

सयमा प्रसाद मुखर्जी पोर्ट, कोलकाता  
**SYAMA PRASAD MOOKERJEE PORT, KOLKATA**

हल्दिया गोदी परिसर  
**HALDIA DOCK COMPLEX**

BIDDING DOCUMENTS  
(e-Bid)  
[Bid No.: I&CF/SDM/RZ/ET/33]

**BID FOR “SURVEY, INVESTIGATION, DESIGN, FINANCE,  
CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF  
4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS  
ALONGWITH REHABILITATION OF SEWAGE NETWORK AND LAYING  
OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX”**



श्यामा प्रसाद मुखर्जी पोर्ट, कोलकाता  
**SYAMA PRASAD MOOKERJEE PORT, KOLKATA**  
Formerly Kolkata Port Trust

**APRIL - 2022**

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[Bid No.: I&CF/SDM/RZ/ET/33]

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## **1. SCHEDULE OF BID (SOT)**

Tender under single stage two envelope system (Technical Bid and Financial Bid) are invited from reliable, bonafide and experienced service provider with required experience as per eligibility criteria stipulated in Tender Document for **“SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX”**. Bid Document may be seen from SMP, KOLKATA website ([www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)). Corrigenda or clarifications, if any, shall be hosted on the above mentioned website only. Bidders will have to participate in bidding process through website <https://SMP,KOLKATA.enivida.in> of **RailTel Portal** only.

a. BID NO.	<b>I&amp;CF/SDM/RZ/ET/33</b>
b. MODE OF BID	e-biding System
c. Date of NIT available to parties to download	<b>01.04.2022 to 05.05.2022</b>
d. Bid Document fee	The intending bidders should submit Bid Document Fee of INR <b>Rs. 2950.00 (Rupees Two Thousand Nine Hundred Fifty only) including 18% GST.</b>
e. Earnest Money Deposit	<b>Rs. 25,64,000.00</b> [ Rupees Twenty Five Lakhs Sixty Four Thousand only] as Earnest Money, physically to Haldia Dock Complex, through DD / Banker's Cheque in favour of Syama Prasad Mookerjee Port, Kolkata, Haldia Dock Complex on any Scheduled / Nationalized Bank, payable at Haldia or through NEFT/ RTGS, otherwise, their bid will be summarily rejected, treating the same as non-responsive. Scanned copy of the DD / Banker's Cheque should be uploaded.
f. Transaction Fee/ processing fee for bidding in RailTel Portal	<b>Rs. 8,850.00 (Rupees Eight Thousand Eight Hundred and Fifty Only)</b> (Including GST) (non-refundable) by net-banking / Debit / Credit card at RailTel Portal only.
g. Last date of submission of Bid Document fee.	<b>05.05.2022</b> upto 15.00 Hrs.
<b>Pre-bid meeting</b>	<b>Pre-bid meeting will be held on 12.04.2022.</b>
<b>Last Date of Receipt of Pre-bid Query</b>	<b>11.04.2022</b>
<b>Last Date of Response of Pre-bid Query</b>	<b>19.04.2022</b>
h. Date of starting of online e-bid for submission of Technical Bid and Financial Bid.	<b>20.04.2022</b>
i. Date of closing of online e-bid for submission of Techno-Commercial Bid & Price Bid.	<b>05.05.2022 (Up to 3:00 P.M.).</b>
j. Date & time of opening of the subject bid	<b>06.05.2022 (3.30 pm onwards).</b>

## 2. लघु निविदा सूचना 2. SHORT BID NOTICE

हल्दिया गोदी परिसर में निम्नलिखित कार्य हेतु निविदा में दिए गए योग्यता मापदंड के अनुसार एक साथ दो भाग प्रक्रिया के तहत (तकनीकी बिड एवं लागत बिड) ई-निविदा आमंत्रित की जाती है।

E-Bid under single stage two-part system (Technical Bid and Financial Bid) are invited as per Prequalification criteria stipulated in Bid Document for the following work at Haldia Dock Complex.

<ul style="list-style-type: none"> <li>➤ कार्य का नाम/ ➤ Name of work</li> </ul>	:	हल्दिया गोदी परिसर में सर्वेक्षण, जांच, डिजाइन, वित्त, निर्माण, परीक्षण, कमीशन और डीबीएफओटी आधार पर 4.0 एमएलडी सीवेज उपचार संयंत्र का संचालन, सीवेज नेटवर्क का पुनर्रसुधार और उपचारित जल के नेटवर्क को बिछाना SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX.
<ul style="list-style-type: none"> <li>➤ ई-निविदा संख्या/ ➤ E-Bid No</li> </ul>	:	आईएंडसीएफ/एसडीएम/आरजेड/ईटी/33 I&CF/SDM/RZ/ET/33
<ul style="list-style-type: none"> <li>➤ प्री-बिड बैठक ➤ Pre-bid meeting:</li> </ul>	:	प्री-बिड बैठक दो चरणों में दिनांक 12.04.2022 Pre-bid meeting will be held on 12-04-2022
<ul style="list-style-type: none"> <li>➤ ई-निविदा जमा करने की अंतिम तिथि/ ➤ Last date of submission of e-bid</li> </ul>	:	05.05.2022 Submission Up to 15:00 hrs.

निविदा और निविदा दस्तावेज की विस्तृत जानकारी एसएमपी, कोलकाता के वेबसाइट ([www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)) पर उपलब्ध है एवं बोलीकर्ता उनके रेलटेल पोर्टल के वेबसाइट <https://KoPT.enivida.in> के माध्यम से ही बोली प्रक्रिया में भाग ले सकते हैं। इच्छुक ठेकेदार [bsengupta.hdc@kolkataporttrust.gov.in](mailto:bsengupta.hdc@kolkataporttrust.gov.in) वेबसाइट पर सम्पर्क कर सकते हैं।

Details of the Bid & Bid Documents are available in SMP, KOLKATA website ([www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)) and have to participate in bidding process through their website <https://KoPT.enivida.in> of RailTel Portal. only. Interested bidders may contact at: [bsengupta.hdc@kolkataporttrust.gov.in](mailto:bsengupta.hdc@kolkataporttrust.gov.in)

महाप्रबंधक (इंजीनियरिंग)  
General Manager (Engineering)  
हल्दिया गोदी परिसर/ Haldia Dock Complex  
श्यामा प्रसाद मुखर्जी पोर्ट, कोलकाता  
Syama Prasad Mookerjee Port, Kolkata

### **3. निविदा आमंत्रण सूचना**

### **3. NOTICE INVITING BID**

कार्य शीर्षक: हल्दिया गोदी परिसर में सर्वेक्षण, जांच, डिजाइन, वित्त, निर्माण, परीक्षण, कमीशन और डीबीएफओटी आधार पर 4.0 एमएलडी सीवेज उपचार संयंत्र का संचालन, सीवेज नेटवर्क का पुनर्सुधार और उपचारित जल के नेटवर्क को बिछाना।

WORK TITLE: SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX.

#### **3.1 ई-निविदा/E -BID NO.: I&CF/SDM/RZ/ET/33**

हल्दिया गोदी परिसर में निम्नलिखित कार्य हेतु निविदामें दिए गए योग्यता मापदंड के अनुसार एक साथ दो भाग प्रक्रिया के तहत (तकनीकी बिड एवं लागत बिड) कुशल तकनीकी एवं वित्तीय क्षमता वाले साधन सम्पन्न, अनुभवी एवं योग्य एजेंसियों से ई-निविदा आमंत्रित की जाती है।

E-Bid under two stage two-part system (Technical Bid and Financial Bid) are invited from resourceful, experienced and bonafide agencies with sound technical and financial capabilities on fulfilling the following Pre-Qualification Criteria;

#### **3.2 बोलीदाताओं हेतु योग्यता मापदंड/ PRE-QUALIFICATION CRITERIA FOR BIDDERS:**

- i) पिछले तीन वर्षों (31-03-2021 को समाप्त)के दौरान औसत वार्षिक वित्तीय कारोबारका कम से कम 4.70 करोड़ होना चाहिए।

Average Annual Financial Turnover during the last three years, ending on **31-03-2021**, should be at least Rs. 4.70 Crores.

- ii) पिछले 7 वर्षों (जिस महीने के लिए आवेदन आमंत्रित किए जाते हैं, उससे पहले के महीने के अंतिम दिन को समाप्त) के दौरान निम्नलिखित में से किसी भी समानकार्य को सफलतापूर्वक पूरा करने का अनुभव होना चाहिए:

Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following:

**I. Construction Experience:** The Bidder shall have successfully executed:

- a) three similar works each costing not less than the amount equal to 40% of the Estimated Cost of Works during the last 7 financial years immediately preceding the Bid Due Date; or
- b) two similar works each costing not less than the amount equal to 50% of the Estimated Cost of Works during the last 7 financial years immediately preceding the Bid Due Date; or
- c) one similar work of aggregate cost not less than the amount equal to 80% of the Estimated Cost of Works during the last 7 (seven) financial years immediately preceding the Bid Due Date;

AND

**II. O&M Experience:** The Bidder must have successfully operated and maintained at least one similar work for minimum of two consecutive years during the last 7 (seven) financial years immediately preceding the Bid Due Date.

- iii) समान प्रकृति वाले कार्य का अर्थ है/ Similar works means:-  
Construction of Sewage Treatment Plants (STP) / Common Effluent Treatment plants (CETP) / Effluent Treatment plants (ETP) and the Bidder must have successfully operated and maintained the same for minimum of two consecutive years during the last 7 (seven) financial years immediately preceding the Bid Due Date.
- iv) उप-ठेकेदार या आपूर्ति ठेकेदार के रूप में कार्य का अनुभव, अपेक्षित योग्यता के रूप में मान्य नहीं होगा।  
Work experience, as a sub-bidder or supply bidder shall not be considered as the requisite qualification.

### 3.3 निविदा प्राधिकार/BID AUTHORITY: -

**वरिष्ठ उप. प्रबंधक (आरजेड एवं स्पे.आर टी) (आई एंड सीएफ प्रभाग),** हल्दिया गोदी परिसर; श्यामा प्रसाद मुखर्जी पोर्ट, कोलकाता।

**Sr. Dy. Manager (RZ & Spl RT) (I & CF Divn.),** Haldia Dock Complex; Syama Prasad Mookerjee Port, Kolkata.

#### पता/Address:

टाउनशिप सिविल मेंटेनेंस ऑफिस, क्लस्टर- 5; पो.: हल्दिया टाउनशिप; जिला: पूर्व मेदिनीपुर; पिन:-721607, पश्चिम बंगाल, भारत। टेलीफोन नंबर: 03224-263389

Township Civil Maintenance Office, Cluster- 5; P.O.: Haldia Township; Dist.: Purba Medinipur ; PIN: – 721607, West Bengal, India. **Telephone no. : 03224-263389**

नियत तारीख Due Date	05.05.2022	समय Time	15:30 बजे तक UPTO 15:00 hrs.	निविदा खोलने की तिथि Date of Opening of Bid	06.05. 2022	समय Time	15:30 बजे से 15:30 hrs. onwards.
बोली दस्तावेज एसएमपी, कोलकाता के वेबसाइट ( <a href="http://www.kolkataporttrust.gov.in">www.kolkataporttrust.gov.in</a> ) पर उपलब्ध होगा। बोलीदाता केवल रेलटेल पोर्टल की वेबसाइट <a href="https://SMP,KOLKATA.enivida.in">https://SMP, KOLKATA.enivida.in</a> of RailTel Portal के माध्यम से ही बोली प्रक्रिया में भाग ले सकते हैं। Bid document will be available on SMP, KOLKATA website ( <a href="http://www.kolkataporttrust.gov.in">www.kolkataporttrust.gov.in</a> ) Bidders will have to participate in bidding process through website <a href="https://KOLKATA.enivida.in">https://KOLKATA.enivida.in</a> of RailTel Portal only.							
The Estimated Cost of the Project	<b>s. 15.64 Crores inclusive of GST</b>						
निविदा दस्तावेज की लागत (नॉन रिफंडेबल) Cost of Bid document (Non-refundable)	<b>रु. 2950.00 (रुपये दो हजार नौ सौ पचास मात्र) 18% जीएसटी सहित। Rs. 2950.00 (Rupees Two Thousand Nine Hundred Fifty only) including 18% GST.</b>						
अग्रिम राशि Earnest Money Deposit	<b>रु. 25,64,000.00 [रुपये पच्चीस लाख चौंसठ हजार मात्र] अग्रिम राशि, हल्दिया गोदी परिसर को नकद के रूप में अथवा किसी भी अनुसूचित/राष्ट्रीयकृत बैंक के डीडी/बैंकर्स चेक के माध्यम से श्यामा प्रसाद मुखर्जी पोर्ट, कोलकाता, हल्दिया गोदी परिसर के पक्ष में, देय हल्दिया के माध्यम से जमा करें। अन्यथा, आपकी बोली को अप्रतिसादी मानकर तत्काल खारिज कर दिया जाएगा। डीडी/बैंकर चेक की स्कैन प्रति अपलोड करें। Rs. 25,64,000.00 [ Rupees Twenty Five Lakhs Sixty Four Thousand only] as Earnest Money, physically to Haldia Dock Complex, through DD / Banker's Cheque in favour of Syama Prasad Mookerjee Port, Kolkata, Haldia Dock Complex on any</b>						

	<b>Scheduled / Nationalized Bank, payable at Haldia or through NEFT/ RTGS, otherwise, their bid will be summarily rejected, treating the same as non-responsive. Scanned copy of the DD / Banker's Cheque should be uploaded.</b>
एसटीपी का सर्वेक्षण, जांच, डिजाइन, निर्माण, परीक्षण, कमीशनिंग एवं संचालनके कार्य पूरा करने का समय/ Time Of Completion for Survey , Investigation, Design, construction ,Installation and commissioning of STP	<b>18 अठारह महीने 18 (Eighteen) Months.</b>
एसटीपी का कमीशनिंग करने के पश्चात संचालन एवं अनुरक्षण Operation and Maintenance after Commissioning of STP	<b>15 (पंद्रह) वर्ष 15 Years</b>
प्री-बिड बैठक Pre-bid meeting:	<b>प्री-बिडबैठकदिनांक 12-04-2022. Pre-bid meeting will be held on 12-04-2022.</b>

### 3.4 अन्य अनुदेश / OTHER INSTRUCTIONS:

- 3.4.1 हल्दिया गोदी परिसर में उपर्युक्त कार्य के लिए कुशल तकनीकी और वित्तीय क्षमताओं वाले साधन संपन्न, अनुभवी और योग्य बोलीदाताओं से दो कवर आधार (तकनीकी भाग एवं लागत बिड भाग) पर ई-निविदा आमंत्रित की जाती है।

E-Bidders are invited on two Cover basis (Technical Part & Financial Part) from resourceful, experienced and bonafide bidders with sound technical and financial capabilities for the above mentioned work at Haldia Dock Complex.

- 3.4.2 निविदा दस्तावेज संबंधी विवरण और निविदा दस्तावेजों के किसी भी परिशिष्ट / शुद्धिपत्र की अधिसूचना एसएमपी, कोलकाता की वेबसाइट ([www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)) पर उपलब्ध है एवं बोलीकर्ता रेलटेल पोर्टल के वेबसाइट <https://KOLKATA.enivida.in> के माध्यम से ही बोली प्रक्रिया में भाग ले सकते हैं।

Details of the Bid Documents and Notification of any Addendum / Corrigendum to the bid documents are available in web site from SMP, KOLKATA website ([www.kolkataporttrust.gov.in](http://www.kolkataporttrust.gov.in)) and have to participate in bidding process through their website <https://KOLKATA.enivida.in> of RailTel Portal only.

- 3.4.3 ई-निविदा दस्तावेज न तो डाक द्वारा जारी किया जाएगा और न ही बेचा जाएगा।

E-Bid Document shall neither be issued by post nor sold.

- 3.4.4 ई-निविदाकारों को वेबसाइट से डाउनलोड किए गए निविदा दस्तावेज के किसी भी खंड में संशोधित/आशोधन परिवर्तन/हटाने की अनुमति नहीं है। यदि निविदा प्रस्तुत करने के बाद उसमें कोई परिवर्तन/विसंगति पाई जाती है, तो जमा किए गए प्रस्ताव को तुरंत खारिज कर दिया जाएगा।

E-Bidders are not permitted to alter/change/delete/modify any clause of the bid document down loaded from the website. If any deviation / discrepancy is found after submission of bid, the submitted offer will be summarily rejected.

- 3.4.5 बोलीदाताओं को ई-निविदा दस्तावेज के "बोलीदाताओं को निर्देश" में निर्धारित बोली दस्तावेज जमा करना होगा। न्यासी जमा किए दस्तावेज/प्रमाणपत्र की प्रतियों को मूल प्रति से सत्यापित करने का अधिकार रखते हैं।

Bidders shall submit the Bid Document as stipulated in the “Instructions To Bidders” of the e-bid document. Trustees reserve the right to verify the submitted copies of documents / credentials with the original documents.

- 3.4.6 सफल निविदाकर्ता को बीओसीडब्ल्यू (आरईसीएस) अधिनियम, 1996, पश्चिम बंगाल बीओसीडब्ल्यू (आरईसीएस) अधिनियम, 2004 और बीओसीडब्ल्यू कल्याण उपकर अधिनियम, 1996 और उसके तहत बनाए गए नियमों के प्रासंगिक प्रावधानों का पालन करना होगा। उचित प्राधिकारी को बिल के अग्रेषण हेतु उपकर की राशिकी वसूली प्रचलित दर (वर्तमान में बिल राशि का 1%) से ठेकेदार के सभी बिलों से उत्तरोत्तर की जाएगी।

The successful bidder will be required to comply with the relevant provisions of BOCW (RECS) Act, 1996, West Bengal BOCW (RECS) Act, 2004 and BOCW Welfare Cess Act, 1996 and the rules framed there under. An amount of cess as per prevalent rate (presently @ 1% of the billed amount) shall be progressively recovered from all the bills of the bidder for onward transmission of the same to the appropriate authority.

- 3.4.7 ई-निविदा, निविदा जमा करने और खोलने की उपरोक्त निर्दिष्ट अंतिम तिथि को रेलटेल पोर्टल के <https://KOLKATA.enivida.in> के माध्यम से 15:00 बजे तक स्वीकार किए जाएंगे।

E-Bids will be received through <https://KOLKATA.enivida.in> of RailTel Portal up to 15:00 hrs. on the last date of submission and opening of bid specified above.

- 3.4.8 निर्धारित तिथि को दोपहर 3.30 बजे के तुरंत बाद ई-निविदा का टेक्नो कमर्शियल पार्ट खोला जाएगा।

Technical Part of the e-Bid will be opened shortly after 3.30 p.m. on the stipulated date.

- 3.4.9 केवल तकनीकी रूप से योग्य बोलीदाताओं का मूल्य भाग सभी संबंधितों को सूचित करते हुए परवर्ती तारीख को खोला जाएगा।

Financial Part of only technically qualified bidders will be opened at a later date under due intimation to all concerned.

- 3.4.10 ई-निविदा खोलने की तिथि को अनिर्धारित अवकाश/बंद की दशा में निविदा अगले कार्य दिवस को खोली जायेगी।

In case of unscheduled Holiday / Bandh on the date of opening of E-Bid, the same will be opened on the next working day.

- 3.4.11 यह स्पष्ट किया जाता है कि उपरोक्त निविदा आगे बढ़ाना संभव नहीं होगा।

It is stated here that the subject bid may not be extended further.

- 3.4.12 एसएमपी, कोलकाता किसी भी प्रस्ताव या सभी प्रस्तावों को पूर्ण या आंशिक रूप से बिना कोई कारण बताए स्वीकार अथवा अस्वीकार करने का अधिकार सुरक्षित रखता है।

SMP, Kolkata reserves the right to reject any or all offers or to accept the offer in whole or in part without assigning any reason whatsoever thereof.

**महाप्रबंधक (इंजीनियरिंग)**  
**General Manager (Engineering)**  
**हल्दिया गोदी परिसर/ Haldia Dock Complex**  
**श्यामा प्रसाद मुखर्जी पोर्ट, कोलकाता**  
**Syama Prasad Mookerjee Port, Kolkata**



## **4. IMPORTANT INSTRUCTIONS FOR E-PROCUREMENT**

**Bidders are requested to use internet Browsers Firefox version below 50 / Internet Explorer version 8 or above, and Java 8 Update 151 or 161.**

**Further, bidders are requested to go through the following information and instructions available on the <https://KOLKATA.enivida.in> of RailTel Portal before responding to this e-bid:**

- Bidders Manual Kit
- Help for Bidders
- FAQ

**Contact Persons (Syama Prasad Mookerjee Port, Haldia Dock Complex):**

1. Shri B. Sengupta, Sr. Dy. Manager (I&CF), Mob: 9002784574,  
email: [bsengupta.hdc@kolkataporttrust.gov.in](mailto:bsengupta.hdc@kolkataporttrust.gov.in)

1	<p>Process of E-bid:</p> <p>THE TECHNICAL BID AND THE COMMERCIAL BID HAS TO BE SUBMITTED ON-LINE AT <a href="https://KOLKATA.enivida.in">https://KOLKATA.enivida.in</a> of RailTel Portal 1). Vendors are required to register themselves online with <a href="https://KOLKATA.enivida.in">https://KOLKATA.enivida.in</a> of RailTel Portal</p> <p>Contact person (Haldia Dock Complex):</p> <p><b>1.Shri B. Sengupta</b> Designation: Sr. Deputy Manager ( I&amp;CF Division) Mobile No.: + 91 9002784574; Landline: + 91- 3224-263389 E-mail : <a href="mailto:bsengupta.hdc@kolkataporttrust.gov.in">bsengupta.hdc@kolkataporttrust.gov.in</a></p> <p><b><u>Contact persons (RailTel Portal):</u></b> Shri Siddharth Ghosh Mobile No.: + 91 9355030604 E-mail : <a href="mailto:ewizardsiddharth@gmail.com">ewizardsiddharth@gmail.com</a></p> <p>Shri Deepak Jha Mobile No.: +91 8448288981 E-mail : <a href="mailto:ewizarddipak@gmail.com">ewizarddipak@gmail.com</a></p>
2	<p>The Techno-commercial Bid and the Price Bid shall have to be submitted online at <a href="https://KOLKATA.enivida.in">https://KOLKATA.enivida.in</a> of RailTel Portal Bids will be opened electronically on specified date and time as given in the Bid.</p>
3	<p>All entries in the bid should be entered in online Technical &amp; Commercial Formats without any ambiguity.</p>
4	<p>Information about bids /corrigendum uploaded shall be sent by email only during the process till finalization of bid. Hence the vendors are required to ensure that their corporate email I.D. provided is valid and updated at the time of registration of vendor with <a href="https://KOLKATA.enivida.in">https://KOLKATA.enivida.in</a> of RailTel Portal Vendors are also requested to ensure validity of their DSC (Digital Signature Certificate).</p>
5	<p>E-bid cannot be accessed after the due date and time mentioned in NIT.</p>
6	<p>Bidding in e-bid :</p> <ol style="list-style-type: none"> <li>a) Vendor(s) need to submit necessary EMD and Bid fees to be eligible to bid online in the e-bid. Bid fees are non refundable. No interest will be paid on EMD. EMD of the unsuccessful vendor(s) will be refunded by the bid inviting authority.</li> <li>b) The process involves Electronic Bidding for submission of Technical and Commercial Bid.</li> </ol>

	<p>c) In all cases, vendor should use their own ID and Password along with Digital Signature at the time of submission of their bid.</p> <p>d) During the entire e-bid process, the vendors will remain completely anonymous to one another and also to everybody else.</p> <p>e) The e-bid floor shall remain open from the pre-announced date &amp; time and for as much duration as mentioned above.</p> <p>f) All electronic bids submitted during the e-bid process shall be legally binding on the vendor. Any bid will be considered as the valid bid offered by that vendor and acceptance of the same by the Buyer will form a binding contract between Buyer and the Vendor for execution of supply.</p> <p>g) It is mandatory that all the bids are submitted with digital signature certificate otherwise the same will not be accepted by the system.</p> <p>h) Buyer reserves the right to cancel or reject or accept or withdraw or extend the bid in full or part as the case may be without assigning any reason thereof.</p> <p>i) No deviation of the terms and conditions of the bid document is acceptable. Submission of bid in the e-bid floor by any vendor confirms his acceptance of terms &amp; conditions for the bid.</p>
7	Any order resulting from this bid shall be governed by the terms and conditions mentioned therein.
8	No deviation to the technical and commercial terms & conditions are allowed.
9	The bid inviting authority has the right to cancel this e-bid or extend the due date of receipt of bid(s) without assigning any reason thereof.
10	Vendors are requested to read the vendor guide and see the video in the page <a href="https://KOLKATA.enivida.in">https://KOLKATA.enivida.in</a> of RailTel Portal to familiarize them with the system before bidding.
11	No deviation of the terms and conditions of the bid document is acceptable. Submission of bid in the e-bid floor by any bidder confirms his acceptance of terms & conditions for the bid.
12	The bidders must upload all the documents required as per terms of NIT. Any other document uploaded which is not required as per the terms of the NIT shall not be considered.
13	The bid will be evaluated based on the filled-in technical & commercial formats.
14	The documents uploaded by bidder(s) will be scrutinized. In case any of the information furnished by the bidder is found to be false during scrutiny, EMD of defaulting bidder(s) will be forfeited. Punitive action including suspension and banning of business can also be taken against defaulting bidders.
15	Necessary addendum/ corrigendum (if any) of bid would only be hosted in the e-bidding portal of CPP.
16	Due date of submission of bid will not be extended under any situation.

