to be used for notations by the Employer.

SI-06.3.2 Approval of Drawings/data

- (1) All changes will be made and will be marked "APPROVED", "APPROVED EXCEPT AS NOTED" or "RETURNED FOR CORRECTION" on the relevant drawings. One print will be returned to the Contractor. The other shall be retained by the Employer for his own use and shall serve as the Master Copy and shall prevail in case of any doubt or discrepancy subsequently arising.
- (2) If the drawing is returned to the Contractor stamped "APPROVED" he may immediately proceed with the Work. Any drawing marked "APPROVED" by the Employer shall be known as an "Approved Drawing".
- (3) If the drawing is returned to the Contractor stamped "APPROVED EXCEPT AS NOTED" he may proceed with the Work taking into account the corrections and comments noted on the drawing. The Contractor shall revise the drawings as required and resubmit them in the same routine as before for record purposes.
- (4) If the drawing is returned to the Contractor stamped "RETURNED FOR CORRECTION" he shall not proceed with the Work but shall make the changes and corrections or prepare new drawings and resubmit the revised drawing to the Employer for approval at no change in price or Schedule. Resubmitted prints and calculations will be subject to the same routine as before. Time required for such revisions and re-submittal of drawings or calculations will not entitle the Contractor to any extension in Contract time.

- (5) If the Contractor does not agree with exceptions taken by the Employer, the Contractor shall state in his letter of re-submittal his reasons for not complying with the Employer exceptions. Revision number and date and description of change shall be shown on all drawings or calculations revised.

SI-06.3.3 Work Prior to Approval

Any work done prior to the approval of drawings/data shall be at the Contractor's risk. The Employer shall have the right to request additional details and to require the Contractor to make any change in the design, which are necessary to conform to the provisions and intent of these Specifications and such changes shall be made without additional cost to Employer. The approval of the drawings/data by the Employer shall not be construed as a complete check but will indicate only that the general method of construction and detailing is satisfactory. Approval by the Employer of the Contractor's drawings/data shall not be held to relieve the Contractor of the obligations to meet all the requirements of these Specifications or of the responsibility for the correctness of the Contractor's drawings/data or for correct fit of assembled Goods furnished by the Contractor.

SI-06.3.4 Sequence of Submission

The sequence of submission of all drawings shall be such that all information is available for checking each drawing when it is received.

SI-06.3.5 Approved Drawings and Revisions

All approved drawings and data shall form a part of the Contract. If revisions are made after a drawing has been approved, the Contractor shall furnish for approval additional copies specified for the initial submission, subsequent to each revision.

SI-06.3.6 Distribution of Drawings and Documents

The drawings and documents (as applicable) shall be submitted to Employer within the time given in the Contract or within such reasonable time as the Employer may require, and in the number as specified hereunder:

Documents	Employer		Project Office	Total
	Head Office	Site Office:		
Drawings for approval	3	-	1	4
Approved Drawings	2	2	1	5
Drawings for information	2	1	1	4
Schedules, specifications and other documents/data	2	1	1	4

Construction Drawings	2	6	2	10
Record (As-Built) Drawings	2	-	4	6
Reproducible transparency Record (As-Built) Drawings	1	-	1	2
Record (As-Built) Drawings on computer compact diskette (CD) using AutoCAD software	1	-	1	2
Codes and standards	1	-	1	2
Instruction Manuals for approval	2	-	1	3
Approved final Manuals	1	2	2	5
Approved test procedure	1	2	2	5
Manufacture progress information	2	1	2	5
Insurance Certificates	1	1	2	4
Receiving reports	1	1	2	4
Damage reports	1	1	2	4
Erection progress Reports	2	1	2	5
List of Construction Stringing and Erection Equipment	1	1	1	3
Operation & Maintenance Manual	3	-	12	15
Project Completion Reports	3	-	12	15
Correspondence to the Employer Head Office	1	1	1	3
Correspondence to the Employer's Site Office	1	1	1	3

SI-06.3.7 Record Drawings

In the event of the Goods/Work or any part thereof being, with the approval of the Employer, properly built-in or installed otherwise than in accordance with the Approved Drawings, then the Contractor shall ensure that the Approved Drawings are marked up to show the conditions of the Goods/Work as installed and at least two (2) copies of such marked up drawings shall be submitted by the Contractor to the Employer for approval. One copy of each of marked up drawings approved by the Employer shall be returned to the Contractor by the Employer and these shall be used for the preparation of the Record Drawings pursuant

to Clause 20 of the General Conditions of Contract. A further copy of each of the marked up drawings shall be retained by the Employer for the purpose of checking the Record Drawings.

The Contractor shall furnish to the Employer two (2) complete sets of all Record Drawings and Data prior to issue of the Taking-over Certificate.

In addition to above the contractor shall provide two sets of as built drawing (soft copies) of all final Record which, in the opinion of the Employer, may be required for the erection, construction of civil Work operation and maintenance, for identification of parts and for ordering replacement parts and materials, on computer compact diskette (CD) using AutoCAD.

SI-06.3.8 Ownership of Drawings and Data Etc.

All the drawings, bill at Materials and any other information or documents furnished by the contractor will become the property of QESCO and will be non returnable.

SI-07 STANDARDS AND TYPICAL DESIGN

SI-07.1 General

The Specifications cite or imply International Standards and typical design for Work, Goods and materials. Other equivalent Standards and typical designs are equally acceptable provided that they in no way detract from the quality, safety, and operability of the Work, Goods and materials furnished. However, when standards or typical design other than those cited or implied are offered by a bidder, he shall set forth in his bid the alternative standards proposed so that a direct comparison can be made before Contract Award. Each specific difference from the Specifications shall be clearly indicated by the bidder. If the bidder sets no alternatives forth, it will be assumed that Work, Goods and material will be in accordance with the International Standards and typical design as cited or implied in the Specifications.

Where the documents provide requirements for material or Goods or Work by specifying a standard such as, for example, one of the international standard organizations, which has its origin in one country, it is not the intention to restrict the requirements solely to that standard and that country. Other standards, including standards of other countries will be accepted provided the requirements thereof in the sole opinion of the Employer, are at least equal to the requirements of the standards specified. The Bidder may propose to the Employer an equivalent standard other than that specified, in which case he shall submit the proposed standard and all other information required by the Employer and shall submit written demonstration that his proposed standard is equivalent to or superior to the one specified herein. The submission must be made in English language. Moreover, the bidder shall also supply copy of the latest revision of the standards used in his design.

SI-07.2 Applicable Standards and Codes

- (1) All Goods, materials, Work and design shall be generally in accordance with latest revision of the standards specified in the Technical Provisions except where specifically directed otherwise. If these Specifications conflict with any or all the standards stated in the Technical Provisions, these Specifications shall have precedence and shall govern.
- (2) In case deviation from the above standards is minor, the approval of the Employer may be given to the use of other national standards prevalent in the country of manufacture. No departure from the standard specified will be considered after the Contract has been awarded unless specific authorization is requested in writing from the Employer.

SI-8.1 Lifting

The method of lifting, type of equipment and type of slings, used for handling the reels and other goods are subject to approval by the Employer.

SI-8.2 Slings

If the use of slings is necessary, these shall be of a flexible type and preferably manila rope or other non- metallic materials. The use of steel wire, mesh or chain link slings is prohibited unless they are covered with rubber hose or some similar material.

SI-9 TRANSPORTATION OF GOODS

SI-9.1 Loading, Transportation, Unloading and Storage at the Site

- (1) The Contractor shall load Goods from manufacturer's works (within or outside employer's country), transport & unload all Goods and other material to the Site. Items for permanent installations shall be properly stored and shall be protected as required to prevent damage or deterioration of any type. Storage/ Stacking methods shall be such as to cause minimum inconvenience to others and shall be arranged to facilitate inspection.
- (2) All Goods and other material storage shall comply with the requirements of the Specifications or to the approval of the Employer.

SI-9.2 Ownership of Packing Materials

All packing boxes, reels, shipping containers except those containers, which are not the property of the Contractor, planking covers, etc. shall become the property of Employer. All the packing materials shall be handed over to Employer immediately after storage requirements of the Goods or part thereof and other materials are over.

SI-9.3 Receiving Reports and/or Damage Reports

- (1) The Contractor shall prepare and submit receiving reports to Employer to cover shipments/goods received and checked at the job Site and/or storage area.

SI-10 SCHEDULE, PROGRESS REPORTS AND MEETINGS**SI-10.1 Schedule**

The Contractor shall carry out the Work in accordance with the dates/ periods specified in General as well as Special Conditions of Contract and with the approved Schedule. The Contractor shall regularly review the Schedule and notify the Employer promptly of any revisions, which in his view may be required from time to time.

SI-10.1.1 Form of Schedule

The Schedule shall be a detailed CPM (critical path method) type, time scaled according to calendar dates and Project month numbers. The CPM for planning, scheduling, and controlling will be used for the Contract. The Contractor shall submit a schedule showing the logical sequence in which the Work will be carried out in sufficient detail to satisfy the Employer that the Work is thoroughly planned and meets all the requirements of the Contract Documents.

SI-10.2 Progress Reports

- (1) The Contractor within thirty **(30)** days of the signing of the Contract shall submit in writing for the approval of Employer a Schedule for the design, manufacture, delivery, erection, testing and commissioning of the Goods and design and construction of the associated civil work.
- (2) The submission to or approval by the Employer of such Schedule etc. shall not relieve the Contractor of any of his duties or responsibilities under the Contract.
- (3) At monthly intervals after submission of the Schedule, the Contractor shall submit to the Employer up to five **(5)** copies of a written detailed progress report in an approved form together with copies of the above mentioned Schedule indicating the stage reached in transportation of goods, erection/construction, in percentage terms. Such monthly reports shall show the actual progress plotted against the scheduled progress. These reports shall be accompanied by such photographs, diagrams, bar charts, and curves in approved standard form, as may be required by the Employer. The reports shall be forwarded not later than the 8th of the subsequent month. The numbers of copies shall be as stipulated in the Specifications or as instructed by the Employer.
- (4) The Employer shall at all reasonable times be afforded access to the Contractor and any Sub-Contractor's premises for the purpose of ascertaining progress.

SI-11 Meetings

- (1) Soon after the date of signing of Contract, the Employer will require a conference with the Contractor at a place mutually agreed upon, to discuss scheduling of drawings, manufacture, scheduled sequences of delivery and other similar problems which may be pertinent to the completion of the Project.

- (2) At monthly intervals or from time to time during the execution of the Contract, the Employer may call meetings, either in his Offices or at the Contractor's Offices in Pakistan or QESCO's office as is deemed necessary for the purpose of progress monitoring and proper execution of the Contract.
- (3) As required by the Employer, responsible representatives of the Contractor shall attend such meetings.
- (4) All expenses incurred by the Contractor for attending such meetings shall be borne by the Contractor and shall not be reimbursable.

SI-12 SITE FACILITIES AND SERVICES

Attention is drawn to the obligations of the Contractor to make his own arrangements at his own expense for Services or facilities provided to his employees. Any cost incurred by the Contractor in respect of any of such Site facilities or services under the Contract shall be deemed to be included in the rates and prices in the Price Schedule and no separate payment, therefore, will be made to the Contractor.

SI-12.1 Accommodation

- (1) The Contractor shall provide and maintain at his cost residential accommodation and transportation facilities for his own use.
- (2) The Contractor shall provide and maintain such housing accommodation and amenities as he may consider necessary for all of his supervisory staff and labour employed for the purposes of or in connection with this Contract including all fencing, electricity, supply, sanitation, cook houses, fire prevention, water supply and other requirements in connection with such housing accommodation or amenities.

SI-12.2 Offices

- (1) The Contractor shall arrange and maintain his offices at his own cost.

SI-12.3 Work yards and Storage Areas

- (1) Pursuant to Clause SI-9.2 hereof, no storage site shall be provided by QESCO to store Goods, materials or equipment. The Contractor shall procure, furnish, provide and arrange for all the necessary services and be responsible for the construction and maintenance of the necessary construction campus, offices and warehouses; and perform all other work necessary for completion of the Work described herein in strict conformance with these Specifications.
- (2) The Contractor shall provide his own watchman service to ensure security and safety of the Goods, materials and Work prior to QESCO taking over the Work.

SI-12.4 Temporary Buildings

- (1) The Contractor shall provide and maintain all temporary structures required including warehouses, change houses for workmen, sheds, etc. He shall also provide his own field office complete with telephone so that he or his official representative can be contacted by QESCO and/or Employer at all times.
- (2) Such temporary buildings and/or utilities shall remain the property of the Contractor and shall be removed by him at his expense upon the completion of the Work and the Site reinstated to its original condition, all to the approval of the Employer.

SI-13 MEASUREMENT FOR PAYMENT AND PAYMENT

The measurement for payment and payment for the various price schedules items will be as per Appendix-1

SI-14 PAYMENT OF CUSTOM DUTIES

Refer Section-7 GCC Clause 14.1

SI-15 TYPE TEST REPORTS

The contractor shall provide type test reports with the bid. In case the type test reports furnished by the bidder are not from one of reputed independent testing laboratories accredited by STL (Short-Circuit Testing Liaison) or are not relevant to the equipment offered or do not meet or comply with the ratings and other requirements of the Employer's Specifications included in this bidding document or are otherwise not to the satisfaction of the Employer in any respect, the bidder will have to arrange necessary type testing, in case of award at, one of the following laboratories entirely at his cost and arrangement, without affecting the stipulated delivery schedule.

1. HV & SC Lab, Rawat, Pakistan
2. KEMA Lab, Holland
3. CESI, Italy
4. CRIEPI Lab, Japan
5. KERI Lab , Korea

Any other reputed / recognized independent testing laboratory accredited by STL for equipment given below, and as per NTDC Latest Type Test Policy.

PLANT REQUIRING TYPE TEST AS PER NTDC PRACTICE

1. 1-Phase Power Transformer, 50MVA, 132/22kV (or as required).
2. SF6 Circuit Breaker, 132kV.
3. Disconnecter, 132kV.
4. Current and Potential Transformer, 132kV, 22kV (or as applicable).
5. Surge Arrestor (L.A), 132kV, 22kV (or as applicable).
6. Insulators (Disc and Post), 132kV, 22kV (or as applicable).
7. Poles, Gantries and Structures.
8. Control and Protection Relay equipment.
9. Capacitor and Reactors.
10. Thyristor Control equipment.
11. Hardware, Connectors etc.
12. Control and Power cables.

SI-16 CAMP OFFICE AND OTHER FACILITIES

The Contractor will deploy a Project Manager for the execution of work who will keep liaison with the employer/engineer to resolve/rectify to day problems/defects pointed out by Employer/engineer and site Engineer for each site.

1. Contractor camp will be established at site having all facilities like computers, printers, internet, telephone, fax and toilet. Employer staff can also use these facilities.

SI-17 ENVIROMENTAL MANAGEMENT PLAN

1. The contractor will deploy/appoint the site Environmental Engineer / Specialist with relevant educational background and experience and will make sure that hired staff is professional qualified one. The CVs of the applicant for post of site Environmental Engineer/ specialist should be shared with the employer for approval cost to this effect will be adjusted in other items of BOQ.
2. The contractor will facilitate Employer and arrange testing of National Environmental Quality Standards (NEQS) i.e. Water Quality, Ambient Air and Noise parameters through EPA approved lab. Payment will be made as per provisions of relevant BOQ. Further Contractor will make sure the aforementioned parameters are not deteriorated due to implementation of works

3. Contractor will prepare Site Specific Environmental Management Plan (SSEMP) covering all activities of the project, submit for approval of Employer and will implement accordingly.
4. Contractor will plant trees mentioned in BOQ will be of minimum height of 06 to 07 feet especially of indigenous species on available space in and around project area in consultation with District Officer Environment within 03 months of start of the project. The Contractor will also take measures for the safety and maintenance of planted trees and hand over to Employer in flourishing condition on the completion of the project.
5. Contractor will cordon of the excavated areas with safety warnings/signs, reflecting tapes for safety of general public and workers. Contractor will arrange PPEs, First Aid Box and Fire Fighting Equipment. Further Contractor will arrange training of Workers and Employer's staff regarding Environment, Health & Safety. Contractor will submit training plan for approval of the Employer. Cost to this effect will be borne by the Contractor.
6. Contractor will prepare Solid Waste Management for approval of Employer and implement accordingly. Contractor will make sure that debris are removed, waste construction material is disposed off/recycled and work area after completion is leveled off to the original condition. Further contractor have to prepare Temporary Drainage Management and Waste Water Management Plan and submit to Employer for implementation.
7. Contractor will deploy Social Expert who will facilitate the Employer in updating LARPs. Social Expert/Specialist is to act as member of Grievance Redressal Mechanism (GRM) to address the complaints of affected person on account of Social Safeguard by maintaining complaint register and resolve the issues within 07 days and report to employer.

SI-18 key Construction and Erection Equipment

The bidder shall have his own key construction and erection equipment in good working condition as listed hereunder:

Sr. No.	Equipment Type & Characteristics	Qty.
1	Vibrator	01
2	Flatbed Compactor	01
3	Scaffolding	02
4	Crane	01
5	CONCRETE MIXTURE MACHINE	02
6	Mechanical excavators	01
7	Trucks/Loaders	02
8	General tools for tube connection	03

9	Instruments for testing & commissioning of 132kV AIS plant including protection & signaling	01 Set
10	Standard Instruments for erection of AIS plant	01 Set
11	Gas filling plant	01
12	General tools for erection of 132kV Equipment	01 Set
13	Relevant T&P and machinery required for successful testing & commissioning completion of the Work	As per requirement

The bidder shall provide documentary evidence/catalogues/drawings for undertaking such like works in good working condition. Alternatively, if not so, the bidder will identify the confirmed source of the said machinery, T&P etc. along with documentary evidence/catalogues/drawings and shall provide necessary guarantee/surety that he will arrange the said equipment in good working condition through its own resources prior to start of construction activity. The aforementioned documentary evidence shall be submitted with the bid.

SI-19 Key Personnel:

The Bidder shall have the personnel for the key positions to be deployed meeting the following requirements:

No.	Position	Minimum Criteria [years]	Minimum Criteria Similar Work [years]
1	Project Manager	15	10
2	Design Engineer (Civil)	10	5
3	Design Engineer (Electrical)	10	5
4	Construction Manager	10	5
5	Site Engineer (Civil)	5	3
6	Site Engineer (Electrical)	5	3
7	Plant erectors	7	5
8	Testing & Commissioning Engineer	10	5

The above Manager/Engineer personnel shall be graduate professional engineers.

SI-20 Engineer/Employer's Representative

EnMasse (Pvt.) Ltd shall be Engineer/Employer's Representative

EnMasse (Pvt.) Ltd

Address: 326-G3, Johar Town, Lahore

Tel: 042- 35314701-04, 34546541-42, Fax: 042- 35314705

E-mail: enmasse@enmassepakistan.com Web: www.enmassepakistan.co

SI-21 Any equipment with malfunction during Defect Liability Period (DLP), will be replaced with brand new one, without dispute, at the cost of the Contractor.

SI-22 Security of Staff and Site/Equipment etc.

The Contractor shall be responsible for the security and must provide at his cost, foolproof security arrangements to all of his staff and Engineer/Employer's Representative, (At site and off site), until the successful completion and Handing over of the Project. The Contractor will get the approval of Employer/Engineer for the security plan before implementation.

The Contractor shall be responsible for the security of Equipment stored/installed at site and off site, at his cost, until the successful completion and Handing over of the Project. (At site and off site)

The cost of providing security must be included in the price quoted in the Price Schedule and no separate payments will be made on this account.

In case of arrangement of Security Personnel from any Law Enforcement Agency i.e. Frontier Corps (FC) etc., the employer will coordinate to arrange. However, all the cost associated with this matter, shall be borne by the Contractor.

SI-23 Miscellaneous Construction Facilities

NOT APPLICABLE

SI-24 Vehicles

NOT APPLICABLE

SI-25 Complete Design must be provided by the Bidder. Contractor will be fully responsible (in all respect) for the Design/Operations

SI-26 SVC "System Study Report" is available, and the same can be provided, if requested by the Bidder.

SI-27 Warranty

The period of validity of the Warranty shall be:

A warranty to the effect that the plant offered conform exactly to the specifications laid down in this Contract and that the plant in question have also been tested and checked prior to delivery & that the Plant in question are new and free from all defects, and that in the event of Plant being found old or defective or not conforming to the specifications, or not in conformity with the test certificate, the Contractor will be held responsible for all losses and that you agree to substitute the unacceptable plant with acceptable one at Contractor risk and cost provided the above mentioned defects/deficiencies are noticed within five (05) years from the date of installation/commissioning of the plant.

The Contractor shall correct any defects covered by the Warranty within: Thirty (30) days of being notified by the Employer/Engineer of the occurrence of such defects

SI-28 Provisional Sum

Provisional Sum, shall be used for the reimbursement of Taxes/Duties.

5. Bank Guarantees and Certificates

5.1 Form of Performance Security

.....*Bank's Name, and Address of Issuing Branch or Office*.....

Beneficiary:*Name and Address of Employer*.....

Date:.....

Performance Guarantee No.:

We have been informed that *name of the Contractor*. (hereinafter called "the Contractor") has entered into Contract No. *reference number of the Contract*. dated with you, for the execution of *name of contract and brief description of Works*. (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we name of the Bank. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of name of the currency and amount in figures*. (. amount in words.) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire no later than the earlier of:

- (a) eighteen months after our receipt of:
 - (i) a copy of the Completion Certificate; or
 - (ii) a registered letter from the Contractor, attaching a copy of the notice to the project manager that the Facilities are ready for commissioning, and stating that fourteen days have elapsed from receipt of such notice (or seven days have elapsed if the notice was a repeated notice) and the project manager has failed to issue a Completion Certificate or inform the Contractor in writing of any defects or deficiencies; or
 - (iii) a registered letter from the Contractor stating that no Completion Certificate has been issued but the Employer is making use of the Facilities; or

(b) the ____ day of _____, 2____.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

.....
Seal of Bank and Signature(s)

5.2 Form of Advance Payment Security

..... *Bank's Name, and Address of Issuing Branch or Office*

Beneficiary: *Name and Address of Employer*

Date:

Advance Payment Guarantee No.:

We have been informed that *name of the Contractor*. (hereinafter called "the Contractor") has entered into Contract No. *reference number of the Contract*. dated with you, for the execution of *name of contract and brief description of Works*. (hereinafter called "the Contract").

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum (*the Guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.*). (*amount in words*.) is to be made against an advance payment guarantee.

At the request of the Contractor, we *name of the Bank*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *name of the currency and amount in figures**. (*amount in words*.) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number *Contractor's account number*. at *name and address of the Bank*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the . . . day of (*insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee".* , whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date..

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

.....
Seal of Bank and Signature(s)

5.3 Form of Completion Certificate

Contract: [. . . .insert name of contract and contract identification details. . . .]

Date:

Certificate No.:

To: [. . . .insert name and address of Contractor. . . .]

Dear Ladies and/or Gentlemen,

Pursuant to GC Clause 24 (Completion of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated [. . . .insert date. . . .], relating to the [. . .brief description of the Facilities . . .], we hereby notify you that the following part(s) of the Facilities was (were) complete on the date specified below, and that, in accordance with the terms of the Contract, the Employer hereby takes over the said part(s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

- 1. Description of the Facilities or part thereof: [. . .description . . .]
- 2. Date of Completion: [. . .date . . .]

However, you are required to complete the outstanding items listed in the attachment hereto as soon as practicable.

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

[. . .Signature . . .]

Project Manager

5.4 Form of Operational Acceptance Certificate

Contract: [. . . . *insert name of contract and contract identification details.*]

Date:

Certificate No.:

To: [. . . . *insert name and address of Contractor.*]

Pursuant to GC Sub-Clause 25.3 (Operational Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated [*date*], relating to the [*brief description of the Facilities*], we hereby notify you that the Functional Guarantees of the following part(s) of the Facilities were satisfactorily attained on the date specified below.

1. Description of the Facilities or part thereof: [*description*]
2. Date of Operational Acceptance: [*date*]

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

[. . . . *Signature*]

Project Manager

6. Change Orders

6.1 Change Order Procedure

- 6.1.1 General
- 6.1.2 Change Order Log
- 6.1.3 References for Changes

6.2. Change Order Forms

- 6.2.1 Request for Change Proposal
- 6.2.2 Estimate for Change Proposal
- 6.2.3 Acceptance of Estimate
- 6.2.4 Change Proposal
- 6.2.5 Change Order
- 6.2.6 Pending Agreement Change Order
- 6.2.7 Application for Change Proposal

6.1. Change Order Procedure

6.1.1 General

This section provides samples of procedures and forms for implementing changes in the Facilities during the performance of the Contract in accordance with GC Clause 39 (Change in the Facilities) of the General Conditions.

6.1.2 Change Order Log

The Contractor shall keep an up-to-date Change Order Log to show the current status of Requests for Change and Changes authorized or pending, as Annex 8. Entries of the Changes in the Change Order Log shall be made to ensure that the log is up-to-date. The Contractor shall attach a copy of the current Change Order Log in the monthly progress report to be submitted to the Employer.

6.1.3 References for Changes

- (1) Request for Change as referred to in GC Clause 39 shall be serially numbered CR-X-nnn.
- (2) Estimate for Change Proposal as referred to in GC Clause 39 shall be serially numbered CN-X-nnn.
- (3) Acceptance of Estimate as referred to in GC Clause 39 shall be serially numbered CA-X-nnn.
- (4) Change Proposal as referred to in GC Clause 39 shall be serially numbered CP-X-nnn.
- (5) Change Order as referred to in GC Clause 39 shall be serially numbered CO-X-nnn.

Note:

- (a) Requests for Change issued from the Employer's Home Office and the Site representatives of the Employer shall have the following respective references:

Home Office	CR-H-nnn
Site	CR-S-nnn

- (b) The above number "nnn" is the same for Request for Change, Estimate for Change Proposal, Acceptance of Estimate, Change Proposal and Change Order.

6.2 Change Order Forms

6.2.1 Request for Change Proposal Form

[*Employer's Letterhead*]

To: [*Contractor's name and address*]

Date:

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

With reference to the captioned Contract, you are requested to prepare and submit a Change Proposal for the Change noted below in accordance with the following instructions within [*number*] days of the date of this letter [or on or before (*date*)].

1. Title of Change: [*Title*]
2. Change Request No./Rev.: [*Number*]
3. Originator of Change:
Employer: [Name]
Contractor (by Application for Change Proposal No. [Number Refer to Annex 6.2.7])
4. Brief Description of Change: [*Description*]
5. Facilities and/or Item No. of equipment related to the requested Change: [*Description*]
6. Reference drawings and/or technical documents for the request of Change:

<i>Drawing No./Document No.</i>	<i>Description</i>
---------------------------------	--------------------
7. Detailed conditions or special requirements on the requested Change: [*Description*]
8. General Terms and Conditions:
 - (a) Please submit your estimate to us showing what effect the requested Change will have on the Contract Price.
 - (b) Your estimate shall include your claim for the additional time, if any, for completion of the requested Change.
 - (c) If you have any critical opinion regarding the adoption of the requested Change in connection with the conformability to the other provisions of the Contract or the safety of the Plant or Facilities, please inform us of your opinion in your proposal of revised provisions.
 - (d) Any increase or decrease in the work of the Contractor relating to the services of its personnel shall be calculated.
 - (e) You shall not proceed with the execution of the work for the requested Change until we have accepted and confirmed the amount and nature in writing.

[*Employer's Name*]

[*Signature*]

[*Name of signatory*]

[*Title of signatory*]

6.2.2 Estimate for Change Proposal Form

[*Contractor's Letterhead*]

To: [*Employer's name and address*]

Date:

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

With reference to your Request for Change Proposal, we are pleased to notify you of the approximate cost of preparing the below-referenced Change Proposal in accordance with GC Sub-Clause 39.2.1 of the General Conditions. We acknowledge that your agreement to the cost of preparing the Change Proposal, in accordance with GC Sub-Clause 39.2.2, is required before estimating the cost for change work.

1. Title of Change: [*Title*]
2. Change Request No./Rev.: [*Number*]
3. Brief Description of Change: [*Description*]
4. Scheduled Impact of Change: [*Description*]
5. Cost for Preparation of Change Proposal: [*insert costs which shall be in the currencies of the Contract*]

(a)	Engineering	(Amount)
	(i) Engineer _____ hrs x _____ rate/hr =	_____
	(ii) Draftsperson _____ hrs x _____ rate/hr =	_____
	Sub-total _____ hrs	_____
	Total Engineering Cost	_____
(b)	Other Cost	_____
	Total Cost (a) + (b)	_____

[*Contractor's Name*]

[*Signature*]

[*Name of signatory*]

[*Title of signatory*]

6.2.3 Acceptance of Estimate Form

[*Employer's Letterhead*]

To: [*Contractor's name and address*]

Date:

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

We hereby accept your Estimate for Change Proposal and agree that you should proceed with the preparation of the Change Proposal.

1. Title of Change: [*Title*]
2. Change Request No./Rev.: [*Request number/revision*]
3. Estimate for Change Proposal No./Rev.: [*Proposal number/revision*]
4. Acceptance of Estimate No./Rev.: [*Estimate number/revision*]
5. Brief Description of Change: [*Description*]
6. Other Terms and Conditions: In the event that we decide not to order the Change accepted, you shall be entitled to compensation for the cost of preparation of Change Proposal described in your Estimate for Change Proposal mentioned in para. 3 above in accordance with GC Clause 39 of the General Conditions.

[*Employer's Name*]

[*Signature*]

[*Name of signatory*]

[*Title of signatory*]

6.2.4 Change Proposal Form

[*Contractor's Letterhead*]

To: [*Employer's name and address*]

Date:

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

In response to your Request for Change Proposal No. [Number], we hereby submit our proposal as follows:

1. Title of Change: [*Name*]
2. Change Proposal No./Rev.: [*Proposal number / revision*]
3. Originator of Change: Employer: [*Name*] / Contractor: [*Name*]
4. Brief Description of Change: [*Description*]
5. Reasons for Change: [*Reason*]
6. Facilities and/or Item No. of Equipment related to the requested Change: [*Facilities*]
7. Reference drawings and/or technical documents for the requested Change:
[*Drawing/Document No./Description*]
8. Estimate of increase/decrease to the Contract Price resulting from Change Proposal:

	Amount
Contract]	[<i>insert amounts in the currencies of the</i>
(a) Direct material _____	_____
(b) Major construction equipment _____	_____
(c) Direct field labor (Total hrs) _____	_____
(d) Subcontracts _____	_____
(e) Indirect material and labor _____	_____
(f) Site supervision _____	_____
(g) Head office technical staff salaries	
Process engineer _____ hrs @ _____ rate/hr	_____
Project engineer _____ hrs @ _____ rate/hr	_____

Equipment engineer _____ hrs @ _____ rate/hr _____
 Procurement _____ hrs @ _____ rate/hr _____
 Draftsperson _____ hrs @ _____ rate/hr _____
 Total _____ hrs _____

(h) Extraordinary costs (computer, travel, etc.) _____

(i) Fee for general administration, % of Items _____

(j) Taxes and customs duties _____

Total lump sum cost of Change Proposal [Sum of items (a) to (j)]
 Cost to prepare Estimate for Change Proposal [Amount payable if Change is not
 accepted]

9. Additional time for Completion required due to Change Proposal
10. Effect on the Functional Guarantees
11. Effect on the other terms and conditions of the Contract
12. Validity of this Proposal: within [Number] days after receipt of this Proposal by the Employer
13. Other terms and conditions of this Change Proposal:
 - (a) You are requested to notify us of your acceptance, comments or rejection of this detailed Change Proposal within [Number] days from your receipt of this Proposal.
 - (b) The amount of any increase and/or decrease shall be taken into account in the adjustment of the Contract Price.
 - (c) Contractor's cost for preparation of this Change Proposal: [. . . .insert amount. This cost shall be reimbursed by the Employer in case of Employer's withdrawal or rejection of this Change Proposal without default of the Contractor in accordance with GC Clause 39 of the General Conditions]

[Contractor's Name]
 [Signature]
 [Name of signatory]
 [Title of signatory]

6.2.5 Change Order Form

[Employer's Letterhead]

To: [Contractor's name and address]

Date:

Attention: [Name and title]

Contract Name: [Contract name]

Contract Number: [Contract number]

Dear Ladies and/or Gentlemen:

We approve the Change Order for the work specified in the Change Proposal (No. [number]), and agree to adjust the Contract Price, Time for Completion and/or other conditions of the Contract in accordance with GC Clause 39 of the General Conditions.

1. Title of Change: [Name]
2. Change Request No./Rev.: [Request number / revision]
3. Change Order No./Rev.: [Order number / revision]
4. Originator of Change: Employer: [Name] / Contractor: [Name]
5. Authorized Price:
Ref. No.: [Number] Date: [Date]
Foreign currency portion [Amount] plus Local currency portion [Amount]
6. Adjustment of Time for Completion
None Increase [Number] days Decrease [Number] days
7. Other effects, if any

Authorized by: _____
Employer

Date: _____

Accepted by: _____
Contractor

Date: _____

6.2.6 Pending Agreement Change Order Form

[*Employer's Letterhead*]

To: [*Contractor's name and address*]

Date:

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

We instruct you to carry out the work in the Change Order detailed below in accordance with GC Clause 39 of the General Conditions.

1. Title of Change: [*Name*]
2. Employer's Request for Change Proposal No./Rev.: [*number/revision*] dated: [*date*]
3. Contractor's Change Proposal No./Rev.: [*number / revision*] dated: [*date*]
4. Brief Description of Change: [*Description*]
5. Facilities and/or Item No. of equipment related to the requested Change: [*Facilities*]
6. Reference Drawings and/or technical documents for the requested Change:
[*Drawing / Document No. / Description*]
7. Adjustment of Time for Completion:
8. Other change in the Contract terms:
9. Other terms and conditions:

[*Employer's Name*]

[*Signature*]

[*Name of signatory*]

[*Title of signatory*]

6.2.7 Application for Change Proposal Form

[*Contractor's Letterhead*]

To: [*Employer's name and address*]

Date:

Attention: [*Name and title*]

Contract Name: [*Contract name*]

Contract Number: [*Contract number*]

Dear Ladies and/or Gentlemen:

We hereby propose that the below-mentioned work be treated as a Change in the Facilities.

1. Title of Change: [*Name*]
2. Application for Change Proposal No./Rev.: [*Number / revision*] dated: [*Date*]
3. Brief Description of Change: [*Description*]
4. Reasons for Change:
5. Order of Magnitude Estimation (amount in the currencies of the Contract): [*Amount*]
6. Scheduled Impact of Change:
7. Effect on Functional Guarantees, if any:
8. Appendix:

[*Contractor's Name*]

[*Signature*]

[*Name of signatory*]

[*Title of signatory*]

Section 7 - General Conditions of Contract

These General Conditions of Contract (GCC) are based on the Model Form of International Contract for Process Plant Construction published by the Engineering Advancement Association of Japan (ENAA). The Multilateral Development Banks (MDBs) participating in the procurement harmonization process gratefully acknowledge the contribution of ENAA to the advancement of good contracting practices in their member countries. The GCC contain general clauses to be applied on all contracts. The GCC in this Section, read in conjunction with the Special Conditions of Contract in Section 8 and other documents listed therein, should be a complete document expressing all the rights and obligations of the contracting parties. The General Conditions herein shall not be altered.

Table of Clauses

A. Contract and Interpretation.....	7-3
1. Definitions.....	7-3
2. Contract Documents.....	7-5
3. Interpretation	7-5
4. Communications.....	7-7
5. Law and Language.....	7-7
6. Fraud and Corruption	7-7
B. Subject Matter of Contract.....	7-8
7. Scope of Facilities	7-8
8. Time for Commencement and Completion	7-9
9. Contractor's Responsibilities	7-9
10. Employer's Responsibilities.....	7-10
C. Payment	7-11
11. Contract Price.....	7-11
12. Terms of Payment	7-11
13. Securities.....	7-12
14. Taxes and Duties.....	7-13
D. Intellectual Property	7-13
15. License/Use of Technical Information	7-13
16. Confidential Information	7-14
E. Execution of the Facilities.....	7-14
17. Representatives.....	7-14
18. Work Program	7-16
19. Subcontracting.....	7-17
20. Design and Engineering	7-17
21. Procurement.....	7-19
22. Installation	7-21
23. Test and Inspection	7-26
24. Completion of the Facilities	7-27
25. Commissioning and Operational Acceptance.....	7-29
F. Guarantees and Liabilities.....	7-31
26. Completion Time Guarantee	7-31
27. Defect Liability	7-32
28. Functional Guarantees	7-34

29. Patent Indemnity	7-34
30. Limitation of Liability.....	7-35
G. Risk Distribution	7-36
31. Transfer of Ownership	7-36
32. Care of Facilities	7-36
33. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification	7-37
34. Insurance	7-38
35. Unforeseen Conditions	7-40
36. Change in Laws and Regulations	7-41
37. Force Majeure.....	7-41
38. War Risks.....	7-42
H. Change in Contract Elements	7-43
39. Change in the Facilities.....	7-43
40. Extension of Time for Completion.....	7-46
41. Suspension	7-47
42. Termination	7-48
43. Assignment	7-53
I. Claims, Disputes and Arbitration	7-53
44. Contractor's Claims.....	7-53
45. Disputes and Arbitration	7-55

General Conditions

A. Contract and Interpretation

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned them:

“Contract” means the Contract Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.

“Contract Documents” means the documents listed in Article 1.1 (Contract Documents) of the Contract Agreement (including any amendments thereto).

“GCC” means the General Conditions of Contract.

“SCC” means the Special Conditions of Contract.

“day” means calendar day .

“year” means 365 days.

“month” means calendar month.

“Party” means the *Employer* or the Contractor, as the context requires.

“*Employer*” means the person named as such in the SCC and includes the legal successors or permitted assigns of the Employer.

“Project Manager” means the person appointed by the Employer in the manner provided in GCC Sub-Clause 17.1 (Project Manager) hereof and named as such in the SCC to perform the duties delegated by the Employer.

“Contractor” means the person(s) named as Contractor in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor.

“Contractor’s Representative” means any person nominated by the Contractor and approved by the Employer in the manner provided in GCC Sub-Clause 17.2 (Contractor’s Representative and Construction Manager) hereof to perform the duties delegated by the Contractor.

“Construction Manager” means the person appointed by the Contractor’s Representative in the manner provided in GCC Sub-Clause 17.2.4.

“Subcontractor,” including manufacturers, means any person to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant, is sub-contracted directly or indirectly by the Contractor, and includes its legal successors or permitted assigns.

“Dispute Board” (DB) means the person or persons named as such in the SCC appointed by agreement between the Employer and the Contractor to make a decision on or to settle any dispute or difference between the Employer and the Contractor referred to him or her by the

parties pursuant to GCC Sub-Clause 44.... (Dispute Board) hereof.

“The Bank” means the financing institution named in the SCC.

“Contract Price” means the sum specified in Article 2.1 (Contract Price) of the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.

“Facilities” means the Plant to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.

“Plant” means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Contractor under the Contract (including the spare parts to be supplied by the Contractor under GCC Sub-Clause 7.3 hereof), but does not include Contractor’s Equipment.

“Installation Services” means all those services ancillary to the supply of the Plant for the Facilities, to be provided by the Contractor under the Contract, such as transportation and provision of marine or other similar insurance, inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training, etc... as the case may require.

“Contractor’s Equipment” means all facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Contractor, but does not include Plant, or other things intended to form or forming part of the Facilities.

“Country of Origin” means the countries and territories eligible under the rules of the Employer as further elaborated in the SCC.

“Site” means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.

“Effective Date” means the date of fulfillment of all conditions stated in Article 3 (Effective Date) of the Contract Agreement, upon which the period until the Time for Completion shall be counted from.

“Time for Completion” means the time within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained, as referred to in GCC Clause 8 and in accordance with the relevant provisions of the Contract.

“Completion” means that the Facilities (or a specific part thereof where specific parts are specified in the Contract) have been completed operationally and structurally and put in a tight and clean condition, that all work in respect of Pre-commissioning of the Facilities or such specific part thereof has been completed, and that the Facilities or specific part thereof are ready for Commissioning as provided in GCC Clause 24 (Completion) hereof.

“Precommissioning” means the testing, checking and other requirements specified in the Employer’s Requirements that are to be carried out by the Contractor in preparation for Commissioning as provided in GCC Clause 24 (Completion) hereof.

“Commissioning” means operation of the Facilities or any part thereof by the Contractor following Completion, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 25.1 (Commissioning) hereof, for the purpose of carrying out Guarantee Test(s).

“Guarantee Test(s)” means the test(s) specified in the Employer’s Requirements to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Appendix (Functional Guarantees) to the Contract Agreement in accordance with the provisions of GCC Sub-Clause 25.2 (Guarantee Test) hereof.

“Operational Acceptance” means the acceptance by the Employer of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Contractor’s fulfillment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 28 (Functional Guarantees) hereof and shall include deemed acceptance in accordance with GCC Clause 25 (Commissioning and Operational Acceptance) hereof.

“Defect Liability Period” means the period of validity of the warranties given by the Contractor commencing at Completion of the Facilities or a part thereof, during which the Contractor is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 27 (Defect Liability) hereof.

- 2. Contract Documents**
- 2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.
- 3. Interpretation**
- 3.1 In the Contract, except where the context requires otherwise:
- (a) words indicating one gender include all genders;
 - (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
 - (c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be record in writing;
 - (d) the word “tender” is synonymous with “bid”, “tenderer” with “bidder” and “tender documents” with “bidding documents”; and
 - (e) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

3.2 Incoterms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder

shall be as prescribed by Incoterms.

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1^{er}, 75008 Paris, France.

3.3 Entire Agreement

Subject to GCC Sub-Clause 16.4 hereof, the Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

3.4 Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party hereto.

3.5 Independent Contractor

The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto. Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of the Employer, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and the Employer.

3.6 Non-Waiver

3.6.1 Subject to GCC Sub-Clause 3.6.2 below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.6.2 Any waiver of a party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

3.7 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

3.8 Country of Origin

"Origin" means the place where the plant and component parts thereof are mined, grown, produced or manufactured, and from which the services are provided. Plant components are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that is substantially in its basic characteristics or in purpose or utility from its

components.

- 4. Communications** 4.1 Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:
- (a) in writing and delivered against receipt; and
 - (b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Contract Agreement.

When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Project Manager, a copy shall be sent to the Project Manager or the other Party, as the case may be.

- 5. Law and Language** 5.1 The Contract shall be governed by and interpreted in accordance with laws of the country specified in the SCC.
- 5.2 The ruling language of the Contract shall be that stated in the SCC.
- 5.3 The language for communications shall be the ruling language unless otherwise stated in the SCC.

- 6. Fraud and Corruption** 6.1 Employers Anticorruption Policy requires Borrowers (including beneficiaries of financed activity), as well as Bidders, suppliers, and contractors under locally financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, Employer
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) "fraudulent practice" means 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) "coercive practice" means 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;
 - (iv) "collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
 - (v) "integrity violation" means any act, as defined under Integrity Principles and Guidelines, which violates Anticorruption Policy including corrupt, fraudulent, coercive, or collusive practice, abuse, and obstructive practice;
 - (vi) "obstructive practice" means (a) deliberately destroying, falsifying, altering or concealing of evidence material to an investigation; (b) making false statements to investigators in order to

materially impede an investigation; (c) failing to comply with requests to provide information, documents or records in connection with an Office of Anticorruption and Integrity (OAI) investigation; (d) 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 (e) materially impeding Employers contractual rights of audit or access to information.

- (b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations in competing for the Contract;
- (c) will sanction impose remedial actions on a firm or an individual, at any time, in accordance with Anticorruption Policy and Integrity Principles and Guidelines (both as amended from time to time), including declaring ineligible, either indefinitely or for a stated period of time, to participate¹ or administered or supported activities or to benefit from Employer-financed, administered or supported contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices or other integrity violations; and
- (d) Will have the right to require suppliers and contractors to permit Employer or its representative to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by Employer.

B. Subject Matter of Contract

7. Scope of Facilities

- 7.1 Unless otherwise expressly limited in the Employer's Requirements, the Contractor's obligations cover the provision of all Plant and the performance of all Installation Services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Pre-commissioning and delivery) of the Plant and the installation, completion and commissioning of the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Section, Employer's Requirements. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labor, materials, equipment, spare parts (as specified in GCC Sub-Clause 7.3 below) and accessories; Contractor's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and

¹ Whether as a contractor, nominated subcontractor, consultant, manufacturer or supplier, or service provider; or in any other capacity (different names are used depending on the particular bidding document). A nominated subcontractor is one which either has been: (i) included by the bidder in its prequalification application or bid because it brings specific and critical experience and know-how that are accounted for in the evaluation of the bidder's prequalification application or the bid; or (ii) appointed by the Employer.

hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the Employer, as set forth in the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement.

- 7.2 The Contractor shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.
- 7.3 In addition to the supply of Mandatory Spare Parts included in the Contract, the Contractor agrees to supply spare parts required for the operation and maintenance of the Facilities for the period specified in the SCC and the provisions, if any, specified in the SCC. However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply thereof are to be agreed between the Employer and the Contractor, and the price of such spare parts shall be that given in Price Schedule No. 6, which shall be added to the Contract Price. The price of such spare parts shall include the purchase price therefore and other costs and expenses (including the Contractor's fees) relating to the supply of spare parts.
- 8. Time for Commencement and Completion**
- 8.1 The Contractor shall commence work on the Facilities within the period specified in the SCC and without prejudice to GCC Sub-Clause 26.2 hereof, the Contractor shall thereafter proceed with the Facilities in accordance with the time schedule specified in the Appendix 4 (Time Schedule) to the Contract Agreement.
- 8.2 The Contractor shall attain Completion of the Facilities or of a part where a separate time for Completion of such part is specified in the Contract, within the time stated in the SCC or within such extended time to which the Contractor shall be entitled under GCC Clause 40 hereof.
- 9. Contractor's Responsibilities**
- 9.1 The Contractor shall design, manufacture including associated purchases and/or subcontracting, install and complete the Facilities in accordance with the Contract. When completed, the Facilities should be fit for the purposes for which they are intended as defined in the Contract.
- 9.2 The Contractor confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities including any data as to boring tests provided by the Employer, and on the basis of information that the Contractor could have obtained from a visual inspection of the Site if access thereto was available and of other data readily available to it relating to the Facilities as of the date 28 days prior to bid submission. The Contractor acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.
- 9.3 The Contractor shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the Contractor to obtain in its name and which are necessary for the performance of the Contract, including, without limitation, visas for the Contractor's and Subcontractor's personnel and entry permits for all imported Contractor's Equipment. The Contractor shall acquire all other permits, approvals and/or licenses that are not the responsibility of the Employer under GCC Sub-Clause 10.3 hereof and that are necessary

for the performance of the Contract.

- 9.4 The Contractor shall comply with all laws in force in the country where the Facilities are to be implemented. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Sub-Clause 10.1 hereof.
- 9.5 Any plant and services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Clause 1 (Country of Origin). Any subcontractors retained by the Contractor shall be from a country as specified in GCC Clause 1 (Country of Origin).
- 9.6 The Contractor shall permit Employer to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by Employer, if so required by Employer.
- 9.7 If the Contractor is a joint venture or consortium of two or more *persons*, all such *persons* shall be jointly and severally bound to the Employer for the fulfillment of the provisions of the Contract and shall designate one of such *persons* to act as a leader with authority to bind the joint venture or consortium. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the Employer.