## **5. INSTRUCTIONS TO BIDDER**

**E-BID FOR “SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX”.**

### **5.0 PREFACE:**

The work as described in the bid shall be executed at Haldia and in accordance with the attached General Conditions of Contract, Special Conditions of Contract, Particular Specifications, Drawings (if any) & detailed Bill of Quantities. Location Plan of the place of work might be inspected at the office of the Sr. Dy. Manager (RZ & SPL RT), I&CF on any working day before quoting for the bid.

### **5.1 Earnest Money Deposit (EMD) and Cost of Bid Document:**

The intending bidders should deposit an amount specified in the Schedule of Bid (SoT), as Earnest Money Deposit (EMD) and Cost of Bid Document in accordance with the procedure mentioned therein. Earnest Money Deposit (EMD) and **Cost of Bid Document** is to be physically deposited at the office of Sr. Dy. Manager (RZ & Spl RT) (I&CF), Haldia Dock Complex, Township Civil Maintenance Office, P.O: Haldia Township, Dist.: Purba Medinipur; PIN: 721 607; West Bengal; India, separately in a single sealed envelope, mentioning Bid no. with proper marking Demand Draft/ Banker's Cheque / Pay Order etc. against Earnest money should be submitted / deposited on any scheduled/ nationalized Bank, by the bidder in favour of Syama Prasad Mookerjee Port, Kolkata, payable at Haldia or by RTGS/ NEFT before opening of the bid, as specified in the Bidding Document.

Details of cost of e-bid paper remitted should be entered by the participating bidder in the space provided in the e-bid as indicated hereunder:

- |    |                          |   |
|----|--------------------------|---|
| a) | Name of remitting bidder | : |
| b) | Bid No.                  | : |
| c) | Amount remitted          | : |
| d) | Date of remittance       | : |
| e) | DD/BC No.                | : |

Cost of bid document fee and EMD may be deposited through NEFT/ RTGS in the following account.

Beneficiary Name: SYAMA PRASAD MOOKERJEE PORT, KOLKATA, HALDIA DOCK COMPLEX [Erstwhile Kolkata Port Trust, Haldia Dock Complex].

Bank: Punjab National Bank (Erstwhile United Bank of India)

Branch Name: Haldia Dock Complex.

Account No: 1604050000310

IFSC Code: PUNB0160420

Account Type: Current

The bidder should make payment of cost of bid document, Transactions fee and mention the UTR Numbers and date.

The details of payment made, with Bidder's Name, Bid Number and Bid subject, Bid Document Fee and UTR number may positively be informed to us by your office for checking the status of receipt of payment and generating Treasury Receipts.

However, it may be noted that for such successful payment (credited to the aforesaid account) through NEFT/ RTGS is the sole responsibility of the Applicant / Bidder. In case on any default for non-credit of

the amount in the aforesaid account, the submitted offer will be summarily rejected without assigning any reason thereof by the Authority.

Bid submitted without requisite Earnest Money and bid document fee will be liable for rejection.

## **5.2 MODE OF SUBMISSION OF BID:**

5.3.1 All bidders must submit their offers through e- bidding in accordance with the terms and conditions set out in the bid documents and no deviation will be accepted.

5.3.2 Techno commercial part shall contain the following which are to be uploaded: -

- a) Credentials in the form of copies of Letters of Award of Works along with corresponding Completion Certificates from owners to justify that the intending bidder satisfies the earlier mentioned pre-qualification criteria indicated in NIT.
- b) Certified copies of audited balance sheet and Profit and Loss account / Trading account for the last 3 (three) financial years **(i.e. 2018-2019, 2019-2020, 2020-2021)**.
- c) That the Bidding Firm has Not been debarred / de-listed by any Govt / Quasi Govt. / Public Sector undertaking in India.
- d) The proprietor/partner(s)/authorized signatory of the bidding firm (in the case of proprietorship firm /partnership firm /limited company, as the case may be) is/are not associated with any other firm bidding for the same work.
- e) The un-priced “Abstract Form of Bid” & “Form of Bid” (without price quoted) shall not only be signed and stamped by the Bidder, but must also be duly witnessed and scan copy to be uploaded.
- f) A list of works which are in hand at the time of submitting the offer as per the enclosed proforma titled ‘Concurrent Commitments of the Bidder’ vide ‘Annexure-II’ in Volume-I of the bid document.
- g) A Declaration as per ‘Annexure – IA’ that no conditions / deviations have been added in the price part of the Bid.
- h) Scan copy of the following documents to be uploaded: -
  - i) GSTIN / Provisional GST registration certificate.
  - ii) Valid Trade Licence.
  - iii) Valid Professional Tax Clearance Certificate / Up to date tax payment.
  - iv) Proof of possessing valid Employees’ Provident Fund (EPF) Account.
  - v) Proof of being registered with Employees’ State Insurance Corporation (ESIC).
- i) Details of the firm as per “BIDDER’S PROFILE” of the bid document.
- j) Addendum/Corrigendum / Notice / Extension Notice issued and drawings (if any) duly signed by the Bidder under office seal.

The bidder will have to produce the original documents or any additional documents, if asked for, to satisfy the Authorities.

5.3.3 All the bidders should submit the e-bid in accordance with the Mode of submission of Bid as aforesaid.

### **5.3 OPENING OF BIDS:**

Techno Commercial Part will be opened on the date and time as fixed in the e-bid document on line. Price Part will be opened after evaluation of the bid documents and based on eligibility of the bidders.

### **5.4 PRE-BID MEETING:**

Pre-bid meeting will be held on 12.04.2022 at 11.00 A.M. at the office of the General Manager (Engg.), at 2<sup>nd</sup> floor, Connector Building, Jawahar Tower, Haldia Township, Haldia.

### **5.5 SECURITY DEPOSIT:**

For the successful Bidder, the Security Deposit shall be recovered from the bills as per clause no. 3.4 of G.C.C to be raised during operation and maintenance as mentioned in the clause no. 6.3 of the bid document and Refund of S.D. and forfeiture S.D. shall be guided by Cl. 3.5 (i) & (ii) of the G.C.C.

### **5.6 VALIDITY OF OFFER:**

The e-bid shall remain valid for a period of 120 [One Hundred Twenty] Days from the date of opening the same. If before expiry of this validity period, the Bidder amends his quoted rates or bid, making them unacceptable to the Trustees and / or withdraws his e-bid, the Earnest Money deposited shall be liable to forfeiture at the option of the Trustees/ Sanctioning Authority/Engineer.

### **5.7 DETAILED SCRUTINY OF E-BIDDERS:**

5.7.1 During the course of examination of Techno Commercial Part of the bid, the bidders, if asked for, shall furnish any or additional document(s) for the purpose of evaluation of his / their bids. The price bids of those bidders who meet the qualifying criteria of NIT shall be opened.

5.7.2 During techno-Commercial Evaluation of bid, an offer shall be considered non-responsive in case:-

- (i) is not accompanied by requisite bid paper cost,
- (ii) validity of the offer is less than bid stipulation,
- (iii) It does not meet the Qualification Criteria as stipulated in the NIT.
- (iv) The bidder submits conditional offer / impose own terms and conditions / does not accept bid conditions completely.

In addition to above, a bidder may be disqualified if –

- a) The bidder provides misleading or false information in the statements and documents submitted.
- b) Record of unsatisfactory performance during the last five years, such as abandoning of work or rescinding of contract for which the reasons are attributable to the non-performance of the bidder or inordinate delays in completion or financial bankruptcy etc.

The decision of SMP, Kolkata in this regard shall be final and binding on the Bidder.

### **5.8 EVALUATION PROCESS & CRITERIA:**

In case of Technical bid, the bidder has to submit a brief of the project proposed to be established by him. However, the technical part of the bid shall be evaluated in two phases. Phase-I for Submission of documents, Phase-II for Presentation.

Evaluation of Phase-I: The documents submitted by the bidders will be scrutinized by an Evaluation committee constituted for the purpose who will scrutinize and evaluate the submitted bids with detail Technology, design and drawing for Civil, Mechanical, Electrical and Fire Fighting works and finalize the scheme of STP and select the bids eligible for Phase-II of the techno commercial Evaluation.

Evaluation of Phase-II: A presentation shall have to be presented by the eligible bidders and the same will be evaluated by an Evaluating Committee appointed by HDC.

The presentation shall contain at least 1 (one) no of work experience indicated by the Bidder as Technical Credential having executed project of similar nature and capacity within last 7 years with details of works as per the choice of the bidder, details of in-house facilities along with details of Technology, plant & machinery and manpower being used etc. The venue, time and date of the presentation will be decided later and will be intimated through email/letter to the eligible bidders.

The bidders who will qualify the Phase-II of the techno commercial evaluation process, shall be eligible for opening of the price part. The decision of the Evaluation committee in this regard shall be final and binding on the Bidder.

## **5.9 JOINT VENTURE/ CONSORTIUM**

5.9.1 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any other Consortium, as the case maybe.

5.9.2 A Bidder bidding individually or as a member of a Consortium shall ensure that Power of Attorney is legalized/apostilled by appropriate authority, notarized in the jurisdiction where the Power of Attorney is being issued and requirements under the Indian Stamp Act, 1899 read with the applicable state rules are duly fulfilled.

5.9.3 Unless the context otherwise requires, the terms not defined in this Bid, but defined in the Conditions of Contract shall have meaning assigned thereto in the Conditions of Contract. Notwithstanding anything to the contrary contained in this Bidding Document, the detailed terms specified in the draft Conditions of Contract shall have an overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Conditions of Contract.

The Bid shall be furnished in the format prescribed in the Bidding Document. The Technical Bid shall be as per **Appendix IA** and the Financial Bid shall be as per **Appendix IB** of the Bid. Financial Bid amount shall be indicated clearly in both figures and words, in Indian Rupees, in prescribed format of Financial Bid and shall be signed by the Bidder's authorized signatory. In the event of any difference between figures and words, lower of the two shall be taken as valid and correct.

5.9.4 Any condition or qualification or any other stipulation contained in the Bid that is not complied with by the Bidder shall render the Bid liable to rejection as a non-responsive Bid. The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.

5.9.5 The Bidding Documents including this Bid and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 3.6.8 shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid,

document or any information provided along therewith.

5.9.6 This Bidding Document is not transferable. Any award of Project pursuant to this Bid shall be subject to the terms of Bidding Documents.

5.9.7 A Bidder may either be a Company (registered under the Companies Act, 1956 or 2013, as the case may be) or a Limited Company incorporated under the applicable laws of the jurisdiction of its origin or a Proprietary Firm/ Partnership Firm (registered under Partnership Act, 1932 or the applicable laws of the jurisdiction of its origin) incorporated under applicable governing laws. In case the Selected Bidder is a Consortium of entities, it shall, comply with the following additional requirements:

- (a) Number of members in a Consortium shall not exceed 3 (three). However, none of the members in a Consortium should be under any sort of ineligibility under the Bidding Documents;
- (b) Subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;
- (c) Members of the Consortium shall nominate one member as the lead member (the **“Lead Member”**). The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-IV, signed by all the other members of the Consortium;
- (d) The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to technical and O&M obligations;
- (e) An individual Bidder cannot at the same time be member of a Consortium applying under this Bidding Document. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium;
- (f) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-V (the **“Joint Bidding Agreement”**), for the purpose of submitting a Bid. The Joint Bidding Agreement, to be submitted along with the Application, shall, inter alia:
- (g) Clearly outline the proposed roles and responsibilities, if any, of each member;
- (h) Include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations in relation to the Project until the completion of the Project is achieved in accordance with the provisions of the Conditions of Contract and
- (i) Except as provided under this Bid and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.

5.9.8 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium.

5.9.9 A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated any public entity for breach by such Bidder, Consortium Member or Associate.

Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 3.6.12 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

5.9.10 In computing the Technical and Financial Capacity of the Bidder/ Consortium Members under this Bidding Document, the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

For purposes of this Bid, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the “Associate”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium Member shall be provided to demonstrate that a person is an Associate of the Bidder or the Consortium as the case may be.

5.9.11 While qualification is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Bid, not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;

Then the eligibility of such Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

the holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process

5.9.12 All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their



Bid. The Authority will not return any Bid or any information provided along therewith.

5.9.13 The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

#### **5.10 ACCEPTANCE OF BID:**

During evaluation of Finance bid, provided that the bidder submits his offer following e-bid stipulations & specifications, **the overall highest offer received in respect of land allotted for the project shall** be considered for acceptance by the Trustees.

5.10.1 SMP, Kolkata reserves the right to accept / reject any / all offer(s) without assigning any reason thereof and also reserve the right to accept the bid in part or as a whole.

5.10.2 Any attempt to exercise undue influence in the matter of acceptance of Bid is strictly prohibited and any Bidder who resorts to this will render his bid liable to rejection.

#### **5.11 GOOD CONDUCT:**

If a bidder has had previous history of “defined misconduct” (such as banning from by any government sector, premature termination of a contract solely on bidder’s fault, criminal case pending against the company or its owner / current director filed by a government entity etc.) his offer is liable to be ignored.

#### **5.12 MISCELLANEOUS:**

- (i) Bidder shall submit his offer for complete scope of work, strictly in accordance with the bid documents. Any deviation from the bid documents and / or any incomplete bid shall not be considered.
- (ii) The bidder shall not impose his own terms & conditions in his offer or quote his rates based on his own terms and conditions, such E-Bidders are liable to rejection at the option of the Trustees without further reference to the bidder.
- (iii) All materials shall have to be procured by the successful Bidder and shall be of the best and approved quality conforming to relevant specifications. The successful Bidder shall also arrange for the supply of all labour, tools and plants as stipulated in the Special Conditions of Contract, required for efficient execution of the work.
- (iv) All measuring units are in Metric System and rates and sums in the bid are in Indian Currency. The language used throughout shall be in English.
- (v) The Bid Documents with all the enclosures, appendices, Abstract Form of Bid and Form of Bid shall be required to be complete, duly filled in and signed and uploaded.
- (vi) The Bidder shall give a declaration about the names of their relations employed in SMP, Kolkata. It is not the intention to debar the Bidders from working if their relatives are working in SMP, Kolkata, but such a declaration is necessary in the interest of Trustees against any possible lapses.

## **6. SPECIAL CONDITIONS OF CONTRACT**

**Name of the Work: SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX**

### **6.1 BACKGROUND AND SCOPE OF SERVICES: -**

India is the sixteenth largest maritime country in the world, with a coastline of about 7,517 km having 12 major and 205 notified minor and intermediate ports. The Indian ports and shipping industry plays a vital role in sustaining growth in the country's trade and commerce. To ensure sustainable growth, Ministry of Shipping has initiated green port initiative for making the Major Ports more clean and green in environment perspective. In furtherance of the above, the Board of SMPK, HDC ("**Authority**" or "**Employer**") has been taking multiple steps to ensure wastewater management inside its campuses.

HDC located in the state of West Bengal is the leading port on the eastern coast of India. Haldia dock complex is divided into four zones – Haldia Township, Chiranjibpur, Durgachak and Dock area. The total average water supplied in port premises is ~ 7.06 MLD and supplies are met through municipal water supply from Haldia Development Authority, HDA (4.15 MLD) and Bore wells (2.92 MLD) located inside port premises.

Wastewater generated in township area at HDC is 1.65 MLD which is further categorised as black water and grey water. Black water is the water that is being generated from toilets and grey water is the water that is being generated from bathrooms, kitchen etc. Currently, the black water of township area goes to an existing oxidation pond having 3 nos. of primary and secondary cells, where black water is treated before discharging it to the river basin. Grey water from the township area is being directly discharged to river basin through open drains without any prior treatment.

In this regard, the Authority has considered to collect both grey water and black water in the existing sewage network by including partial rehabilitation of sewage system from each household to existing black water chamber and discontinuation of existing sewer network at sector 8 and sector 13 of township area. Laying of new pipeline for a length of 3.70 Km has been considered at sector-8 and sector-13 with a provision to provide a new sewer network of 1.50 Km to connect floating jetty. A 4.0 MLD of sewage treatment plant of any approved technology accepted in present regime is proposed with provision of recycled water network of 6.20 Km upto a fixed destination at Haldia Township. The recycled water shall be used for horticulture and sprinkling inside port township area.

The Authority has decided to execute the Project on Public Private Partnership (the "PPP") Mode on Design, Build, Finance, Operate and Transfer (DBFOT) basis, and has decided to carry out the bidding process for selection of a private entity as the Bidder to whom the Project may be awarded.

The estimated cost of the Works is 15.64 Crore (Fifteen Crore and sixty four lakhs only) inclusive of GST.

### **Scope of Services**

The detailed scope of work, hereinafter referred to as "Work" is "Survey, Investigation, Design, Finance, Construction Testing, Commissioning and Operation of waste water collection, treatment and reuse System (Sewerage Project) and its operation and maintenance for a period of 15 years. A brief description of project is as given below:

- Survey, Investigation, Design, Finance, Construction, Testing, Commissioning and Operation of 4.0 MLD Sewage Treatment Plant at Haldia Dock Complex including boundary wall and operator room.

- ▶ Replacement of 3.7 km of sewerage network at sector 8 and sector 13 and construction of new sewer network of 1.5 km to connect floating jetty
- ▶ Planning, Design, Finance, Construction and Commissioning of 6.20 km of recycled water network on full automation.
- ▶ Providing laying and jointing of sewer connections and pipelines including provision for collection of grey water, construction of manholes, sump and all required sewer appurtenances.

## 6.2 TENDER NO [I&CF/SDM/RZ/ET/33]

Tender under single stage two envelopes system (Technical Bid and Financial Bid) are invited from resourceful, experienced and bonafide contractors with sound technical and financial capabilities on fulfilling the Eligibility Criteria, specified in Clause 3.4. The Authority shall receive Bids from prospective contractors pursuant to and in accordance with the terms set forth in the Bidding Documents and other documents to be provided by the Authority pursuant to this RFP (collectively the **"Bidding Documents" or the "Tender Documents"**), and all Bids shall be prepared and submitted in accordance with such terms on or before the bid due date specified in Clause 3.5 for submission of Bids (the **"Bid Due Date"**).

## 6.3 PAYMENT TO SERVICE PROVIDER:

- a) The service provider will be paid a fixed cost per month based on a fixed rate for treatment of the sewage for operation and maintenance of the STP for treatment of the sewage delivered to the system by the organizations connected to this STP. The service provider shall collect the charges payable to them from the organization itself. Actually the total quantity of sewage after the treatment per day will be determined from the totalizer to be set up at the STP itself at the end of 2nd shift on each day. This quantum of treated sewage at the STP is supposed to be received from different organization connected with the STP and accordingly, the proportion of households, guest house, school building, market place, club, etc. for each organization shall determine the quantum of sewage discharged by each organization into the sewerage system and this will form the basis on which the payment to the service provider will be made from each organization. Apart from the above, the service provider will be at liberty to allow connection of the private building as well as market place to this sewerage system, the payment of which will be collected by them from that particular cooperative or building association or market committee on the basis of the above scale of determination.
- b) For determination of the proportion of sewage disposal into the sewerage system the following norms will be adhered to:
  - A quarter with one kitchen and one bathroom cum toilet shall be considered as 1 unit.
  - A quarter with one kitchen and two bathrooms cum toilets shall be considered as 1.5 units.
  - A school unit with kitchen and multiple bathrooms cum toilets shall be considered as 10 units.
  - A market place with multiple bathrooms cum toilets shall be considered as 15 units.
  - A club cum guest house with kitchen and multiple bathrooms cum toilets shall be considered as 8 units.
  - A hospital with kitchen and multiple bathrooms cum toilets shall be considered as 10 units.
  - A bus stand with multiple bathrooms cum toilets shall be considered as 10 units.
  - An office complex with multiple bathrooms cum toilets shall be considered as 8 units.
  - A restaurant with bathrooms cum toilets shall be considered as 5 units.
  - A hotel with kitchen and bathrooms cum toilets shall be considered as 10 units.
- c) In the financial bid the tenderer shall have to quote the amount in figure which they intend to pay in addition to the reserve rate of rent for the land to be given by HDC for the purpose of setting up the STP (per 100 Sq.M per month basis) as given in the format of price bid. The amount to be quoted by the

tenderer over and above the reserve rate of rent will be added to the reserve rent (per 100 Sq.M per month) for the purpose of calculation of the total rate of rent payable by the successful bidder for the land concern. If the tenderer does not quote any amount in the prescribed format of price bid, earnest money deposited by them shall be liable for forfeiture.

- d) The financial bid of techno-commercial qualified tenderer will only be opened.
- e) The Selected Bidder, shall act as the Contractor (the “**Contractor**”), who shall be responsible for designing, development, engineering, financing, procurement, construction, operation, and maintenance and management of the Project under and in accordance with the provisions of a long-term concession agreement (the “**Conditions of Contract**” or “**Contract**”) to be entered into between the Contractor and the Authority in the form provided by the Authority as part of these Bidding Documents. The work shall have to be executed in accordance with appropriate specifications to meet high standards of workmanship, safety and security of workmen and works. The Conditions of Contract sets forth the detailed terms and conditions for grant of the works to the Contractor, including the scope of the Contractor’s services and obligations (the “**Works**”).
- f) The Contract Period shall be pre-determined, and is indicated in the draft Conditions of Contract forming part of the Bidding Documents.
- g) The complete Bidding Documents including the draft Conditions of Contract for the Project is enclosed for the Bidders. The aforesaid documents and any addenda issued subsequently, will be deemed to form part of the Bidding Documents.

#### **6.4 ELIGIBILITY CRITERIA FOR BIDDERS**

##### **A. For determining the eligibility of Bidder the following shall apply:**

- (a) The Bidder may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) Bidder may be a permitted entity or any combination of them with a formal intent to enter into a Joint Bidding Agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 3.6.10.
- (c) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate the Bid Security or equivalent amount from the Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Conditions of Contract or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
  - (i) The Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 25%(twenty five percent) of the paid up and subscribed capital; of such

Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is not more than 25% (Twenty five percent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in Section 2 (72) of the Companies Act, 2013. For the purposes of this Clause 3.4 A c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
- (vi) such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

***Explanation:***

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 3.4A, shall include each Member of such Consortium.

For purposes of this Bidding Document, **Associate** means, in relation to the Bidder/Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- (d) A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Conditions of Contract. In the event any such adviser is engaged by the Selected Bidder or Contractor, as the case may be, after issue of the LOA or execution of the Conditions of Contract for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the

Conditions of Contract and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have thereunder or otherwise, the LOA or the Conditions of Contract, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Contractor for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this Bidding Document for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

*Provided that, in case the Authority seeks information / clarification from a Bidder related to occurrence / non-occurrence of Conflict of Interest and the Bidder fails to provide such information within a reasonable time, the Authority shall disqualify the Bidder, encash its Bid Security as per provision of Clause 5.1 and further debar it from participation in any future procurement process for a minimum period of 1 year.*

## **B. Eligibility Criteria**

### **(a) Technical Capacity**

For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Bidder shall fulfil the following minimum eligibility criteria’s as per terms enumerated below:

**I. Construction Experience:** The Bidder shall have successfully executed:

- a) Three similar works each costing not less than the amount equal to 40% of the Estimated Cost of Works during the last 7 financial years immediately preceding the Bid Due Date; or
- b) Two similar works each costing not less than the amount equal to 50% of the Estimated Cost of Works during the last 7 financial years immediately preceding the Bid Due Date; or
- c) One similar work of aggregate cost not less than the amount equal to 80% of the Estimated Cost of Works during the last 7 (seven) financial years immediately preceding the Bid Due Date;

**AND**

**II. O&M Experience:** The Bidder must have successfully operated and maintained at least one similar work for a minimum of two consecutive years during the last 7 (Seven) financial years immediately preceding the Bid Due Date:

Provided that in case the Selected Bidder is unable to demonstrate the requisite O&M Experience detailed above itself (in case of a single entity) or through any of its members (in case of a Consortium), it may alternatively, be permitted to furnish a copy of a binding MoU entered into with an entity (being an Individual Proprietary Firm/ Partnership Firm (Registered under the relevant Partnership Act of the country of its jurisdiction)/ Limited Company (Registered under the Companies Act, 1956/ 2013 or the relevant law of the country of its jurisdiction) having the O&M Experience as required under this Clause who shall be engaged for carrying out the O&M of the Project under the Contract (“O&M Contractor”), once the Project is awarded to the Selected Bidder. In the event the Selected Bidder furnished the aforesaid MoU, but fails to engage the O&M Contractor after the award of Project to it, then such failure shall be treated as a Contractor Event of Default under the Contract and the consequences set out therein (including without limitation the termination of Contract) shall follow.

The aforesaid details will be filled in by the Contractor in the format provided.

For ascertaining the value of successfully executed similar works in support of experience of the Bidder, the original cost of work can be adjusted as per increase in Whole Sale Price Index (WPI) from the date of work order of the subjected work to till date. The certificate of the Chartered Accountant/Statutory Auditor be produced for cost adjustment.