10. Employer's Responsibilities

- 10.1 All information and/or data to be supplied by the Employer as described in the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement shall be deemed to be accurate, except when the Employer expressly states otherwise.
- 10.2 The Employer shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement. The Employer shall give full possession of and accord all rights of access thereto on or before the date(s) specified in that Appendix.
- 10.3 The Employer shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which (a) such authorities or undertakings require the Employer to obtain in the Employer's name, (b) are necessary for the execution of the Contract, including those required for the performance by both the Contractor and the Employer of their respective obligations under the Contract, and (c) are specified in the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement.
- 10.4 If requested by the Contractor, the Employer shall use its best endeavors to assist the Contractor in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary

for the execution of the Contract from all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Subcontractors or the personnel of the Contractor or Subcontractors, as the case may be, to obtain.

- 10.5 Unless otherwise specified in the Contract or agreed upon by the Employer and the Contractor, the Employer shall provide sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, utilities, lubricants, chemicals, catalysts, other materials and facilities; and shall perform all work and services of whatsoever nature, including those required by the Contractor to properly carry out Pre-commissioning, Commissioning and Guarantee Tests, all in accordance with the provisions of the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement at or before the time specified in the program furnished by the Contractor under GCC Sub-Clause 18.2 hereof and in the manner thereupon specified or as otherwise agreed upon by the Employer and the Contractor.
- 10.6 The Employer shall be responsible for the continued operation of the Facilities after Completion, in accordance with GCC Sub-Clause 24.8, and shall be responsible for facilitating the Guarantee Test(s) for the Facilities, in accordance with GCC Sub-Clause 25.2.
- 10.7 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Employer, except those incurred by the Contractor with respect to the performance of Guarantee Tests, in accordance with GCC Sub-Clause 25.2.
- 10.8 In the event that the Employer shall be in breach of any of his obligations imposed by the Contract, then the additional cost reasonably incurred by the Contractor in consequence thereof shall be added to the Contract Price.

C. Payment

- 11. Contract Price**
- 11.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.
- 11.2 Unless an escalation clause is provided for in the SCC, the Contract Price shall be a firm lump sum not subject to any alteration, except in the event of a Change in the Facilities or as otherwise provided in the Contract.
- 11.3 Subject to GCC Sub-Clauses 9.2, 10.1 and 35 hereof, the Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the
- Contract, cover all its obligations under the Contract.
- 12. Terms of Payment**
- 12.1 The Contract Price shall be paid as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement and in the Appendix (Terms and Procedures of Payment) to the Contract Agreement, which also outlines the procedures to be followed in

making application for and processing payments.

- 12.2 No payment made by the Employer herein shall be deemed to constitute acceptance by the Employer of the Facilities or any part(s) thereof.
- 12.3 In the event that the Employer fails to make any payment by its respective due date or within the period set forth in the Contract, the Employer shall pay to the Contractor interest on the amount of such delayed payment at the rate(s) shown in the Appendix (Terms and Procedures of Payment) to the Contract Agreement for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- 12.4 The currency or currencies in which payments are made to the Contractor under this Contract shall be specified in the Appendix (Terms and Procedures of Payment) to the Contract Agreement, subject to the general principle that payments will be made in the currency or currencies in which the Contract Price has been stated in the Contractor's bid.

13. Securities

- 13.1 Issuance of Securities
The Contractor shall provide the securities specified below in favor of the Employer at the times, and in the amount, manner and form specified below.
- 13.2 Advance Payment Security
 - 13.2.1 The Contractor shall, within 30 days of signing the Contract agreement, provide a security in an amount equal to the advance payment calculated in accordance with the Appendix (Terms and Procedures of Payment) to the Contract Agreement, and in the same currency or currencies.
 - 13.2.2 The security shall be in the form provided in the bidding documents or in another form acceptable to the Employer. The amount of the security shall be reduced in proportion to the value of the Facilities executed by and paid to the Contractor from time to time, and shall automatically become null and void when the full amount of the advance payment has been recovered by the Employer. The security shall be returned to the Contractor immediately after its expiration.
- 13.3 Performance Security
 - 13.3.1 The Contractor shall, within 28 days of the notification of contract award, provide a security for the due performance of the Contract in the amount specified in the SCC.
 - 13.3.2 The security shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the Employer, and shall be in one of the forms of *bank guarantees* provided in the bidding documents, as stipulated by the Employer in the SCC, or in another form acceptable to the Employer.
 - 13.3.3 Unless otherwise specified in the SCC, the security shall be reduced by half on the date of the Operational Acceptance. The Security shall become null and void, or shall be reduced pro rata to the Contract Price of a part of the Facilities for which a separate Time for Completion is provided, 540 days after Completion of the Facilities or 365 days after Operational Acceptance of the Facilities, whichever occurs first; provided, however, that if the Defects Liability Period has been extended

on any part of the Facilities pursuant to GCC Sub-Clause 27.8 hereof, the Contractor shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Contractor immediately after its expiration, provided, however, that if the Contractor, pursuant to GCC Sub-Clause 27.10, is liable for an extended defect liability obligation, the performance security shall be extended for the period and up to the amount specified in the SCC.

14. Taxes and Duties

- 14.1 Except as otherwise specifically provided in the Contract, the Contractor shall bear and pay all taxes, duties, levies and charges assessed on the Contractor, its Subcontractors or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.
- 14.2 Notwithstanding GCC Sub-Clause 14.1 above, the Employer shall bear and promptly pay all customs and import duties as well as other local taxes like, e.g., a value added tax (VAT), imposed by the law of the country where the Site is located on the Plant specified in Price Schedule No. 1 and that are to be incorporated into the Facilities.
- 14.3 If any tax exemptions, reductions, allowances or privileges may be available to the Contractor in the country where the Site is located, the Employer shall use its best endeavors to enable the Contractor to benefit from any such tax savings to the maximum allowable extent.
- 14.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date 28 days prior to the date of bid submission in the country where the Site is located (hereinafter called "Tax" in this GCC Sub-Clause 14.4). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor, Subcontractors or their employees in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction therefrom, as the case may be, in accordance with GCC Clause 36 hereof.

D. Intellectual Property

15. License/Use of Technical Information

- 15.1 For the operation and maintenance of the Plant, the Contractor hereby grants a non-exclusive and non-transferable license (without the right to sub-license) to the Employer under the patents, utility models or other industrial property rights owned by the Contractor or by a third party from whom the Contractor has received the right to grant licenses thereunder, and shall also grant to the Employer a non-exclusive and non-transferable right (without the right to sub-license) to use the know-how and other technical information disclosed to the Employer under the Contract. Nothing contained herein shall be construed as transferring ownership of any patent, utility model, trademark, design, copyright, know-how or other intellectual property right from the Contractor or any third party to the Employer.
- 15.2 The copyright in all drawings, documents and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor or, if they are

furnished to the Employer directly or through the Contractor by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

16. Confidential Information

- 16.1 The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor(s) such documents, data and other information it receives from the Employer to the extent required for the Subcontractor(s) to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor(s) an undertaking of confidentiality similar to that imposed on the Contractor under this GCC Clause 16.
- 16.2 The Employer shall not use such documents, data and other information received from the Contractor for any purpose other than the operation and maintenance of the Facilities. Similarly, the Contractor shall not use such documents, data and other information received from the Employer for any purpose other than the design, procurement of Plant, construction or such other work and services as are required for the performance of the Contract.
- 16.3 The obligation of a party under GCC Sub-Clauses 16.1 and 16.2 above, however, shall not apply to that information which
- (a) now or hereafter enters the public domain through no fault of that party
 - (b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto
 - (c) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 16.4 The above provisions of this GCC Clause 16 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part thereof.
- 16.5 The provisions of this GCC Clause 16 shall survive termination, for whatever reason, of the Contract.

E. Execution of the Facilities

17. Representatives

- 17.1 Project Manager
If the Project Manager is not named in the Contract, then within 14 days of the Effective Date, the Employer shall appoint and notify the Contractor in writing of the name of the Project Manager. The Employer may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. No such appointment shall be made at such a time or in

such a manner as to impede the progress of work on the Facilities. Such appointment shall only take effect upon receipt of such notice by the Contractor. The Project Manager shall represent and act for the Employer at all times during the performance of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.

All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the Project Manager, except as herein otherwise provided.

17.2 Contractor's Representative & Construction Manager

17.2.1 If the Contractor's Representative is not named in the Contract, then within 14 days of the Effective Date, the Contractor shall appoint the Contractor's Representative and shall request the Employer in writing to approve the person so appointed. If the Employer makes no objection to the appointment within 14 days, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within 14 days giving the reason therefor, then the Contractor shall appoint a replacement within 14 days of such objection, and the foregoing provisions of this GCC Sub-Clause 17.2.1 shall apply thereto.

17.2.2 The Contractor's Representative shall represent and act for the Contractor at all times during the performance of the Contract and shall give to the Project Manager all the Contractor's notices, instructions, information and all other communications under the Contract.

All notices, instructions, information and all other communications given by the Employer or the Project Manager to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.

The Contractor shall not revoke the appointment of the Contractor's Representative without the Employer's prior written consent, which shall not be unreasonably withheld. If the Employer consents thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in GCC Sub-Clause 17.2.1.

17.2.3 The Contractor's Representative may, subject to the approval of the Employer which shall not be unreasonably withheld, at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the Employer and the Project Manager.

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 17.2.3 shall be deemed to be an act or exercise by the Contractor's Representative.

17.2.4 From the commencement of installation of the Facilities at the Site until Completion, the Contractor's Representative shall appoint a suitable person as the Construction Manager. The Construction Manager shall supervise all work done at the Site

by the Contractor and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. Whenever the Construction Manager is absent from the Site, the Contractor's Representative or the Construction Manager shall appoint a suitable person to act as the Construction Manager's deputy.

17.2.5 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 22.4. The Employer shall provide evidence of the same, whereupon the Contractor shall remove such person from the Facilities.

17.2.6 If any representative or person employed by the Contractor is removed in accordance with GCC Sub-Clause 17.2.5, the Contractor shall, where required, promptly appoint a replacement.

18. Work Program

18.1 Contractor's Organization

The Contractor shall supply to the Employer and the Project Manager a chart showing the proposed organization to be established by the Contractor for carrying out work on the Facilities within 21 days of the Effective Date. The chart shall include the identities of the key personnel and the curricula vitae of such key personnel to be employed shall be supplied together with the chart. The Contractor shall promptly inform the Employer and the Project Manager in writing of any revision or alteration of such an organization chart.

18.2 Program of Performance

Within 28 days after the Effective Date, the Contractor shall submit to the Project Manager a detailed program of performance of the Contract, made in a form acceptable to the Project Manager and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and precommission the Facilities, as well as the date by which the Contractor reasonably requires that the Employer shall have fulfilled its obligations under the Contract so as to enable the Contractor to execute the Contract in accordance with the program and to achieve Completion, Commissioning and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Contractor shall accord with the Time Schedule included in the Appendix (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract. The Contractor shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Times for Completion given in the SCC and any extension granted in accordance with GCC Clause 40, and shall submit all such revisions to the Project Manager.

18.3 Progress Report

The Contractor shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 18.2 above, and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and

likely consequences and stating the corrective action being taken.

18.4 Progress of Performance

If at any time the Contractor's actual progress falls behind the program referred to in GCC Sub-Clause 18.2, or it becomes apparent that it will so fall behind, the Contractor shall, at the request of the Employer or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 8.2, any extension thereof entitled under GCC Sub-Clause 40.1, or any extended period as may otherwise be agreed upon between the Employer and the Contractor.

18.5 Procedures

The Contract shall be executed in accordance with the Contract Documents including the procedures given in the Forms and Procedures of the Employer's Requirements.

The Contractor may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with the provisions contained in the Contract.

19. Subcontracting

- 19.1 The Appendix 5 (List of Major Items of Supply and Services and List of Approved Subcontractors) to the Contract Agreement specifies major items of supply or services and a list of approved Subcontractors against each item, including manufacturers. Insofar as no Subcontractors are listed against any such item, the Contractor shall prepare a list of Subcontractors for such item for inclusion in such list. The Contractor may from time to time propose any addition to or deletion from any such list. The Contractor shall submit any such list or any modification thereto to the Employer for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the Employer for any of the Subcontractors shall not relieve the Contractor from any of its obligations, duties or responsibilities under the Contract.
- 19.2 The Contractor shall select and employ its Subcontractors for such major items from those listed in the lists referred to in GCC Sub-Clause 19.1.
- 19.3 For items or parts of the Facilities not specified in the Appendix (List of Major Items of Supply and Services and List of Approved Subcontractors for Major Items) to the Contract Agreement, the Contractor may employ such Subcontractors as it may select, at its discretion.
- 19.4 Each sub-contract shall include provisions which would entitle the Employer to require the sub-contract to be assigned to the Employer under GCC 19.5 (if and when applicable), or in event of termination by the Employer under GCC 42.2.
- 19.5 If a sub-contractor's obligations extend beyond the expiry date of the relevant Defects Liability Period and the Project Manager, prior to that date, instructs the Contractor to assign the benefits of such obligations to the Employer, then the Contractor shall do so.

20. Design and Engineering

20.1 Specifications and Drawings

20.1.1 The Contractor shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.

The Contractor shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Contractor by or on behalf of the Employer.

20.1.2 The Contractor shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the Employer, by giving a notice of such disclaimer to the Project Manager.

20.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date 28 days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied subject to approval by the Employer and shall be treated in accordance with GCC Clause 39.

20.3 Approval/Review of Technical Documents by Project Manager

20.3.1 The Contractor shall prepare or cause its Subcontractors to prepare, and furnish to the Project Manager the documents listed in the Appendix (List of Documents for Approval or Review) to the Contract Agreement for its approval or review as specified and in accordance with the requirements of GCC Sub-Clause 18.2 (Program of Performance).

Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.

GCC Sub-Clauses 20.3.2 through 20.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

20.3.2 Within 14 days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Sub-Clause 20.3.1, the Project Manager shall either return one copy thereof to the Contractor with its approval endorsed thereon or shall notify the Contractor in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.

If the Project Manager fails to take such action within the said 14 days, then the said document shall be deemed to have been approved by the Project Manager.

20.3.3 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with the Contract or that it is contrary to good engineering practice. If the Project Manager disapproves a document, he shall specify the reasons for his decision.

20.3.4 If the Project Manager disapproves the document, the Contractor shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Sub-

Clause 20.3.2. If the Project Manager approves the document subject to modification(s), the Contractor shall make the required modification(s), whereupon the document shall be deemed to have been approved.

20.3.5 If any dispute or difference occurs between the Employer and the Contractor in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference may be referred to a Dispute Board for determination in accordance with GCC Sub-Clause 45.3 hereof. If such dispute or difference is referred to a Dispute Board, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Contractor shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Dispute Board upholds the Contractor's view on the dispute and if the Employer has not given notice under Sub-Clause 45.3 hereof, then the Contractor shall be reimbursed by the Employer for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Dispute Board shall decide, and the Time for Completion shall be extended accordingly.

20.3.6 The Project Manager's approval, with or without modification of the document furnished by the Contractor, shall not relieve the Contractor of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

20.3.7 The Contractor shall not depart from any approved document unless the Contractor has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this GCC Sub-Clause 20.3.

If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of GCC Clause 39 shall apply to such request.

21. Procurement

21.1 Materials

Subject to GCC Sub-Clause 14.2, the Contractor shall procure and transport all materials in an expeditious and orderly manner to the Site.

21.2 Employer-Supplied Materials

If the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement provides that the Employer shall furnish any specific items to the Contractor, the following provisions shall apply:

21.2.1 The Employer shall, at its own risk and expense, transport each item to the place on or near the Site as agreed upon by the parties and make such item available to the Contractor at the time specified in the program furnished by the Contractor, pursuant to GCC Sub-Clause 18.2, unless otherwise mutually agreed.

21.2.2 Upon receipt of such item, the Contractor shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. The Employer shall immediately

remedy any shortage, defect or default, or the Contractor shall, if practicable and possible, at the request of the Employer, remedy such shortage, defect or default at the Employer's cost and expense. After inspection, such item shall fall under the care, custody and control of the Contractor. The provision of this GCC Sub-Clause 21.2.2 shall apply to any item supplied to remedy any such shortage or default or to substitute for any defective item, or shall apply to defective items that have been repaired.

21.2.3 The foregoing responsibilities of the Contractor and its obligations of care, custody and control shall not relieve the Employer of liability for any undetected shortage, defect or default, nor place the Contractor under any liability for any such shortage, defect or default whether under GCC Clause 27 or under any other provision of Contract.

21.3 Transportation

21.3.1 The Contractor shall at its own risk and expense transport all the materials and the Contractor's Equipment to the Site by the mode of transport that the Contractor judges most suitable under all the circumstances.

21.3.2 Unless otherwise provided in the Contract, the Contractor shall be entitled to select any safe mode of transport operated by any person to carry the materials and the Contractor's Equipment.

21.3.3 Upon dispatch of each shipment of materials and the Contractor's Equipment, the Contractor shall notify the Employer by telex, cable, facsimile or electronic means, of the description of the materials and of the Contractor's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Contractor shall furnish the Employer with relevant shipping documents to be agreed upon between the parties.

21.3.4 The Contractor shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the materials and the Contractor's Equipment to the Site. The Employer shall use its best endeavors in a timely and expeditious manner to assist the Contractor in obtaining such approvals, if requested by the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the materials and the Contractor's Equipment to the Site.

21.4 Customs Clearance

The Contractor shall, at its own expense, handle all imported materials and Contractor's Equipment at the point(s) of import and shall handle any formalities for customs clearance, subject to the Employer's obligations under GCC Sub-Clause 14.2, provided that if applicable laws or regulations require any application or act to be made by or in the name of the Employer, the Employer shall take all necessary steps to comply with such laws or regulations. In the event of delays in customs clearance that are not the fault of the Contractor, the Contractor shall be entitled to an extension in the Time for Completion, pursuant to GCC Clause 40.

22. Installation**22.1 Setting Out/Supervision****22.1.1 Bench Mark**

- (a) The Contractor shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by *or on behalf of* the Employer.
- (b) If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Contractor shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by *or on behalf of* the Employer, the expense of rectifying the same shall be borne by the Employer.

22.1.2 Contractor's Supervision

The Contractor shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Contractor shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

22.2 Labor**22.2.1 Engagement of Staff and Labor**

- (a) Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labor, local or otherwise, and for their payment, housing, feeding and transport.
- (b) The Contractor shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged to use local labor that has the necessary skills.
- (c) The Contractor shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labor and personnel to be employed on the Site into the country where the Site is located. The Employer will, if requested by the Contractor, use his best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national or government permission required for bringing in the Contractor's personnel.
- (d) The Contractor shall at its own expense provide the means of repatriation to all of its and its Subcontractor's personnel employed on the Contract at the Site to the place where they were recruited or to their domicile. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Contractor defaults in providing such

means of transportation and temporary maintenance, the Employer may provide the same to such personnel and recover the cost of doing so from the Contractor.

22.2.2 Persons in the Service of Employer

The Contractor shall not recruit, or attempt to recruit, staff and labor from amongst the Employer's Personnel.

22.2.3 Labor Laws

- (a) The Contractor shall comply with all the relevant labor Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.
- (b) The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Subcontractors.
- (c) The Contractor shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

22.2.4 Rates of Wages and Conditions of Labor

- (a) The Contractor shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor.
- (b) The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages and allowances as are chargeable under the Laws for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

22.2.5 Working Hours

- (a) No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the SCC, unless:
 - (i) otherwise stated in the Contract,
 - (ii) the Project Manager gives consent, or
 - (iii) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Project Manager.
- (b) If and when the Contractor considers it necessary to carry

out work at night or on public holidays so as to meet the Time for Completion and requests the Project Manager's consent thereto, the Project Manager shall not unreasonably withhold such consent.

- (c) This Sub-Clause shall not apply to any work which is customarily carried out by rotary or double-shifts.

22.2.6 Facilities for Staff and Labor

- (a) Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Specification.
- (b) The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

22.2.7 Health and Safety

- (a) The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.
- (b) The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the performance of the Contract, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.
- (c) The Contractor shall send, to the Project Manager, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Project Manager may reasonably require.

22.2.8 Funeral Arrangements

In the event of the death of any of the Contractor's personnel or accompanying members of their families, the Contractor shall be responsible for making the appropriate arrangements for their return or burial, unless otherwise specified in the SCC.

22.2.9 Records of Contractor's Personnel

The Contractor shall keep accurate records of the Contractor's personnel, including the number of each class of Contractor's Personnel on the Site and the names, ages, genders, hours worked and wages paid to all workers. These records shall be

summarized on a monthly basis in a form approved by the Project Manager and shall be available for inspection by the Project Manager. until the Contractor has completed all work.

22.2.10 Supply of Foodstuffs

The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

22.2.11 Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

22.2.12 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

22.2.13 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift barter or disposal by Contractor's Personnel.

22.2.14 Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

22.2.15 Prohibition of All Forms of Forced or Compulsory Labor

The contractor shall not employ "forced or compulsory labor" in any form. "Forced or compulsory labor" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.

22.2.16 Prohibition of Harmful Child Labor

The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.

22.3 Contractor's Equipment

22.3.1 All Contractor's Equipment brought by the Contractor onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Contractor shall not remove the same from the Site without the Project Manager's consent that such Contractor's Equipment is no longer required for the execution of the Contract.

22.3.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Contractor shall remove from the Site all Equipment brought by the Contractor onto the Site and any surplus materials remaining thereon.

22.3.3 The Employer will, if requested, use its best endeavors to assist the Contractor in obtaining any local, state or national government permission required by the Contractor for the export of the Contractor's Equipment imported by the Contractor for use in the execution of the Contract that is no longer required for the execution of the Contract.

22.4 Site Regulations and Safety

The Employer and the Contractor shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Contractor shall prepare and submit to the Employer, with a copy to the Project Manager, proposed Site regulations for the Employer's approval, which approval shall not be unreasonably withheld.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

22.5 Opportunities for Other Contractors

22.5.1 The Contractor shall, upon written request from the Employer or the Project Manager, give all reasonable opportunities for carrying out the work to any other contractors employed by the Employer on or near the Site.

22.5.2 If the Contractor, upon written request from the Employer or the Project Manager, makes available to other contractors any roads or ways the maintenance for which the Contractor is responsible, permits the use by such other contractors of the Contractor's Equipment, or provides any other service of whatsoever nature for such other contractors, the Employer shall fully compensate the Contractor for any loss or damage caused or occasioned by such other contractors in respect of any such use or service, and shall pay to the Contractor reasonable remuneration for the use of such equipment or the provision of such services.

22.5.3 The Contractor shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other contractors. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Contractor and other contractors and the workers of the Employer in regard to their work.

22.5.4 The Contractor shall notify the Project Manager promptly of any defects in the other contractors' work that come to its notice, and that could affect the Contractor's work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Contractor.

22.6 Emergency Work

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Contractor shall immediately carry out such work.

If the Contractor is unable or unwilling to do such work immediately, the Employer may do or cause such work to be done as the Employer may

determine is necessary in order to prevent damage to the Facilities. In such event the Employer shall, as soon as practicable after the occurrence of any such emergency, notify the Contractor in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the Employer is work that the Contractor was liable to do at its own expense under the Contract, the reasonable costs incurred by the Employer in connection therewith shall be paid by the Contractor to the Employer. Otherwise, the cost of such remedial work shall be borne by the Employer.

22.7 Site Clearance

22.7.1 Site Clearance in Course of Performance

In the course of carrying out the Contract, the Contractor shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Contractor's Equipment no longer required for execution of the Contract.

22.7.2 Clearance of Site after Completion

After Completion of all parts of the Facilities, the Contractor shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities in a clean and safe condition.

22.8 Watching and Lighting

The Contractor shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

23. **Test and Inspection**

23.1 The Contractor shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and any part of the Facilities as are specified in the Contract.

23.2 The Employer and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the Employer shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

23.3 Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer and the Project Manager or their designated representatives to attend the test and/or inspection.

23.4 The Contractor shall provide the Project Manager with a certified report of the results of any such test and/or inspection.