#### **(b) Financial Capacity**

The Bidder shall have an average Annual Turnover from similar works of not less than 30% of the Estimated Cost of Works during the last 7 financial years prior to the Bid Due Date and a positive net-worth in the financial year immediately prior to Bid Due Date, as per the audited balance sheet and financial statement of last financial year prior to the Bid Due Date. (the “**Financial Capacity**”)

In case of a Consortium, the combined Technical Capacity and Financial Capacity of its Members, should satisfy the above conditions of eligibility.

The aforesaid details will be filled in by the Contractor in the format provided.

For the purposes of this clause, the term “**Similar Works**” shall mean work related to sewerage works comprising of essentially either of the following components,

Construction of Sewage Treatment Plants (STP) / Common Effluent Treatment plants (CETP) / Effluent Treatment plants (ETP) and the Bidder must have successfully operated and maintained the same for minimum of two consecutive years during the last 7 (seven) financial years immediately preceding the Bid Due Date.

The Bidders shall enclose with its Technical Bid, to be submitted as per the format at Appendix-IA, complete with its Annexes, the following:

(i) Certificate(s) from statutory auditors<sup>1</sup> or the concerned client(s) stating the works completed and other operating details as per the Appendix IA - Annex – III to demonstrate the Technical capacity. In case a particular work/ contract has been jointly executed by the Bidder (as part of a Consortium), it should further support its claim for the share in work done for that particular work/ contract by producing a certificate from its statutory auditor or the client;

(ii) Certificate(s) from its statutory auditors/ CA specifying the net worth as at the close of the preceding financial year and average annual Turnover of the Bidder, during the last five financial years, and also specifying that the methodology adopted for calculating such net worth and turnover conforms to the provisions of this Clause. The Bidders shall also submit the audited balance sheet, financial statement and the annual reports of the previous five financial years prior to the Bid Due Date.

For the purposes of this Bidding Document, “**Net Worth**” shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.

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<sup>1</sup> In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary. in respect of Clause 6.4.B.(b)ii. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this Bid Document.

In case the Bidder is any other permitted entity, Net Worth will mean the sum of available corpus and reserves.

For the purposes of this Bidding Document, “**Annual Turn Over**” shall mean the aggregate value of the realization of amount made on account of similar works undertaken, by the Bidder during a relevant financial year.

Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the years preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

## **6.5 TENDER AUTHORITY**

Any queries or request for additional information concerning this Bidding Document shall be submitted in writing through post or e-mail to the officer designated herein below. The envelopes/ communication shall clearly bear the following identification/ title:

"Queries/Request for Additional Information: **SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX**

Office of the General Manager (Engg.),  
Haldia Dock Complex  
Jawahar Tower, Haldia Township  
Haldia, Purba Medinipur, West Bengal 721607  
E-mail: aganesan.hdc@kolkataporttrust.gov.in

## **6.6 SUFFICIENCY OF BID:**

These provisions though given in a separate section are part of the bid documents which must be read as a whole, the various sections being complementary to one another and are to be taken as mutually explanatory. These provisions shall be read in conjunction with the other parts of the bid documents viz. General Conditions of Contract, Notice Inviting E-Bidders, Instructions to Bidder, Particular Specifications, Drawings, Bill of Quantities and other documents forming part of the Contract. In case of any discrepancy or ambiguity in the documents, the order of precedence of the documents as stated below will apply. In particular, these provisions will over ride those in the General Conditions provided there is discrepancy between them.

## **6.7 CORRELATION AND ORDER OF PRECEDENCE OF BID DOCUMENTS:**

If the stipulations in the various bid documents be found to be at variance in any respect, one will override others (but only to the extent these are at variance) in the order of precedence as given in the list below, i.e. any particular item in the list will take precedence over all those placed lower down in the list.

- Order letter.
- Bill of Quantities.
- Drawings.
- Particular Specifications of work.
- Special Conditions of Contract.
- General Conditions of Contract.



In case of any dispute, question or difference either during the execution of the work or any other time as to any matter or thing connected with or arising out of this Contract, the decision of the General Manager (Engg.), Haldia Dock Complex, thereon shall be final and binding upon all parties.

#### **6.8 LOCATION:**

The project work is located in a scattered manner in various clusters & Anchorage Camp of Haldia Township under the Residential Zone of Haldia Dock Complex.

#### **6.9 ACCESS TO THE SITE:**

(a) By Road:

All-weather hard top road approachable from N.H. 41 and State Highway exist right up to the area of work.

(b) By Rail:

S. E. Railway Branch Line connects Haldia with the Panskura/Mecheda Railway Station.

#### **6.10 LAND FOR CONSTRUCTION, SITE OFFICE, STORE ETC.:**

Requisite land will be available and will be allotted to the bidder by the Trustees for the construction of the treatment plant and other ancillary works. For such allotment a rent will be paid by the Bidder at his quoted rates of HDC plus applicable GST. The Bidder shall pay the rent for land till the last date of operation and maintenance. The bidder should hand over the said land free from all encumbrances within two months from actual date of completion of the license period as per contract. In case the bidder fails to do so within two months from the actual date of completion, the bidder will have to pay compensation equivalent to **three times** the applicable license fee for the plot of land allotted to him and to be recovered from his Security Deposit or from any due payment. The Bidder shall build office, sheds etc. on the land allotted to him as approved by the Engineer or his representative and shall maintain a clean hygienic condition throughout the period of their use.

#### **6.11 INSPECTION OF SITE:**

The Bidder shall inspect the site of work and thoroughly familiarise himself with the nature of work, site conditions, and access to the site and location before submission of the bid. He should contact the Sr. Dy. Manager, RZ (I&CF), Cluster –V, P.O.: - Haldia Township, Dist.: Purba Medinipur, Pin: 721607 for collecting information about the site before submission of the bid.

No excuse will be entertained afterwards on the above ground. In case any part of the site cannot be handed over to the successful Bidder in time, no compensation for loss of labour or any other cause nor any claim will be entertained by the Trustees. Suitable extension of time shall, however, be granted to the successful Bidder on that ground if applied for.

#### **6.12 SITE CONDITIONS & METHOD OF WORK:**

The bidder should have prior approval of Engineer for the design and drawing in connection with the project before commencement of work.

The sequence of construction, delivery of the materials shall have to be programmed by the successful bidder as per direction of the Engineer.

Any damage caused to the existing pavement / structures/facilities/service lines or defect arising during construction shall have to be made good / rectified forthwith as directed to the satisfaction of the Engineer.

They shall have to plan the work in such a way so that all the activities of the job can be continued after taking care of the above hindrances effectively round the clock even on Sundays and holidays in order to complete the job within scheduled time frame as mentioned below. The bidders shall consider the above points while quoting their rates.

The Bidder shall take all possible care so that other construction and / or operational works around the area, if any, are not unduly hampered for this work. Any defect arising during construction work shall have to be rectified forthwith as directed, to the satisfaction of the Engineer at his own cost. During execution of the work, proper care should be taken to provide adequate protection to the existing structures, cables (electrical / telephone / computer etc), fresh water and fire pipelines etc. and other installations against any damage at the bidder's risk and expense. Careful manual excavation will have to be carried out in places where service lines have been laid (information to be obtained from Engineer by the bidder beforehand) to avoid any damage.

The bidders shall have to assess the impact of hindrance to the different activities of the work which may likely to occur during execution of the job due to various factors including those of shipping and other operational activities in the areas and also as stated above. They shall have to plan the work in such a way so that all the activities of the job can be continued after taking care of the above hindrances effectively round the clock even on Sundays and holidays in order to complete the job within scheduled time frame as mentioned below. The bidders shall consider the above points while quoting their rates.

#### **6.13 SETTING OUT WORKS AND INITIAL MEASUREMENTS:**

The Engineer shall provide the initial references and a benchmark for the setting out of the work. It will be the Bidder's responsibility to set out the works accurately and get them checked by the Engineer.

The Bidder shall provide at his own expense all necessary instruments, staff and labourers for the checking of the survey.

The Bidder shall be responsible for the true setting out of the Works, and for the correctness of all dimensions, levels, lines, positions and alignment. Any error in any of the dimensions, levels, lines, positions and alignment found in any part of the Works shall be rectified by the Bidder at his own cost. Checking by the Engineer at any stage shall not absolve the Bidder from any responsibility for proper setting out and construction of the Works to correct levels, lines, positions and alignment.

Before commencement of the work, the Bidder shall take initial measurements and spot levels at intervals as ordered by the Engineer and after verification by the Engineer, these records shall be signed by the Bidder and serve as the initial record for earthwork measurements. The Bidder shall give the Engineer or his representative at least 24 hours prior notice in writing of the time when any part of the setting out of the works will be ready for checking.

#### **6.14 ACCURACY OF LINES, LEVELS AND GRADES**

The various works shall be done true to line, level and grade. The periodical checking of these by the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, shall not absolve the Bidder of his responsibility regarding their accuracy. In case of any deviation or discrepancy in line, level or grade at the meeting faces, the Bidder shall make good the discrepancy at his own cost and without any compensation for the additional work if any involved. Whenever such a discrepancy is found to arise at the junction of works being carried out by different sub-bidders the responsibility to correct their respective discrepancies shall be fixed by the Project Engineer/Technical Institution/Engineer-in-Charge whose decision shall be final and binding on the sub-Bidders concerned. The Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, on behalf of the Employer shall further have the right to rectify the discrepancies and recover the cost from the Bidder according to proportions as he may consider reasonable.

The details of location and the nearest permanent bench marks shall be provided by the Engineer-in-Charge in consultation with the Project Engineer/Technical Institution. Reference Grid Marks shall be obtained by the Bidder in writing from the Engineer-in-Charge in consultation with the Project Engineer/Technical Institution. Temporary bench mark for day to day use shall be fixed with reference to above permanent bench marks with double levelling.

#### **6.15. APPROACHROAD**

Necessary approach roads for various construction of components of the work like Sump Well, STP, etc. shall be satisfactorily constructed and maintained by the Bidder at his own cost.

#### **6.16 REGULATION ANDBYE-LAWS**

The Bidder shall conform to the regulations, bye laws or any other statutory rules made by any local authorities or by the Government of India and/or the state government and shall protect and indemnify the Employer against any claims or liability arising from or based on the violations of any such laws, ordinance, regulations, orders and decrees in accordance with the provisions of the GCC.

#### **6.17 TIME OF COMPLETION:**

The work is urgent in nature and the work pertaining to STP under the scope must be commenced immediately on receipt of the work order which is to be completed in all respects including commissioning of STP within **18 (Eighteen) Months** including preliminary time from the date of placement of work order.

#### **6.18 OPERATION AND MAINTENANCE**

The Bidder shall operate and maintain the Project for 15 years after commissioning of STP.

#### **6.19 PLANNED RECONSTRUCTION OF ROADS DAMAGED BY PROJECT ELEMENTS LAYING OF PIPELINE**

In case the pipelines are to be laid under the existing roads / lanes/bye-lanes, the dismantling of existing roads/lanes/bye-lanes shall be made in such a way that after laying of pipes or other such structures that are required to be constructed / placed under the road, the road /lanes/bye-lanes shall be restored to the original position. This shall mean that if prior to proposed construction, the road was black topped with specific composition of the pavement than after construction, the road shall be constructed by the Bidder with the same composition and specifications. This will also apply for concrete road or any other surface of roads.

The laying of pipes or other structures under the road is likely to involve public inconvenience such as interruption to traffic or interference in normal right of way. The Bidder shall ensure that because of the execution of work minimum possible public inconvenience is caused. For ensuring this, pipeline laying and road reconstruction work shall be carried out and completed in lengths specified by Engineer-in-Charge (not more than 250 Mtrs. in one defined stretch of road). The further excavation, dismantling of road and laying of pipes in the same stretch of road shall not be started unless the earlier work of laying has been completed with full reconstruction of roads. The scheduling of work shall be approved by the Project Engineer/ Technical Institution, as the case maybe.

#### **6.20 TEMPORARY OR ENABLING WORK:**

The Bidder shall submit to the Engineer for his approval not less than 28 days before commencement or erection of any part of Temporary Works, drawings and detailed proposals for the method of construction of temporary works such as office, store, and temporary platforms, pre-casting yard, workshop etc. which he intends to

construct for the execution of the contract and no such work shall be constructed before obtaining the written approval of the Engineer. These provisions will apply to all enabling works also. The bidder shall obtain permission for any Temporary Works and would ensure that during execution of works the statutory requirements of the concerned authorities such as SMP, Kolkata, Police, Customs, etc. would be complied with

The Bidder shall also submit his calculations relating to the design of temporary works, strength etc., if required by the Engineer and shall carry out the modifications that the Engineer may require of such temporary works at Bidder's own cost. As with the permanent works, the Bidder shall take all precautions while carrying out the temporary works and shall abide by regulations of all statutory authorities

Notwithstanding approval by the Engineer, the Bidder shall be solely responsible for the safety and proper execution of the temporary work and all related permanent work. The Bidder at his own cost shall repair any damage occurring to part or whole of the permanent work due to any failure of the temporary works.

#### **6.21 HOLIDAY OR SUNDAY WORK:**

Subject to provisions of applicable laws of the State of West Bengal, the Bidder shall arrange for working on Holidays and Sundays whenever so desired by the Engineer-in-Charge and the Authority to expedite progress and complete the works in time. The Bidder shall not be entitled to any additional payment for taking up works on Holidays and Sundays. The Bidder should be prepared to resort to round-the-clock working by following shift timings for labour.

#### **6.22 KEEPING THE SITE AND WORKING AREA CLEAR:**

The Bidder shall at all times keep the site and working areas free from all surplus materials, rubbish and offensive matter all of which shall be disposed of in a manner to be approved by the Engineer's Representative. As the works will be carried out mainly inside the Township area of HDC, the Bidder has to make necessary arrangement to clear the rubbishes etc. from the buildings, at the end of day's work at his own cost & risk.

#### **6.23 SUPPLY OF MATERIALS BY THE BIDDER:**

It will be the responsibility of the bidder to make timely procurement of all materials for both temporary and permanent works required for the project as per the directions of the Engineer.

The bidder will be allowed to take away surplus materials on completion of the work, subject to Engineer's verification of bidder's records of entry and consumption of materials in the works.

#### **6.24 SAFETY:**

The bidder shall adhere to safe construction practice, guard against hazardous and unsafe working conditions and follow all safety precautions for prevention of injury or accidents and safeguarding life and property. The bidder shall comply with relevant provisions of Dock Workers (Safety, Health and Welfare) Act – 1986 and Dock Workers (Safety, Health and Welfare) Regulation – 1990 and Safety Officer of the Trustees or Safety Inspectors shall be afforded all facilities for inspection of the works, tools, plant, machineries, equipments etc. wherever so required

The bidder shall further comply with any instruction issued by the Engineer, Trustees' Safety Officer, Safety Inspector in regards to safety which may relate to temporary, enabling or permanent works, working of tools, plants, machineries, equipments, means of access or any other aspect.

The bidder shall provide all necessary first aid measures, rescue and life saving equipment to be available in proper condition.

The bidder shall provide PPE's (Personal Protective Equipments) such as, helmet, safety shoe, mask etc. to all workers and shall also provide job specific PPE's e.g. safety belts for working at heights; protective face and eye shield, goggles, hand gloves for welding / gas cutting works; protective foot wear and gloves for hot works; facemasks, gloves and overalls for painting works, mixing and handling materials etc., as directed by the Engineer.

All safety rules shall be strictly followed while working on live electrical systems or installations as stipulated in the relevant safety codes.

Use of hoisting machines and tackles including their attachments, construction tools, machineries and equipments shall comply to the relevant safety codes.

Before allowing workers in sewers, manholes, any duct or covered channel etc, the manhole covers shall have to be kept open and ventilated at least one hour in advance and necessary safety torches / lamps should be inserted first before allowing entry to the worker. Suitable hand gloves and other safety gear will be provided to the worker during handling / removing of slushes / sludge etc. without any extra cost. The bidder shall adopt all the above safety measures at his own cost.

The successful bidder shall also ensure that –

- (i) No damage is caused to plants and vegetation's unless the same is required for execution of the project proper.
- (ii) The work shall not pollute any source of water / land / air surrounding the work site so as to affect adversely the quality or appearance thereof or cause injury or death to animal and plant life.
- (iii) His office & labour hutment etc. shall be maintained in a clean and hygienic condition throughout the period of their use and different effluents of the labour hutment shall have to be disposed off suitably.

#### **6.25 POWER SUPPLY:**

If available and if required, suitable power supply may be arranged by the Trustees at the nearest existing supply point of the site of work on receipt of request letter from the Bidder to that effect. All necessary arrangements for the distribution at site will have to be made by the Bidder at his own cost as approved by the Trustees' Plant and Equipment Division.

Charges for consumption of power shall be periodically recovered from the Bidder's Bill at the rates of WBSEB as prevalent amended from time to time along with departmental overhead of 19.25% including installation and hire charges for meters. The Trustees do not guarantee uninterrupted power supply from the above sources and Bidder shall not be compensated for any delay in providing / irregularity of power supply. The Bidder shall have to arrange for the supply of power at his own cost during such periods.

For operation and maintenance of STP electricity may be supplied by HDC on prevailing rates plus departmental overhead as mentioned above.

#### **6.26 WATER:**

The Bidder will arrange for supply of water both for drinking and for construction purposes. However, on written request from the Bidder, water for drinking and for construction purposes may be made available from the exiting water line of the Trustees at a point near the site of work. The bidder will have to arrange for laying pipelines, as necessary, as per approval of the Engineer or his representative, for storing and distributing the same to the work point at his own cost. The Bidder shall pay charges for water consumption as per water meter reading which to be installed by the bidder at the prevailing rate if supplied by Trustees.

During construction, operation and maintenance of STP water supply for drinking and other purposes may be provided by HDC on the basis of consumption as per water meter reading on monthly basis which to be installed by the bidder and the prevailing rate will be applied for arriving at the charge for water. The bidder should keep the meter in working condition till completion of the license period.

#### **6.27 WATCHING OF MATERIALS:**

The successful Bidder will have to arrange for proper security of all materials and tools brought by him. The Bidder shall be fully responsible for any theft or damage of the materials. He may be allowed to post his Watchmen round –the-clock at the work-site with valid prior permission. No extra amount will, however, be paid separately for watching. The Bidder should quote his rates keeping this in view.

#### **6.28. A. CONTRACT LABOUR LAWS:**

The Bidder must comply with the provisions of Contract labour (Regulation & Abolition) Act 1970 and Contract Labour (Regulation & Abolition) Central Rules 1971 and the rules framed there under with all modifications/amendments being enforced from time to time.

The Bidder shall indicate maximum number of workmen to be engaged on any day for execution of the work in the appropriate place in the ABSTRACT FORM OF BID& he shall have to obtain a regular/permanent license as per sec12(1) of the Contract Labour Act.

Further, whenever a contract work has commenced or completed, the bidder has to intimate the same to the Assistant Labour Commissioner(Central) /labour Enforcement Officer (Central) in Form IV-A , within 15 days of such commencement or completion.

The bidder has to obtain a certificate of registration under “Building & Other Construction Workers (Regulation Of Employment & Conditions Of Service) Act-1996 and Central Rule 1998 and his rate shall include a cess payable @ 1 % of the cost of construction as applicable under “Building & Other Construction Workers Welfare Cess Act -1996 & Welfare Cess Rules 1998.

The bidder has to arrange for displaying the name of the Regional Labour Commissioner (Central), Asst. Labour Commissioner (Central) & Labour Enforcement Officer (Central) at his worksite(s).

The bidder shall inform the Principal Employer the date, time & venue of disbursement to be made by him to his workers.

The successful bidder shall also be required to put up a notice at the site of work mentioning the date, time & venue of disbursement to be made by him to his workers and he or his authorized representative shall have to be present during period of disbursement.

#### **6.28 B. COMPLIANCE WITH EPF & M P ACT:**

The successful bidder will have to comply with provision of EPF & MP Act –1952 (along with amendments, if any), issued from time to time.

If asked for by the Employer, the bidder will be required to submit photocopy of all payment challans and produce the original for verification to the representative of the principal employer, i.e. Sr. Dy. Manager (I&CF).

#### **6.28 C. COMPLIANCE WITH ESI ACT:-**

If applicable, the successful bidder will have to comply with provisions of “Employers State Insurance Act – 1948”, along with amendments (if any) issued from time to time. He shall obtain ESI registration and shall deduct employees’ contribution as applicable percentage of the wages of each of the employees’ and shall

deposit the same together with employer's contribution as applicable percentage of such total wages payable to the employees or at such rates as fixed by the competent authority from time to time.

In case, where an employee is not covered under ESIC Scheme (or contribution not paid for him regularly) and meet an accident during and arising out of his employment, the bidder being the immediate employer, shall be liable to pay him suitable compensation.

The bidder will be required to submit Photo copies of all payment challans and produce the original for verification to the representative of the principal employer, i.e. Sr. Dy. Manager (I&CF).

#### **6.28 D. INDEMNIFICATIONS:**

The successful bidder shall be deemed to indemnify and keep indemnified the Trustees from and against all actions, claims, demands and liabilities whatsoever under and in respect of the breach of any of the provisions of any law, rules or regulations having the force of law, including but not limited to –

- a) The Minimum Wages Act, 1948.
- b) The Dock Workers (Regulation Of Employment) Act, 1948
- c) The Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996
- d) The Dock Workers' Safety, Health & Welfare Act, 1986
- e) The Payment of Wages Act, 1936.
- f) The Workmen's Compensation Act, 1923.
- g) The Employees Provident Fund Act, 1952.
- h) The Contract Labour (Regulation and Abolition) Act, 1970; Rules 1971.
- i) The Payment of Bonus Act, 1965.
- j) The Payment of Gratuity Act, 1972.
- k) The Equal Remuneration Act, 1976.
- l) The Employees State Insurance Act, 1948 & Employees State Insurance (Amendment) Act ,1989
- m) Child Labour (Prohibition and Regulation) Act, 1986.
- n) The Maternity Benefits Act 1961
- o) Interstate Migrant Workmen (Regulation Of Employment & Conditions Of Service) Act, 1979.
- p) Motor Vehicle Act, latest revision.

#### **6.29 FORCE MAJEURE:**

In the event of either party rendered unable by Force Majeure to perform any obligation required to be performed by them under the Contract, relevant obligation of the party affected by such Force Majeure shall upon notification to the other party be suspended for the period which Force Majeure events lasts. The cost and loss sustained by the either party shall be borne by the respective parties.

The term "Force Majeure" as employed shall mean the events as below:

- (i) riot (unless solely restricted to or perpetuated by employees of the Bidder or his sub bidders / suppliers or occurring outside India) so far as it is uninsurable;
- (ii) war, hostilities (whether war be declared or not), invasion, directed to or by India or act of foreign enemies, directed to India;
- (iii) rebellion, revolutions, insurrection, or military or usurped power, or civil war in India;
- (iv) Fire, flood, cyclone, hurricane and acts of God.

Time of performance shall be extended by the period of delay, which is directly caused by the Force Majeure. Upon the occurrence of such cause and upon its termination, the party alleging that it has been rendered unable as aforesaid shall notify the other party in writing immediately but not later than forty eight hours of the alleged beginning and ending thereof, giving full particulars and satisfactory evidence in support of his claim.

Time of performance of the relative obligation suspended by the Force Majeure shall stand extended by the period for which such event lasts and affects the relative obligation directly. Such extension of time shall be without prejudice to the provision that time is essence of the Contract and any other terms and conditions related to time of completion as may provide elsewhere in the Contract

If the work is affected by Force Majeure lasting for more than 60 days at a stretch, the parties to the Contract shall settle the issue mutually.

### **6.30 SETTLEMENT OF DISPUTES:**

If a dispute of any kind whatsoever arises between the Employer and the Bidder in connection with or arising out of the contract or the execution of the works, the same shall be dealt as per relevant provisions of the General Conditions of Contract and THE ARBITRATION AND CONCILITATION (AMENDMENT) ACT,2015 and any statutory amendment thereof.

### **6.31 TAX:**

The quoted rates should include all other Taxes excluding GST. GST as applicable shall be paid extra against proper invoice submitted by the successful bidder.

The bidder will be required to submit GST compliant invoice with all required details and also to be required to file timely and proper return so as to enable SMP, KOLKATA to get due input credit against GST paid off.

In case of any failure on the above account, GST amount even if paid by SMP, KOLKATA shall be recoverable from the bidder, along with applicable interest if any.

### **6.32 Integrity Pact:**

The bidder shall submit the Integrity Pact as per proforma shown in General Conditions of Contract.

### **6.33 CONTRACT LABOUR LAWS:**

The Bidder must comply with the provisions of Contract labour (Regulation & Abolition) Act 1970 and Contract Labour (Regulation & Abolition) Central Rules 1971 and the rules framed there under with all modifications/amendments being enforced from time to time.

The Bidder shall indicate maximum number of workmen to be engaged on any day for execution of the work in the appropriate place in the ABSTRACT FORM OF BID& he shall have to obtain a regular /permanent license as per sec12(1) of the Contract Labour Act.

Further, whenever a contract work has commenced or completed, the bidder has to intimate the same to the Assistant Labour Commissioner(Central) /labour Enforcement Officer (Central) in Form IV-A, within 15 days of such commencement or completion.

The bidder has to obtain a certificate of registration under “Building & Other Construction Workers (Regulation Of Employment & Conditions Of Service) Act-1996 and Central Rule 1998 and his rate shall



include a cess payable @ 1 % of the cost of construction as applicable under “Building & Other Construction Workers Welfare Cess Act - 1996 & Welfare Cess Rules 1998.