If the Employer or Project Manager or their designated representatives fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Contractor may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the

results thereof.

- 23.5 The Project Manager may require the Contractor to carry out any test and/or inspection not required by the Contract, provided that the Contractor's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Contractor's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.
- 23.6 If any Plant or any part of the Facilities fails to pass any test and/or inspection, the Contractor shall either rectify or replace such Plant or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under GCC Sub-Clause 23.3.
- 23.7 If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred to an Dispute Board for determination in accordance with GCC Sub-Clause 45.3.
- 23.8 The Contractor shall afford the Employer and the Project Manager, at the Employer's expense, access at any reasonable time to any place where the Plant are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Contractor a reasonable prior notice.
- 23.9 The Contractor agrees that neither the execution of a test and/or inspection of Plant or any part of the Facilities, nor the attendance by the Employer or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 23.4, shall release the Contractor from any other responsibilities under the Contract.
- 23.10 No part of the Facilities or foundations shall be covered up on the Site without the Contractor carrying out any test and/or inspection required under the Contract. The Contractor shall give a reasonable notice to the Project Manager whenever any such parts of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.
- 23.11 The Contractor shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

If any parts of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 23.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the Employer, and the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

24. Completion of the Facilities

- 24.1 As soon as the Facilities or any part thereof has, in the opinion of the Contractor, been completed operationally and structurally and put in a tight and clean condition as specified in the Employer's Requirements,

excluding minor items not materially affecting the operation or safety of the Facilities, the Contractor shall so notify the Employer in writing.

- 24.2 Within 7 days after receipt of the notice from the Contractor under GCC Sub-Clause 24.1, the Employer shall supply the operating and maintenance personnel specified in the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement for Pre-commissioning of the Facilities or any part thereof.

Pursuant to the Appendix (Scope of Works and Supply by the Employer) to the Contract Agreement, the Employer shall also provide, within the said seven (7) day period, the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Pre-commissioning of the Facilities or any part thereof.

- 24.3 As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the Employer and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters have been provided by the Employer in accordance with GCC Sub-Clause 24.2, the Contractor shall commence Pre-commissioning of the Facilities or the relevant part thereof in preparation for Commissioning, subject to GCC Sub-Clause 25.5.

- 24.4 As soon as all works in respect of Pre-commissioning are completed and, in the opinion of the Contractor, the Facilities or any part thereof is ready for Commissioning, the Contractor shall so notify the Project Manager in writing.

- 24.5 The Project Manager shall, within 14 days after receipt of the Contractor's notice under GCC Sub-Clause 24.4, either issue a Completion Certificate in the form specified in the Employer's Requirements (Forms and Procedures), stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's notice under GCC Sub-Clause 24.4, or notify the Contractor in writing of any defects and/or deficiencies.

If the Project Manager notifies the Contractor of any defects and/or deficiencies, the Contractor shall then correct such defects and/or deficiencies, and shall repeat the procedure described in GCC Sub-Clause 24.4.

If the Project Manager is satisfied that the Facilities or that part thereof have reached Completion, the Project Manager shall, within 7 days after receipt of the Contractor's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as of the date of the Contractor's repeated notice.

If the Project Manager is not so satisfied, then it shall notify the Contractor in writing of any defects and/or deficiencies within 7 days after receipt of the Contractor's repeated notice, and the above procedure shall be repeated.

- 24.6 If the Project Manager fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/or deficiencies within 14 days after receipt of the Contractor's notice under GCC Sub-Clause 24.4 or within 7 days after receipt of the Contractor's repeated notice under GCC Sub-Clause 24.5, or if the Employer makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Contractor's notice or repeated notice, or as of the Employer's use of the Facilities, as the case may be.

24.7 As soon as possible after Completion, the Contractor shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the Employer will undertake such completion and deduct the costs thereof from any monies owing to the Contractor.

24.8 Upon Completion, the Employer shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

25. Commissioning and Operational Acceptance

25.1 Commissioning

25.1.1 Commissioning of the Facilities or any part thereof shall be commenced by the Contractor immediately after issue of the Completion Certificate by the Project Manager, pursuant to GCC Sub-Clause 24.5, or immediately after the date of the deemed Completion, under GCC Sub-Clause 24.6.

25.1.2 The Employer shall supply the operating and maintenance personnel and all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Commissioning.

25.1.3 In accordance with the requirements of the Contract, the Contractor's and Project Manager's advisory personnel shall attend the Commissioning, including the Guarantee Test, and shall advise and assist the Employer.

25.2 Guarantee Test

25.2.1 Subject to GCC Sub-Clause 25.5, the Guarantee Test and repeats thereof shall be conducted by the Contractor during Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Appendix (Functional Guarantees) to the Contract Agreement. The Employer shall promptly provide the Contractor with such information as the Contractor may reasonably require in relation to the conduct and results of the Guarantee Test and any repeats thereof.

25.2.2 If for reasons not attributable to the Contractor, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period from the date of Completion specified in the SCC or any other period agreed upon by the Employer and the Contractor, the Contractor shall be deemed to have fulfilled its obligations with respect to the Functional Guarantees, and GCC Sub-Clauses 28.2 and 28.3 shall not apply.

25.3 Operational Acceptance

25.3.1 Subject to GCC Sub-Clause 25.4 below, Operational Acceptance shall occur in respect of the Facilities or any part thereof when

- (a) the Guarantee Test has been successfully completed and the Functional Guarantees are met; or
- (b) the Guarantee Test has not been successfully completed or has not been carried out for reasons not attributable to the Contractor within the period from the date of

Completion specified in the SCC or any other agreed upon period as specified in GCC Sub-Clause 25.2.2 above; or

- (c) the Contractor has paid the liquidated damages specified in GCC Sub-Clause 28.3 hereof; and
- (d) any minor items mentioned in GCC Sub-Clause 24.7 hereof relevant to the Facilities or that part thereof have been completed.

25.3.2 At any time after any of the events set out in GCC Sub-Clause 25.3.1 have occurred, the Contractor may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Employer's Requirements (Forms and Procedures) in respect of the Facilities or the part thereof specified in such notice as of the date of such notice.

25.3.3 The Project Manager shall, after consultation with the Employer, and within 7 days after receipt of the Contractor's notice, issue an Operational Acceptance Certificate.

25.3.4 If within 7 days after receipt of the Contractor's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Contractor in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as of the date of the Contractor's said notice.

25.4 Partial Acceptance

25.4.1 If the Contract specifies that Completion and Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Completion and Commissioning including the Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.

25.4.2 If a part of the Facilities comprises facilities such as buildings, for which no Commissioning or Guarantee Test is required, then the Project Manager shall issue the Operational Acceptance Certificate for such facility when it attains Completion, provided that the Contractor shall thereafter complete any outstanding minor items that are listed in the Operational Acceptance Certificate.

25.5 Delayed Precommissioning and/or Guarantee Test

25.5.1 In the event that the Contractor is unable to proceed with the Precommissioning of the Facilities pursuant to Sub-Clause 24.3, or with the Guarantee Test pursuant to Sub-Clause 25.2, for reasons attributable to the Employer either on account of non availability of other facilities under the responsibilities of other contractor(s), or for reasons beyond the Employer's control, the provisions leading to "deemed" completion of activities such as Completion, pursuant to GCC Sub-Clause 24.6, and Operational Acceptance, pursuant to GCC Sub-Clause 25.3.4, and Contractor's obligations regarding Defect Liability Period, pursuant to GCC Sub-Clause 27.2, Functional Guarantee, pursuant to GCC Clause 28, and Care of Facilities, pursuant to GCC Clause 32, and GCC Clause 41.1,

Suspension, shall not apply. In this case, the following provisions shall apply.

25.5.2 When the Contractor is notified by the Project Manager that he will be unable to proceed with the activities and obligations pursuant to above Sub-Clause 25.5.1, the Contractor shall be entitled to the following:

- (a) the Time of Completion shall be extended for the period of suspension without imposition of liquidated damages pursuant to GCC Sub-Clause 26.2;
- (b) payments due to the Contractor in accordance with the provision specified in the Appendix (Terms and Procedures of Payment) to the Contract Agreement, which would not have been payable in normal circumstances due to non-completion of the subject activities, shall be released to the Contractor against submission of a security in the form of a bank guarantee of equivalent amount acceptable to the Employer, and which shall become null and void when the Contractor will have complied with its obligations regarding those payments, subject to the provision of Sub-Clause 25.5.3 below;
- (c) the expenses towards the above security and extension of other securities under the contract, of which validity needs to be extended, shall be reimbursed to the Contractor by the Employer;
- (d) the additional charges towards the care of the Facilities pursuant to GCC Sub-Clause 32.1 shall be reimbursed to the Contractor by the Employer for the period between the notification mentioned above and the notification mentioned in Sub-Clause 25.5.4 below. The provision of GCC Sub-Clause 33.2 shall apply to the Facilities during the same period.

25.5.3 In the event that the period of suspension under above Sub-Clause 25.5.1 actually exceeds 180 days, the Employer and Contractor shall mutually agree to any additional compensation payable to the Contractor.

25.5.4 When the Contractor is notified by the Project Manager that the plant is ready for Precommissioning, the Contractor shall proceed without delay in performing all the specified activities and obligations under the contract.

F. Guarantees and Liabilities

26. Completion Time Guarantee

26.1 The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified) within the Time for Completion specified in the SCC pursuant to GCC Sub-Clause 8.2, or within such extended time to which the Contractor shall be entitled under GCC Clause 40 hereof.

26.2 If the Contractor fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under

GCC Clause 40, the Contractor shall pay to the Employer liquidated damages in the amount specified in the SCC as a percentage rate of the Contract Price or the relevant part thereof. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the SCC as a percentage rate of the Contract Price. Once the "Maximum" is reached, the Employer may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.

Such payment shall completely satisfy the Contractor's obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under GCC Clause 40. The Contractor shall have no further liability whatsoever to the Employer in respect thereof.

However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Contractor under the Contract.

Save for liquidated damages payable under this GCC Sub-Clause 26.2, the failure by the Contractor to attain any milestone or other act, matter or thing by any date specified in the Appendix (Time Schedule) to the Contract Agreement and/or other program of work prepared pursuant to GCC Sub-Clause 18.2 shall not render the Contractor liable for any loss or damage thereby suffered by the Employer.

- 26.3 If the Contractor attains Completion of the Facilities or any part thereof before the Time for Completion or any extension thereof under GCC Clause 40, the Employer shall pay to the Contractor a bonus in the amount specified in the SCC. The aggregate amount of such bonus shall in no event exceed the amount specified as "Maximum" in the SCC.

27. Defect Liability

- 27.1 The Contractor warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant supplied and of the work executed.
- 27.2 The Defect Liability Period shall be 540 days from the date of Completion of the Facilities (or any part thereof) or one year from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs, unless specified otherwise in the SCC pursuant to GCC Sub-Clause 27.10.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant supplied or of the work executed by the Contractor, the Contractor shall promptly, in consultation and agreement with the Employer regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good as the Contractor shall determine at its discretion, such defect as well as any damage to the Facilities caused by such defect. The Contractor shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the Facilities by the Employer;
- (b) operation of the Facilities outside specifications provided in the Contract; or

(c) normal wear and tear.

27.3 The Contractor's obligations under this GCC Clause 27 shall not apply to:

- (a) any materials that are supplied by the Employer under GCC Sub-Clause 21.2, are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein;
- (b) any designs, specifications or other data designed, supplied or specified by or on behalf of the Employer or any matters for which the Contractor has disclaimed responsibility herein; or
- (c) any other materials supplied or any other work executed by or on behalf of the Employer, except for the work executed by the Employer under GCC Sub-Clause 27.7.

27.4 The Employer shall give the Contractor a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Contractor to inspect any such defect.

27.5 The Employer shall afford the Contractor all necessary access to the Facilities and the Site to enable the Contractor to perform its obligations under this GCC Clause 27.

The Contractor may, with the consent of the Employer, remove from the Site any Plant or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

27.6 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the Employer may give to the Contractor a notice requiring that tests of the defective part of the Facilities shall be made by the Contractor immediately upon completion of such remedial work, whereupon the Contractor shall carry out such tests.

If such part fails the tests, the Contractor shall carry out further repair, replacement or making good, as the case may be, until that part of the Facilities passes such tests. The tests shall be agreed upon by the Employer and the Contractor.

27.7 If the Contractor fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than 15 days), the Employer may, following notice to the Contractor, proceed to do such work, and the reasonable costs incurred by the Employer in connection therewith shall be paid to the Employer by the Contractor or may be deducted by the Employer from any monies due the Contractor or claimed under the Performance Security.

27.8 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Employer because of any of the aforesaid reasons.

27.9 Except as provided in GCC Clauses 27 and 33, the Contractor shall be under no liability whatsoever and howsoever arising, and whether

under the Contract or at law, in respect of defects in the Facilities or any part thereof, the Plant, design or engineering or work executed that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the gross negligence, fraud, criminal or willful action of the Contractor.

27.10 In addition, any such component of the Facilities and during the period of time as may be specified in the SCC shall be subject to an extended Defect Liability Period. Such obligation of the Contractor shall be in addition to the Defect Liability Period specified under GCC Sub-Clause 27.2.

28. Functional Guarantees

28.1 The Contractor guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified in the Appendix (Functional Guarantees) to the Contract Agreement, subject to and upon the conditions therein specified.

28.2 If, for reasons attributable to the Contractor, the minimum level of the Functional Guarantees specified in the Appendix (Functional Guarantees) to the Contract Agreement are not met either in whole or in part, the Contractor shall at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet at least the minimum level of such Guarantees. The Contractor shall notify the Employer upon completion of the necessary changes, modifications and/or additions, and shall request the Employer to repeat the Guarantee Test until the minimum level of the Guarantees has been met. If the Contractor eventually fails to meet the minimum level of Functional Guarantees, the Employer may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.

28.3 If, for reasons attributable to the Contractor, the Functional Guarantees specified in the Appendix (Functional Guarantees) to the Contract Agreement are not attained either in whole or in part, but the minimum level of the Functional Guarantees specified in the said Appendix to the Contract Agreement is met, the Contractor shall, at the Contractor's option, either

- (a) make such changes, modifications and/or additions to the Facilities or any part thereof that are necessary to attain the Functional Guarantees at its cost and expense, and shall request the Employer to repeat the Guarantee Test or
- (b) pay liquidated damages to the Employer in respect of the failure to meet the Functional Guarantees in accordance with the provisions in the Appendix (Functional Guarantees) to the Contract Agreement.

28.4 The payment of liquidated damages under GCC Sub-Clause 28.3, up to the limitation of liability specified in the Appendix (Functional Guarantees) to the Contract Agreement, shall completely satisfy the Contractor's guarantees under GCC Sub-Clause 28.3, and the Contractor shall have no further liability whatsoever to the Employer in respect thereof. Upon the payment of such liquidated damages by the Contractor, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

29. Patent Indemnity

29.1 The Contractor shall, subject to the Employer's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and

expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Contractor or the use of the Facilities in the country where the Site is located; and

(b) the sale of the products produced by the Facilities in any country.

Such indemnity shall **not** cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Contractor, pursuant to the Contract Agreement.

29.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Sub-Clause 29.1, the Employer shall promptly give the Contractor a notice thereof, and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within 28 days after receipt of such notice, that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the 28 days period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

29.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Contractor may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Employer.

30. Limitation of Liability

30.1 Except in cases of criminal negligence or willful misconduct,

(a) the Contractor shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer and

(b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed a multiple of the Contract Price specified in the SCC or, if a multiple is not so specified, the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Contractor to

indemnify the Employer with respect to patent infringement.

G. Risk Distribution

31. Transfer of Ownership

- 31.1 Ownership of the Plant (including spare parts) to be imported into the country where the Site is located shall be transferred to the Employer upon loading on to the mode of transport to be used to convey the Plant from the country of origin to that country.
- 31.2 Ownership of the Plant (including spare parts) procured in the country where the Site is located shall be transferred to the Employer when the Plant are brought on to the Site.
- 31.3 Ownership of the Contractor's Equipment used by the Contractor and its Subcontractors in connection with the Contract shall remain with the Contractor or its Subcontractors.
- 31.4 Ownership of any Plant in excess of the requirements for the Facilities shall revert to the Contractor upon Completion of the Facilities or at such earlier time when the Employer and the Contractor agree that the Plant in question are no longer required for the Facilities.
- 31.5 Notwithstanding the transfer of ownership of the Plant, the responsibility for care and custody thereof together with the risk of loss or damage thereto shall remain with the Contractor pursuant to GCC Clause 32 (Care of Facilities) hereof until Completion of the Facilities or the part thereof in which such Plant are incorporated.

32. Care of Facilities

- 32.1 The Contractor shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC Clause 24 or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Contractor shall also be responsible for any loss or damage to the Facilities caused by the Contractor or its Subcontractors in the course of any work carried out, pursuant to GCC Clause 27. Notwithstanding the foregoing, the Contractor shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clauses 32.2 and 38.1.
- 32.2 If any loss or damage occurs to the Facilities or any part thereof or to the Contractor's temporary facilities by reason of
 - (a) insofar as they relate to the country where the Site is located, nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under GCC

Clause 34 hereof; or

- (b) any use or occupation by the Employer or any third party other than a Subcontractor, authorized by the Employer of any part of the Facilities; or
- (c) any use of or reliance upon any design, data or specification provided or designated by or on behalf of the Employer, or any such matter for which the Contractor has disclaimed responsibility herein,

the Employer shall pay to the Contractor all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged, and will pay to the Contractor the replacement value of all temporary facilities and all parts thereof lost, destroyed or damaged. If the Employer requests the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Contractor shall make good the same at the cost of the Employer in accordance with GCC Clause 39. If the Employer does not request the Contractor in writing to make good any loss or damage to the Facilities thereby occasioned, the Employer shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the Employer shall terminate the Contract pursuant to GCC Sub-Clause 42.1 hereof.

32.3 The Contractor shall be liable for any loss of or damage to any Contractor's Equipment, or any other property of the Contractor used or intended to be used for purposes of the Facilities, except (i) as mentioned in GCC Sub-Clause 32.2 with respect to the Contractor's temporary facilities, and (ii) where such loss or damage arises by reason of any of the matters specified in GCC Sub-Clauses 32.2 (b) and (c) and 38.1.

32.4 With respect to any loss or damage caused to the Facilities or any part thereof or to the Contractor's Equipment by reason of any of the matters specified in GCC Sub-Clause 38.1, the provisions of GCC Sub-Clause 38.3 shall apply.

**33. Loss of or
Damage to
Property;
Accident or Injury
to Workers;
Indemnification**

33.1 Subject to GCC Sub-Clause 33.3, the Contractor shall indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property other than the Facilities whether accepted or not, arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Contractor or its Subcontractors, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the Employer, its contractors, employees, officers or agents.

33.2 If any proceedings are brought or any claim is made against the Employer that might subject the Contractor to liability under GCC Sub-Clause 33.1, the Employer shall promptly give the Contractor a notice thereof and the Contractor may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Contractor fails to notify the Employer within 28 days after receipt of such notice that it intends to conduct any such proceedings or claim,

then the Employer shall be free to conduct the same on its own behalf. Unless the Contractor has so failed to notify the Employer within the 28 day period, the Employer shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The Employer shall, at the Contractor's request, afford all available assistance to the Contractor in conducting such proceedings or claim, and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

- 33.3 The Employer shall indemnify and hold harmless the Contractor and its employees, officers and Subcontractors from any liability for loss of or damage to property of the Employer, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 34, provided that such fire, explosion or other perils were not caused by any act or failure of the Contractor.
- 33.4 The party entitled to the benefit of an indemnity under this GCC Clause 33 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

34. Insurance

- 34.1 To the extent specified in the Appendix (Insurance Requirements) to the Contract Agreement, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, who should not unreasonably withhold such approval.
- (a) Cargo Insurance During Transport
Covering loss or damage occurring while in transit from the Contractor's or Subcontractor's works or stores until arrival at the Site, to the Plant (including spare parts therefor) and to the Contractor's Equipment.
- (b) Installation All Risks Insurance
Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the Defect Liability Period while the Contractor is on the Site for the purpose of performing its obligations during the Defect Liability Period.
- (c) Third Party Liability Insurance
Covering bodily injury or death suffered by third parties including the Employer's personnel, and loss of or damage to property occurring in connection with the supply and installation of the Facilities.
- (d) Automobile Liability Insurance
Covering use of all vehicles used by the Contractor or its Subcontractors, whether or not owned by them, in connection with the execution of the Contract.
- (e) Workers' Compensation
In accordance with the statutory requirements applicable in any

country where the Contract or any part thereof is executed.

(f) Employer's Liability

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

(g) Other Insurances

Such other insurances as may be specifically agreed upon by the parties hereto as listed in the Appendix (Insurance Requirements) to the Contract Agreement.

- 34.2 The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Third Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1 except for the Cargo Insurance During Transport, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.
- 34.3 The Contractor shall, in accordance with the provisions of the Appendix (Insurance Requirements) to the Contract Agreement, deliver to the Employer certificates of insurance or copies of the insurance policies as evidence that the required policies are in full force and effect. The certificates shall provide that no less than 21 days' notice shall be given to the Employer by insurers prior to cancellation or material modification of a policy.
- 34.4 The Contractor shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Contractor.
- 34.5 The Employer shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in the Appendix (Insurance Requirements) to the Contract Agreement, in the sums and with the deductibles and other conditions specified in the said Appendix. The Contractor and the Contractor's Subcontractors shall be named as co-insureds under all such policies. All insurers' rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies. The Employer shall deliver to the Contractor satisfactory evidence that the required insurances are in full force and effect. The policies shall provide that not less than 21 days' notice shall be given to the Contractor by all insurers prior to any cancellation or material modification of the policies. If so requested by the Contractor, the Employer shall provide copies of the policies taken out by the Employer under this GCC Sub-Clause 34.5.
- 34.6 If the Contractor fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 34.1, the Employer may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Contractor under the Contract any premium that the Employer shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Contractor. If the Employer fails to take out and/or maintain in effect the insurances

referred to in GCC 34.5, the Contractor may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Employer under the Contract any premium that the Contractor shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Employer. If the Contractor fails to or is unable to take out and maintain in effect any such insurances, the Contractor shall nevertheless have no liability or responsibility towards the Employer, and the Contractor shall have full recourse against the Employer for any and all liabilities of the Employer herein.

34.7 Unless otherwise provided in the Contract, the Contractor shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 34, and all monies payable by any insurers shall be paid to the Contractor. The Employer shall give to the Contractor all such reasonable assistance as may be required by the Contractor. With respect to insurance claims in which the Employer's interest is involved, the Contractor shall not give any release or make any compromise with the insurer without the prior written consent of the Employer. With respect to insurance claims in which the Contractor's interest is involved, the Employer shall not give any release or make any compromise with the insurer without the prior written consent of the Contractor.

35. Unforeseen Conditions

35.1 If, during the execution of the Contract, the Contractor shall encounter on the Site any physical conditions other than climatic conditions, or artificial obstructions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced contractor on the basis of reasonable examination of the data relating to the Facilities including any data as to boring tests, provided by the Employer, and on the basis of information that it could have obtained from a visual inspection of the Site if access thereto was available, or other data readily available to it relating to the Facilities, and if the Contractor determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Contractor shall promptly, and before performing additional work or using additional Plant or Contractor's Equipment, notify the Project Manager in writing of

- (a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen;
- (b) the additional work and/or Plant and/or Contractor's Equipment required, including the steps which the Contractor will or proposes to take to overcome such conditions or obstructions;
- (c) the extent of the anticipated delay; and
- (d) the additional cost and expense that the Contractor is likely to incur.

On receiving any notice from the Contractor under this GCC Sub-Clause 35.1, the Project Manager shall promptly consult with the Employer and Contractor and decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Contractor, with a copy to the Employer, of the actions to be taken.

35.2 Any reasonable additional cost and expense incurred by the Contractor

in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1 shall be paid by the Employer to the Contractor as an addition to the Contract Price.

35.3 If the Contractor is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1, the Time for Completion shall be extended in accordance with GCC Clause 40.

36. Change in Laws and Regulations

36.1 If, after the date 28 days prior to the date of Bid submission, in the country where the Site is located, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed which shall be deemed to include any change in interpretation or application by the competent authorities, that subsequently affects the costs and expenses of the Contractor and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the SCC, pursuant to GCC Sub-Clause 11.2.

37. Force Majeure

37.1 "Force Majeure" shall mean any event beyond the reasonable control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include, without limitation, the following:

- (a) war, hostilities or warlike operations whether a state of war be declared or not, invasion, act of foreign enemy and civil war
- (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts
- (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler or any other act or failure to act of any local state or national government authority
- (d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine and plague
- (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster
- (f) shortage of labor, materials or utilities where caused by circumstances that are themselves Force Majeure.

37.2 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 14 days after the occurrence of such event.

- 37.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 40.
- 37.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Sub-Clauses 37.6 and 38.5.
- 37.5 No delay or nonperformance by either party hereto caused by the occurrence of any event of Force Majeure shall
- (a) constitute a default or breach of the Contract, or
 - (b) give rise to any claim for damages or additional cost or expense occasioned thereby, subject to GCC Sub-Clauses 32.2, 38.3 and 38.4
- if and to the extent that such delay or nonperformance is caused by the occurrence of an event of Force Majeure.
- 37.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than 60 days or an aggregate period of more than 120 days on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which either party may terminate the Contract by giving a notice to the other, but without prejudice to either party's right to terminate the Contract under GCC Sub-Clause 38.5.
- 37.7 In the event of termination pursuant to GCC Sub-Clause 37.6, the rights and obligations of the Employer and the Contractor shall be as specified in GCC Sub-Clauses 42.1.2 and 42.1.3.
- 37.8 Notwithstanding GCC Sub-Clause 37.5, Force Majeure shall not apply to any obligation of the Employer to make payments to the Contractor herein.

38. War Risks

- 38.1 "War Risks" shall mean any event specified in paragraphs (a) and (b) of GCC Sub-Clause 37.1 and any explosion or impact of any mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war, occurring or existing in or near the country (or countries) where the Site is located.
- 38.2 Notwithstanding anything contained in the Contract, the Contractor shall have no liability whatsoever for or with respect to
- (a) destruction of or damage to Facilities, Plant, or any part thereof;
 - (b) destruction of or damage to property of the Employer or any third party; or
 - (c) injury or loss of life

if such destruction, damage, injury or loss of life is caused by any War Risks, and the Employer shall indemnify and hold the Contractor harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence

of or in connection with the same.

38.3 If the Facilities or any Plant or Contractor's Equipment or any other property of the Contractor used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, the Employer shall pay the Contractor for

- (a) any part of the Facilities or the Plant so destroyed or damaged to the extent not already paid for by the Employer and so far as may be required by the Employer, and as may be necessary for completion of the Facilities
- (b) replacing or making good any Contractor's Equipment or other property of the Contractor so destroyed or damaged
- (c) replacing or making good any such destruction or damage to the Facilities or the Plant or any part thereof .

If the Employer does not require the Contractor to replace or make good any such destruction or damage to the Facilities, the Employer shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to GCC Sub-Clause 42.1.

If the Employer requires the Contractor to replace or make good on any such destruction or damage to the Facilities, the Time for Completion shall be extended in accordance with GCC 40.

38.4 Notwithstanding anything contained in the Contract, the Employer shall pay the Contractor for any increased costs or incidentals to the execution of the Contract that are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Contractor shall as soon as practicable notify the Employer in writing of any such increased cost.

38.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Contractor, the Contractor shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its Subcontractors' personnel engaged in the work on the Facilities, provided, however, that if the execution of the work on the Facilities becomes impossible or is substantially prevented for a single period of more than 60 days or an aggregate period of more than 120 days on account of any War Risks, the parties will attempt to develop a mutually satisfactory solution, failing which either party may terminate the Contract by giving a notice to the other.

38.6 In the event of termination pursuant to GCC Sub-Clauses 38.3 or 38.5, the rights and obligations of the Employer and the Contractor shall be specified in GCC Sub-Clauses 42.1.2 and 42.1.3.

H. Change in Contract Elements

39. Change in the Facilities

39.1 Introducing a Change

39.1.1 Subject to GCC Sub-Clauses 39.2.5 and 39.2.7, the Employer shall have the right to propose, and subsequently require, that the Project Manager order the Contractor from time to time

during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities hereinafter called "Change", provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract.

39.1.2 The Contractor may from time to time during its performance of the Contract propose to the Employer with a copy to the Project Manager, any Change that the Contractor considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The Employer may at its discretion approve or reject any Change proposed by the Contractor, provided that the Employer shall approve any Change proposed by the Contractor to ensure the safety of the Facilities.

39.1.3 Notwithstanding GCC Sub-Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Contractor in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

39.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 39.2 and 39.3, and further details and forms are provided in the Employer's Requirements (Forms and Procedures).

39.2 Changes Originating from Employer

39.2.1 If the Employer proposes a Change pursuant to GCC Sub-Clause 39.1.1, it shall send to the Contractor a "Request for Change Proposal," requiring the Contractor to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

- (a) brief description of the Change
- (b) effect on the Time for Completion
- (c) estimated cost of the Change
- (d) effect on Functional Guarantees (if any)
- (e) effect on the Facilities
- (f) effect on any other provisions of the Contract.

39.2.2 Prior to preparing and submitting the "Change Proposal," the Contractor shall submit to the Project Manager an "Estimate for Change Proposal," which shall be an estimate of the cost of preparing and submitting the Change Proposal.

Upon receipt of the Contractor's Estimate for Change Proposal, the Employer shall do one of the following:

- (a) accept the Contractor's estimate with instructions to the Contractor to proceed with the preparation of the Change Proposal

- (b) advise the Contractor of any part of its Estimate for Change Proposal that is unacceptable and request the Contractor to review its estimate
- (c) advise the Contractor that the Employer does not intend to proceed with the Change.

39.2.3 Upon receipt of the Employer's instruction to proceed under GCC Sub-Clause 39.2.2 (a), the Contractor shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Sub-Clause 39.2.1.

39.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If such rates and prices are inequitable, the parties thereto shall agree on specific rates for the valuation of the Change.

39.2.5 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Contractor under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Contract Agreement by more than 15%, the Contractor may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the Employer accepts the Contractor's objection, the Employer shall withdraw the proposed Change and shall notify the Contractor in writing thereof.

The Contractor's failure to so object shall neither affect its right to object to any subsequent requested Changes or Change Orders herein, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Contractor represents.

39.2.6 Upon receipt of the Change Proposal, the Employer and the Contractor shall mutually agree upon all matters therein contained. Within 14 days after such agreement, the Employer shall, if it intends to proceed with the Change, issue the Contractor with a Change Order.

If the Employer is unable to reach a decision within 14 days, it shall notify the Contractor with details of when the Contractor can expect a decision.

If the Employer decides not to proceed with the Change for whatever reason, it shall, within the said period of 14 days, notify the Contractor accordingly. Under such circumstances, the Contractor shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Contractor in its Estimate for Change Proposal submitted in accordance with GCC Sub-Clause 39.2.2.

39.2.7 If the Employer and the Contractor cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the Employer may nevertheless instruct the Contractor

to proceed with the Change by issue of a "Pending Agreement Change Order."

Upon receipt of a Pending Agreement Change Order, the Contractor shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.

If the parties cannot reach agreement within 60 days from the date of issue of the Pending Agreement Change Order, then the matter may be referred to the Dispute Board in accordance with the provisions of GCC Sub-Clause 45.3.

39.3 Changes Originating from Contractor

39.3.1 If the Contractor proposes a Change pursuant to GCC Sub-Clause 39.1.2, the Contractor shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 39.2.1.

Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 39.2.6 and 39.2.7. However, should the Employer choose not to proceed, the Contractor shall not be entitled to recover the costs of preparing the Application for Change Proposal.

40. **Extension of Time for Completion**

40.1 The Time(s) for Completion specified in the SCC shall be extended if the Contractor is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- (a) any Change in the Facilities as provided in GCC Clause 39
- (b) any occurrence of Force Majeure as provided in GCC Clause 37, unforeseen conditions as provided in GCC Clause 35, or other occurrence of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clause 32.2
- (c) any suspension order given by the Employer under GCC Clause 41 hereof or reduction in the rate of progress pursuant to GCC Sub-Clause 41.2 or
- (d) any changes in laws and regulations as provided in GCC Clause 36 or
- (e) any default or breach of the Contract by the Employer, or any activity, act or omission of the Employer, or the Project Manager, or any other contractors employed by the Employer or
- (f) any other matter specifically mentioned in the Contract
- (g) any delay on the part of a sub-contractor, provided such delay is due to a cause for which the Contractor himself would have been entitled to an extension of time under this sub-clause

by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Contractor.

40.2 Except where otherwise specifically provided in the Contract, the Contractor shall submit to the Project Manager a notice of a claim for an

extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Employer and the Contractor shall agree upon the period of such extension. In the event that the Contractor does not accept the Employer's estimate of a fair and reasonable time extension, the Contractor shall be entitled to refer the matter to a Dispute Board, pursuant to GCC Sub-Clause 45.3.

- 40.3 The Contractor shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

In all cases where the Contractor has given a notice of a claim for an extension of time under GCC 40.2, the Contractor shall consult with the Project Manager in order to determine the steps (if any) which can be taken to overcome or minimize the actual or anticipated delay. The Contractor shall there after comply with all reasonable instructions which the Project Manager shall give in order to minimize such delay. If compliance with such instructions shall cause the Contractor to incur extra costs and the Contractor is entitled to an extension of time under GCC 40.1, the amount of such extra costs shall be added to the Contract Price.

41. Suspension

- 41.1 The Employer may request the Project Manager, by notice to the Contractor, to order the Contractor to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons therefor. The Contractor shall thereupon suspend performance of such obligation, except those obligations necessary for the care or preservation of the Facilities, until ordered in writing to resume such performance by the Project Manager.

If, by virtue of a suspension order given by the Project Manager, other than by reason of the Contractor's default or breach of the Contract, the Contractor's performance of any of its obligations is suspended for an aggregate period of more than 90 days, then at any time thereafter and provided that at that time such performance is still suspended, the Contractor may give a notice to the Project Manager requiring that the Employer shall, within 28 days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 39, excluding the performance of the suspended obligations from the Contract.

If the Employer fails to do so within such period, the Contractor may, by a further notice to the Project Manager, elect to treat the suspension, where it affects a part only of the Facilities, as a deletion of such part in accordance with GCC Clause 39 or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause 42.1.

- 41.2 If
- (a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the Appendix (Terms and Procedures of Payment) to the Contract Agreement, or commits a substantial breach of the Contract, the Contractor may give a notice to the Employer that requires payment of such sum, with interest thereon as stipulated

in GCC Sub-Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, or fails to remedy the breach or take steps to remedy the breach within 14 days after receipt of the Contractor's notice or

- (b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas in accordance with GCC Sub-Clause 10.2, or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities,

then the Contractor may by 14 days' notice to the Employer suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.

41.3 If the Contractor's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 41, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 40.1, and any and all additional costs or expenses incurred by the Contractor as a result of such suspension or reduction shall be paid by the Employer to the Contractor in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Contractor's default or breach of the Contract.

41.4 During the period of suspension, the Contractor shall not remove from the Site any Plant, any part of the Facilities or any Contractor's Equipment, without the prior written consent of the Employer.

42. Termination

42.1 Termination for Employer's Convenience

42.1.1 The Employer may at any time terminate the Contract for any reason by giving the Contractor a notice of termination that refers to this GCC Sub-Clause 42.1.

42.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 42.1.1, the Contractor shall either immediately or upon the date specified in the notice of termination

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii) below
- (c) remove all Contractor's Equipment from the Site, repatriate the Contractor's and its Subcontractors' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition, and
- (d) subject to the payment specified in GCC Sub-Clause 42.1.3,
 - (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination

- (ii) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors; and
- (iii) deliver to the Employer all non-proprietary drawings, specifications and other documents prepared by the Contractor or its Subcontractors as at the date of termination in connection with the Facilities.

42.1.3 In the event of termination of the Contract under GCC Sub-Clause 42.1.1, the Employer shall pay to the Contractor the following amounts:

- (a) the Contract Price, properly attributable to the parts of the Facilities executed by the Contractor as of the date of termination
- (b) the costs reasonably incurred by the Contractor in the removal of the Contractor's Equipment from the Site and in the repatriation of the Contractor's and its Subcontractors' personnel
- (c) any amounts to be paid by the Contractor to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges
- (d) costs incurred by the Contractor in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.1.2
- (e) the cost of satisfying all other obligations, commitments and claims that the Contractor may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

42.2 Termination for Contractor's Default

42.2.1 The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefor to the Contractor, referring to this GCC Sub-Clause 42.2:

- (a) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up, other than a voluntary liquidation for the purposes of amalgamation or reconstruction, a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt
- (b) if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 43.

- (c) if the Contractor, in the judgment of the Employer has engaged in fraud and corruption, as defined in GCC Clause 6, in competing for or in executing the Contract.

42.2.2 If the Contractor

- (a) has abandoned or repudiated the Contract
- (b) has without valid reason failed to commence work on the Facilities promptly or has suspended, other than pursuant to GCC Sub-Clause 41.2, the progress of Contract performance for more than 28 days after receiving a written instruction from the Employer to proceed
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Sub-Clause 18.2 at rates of progress that give reasonable assurance to the Employer that the Contractor can attain Completion of the Facilities by the Time for Completion as extended,

then the Employer may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within 14 days of its receipt of such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor that refers to this GCC Sub-Clause 42.2.

42.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 42.2.1 or 42.2.2, the Contractor shall, either immediately or upon such date as is specified in the notice of termination,

- (a) cease all further work, except for such work as the Employer may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) below
- (c) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
- (d) to the extent legally possible, assign to the Employer all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors
- (e) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

42.2.4 The Employer may enter upon the Site, expel the Contractor, and complete the Facilities itself or by employing any third party. The Employer may, to the exclusion of any right of the Contractor over the same, take over and use with the payment of a fair rental rate to the Contractor, with all the maintenance costs to the account of the Employer and with an indemnification by the Employer for all liability including damage or injury to persons arising out of the Employer's use of such equipment, any Contractor's Equipment owned by the Contractor and on the Site in connection with the Facilities for such reasonable period as the Employer considers expedient for the supply and installation of the Facilities.

Upon completion of the Facilities or at such earlier date as the Employer thinks appropriate, the Employer shall give notice to the Contractor that such Contractor's Equipment will be returned to the Contractor at or near the Site and shall return such Contractor's Equipment to the Contractor in accordance with such notice. The Contractor shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

42.2.5 Subject to GCC Sub-Clause 42.2.6, the Contractor shall be entitled to be paid the Contract Price attributable to the Facilities executed as of the date of termination, the value of any unused or partially used Plant on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.2.3. Any sums due the Employer from the Contractor accruing prior to the date of termination shall be deducted from the amount to be paid to the Contractor under this Contract.

42.2.6 If the Employer completes the Facilities, the cost of completing the Facilities by the Employer shall be determined.

If the sum that the Contractor is entitled to be paid, pursuant to GCC Sub-Clause 42.2.5, plus the reasonable costs incurred by the Employer in completing the Facilities, exceeds the Contract Price, the Contractor shall be liable for such excess.

If such excess is greater than the sums due the Contractor under GCC Sub-Clause 42.2.5, the Contractor shall pay the balance to the Employer, and if such excess is less than the sums due the Contractor under GCC Sub-Clause 42.2.5, the Employer shall pay the balance to the Contractor.

The Employer and the Contractor shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

42.3 Termination by Contractor

42.3.1 If

- (a) the Employer has failed to pay the Contractor any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the Appendix (Terms and Procedures of Payment) to the Contract Agreement, or commits a substantial breach of the Contract, the Contractor may give

a notice to the Employer that requires payment of such sum, with interest thereon as stipulated in GCC Sub-Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Employer to remedy the same, as the case may be. If the Employer fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within 14 days after receipt of the Contractor's notice, or

- (b) the Contractor is unable to carry out any of its obligations under the Contract for any reason attributable to the Employer, including but not limited to the Employer's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities,

then the Contractor may give a notice to the Employer thereof, and if the Employer has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within 28 days of such notice, or if the Contractor is still unable to carry out any of its obligations under the Contract for any reason attributable to the Employer within 28 days of the said notice, the Contractor may by a further notice to the Employer referring to this GCC Sub-Clause 42.3.1, forthwith terminate the Contract.

42.3.2 The Contractor may terminate the Contract forthwith by giving a notice to the Employer to that effect, referring to this GCC Sub-Clause 42.3.2, if the Employer becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Employer takes or suffers any other analogous action in consequence of debt.

42.3.3 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, then the Contractor shall immediately

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- (b) terminate all subcontracts, except those to be assigned to the Employer pursuant to paragraph (d) (ii)
- (c) remove all Contractor's Equipment from the Site and repatriate the Contractor's and its Subcontractors' personnel from the Site, and
- (d) subject to the payment specified in GCC Sub-Clause 42.3.4,
 - (i) deliver to the Employer the parts of the Facilities executed by the Contractor up to the date of termination
 - (ii) to the extent legally possible, assign to the Employer

all right, title and benefit of the Contractor to the Facilities and to the Plant as of the date of termination, and, as may be required by the Employer, in any subcontracts concluded between the Contractor and its Subcontractors, and

- (iii) deliver to the Employer all drawings, specifications and other documents prepared by the Contractor or its Subcontractors as of the date of termination in connection with the Facilities.

42.3.4 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, the Employer shall pay to the Contractor all payments specified in GCC Sub-Clause 42.1.3, and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Contractor arising out of, in connection with or in consequence of such termination.

42.3.5 Termination by the Contractor pursuant to this GCC Sub-Clause 42.3 is without prejudice to any other rights or remedies of the Contractor that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 42.3.

42.4 In this GCC Clause 42, the expression "Facilities executed" shall include all work executed, Installation Services provided, and all Plant acquired, or subject to a legally binding obligation to purchase, by the Contractor and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

42.5 In this GCC Clause 42, in calculating any monies due from the Employer to the Contractor, account shall be taken of any sum previously paid by the Employer to the Contractor under the Contract, including any advance payment paid pursuant to the Appendix (Terms and Procedures of Payment) to the Contract Agreement.

43. Assignment

43.1 Neither the Employer nor the Contractor shall, without the express prior written consent of the other party which consent shall not be unreasonably withheld, assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Contractor shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

I. Claims, Disputes and Arbitration

44. Contractor's Claims

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

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

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

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

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

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

Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.

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

The Project Manager shall agree with the Contractor or estimate: (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with GCC Clause 40, and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the

extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

In the event that the Contractor and the Employer cannot agree on any matter relating to a claim, either party may refer the matter to the Dispute Board pursuant to GCC 45 hereof.

45. Disputes and Arbitration

45.1 Appointment of the Dispute Board

Disputes shall be referred to a DB for decision in accordance with GCC Sub-Clause 45.3. The Parties shall appoint a DB by the date stated in the SCC.

The DB shall comprise, as stated in the SCC, either one or three suitably qualified persons ("the members"), each of whom shall be fluent in the language for communication defined in the Contract and shall be a professional experienced in the type of activities involved in the performance of the Contract and with the interpretation of contractual documents. If the number is not so stated and the Parties do not agree otherwise, the DB shall comprise three persons, one of whom shall serve as chairman.

If the Parties have not jointly appointed the DB 21 days before the date stated in the SCC and the DB is to comprise three persons, each Party shall nominate one member for the approval of the other Party. The first two members shall recommend and the Parties shall agree upon the third member, who shall act as chairman.

However, if a list of potential members is included in the SCC, the members shall be selected from those on the list, other than anyone who is unable or unwilling to accept appointment to the DB.

The agreement between the Parties and either the sole member or each of the three members shall incorporate by reference the General Conditions of Dispute Board Agreement contained in the Appendix to these General Conditions, with such amendments as are agreed between them.

The terms of the remuneration of either the sole member or each of the three members, including the remuneration of any expert whom the DB consults, shall be mutually agreed upon by the Parties when agreeing the terms of appointment of the member or such expert (as the case may be). Each Party shall be responsible for paying one-half of this remuneration.

If a member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, a replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Sub-Clause.

The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Employer or the Contractor acting alone. Unless otherwise agreed by both Parties, the appointment

of the DB (including each member) shall expire when the Operational Acceptance Certificate has been issued in accordance with GCC Clause 25.3.

45.2 Failure to Agree Dispute Board

If any of the following conditions apply, namely:

- (a) the Parties fail to agree upon the appointment of the sole member of the DB by the date stated in the first paragraph of GCC Sub-Clause 45.1,
- (b) either Party fails to nominate a member (for approval by the other Party) of a DB of three persons by such date,
- (c) the Parties fail to agree upon the appointment of the third member (to act as chairman) of the DB by such date, or
- (d) the Parties fail to agree upon the appointment of a replacement person within 42 days after the date on which the sole member or one of the three members declines to act or is unable to act as a result of death, disability, resignation or termination of appointment,

then the appointing entity or official named in the SCC shall, upon the request of either or both of the Parties and after due consultation with both Parties, appoint this member of the DB. This appointment shall be final and conclusive. Each Party shall be responsible for paying one-half of the remuneration of the appointing entity or official.

45.3 Obtaining Dispute Board's Decision

If a dispute (of any kind whatsoever) arises between the Parties in connection with the performance of the Contract, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Project Manager, either Party may refer the dispute in writing to the DB for its decision, with copies to the other Party and the Project Manager. Such reference shall state that it is given under this Sub-Clause.

For a DB of three persons, the DB shall be deemed to have received such reference on the date when it is received by the chairman of the DB.

Both Parties shall promptly make available to the DB all such additional information, further access to the Site, and appropriate facilities, as the DB may require for the purposes of making a decision on such dispute. The DB shall be deemed to be not acting as arbitrator(s).

Within 84 days after receiving such reference, or within such other period as may be proposed by the DB and approved by both Parties, the DB shall give its decision, which shall be reasoned and shall state that it is given under this Sub-Clause. The decision shall be binding on both Parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below. Unless the Contract has already been abandoned, repudiated or terminated, the Contractor shall continue to proceed with the performance of the Facilities in accordance with the Contract.

If either Party is dissatisfied with the DB's decision, then either Party may, within 28 days after receiving the decision, give notice to the other Party of its dissatisfaction and intention to commence arbitration. If the

DB fails to give its decision within the period of 84 days (or as otherwise approved) after receiving such reference, then either Party may, within 28 days after this period has expired, give notice to the other Party of its dissatisfaction and intention to commence arbitration.

In either event, this notice of dissatisfaction shall state that it is given under this Sub-Clause, and shall set out the matter in dispute and the reason(s) for dissatisfaction. Except as stated in GCC Sub-Clauses 45.6 and 45.7, neither Party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been given in accordance with this Sub-Clause.

If the DB has given its decision as to a matter in dispute to both Parties, and no notice of dissatisfaction has been given by either Party within 28 days after it received the DB's decision, then the decision shall become final and binding upon both Parties.

45.4 Amicable Settlement

Where notice of dissatisfaction has been given under GCC Sub-Clause 45.3 above, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, arbitration may be commenced on or after the fifty-sixth day after the day on which notice of dissatisfaction and intention to commence arbitration was given, even if no attempt at amicable settlement has been made.

45.5 Arbitration

Unless settled amicably, any dispute in respect of which the DB's decision (if any) has not become final and binding shall be finally settled by international arbitration. Unless otherwise agreed by both Parties:

- (a) arbitration proceedings shall be conducted as stated in the Special Conditions,
- (b) if no arbitration proceedings is so stated, the dispute shall be finally settled by institutional arbitration under the Rules of Arbitration of the International Chamber of Commerce,
- (c) the dispute shall be settled by three arbitrators, and
- (d) the arbitration shall be conducted in the language for communications defined in GCC Sub-Clause 5.3.