The bidder has to arrange for displaying the name of the Regional Labour Commissioner (Central), Asst. Labour Commissioner (Central) & Labour Enforcement Officer (Central) at his worksite(s).

The bidder shall inform the Principal Employer the date, time & venue of disbursement to be made by him to his workers.

The successful bidder shall also be required to put up a notice at the site of work mentioning the date, time & venue of disbursement to be made by him to his workers and he or his authorized representative shall have to be present during period of disbursement.

#### **6.34 INSPECTION, QUALITY AND QUANTITY BY THIRD PARTY INSPECTION AGENCY:**

During Operation and Maintenance of the STP, a Third Party Inspection Agency (TPIA) duly accredited by MOEF and CC and /or NABL on mutual consent basis and the cost of such appointment will be shared by both the parties equally.

The TPIA so appointed will be responsible for monitoring and quality assurance including certification of quantum of treated water so generated for recycling for non- potable use. Payment will be made to the Licensee based on such certification.

#### **6.35 PAYMENT TO THE SERVICE PROVIDER**

- a) The service provider will be paid a fixed cost per month based on a fixed rate for treatment of the sewage for operation and maintenance of the STP for treatment of the sewage delivered to the system by the organizations connected to this STP. The service provider shall collect the charges payable to them from respective organization/organizations itself. Actually the total quantity of sewage after the treatment per day will be determined from the totalizer to be set up at the STP itself at the end of 2nd shift on each day. Since, this quantum of sewage being treated at the STP is supposed to be received from different organizations connected with the STP, the proportion of households, guest house, school building, market place, club, etc. being occupied during treatment process for each organization shall determine the quantum of sewage discharged by each organization into the sewerage system and this will form the basis on which the payment to the service provider will be made from each organization. Apart from the above, the service provider will have to allow connection of the other organization along with other private building as well as market places (not connected to this system) to this sewerage system since this is a municipal function of Haldia Township, the payment of which will be collected by the service provider from that particular building cooperative or building association or market committee on the basis of the above scale of determination. The declaration of occupied building /school /market etc will be made by organisations themselves connected to this system sumo moto to the service provider.

It. No	Scope of the work by the service provider	Unit of treatment of Sewage	The Rate at which the Payment will be made
A	Survey, Investigation, Design and redesign wherever necessary, Financing, Construction, Testing, Commissioning and Operationalize of 4.0 MLD Sewage Treatment Plant on DBFOT basis including disposal of generated sludge after treatment at the sewage treatment plant. The Operation and Maintenance of the STP shall also be the responsibility of the service provider for next 15 years after treatment of the effluent water and recycling the same and delivery of treated water after disinfecting for desired non potable application.	Per KL	29.70
B	Replacement of existing piping system of 3.7 km (approx.) of sewerage network at sector 8 and sector 13 of Haldia Township by new pipeline and construction of new sewer network of 1.5 km (approx.) to connect floating jetty by the side of Lock Area of HDC. The service provider also has to lay sewer network for capturing the grey water upto the pit for capturing the black water for the entire township area.		
C	Planning, Design, Construction and Commissioning of 6.20 km (approx.) of recycled water network from the STP upto defined point inside Haldia Township with system coupled with full automation and the plant has to be operated and maintained satisfactorily for a period of 15 years.		
D	The treated recycled water shall be of the acceptable quality as per the parameters for reuse of treated water in horticulture or for other non-potable use.		

b) For determination of the proportion of sewage disposal into the sewerage system the following norms will be adhered to:

- A quarter with one kitchen and one bathroom cum toilet (Type A) shall be considered as 1 unit.
- A quarter with one kitchen and two bathrooms cum toilets (Type B) shall be considered as 1.5 units.
- A school unit with kitchen and multiple bathrooms cum toilets shall be considered as 10 units.
- A market place with multiple bathrooms cum toilets shall be considered as 15 units.
- A club cum guest house with kitchen and multiple bathrooms cum toilets shall be considered as 8 units.
- A hospital with kitchen and multiple bathrooms cum toilets shall be considered as 10 units.
- A bus stand with multiple bathrooms cum toilets shall be considered as 10 units.
- An office complex with multiple bathrooms cum toilets shall be considered as 8 units.
- A restaurant with bathrooms cum toilets shall be considered as 5 units.
- A hotel with kitchen and bathrooms cum toilets shall be considered as 10 units.

c) Example for determination of payment of respective organization:

Suppose ,Organization A connected to the system is presently having 5nos of type A quarters ,5 nos of type B quarters, a school & a market place occupied for discharge of sewage to STP where as Organization B connected to the system is presently having 7 nos of type A quarters ,7 nos of type B quarters, a club & an office complex occupied to discharge sewage to STP, and the total sewage treated in that month at STP being Z KL ,then the calculation for determination of proportion of sewage of respective organization to that STP will be as follows ;

Unit for Organisation A:  $5 \times 1 + 5 \times 1.5 + 10 + 15 = 27.5$

Unit for Organisation B:  $7 \times 1 + 7 \times 1.5 + 8 + 8 = 35$

Therefore, the proportion of sewage discharged by Organisation A  $= Z / 62.5 \times 27.5$  KL

Whereas The proportion of sewage discharged by Organisation B  $= Z / 62.5 \times 35$  KL

And payment to the service provider by respective organization will be framed accordingly.

### 6.36 VARIATION IN CONTRACT PRICE

A general price variation will be applicable annually, as per the variation in the Wholesale Price Index (all commodities) published by the Office of Economic Adviser, Ministry of Commerce & Industry, Govt. of India, calculated on 25% of the Sanctioned Rate. For the said purpose, the WPI (all commodities) applicable on the scheduled last date of submission of price bid will be considered as base. The price variation shall be applicable after completion of 12 months and no variation shall be admissible for the first 12 months.

**General Price Variation shall be worked out as per the formulae given below:**

$$i) V_p = R \times \frac{0.25 \times (V_1 - V_0)}{V_0}$$

where,  $V_p$  = General Price Variation in cost, i.e., increase or decrease in the amount in Rupees to be paid or recovered.

$R$  = Sanctioned Rate.

$V_0$  = All India Wholesale Price Index for all commodities as published by the Office of Economic Adviser to Government of India, Ministry of Commerce & Industry for the month in which bids were stipulated to be received, including extension if any.

$V_1$  = Average of the values of All India Wholesale Index for all commodities for all the months for the particular year under consideration.

Illustrative example:

Sanctioned Rate = Rs.25.00

$V_0$  = 140.60

$V_1$  = 145.17

$V_p$  =  $25.00 \times 0.25 \times (145.17 - 140.60) / 140.60$

	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
WPI	142.2	142.8	143.4	144.0	144.6	145.20	145.9	146.0	146.5	146.8	147.0	147.6
										<b>Average (V1) =</b>	<b>145.17</b>	

### 6.37 PROVISIONS FOR SITE STAFF OF THE CONTRACTOR: -

After the issue of Engineer's notice to commence, the bidder shall as soon as possible make available Engineer at the Site of Work, all in accordance with the approval of the Engineer or his Representative as shown below:

- i. Civil Engineer having minimum qualification of BE/ B. Tech or equivalent with minimum of 10 years working Experience – 01 no.
- ii. Civil Engineer having minimum qualification of Diploma with minimum of 15 years working Experience – 01 no.
- iii. Electrical Engineer having minimum qualification of BE/ B. Tech or equivalent with minimum of 07 years working Experience – 01 no.
- iv. Electrical supervisor with requisite electrical supervisory license issued by the competent authority – 01 no.
- v. Mechanical Engineer having minimum qualification of BE/ B. Tech or equivalent with minimum of 07 years working Experience – 01 no.

### 6.38 PRESCRIBED EFFLUENT QUALITY STANDARDS

Parameters	CPCB Norms	Proposed Parameters for Re-use of treated water in horticulture (STP Design Parameters)
pH	6.5 – 9.5	6.5 – 9.0
BOD (mg/l)	Not more than 30	Not more than 30
COD (mg/l)	-	Not more than 150
TSS (mg/l)	Not more than 100	Not more than 100
Fecal Coliform (MPN/100ml)	Not more than 1000	Less than 100
Oil & Grease (O&G)	----	10.0 (Max.)

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## **7. TECHNICAL SPECIFICATIONS**

**E-BID FOR “SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX”.**

### **7.1 GENERAL: -**

- All materials to be used in the permanent works shall be of the best quality of the kind. They shall comply with the Specifications laid out in the BIS codes (referred to as IS) or any other relevant codes as revised or modified up to the date.
- Materials brought to the site, which in the opinion of the Engineer do not conform to the approved sample, shall, and if so directed by him, be removed by the bidder within 24 hours at his own cost from the site and replaced by materials of approved quality at no extra cost.
- The Engineer’s decision regarding the suitability of materials brought to site for use in the works shall be final and binding on the bidder, who shall remove the rejected materials from site and replace them with materials of required quality.
- All materials brought to the site shall be properly stored and preserved to ensure their quality and fitness during the course of their use in work. If the storage arrangements are not to the Engineer’s satisfaction, he may direct the bidder for arranging proper storage to which the bidder shall have to comply. The materials shall be stored in adequate quantities well in advance to meet the construction schedule and shall be guarded in the manner directed by the Engineer and to his satisfaction.

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## **8. PREAMBLE TO THE BILL OF QUANTITIES**

**E-BID FOR “SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX”.**

8.1 The Bill of Quantities must be read with the General Conditions of Contract, the Special Conditions of Contract and the Particular Specifications of Work and the Bidder is deemed to have examined the above documents and to have thoroughly familiarise himself with the total scope of work and its mode of execution.

The Bidder shall quote his rates of the BOQ item **on line** based on his own analysis.

The Bid Price thus established would be taken for comparative evaluation of E-Bid.

8.2 In the financial bid the tenderer shall have to quote the amount in figure which they intend to pay in addition to the reserve rate of rent for the land to be given by HDC for the purpose of setting up the STP (per 100 sqm per month basis) as given in the format of price bid. The amount to be quoted by the tenderer over and above the reserve rate of rent will be added to the reserve rent (per 100 sqm per month) for the purpose of calculation of the total rate of rent payable by the successful bidder for the land concern. If the tenderer does not quote any amount in the prescribed format of price bid, earnest money deposited by them shall be liable for forfeiture.

## **PART –II: FINANCIAL BID**

(Bidder not to quote here, to be filled up / quoted online only)

### 1. Rate of Rent quoted by the Tenderer

<b>Description of land</b>	<b>Rate of Rent per 100 Sq. Mtrs. per month quoted in addition to the Reserved Rate of Rent per 100 Sq. Mtrs. per month as mentioned at the Clause 6.3 (c ) of the bid document excluding GST (in Rs. Per 100 Sq. Mtrs. per month)</b>	
Area: Tentatively 3,600 Sq. Mtrs. in the Residential Zone of Haldia Dock Complex, Haldia.		No rate shall be quoted here. Only online quoting is admissible.

#### Note:

1. The tenderer shall have to quote the amount in figure which they intend to pay in addition to the reserved rate of rent per 100 sqm / month (i.e. Rs. 1806.36). In addition, the GST as applicable shall also be payable by the successful bidder.
2. The quoted rate shall exclude GST.
3. The price bid shall contain rate of rent per 100 sqm only and no condition whatsoever. Any condition imposed in the price bid shall make the bid liable for rejection.
4. Earnest money of the bidder shall be forfeited and the bidder will not be qualified if the tenderer does not quote any amount or any negative value in the prescribed format of the price bid.
5. The bidder quoting the highest rate of rent per 100 sqm / month in addition to the reserved rate of rent per 100 sqm / month shall be declared as H1 bidder and shall be offered this particular work of construction, operation and maintenance of the STP for a period of 15 years.
6. In case of allotment of higher area than that of presumed at the time of bidding, the successful tenderer shall be liable to pay the license fee at the finalized rate of the bid quoted by the bidder
7. The base rate is susceptible to be revised @ 2% per annum.

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**DECLARATION BY THE BIDDER**

(To be submitted on Company's Letter Head along with Techno Commercial Bid duly stamped and signed)

General Manager (Engg.),  
Haldia Dock Complex.  
SMP, Kolkata

**SUB: SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND  
OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE  
NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX**

Dear Sir,

We do hereby confirm that our offer is strictly in accordance with the terms and conditions of the Bid Document without any deviation / condition.

We further confirm that Price Part of the bid does not contain any condition / deviation.

---

Signature of the Bidder with Office Seal.

Date:

Place:



**DECLARATION BY THE BIDDER**

(To be submitted on Company's Letter Head along with Techno Commercial Bid duly stamped and signed)

General Manager (Engg.),  
Haldia Dock Complex.  
SMP, Kolkata

**SUB: SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX**

Dear Sir,

- a) The bidding firm has not been debarred / delisted by any Govt / Quasi Govt. / Public sector undertaking in India.
- b) The proprietor / partner(s)/ authorised signatory of the bidding firm is/are not associated with other firm bidding for the same work.
- c) The bidding firm accepting that if they withdraw or modify their bids during period of validity of the offer, they will be suspended for three years.

---

Signature of the Bidder with Office Seal.

Date:

Place:

**CONCURRENT COMMITMENT(S) OF THE BIDDER**

Sl. No.	Full particulars of works to be executed concurrently by the bidder. (i) Name of work. (ii) Client. (iii) W.O. No. & Date.	Sanctioned Bid Value. (in Rs.)	Completion time as stated in bid.	Name and address to whom reference can be made.
1	(i)			
	(ii)			
	(iii)			
2	(i)			
	(ii)			
	(iii)			
3	(i)			
	(ii)			
	(iii)			
4	(i)			
	(ii)			
	(iii)			

**BIDDER'S PROFILE**

(To be submitted with Techno Commercial Bid)

The Bidders are also requested to furnish the following particulars:-

A) In case of Limited Company -

- 1) Name of Company :
- 2) Address of its present registered office. :
- 3) Date of its incorporation :
- 4) Full name and address of each of its Directors – any special particulars as to Directors if desire to be stated. :
- 5) Name, address and other necessary particulars of Managing Agents, if any appointed by the Company. :
- 6) Copies of Memorandum, Articles of Association (with the latest amendments, if any). :
- 7) Copies of audited balance sheets of the Company for the last two years. :

B) In case of a firm -

- 1) Name and address of the firm. :
- 2) When business started :
- 3) If registered a certified copy of certificate of registration. :
- 4) A certified copy of the Deed of Partnership :
- 5) Full name and address of each of the partners and the interest of each partner in the partnership – any special particulars as to partners if desired to be stated. :
- 6) Whether the firm pays income tax over Rs.10, 000/- per year :

C) In case of an Individual:

- 1) Full name and address of the Bidder any :  
special particulars of the Bidder if desired to  
be stated.
- 2) Name of the father of the Bidder. :
- 3) Whether the Bidder carries on business in :  
his own name or any other name.
- 4) When business was started and by whom. :
- 5) Whether any other person is interested in :  
the business directly or indirectly, if so,  
name and address etc. of such persons and  
the nature of such interest.
- 6) Whether the Bidder pays Income Tax over :  
Rs.10, 000/- per year.

Dated:

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(Full signature of Bidder)

**ABSTRACT FORM OF BID (UNPRICED)**

(To be submitted with Techno Commercial Bid)

I / We hereby bid for the under mentioned work for its execution within the specified time and in accordance, in all respects with the specifications, design, drawing and instructions in writing and with such materials as are provided for, by and in all other respects in accordance with such conditions so far as practicable.

(a) Name of Work. : **SURVEY, INVESTIGATION, DESIGN, FINANCE, CONSTRUCTION, TESTING, COMMISSIONING AND OPERATION OF 4.0 MLD SEWAGE TREATMENT PLANT ON DBFOT BASIS, REHABILITATION OF SEWAGE NETWORK AND LAYING OF TREATED WATER NETWORK FOR HALDIA DOCK COMPLEX.**

(c) Earnest Money : Rs. 25,64,000.00 [ Rupees Twenty Five Lakhs Sixty Four Thousand only] as Earnest Money, physically to Haldia Dock Complex, through DD / Banker's Cheque in favour of Syama Prasad Mookerjee Port, Kolkata, Haldia Dock Complex on any Scheduled / Nationalized Bank , payable at Haldia , otherwise, their bid will be summarily rejected, treating the same as non-responsive. Scanned copy of the DD / Banker's Cheque should be uploaded.

(e) Time allowed for completion of the work : 18 ( Eighteen ) Months.

(f) Permanent I/T A/C No. :

(g) Maximum number of workmen to be engaged on any day. :

(h) Bank Details

Name of Bank: Branch:

Branch Code: Account Number:

IFS Code: -

(Signature of the Bidder)

Witness:

Address:

(Name in block letters)

Address: - Occupation: -

**FORM OF BID**

(To be submitted with Techno Commercial Bid)

General Manager (Engg.),  
Haldia Dock Complex.  
SMP, Kolkata

I/We \_\_\_\_\_  
\_\_\_\_\_ having examined the site of work, inspected the Drawings and read the specifications, General & Special Conditions of Contract and Conditions of the Bid, hereby bid and undertake to execute and complete all the works required to be performed in accordance with the Specification, Bill of Quantities, General & Special Conditions of Contract and Drawings prepared by or on behalf of the Trustees and at the rates & prices set out in the annexed Bill of Quantities within \_\_\_\_\_ months / weeks from the date of order to commence the work and in the event of our bid being accepted in full or in part. I / We also undertake to enter into a Contract Agreement in the form hereto annexed with such alterations or additions thereto which may be necessary to give effect to the acceptance of the Bid and incorporating such Specification, Bill of Quantities, Drawing and Special & General Conditions of Contract and I / We hereby agree that until such Contract Agreement is executed the said Specification, Bill of Quantities, Conditions of Contract and the Bid, together with the acceptance thereof in writing by or on behalf of the Trustees shall be the Contract.

I / We require \_\_\_\_\_ days / months preliminary time to arrange and procure the materials required by the work from the date of acceptance of bid before I We could commence the work.

I / We have deposited with the Trustees' Manager (Finance), HDC, vide Receipt No. \_\_\_\_\_ of \_\_\_\_\_ as Earnest Money.

I / We agree that the period for which the bid shall remain open for acceptance shall not be less than four months.

Dated:

\_\_\_\_\_  
(Signature of Bidder with Seal)

WITNESS :

Name of the Bidder :

Signature :

Name:

Address :

(In Block letters)

Address :

Occupation:

**CHECK LIST**

(TO BE FILLED- UP BY THE BIDDER)

1	Declarations The bidding firm has not been debarred / delisted by any Govt / Quasi Govt. / Public sector undertaking in India. b) The proprietor / partner(s)/ authorised signatory of the bidding firm is/are not associated with other firm bidding for the same work.	Declaration submitted	Yes / No
2	Application money towards cost of bid documents.	Deposited	Yes / No
3	Earnest Money	Deposited	Yes / No
4	Declaration as per Annex-I that no conditions / deviations have been added in Volume-II in the bid offer.	Submitted on company's letter head.	Yes / No
5	GST registration certificate.	Submitted	Yes / No
6	Valid Trade License.	Valid up to	
		Submitted	Yes / No
7	Professional Tax Clearance Certificate. / Upto date tax payment challan.	Valid up to	
		Submitted	Yes / No
8	Valid Employees' Provident Fund Account	Submitted	Yes / No
		Photo copy of latest payment challan of EPF submitted	Yes / No
9	ESI registration	Submitted	Yes / No
		Photo copy of latest payment challan of ESI submitted	Yes / No
10	Details of firm as per Bidder's Profile	Format fill-up	Yes / No
11	Concurrent Commitments of the Bidder	Format fill-up	Yes / No
12	Credential within seven years	i) Amount	
		ii) Amount	
		iii) Amount	
		Credentials as per pre-qualification criteria.	Yes / No
		Letter of award works and completion certificate from owners are enclosed.	Yes / No
13	Certified copies of audited balance sheet	i) Turnover amount and year	
		ii) Turnover amount and year	
		iii) Turnover amount and year	
		Certified by the CA / FA	Yes / No

Signature of the bidder with seal

# **GENERAL CONDITIONS OF CONTRACT**



## GENERAL CONDITIONS OF CONTRACT

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Clause no	Particulars	Clause no	Particulars
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1	Definitions	27	No Interest payable
2	Interpretations and Documents	28	Tax
3	Language and Law	29	Check Measurements
4	Communications	30	Events of Default
5	Scope of Contract	31	Consequences of Termination
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7	Site Ownership	33	Performance Security and O&M Security
8	Subcontracting	34	Payment Terms
			<b>E Finishing the Contract</b>
9	General Obligations of the Contractor	35	Final Survey and Hand-Over Requirements
10	Representations and Warranties	36	Currencies
11	Force Majeure	37	Labour
12	Contractor's Risks	38	Compliance with Labour Regulations & Construction Safety
13	Indemnity	39	Audit and Technical Examination
14	Discoveries	40	Death and Permanent Invalidity of Contractor
15	Dispute Resolution	41	Miscellaneous
	<b>B. Time Control</b>		
16	Construction Period		
17	Construction Timelines and Final Completion		
18	O&M Period		
19	KPIs for O&M Period		
20	Liquidated Damages		
21	Extension of Time and Delay Events		
	<b>C. Quality Control</b>		
22	Correction of Defects noticed during the Defect Liability Period		
23	Project Engineer/ Independent Consultant		
24	Variation		
25	Change in Law		
22	Variations - Change in original Specifications, Designs, Drawings etc.		

## **A. General**

### **1. Definitions**

- 1.1. Affected Party:** shall have the meaning provided in Clause 11.1.
- 1.2. Applicable Laws:** means the Constitution of India and all and any laws, enacted or brought into force and effect by the Government of India, any State Government, any Government Authority or any local government having jurisdiction over the Parties, the Site or the Project, including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, as may be applicable to the execution of this Agreement and the performance of the respective rights and obligations of the Parties, as may be in force and effect during the subsistence of this Contract.
- 1.3. Applicable Permits:** means any permissions, clearances, concessions, authorizations, consents, licenses, permits, rulings, exemptions, no objections, resolutions, filings, orders, notarizations, registrations or approvals of whatsoever nature that are required to be obtained from time to time in connection with the Project, and for generally performing the obligations contemplated by this Contract in accordance with the Applicable Laws.
- 1.4. Appointed Date:** shall mean the date of execution of this Contract.
- 1.5. Arbitration Act:** shall mean the Arbitration and Conciliation Act, 1996 and all amendments thereto.
- 1.6. Authorized Laboratory:** shall have the meaning provided in Clause 18.4 (f).
- 1.7. Availability:** shall have the meaning provided in Clause 19.1.
- 1.8. Availability Liquidated Damages:** shall have the meaning provided in Clause 20.8.
- 1.9. Bid:** shall mean the documents in their entirety comprised in the bid submitted by the Selected Bidder in response to the Request for Proposal in accordance with the provisions thereof.
- 1.10. Bid Project Cost:** shall mean the total cost being incurred by the Contractor for conducting the construction during the Construction Period as specified by the Contractor.
- 1.11. Bid Security:** shall have the meaning provided in the ITB.
- 1.12. Change in Law:** means the occurrence of any of the following after the date of Bid:
- a)** the enactment of any new Indian law as applicable to the Project;
  - b)** the repeal, modification or re-enactment of any existing Indian law;
  - c)** the commencement of any Indian law which has not entered into effect until the date of Bid;
  - d)** a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of Bid; or
  - e)** any change in the rates of any of the Taxes that have a direct effect on the Project;

but shall not include (i) any change in any withholding or other tax on income or dividends distributed to the shareholders of the Contractor; (ii) imposition of standards and condition of operations, maintenance and safety arising out of a new or revised environmental safety laws;

or (iii) imposition of standards and terms of employment and working conditions of labourers and workmen.

- 1.13. COD:** shall mean commercial operations date.
- 1.14. COD Certificate:** means the certificate issued by the Employer to the Contractor upon the issuance of the Trial Operations Completion Certificate for the Facility.
- 1.15. Completion Certificate:** shall together mean the Milestone Completion Certificates and the Final Construction Completion Certificate.
- 1.16. Conditions Precedent:** shall mean means collectively, the obligations of the Contractor that are set out at Clause 6.2, the obligations of the Employer that are set out at Clause 6.3 and 'Condition Precedent' means any one of them.
- 1.17. Confidential Information:** shall mean means any part of this Contract, or any information contained therein or any material provided to any Party pursuant to this Contract, all of which information shall be deemed to be confidential, except to the extent that this Contract otherwise requires.
- 1.18. Construction Period:** shall have the meaning provided in Clause 16.1.
- 1.19. Construction Plan:** means the detailed construction plan for the Facility and the to be prepared by the Contractor, which will set out the work to be performed by the Contractor to achieve each of the Milestones and which has been approved by the Employer and the Project Engineer.
- 1.20. Construction Payment:** shall mean the payments to be made to the Contractor during the Construction Period, upon satisfactory completion of the Milestones.
- 1.21. Contract:** means the Contract between the Employer and the Contractor to execute, complete and/or maintain the work and shall include the General Conditions of Contract (GCC) and the Special Conditions of Contract (SCC).
- 1.22. Contract Price:** shall mean the total price quoted by the Selected Bidder at the time of bidding for performing activities contemplated under this Contract and the ITB.
- 1.23. Contractor:** means a person or legal entity whose bid to carry out the work has been accepted by the Employer.
- 1.24. Contractor Event of Default:** shall have the meaning ascribed to it in Clause 30 A.
- 1.25. Contractor's bid:** means the completed bid document submitted by the Contractor to the Employer.
- 1.26. Construction Payment:** shall mean the payments which the Authority shall make in accordance with Clause 31.3.
- 1.27. CP Waiver Notice:** shall have the meaning provided in Clause 6.1.
- 1.28. Defect:** means any part of the work not completed in accordance with the Specifications and Drawings included in the Contract.