The arbitrator(s) shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, and any decision of the DB, relevant to the dispute. Nothing shall disqualify the Project Manager from being called as a witness and giving evidence before the arbitrator(s) on any matter whatsoever relevant to the dispute.

Neither Party shall be limited in the proceedings before the arbitrator(s) to the evidence or arguments previously put before the DB to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the DB shall be admissible in evidence in the arbitration.

Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Project Manager and the DB shall not be altered by reason of any arbitration being conducted during the progress of the Works.

45.6 Failure to Comply with Dispute Board's Decision

In the event that a Party fails to comply with a DB decision which has become final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under GCC Sub-Clause 45.5. GCC Sub-Clauses 45.3 and 45.4 shall not apply to this reference.

45.7 Expiry of Dispute Board's Appointment

If a dispute arises between the Parties in connection with the performance of the Contract, and there is no DB in place, whether by reason of the expiry of the DB's appointment or otherwise:

- (a) GCC Sub-Clauses 45.3 and 45.4 shall not apply, and
- (b) the dispute may be referred directly to arbitration under GCC Sub-Clause 45.5

APPENDIX A

General Conditions of Dispute Board Agreement

1 Definitions

Each "Dispute Board Agreement" is a tripartite agreement by and between:

- (a) the "Employer";
- (b) the "Contractor"; and
- (c) the "Member" who is defined in the Dispute Board Agreement as being:
 - (i) the sole member of the "DB" and, where this is the case, all references to the "Other Members" do not apply, or
 - (ii) one of the three persons who are jointly called the "DB" (or "dispute board") and, where this is the case, the other two persons are called the "Other Members".

The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the "Contract" and is defined in the Dispute Board Agreement, which incorporates this Appendix. In the Dispute Board Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract.

2 General Provisions

Unless otherwise stated in the Dispute Board Agreement, it shall take effect on the latest of the following dates:

- (a) the Commencement Date defined in the Contract,
- (b) when the Employer, the Contractor and the Member have each signed the Dispute Board Agreement, or
- (c) when the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a dispute board agreement.

This employment of the Member is a personal appointment. At any time, the Member may give not less than 70 days' notice of resignation to the Employer and to the Contractor, and the Dispute Board Agreement shall terminate upon the expiry of this period.

3 Warranties

The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Project Manager. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.

When appointing the Member, the Employer and the Contractor relied upon the Member's representations that he/she is:

- (a) experienced in the work which the Contractor is to carry out under the Contract,

- (b) experienced in the interpretation of contract documentation, and
- (c) fluent in the language for communications defined in the Contract.

4 General Obligations of the Member

The Member shall:

- (a) have no interest financial or otherwise in the Employer, the Contractor or the Project Manager, nor any financial interest in the Contract except for payment under the Dispute Board Agreement;
- (b) not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Project Manager, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the Dispute Board Agreement;
- (c) have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the Dispute Board Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Project Manager, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the Dispute Board Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Project Manager, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any);
- (e) comply with the annexed procedural rules and with GCC Sub-Clause 45.3;
- (f) not give advice to the Employer, the Contractor, the Employer's Personnel or the Contractor's Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural rules;
- (g) not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Project Manager regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the Dispute Board Agreement;
- (h) ensure his/her availability for all site visits and hearings as are necessary;
- (i) become conversant with the Contract and with the progress of the Facilities (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file;
- (j) treat the details of the Contract and all the DB's activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and
- (k) be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any).

5 General Obligations of the Employer and the Contractor

The Employer, the Contractor, the Employer's Personnel and the Contractor's Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the

normal course of the DB's activities under the Contract and the Dispute Board Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer's Personnel and the Contractor's Personnel respectively.

The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):

- (a) be appointed as an arbitrator in any arbitration under the Contract;
- (b) be called as a witness to give evidence concerning any dispute before arbitrator(s) appointed for any arbitration under the Contract; or
- (c) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member's functions, unless the act or omission is shown to have been in bad faith.

The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.

Whenever the Employer or the Contractor refers a dispute to the DB under GCC Sub-Clause 45.3, which will require the Member to make a site visit and attend a hearing, the Employer or the Contractor shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due or paid to the Member.

6 Payment

The Member shall be paid as follows, in the currency named in the Dispute Board Agreement:

- (a) a retainer fee per calendar month, which shall be considered as payment in full for:
 - (i) being available on 28 days' notice for all site visits and hearings;
 - (ii) becoming and remaining conversant with all project developments and maintaining relevant files;
 - (iii) all office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and
 - (iv) all services performed hereunder except those referred to in sub-paragraphs (b) and (c) of this Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the Dispute Board Agreement becomes effective; until the last day of the calendar month in which the Taking-Over Certificate is issued for the whole of the Works.

With effect from the first day of the calendar month following the month in which Taking-Over Certificate is issued for the whole of the Works, the retainer fee shall be reduced by one third. This reduced fee shall be paid until the first day of the calendar month in which the Member resigns or the Dispute Board Agreement is otherwise terminated.

- (b) a daily fee which shall be considered as payment in full for:
 - (i) each day or part of a day up to a maximum of 2 days' travel time in each direction for the journey between the Member's home and the site, or another location of a meeting with the Other Members (if any);

- (ii) each working day on site visits, hearings or preparing decisions; and
 - (iii) each day spent reading submissions in preparation for a hearing.
- (c) all reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses) incurred in connection with the Member's duties, as well as the cost of telephone calls, courier charges, faxes and telexes: a receipt shall be required for each item in excess of five percent of the daily fee referred to in sub-paragraph (b) of this Clause;
- (d) any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the Country) under this Clause 6.

The retainer and daily fees shall be as specified in the Dispute Board Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the Dispute Board Agreement became effective.

If the parties fail to agree on the retainer fee or the daily fee the appointing entity or official named in the SCC shall determine the amount of the fees to be used.

The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.

The Contractor shall pay each of the Member's invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.

If the Contractor fails to pay to the Member the amount to which he/she is entitled under the Dispute Board Agreement, the Employer shall pay the amount due to the Member and any other amount which may be required to maintain the operation of the DB; and without prejudice to the Employer's rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in accordance with GCC Sub-Clause 12.3.

If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7.

7 Termination

At any time: (i) the Employer and the Contractor may jointly terminate the Dispute Board Agreement by giving 42 days' notice to the Member; or (ii) the Member may resign as provided for in Clause 2.

If the Member fails to comply with the Dispute Board Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by notice to the Member. The notice shall take effect when received by the Member.

If the Employer or the Contractor fails to comply with the Dispute Board Agreement, the Member may, without prejudice to his other rights, terminate it by notice to the Employer and the Contractor. The notice shall take effect when received by them both.

Any such notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a notice by the Employer or the Contractor, but not by both, shall be of no effect.

8 Default of the Member

If the Member fails to comply with any of his obligations under Clause 4 concerning his impartiality or independence in relation to the Employer or the Contractor, he/she shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DB which are rendered void or ineffective by the said failure to comply.

9 Disputes

Any dispute or claim arising out of or in connection with this Dispute Board Agreement, or the breach, termination or invalidity thereof, shall be finally settled by institutional arbitration. If no other arbitration institute is agreed, the arbitration shall be conducted under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with these Rules of Arbitration.

Annex - DISPUTE BOARD GUIDELINES

1. Unless otherwise agreed by the Employer and the Contractor, the DB shall visit the site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.
2. The timing of and agenda for each site visit shall be as agreed jointly by the DB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DB. The purpose of site visits is to enable the DB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to prevent potential problems or claims from becoming disputes.
3. Site visits shall be attended by the Employer, the Contractor and the Project Manager and shall be co-ordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each site visit and before leaving the site, the DB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.
4. The Employer and the Contractor shall furnish to the DB one copy of all documents which the DB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DB and the Employer or the Contractor shall be copied to the other Party. If the DB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.
5. If any dispute is referred to the DB in accordance with GCC Sub-Clause 45.3, the DB shall proceed in accordance with GCC Sub-Clause 45.3 and these Guidelines. Subject to the time allowed to give notice of a decision and other relevant factors, the DB shall:
 - (a) act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other's case, and
 - (b) adopt procedures suitable to the dispute, avoiding unnecessary delay or expense.
6. The DB may conduct a hearing on the dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.
7. Except as otherwise agreed in writing by the Employer and the Contractor, the DB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Project Manager, and to proceed in the absence of any party who the DB is satisfied received notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.
8. The Employer and the Contractor empower the DB, among other things, to:
 - (a) establish the procedure to be applied in deciding a dispute,
 - (b) decide upon the DB's own jurisdiction, and as to the scope of any dispute referred to it,
 - (c) conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Guidelines,

- (d) take the initiative in ascertaining the facts and matters required for a decision,
 - (e) make use of its own specialist knowledge, if any,
 - (f) decide upon the payment of financing charges in accordance with the Contract,
 - (g) decide upon any provisional relief such as interim or conservatory measures,
 - (h) open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute, and
 - (i) appoint, should the DB so consider necessary and the Parties agree, a suitable expert at the cost of the Parties to give advice on a specific matter relevant to the dispute.
9. The DB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DB shall make and give its decision in accordance with GCC Sub-Clause 45.3, or as otherwise agreed by the Employer and the Contractor in writing. If the DB comprises three persons:
- (a) it shall convene in private after a hearing, in order to have discussions and prepare its decision;
 - (b) it shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
 - (c) if a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision, unless:
 - (i) either the Employer or the Contractor does not agree that they do so, or
 - (ii) the absent Member is the chairman and he/she instructs the other Members to not make a decision.

Section 8 - Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The clause number of the SCC is the corresponding clause number of the GCC.

Table of Clauses

1.	Definitions	8-2
5.	Law and Language	8-2
7.	Scope of Facilities.....	8-2
8.	Time for Commencement and Completion.....	8-2
9	Contractor's Responsibilities.....	.8-3
13	Securities.....	8-3
18	Work Program.....	8-5
21	Procurement.....	8-5
22	Installation.....	8-6
23	Test and Inspection.....	8-7
24	Completion of the Facilities.....	8-7
25.	Commissioning and Operational Acceptance	8-9
26.	Completion Time Guarantee	8-9
27.	Defect Liability	8-9
45.	Disputes and Arbitration	8-10
35.	Unforeseen Conditions.....	8-10

1. Definitions	
	<p>The Employer is: Quetta Electric Supply Company Limited (QESCO).</p> <p>The Project Manager is: Project Director (GSC), QESCO, Quetta.</p> <p>QESCO: Quetta Electric Supply Company Limited</p>
5. Law and Language	
5.1	The Contract shall be interpreted in accordance with the laws of: Islamic Republic of Pakistan
5.2	The ruling language is: The English language
5.3	The language for communications is: The English language
7. Scope of Facilities	
7.3	<p>7.3 The Contractor agrees to supply spare parts for a period of years: Five (5)</p> <p>The Contractor shall carry sufficient inventories to ensure an ex-stock supply of consumable spares for the Plant. Other spare parts and components shall be supplied as promptly as possible, but at the most within six (6) months of placing the order and opening the letter of credit. In addition, in the event of termination of the production of spare parts, advance notification will be made to the Employer of the pending termination, with sufficient time to permit the Employer to procure the needed requirement. Following such termination, the Contractor will furnish to the extent possible and at no cost to the Employer the blueprints, drawings and specifications of the spare parts, if requested.</p>
8. Time for Commencement and Completion	
8.1	The Contractor shall commence work on the Facilities within twenty (20) days from the Effective Date for Time for completion as specified in the Contract Agreement.
8.2	<p>The Time for Completion of the whole of the Facilities shall be</p> <p>450 days from the Effective Date as described in the Contract Agreement.</p>

9. Contractor's Responsibilities

9.8 The Contractor shall comply with all applicable national, provincial, and local environmental laws and regulations.

The Contractor shall

- (a) Establish an operational system for managing environmental impacts.
- (b) Carry out all of the monitoring and mitigation measures set forth in the [Environmental Impact Assessment]/ [Environmental Management Plan, and
- (c) Allocate the budget required to ensure that such measures are carried out. The Contractor shall submit semi-annual reports on the carrying out of such measures to the Employer.
- (d) The Contractor shall particularly comply with (i) the measures and requirements set forth in the Environmental Impact Assessment and Environmental Management Plan attached hereto as Appendix 1 and Appendix 2 respectively; and (ii) any corrective or preventive actions set out in safeguards monitoring reports that the Employer will prepare from time to time to monitor implementation of the Environmental Impact Assessment and the environmental management plan.

Without prejudice to all of the above, provide the Employer with a written notice of any unanticipated environmental, resettlement, or indigenous people's risks or impacts that arise during construction, implementation or operation of a subproject that were not considered in the EIA, the EMP or the LARP.

The contractor will ensure that the preparation, design, construction, implementation, operation, restoration and decommissioning of project comply with

- a) all applicable laws and regulations of Pakistan relating to environment, health, and safety;
- b) the Environmental Safeguards;
- c) the Environment Assessment Review Framework (EARF);
- d) all measures and requirements set forth in the respective EIA / IEE and EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Pakistan Environmental Protection Act (PEPA) 1997, Baluchistan Environment Protection Act 2012 & Other Agencies shall be strictly adhered to.

Environmental Safeguards:

Contractor(s) shall ensure that

- a) To appoint the Site Environmental Engineer/Specialist with relevant educational background and experience. The CVs of the applicants for the position should be shared with Environment Officer of QESCO and the appointment should only be confirmed after the relevant DISCO's ESC staff approval.

- b) Implementation of Environmental Management Plan & Monitoring Plan in letter and spirit;
- c) All mitigation and monitoring measures identified in the respective Environmental Management Plan (EMP) are incorporated in detail design and implemented during construction/operation of the Project facilities;
- d) All contracts under the subprojects contain provisions on compliance with these requirements;
- e) To make available budget for all such environmental and social measures;
- f) To provide GSC and ESC of PMU with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of project that were not considered in the IEE, the EMP or the LARP.
- g) Trees (*Minimum 06-Feet in height*) plantation is carried out in accordance with the Environmental Approval obtained from EPA Punjab and in accordance with the aesthetic value of the area.
- h) All amounts claimed by contractor(s) in lieu of Environment & Social Safeguard Management be sent to DM (Environment & Safeguard) for verification in order to make things proper and transparent.
- i) To submit monthly monitoring & implementation report to Environment and Social Cell / Environment and Social Unit of QESCO.
Comply with all pertinent occupational health and safety regulation;
- j) Personal Protective Equipments (Safety Helmets, Hard Helmets, Safety Gloves, Safety Shoes, Safety Glasses, and Safety Vests etc) are provided to all the workers at site.
- k) Safety signs and awareness material printed in Urdu & English languages (4 x 6 feet Pan flexes) are placed & visible at project site.
- l) To fully restore pathways, other local infrastructure (sewerage line, water transporting system/pipes, rain water drainage system etc) damaged due to construction activity at the project site and agricultural land to at least pre project condition upon the completion of construction.
- m) Provision of proper sanitation facilities to workers
- n) Provision of clean drinking water
- o) Conduct water tests, air quality monitoring, noise measurement on regular basis and record be provided to QESCO.
- p) Proper landscaping is carried out

And; In case of non-compliance with mitigation measures of BOQ/EMP, QESCO has the right to suspend work and with held payments till the remedial measures. Any delay caused by the non-compliance of the mitigation measures by the contractor will be account of the contractor and will be liable to pay penalty upto 10% of the total contract and no extension of time will be allowed to the contractor.

	<p>9.9 Land Acquisition & Resettlement: The contractor(s) will ensure that all applicable laws and regulations of the Pakistan relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the LARF; and (d) all measures and requirements set forth in the respective LARP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report and strictly adhered to and ensure that</p> <ul style="list-style-type: none"> a) Implementation of Land Acquisition & Resettlement Plan (LARP) / Abbreviated Resettlement Plan (ARP) / Resettlement Plan (RP) in letter and spirit; b) No physical or economic displacement takes place in connection with any Subproject until compensation has been paid, c) And all the compensation has been provided to the Project Affected Persons (PAPs), Affected Persons (AP), Affected Households (AH) before the start of any civil work. d) To make available budget for all such environmental and social measures; e) To provide GSC and ESC of PMU with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of project that were not considered in the IEE, the EMP or the LARP f) Use best efforts to employ women living in the vicinity of the Project Area; g) Disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS for those employed during construction, and take measures to protect workers from protect workers from potential exposure to sexually transmitted diseases; h) Do not differentiate between men and women’s wages or benefits for work of equal value; i) And abstain from child labor.
<p>13. Securities</p>	
	<p>13.3.1 The amount of performance security, as a percentage of the Contract Price for the Facility or for the part of the Facility for which a separate Time for Completion is provided, shall be: Ten percent (10 %) of the total contract price.</p>
	<p>13.3.2 The performance security shall be in the form of the Bank Guarantee(s) as per form included in Section 6 (Employer’s Requirements, Bank Guarantees and Certificates).If the institution issuing the security is located outside the territory of Pakistan, it shall have a correspondent financial institution located in the territory of Pakistan to make it enforceable.</p>
<p>18. Work program</p>	
	<p>18.3 Progress Report (c) Monitoring of the obligations in Sub-Clauses 9.8, 21.1, 22.1.1,22.2.3 (d), 22.2.7(d), 22.2.15 and 22.2.16.</p>

21.	Procurement
	<p data-bbox="228 260 407 289">21.1 Materials</p> <p data-bbox="297 308 1430 369">The Contractor shall adequately record the condition of roads, agricultural land and other infrastructure prior to the start of transporting materials, goods and equipment, and construction.</p>
22.	Installation
	<p data-bbox="228 455 472 485">22.1.1 Bench Mark</p> <p data-bbox="228 504 1430 674">(a) The Contractor shall comply with (i) the measures and requirements set forth in the resettlement plan [attached hereto as appendix ()], to the extent it concerns impacts on affected people during construction; and (ii) any corrective or preventive actions set out in safeguards monitoring reports and the Employer will prepare from time to time to monitor implementation of the resettlement plan.</p> <p data-bbox="228 693 1430 756">(b) The Contractor shall allocate a Budget for compliance with these measures, requirements and actions.</p> <p data-bbox="228 779 391 808">22.2 Labor</p> <p data-bbox="228 827 1430 926">22.2.1 The Contractor shall use the best efforts, taking into consideration economy and efficiency, to employ women and local people, including disadvantaged people, living in the vicinity of the project area for works to be performed under the contract.</p> <p data-bbox="228 945 1430 1008">22.2.2 The Contractor shall not make employment decisions based upon personal characteristics unrelated to job requirements.</p> <p data-bbox="228 1031 1430 1201">22.2.3 (d) The contractor shall base the employment relationship upon equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationships, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment or retirement, and discipline. The Contractor shall allow freedom of association and effectively recognize the right to collective bargaining;</p> <p data-bbox="228 1224 824 1253">22.2.4 Rates of Wages and Condition of Labor</p> <p data-bbox="321 1272 1430 1335">The following sentence is added to GCC 22.2.4 (a): "The contractor shall provide equal wages and benefits to men and women for work of equal value or type".</p> <p data-bbox="228 1358 542 1388">22.2.7 Health and Safety</p> <p data-bbox="321 1407 1357 1436">(d) The Contractor shall throughout the contract (including the Defect Liability Period):</p> <ul style="list-style-type: none"> <li data-bbox="391 1455 1430 1766">(i) conduct Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labor (including all the Contractor's employees, all Sub-Contractors and Employer's and Project Manager's' employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to of Sexually Transmitted Diseases (STD)—or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular along with all types of Hepatitis; <li data-bbox="391 1785 1386 1814">(ii) provide male or female condoms for all Site staff and labor as appropriate; and <li data-bbox="391 1833 1430 1898">(iii) provide for STI, HIV/AIDS screening, diagnosis, counseling and referral to a dedicated national STI, HIV/AIDS (unless otherwise agreed) of all Site staff and

	<p>labor particularly females.</p> <p>The Contractor shall include in the program to be submitted for the execution of the Facilities under Sub-Clause 18.2 an alleviation program for Site staff and labor and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS along with Hepatitis (B and C). The STI, STD and HIV/AIDS alleviation program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation of this program shall not exceed the Provisional Sum dedicated for this purpose i.e. US\$ 0.1 million.</p> <p>22.2.16 Prohibition of Harmful Child Labor</p> <p>The following sentence replaces GCC 22.2.16 “The Contractor shall not employ any child to perform any work, including work that is economically exploitative, or is likely to be hazardous to, or interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development. “Child” means a child below the statutory minimum age of 14 years”.</p>
<p>23. Test and Inspection</p>	
	<p>23.3 The Contractor shall keep the Employer and Engineer informed of the progress of manufacturers and notify the Engineer approximately eight (8) weeks in advance, in writing as to when the materials, goods and equipment or any part thereof will be ready for inspection and for shipping to wharf at the port of entry/disembarkation. No Goods or any part thereof shall be shipped or delivered without issuance of pre-shipment inspection report or waiver to pre-shipment inspection, by the Employer / Engineer.</p> <p>To ensure the manufacture of Goods to be in conformity with Contract requirements, the equipment manufacturer shall institute and follow regular procedures for quality assurance during manufacture. He/she shall maintain an independent quality control department, which shall be responsible for enforcing the quality assurance program. Upon Award of the Contract, the Contractor and the Employer shall establish mutually acceptable quality control and inspection procedure.</p>
	<p>Two authorized representatives of Employer and Consultant (one from each) will carry out pre-delivery inspection of the material at manufacturer’s works at Contractor/Bidder expense. However, all reasonable facilities (laboratory, tools, instruments, machines, samples etc.) as provided in the specifications or followed by Trade & Industry in general shall have to be offered to the Inspecting officers, by Manufacturer/Supplier at his expense for carrying out Testing and Inspection.</p> <p>As soon as Goods are ready for Inspection the Manufacturer/Supplier shall give a notice of at least two months to the Employer/Engineer for witnessing such tests with date, time and place.</p> <p>All work covered by the Contract shall be subject to surveillance, testing and inspection by two representatives/Inspector(s) of the Employer/Engineer. The Inspectors may require</p>

	<p>witnessing any or all the tests to be carried out. For such purpose the Manufacturer/Supplier shall provide free access at all times during manufacture, assembly and testing to the premises in which the work is being carried out.</p> <p>In case the Goods fail to withstand any test, the cost of repeating such test and the cost of witnessing such test by the approved representatives shall be borne by the Contractor and the equipment released or modified to the satisfaction of the Employer/Engineer without any additional cost to him.</p> <p>Any inspection and/or witnessing of tests or the waiving of such tests and/or surveillance by the Employer/Engineer shall not relieve the Contractor of its obligations and responsibilities under the Contract regardless of any approval or consent given by the Employer / Engineer.</p>
	<p>The ordered plant/equipment shall be subject to tests as per relevant provisions of the specification. The Bidder shall also supply type test reports from reputed independent laboratory along with the bid for the equipment offered as per NTDC Type Test Policy (revised to date).</p>
	<p>In case the type test reports furnished by the bidder are not from one of reputed independent testing laboratories accredited by STL (Short Circuit Testing Liaison) or HV&SC Rawat Lab Pakistan or not relevant to the equipment offered or do not meet or comply with the rating and other requirements of the Purchaser's specifications included in this bidding document or are otherwise not to the satisfaction of the purchaser in any respect, the bidder will have to arrange necessary type testing in case of award at any of the reputed/ recognized independent testing laboratory accredited by STL or HV&SC Rawat Lab Pakistan, entirely at his cost and arrangements, including the expenses for witnessing the type test by one representative of the Employer and one representative of Consultant covering all the expenditures of the each member of inspection team for living, boarding lodging in an A Class Hotel, inland transportation, return air tickets, etc. will be borne by the contractor whereas daily allowance will be US\$ 200/- per day per person for foreign visit and Rs. 5,000/- for local visit, without effecting stipulated delivery schedule.</p>
	<p>The employer and Project Manager or their designated representatives shall be entitled to attend and witness the aforesaid tests (Factory Acceptance/Pre-shipment) of plant/equipment/material and/or inspection, provided that the Contactor shall bear all costs and expenses incurred in connection with such attendance, covering all the expenditures of the each member of inspection team for living, boarding lodging in an A Class Hotel, inland transportation, return air tickets, etc. will be borne by the contractor whereas daily allowance will be US\$ 200/- per day per person for foreign visit and Rs. 5,000/- for local visit, without effecting stipulated delivery schedule.</p>
	<p>In case the Goods fail to withstand any test, the cost of repeating such test and the cost of witnessing such test by the approved representatives shall be borne by the Contractor and the equipment released or modified to the satisfaction of the Employer without any additional cost to him.</p> <p>Please refer to Section-6.</p>

24. Completion of the Facilities	
24.9	Upon the completion of construction, the Contractor shall fully reinstate path ways, other local infrastructure, and agricultural land to at least their pre-project condition as recorded by the Contractor in consonance with its obligation in Clause 21.1.
25. Commissioning and Operational Acceptance	
25.2.2	The Guarantee Test and Commissioning of the Facilities shall be successfully completed within thirty (30) days from the date of Completion.
26. Completion Time Guarantee	
26.2	Applicable rate for liquidated damages: 0.05% of the Contract Price per day or part thereof Maximum deduction for liquidated damages: 10% of the Contract Price.
26.3	No bonus will be given for earlier Completion of the Facilities or part thereof.
27. Defect Liability	
1. 27.10	Applicable: One (1) year from the date of Operational Acceptance of the Facilities (All components) by the Employer. The date certified in the Completion Certificate for the complete Works.
	<p>Making Good Defects</p> <p>(1) The Contractor shall be responsible for making good any defects in or damage to any part of the Works which may appear or occur to any part of the Works, under the conditions provided for by the Contract and under proper use of that part of the Works, during the Defects Liability Period and which arises from, either:</p> <p>(a) any defective materials, workmanship or design, or</p> <p>(b) any act or omission of the Contractor</p> <p>(2) The Contractor shall, on the Site, make good the defect or damage as soon as practicable and at his own cost.</p>
SI-27 Warranty	
	<p>The period of validity of the Warranty shall be:</p> <p>A warranty to the effect that the plant offered conform exactly to the specifications laid down in this Contract and that the plant in question have also been tested and checked prior to delivery & that the Plant in question are new and free from all defects, and that in the event of Plant being found old or defective or not conforming to the specifications, or not in conformity with the test certificate, the Contractor will be held responsible for all losses and that you agree to substitute the unacceptable plant with acceptable one at Contractor risk and cost provided the above mentioned defects/deficiencies are noticed within five (05) years from the date of installation/commissioning of the plant</p>

	<p>The Contractor shall correct any defects covered by the Warranty within: Thirty (30) days of being notified by the Employer/Engineer of the occurrence of such defects.</p> <p>Please refer to Section-6.</p>
45. Disputes and Arbitration	
45.1	<p>The DB shall be appointed within 28 days after the Effective Date.</p> <p>The DB shall be one sole member.</p> <p>The potential DB sole member is to be mutually decided by the Contractor and the Employer at the time of signing of the Contract.</p>
45.2	Chief Executive Officer, QESCO, Quetta
45.5	<p>Rules of procedure for arbitration proceedings:</p> <p>(a) Contracts with foreign contractors:</p> <p>Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force</p> <p><i>International arbitration shall be conducted in accordance with the Rules of the Singapore International Arbitration Centre (SIAC). Arbitration shall be administered by SIAC.</i></p> <p><i>The place of arbitration shall be: the place of the institution administering the arbitration.</i></p> <p>(b) Contracts with contractors being nationals of the Employer's country:</p> <p>Any dispute between the Employer and a Contractor who is a national of the employer's country arising in connection with the present Contract shall be referred to arbitration in accordance with the laws of the Employer's country.</p>

35. Unforeseen Conditions

	<p>35.3 In addition to notice of any unforeseeable physical conditions, the Contractor shall provide the Engineer with a written notice of any unanticipated environmental or resettlement risks or impacts that arise during construction, implementation or operation of the Plant or Facilities, which were not considered in the initial environmental examination, the environmental management plan or the resettlement plan [attached hereto as Appendix (1) through Appendix (2)].</p>
SI-28	<p>Provisional Sum</p> <p>Provisional Sum shall be used for the reimbursement of Taxes/Duties.</p>

SI-22	<p>Security Arrangements of Staff and Site/Equipment etc.</p> <p>The Contractor shall be responsible for the security and must provide at his cost, foolproof security arrangements to all of his staff and Engineer/Employer's Representative, (At site and off site), Until the successful completion and Handing over of the Project.</p> <p>The Contractor will get the approval of Employer/Engineer for the security plan before implementation.</p> <p>The Contractor shall be responsible for the security of Equipment stored/installed at site and off site, at his cost, until the successful completion and Handing over of the Project. (At site and off site)</p> <p>The cost of providing security must be included in the price quoted in the Price Schedule and no separate payments will be made on this account.</p> <p>In case of arrangement of Security Personnel from any Law Enforcement Agency i.e. Frontier Corps (FC) etc., the employer will coordinate to arrange. However, all the cost associated with this matter, shall be borne by the Contractor.</p>
SI-25	<p>Complete Design must be provided by the Bidder. Contractor will be fully responsible (in all respect) for the Design/Operations.</p>

Section 9 - Contract Forms

This Section contains the Letter of Acceptance, the Contract Agreement and Appendices to the Contract Agreement which, once completed, will form part of the Contract.

Table of Forms

Notification of Award.....	9-2
Contract Agreement	9-3
Appendix 1 - Terms and Procedures of Payment	9-6
Appendix 2 - Price Escalation	9-12
Appendix 3 - Insurance Requirements	9-14
Appendix 4 - Time Schedule	9-17
Appendix 5 - List of Major Items of Plant and services and List of Approved Subcontractors.....	9-18
Appendix 6 - Scope of Works and Supply by the Employer.....	9-19
Appendix 7 - List of Documents for Approval or Review.....	9-20
Appendix 8 - Functional Guarantees	9-21
Appendix 9 - Environmental Management Plan / Resettlement Plan.....	9-23

Notification of Award

[Employer's letter head]

Letter of Acceptance

[date]

To: [Name and address of the Contractor]

This is to notify you that your Bid dated [date] for execution of the [name of the Contract and identification number, as given in the Contract Data] for the Contract Price in the aggregate of [amounts in numbers and words] [name of currency], as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms included in Section 9 (Contract Forms) of the Bidding Document

[Authorized Signature]
[Name and Title of Signatory]
[Name of Agency]

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made the _____ day of _____, _____,

BETWEEN

(1) [*name of Employer*], a corporation incorporated under the laws of [*country of Employer*] and having its principal place of business at [*address of Employer*] (hereinafter called “the Employer”), and (2) [*name of Contractor*], a corporation incorporated under the laws of [*country of Contractor*] and having its principal place of business at [*address of Contractor*] (hereinafter called “the Contractor”).

WHEREAS the Employer desires to engage the Contractor to design, manufacture, test, deliver, install, complete and commission certain Facilities, viz. [*list of facilities*] (“the Facilities”) and the Contractor have agreed to such engagement upon and subject to the terms and conditions hereinafter appearing.

NOW IT IS HEREBY AGREED as follows:

Article 1 Contract Documents

1.1 Contract Documents (Reference GCC Clause 2)

The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

- (a) This Contract Agreement and the Appendices hereto
- (b) Letter of Bid and Price Schedules submitted by the Contractor
- (c) Special Conditions
- (d) General Conditions
- (e) Specification
- (f) Drawings
- (g) Other completed Bidding Forms submitted with the Letter of Bid
- (h) Any other documents part of the Employer’s Requirements
- (i) Any other documents shall be added here

1.2 Order of Precedence (Reference GCC Clause 2)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.

1.3 Definitions (Reference GCC Clause 1)

Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the General Conditions.

Article 2 Contract Price and Terms of Payment

2.1 Contract Price (Reference GCC Clause 11)

The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of: [. . . *amounts of foreign currency in words* . . .], [. . . *amounts in figures*. . .] as specified in Price Schedule No. 5 (Grand Summary), [. . . *amounts of local currency in words* . . .], [. . . *amounts in figures*. . .], or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 **Terms of Payment** (Reference GCC Clause 12)

The terms and procedures of payment according to which the Employer will reimburse the Contractor are given in the Appendix (Terms and Procedures of Payment) hereto.

The Employer shall instruct its bank to issue an irrevocable confirmed documentary credit made available to the Contractor in a bank in the country of the Contractor. The credit shall be for an amount of [. . . *amount equal to the total named in Schedule 1 less the advance payment to be made for Plant and Equipment supplied from abroad*]; and shall be subject to the Uniform Customs and Practice for Documentary Credits 1993 Revision, ICC Publication No. 500.

In the event that the amount payable under Schedule No. 1 is adjusted in accordance with GCC 11.2 or with any of the other terms of the Contract, the Employer shall arrange for the documentary credit to be amended accordingly

Article 3
Effective Date

3.1 **Effective Date** (Reference GCC Clause 1)

The Effective Date upon which the period until the Time for Completion of the Facilities shall be counted from is the date when all of the following conditions have been fulfilled:

- (a) This Contract Agreement has been duly executed for and on behalf of the Employer and the Contractor;
- (b) The Contractor has submitted to the Employer the performance security and the advance payment guarantee;

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

- 3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract notification because of reasons not attributable to the Contractor, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Completion and/or other relevant conditions of the Contract.

Article 4
Communications

- 4.1 The address of the Employer for notice purposes, pursuant to GCC 4.1 is: [*Employer's address*].

- 4.2 The address of the Contractor for notice purposes, pursuant to GCC 4.1 is: [*Contractor's address*].

Article 5.
Appendices

- 5.1 The Appendices listed in the attached List of Appendices shall be deemed to form an integral part of this Contract Agreement.
- 5.2 Reference in the Contract to any Appendix shall mean the Appendices attached hereto, and the Contract shall be read and construed accordingly.

IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

Signed by, for and on behalf of the Employer

[*Signature*]

[*Title*]

in the presence of

[*Signature*]

[*Title*]

Signed by, for and on behalf of the Contractor

[*Signature*]

[*Title*]

in the presence of

[*Signature*]

[*Title*]

APPENDICES

Appendix 1 - Terms and Procedures of Payment

Appendix 2 - Price Escalation.

Appendix 3 - Insurance Requirements.

Appendix 4 - Time Schedule.

Appendix 5 - List of Major Items of Plant and services and List of Approved Subcontractors

Appendix 6 - Scope of Works and Supply by the Employer.

Appendix 7 - List of Documents for Approval or Review.

Appendix 8 - Functional Guarantees.

Appendix 9 - Environmental Management Plan / Resettlement Plan.

Appendix 1 - Terms and Procedures of Payment

In accordance with the provisions of GCC Clause 12 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the Price Breakdown given in the section on Price Schedules. Payments will be made in the currencies quoted by the Bidder unless otherwise agreed between the parties. Applications for payment in respect of part deliveries may be made by the Contractor as work proceeds.

(A) Terms of Payment

Schedule No. 1 - Plant and Equipment Supplied from Abroad

In respect of plant and equipment supplied from abroad, the following payments shall be made:

Ten percent (10%) of the total CIP Project Site amount as an advance payment against receipt of invoice and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of the plant and equipment delivered to the site, as evidenced by delivery documents.

Eighty percent (80%) of the total or pro rata CIP Project Site or amount upon Incoterm "CIP" upon delivery to Site within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata CIP Project Site or amount upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata CIP Project Site or amount upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

Schedule No. 2 - Plant and Equipment Supplied from within the Employer's Country

In respect of plant and equipment supplied from within the Employer's country, the following payments shall be made:

Ten percent (10%) of the total EXW amount as an advance payment against receipt of invoice, and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of the plant and equipment delivered to the site, as evidenced by delivery documents.

Eighty percent (80%) of the total or pro rata EXW amount upon Incoterm "Ex-Works," upon delivery to the site within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata EXW amount upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata EXW amount upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

Schedule No. 3 - Design Services

In respect of design services for both the foreign currency and the local currency portions, the following payments shall be made:

Ten percent (10%) of the total design services amount as an advance payment against receipt of invoice and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer.

Ninety percent (90%) of the total or pro rata design services amount upon acceptance of design by the Project Manager within forty-five (45) days after receipt of invoice.

Schedule No. 4 - Installation and other Services

In respect of installation services for both the foreign and local currency portions, the following payments shall be made:

Ten percent (10%) of the total installation and other services amount as an advance payment against receipt of invoice and an irrevocable advance payment security for the equivalent amount made out in favor of the Employer. The advance payment security may be reduced in proportion to the value of work performed by the Contractor as evidenced by the invoices for installation services.

Eighty percent (80%) of the measured value of work performed by the Contractor, as identified in the said Program of Performance, during the preceding month, as evidenced by the Employer's authorization of the Contractor's application, will be made monthly within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata value of installation services performed by the Contractor as evidenced by the Employer's authorization of the Contractor's monthly applications, upon issue of the Completion Certificate, within forty-five (45) days after receipt of invoice.

Five percent (5%) of the total or pro rata value of installation services performed by the Contractor as evidenced by the Employer's authorization of the Contractor's monthly applications, upon issue of the Operational Acceptance Certificate, within forty-five (45) days after receipt of invoice.

In the event that the Employer fails to make any payment on its respective due date, the Employer shall pay to the Contractor interest on the amount of such delayed payment at the rate of five percent (5 %) per annum for period of delay until payment has been made in full.

(B) Payment Procedures

The procedures to be followed in applying for certification and making payments shall be as follows:

Procedure

Sr. No.	Item	Procedure
1.	Plant, Equipment & Spare parts	Direct Payment
2.	Design	Direct Payment
3.	Civil Works	Direct Payment
4.	Installation, Erection, Testing & Commissioning	Direct Payment
5.	Custom Duties and Sales Tax	Reimbursement (on actual basis) (shall be reimbursed, by the employer using its own funds)
6.	Provincial Sales Tax (PST)	

Provincial Sales Tax, if levied and applicable, will be paid by the Contractor and will be reimbursed as per actual by the Employer upon production of necessary documentary evidence and proof of payment.

If the bidder fails to submit proof of Provincial Sales Tax Payment, his future invoices shall not be entertained.

*** Direct payment by the QESCO.**

Note: The payment will be made through Assignment account.

1. Method of Application for Certificate of Payment

- (a) The Contractor shall submit to the Employer ten (10) copies of Application for Certificate of Payment each signed by the Contractor and in such form as the Employer may from time to time prescribe. Such invoices, receipts, or other documentary evidence shall accompany application as the Employer may from time to time require.
- (b) The application for certificate of payment for progress of Work shall be submitted after end of each month accompanying also a statement signed by the Contractor in the form stated in para (4) below and in such other form as the Engineer may from time to time prescribe showing the amounts to which the Contractor may consider himself to be entitled upto the end of the month in respect of:
 - (a) The permanent work executed;
 - (b) Payment of account of lump sum item in the Price Schedule not included under head (a) above.
- (c) The Applications for Certificate of Payment for supply of Goods shall be submitted on the delivery of any Goods and shall also be accompanied by the following documents:
 - (a) Shipping Documents comprising of
 - i. Payment/Commercial Invoice
 - ii. Clean on board Bill of Lading or airway bill issued by the freight forwarder (for imported Goods only)
 - iii. Delivery Note/Acknowledgement by Employer or its representative, of the material receipt at site or at QESCO designated Warehouses in case of Spare Parts.
 - iv. Packing list
 - v. Certificate or Policy of Freight Insurance from Ex- factory to the Project Site or to QESCO designated Warehouses in case of Spare Parts, of the portion of the Goods for which Certificate of Payment is requested
 - (b) Certificate that the Goods complies with the Specifications
 - (c) Certificate of origin, issued by the Contractor
 - (d) Warranty Certificate
 - (e) Pre-shipment Inspection report/Inspection report or letter of waiver, issued by the Employer.

- (f) Any other document as considered necessary by the Employer.
- (d) The Application for Certificate of Payment shall state the amount claimed and shall set forth in detail, in the order of the Price Schedule, particulars of the Work executed up to the date named in the Application and subsequent to the period covered by the last preceding certificate, if any.

2. Issue of Certificate of Payment

The Employer, within the time stated, after receiving an Application for Certificate of Payment from the Contractor, shall either approve or amend it as he consider reasonable and proper in respect thereof subject to the deductions of any sums which may have become due and payable by the Contractor to QESCO and issue a Certificate of Payment accordingly to QESCO showing the amount due to the Contractor, with a copy to the Contractor, or, advise the Contractor in writing as to the reasons for which it is being withheld.

3. Reduction in Payment

If any Work is not being carried out in accordance with the Contract to the satisfaction of the Employer, the Employer shall have authority to omit or reduce the value of such Work in any Certificate of Payment.

4. Withholding Certificate of Payment

If the Work or any part thereof are not being carried out in accordance with the Contract to the satisfaction of the Employer, the Employer shall have power to withhold any Certificate of Payment and in order to protect QESCO from loss on account of :

- (a) defective Work not rectified
- (b) claims filed against the Contractor
- (c) Contractor's non-compliance with the Contract
- (d) any Government dues recoverable from the Contractor if notified by the Government
- (e) any other reason as deemed necessary by the Employer, for substantiation of the invoice.

The Employer shall notify the Contractor regarding this withholding giving reasons/grounds.

5. Certification of Payable Amount

- (1) A Certificate of Payment other than the Final Certificate of Payment shall not be withheld on account of any part of the payment applied for being disputed. In such case, a Certificate of Payment for the undisputed amount shall be issued.
- (2) The said Application for Certificate of Payment under Clause 1 hereof, shall be approved or amended, such that, in the Employer's opinion, the Certificate of Payment reflects the amount due to the Contractor, in accordance with the Contract. In case where there is a difference of opinion as to the value of any item, the Employer's views shall prevail.

6. Corrections to Certificate of Payment

The Employer may by any Certificate of Payment make any corrections or modifications in any previous Certificate of Payment (other than one purporting to be a Final Certificate of Payment), which shall have been issued by him.

7. Issue of " Withheld" Certificate of Payment

When the reasons/grounds for withholding the payment are removed by the Contractor, the Employer shall after examination, and upon being satisfied to that effect issue the "withheld" Certificate of Payment, without mark-up and penalty.

8. Time for Approval of Certificate of Payment

The amount due to the Contractor under any Certificate of Payment shall be approved by QESCO for payment within the time stated.

9. Payment by Measurement

Actual quantities of civil works shall be finalized upon completion of final substation layout/orientation, and approval of civil works drawings.

For any part of the Work, which is to be paid according to quantity supplied or work done, the provisions for measurement shall be as following.

Work to be Measured

The Employer shall, except as otherwise stated, ascertain and determine by measurement the value of the work done in accordance with the Contract and the Contractor shall be paid that value in accordance with this Clause. The Employer shall, when he requires any part of the Work to be measured, give reasonable notice to the Contractor's authorized agent, who shall:

- (a) Forthwith attend or send a qualified representative to assist the Employer in making such measurement, and
- (b) Supply all particulars required by the Employer.

Should the Contractor not attend, or neglect or omit to send such representative, then the measurement made by the Employer or approved by him shall be taken to be the correct measurement of such part of the Work. For the purpose of measuring such Permanent Work as are to be measured by records and drawings, the Employer shall prepare records and drawings as the work proceeds and the Contractor, as and when called upon to do so in writing, shall, within fourteen (14) days, attend to examine and agree such records and drawings with the Employer and shall sign the same when so agreed. If the Contractor does not attend to examine and agree such records and drawings, they shall be taken to be correct. If, after examination of such records and drawings, the Contractor does not agree the same or does not sign the same as agreed, they shall nevertheless be taken to be correct, unless the Contractor, within fourteen (14) days of such examination, lodges with the Employer notice of the respect in which such records and drawings are claimed by him to be incorrect. On receipt of such notice, the Employer shall review the records and drawings and either confirm or vary them.

Method of Measurement

The Work shall be measured net, notwithstanding any general or local custom, except where otherwise provided for in the Contract.

10. Application for Final Certificate of Payment

- (1) The Contractor shall make Application for the Final Certificate of Payment with supporting documentation to the Employer within 28 days after the issue of the Defects Liability Certificate, or if more than one, the last Defects Liability Certificate.
- (2) The Application for the Final Certificate of Payment shall be accompanied by a Draft Final Statement prepared by the Contractor. The Draft Final Statement shall give full details of the value of all Goods supplied and Work done under the Contract together with:
 - (a) such additions to or deductions from the Contract Price as have been agreed, and
 - (b) all claims for additional payment to which the Contractor may consider himself entitled under the Contract up to the date of the last Defects Liability Certificate.
- (3) If the Engineer disagrees with or cannot verify any part of the Draft Final Statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in all claims for additional payment to which the Contractor may consider himself entitled under the Contract up to the date of the last Defects Liability Certificate.
- 4) Prior to submission to invoices for the payment to PD (GSC) QESCO, the same must be verified/approved by the Engineer.

11. Issue of Final Certificate of Payment

- (1) The Engineer shall issue to QESCO with a copy to the Contractor, the Final Certificate of Payment within 30 days after receiving an Application with Final Statement in accordance with Sub-Clause 10 hereof.
- (2) If the Contractor has not applied for a Final Certificate of Payment within the time specified in Sub-Clause 10 hereof, the Engineer shall request the Contractor to do so within a further period of 21 days. If the Contractor fails to make such an Application, the Employer shall issue the Final Payment Certificate for such amount as he deems correct.

12. Final Certificate of Payment Conclusive

- (1) A Final Certificate of Payment shall be conclusive evidence of the value of the Work, that the Work is in accordance with the Contract and that the Contractor has performed all his obligations under the Contract.
- (2) Payment of the amount certified in the Final Certificate of Payment shall be conclusive evidence that QESCO has performed all its obligations under the Contract.

- (3) A Final Certificate of Payment shall not be conclusive if any Arbitration or court proceedings under the Contract have been commenced by either party before the expiry of 84 days after the issue of the Final Certificate of Payment.

13. Payments Due from Contractor

QESCO may, without prejudice to any other method of recovery, deduct the amount due from any money in his hand due to or which may become due to the Contractor or recover same through the Performance Security. Such deduction shall not relieve the Contractor from his obligations to complete the Work in accordance with the Contract to the satisfaction of the Employer.

Appendix 2 - Price Escalation

Prices payable to the Contractor, in accordance with the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components, in accordance with the following formula:

$$P_1 = P_0 \times \left(a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

in which:

P_1 = adjustment amount payable to the Contractor

P_0 = Contract price (base price)

a = percentage of fixed element in Contract price ($a = _ \%$)

b = percentage of labor component in Contract price ($b = _ \%$)

c = percentage of material and equipment component in Contract price ($c = _ \%$)

L_0, L_1 = labor indices applicable to appropriate industry in the country of origin on the base date and the date for adjustment, respectively

M_0, M_1 = material and equipment indices in country of origin on the base date and the date for adjustment, respectively

Conditions Applicable To Price Adjustment

The Bidder shall indicate the source of labor and materials indices and the base date indices in its bid.

Item	Source of Indices Used	Base Date Indices

The base date shall be the date thirty (30) days prior to the Bid closing date.

The date of adjustment shall be the mid-point of the period of manufacture or installation of component or Plant.

The following conditions shall apply:

- (a) No price increase will be allowed beyond the original delivery date unless covered by an extension of time awarded by the Employer under the terms of the Contract. No price increase will be allowed for periods of delay for which the Contractor is responsible. The Employer will, however, be entitled to any price decrease occurring during such periods of delay.
- (b) If the currency in which the Contract price, P_0 , is expressed is different from the currency of the country of origin of the labor and/or materials indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (c) No price adjustment shall be payable on the portion of the Contract price paid to the Contractor as an advance payment.

NOT APPLICABLE

Appendix 3 - Insurance Requirements

(A) Insurances To Be Taken Out By The Contractor

In accordance with the provisions of GCC Clause 34, the Contractor shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, such approval not to be unreasonably withheld.