- 1.29. Defect Liability Period:** shall have the meaning ascribed to it in Clause 22.1.
- 1.30. Delay Event:** shall have the meaning provided in Clause 21.1.
- 1.31. Delay Liquidated Damages:** shall have the meaning ascribed to it in Clause 20.1.
- 1.32. Department:** means department Haldia Dock Complex.
- 1.33. Design Capacity:** means the average flow of Sewage that the Facility should be designed to handle and treat in a day.
- 1.34. Digested Sludge:** means the sludge which is obtained after treatment and digestion of the Sewage.
- 1.35. Direct Political Force Majeure Event:** shall have the meaning provided in Clause 11.1 C.
- 1.36. Dispute:** shall have the meaning ascribed to it in Clause 15.
- 1.37. Dispute Notice:** shall have the meaning provided to it in Clause 15.
- 1.38. Drawings:** means such drawings including calculations and other information provided by the Contractor and approved by the Project Engineer or Technical Institution.
- 1.39. Effective Date:** shall mean the date on which the conditions precedent mentioned in Clauses 6.2 and 6.3 of this Contract have been fulfilled or waived off by the Contractor or the Employer, as the case may be, in accordance with this Contract.
- 1.40. Employer:** means the party who employs the Contractor to carry out the work.
- 1.41. Employer Event of Default:** shall have the meaning provided in Clause 30.5.
- 1.42. Emergency:** means a condition or situation that endangers, or which in the reasonable opinion of the Employer, the Project Engineer or the Contractor, may endanger the environment or lives or security of people at or around the Site or that poses an imminent threat of material damage to any property (including the Facility itself) at or around the Site.
- 1.43. Engineer in charge:** means the nodal officer of the Employer engaged for the purpose of commissioning of Facility, execution and overall operation and maintenance of the Project.
- 1.44. EHS Plan:** means the environment management and health and safety plan prepared by the Contractor and approved by the Employer and the Project Engineer or the Technical Institution.
- 1.45. Equipment:** means the Contractor's machinery and vehicles brought temporarily to the Site for execution of work.
- 1.46. Facility:** shall mean the STP and all other facilities which are to be constructed in accordance with the scope of work defined in Clause 1.2 of the ITB.
- 1.47. Final Construction Completion Date:** shall mean with respect to the Facility, the date on which the Final Construction Completion Certificate is issued to the Contractor whereby the Facility shall be considered completed.

- 1.48. Final Construction Completion Certificate:** shall mean the certificate issued by the Employer to the Contractor to certify completion of construction of the Facility.
- 1.49. FM Notice:** shall refer to the notice mentioned in Clause 11.2.
- 1.50. Force Majeure Event:** shall have the meaning provided in Clause 11.1.
- 1.51. Good Industry Practice:** means the exercise of such degree of skill, diligence and prudence, and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced contractor engaged in construction, management and maintenance of STPs in India of the type and size similar to the Facility.
- 1.52. Government:** means Government of India and or any relevant state government.
- 1.53. Government Authority:** shall mean the Government of India, any state, any local government or any other ministry, governmental department, commission, board, body, bureau, agency, authority, instrumentality, inspectorate, statutory corporation or body corporate over which the Government of India exercises control, court, tribunal or other judicial or administrative body or official or person, having jurisdiction over the Contractor, the Site, the Facility and the performance of obligations and exercise of the rights of the Parties in accordance with the this Agreement.
- 1.54. Guaranteed Availability:** shall have the meaning provided in Clause 19.1.
- 1.55. Guaranteed Energy Consumption:** means the maximum number of units of power presented by the Contractor in its O&M Manual, and during the time of bidding, which it expects to consume in each year of the O&M Period.
- 1.56. Hand-Back Conditions:** shall mean the condition in which the Site and the Facility, shall be handed back to the Employer on expiry or early termination of this Contract, which is consistent with the due performance of the Contractor's obligations under this Contract.
- 1.57. Independent Consultant:** shall have the meaning provided in Clause 23.6.
- 1.58. In-house Laboratory:** shall mean the laboratory which is to be set up the by the Contractor in accordance with the terms of this Agreement at the Site for the purpose of testing the Treated Water and the raw Sewage in the manner specified in this Agreement.
- 1.59. Inlet Point:** shall mean the point mutually agreed upon between the Employer and the Contractor, at the STP where the raw Sewage samples shall be tested to check compliance with Threshold Influent Standards.
- 1.60. Indirect Political Force Majeure Event:** shall have the meaning provided in Clause 11.1 B.
- 1.61. Intellectual Property Rights:** means patents, copyrights, database rights, design rights, trade-marks, service marks, trade names, domain names, rights in reputation, rights in undisclosed or confidential information (such as know-how, trade secrets and inventions, whether patentable or not), and other rights of a like nature (whether registered or unregistered) and all applications for such rights as may exist anywhere in the world.
- 1.62. KPIs:** shall mean the key performance indicators specified in Clause 19 and Annexure 9.

- 1.63. KPI Adherence Report:** shall have the meaning provided in Clause 23.9.
- 1.64. Material Adverse Effect:** shall mean means the effect of any act or event, which materially and adversely affects the ability of any Party to exercise its rights or perform any of its obligations under and in accordance with this Contract and which act or event causes a material financial burden or loss to any Party
- 1.65. Milestone:** shall mean means the milestones listed in the Construction Plan for release of the Construction Payments to the Contractor, and 'Milestone' shall mean any one of them, as the context may require.
- 1.66. Milestone Completion Certificate:** means, in respect of any Milestone, a certificate issued by the Employer in accordance with Clause 17.2 to certify that such Milestone has been achieved in accordance with the requirements of this Contract.
- 1.67. Mobilization Advance Guarantee:** shall have the meaning provided in Clause 33.17.
- 1.68. Mobilization Advance:** shall mean an amount equivalent to 10% of the Bid Project Cost that is to be paid in advance to the Contractor for mobilization and execution of the construction works for the Facility.
- 1.69. Non-Political Force Majeure Event:** shall have the meaning provided in Clause 11.1 A.
- 1.70. Notice of Arbitration:** shall have the meaning provided in Clause 15.
- 1.71. Outlet Point:** shall mean the outlet at the STP, as agreed between the Parties, where the Treated Water shall be tested to ensure compliance with the Treated Water Standards.
- 1.72. O&M Charges:** shall mean the amount to be paid per quarter to the Contractor to operate and maintain the Facility excluding the Power Charges, during the O&M Period.
- 1.73. O&M Manual:** means the manual required to be prepared by the Contractor and approved by the Employer and the Independent Consultant, if appointed, for the operation and maintenance of the Facility in accordance with Clause 18.2.
- 1.74. O&M Payments:** means collectively the: (a) O&M Charges; and (b) Power Charges (subject to the cap of the Power Charges based on the Guaranteed Energy Consumption), to be paid by the Employer to the Contractor during the O&M Period, in accordance with this Contract.
- 1.75. O&M Period:** shall mean a period of 5 years from the COD during which the Contractor shall operate and maintain the Facility.
- 1.76. O&M Security:** shall have the meaning ascribed to it in Clause 33.3.
- 1.77. Payment Milestone:** shall have the meaning ascribed to it in Clause 34.3.
- 1.78. Performance Liquidated Damages:** shall have the meaning ascribed to it in Clause 20.10 and have been provided in Annexure 9.
- 1.79. Performance Security:** shall have the meaning ascribed to it in Clause 33.1.

- 1.80. Power Consumption Liquidated Damages:** shall have the meaning ascribed to it in Clause 34.4 (b).
- 1.81. Power Charges:** means the cost of the power consumed by the Contractor to operate and maintain the Facility during the O&M Period, which will be calculated on the basis of the prevailing Power Unit Rate.
- 1.82. Power Unit Rate:** means the cost per unit of power drawn from the grid (through a distribution licensee), which will be the prevailing tariff per unit of power charged by the relevant distribution licensee in the relevant month during the O&M Period.
- 1.83. Price Index:** shall have the meaning provided in Clause 34.4 (a).
- 1.84. Project Engineer:** shall have the meaning provided in Clause 23.1
- 1.85. Project:** means the design, construction, operation and maintenance of the Facility in accordance with the terms of this Contract.
- 1.86. Proposed Technology:** shall mean proven technology/technologies proposed to be used by the Contractor to develop the Facility, as specified by the Contractor in its Drawings.
- 1.87. Selected Bidder:** shall have the meaning given to it in the ITB.
- 1.88. STP By-Products:** means the by-products of the treatment process after the Sewage has passed through the Facility comprising the Digested Sludge, the residual grit and the screenings.
- 1.89. Specification:** means the specification of the work included in the Contract and Annexure 10 and any modification or addition made or approved by the Project Engineer or the Technical Institution.
- 1.90. Site:** means the land admeasuring acres in *[Insert location]*, required by the Contractor to develop the Facility.
- 1.91. Scheduled Bank:** shall mean a bank as defined under section 2(e) of the Reserve Bank of India Act, 1934.
- 1.92. Scheduled COD:** shall be the date which is seven days post the grant of the Trial Operation Completion Certificate.
- 1.93. Scheduled Final Construction Completion Date:** shall mean the date which is 6 months from the Effective Date, by which the Contactor is required to complete the construction of the Facility as specified in the Construction Plan.
- 1.94. Scheduled Maintenance:** means a planned maintenance of the Facility that: a) has been scheduled and allowed by the Employer in accordance with the Scheduled Maintenance Programme; and b) is for inspection, testing, preventive and corrective maintenance, repairs, replacement or improvement of the Facility, as the case may be.
- 1.95. Scheduled Maintenance Programme:** shall mean for each year of the O&M Period, the schedule for undertaking preventive and corrective maintenance of the Facility, as prepared by the Contractor and approved by the Employer.

- 1.96. Scheduled Milestone Completion Date:** means the scheduled date of completion of the construction work corresponding to the relevant Milestone as specified in the Construction Plan.
- 1.97.**
- 1.98. Sewage:** means the sewage that is in liquid, solid or semi-solid form and brought for treatment to the Facility/STP.
- 1.99. STP:** shall mean sewage treatment plant
- 1.100. Subcontractor:** means a person or corporate body who has a Contract (duly authorized by the Employer) with the Contractor to carry out a part of the construction work under the Contract.
- 1.101. Technical Institution:** shall have the meaning provided in Clause 23.7.
- 1.102. Term:** shall have the meaning provided in Clause 6.5.
- 1.103. Tender / Bid, Tenderer /Bidder:** are the synonyms and carry the same meaning where ever used.
- 1.104. Threshold Influent Standards:** means the permissible standards and characteristics set out in the Specifications for testing the incoming Sewage at the Inlet Point.
- 1.105. Treated Water:** shall mean the water which obtained after the treatment of the Sewage from the STP.
- 1.106. Treated Water Standards:** means the standards set out in Annexure 9 to which the Treated Water must comply with at the Outlet Point.
- 1.107. Trial Operations:** means the operation of the Facility on a trial basis during the Trial Period in accordance with Clause 17.6.
- 1.108. Trial Period:** means a period of 1 month from the Final Construction Completion Date during which trial runs of the Facility shall be conducted to ensure that the Facility is fit for purpose and comply with the Specifications and the KPIs, which period may be extended in accordance with Clause 17.6.
- 1.109. Trial Operations Completion Certificate:** shall mean the certificate issued by the Employer to the Contractor upon successful completion of the Trial Operations of the Facility.
- 1.110. Unscheduled Outage:** Shall mean an interruption or reduction in the availability of STP that is not a result of schedule maintenance
- 1.111. Variation:** means any change in the work which is instructed or approved by the Employer or the Contractor, as the case may be, in accordance with Clause 24.
- 1.112. Variation Order:** shall have the meaning provided in Clause 24.1.



## **2. Interpretations and Documents**

### **2.1. Interpretations**

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 vice versa.
- c. provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;
- d. written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record;

### **2.2. Documents Forming Part of Contract:**

1. NIT with all amendments.
2. Instructions to Bidders
3. Conditions of Contract:
  - i. Part I General Conditions of Contract with all Annexures
  - ii. Part II Special Conditions of Contract.
4. Specifications
5. Drawings
6. Technical and Financial Bid
7. Agreement
8. Any other document (s), as specified.

#### **2.2.1. Priority of bid document**

1. Special Condition of Contract
2. General Condition of Contract
3. Scope of Work
4. Specifications
5. Drawings

## **3. Language and Law**

The language of the Contract and the law governing the Contract shall be English and the laws of India, respectively, and the courts at **Kolkata** shall have exclusive jurisdiction over matters arising out of or relating to this Contract.

## **4. Communications**

All certificates, notice or instruction to be given to the Contractor by the Employer shall be sent on the address or contact details given by the Contractor in the ITB. The address and contract details for communication with the Employer shall be as per the details given below:

**Employer:**

**Name of designated official:**

**Address:**

**Phone Number:**

**Fax:**

**Email id:**

**Contractor:****Name of designated official:****Address:****Phone Number:****Fax:****Email id:**

Communication between parties that are referred to in the conditions shall be in writing. The notice sent by facsimile (fax) or other electronic means (email) shall also be effective on confirmation of the transmission. The notice sent by registered post or speed post shall be effective on delivery or at the expiry of the normal delivery period as undertaken by the postal service. In case of any change in address for communication, the same shall be immediately notified to Engineer-in-Charge.

**5. Scope of Contract****5.1.** The scope of the Project shall be as follows:

- a) Designing, constructing and completing the Facility by the Scheduled Final Construction Completion Date, in accordance with Applicable Laws, Applicable Permits, Specifications, Drawings, the Construction Plan, the EHS Plan and Good Industry Practices.
- b) Operating and maintaining the Facility in accordance with Applicable Laws, Applicable Permits, Specifications, Drawings, the O&M Manual, EHS Plan and Good Industry Practices to ensure compliance with the KPIs.

**5.2.** In accordance with the terms of this Contract, on and from the Effective Date and subject to Applicable Laws and Applicable Permits, the Employer grants to the Contractor, the exclusive right to:

- a) design, construct, develop and complete the Facility during the Construction Period; and
- b) upon completion of construction of the Facility, operate and maintain the Facility during the O&M Period.

**5.3.** The grant of the concession mentioned above, shall entitle the Contractor to do the following:

- a) access to the Site from the Effective Date, for the sole purpose of implementing the Project;
- b) apply for and obtain all Applicable Permits and utilities required to undertake the Project;
- c) complete the construction of the Facility on or before the Scheduled Final Construction Completion Date;
- d) upon completion of construction of the Facility, undertake Trial Operations during the Trial Period;
- e) upon successful completion of the Trial Operations, operate and maintain the Facility for 5 years;
- f) receive, treat and process Sewage in accordance with the Treated Water Standards;
- g) receive the Construction Payments during the Construction Period and the O&M Payments during the O&M Period, subject to compliance with the terms and performance of the obligations under this Contract; and
- h) appoint Subcontractors and enter into subcontracts to undertake the Project, with the prior approval of the Employer.

**5.4. Proposed Technology**

- a) The Contractor shall design and develop the Facility on the basis of the Proposed Technology, approved by the Employer.

- b) If the Selected Bidder is the owner of the Proposed Technology, then the Contractor shall enter into a technology license agreement with the Selected Bidder, under which the Selected Bidder will grant to the Contractor an irrevocable, perpetual, assignable and royalty-free license to use the Proposed Technology to develop and operate the Facility.
- c) If the Selected Bidder does not own the Proposed Technology, then the Contractor shall, at its own cost, enter into a technology license agreement with the technology provider, under which the technology provider will grant to the Contractor an irrevocable, perpetual, assignable and royalty-free license to use the Proposed Technology. At no point will the Employer be obliged to make any payments to the Contractor towards the licensing and use of the Proposed Technology.
- d) Upon the expiry or early termination of this Contract, as the case may be, the Contractor shall assign the license and related rights to use the Proposed Technology to operate and maintain the Facility to the Employer at no additional cost to the Employer.
- e) The Contractor shall indemnify the Employer for any claims, losses, damages and costs suffered by the Employer as a result of an infringement of any third party's Intellectual Property Rights caused by the operation and use of the Facility.

## **6. Conditions Precedent and Term**

### **6.1. Effectiveness**

- a) Unless otherwise specified in this Clause 6, the day on which all of the Conditions Precedent have been satisfied in accordance with this Clause 6 shall be the Effective Date. Provided however that each Party may, at its discretion and subject to Applicable Laws, either waive any of the Conditions Precedent or extend the time period for fulfilment of any or all Conditions Precedent to be fulfilled by the other Party, on the issuance of a notice to the other Party prior to the Effective Date (**CP Waiver Notice**), stating that:
  - (i) The Condition Precedent is being waived; or
  - (ii) The number of days by which the time period for fulfilment of the Condition Precedent is being extended after the Effective Date
- b) This Clause 6, Clause 5 (Scope of the Project and Grant of the Concession), Clause 33 (Performance Securities, O&M Securities and Mobilization Advance), Clause 23 (Project Engineer and Independent Consultant), Clause 13 (Indemnity), Clause 25 (Change in Law), Clause 11 (Force Majeure), Clause 15 (Dispute Resolution), Clause 10 (Representations and Warranties) and the related Annexures, shall come into full force and effect and be binding on the Parties on and from the Appointed Date and continue until such time as this Contract expires or is terminated in accordance with its terms. The other provisions of this Contract shall come into full force and effect and be binding on the Parties on and from the Effective Date and continue until such time as this Contract expires or is terminated in accordance with its terms.

### **6.2. Conditions Precedent to be fulfilled by the Contractor**

The Contractor shall fulfil the following Conditions Precedent prior to or on the Effective Date:

- a) prepare the Drawings within 45 days from the Appointed Date and submit the Drawings to the Employer for its approval in accordance with Clause 16.4;
- b) prepare the Construction Plan within 45 days from the Appointed Date and submit the Construction Plan to the Employer for its approval in accordance with Clause 16.5;
- c) prepare the EHS Plan within 45 days from the Appointed Date and submit the EHS Plan to the Employer for its approval in accordance with Clause 16.6;

- d) obtain all Applicable Permits or any other statutory permits that are required for commencement of construction of the Facility and if such Applicable Permits are subject to any conditions, then, to the extent relevant, comply with all such conditions, such that the Applicable Permits are and shall be kept in full force and effect for the entire Construction Period, or such longer period as may be required under Applicable Laws;
- e) submit to the Employer certified true copies of all resolutions adopted by the board of directors of the Contractor authorising execution, delivery and performance of this Contract;
- f) execute a shareholders' agreement amongst the shareholders of the Contractor, and deliver to the Employer a certified true copy of the shareholders' agreement (attested by a director of the Contractor)<sup>2</sup>; and
- g) submit to the Employer certified true copies of the constitutional documents of the Contractor.

### **6.3. Conditions Precedent to be fulfilled by the Employer**

The Employer shall satisfy the following conditions precedent prior to the Effective Date (if not already fulfilled at the time of the Appointed Date):

- a) obtain all necessary rights of way to the Site and grant access to the Site to the Contractor, free of encumbrances;
- b) subject to Clause 6.2(a), review and approve the Drawings within 15 days of receipt of Drawings in accordance with Clause 16.4;
- c) subject to Clause 6.2(b), review and approve the Construction Plan within 15 days of receipt of Construction Plan in accordance with Clause 16.5;
- d) subject to Clause 6.2(c), review and approve the EHS Plan within 15 days of receipt of EHS Plan in accordance with Clause 16.6;
- e) obtain all approvals and consents, including any and all Applicable Permits if required under Applicable Law for Employer to enter into this Contract and undertake the Project;
- f) provide access road(s) to the Site which are capable of being used for transportation of equipment and material to the Site for the construction of the Facility; and
- g) appoint the Project Engineer in accordance with Clause 23A.

### **6.4. Consequences of failure to fulfil Conditions Precedent**

- a) If the Contractor fails to satisfy any of the Conditions Precedent that it is required to fulfil by the Effective Date or by the extended date mentioned in a CP Waiver Notice, the Employer shall be entitled to terminate this Contract forthwith by issuing a notice to the Contractor.
- b) If the Employer fails to satisfy any of the Conditions Precedent that it is required to fulfil by the Effective Date or by the extended date mentioned in the CP Waiver Notice, the Contractor shall be entitled to terminate this Contract forthwith by issuing a notice to the Employer.

#### **A. If the Contractor has failed to satisfy any of the Conditions Precedent and this Contract is terminated in accordance with this Clause 6.4, then:**

- a) The Performance Security shall be forfeited by the employer as a genuine pre-estimate of and reasonable compensation for loss and damage caused to the Employer as a result of the Contractor's failure to satisfy any of the Conditions Precedent and the consequent termination of this Contract;
- b) the Contractor shall not be entitled to receive any payment or compensation from the Employer for the costs and expenses incurred by the Contractor in performing any of its obligations under this Contract (including preparing any Drawings, the Construction Plan and the EHS Plan) prior to the termination of this Contract;

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<sup>2</sup> To be removed if the Bidder is not a Consortium.

- c) the Employer shall hand over to the Contractor the Drawings, the Construction Plan, the EHS Plan and any other document submitted by the Contractor to the Employer prior to termination of this Contract; and
- d) if the access to any part of the Site has been granted to the Contractor prior to termination of this Contract, then upon termination of this Contract, the Contractor shall clear the Site and remove all debris, hazardous materials, construction materials, equipment, temporary works, work sheds, labour camps and all other temporary installations on the Site.

**B. If the Employer has failed to satisfy any of the Conditions Precedent and this Contract is terminated as per this Clause 6.4, then:**

- a) the Employer shall return the Performance Security submitted by the Contractor;
- b) the Contractor shall hand over to the Employer all documents, designs, plans, data provided by the Employer to the Contractor prior to termination of this Contract;
- c) the Employer shall hand over to the Contractor, the Drawings, the Construction Plan, the EHS Plan and any other document submitted by the Contractor to the Employer prior to termination of this Contract; and
- d) if the access to any part of the Site has been granted to the Contractor prior to termination of this Contract, then upon termination of this Contract, the Contractor shall clear the Site and remove all debris, hazardous materials, construction materials, equipment, temporary works, work sheds, labour camps and all other temporary installations on the Site.

Upon termination of this Contract, pursuant to this Clause 6, other than to the extent specified in this Clause 6, no Party shall have any liability to the other Parties in connection with this Contract.

## **6.5. Term**

Subject to early termination in accordance with Clause 11 (Force Majeure) or Clause 30 (Events of Default), this Contract shall come into full force and effect on the Effective Date and remain in full force and effect until the expiry of the O&M Period (i.e., 5 years from the COD) ("**Term**")

## **7. Site Ownership**

### **7.1. Grant of License**

The Employer shall grant the Contractor a license over the Site, along with all necessary rights of way, to enter upon, access and occupy the Site, free of all Encumbrances in accordance with this Clause 7, Applicable Laws, and Applicable Permits. The license granted to the Contractor shall include the exclusive right to:

- a) design, construct and commission the Facility at the Site
- b) operate and maintain the Facility during the O&M Period;
- c) install, operate, use, maintain, and remove such equipment, devices or other structures and improvements on, over, or under the Site, as may be necessary or appropriate for the operations and activities required or permitted under this Contract;
- d) use access roads, gates, fences and utilities at or about the Site
- e) construct, use, operate, maintain, replace and repair electric lines, telecommunication lines, water supply networks and other utilities at the Site required to undertake the Project.

- 7.2.** The Employer shall be obligated to provide right of way to the Site to the Contractor on the Effective Date. However, if on the Effective Date the whole right of way has not been provided, the Employer and the Contractor shall execute a memorandum setting out the right of way, which has not been granted to the Contractor. The memorandum will also set out the time period within which the Employer will grant such right of way to the Contractor.

**7.3.** If the Employer fails to grant the necessary right of way to the Contractor within 120 days of the Effective Date, it will be treated as an Employer Event of Default, which will give the Contractor a right to terminate this Contract in accordance with Clause 30.6.

**7.4.** The Contractor agrees that if the Employer grants the Contractor all necessary rights of way within 120 days of the Effective Date, the Contractor shall be required to adhere to the Construction Plan and complete the construction of the Facility by the Scheduled Final Construction Completion Date.

**7.5.** The Contractor shall not without the prior written consent or approval of the Employer use the Site for any purpose other than to undertake the Project and purposes incidental thereto, as permitted under this Contract or as may be otherwise approved by the Employer.

**7.6.** The full ownership and title over the Site shall vest with the Employer for the entire Term.

**7.7.** The Employer warrants that the Contractor shall, subject to complying with the terms and conditions of this Contract, occupy the Site, from such time that access is granted to the Contractor and until the expiry of the Term. If the Contractor is obstructed by any person claiming any right, title or interest in or over the Site or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have a charge on the Site or any part thereof, the Employer shall, if called upon by the Contractor, defend such claims and proceedings.