(a) Cargo Insurance

Covering loss or damage occurring, while in transit from the supplier's or manufacturer's works or stores until arrival at the Site, to the Facilities (including spare parts therefore) and to the construction equipment to be provided by the Contractor or its Subcontractors.

Amount [in currency(ies)]	Deductible limits [in currency(ies)]	Parties insured [names]	From [place]	To [place]
110% of the contract price	Nil	Jointly in the name of QESCO & Contractor	Manufacturers works	Project Site

(b) Installation All Risks Insurance

Covering physical loss or damage to the Facilities at the Site, occurring prior to completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the defect liability period while the Contractor is on the Site for the purpose of performing its obligations during the defect liability period.

Amount [in currency(ies)]	Deductible limits [in currency(ies)]	Parties insured [names]	From [place]	To [place]
110% of the contract price	Nil	Jointly in the name of QESCO & Contractor	Manufacturers works	Project Site

(c) Third Party Liability Insurance

Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property (including the Employer's property and any parts of the Facilities that have been accepted by the Employer) occurring in connection with the supply and installation of the Facilities.

Amount [in currency(ies)]	Deductible limits [in currency(ies)]	Parties insured [names]	From [place]	To [place]
Rs. 4,000,000 per any one accident arising out of one occurrence with number of occurrences unlimited	Nil	Employer on the account of contractor	Manufacturers works	Project Site

(d) Automobile Liability Insurance

Covering use of all vehicles used by the Contractor or its Subcontractors (whether or not owned by them) in connection with the supply and installation of the Facilities. Comprehensive insurance in accordance with statutory requirements.

(e) Workers' Compensation

In accordance with the statutory requirements applicable in any country where the Facilities or any part thereof is executed.

(f) Employer's Liability

In accordance with the statutory requirements applicable in any country where the Facilities or any part thereof is executed.

(g) Other Insurances

The Contractor is also required to take out and maintain at its own cost the following insurances:

Details:

Amount [in currency(ies)]	Deductible limits [in currency(ies)]	Parties insured [names]	From [place]	To [place]
Nil	Nil	Nil	Nil	Nil

The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Third Party Liability, Workers' Compensation and Employer's Liability Insurances, and the Contractor's Subcontractors shall be named as co-insureds under all insurance policies taken out by the Contractor pursuant to GCC Sub-Clause 34.1, except for the Cargo, Workers' Compensation and Employer's Liability Insurances. All insurer's rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.

(B) Insurances To Be Taken Out By The Employer

The Employer shall at its expense take out and maintain in effect during the performance of the Contract the following insurances.

Details:

Amount [in currency(ies)]	Deductible limits [in currency(ies)]	Parties insured [names]	From [place]	To [place]

NOT APPLICABLE

Appendix 4 - Time Schedule

1. **420 days** for pre-commissioning activities and **30 days** for commissioning / testing of the facilities from the Effective Date as described in the Contract Agreement.
2. The contractor shall submit to the employer detailed schedule of activities with milestones made on MS-Project/Primavera within 10 days from the date of signing of the contract. The contractor shall also update the said schedule every month during the period of execution of the contract and submit the same to the employer on monthly basis.

Schedule

The Contractor shall carry out the Work in accordance with the dates/ periods specified in General as well as Special Conditions of Contract and with the approved Schedule. The Contractor shall regularly review the Schedule and notify the Employer promptly of any revisions, which in his view may be required from time to time.

Progress Reports

- 1) The Contractor within thirty (30) days of the signing of the Contract shall submit in writing for the approval of Employer a Schedule for the design, manufacture, delivery, erection, testing and commissioning of the Goods and design and construction of the associated civil work.
- 2) The submission to or approval by the Employer of such Schedule etc. shall not relieve the Contractor of any of his duties or responsibilities under the Contract.
- 3) At monthly intervals after submission of the Schedule, the Contractor shall submit to the Employer up to five (5) copies of a written detailed progress report in an approved form together with copies of the above mentioned Schedule indicating the stage reached in transportation of goods, erection/construction, in percentage terms. Such monthly reports shall show the actual progress plotted against the scheduled progress. These reports shall be accompanied by such photographs, diagrams, bar charts, and curves in approved standard form, as may be required by the Employer. The reports shall be forwarded not later than the 8th of the subsequent month. The numbers of copies shall be as stipulated in the Specifications or as instructed by the Employer.
- (4) The Employer shall at all reasonable times be afforded access to the Contractor and any Sub-Contractor's premises for the purpose of ascertaining progress.

Meetings

- 1) Soon after the date of signing of Contract, the Employer will require a conference with the Contractor at a place mutually agreed upon, to discuss scheduling of drawings, manufacture, scheduled sequences of delivery and other similar problems which may be pertinent to the completion of the Project.
- 2) At monthly intervals or from time to time during the execution of the Contract, the Employer may call meetings, either in his Offices or at the Contractor's Offices in Pakistan or QESCO's office as is deemed necessary for the purpose of progress monitoring and proper execution of the Contract.
- 3) As required by the Employer, responsible representatives of the Contractor shall attend such meetings.
- 4) All expenses incurred by the Contractor for attending such meetings shall be borne by the Contractor and shall not be reimbursable.

Appendix 5 - List of Major Items of Plant and Services and List of Approved Subcontractors

A list of major items of plant and services is provided below.

The following Subcontractors and/or manufacturers are approved for carrying out the item of the facilities indicated. Where more than one Subcontractor is listed, the Contractor is free to choose between them, but it must notify the Employer of its choice in good time prior to appointing any selected Subcontractor. In accordance with GCC Sub-Clause 19.1, the Contractor is free to submit proposals for Subcontractors for additional items from time to time. No Subcontracts shall be placed with any such Subcontractors for additional items until the Subcontractors have been approved in writing by the Employer and their names have been added to this list of Approved Subcontractors.

Major Items of Plant and Services	Approved Subcontractors/Manufacturers	Nationality
All the items of plant, equipment and services of the project are subject to post qualification in accordance with the requirements given in Section-3 of this document.	All those mentioned by name in the contractor bid.	

Appendix 6 - Scope of Works and Supply by the Employer

The following personnel, facilities, works and supplies will be provided/supplied by the Employer, and the provisions of GCC Clauses 10, 21 and 24 shall apply as appropriate.

All personnel, facilities, works and supplies will be provided by the Employer in good time so as not to delay the performance of the Contractor, in accordance with the approved Time Schedule and Program of Performance pursuant to GCC Sub-Clause 18.2.

Unless otherwise indicated, all personnel, facilities, works and supplies will be provided free of charge to the Contractor.

Not Applicable

Personnel	Charge to Contractor (if any)

Not Applicable

Facilities	Charge to Contractor (if any)

Not Applicable

Works	Charge to Contractor (if any)

Not Applicable

Supplies	Charge to Contractor (if any)

Appendix 7 - List of Documents for Approval or Review

The contract shall be executed in strict conformity with the specifications and/or Drawings given or mentioned in this section and the supplier shall do no 'Work' without proper specifications, instructions and/or Drawings. Design & Engineering of the project is a part of the scope. As such the contractor will prepare all the relevant drawings. These drawings shall not be used for execution of the works without prior approval of the Employer.

Pursuant to GCC Sub-Clause 20.3.1, the Contractor shall prepare, or cause its Subcontractor to prepare, and present to the Project Manager in accordance with the requirements of GCC Sub-Clause 18.2 (Program of Performance), the following documents for

(A) Approval

- 1. Please refer to Section-6 and clause 23 of Section-8
- 2.....
- 3.....

(B) Review

- 1. Please refer to Section-6 and clause 23 of Section-8
- 2.....
- 3.....

Appendix 8 - Functional Guarantees

1. General

This Appendix sets out

(a) the functional guarantees referred to in GCC Clause 28 (Functional Guarantees)

(b) the preconditions to the validity of the functional guarantees, either in production and/or consumption, set forth below

(c) the minimum level of the functional guarantees

(d) the form for calculation of liquidated damages for failure to attain the functional guarantees.

2. Preconditions

The Contractor gives the functional guarantees (specified herein) for the facilities, subject to the following preconditions being fully satisfied:

3. Functional Guarantees

Subject to compliance with the foregoing preconditions, the Contractor guarantees as follows:

3.1 Production Capacity

3.2 Raw Materials and Utilities Consumption

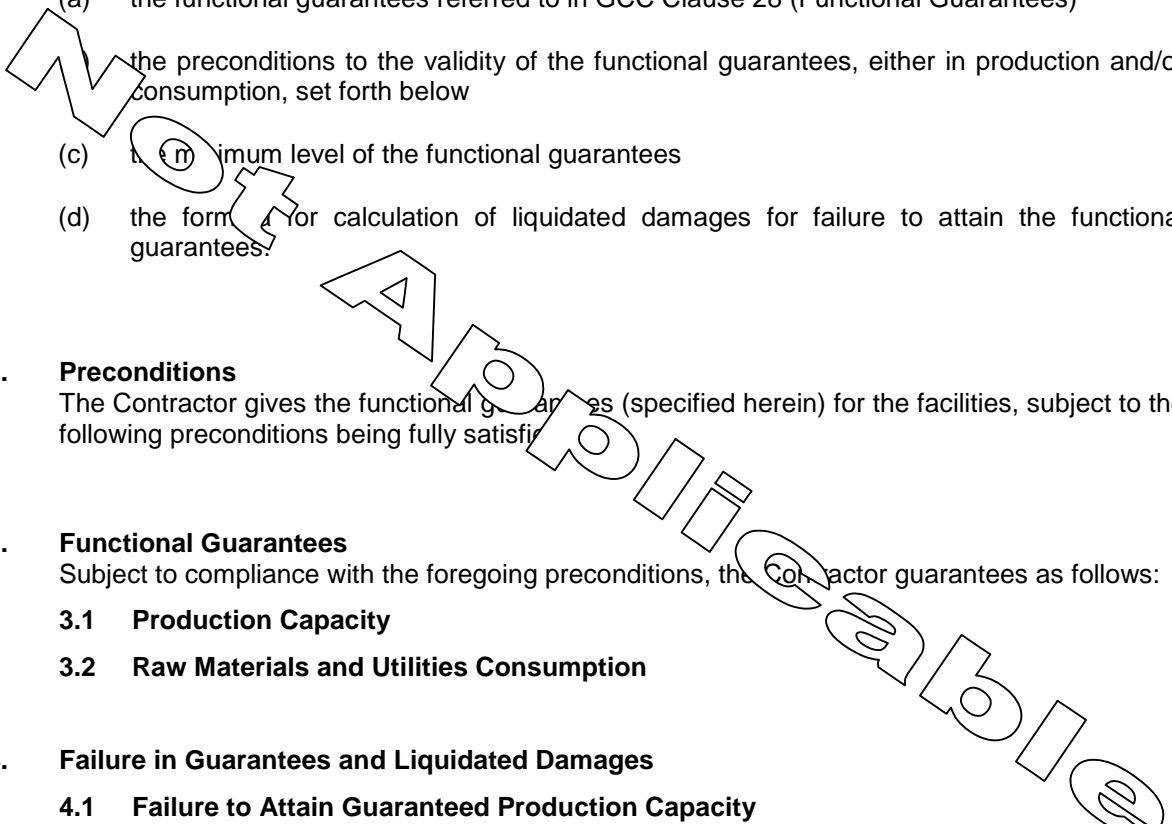
4. Failure in Guarantees and Liquidated Damages

4.1 Failure to Attain Guaranteed Production Capacity

If the production capacity of the facilities attained in the guarantee test, pursuant to GCC Sub-Clause 25.2, is less than the guaranteed figure specified in para. 3.1 above, but the actual production capacity attained in the guarantee test is not less than the minimum level specified in para. 4.3 below, and the Contractor elects to pay liquidated damages to the Employer in lieu of making changes, modifications and/or additions to the Facilities, pursuant to GCC Sub-Clause 28.3, then the Contractor shall pay liquidated damages at the rate of for every complete one percent (1%) of the deficiency in the production capacity of the Facilities, or at a proportionately reduced rate for any deficiency, or part thereof, of less than a complete one percent (1%).

4.2 Raw Materials and Utilities Consumption in Excess of Guaranteed Level

If the actual measured figure of specified raw materials and utilities consumed per unit (or their average total cost of consumption) exceeds the guaranteed figure specified in para. 3.2 above (or their specified average total cost of consumption), but the actual consumption attained in the guarantee test, pursuant to GCC Sub-Clause 25.2, is not more than the maximum level specified in para. 4.3 below, and the Contractor elects to pay liquidated damages to the Employer in lieu of making changes, modifications and/or additions to the Facilities pursuant to GCC Sub-Clause 28.3, then the Contractor shall pay liquidated damages at the rate of for every complete one percent (1%) of the excess consumption of the Facilities, or part thereof, of less than a complete one percent (1%).



4.3 Minimum Levels

Notwithstanding the provisions of this paragraph, if as a result of the guarantee test(s), the following minimum levels of performance guarantees (and consumption guarantees) are not attained by the Contractor, the Contractor shall at its own cost make good any deficiencies until the Facilities reach any of such minimum performance levels, pursuant to GCC Sub-Clause 28.2:

- (a) production capacity of the Facilities attained in the guarantee test: ninety-five percent (95%) of the guaranteed production capacity

and/or

- (b) average total cost of consumption of all the raw materials and utilities of the Facilities: one hundred and five percent (105%) of the guaranteed figures.

4.4 Limitation of Liability

Subject to para. 4.3 above, the Contractor’s aggregate liability to pay liquidated damages for failure to attain the functional guarantees shall not exceed . . . percent (. . . %) of the Contract price

ENVIRONMENTAL MANAGEMENT PLAN / RESETTLEMENT PLAN

The Contractor shall be cognizant of all environmental and social requirements of the project and their impact, in line with the Environmental Protection Act 1997 of Pakistan and all related components of environmental Concern Matrix (Appended herewith).

Overall responsibility for implementation of safeguards framework rests with the employer, which will designate a focal officer with responsibility for overseeing implementation of environmental and social Safeguard as per above said documents.

At the commencement of the project, the matrix of the responsibilities will be confirmed between the employer and the Contractor.

The Contractor shall make sure that all the environmental / social issues / mitigation steps pertaining to the site being handed over to him / her have been settled / taken care off prior to start of the work on the said site.

Environmental Management Plan (EMP):

The Environmental Management Plan is based on the type, extent and duration of the identified Environment impacts. The contractor should be cognizant of all environmental and social requirements of the project and their impact in line with the Environmental Protection act of Pakistan and all related components of Environmental Concerned Matrix as appended herewith. At the commencement of the Project, the matrix of the responsibilities will be agreed between the Employer and the Contractor. The contractor shall make sure that the relevant environmental/Social issues/mitigation steps pertaining to site have been settled and taken care off prior to start of the work at the site and during the construction phase.

It is important that the recommendations and mitigation measures are carried out according to the spirit of the environmental assessment process and in line with the guidelines. In order to facilitate the implementation of the EMP, during the construction phase, the contractor must be prepared to cooperate with the local population in the mitigation of impacts. The contractor should be primed through the contract document and ready to implement all the mitigation measures and engage trained EMP Staff to audit the effectiveness and review the mitigation measures as the Project proceeds. The detail of EMP is given in the attached Matrix. The impacts have been classified into those relevant to the Design and preparation stage, construction stage and operation / maintenance stage. The institutional responsibility has been specified for the purpose of the implementation and supervision. The EMP has been prepared following the best practice and environmental assessment guidelines i.e.

The Environment Implementation Report will be submitted on the following pattern.

1. Project Description
2. Ambient Air Quality
3. Noise Level
4. Water Level
- 4.1 Drinking Water Quality
5. Fuel Consumption
6. Water Consumption
7. Training / Awareness
8. Compliance Status
9. Non-compliance
10. Incident Analysis
11. Photo Log

3.9 ENVIRONMENT PROTECTION AND CIVILIZED CONSTRUCTION SYSTEM

Environment, soil and water conservation need to meet the government management requirements and acceptance criteria. No environmental pollution accidents, pollutant discharge by the regulation, construction noise is not overweight, building a resource-conserving and environmentally friendly green harmony project, strengthen resources and ecological environment protection, and improve the utilization efficiency of energy resources. Arrange site storage area and residential district with relating land holder, and completely recover it.

Project department will take the following measures to finish this civilized construction and environmental target.

Project department will be in strict accordance with laws and rules issued by local authority for environmental safety civilization construction management, and to ensure security measures fee, special fund is special subsidies and civilized construction measures, and accept the supervision of the supervision engineer and construction management unit. For safety target assessment, will be strictly in accordance with the related contents of the contract.

Project department of EIA, conservation report and the environmental protection department in strict accordance with the requirements and design file organization construction, guaranteed unaffected by responsibility construction project EIA, conservation acceptance. For safety. environmental assessment of the targets will strictly in accordance with the related content of the contract.

c) Site cleaning: during construction, contractor should clean and remove all of the remaining material and trash. After completion of the project, the contractor shall be responsible to mobilize all the equipment to keep the site and project clean and in good condition. After project completion, land owner shall confirm the land handling information and satisfy their requirements and try to keep the least recovery works to avoid unnecessary damage to pathway, soil and plants to satisfy the owner, engineer and local residents.

MANAGEMENT AND MONITORING

- ❖ Pre-construction noise survey; Reduce noise at source; Take noise levels in consideration during detailed design and construction planning; Reduce traffic noise; Use of noise abatement devices wherever practicable.
- ❖ Sprinkling of water on unsealed surfaces; Use of wind shield around stockpiles; Vehicles speed restrictions; transportation of material and covered trucks; minimizing constructional activities near the settlements; ensuring that no stockpile is within 250M of the community.
- ❖ Barrow pits to be approved in advance by the proposed plant management; No tree to be removed; avoidance of sensitive areas, restoration of the land.
- ❖ Preparation of a Reinstatement Plan; Minimization of the falling of trees and clearing of vegetation and avoidance of the use of fuel wood.
- ❖ Use of dedicated deep wells initiation of a water conservation program, the water can also be supplied from the nearby canal.
- ❖ Provision of spill prevention and control kits; Use of impermeable surfaces in workshops and storage area, contaminated soil will be collected and incinerated.
- ❖ Development of a waste management plan; Separation at source of the recyclable material; regular audits; Maintenance of a Waste Tracking Register; Separation hazardous waste from non-hazardous waste; On-site storage facility for hazardous waste contractors; Dumping of non-hazardous, non-recyclable waste either to landfill or municipal disposal; Emergency response plan; Trainings; Labeling and avoiding the use of asbestos.
- ❖ To the extent possible, restriction on the depth of the pit; Sturdy fall protection means; Development of public safety plan; Speed limits near village; Safety marker tape and fencing off; Community briefings on traffic safety Community complaint register.
- ❖ Maximum number of unskilled and semi-skilled jobs for the local communities, nearest communities to be given the first preference for jobs.
- ❖ Training of the non-local project staff on local culture and norms; Avoidance of unnecessary interaction of local population with the non-local project staff; Non-local staff to stay in camps; Prior notice to residents of the area before project activities.
- ❖ Plant layout would be made ensuring that maximum distance of generators, turbines, etc. are maintained from the community; noise walls will be erected where required to ensure that the noise levels at the receptor comply with the set criteria.
- ❖ Use of canal water, Use of designated deep well(s) only during canal water shortage; Initiation of a water conservation program.

MONITORING PLAN: The report recommends monitoring of:

- ❖ Dust emission from the construction activity will be visually monitored.
- ❖ Photography records of all borrow sites before and after will be maintained.
- ❖ maps of all the borrow sites.
- ❖ Dimensions of all water course on the land and on its periphery.
- ❖ Quantity of material removed from each site.
- ❖ Inventory of trees removed, including their size and their species.
- ❖ Record of number of trees planted and their survival rate.
- ❖ The depth of water table in all wells within 500M of the well from which the water to be extracted, will be monitored weekly.
- ❖ To ensure compliance, regular inspection of equipment and vehicles will be undertaken.
- ❖ Incident record of all moderate and major spills will be maintained. The record will include the location of spill; estimated quantity; spill material; restoration measures; photographs; description of any damage to vegetation, Water resources or community assets and corrective measures taken.
- ❖ Regular audits of waste effluent disposal contractors will be carried out to check that they are properly disposing of the effluent.

8ENVIRONMENTAL CONCERN MATRICS

Sr. No.	Environmental Concern	Objective	Mitigation measures (MM) recommended	Timing to Implement MM	Location to implement MM	Responsibility for Implementing MM	Responsibility for monitoring MM
Construction Impacts							
1.	Geology, morphology, soils	Minimize the use of agriculture land for work facilities	Implement the detailed layout plan or work facilities, e.g. storage areas, worker's camps, access roads	At the beginning of the construction works	In the entire project area	Contractor	Supervision consultant
		Minimize adverse impacts after completion of works	After the completion of works, all temporary installation shall be dismantled, materials shall be removed, the surface shall be reinstated and reshaped to the previous land-use pattern and to the satisfaction of the land owner. Cooperate with the Local Authority.	During the last phase of the construction works	In the entire project area	Contractor and external environmental consultant	Supervision consultant, local government
2.	Emissions, dust, noise, vibration, solid waste	Minimize air pollution, noise vibration and construction	Implement strictly the Design memorandum and Environmental Guidelines for construction works	Throughout the entire construction phase	In the entire zone of works	Contractor	Supervision consultant
		Minimize noise and vibration nuisance	Pre-commissioning check that noise & vibration meet design memorandum criteria for day and night time noise and environmentally responsible procurement	Before all commissioning	All installed equipment	QESCO environmental officer	QESCO and supervision consultant

Sr. No.	Environmental Concern	Objective	Mitigation measures (MM) recommended	Timing to Implement MM	Location to implement MM	Responsibility for Implementing MM	Responsibility for monitoring MM
		Ensure adequate waste disposal facilities	Track “cradle to grave” surplus transformer parts and waste oil that cannot be reused and recycled in house	Before removal and after commissioning	All equipment to be removed	QESCO environmental officer	QESCO
3.	Water resources	Minimize risk of water pollution, ground-water pollution and sediment transport	Implement strictly the Environmental Guidelines for construction works	Throughout the entire construction phase, initial arrangements to be made prior to the start of the construction works	In the entire zone of works	Contractor	Supervision consultant, traffic police
4.	Agriculture forestry	Minimizing destruction of agricultural fields	Implement strictly the Environmental Guidelines for construction works	Throughout the entire construction phase, initial arrangements to be made prior to the start of the construction works	In the entire zone of works	Contractor	Supervision consultant
5.	Settlement infrastructure	Minimize local traffic disturbances, sand, pedestrians, risk of injuries	Implement measures ensuring pedestrians safely passing the construction site from the villages and farmhouses to the next market place, farmland shall be accessible at any time and not long winded, implement speed limit measures on selected sections of local roads	Throughout the entire construction phase, initial arrangements to be made prior to the start of the construction works	In the entire zone of works	Contractor	Supervision consultant

Sr. No.	Environmental Concern	Objective	Mitigation measures (MM) recommended	Timing to Implement MM	Location to implement MM	Responsibility for Implementing MM	Responsibility for monitoring MM
6.	Fisheries, hunting	No adverse impacts to be expected	-	-	-	-	-
7.	Ecological resources	Minimize loss of trees	Safeguard and protect trees from damage, re- plant trees as documented in the compensatory plantation plan	During the last phase of the construction works	In the entire project area	Contractor	Supervision consultant
8.	Socioeconomics	Raise awareness and acceptance	Carry-out information campaigns on the project and its progress; conduct public consultations regularly; arrange open public access to the management office on site	Throughout the entire construction phase, initial arrangements to be made prior to the start of the construction works	In the entire zone of works	Contractor	Supervision consultant
		Minimize health problems to the work force	Provide adequate warning signs and safety clothing; the contractor shall instruct his workers in health and safety matters, and require the workers to use the provided safety equipment. Establish all relevant safety measures as required by law and good engineering practices		In the entire zone of works	Contractor	Supervision consultant