**7.8.** The license granted by the Employer shall automatically terminate upon termination of this Contract or expiry of the Term.

**7.9. Right, Title and Interest in the Facility**

- a) The full ownership, rights and title to the Facility constructed or installed by the Contractor pursuant to this Contract shall vest with the Employer during the entire Term and thereafter. The Contractor shall have the right to enter upon the Site, access and operate the Facility during the Term, to exercise its rights and fulfil its obligations under this Contract.
- b) During the Term, the Contractor shall not sell or create any charge or encumbrances over the Site or the Facility. Furthermore, the Contractor shall not dispose any assets forming part of the Facility, other than for the purposes of replacement due to normal wear and tear and shall under no circumstance novate, assign the rights provided under this Contract.

**7.10. Site Related Covenants**

The Contractor agrees and undertakes that:

- a) the Contractor shall not transfer, alienate, assign, dispose of, sub-license or create any security over any part of the Site or its rights and interest in the Site, other than as specifically permitted under this Contract;
- b) the Contractor shall not allow any encroachment on, or unauthorised occupation of any part of the Site and in the event of any encroachment or unauthorised occupation, the Contractor shall immediately cause such encroachment or any unauthorized occupants to be removed from the Site. The Contractor shall not be entitled to any extension of time or costs incurred in removal of any encroachment or any unauthorized occupants from the Site;
- c) the grant of any rights to a Subcontractor or any other third party shall not interfere with or hinder the performance of the Contractor's obligations under this Contract;

- d) the Contractor shall be wholly responsible for safety at and security of the Site and the Facility;
- e) the Contractor shall take all necessary measures to confine its operations, personnel and equipment to the Site and not encroach on any adjoining property;
- f) all minerals, fossils, articles of value or antiquity, structures and other remains or things of geological or archaeological interest and other objects with historic, antique or monetary value discovered at, on or under the Site shall be dealt with in accordance with Applicable Laws and the Contractor shall take all necessary precautions to prevent its or its Subcontractor's personnel from removing or damaging any such article or thing. Further, immediately upon the discovery of any such article or thing of value, the Contractor shall inform the Employer of such discovery and carry out the instructions of the Employer in this regard; and
- g) the Contractor shall use all reasonable endeavours not to do or permit to be done anything which might cause destruction, scarring or defacing of natural surroundings in the vicinity of the Site and/or be or become a danger or nuisance or give rise to liability in tort to any owners or occupiers of the adjoining property or to members of the public or cause any contamination or damage to any adjoining property.

#### **7.11. Access to the Site**

The Contractor shall ensure that the Employer, and if required under any Applicable Law, any relevant Government Authority has access to the Site and the license granted to the Contractor over the Site shall always be subject to the rights of Employer and other Government Authorities to enter upon and access the Site to inspect and monitor the progress of the Project, and for the exercise of their rights and the performance of their obligations under this Contract. Provided that the Employer and Government Authority shall ensure that the exercise of the inspection or monitoring rights do not impede or obstruct the construction and/or operation of the Facility in any manner whatsoever.

If any physical damage is caused to the Site or the Facility as a result of such access and use of the Site by the Employer or Government Authority then the Employer shall bear the costs of remedying such damage and restoring the Site and the Facility.

#### **8. Subcontracting**

In respect of the Construction Period as well as the O&M Period, subcontracting shall be permitted for contracts provided there is compliance with following conditions.

- a) The Contractor may subcontract up to 25 percent of the Contract Price, only with and after the approval of the Employer in writing, but will not assign the Contract. Subcontracting shall not alter the Contractor's obligations.
- b) The Contractor shall provide a copy of each proposed subcontract, along with details of the relevant Subcontractor, to the Employer for its approval, which should set out the precise scope of work to be subcontracted to such Subcontractor and should be consistent with the terms of this Contract.
- c) The Contractor shall provide a notice to the Employer seeking approval to subcontract and the Employer shall within 15 days provide its approval or rejection, as the case may be. If the Employer does not notify its approval or rejection of any subcontract to the Contractor within 15 days of the receipt of the draft subcontract, then such subcontract will be deemed to be approved by the Employer.
- d) While providing the approval for appointing a Subcontractor by the Contractor, the Employer shall take cognizance of the fact that the Subcontractor being appointed shall have the requisite skill, expertise and capability to perform the relevant obligations of the Contractor during the Construction Period and/or the O&M Period, as the case may be. Further the Employer shall also take cognizance of the fact that the subcontract entered into is not inconsistent with the terms of this Contract and that the Contractor shall still remain responsible for overall supervision for all works and services being undertaken under the subcontract.

- e) Within 7 days of the execution of an amendment to any approved subcontract, the Contractor shall submit a copy of such amendment to the Employer for its review. The Employer shall at its discretion either approve such amendment or reject the amendment if the Employer is of the opinion that such amendment will violate the terms of this Contract or will be in violation of any Applicable Law.
- f) Notwithstanding any subcontract entered into, the Contractor shall be responsible for the supervision and monitoring of the performance of any work or services by the Subcontractors during both the Construction Period and the O&M Period.
- g) The following shall not form part of the sub-contracting:
  - i. hiring of labour through a labour contractor,
  - ii. the purchase of materials to be incorporated in the works,

Notwithstanding the approval of any Subcontractor by the Employer, the Contractor shall be and remain liable under this Contract for all work and services subcontracted under this Contract and for all acts, omissions or defaults of any Subcontractor. No default under any Subcontract shall excuse the Contractor from its obligations or liabilities under this Contract. All references in this Contract to any act, default, omission, breach or negligence of the Contractor shall be construed to include any such act, default, omission, breach or negligence of the Subcontractors.

## **9. General Obligations of the Contractor and Employer**

### **9.1. Contractor's Obligations for Construction Period**

The following shall be the general obligations which are to be fulfilled by the Contractor during the Construction Period:

- a) complete the work corresponding to each Milestone by the Scheduled Milestone Completion Date and complete the construction of the Facility by the Scheduled Final Construction Completion Date in a manner that is in compliance with the Specifications, Drawings, the EHS Plan, the Construction Plan, Applicable Laws, Applicable Permits and Good Industry Practices;
- b) the Facility constructed is free from all defects in design, materials and workmanship and are safe, reliable and fit for purpose;
- c) maintain and comply with the conditions of all Applicable Permits in undertaking the construction of the Facility;
- d) provide all necessary assistance to the Project Engineer/Technical Institution/Engineer-in-Charge and the Employer in undertaking inspection of the Facility, and in performing its other obligations and duties under this Contract;
- e) reasonably consider and act upon the comments/suggestions made by the Project Engineer/Technical Institution/Engineer-in-Charge and the Employer during any meetings with the Contractor;
- f) take all necessary measures to maintain the safety and security of personnel, material and property at the Site, in accordance with the approved EHS Plan and all Applicable Laws;
- g) ensure that all excavated materials, earthworks, waste materials and hazardous substances are stored and/or disposed in accordance with the EHS Plan, Applicable Laws and Applicable Permits;
- h) submit monthly reports to the Project Engineer or the Technical Institution or the Engineer-in-Charge, as the case may be, (with a copy to the Employer), no later than 10 days after the end of each month, which should set out the following:
  - extent of progress of construction activities performed by the Contractor for the Facility;
  - comparison of actual progress against the planned progress of construction works, reasons for delay, if any and steps taken by the Contractor to mitigate the delay;
  - details of any accident or hazardous incident at the Site and the steps taken by the Contractor to mitigate the consequences of such accident or hazardous incident; and
  - status of rectification of defects and/or deficiencies discovered by the Project Engineer/Technical Institution/Engineer-in-Charge or the Employer.



- i) ensure that an adequate number of suitably skilled and experienced contractors, architects, workmen and other personnel are engaged to undertake the Project. The Contractor shall be solely responsible for the work performed by any staff and labour engaged by it to execute the Project;
- j) take all reasonable measures to ensure that the transportation of any of the Contractor's or the Subcontractor's personnel or equipment, to or from the Site, does not interfere with local traffic in the vicinity of the Site;
- k) arrange for all equipment, machinery, tools and other resources required to undertake the Project and be solely responsible for such equipment, machinery, tools and resources; and
- l) maintain accurate and systematic accounts and records of goods and material utilised and other costs and expenses incurred in connection with the construction works for the Facility, including all invoices, receipts, challans, vouchers, quotations and other records and documents with respect to the Facility in accordance with Applicable Laws.

## **9.2. Contractor's O&M Period Obligations**

During the O&M Period, the following shall be the Contractor's general obligations:

- a) The Contractor shall operate and maintain the Facility in a manner that is in compliance with the Specifications, O&M Manual, Applicable Laws, Applicable Permits and Good Industry Practice and thereby ensures smooth and efficient treatment of sewage;
- b) The Contractor shall maintain the safety and security of personnel, material and property at the Site, in accordance with the approved EHS Plan, Applicable Laws and Applicable Permits;
- c) The Contractor shall ensure that all waste materials and hazardous substances are stored and/or disposed in accordance with the EHS Plan, Applicable Laws and Applicable Permits;
- d) The Contractor shall provide all necessary assistance to the Independent Consultant or any other personnel appointed by the Employer in undertaking inspection and monitoring of the operation and maintenance of the Facility;
- e) The Contractor shall reasonably consider and act upon the comments/suggestions made by the Independent Consultant or any other personnel appointed by the Employer during any meetings of the Contractor with its Subcontractors;
- f) The Contractor shall provide the Employer and the Independent Consultant, if so appointed, with reasonable access to the Site during office hours to monitor and inspect the Facility; and
- g) The Contractor shall arrange for all equipment, machinery, tools and other resources required to undertake the operation and maintenance of the Facility and shall take all reasonable measures to ensure that the transportation of any of the Contractor's or the Subcontractors' personnel or equipment, to or from the Site, does not interfere with local traffic in the vicinity of the Site;

**9.3.** In respect of the O&M obligations, the Contractor shall provide all necessary assistance to the Independent Consultant, if so appointed, and the Employer in undertaking inspection and monitoring of the operation and maintenance of the Facility. Further, the Contractor shall provide the Employer and Independent Consultant, if appointed, with reasonable access to the Site during office hours to monitor and inspect the Facility.

**9.4.** The Contractor shall arrange for all equipment, machinery, tools and other resources required to undertake the O&M of the Facility and shall take all reasonable measures to ensure that the transportation of any of the Contractor's or the Subcontractors' personnel or equipment, to or from the Site, does not interfere with local traffic in the vicinity of the Site.

**9.5.** The Contractor shall employ for the construction work and routine maintenance the technical personnel as provided in the Appendix 1A of the ITB, if applicable.

**9.6.** If the Employer asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within three days and has no further connection with the Project. Furthermore, the Contractor shall ensure that it shall hire a replacement for the persons who have been asked to leave the Site within 30 days of the person leaving the Site and the Project.

#### **9.7. Obligation of the Employer to bear costs of Applicable Permits**

If required, it is hereby agreed upon by the Parties that the Employer shall be obligated and be responsible for paying the requisite fees for all Applicable Permits and statutory permits which are to be procured by the Contractor for the implementation of the Project. The Employer shall also be obligated to provide support and necessary co-ordination to the Contractor for procuring the Applicable Permits.

### **10. Representations and Warranties**

**10.1.** The Contractor represents and warrants to the Employer that:

- a) it has full power and authority to execute, deliver and perform its obligations;
- b) it is duly organised, validly existing and of good standing under the laws of India;
- c) it has taken all necessary action to authorise the execution, delivery and performance of this Contract;
- d) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Contract;
- e) it has the financial standing and capacity to design, finance, construct, complete, operate and maintain the Facility in accordance with this Contract;
- f) this Contract constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, and its obligations under this Contract will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- g) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Contract or matters arising thereunder including any obligation, liability or responsibility hereunder;
- h) the information furnished in the Bid and as updated on or before the date of this Contract is true and accurate in all respects as on the Appointed Date;
- i) the execution, delivery and performance of this Contract will not conflict with, result in the breach of, constitute a default under any of the terms of its memorandum and articles of association/charter documents or any Applicable Laws or Applicable Permits or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- j) it has complied with all Applicable Laws and Applicable Permits in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities, which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Contract ; and
- k) no representation or warranty by it contained in this Contract or in any other document furnished by it to the Employer in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty.

**10.2.** The Employer represents and warrants to the Contractor:

- a) it has full power and authority to execute, deliver and perform its obligations;

- b) it has taken all necessary action to authorise the execution, delivery and performance of this Contract ;
- c) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Contract;
- d) it is duly organised, validly existing and in good standing under the laws of India;
- e) it has the financial standing and legal capacity to execute this Contract and perform its obligations under this Contract;
- f) this Contract constitutes legal, valid and binding obligations enforceable against it in accordance with the terms hereof;
- g) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of the Government of India or any state government, which may result in any material adverse effect on its ability to perform its obligations under this Contract;
- h) all information provided by it in the RFP and this Contract (including the Specifications) in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects; and
- i) it has complied with all Applicable Laws and Applicable Permits in all material respects.

## **11. Force Majeure**

**11.1.** The term "**Force Majeure and/or Force Majeure Event**" means any act, event or circumstance or a combination of acts, events or circumstances or the consequence(s) thereof occurring after the date of this Contract:

- a) Which is beyond a Party's ("**Affected Party**") reasonable control,
- b) Which such party could not reasonably have provided against before entering into the Contract,
- c) Which, having arisen, such Affected Party could not reasonably have avoided or overcome in spite of utmost due diligence, and
- d) Which does/do not result from the negligence of such Affected Party or the failure of such Affected Party to perform its obligations hereunder.
- e) Which causes Material Adverse Effect to the Project.

Force Majeure Event may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (e) above are satisfied:

### **A. Non Political Force Majeure Event:**

- (i) acts of God including storm, tempest, cyclone, hurricane, tsunami, flood, whirlwind, lightning, earthquake, washout, landslide, soil erosion, volcanic eruption, or extreme adverse weather or environmental conditions or actions of the elements;
- (ii) fire or explosion caused by reasons not attributable to the Contractor;
- (iii) chemical or radioactive contamination or ionising radiation;
- (iv) epidemic, plague or quarantine;
- (v) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; and
- (vi) accidents of navigation, air crash, shipwreck, train wreck or other similar failures of transportation of equipment and/or material necessary for construction or O&M of the Facility.

### **B. Indirect Political Force Majeure Events**

- (i) hostilities (whether declared as war or not), riot, civil disturbance, revolution, rebellion,

- insurrection, act of terrorism, in each case involving the Government of India;
- (ii) invasion, armed conflict, coup d'etat, act of foreign enemy, blockade, embargo, revolution, insurgency, nuclear blast/explosion, politically motivated sabotage, religious strife or civil commotion, in each case involving the Government of India;
- (iii) strikes, lockout, boycotts or other industrial disputes which are not directly attributable to the actions of the Affected Party;
- (iv) any orders issued by the relevant Government Authority, which require the Contractor to suspend the construction or O&M of the Facility provided that, such orders are not attributable to the Contractor's breach or violation of any Applicable Laws or Applicable Permits; and
- (v) delay or failure by relevant Government Authorities in renewing or granting any Applicable Permit, despite the Contractor having applied for such Applicable Permit expeditiously and complied with the requirements of Applicable Laws in making such application or the unlawful revocation of any Applicable Permit.

### **C. Direct Political Force Majeure Events**

- (i) occurrence of a Change in Law in accordance with Clause 23;
- (ii) compulsory acquisition in national interest or expropriation of the Site; and
- (iii) any order, notification or judgement issued or passed by any Government Authority which restricts the Contractor from constructing or operating the Facility as contemplated in this Contract on the Site, unless such restriction is, in any manner, attributable to the Contractor.

**11.2.** The Party affected by the Force Majeure Event shall give notice to the other Party ("**FM Notice**") in writing of the occurrence of any Force Majeure Event as soon as the same arises or as soon as reasonably practicable and in any event within 10 days after the affected Party knew of its occurrence. The FM Notice shall also state the adverse effect the Force Majeure Event has or is likely to have on the performance of its obligations under this Contract. If, following the issue of the FM Notice, the Affected Party receives or becomes aware of any further information relating to the Force Majeure Event, it shall submit such further information to the other Party as soon as reasonably practicable.

**11.3.** The Party affected by the Force Majeure Event, to the extent rendered unable to perform its obligations or part of the obligation thereof under this Contract as a consequence of the Force Majeure Event, shall be excused from performance of the affected obligations provided that the period shall not exceed 120 days for a Non-Political Force Majeure Event, 90 days for an Indirect Political Force Majeure Event and 60 days for a Direct Political Force Majeure Event from the date of issuance of the FM Notice. The Parties may mutually agree to extend the period of excuse from performance due to a Force Majeure Event.

**11.4.** Save and except as expressly provided in this Contract, no Party shall be liable in any manner whatsoever to the other Party in respect of any loss relating to or arising out of the occurrence or existence of any Force Majeure Event.

**11.5.** Upon occurrence of a Force Majeure Event prior to the COD, the Parties shall bear their respective costs and no Party shall be required to pay any costs to the other Parties. Upon occurrence of a Force Majeure Event post the COD, the Contractor shall be entitled to continue receiving the O&M Charges during the subsistence of the Force Majeure Event.

**11.6.** The Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of a Force Majeure Event on the performance of its obligations under this Contract. The Affected Party shall also make efforts to resume performance of its obligations under this Contract as soon as possible and upon resumption, shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the affected party in this regard.

#### **11.7. Termination due to Force Majeure**

- a) If a Non-Political Force Majeure Event continues for a period of period of 120 days after the notification of a Non-Political Force Majeure Event or any extended period agreed in pursuance of Clause 11.3, any Party shall, after the expiry of the 120 day period or any other mutually extended period, be entitled to forthwith terminate this Contract in its sole discretion by issuing a notice to that effect to the other Party.
- b) If an Indirect Political Force Majeure Event continues for a period of period of 90 days after the notification of an Indirect Political Force Majeure Event or any extended period agreed in pursuance of Clause 11.3, any Party shall, after the expiry of the 90 days' period or any other mutually extended period, be entitled to forthwith terminate this Contract in its sole discretion by issuing a notice to that effect to the other Party.
- c) If a Direct Political Force Majeure Event continues for a period of period of 60 days after the notification of a Direct Political Force Majeure Event or any extended period agreed in pursuance of Clause 11.3, any Party shall, after the expiry of the 60 days' period or any other mutually extended period, be entitled to forthwith terminate this Contract in its sole discretion by issuing a notice to that effect to the other Party.

#### **11.8. Consequences of Termination due to Force Majeure Event:**

- a) the Contractor shall hand over the Site, the Facility to the Employer on an "as is where is" basis.
- b) the Employer shall be required to return the Performance Security or the O&M Security, as the case may be, to the Contractor within 30 days from the date of the notice of termination under Clause 11.7, above.

**11.9.** If the Contract is terminated due to a Force Majeure Event, the termination payment shall be levied in accordance with the terms set out in Clause 32.

#### **12. Contractor's Risks**

- 12.1.** All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract are the responsibility of the Contractor.
- 12.2.** All risks and consequences arising from the inaccuracies or falseness of the documents and/or information submitted by the Contractor shall be the responsibility of the Contractor alone, notwithstanding the fact that Drawings or other documents have been approved by the Employer.

#### **13. Indemnity**

- 13.1.** The Contractor shall release, hold harmless and indemnify the Employer on demand from and against, all suits, actions, claims, demands, losses, damages, costs or expenses (including costs of legal fees) or liability for: a) death or personal injury of any person; b) loss of or damage to property; and c) any third party losses or claims, which may arise which may arise out of, or in consequence of the performance or non-performance of the Contractor's obligations under this Contract.
- 13.2.** The Employer shall have the right, but not the obligation, to contest, defend, and litigate any claim, action, suit or proceeding by any third party alleged or asserted against them in respect of, resulting from, related to or arising out of any matter for which they are entitled to be indemnified under this Contract, and the reasonable costs and expenses (including legal fees) thereof, shall be subject to the indemnification obligations of the Contractor.

**13.3.** If, however, the Contractor acknowledges in writing its obligations to indemnify the Employer in respect of loss to the full extent provided by this Contract, the Contractor shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding at its expense and through a counsel of its choice if it gives prompt notice of its intention to do so to the Employer and reimburses the Employer for the costs and expenses incurred by the Employer prior to the assumption by the Contractor of such defence. A Party shall not settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Employer shall have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel, as and when incurred, shall be at the expense of the Employer.

**14. Discoveries and Unforeseen Site Conditions**

Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, of such discoveries and carry out the instructions for dealing with them.

If during the execution of the Project, the Contractor encounters any adverse physical conditions, which, in its opinion, could not have been reasonably foreseen by acting in accordance with Good Industry Practices, the Contractor shall give written notice of such adverse physical conditions to the Employer. Upon receipt of such written notice from the Contractor, if, in the opinion and discretion of the Employer and the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, such conditions could not have been reasonably foreseen by a prudent contractor acting in accordance with Good Industry Practices, then the Employer shall grant reasonable extension of the Scheduled Milestone Completion Date and/or the Scheduled Final Construction Completion Date. Provided that the Contractor shall implement appropriate measures, including any measures suggested by the Employer or the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, to mitigate the delay caused by any such unforeseen Site conditions. Further, it is clarified that any decision of the Employer regarding the existence of any unforeseen Site conditions and the corresponding extension of time to be allowed to the Contractor shall be final and binding.

**15. Dispute Resolution**

**15.1.** In the event of any dispute or disagreement between the Parties arising out of or relating to this Contract (including a dispute relating to the validity or existence of this Contract and any non-contractual obligations arising out of or in connection with this Contract) (a “**Dispute**”), the representatives of the Parties shall, within 15 days of service of a written notice from one Party to the other Parties (the “**Dispute Notice**”) hold a meeting in an effort to resolve the Dispute in good faith. In the absence of any agreement to the contrary, the meeting shall be held at the office of the Employer.

**15.2.** If a Dispute is not resolved within 30 days after the service of a Dispute Notice, any Party to the Dispute shall be entitled to refer the Dispute to arbitration by issuing a notice to the other Party (**Notice of Arbitration**). This Contract and the rights and obligations of the Parties shall remain in full force and effect, pending the award in such arbitration proceeding.

**15.3.** If a Dispute is referred to arbitration by a Party, such Dispute shall be resolved by a sole arbitrator to be appointed by mutual agreement of the Parties. If the Parties fail to appoint an arbitrator within 30 days after service of the Notice of Arbitration, such arbitrator shall be appointed in accordance with the Arbitration Act.

- 15.4.** The venue of the arbitration shall be [*insert place*] and the language of the arbitration shall be English. The arbitration shall be conducted in accordance with the Arbitration Act. The arbitration shall be governed by the laws of India.
- 15.5.** The arbitration award of the arbitrator shall be final and binding on the Parties and shall be enforceable in accordance with its terms. The arbitrator shall state reasons for its findings in writing.
- 15.6.** This Clause 15 shall survive the termination of the Contract

## **B. TIME CONTROL**

### **16. Construction Period**

- 16.1.** The period for construction of the Facility shall commence on and from the Effective Date, and shall continue until the Final Construction Completion Date and shall be for a period of 1.5 years (the **Construction Period**).
- 16.2.** The Contractor shall prior to the Effective Date shall commence with the preparation of Drawings, Construction Plan, EHS Plan and Specifications for the Facility. The Contractor shall also conduct, prior to the Effective Date, all soil testing and geophysical testing at the Site. Further, the Contractor shall also be entitled to commence the appointment of subcontractors for the construction works in accordance with Clause 8.
- 16.3.** The Contractor shall comply with the Construction Plan, the Drawings and Specifications and complete the construction of the Facility on or before the Scheduled Final Construction Completion Date.

### **16.4. Drawings**

- a) The Contractor shall prepare the detailed Drawings for the Facility in accordance with the Specifications, Applicable Laws and Applicable Permits. The Drawings shall be drawn to scale, with accurate dimensions, to minimise construction delays, disputes and cost overruns and to ensure smooth construction of the Facility. If there any errors or deficiencies in the Specifications, the Drawings shall take into account, address or rectify such errors or deficiencies.
- b) Within 45 days from the Appointed Date, the Contractor shall submit 4 hard copies and 1 soft copy on a compact disc of the draft Drawings to the Employer for its review and approval.
- c) The Employer shall forward all the Drawings to the Project Engineer or Technical Institution, as the case may be, for its review and comments.
- d) The Employer shall provide comments if any, on the draft Drawings (including any comments from Project Engineer or Technical Institution, as the case may be) to the Contractor or notify the Contractor of its approval of the draft Drawings within 15 days from the date of receipt of the draft Drawings. The Employer may require the Contractor to amend or modify the draft Drawings if the Employer or the Project Engineer/Technical Institution, as the case may be, identifies any deficiencies, inaccuracies or shortcomings in the draft Drawings. If the Contractor receives any comments, suggestions or instructions to modify the draft Drawings from the Employer, then the Contractor shall modify the draft Drawings to correct any such shortcomings, inaccuracies or deficiencies and/or address, in writing, the Employer's/the Project Engineer's or the Technical Institution's comments on the draft Drawings and submit the revised Drawings to the Employer

for its approval. The process set out in this Clause 16.4 (d) shall continue until the Drawings are certified and are approved by the Employer in accordance with this Clause 16.4 (d).

- e) The Contractor shall construct the Facility strictly in accordance with the approved Drawings. The Contractor shall not deviate from or make any subsequent modification or amendment to the approved Drawings without the prior written approval of the Employer. The Contractor shall not commence construction of any part of the Facility prior to approval of the Drawings in accordance with this Clause 16.4 (e). If the Contractor undertakes any construction work for the Facility prior to the approval of the Drawings, it shall do so at its own risk and the Employer shall have the right to reject any such construction work that does not comply with the approved Drawings.
- f) Notwithstanding any approval of the Drawings by the Employer, the Contractor shall bear all risk, responsibility and liability for the suitability, accuracy, adequacy and practicality of the Drawings. Subject to Clause 16.4 (d), the Contractor shall not be entitled to any extension of time and/or costs incurred in the preparation of the Drawings and complying with the requirements of this Clause 16.4. The only instance of extension of time is to be provided to the Contractor if there is a delay by the Employer in providing approval to the Drawings. Such extension of time shall be in accordance with Clause 21.

#### **16.5. Construction Plan**

- a) Within 45 days from the Appointed Date, the Contractor shall prepare and submit to the Employer a detailed Construction Plan. The Construction Plan shall set out:
  - I. the detailed plan for completing the construction of the Facility by the Scheduled Final Construction Completion Date.
  - II. specific activities and extent of construction work to be performed by the Contractor to achieve each of the Milestones;
  - III. the time period for completing each Milestone including but not limited to the Scheduled Milestone Completion Date for each Milestone as well as stating the Scheduled Final Construction Completion Date; and
  - IV. the order in which the Contractor proposes to execute the construction of the Facility.
- b) The Employer shall review and provide comments, if any, on the draft Construction Plan (including any comments from the Project Engineer or Technical Institution, as the case may be) to the Contractor or notify the Contractor of its approval of the draft Construction Plan within 15 days from the date of receipt of the draft Construction Plan from the Contractor. The Employer may require the Contractor to amend or modify the draft Construction Plan if the Employer identifies any deficiencies or shortcomings in the draft Construction Plan. If the Contractor receives any comments, suggestions or instructions to modify the draft Construction Plan from the Employer, then the Contractor shall incorporate the suggestions made by the Employer and modify the draft Construction Plan to address any such comments, shortcomings or deficiencies identified by the Employer. Thereafter, the Contractor shall submit the revised Construction Plan to the Employer for its approval. The process set out in this Clause 16.5 (b) shall continue until the Construction Plan is approved by the Employer in accordance with this Clause 16.5 (b).
- c) The Contractor shall construct the Facility strictly in accordance with the approved Construction Plan. The Contractor shall not deviate from or make any subsequent modification or amendment to the approved Construction Plan without the prior written approval of the Employer. The Contractor shall not commence construction of any part of the Facility prior to approval of the Construction Plan in accordance with this Clause 16.5



- d) Notwithstanding any approval of the Construction Plan by the Employer, the Contractor shall, subject to Clause 16.5 (b), be solely liable for completing the construction of the Facility by the Scheduled Final Construction Completion Date. In case of delay by the Employer in granting the approval to the Construction Plan, the Contract shall be entitled to extension of time in accordance with Clause 21.

#### **16.6. Environment, Health and Safety Plan**

- a) Within 45 days from the Appointed Date, the Contractor shall prepare and submit 4 hard copies and 1 soft copy on a compact disc of a detailed EHS Plan to the Employer. The EHS Plan shall set out the health, safety and environment policies, guidelines and procedures to be followed by the Contractor in undertaking the Project and shall include a comprehensive site safety assurance plan, developed in accordance with Applicable Laws, Applicable Permits, the Specifications and Good Industry Practices.
- b) The Employer shall provide comments, if any, on the draft EHS Plan (including any comments from the Project Engineer or Technical Institution, as the case may be) to the Contractor or notify the Contractor of its approval of the draft EHS Plan within 15 days from the date of receipt of the draft EHS Plan from the Contractor. The Employer may require the Contractor to amend or modify the draft EHS Plan if the Employer identifies any deficiencies or shortcomings in the draft EHS Plan. If the Contractor receives any comments, suggestions or instructions to modify the draft EHS Plan from the Employer, then the Contractor shall modify the draft EHS Plan to address any such comments, shortcomings or deficiencies identified by the Employer. Thereafter, the Contractor shall submit the revised EHS Plan to the Employer for its approval.
- c) The Contractor shall ensure that its Subcontractors comply with and conform, in all aspects, to the EHS Plan in executing the Project. Any failure of the Contractor or the Subcontractors to comply with the EHS Plan shall constitute a Contractor Event of Default and the consequences specified in this Contract shall follow. The Contractor shall indemnify the Employer against all costs, expenses, penalties and liabilities incurred/suffered by the Employer due to the Contractor's or any Subcontractor's failure to comply with the EHS Plan in the course of execution of the Project. The Contractor shall not deviate from or make any subsequent modification or amendment to the approved EHS Plan without the prior written approval of the Employer.
- d) Neither any approval of the EHS Plan by the Employer nor any failure to review and provide comments on the EHS Plan shall excuse any failure by the Contractor to adopt proper and recognized safety and environment friendly practices during the execution of the Project. The Contractor shall bear all risk, responsibility and liability for the accuracy and adequacy of the final EHS Plan in ensuring compliance with all Applicable Laws, Applicable Permits and Good Industry Practices in the execution of the Project. The Contractor shall not be entitled to any extension of time and/or costs incurred in preparation of the EHS Plan.

#### **16.7. Utilities**

- a) The Contractor shall obtain install and maintain at its cost, all utilities necessary for undertaking the construction of the Facility, including all temporary power and water connections, lighting facilities, telephone connections, internet connections, etc. at the Site.

- b) The Contractor shall not be entitled to any extension of time or costs to comply with its obligations in Clause 16.7 (a) above.
- c) The Employer shall provide any reasonable assistance required by the Contractor to obtain the utilities for the construction of the Facility.

#### **16.8. In-house Laboratory**

- a) The Contractor shall ensure that during the Construction Period, it shall construct and set up the In-house Laboratory for the purpose of testing the Treated Water and the raw Sewage during the O&M Period, at the Site, in compliance with the Construction Plan, the EHS Plan, Drawings and the other terms contained in this Contract.
- b) The Contractor shall also be responsible for procuring and equipping the In-house Laboratory with the necessary and requisite equipment and utilities which are required for testing the Treated Water and the raw Sewage.
- c) For this purpose, the Employer shall provide all reasonable assistance to the Contractor so that construction of the In-house Laboratory is completed on or prior to the Scheduled Final Construction Completion Date.

#### **17. Construction Timelines and Completion**

**17.1.** The Contractor shall comply with the Construction Plan, Drawings, Specifications and Applicable Laws to complete the construction of the Facility on or before the Scheduled Final Construction Completion Date.

#### **17.2. Completion of Milestones and Milestone Completion Certificate**

- a) Upon completion of the works corresponding to each Milestone, as specified in the Construction Plan, the Contractor shall issue a notice to the Employer, with a copy to the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, requiring the Employer to inspect (or cause the Project Engineer/Technical Institution/Engineer-in-Charge to inspect) the completed works covered by the relevant Milestone. The purpose of such inspection shall be to determine whether the works corresponding to the relevant Milestone have been completed in accordance with the requirements set out in this Contract, Applicable Law, Specifications, Drawings and Construction Plan.
- b) If the Employer is satisfied that the works for the relevant Milestone have been completed in accordance with the requirements of this Contract, Drawings, Specifications, Applicable Laws and the Construction Plan, the Employer shall issue a Milestone Completion Certificate for such completed Milestone, within 7 days from the date of inspection of the works covered by such Milestone.
- c) If the Employer is of the view that the works for the relevant Milestone do not satisfy the requirements of this Contract, Drawings, Specifications, Applicable Laws and the Construction Plan, then the Employer shall have the right to provide any comments, suggestions and/or instruct the Contractor to carry out necessary modifications. Upon receipt of such comments, suggestions or instructions from the Employer, the Contractor shall make necessary modifications to the works to remedy any defects or deficiencies and re-issue a notice to the Employer. The Contractor shall bear all costs of remedying the defects and deficiencies in the works and shall not be entitled to any extension of time for remedying such defects or

deficiencies. This process shall be repeated until the Employer is satisfied that the works for the relevant Milestone have been completed in accordance with the requirements of this Contract, Applicable Law, Specifications, Drawings and Construction Plan and issue a Milestone Completion Certificate in accordance with this Clause 17.2 (c).

- d) The Employer may exercise its rights to review and certify the completion of works for any Milestone either itself or through the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be. If the Employer instructs the Project Engineer/ Technical Institution/Engineer-in-Charge to undertake a review of the works, then the Contractor shall cooperate with the Project Engineer Technical Institution/Engineer-in-Charge to facilitate such review and rectify any defects or deficiencies identified by the Project Engineer Technical Institution/Engineer-in-Charge in the works. Provided that, in all instances, the Employer shall finally approve the works and issue the Milestone Completion Certificates.

### **17.3. Testing and Commissioning**

- a) Upon completion of construction of the entire Facility, in accordance with the requirements set out in this Contract, the Contractor shall issue a notice to the Employer requiring it to be present at the Site on the date specified in such notice to undertake a final inspection of the completed Facility and conduct any tests required to ensure that the Facility complies with the Specifications, the Drawings, Applicable Laws and Applicable Permits.
- b) Within 5 days from the date of receipt of a notice under Clause 17.3 (a) above, the Employer may request the Contractor to vary the date of the final inspection and tests and the Contractor shall accommodate such request, provided that, such date shall be no later than 7 days from the date specified in the notice received from the Contractor under Clause 17.2 (a) above.
- c) The Contractor shall, on the date specified in the notice issued under Clause 17.3 (a) or on such other date as may be agreed with the Employer, carry out the tests in accordance with the instructions and under the supervision of the Employer, to demonstrate that the Facility complies with the requirements of Clause 9.1.
- d) If the Employer is not satisfied with the results of the tests or inspection, then the Contractor shall remedy any defects or deficiencies in the Facility, identified by the Employer or revealed through the tests and the Facility shall be tested again upon rectification of such defects or deficiencies. This process shall be repeated until such time that the Employer is satisfied that the Facility has been completed in accordance with Clause 9.1 and is safe and fit for purpose. The Contractor shall bear all costs of remedying the defects and deficiencies and retesting the Facility and shall not be entitled to any extension of time for remedying such defects or deficiencies or for retesting the Facility.
- e) If the Employer is satisfied with the results of the tests and inspection of the Facility, the Employer shall issue the Milestone Completion Certificate in respect of the last Milestone to the Contractor within 7 days from the date of inspection and testing of the completed Facility. The issue of the Milestone Completion Certificate for the last Milestone shall certify that the Facility has been completed in accordance with this Contract, the Specifications, Drawings, Applicable Laws and Applicable Permits and the Facility is safe and fit for purpose.

### **17.4. Final Construction Completion Certificate**

Within 7 days from the date of issuance of the Milestone Completion Certificate for the last Milestone, the Employer shall issue the Final Construction Completion Certificate to the Contractor subject to the following conditions having been fulfilled by the Contractor:

- (i) the submission of 4 hard copies and 1 soft copy on a compact disc of complete sets of the "as-built" drawings of the Facility;
- (ii) the Contractor having obtained all Applicable Permits necessary for commencement of the O&M services;
- (iii) the Contractor having engaged sufficient number of adequately skilled O&M personnel to perform the services during the O&M Period;
- (iv) the Contractor having furnished to the Employer the O&M Security as specified in Clause 33;
- (v) the Contractor having cleared the Site and removed all debris, hazardous materials, surplus construction materials, equipment, temporary works, work sheds, labour camps and all other temporary installations on the Site.

The date of the Final Construction Completion Certificate shall be the Final Construction Completion Date for the Facility.

**17.5.** The format of the Completion Certificates have been provided in Annexure 5 & 6

**17.6. Trial Operation**

- a) Within 1 day of the issuance of the Final Construction Completion Certificate to the Contractor, the Contractor shall commence the Trial Operations of the Facility to determine whether the Facility meet the KPIs on a continuous basis and are fit and ready to be placed into commercial operations for treatment and disposal of Sewage in accordance with this Contract.
- b) During the Trial Operations, the Employer shall or shall cause the Project Engineer Technical Institution/Engineer-in-Charge to monitor the performance of the Facility on a regular basis and shall have the right to test the compliance of the incoming Sewage with the Influent Standards and test the compliance of the STP By-Products and the Treated Water with the Treated Water Standards every 7 days to ensure that the Facility meets the KPIs. If the Employer, or, as the case may be, the Project Engineer Technical Institution/Engineer-in-Charge is of the view that there are any defects or deficiencies in the Facility, the Employer shall instruct the Contractor to follow the Trial Operation Procedures and/or rectify the defects and deficiencies to ensure compliance with the KPIs.
- c) After the expiry of 1 month from the date of commencement of Trial Operations or after the rectification of the defects and deficiencies in the Facility identified by the Employer or the Project Engineer Technical Institution/Engineer-in-Charge during the Trial Operations, whichever is later, the Contractor shall issue a notice to the Employer stating that the Trial Operations have been successfully completed for the Facility. The Employer shall have the right to undertake a final inspection of the Facility within 5 days of a notice being issued by the Contractor.
- d) If the Employer is satisfied that the Facility meets the KPIs and the Specifications, and are capable of safe and reliable operations, then, the Employer shall issue the Trial Operations Completion Certificate for the relevant Facility to the Contractor within 7 days of the Employer undertaking a final inspection of the Facility.
- e) If the Employer is of the opinion that the defects and deficiencies in the relevant Facility have not been adequately rectified or that the relevant Facility does not comply with the KPIs and/or

Specifications, then the Employer shall reject the Facility and ask the Contractor to rectify the defects and deficiencies.

- f) The Contractor will not be entitled to any O&M Payments or any other payment for conducting the Trial Operations, which shall be carried out solely at the cost and risk of the Contractor.

#### **17.7. Commercial Operations Date (COD)**

- a) Within 7 days from the date of issuance of the Trial Operations Completion Certificate for the Facility, the Employer shall issue the COD Certificate, subject to the following conditions having been fulfilled by the Contractor: i) the O&M Manual having been approved by the Employer; ii) the Contractor having submitted the O&M Security to the Employer.
- b) The date on which the COD Certificate is issued to the Contractor shall be the Commercial Operations Date (COD) of the Facility.

#### **18. O&M Period**

- 18.1.** The period for the operation and maintenance of the Facility shall commence on and from the COD, and shall continue until the expiry of 5 years from the COD (the **O&M Period**), unless terminated earlier in accordance with terms of this Contract.

#### **18.2. O&M Manual**

- a) The Contractor shall prepare a detailed O&M Manual for the Facility in accordance with the Specifications, EHS Plan, Applicable Laws and Applicable Permits. The O&M Manual shall specify the operation and maintenance procedures, methods, practices, techniques, manpower and preventive, curative procedures to be used by the Contractor. If there are any errors or deficiencies in the Specifications, the O&M Manual shall take in account, address or rectify such errors or deficiencies.
- b) At least 45 days prior to the Scheduled Final Construction Completion Date, the Contractor shall submit 4 hard copies and 1 soft copy on a compact disc of the draft O&M Manual to the Employer and the Independent Consultant, if appointed, for its review and approval.
- c) The Employer in consultation with the Independent Consultant, if appointed, shall review and provide comments, if any, on the draft O&M Manual to the Contractor or notify the Contractor of its approval of the draft O&M Manual within 15 days from the date of receipt of the draft O&M Manual from the Contractor. The Employer may require the Contractor to amend or modify the draft O&M Manual if the Employer identifies any deficiencies, inaccuracies or shortcomings in the draft O&M Manual. If the Contractor receives any comments, suggestions or instructions to modify the draft O&M Manual from the Employer, then the Contractor shall modify the draft O&M Manual to correct any shortcomings, inaccuracies or deficiencies identified by the Employer and/or address, in writing, the Employer's comments on the draft O&M Manual and submit the revised O&M Manual to the Employer for its approval. The process set out in this Clause 18.2(c) shall continue until the O&M Manual is approved by the Employer in accordance with this Clause 18.2(c).
- d) The Contractor shall revise the O&M Manual as and when the Contractor thinks it necessary to do so and in such case the provisions of Clause 18.2(c) will apply as is to the approval of the revised manual.

- e) The Contractor shall undertake the O&M of the Facility strictly in accordance with the approved O&M Manual. The Contractor shall not deviate from or make any amendment to the approved O&M Manual without the prior written approval of the Employer. The Contractor shall not commence operation and maintenance of the Facility prior to approval of the O&M Manual in accordance with this Clause 18.2.
- f) Notwithstanding any approval of the O&M Manual by the Employer, the Contractor shall bear all risk, responsibility and liability for the suitability, accuracy, adequacy and practicality of the O&M Manual. The Contractor shall not be entitled to any extension of time and/or costs incurred in the preparation of or updating the O&M Manual and complying with the requirements of this Clause 18.2.

### **18.3. O&M Utilities**

- a) The Employer shall apply for and obtain the power connection for the operation of the Facility, in its name, at least 30 days prior to the Scheduled Final Construction Completion Date. The Contractor shall provide all necessary assistance to the Employer in procuring the power connection, including by providing all documents and information necessary to complete the application process.
- b) The Contractor shall install and maintain at its cost, all utilities necessary for the O&M of the Facility, including water, telephone connections, internet connections, etc. at the Site. Specifically, to procure water for the O&M of the Facility, the Contractor may dig bore-wells at the Site after obtaining all Applicable Permits.
- c) The Contractor shall not be entitled to any additional costs to comply with its obligations in this Clause 18.3.
- d) The Employer shall provide any reasonable assistance required by the Contractor to obtain the utilities for the O&M of the Facility.

### **18.4. O&M Testing**

- a) The Sewage and the Treated Water will be tested at the Inlet Point and the Outlet Point, respectively in accordance with this Clause 18.4 and the Specifications.
- b) The Contractor shall test the characteristics of the raw Sewage at the Inlet Point to verify if the incoming Sewage meets the Threshold Influent Standards. The Contractor will be required to carry out such tests at the Inlet Point at the intervals specified in the Specifications or at such other time interval as may be instructed by the Employer. For the avoidance of confusion, the Contractor shall be obligated to treat the raw Sewage irrespective of the fact that it meets the Threshold Influent Standards or not. If however, the incoming raw Sewage does not meet the Threshold Influent Standards, then the Contractor shall not be liable to pay Performance Liquidated Damages if the final Treated Water and/or Digested Sludge at the Outlet Point fails to meet the Treated Water Standards.
- c) The Contractor shall test the characteristic of the Treated Water and the STP By-Products at the Outlet Point to determine if the Treated Water and the STP By-Products meets the prescribed Treated Water Standards. The Contractor will be required to carry out such tests at the Outlet Point at the intervals specified in the Specifications or such other time interval as may be instructed by the Employer.

- d) For the purpose of ensuring that the Treated Water and the raw Sewage at the Outlet and Inlet Point are in compliance with the Threshold Influent Standards and the Treated Water Standards respectively, the Contractor shall ensure that both the Treated Water and the raw Sewage are sent for testing to the In-house-Laboratory on a daily basis.
- e) Further, the Contractor shall be obligated to send the Treated Water and the raw Sewage to the Authorized Laboratory to ensure that they meet the Treated Water Standards and the Threshold Influent Standards, on a monthly basis.
- f) The Contractor shall, within 7 days from the issuance of the Final Construction Completion Certificate, submit to the Employer a list of three NABL accredited laboratories and the Employer shall within 7 days of receipt of such list confirm the selection of one such NABL accredited laboratory ("**Authorized Laboratory**") for the purpose of testing the Treated Water and raw Sewage during the O&M Period, on a monthly basis.
- g) For the avoidance of doubt, the cost of construction, setting up, equipping and operation of the In-house-Laboratory shall be borne solely by the Contractor. Furthermore, all costs associated with the sending of the samples of Treated Water and raw Sewage to the Authorized Laboratory shall also be borne solely by the Contractor.

#### **18.5. Maintenance and Repair of the Facility**

- a) During the O&M Period, the Contractor shall undertake the maintenance of the Facility and repair any damage to the Facility either by itself, or through an approved Subcontractor, such that the Facility shall be:
  - (i) in good working condition (subject only to wear and tear and Force Majeure) and achieve their full useful economic life in accordance with the Drawings;
  - (ii) maintained in compliance with the Specifications, O&M Manual, Applicable Laws, Applicable Permits, Good Industry Practice; and
  - (iii) capable of meeting the KPIs.
- b) For the first year of the O&M Period, the Contractor shall submit its Scheduled Maintenance Programme for the Facility, specifying the Scheduled Maintenance periods for the STP and the impact of such Scheduled Maintenance periods on the Availability of each STP to the Employer and the Independent Consultant, if appointed, at least 1 month before the Scheduled Maintenance period and for every subsequent year of the O&M Period, the Contractor shall submit the Scheduled Maintenance Programme, at least 1 month prior to the beginning of the relevant year. The Scheduled Maintenance Programme for the first year will cover the period from the COD until the end of the calendar year in which the COD occurs.
- c) Within 15 days of receipt of the Scheduled Maintenance Programme, the Employer, in consultation with the Independent Consultant, if so appointed, shall notify the Contractor of its approval. If the Employer does not accept any one or more of the requested Scheduled Maintenance periods or its impact on the Availability of a Facility, the Employer shall advise the Contractor within 15 days of the receipt of the Scheduled Maintenance Programme on when any Scheduled Maintenance can be rescheduled or how its impact on the Availability of a Facility may be minimised. The rescheduled time shall be as close as reasonably practicable to the original requested time, and shall be of equal duration as the original requested period. If the Employer fails to object to any Scheduled Maintenance within the specified time period or fails to advise the Contractor of a substitute time, the Contractor may schedule the Scheduled Maintenance for such duration and at such time as initially requested.

- d) Notwithstanding the finalization of the Scheduled Maintenance Programme pursuant to this Clause 18.5, the Employer, in consultation with the Independent Consultant, if appointed, may require the Contractor to reschedule a Scheduled Maintenance in the Scheduled Maintenance Programme, provided that:
  - (i) the Employer has given the Contractor at least 30 days prior written notice of such re-scheduling;
  - (ii) the Employer shall not require such Scheduled Maintenance to be rescheduled for a period of shorter or longer duration;
  - (iii) the Employer shall not require that a single Scheduled Maintenance period be split into two or more periods; and
  - (iv) the Employer shall not require that a Scheduled Maintenance be brought forward any earlier than 15 days from the date of such notice without the consent of the Contractor.
- e) Notwithstanding the finalization of the Scheduled Maintenance Programme pursuant to this Clause 18.5, the Contractor may request a rescheduling of any Scheduled Maintenance upon 60 days prior written notice to the Employer. The Employer shall respond to such request within 10 days and shall not unreasonably withhold its permission for such re-scheduling.
- f) Within 5 days of any re-scheduling of a Scheduled Maintenance in accordance with Clause 18.5 (d) or Clause 18.5 (e) above, the Contractor shall provide to the Employer, the amended Scheduled Maintenance Programme.
- g) The Facility will be deemed to be Available for the duration of the Scheduled Maintenance that are undertaken as per the approved Scheduled Maintenance Programme or as notified and approved in accordance with this Clause 18.5.
- h) During the O&M Period, the Contractor shall, at its own cost, replace any component or part of the Facility that is damaged or worn out or in the Contractor's judgement becomes no longer practicable to repair as a result of normal wear and tear.

## **19. Key Performance Indicators (KPIs) for the O&M Period**

### **A. Availability**

- 19.1.** The Contractor shall ensure that the Availability of the Facility on every day during the O&M Period shall be 100% (the “**Guaranteed Availability**”). The '**Availability**' of the Facility will be determined as a ratio of the number of hours in a day during which such Facility was available to convey, accept and treat the Sewage up to its Design Capacity, to the total number of hours in a day, and the term 'Available' shall be construed accordingly.
- 19.2.** In computing the Availability of each Facility, the Contractor agrees that the Facility will be deemed to be Available at all times, other than during the period of: a) an Unscheduled Outage affecting such Facility; b) a Power Outage affecting such Facility; c) an Emergency affecting such Facility, attributable to the Contractor, during which the Facility will be /deemed to be not Available.

### **B. Raw Sewage Characteristics and Treated Water Standards**

- 19.3.** The Contractor is obligated to receive and treat, the raw Sewage delivered to the STP at the Inlet Point and ascertain whether the raw Sewage meets the Threshold Influent Standards. If the raw



Sewage received at the Inlet Point does not meet the Threshold Influent Standards, the Contractor shall still be required to treat such Sewage but shall not be liable to pay any Performance Liquidated Damages if the final Treated water and/or the STP By- Products at the Outlet Point fails to meet the Treated Water Standards.

**19.4.** The Contractor shall ensure that the Treated Water and the STP By-Products comply with the Treated Water Standards set out in Annexure 9.

**19.5.** The Contractor shall have the obligation to operate and maintain the necessary infrastructure for ensuring the reuse of Treated Water in accordance with the Treated Water Standards. Furthermore, the Employer shall have the right to utilize such Treated Water both inside and outside the Site for non-potable purposes.

## **20. Liquidated Damages**

### **A. Delay Liquidated Damages:**

**20.1.** If the Contractor fails to complete the work corresponding to any Milestone by the relevant Scheduled Milestone Completion Date or fails to complete the construction of the entire Facility by the Scheduled Final Construction Completion Date, then the Employer shall be entitled to liquidated damages for each day of delay beyond the Scheduled Milestone Completion Date, or, as the case may be, the Scheduled Final Construction Completion Date, at the rate of 0.1% of the Performance Security for each day of delay up to 90 days from the relevant Scheduled Milestone Completion Date, or, as the case may be, the Scheduled Final Construction Completion Date (collectively, the **Delay Liquidated Damages**).

**20.2.** The Delay Liquidated Damages will be payable until the work for the relevant Milestone is completed or, as the case may be, the construction of the Facility is completed, as certified by the Employer.

**20.3.** If the Contractor completes the construction of the Facility by the Scheduled Final Construction Completion Date, the aggregate Delay Liquidated Damages recovered by the Employer for a delay in achieving any Milestone shall be refunded by the Employer to the Contractor, without any interest.

**20.4.** The Employer shall be entitled to deduct the Delay Liquidated Damages from the amount payable to the Contractor for any Milestone, and if such amounts are insufficient, the Employer shall have a right to invoke the Performance Security to the extent of the Delay Liquidated Damages.

**20.5.** The Parties acknowledge that the Delay Liquidated Damages are a genuine pre-estimation of and reasonable compensation for the loss that shall be suffered by the Employer as a result of the delay in the completion of the Facility, and not as penalty.

**20.6.** If the Contractor fails to complete the works for a Milestone within 90 days of the Scheduled Milestone Completion Date or if the Contractor fails to complete the construction of the Facility within 90 days from the Scheduled Final Construction Completion Date, then such failure shall be deemed to be a Contractor Event of Default in accordance with Clause 30.1 and the consequences shall follow.

**20.7.** The payment or deduction of Delay Liquidated Damages shall not relieve the Contractor from its obligations to complete the construction of the Facility, or from any of its other duties, obligations or responsibilities under the Contract. The Contractor shall use and continue to use its best

endeavours to avoid or reduce further delay in completing the Facility.

**B. Availability Liquidated Damages and Performance Liquidated Damages:**

- 20.8.** If the Availability of the Facility on any given day is less than the Guaranteed Availability, then the Contractor shall pay as liquidated damages to the Employer, an amount equal to INR 50,000 (Rupees fifty thousand) for each 1% or part thereof reduction in Availability below the Guaranteed Availability, (the "**Availability Liquidated Damages**").
- 20.9.** The aggregate Availability Liquidated Damages payable by the Contractor in any quarter of the O&M Period will be deducted from the O&M Payments due to the Contractor for such quarter. If the Availability Liquidated Damages for a quarter exceed the O&M Payments for such quarter, then the excess amounts shall, at the discretion of the Employer, either be adjusted against the O&M Payments for the subsequent quarter or recovered from the O&M Security.
- 20.10.** If the Facility does not comply with the conditions and standards for the O&M Period laid down in Annexure 9, the Contractor will be liable to pay liquidated damages to the Employer, for the amounts set out ("**Performance Liquidated Damages**") in Annexure 9.
- 20.11.** The Performance Liquidated Damages payable by the Contractor in any quarter of the O&M Period will be deducted from the O&M Payments due to the Contractor for such quarter. If the Performance Liquidated Damages for a quarter exceed the O&M Payments for such quarter, then the excess amounts shall, at the discretion of the Employer, either be adjusted against the O&M Payments for the subsequent quarter or recovered from the O&M Security.

**21. Extension of Time and Delay Events**

- 21.1.** The Contractor shall be entitled to a day for-day extension of the relevant Scheduled Milestone Completion Date or as the case may be, the Scheduled Final Construction Completion Date, if the completion of construction of the Facility is delayed due to any of the following reasons (each such event, a **Delay Event**):
- a) occurrence of a Force Majeure Event, provided that the requirements of Article 14 have been complied with;
  - b) undue delay by the relevant Government Authority in renewing any Applicable Permit, despite the Contractor having applied for such renewal expeditiously and having complied with the requirements of Applicable Laws in making such application;
  - c) undue delay by the relevant Government Authority in providing any utility connection, despite the Contractor having applied for such utility connection expeditiously and having complied with the requirements of Applicable Laws in making such application;
  - d) any delay attributable to unforeseen site conditions in accordance with Clause 14;
  - e) delay by the Employer in approval of the Drawings in accordance with Clause 16.4;
  - f) delay by the Employer in approval of the Construction Plan in accordance with Clause 16.5;
  - g) delay by the Employer in approval of the O&M Manual in accordance with Clause 18.2;
  - h) delay by the Employer in issuance of a Milestone Completion Certificate in accordance with Clause 17.2;
  - i) delay by the Employer in issuance of the Final Construction Completion Certificate in accordance with Clause 17.4;
  - j) any variation proposed by the Employer in Specifications or Drawings in accordance with Clause 24; or

- k) delay caused in complying with any instructions of the Employer or the Project Engineer Technical Institution/Engineer-in-Charge, which instructions are not attributable to any default of the Contractor

- 21.2.** The Contractor shall promptly provide the Employer (with a copy to the Project Engineer Technical Institution/Engineer-in-Charge) with a notice upon becoming aware of any Delay Event listed at Clause 21.1 above. The notice should specify the nature of the Delay Event, the extent of delay suffered or likely to be suffered by the Contractor and mitigation measures being taken by the Contractor. The issuance of the notice under this Clause 21.2, shall be within 7 days from the date the Contractor became aware of the Delay Event and this shall be a condition precedent to the Contractor's entitlement to an extension of time under this Clause 21.
- 21.3.** The Employer in consultation with the Project Engineer Technical Institution/Engineer-in-Charge shall grant such extension at each such occasion within a period of 30 days of receipt of application from the Contractor and shall not wait for finality of work.
- 21.4.** If the Contractor claims an extension of time in accordance with Clause 21.2 and the Employer is of the opinion that such delay was caused or materially contributed to by any concurrent or interacting cause or causes of delay not listed in Clause 21.2, then the Contractor shall not be entitled to any extension of time for the concurrent period of delay.
- 21.5.** If two or more of the Delay Events listed in Clause 21.1 occur concurrently, then such concurrent period shall not be counted twice in determining an extension of time.
- 21.6.** In case of the work already in progress, the Contractor shall proceed with the execution of works, including maintenance thereof, pending receipt of the decision of the Employer as aforesaid with all due diligence.
- 21.7.** Any Dispute between the Parties with respect to the occurrence, length of subsistence or consequence of any of the Delay Event shall be settled in a final and binding manner in accordance with Clause 15 (Dispute Resolution).

## **C. QUALITY CONTROL**

### **22. Correction of Defects noticed during the Defect Liability Period**

- 22.1.** The defect liability period of work in the contract shall be for a period of 2 years from the COD ("**Defect Liability Period**").
- 22.2.** The Contractor shall promptly rectify all Defects pointed out by the Project Engineer Technical Institution/Engineer-in-Charge well before the end of the Defect Liability Period. The Defect Liability Period shall automatically stand extended until the defect is rectified.
- 22.3.** If the Contractor has not corrected a Defect pertaining to the Defect Liability Period to the satisfaction of the Project Engineer Technical Institution/Engineer-in-Charge, within the time specified by the Project Engineer Technical Institution/Engineer-in-Charge, the Project Engineer Technical Institution/Engineer-in-Charge will assess the cost of having the Defect corrected, and the cost of correction of the Defect shall be recovered from the Performance Security or any amount due or that may become due to the Contractor and other available securities.

### **23. Project Engineer and Independent Consultant**

#### **A. Project Engineer**

- 23.1.** The Employer may appoint a third-party engineering firm/ consultancy firm/individual consultant with requisite technical expertise, knowledge and experience in the design, engineering and construction of STPs, as detailed in Clause 23.2, as the engineer for the Project (the “**Project Engineer**”). The Project Engineer shall assist the Employer in supervising the construction, design and engineering of the Facility and shall support the Employer to monitor compliance with the KPIs. The Employer shall appoint the Project Engineer prior to the Effective Date and shall remain appointed till the end of the Term. Provided however, the Employer shall have the option of appointing a Technical Institution and or causing the Engineer-in-Charge to perform the obligations of the Project Engineer, as specified in Clause 23.7.
- 23.2.** The Project Engineer shall fulfil the following criteria for the purpose of appointment:
- a) The Project Engineer shall have educational qualification of B.Tech or B.E. in civil engineering from AICTE approved institutions; and
  - b) The Project Engineer shall have a minimum experience of 10 (ten) years in construction supervision of STPs.
- 23.3.** All fees, costs, charges and expenses payable to the Project Engineer shall be borne by the Employer.
- 23.4.** The Employer may replace the Project Engineer in any of the following circumstances:
- a) if it has reason to believe that the Project Engineer has not discharged its duties in accordance with this Clause 23;
  - b) if the Project Engineer submits his resignation.
- 23.5.** The Project Engineer shall/I be required to act independently, reasonably, fairly and expeditiously to ensure the timely completion of construction of the Facility on or before the Scheduled Final Construction Completion Date.
- 23.6.** During the Construction Period, the Project Engineer shall inspect the Facility at least once a month and prepare an inspection report, setting out the progress of the construction of the Facility, defects or deficiencies, if any, and status of compliance with the Construction Plan, Specifications and Drawings. The Project Engineer shall send the report to the Employer and the Contractor within 7 days of such inspection, pursuant to which, the Contractor shall be required to rectify the defects or deficiencies, if any, identified by the Project Engineer.
- 23.7.** Notwithstanding anything contained in this Clause 23 and this Contract, the Parties hereby agree that the Employer shall have the option to utilize the services of an engineering college/ technical university and/or technical institution which has the requisite experience for providing such services (“**Technical Institution**”), instead of appointing the Project Engineer, for the purpose of reviewing and approving the Drawings, Construction Plan, EHS Plan or approval of any other Specifications and document specified under this Contract. Furthermore, for the purpose of periodic inspection and evaluation of the Works during the Construction Period including, but not limited to, reviewing and accepting the completion of activities contemplated under each Milestone, instead of appointing a Project Engineer, the Employer may opt to utilize the services of the Technical Institution or ask the Engineer-in-Charge to conduct such activities.

**B. Independent Consultant**

- 23.8.** The Employer may choose to appoint a third-party consultant firm/individual consultant with requisite technical expertise, knowledge and experience in the operation and maintenance of STPs,

as prescribed in Clause 23.8, as the consultant for the Project (the “**Independent Consultant**”). The Independent Consultant shall assist the Employer in supervising the O&M of the Facility and shall support the Employer to monitor compliance with the KPIs. The Independent Consultant shall be appointed 7 days prior to the commencement of the Trial Operations Period by the Employer and shall discharge his duties till the end of the Term. Provided however, the Employer shall have the option of causing any other personnel of the Employer to perform the obligations of the Independent Consultant, as specified in Clause 23.14 and therefore choose not to appoint the third party Independent Consultant.

- 23.9.** The Independent Consultant shall fulfil the following criteria for the purpose of appointment:
- a) The Independent Consultant shall have educational qualification of B.Tech or B.E. in civil engineering/mechanical engineering/chemical engineering/ environmental engineering from AICTE approved institutions; and
  - b) The Independent Consultant shall have a minimum experience of 5 (five) years in operation and maintenance of STPs.
- 23.10.** All fees, costs, charges and expenses payable to the Independent Consultant shall be borne by the Employer.
- 23.11.** The Employer may replace the Independent Consultant in any of the following circumstances:
- a) if it has reason to believe that the Independent Consultant has not discharged its duties in accordance with this Clause 23;
  - b) if the Independent Consultant submits his resignation.
- 23.12.** During the Trial Operations Period and the O&M Period, the Independent Consultant or designated personnel of the Employer shall inspect the Facility at least once a month and prepare an inspection report, setting out the defects or deficiencies, if any, and status of compliance with the KPIs (the “**KPI Adherence Report**”). The Independent Consultant or the designated personnel of the Employer shall send the report to the Employer and the Contractor within 7 days of such inspection, pursuant to which, the Contractor shall be required to rectify the defects or deficiencies, if any identified by the Independent Consultant/the designated personnel of the Employer. The Independent Consultant/designated personnel of the Employer shall also have the right to verify the results of the tests undertaken by the Contractor at any time during the O&M Period at the Inlet Point and the Outlet Point to determine the standard of the Sewage, STP By-Products and the Treated Water in such month. All the KPI Adherence Reports for a certain quarter shall be submitted during the O&M Period along with the payment invoices, by the Contractor.
- 23.13.** Except as specifically provided in this Contract, the Project Engineer and the Independent Consultant shall have no authority, whether express or implied, to amend, vary or curtail any of the rights or obligations of the Parties.
- 23.14.** Notwithstanding anything contained in this Clause 23 and this Contract, the Parties hereby agree that the Employer shall have the option, instead of appointing the Independent Consultant, to use the services of an in-house representative of the Employer, who has experience in dealing with O&M activities, for the purpose of reviewing and approving the O&M Plan or Scheduled Maintenance Programme or approval of any document specified under this Contract during the O&M Period and for the purpose of periodic inspection and evaluation activities, during the O&M Period including, but not limited to, reviewing and approving the fulfilment of the KPIs and providing and preparing the periodic KPI Adherence Reports.

## **D. COST CONTROL**

### **24. Variations - Change in original Specifications, Drawings etc.**

#### **A. Employer Variations**

- 24.1.** The Project Engineer/Technical Institution/Engineer-in-Charge on behalf of the Employer shall have the power to propose alterations, omissions or additions to or substitutions for the original Specifications and Drawings that may appear to him to be necessary during the progress of the work ("**Variation Order**") provided that, the Project Engineer/Technical Institution/Engineer-in-Charge shall not propose a Variation, which: (A) is not technically feasible; or (B) is not in compliance with any Applicable Law or Applicable Permit.
- 24.2.** Within 15 days of receipt of a Variation Order, the Contractor shall submit a proposal to the Project Engineer/Technical Institution/Engineer-in-Charge and the Employer setting out in sufficient detail the implications of the proposed Variation, including any implications on the Construction Plan, and the additional costs incurred in undertaking the Variation.
- 24.3.** Based on its review of the proposal submitted by the Contractor, the Employer may, at its sole discretion: (A) accept the proposal and the corresponding adjustment to the Construction Plan and/or the additional Costs for undertaking the Variation; (B) provide its comments on the proposal seeking amendments and/or justification for the implications put forth by the Contractor; or (C) reject the proposal submitted by the Contractor and withdraw the Variation Order, within 15 days from the date of receipt of the Contractor 's proposal.
- 24.4.** To the extent the Employer seeks amendments and/or justification in the proposal submitted by the Contractor, the Contractor shall incorporate or address, in writing, the Employer's comments and submit a revised proposal. On approval of the proposal or the revised proposal, as the case may be, the Contractor shall proceed with the Variation.
- 24.5.** The Contractor shall carry out the work in accordance with any instructions which may be given to him in writing signed by the Employer, and such alterations, omission, additions or substitutions shall not invalidate the Contract and any altered, additional or substituted work, which the Contractor may be directed to do in the manner above specified, as part of the work, shall be carried out by the Contractor on the same conditions in all respects on which he agree to do the original work.
- 24.6.** The time for the completion of the work shall be extended in the proportion that the altered, additional or substituted work bears to the original contract work. Further, on implementation of a Variation Order, the Contractor shall be entitled to the agreed adjustment to the Construction Plan and/or payment of additional amounts agreed pursuant to the proposal submitted by the Contractor for carrying out the Variation.

#### **B. Contractor Variations**

- 24.7.** The Contractor may propose a Variation, which it considers necessary or desirable to improve the efficiency, quality, reliability, durability, maintainability or safety of the Facility. While proposing a

Variation, the Contractor shall submit a proposal to the Employer (with a copy to the Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be), with a statement setting out:

- (i) the work required or no longer required;
- (ii) adjustment to the Construction Plan, if any; and
- (iii) any other effect the proposed Variation would have on the construction of the Facility or on any other provision of this Contract.

Provided however, that the Contractor shall not be permitted to seek a Variation which (I) increases the Bid Project Cost by 10%; or (II) extends the Scheduled Final Construction Completion Date.

**24.8.** Based on its review of the proposal submitted by the Contractor, the Employer may, at its sole discretion: (A) accept the proposal and the corresponding adjustment in the Construction Plan; (B) provide its comments on the proposal seeking amendments and/or justification for the implications put forth by the Contractor; or (C) reject the proposal submitted by the Contractor, within 15 days from the date of receipt of the Contractor's proposal under Clause 24.7 above. To the extent the Employer seeks amendments and/or justification in the proposal submitted by the Contractor, the Contractor shall incorporate or address, in writing, the Employer's comments and submit a revised proposal.

**24.9.** On approval of the proposal or the revised proposal, as the case may be, the Contractor shall proceed with the Variation. On implementation of a Variation Order, the Contractor shall be entitled to the agreed adjustment in the Construction Plan.

**24.10.** No Variation shall invalidate this Contract.

## **25. Change in Law**

### **25.1. Increase in costs**

If as a result of Change in Law, the Contractor suffers an increase in costs or other financial burden, which amounts to an increase of 10% of the Bid Project Cost or more, the Contractor may so notify the Employer and propose amendments to this Contract so as to place the Contractor in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase or other financial burden as aforesaid. Upon notice by the Contractor, the Parties shall meet, as soon as reasonably practicable, but no later than 30 (thirty) days from the date of notice, and either agree on amendments to this Contract or on any other mutually agreed arrangement.

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Contractor may by notice require the Employer to pay an amount that would place the Contractor in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Employer shall pay the amount specified therein; provided that if the Employer shall dispute such claim of the Contractor, the same shall be settled in accordance with the dispute resolution procedure. For the avoidance of doubt, it is agreed that this Clause 25.1 shall be restricted to changes in law directly affecting the Contractor's costs of performing its obligations under this Contract.

### **25.2. Decrease in costs**

If as a result of Change in Law, the Contractor benefits from a reduction in costs or other financial gains, the Authority may so notify the Contractor and propose amendments to this Contract so as to place the Contractor in the same financial position as it would have enjoyed had there been no

such Change in Law resulting in the decreased cost or other financial gains as aforesaid. Upon notice by the Employer, the Parties shall meet, as soon as reasonably practicable, but no later than 30 (thirty) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement.

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Employer may by notice require the Contractor to pay an amount that would place the Contractor in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Contractor shall pay the amount specified therein to the Employer; provided that if the Contractor shall dispute such claim of the Employer, the same shall be settled in accordance with the dispute resolution procedure. For the avoidance of doubt, it is agreed that this Clause 25.2 shall be restricted to changes in law directly affecting the Contractor's costs of performing its obligations under this Contract.

**26. No compensation for alterations in or restriction of work to be carried out.**

- 26.1.** If at any time after the commencement of the work, the Government of India, for any reason whatsoever, not require the whole or any part of the work as specified in the bid to be carried out, the Engineer-in-Charge of the Employer shall give notice in writing of the fact to the Contractor and withdraw that whole or any part of the work.
- 26.2.** The Contractor shall have no claim to any payments or compensation whatsoever, on account of any profit or advantage which he might have derived from the execution of work in full or on account of any loss incurred for idle men and machinery due to any alteration or restriction of work for whatsoever reason.
- 26.3.** The Engineer-in-Charge of the Employer may supplement the work by engaging another agency to execute such portion of the work, without prejudice to his rights.

**27. No Interest Payable**

No interest shall be payable to the Contractor on any payment due or awarded by any Government Authority.

**28. Tax**

Payment of tax for the purpose of this Contract shall be governed by the provisions of the Special Conditions of Contract (SCC).

**29. Check Measurements**

- 29.1.** The Project Engineer/Technical Institution/Engineer-in-Charge, as the case may be, on behalf of the Employer reserves to itself the right to prescribe a scale of check measurement of work in general or specific scale for specific works or by other special orders.
- 29.2.** Any over/excess payments detected, as a result of such check measurement or otherwise at any stage up to the date of completion of the Defect Liability Period specified in this Contract, shall be recoverable from the Contractor.

**30. Events of Default**

**A. Contractor Event of Default**



- 30.1.** The Engineer in charge, acting on behalf of the Employer, shall be entitled to terminate the contract if the Contractor: ("**Contractor Event of Default**")
- a) Abandons the works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the contract;
  - b) the Contractor is declared as bankrupt or goes into liquidation other than for approved reconstruction or amalgamation;
  - c) without reasonable excuse fails to comply with the notice to correct a particular defect within a reasonable period of time;
  - d) the Contractor does not maintain a valid Performance Security, O&M Security and Mobilization Advance Guarantee, as prescribed;
  - e) failure of the Contractor to pay the liquidated damages within the timelines specified in this Contract;
  - f) the Contractor has delayed the completion of the works by such duration for which the maximum amount of liquidated damages under this Contract is recoverable;
  - g) If the Contractor fails to deploy machinery and equipment or personnel as required under this Contract.
  - h) if the Contractor has engaged in corrupt or fraudulent practices in competing for or in executing the contract;
  - i) failure of the Contractor to achieve successful completion of Trial Operations of the Facility by the Scheduled COD;
  - j) any representation made or warranties given by the Contractor under this Contract being found to be false or misleading in any material respect;
  - k) failure of the Contractor to obtain, renew and maintain any Applicable Permit or comply with any Applicable Laws;
  - l) Any other fundamental breaches as specified in this Contract; and
  - m) Any other instance which has been specified in this Contract.
- 30.2.** In any of these events or circumstances, the Employer shall give 30 days' notice to the Contractor to remedy the Contractor Event of Default. The notice shall state in reasonable detail the grounds on which termination is sought. If the Contractor fails to remedy the default within the stipulated time period or does not propose any remedy to cure such default, the Employer shall have the right to terminate the contract and expel the Contractor from the site. However, in the case of sub paragraph (b) or (h), the Employer may terminate the Contract immediately and the consequences set out in Clauses 31 and 32 shall follow.
- 30.3.** If however, the Contractor does remedy the default within 30 days or proposes a remedy to cure the default within the 30 day period, then the Employer shall be obligated to withdraw the notice to terminate and shall send notice of such withdrawal to the Contractor.
- 30.4.** Notwithstanding anything contained in this Clause 30, during the subsistence of a Contractor Event of Default, the Parties shall continue to perform such of their respective obligations under this Contract, which are capable of being performed in accordance with this Contract.
- B. Employer Event of Default**
- 30.5.** The Contractor shall be shall be entitled to terminate the contract if the Employer ("**Employer Event of Default**"):
- a) a breach by the Employer of its obligations under this Contract which has an adverse effect on the ability of the Contractor to construct or operate and maintain a Facility;
  - b) any representation made or warranties given by the Employer under this Contract being found to be false or misleading in any material respect;

- c) failure to grant all necessary right of way to the Contractor within 120 days of the Effective Date;
- d) a breach by the Employer of its obligations under this Contract which has a Material Adverse Effect on the ability of the Contractor to construct or operate and maintain a Facility and such breach, if capable of being remedied, is not remedied within 30 days of a notice being given by the Contractor
- e) the Employer is declared as bankrupt or goes into liquidation other than for approved reconstruction or amalgamation; and
- f) Any other breaches and incidents as specified in this Contract as an Employer Event of Default.

**30.6.** Without prejudice to the other provisions of this Contract, upon the occurrence of an Employer Event of Default, the Contractor may initiate termination of this Contract by delivering a notice to the Employer, which shall specify with reasonable detail the grounds on which termination is sought. The notice shall provide the Employer a 30 day cure period to remedy the default or propose a remedy to cure the default failing which the Contractor shall have the right to terminate the Contract immediately.

**30.7.** If however, the Employer within 30 days does remedy the default or propose a remedy to cure the Employer Event of Default, the Contractor shall withdraw the notice to terminate and shall communicate the same immediately to the Employer.

**30.8.** Notwithstanding anything contained in this Contract, in case the Contractor, at the bidding stage, had furnished a copy of a binding Memorandum of Understanding entered into with an entity having the requisite O&M experience (as required under the ITB) for carrying out the operations and maintenance of the Project ("MoU") and in the event the Contractor fails to engage the aforementioned entity on the Appointed Date, then the Contractor shall within 30 days from the Appointed Date, appoint another entity with equal or greater O&M experience to replace the entity which was initially sought to be engaged by the Contractor. If the Contractor fails to appoint any alternate entity within the timeline stipulated above, the same shall be treated as a Contractor Event of Default other such consequences specified in this Contract for Contractor Event of Default shall follow.

## **31. Consequences of Termination**

### **31.1. Termination prior to Construction Completion:**

If the termination of the Contract takes place prior the happening of the COD:

- a) the Contractor shall cease all work in relation to construction of the Facility,
- b) the Contractor shall take all necessary steps to safeguard and protect the Facility;
- c) the Employer shall require the Project Engineer/Technical Institution/Engineer-in-Charge to assess the cost of the construction works undertaken by the Contractor in relation to the Facility as on the date of the termination and based on such assessment, the Employer shall make the termination payments.
- d) the Contractor shall hand over the Site, the Facility to the Employer or its nominee to the extent applicable.

### **31.2. Termination between Construction Completion and COD**

If the termination of the Contract takes place between the Construction Completion and the COD, the following shall be the consequences:

- a) the Contractor shall cease the Trial Operations of the Facility;
- b) the Contractor shall take all necessary steps to safeguard and protect the Facility and all other equipment, materials and goods on the Site; and
- c) the Contractor shall handover the Site and the Facility to the Employer.

### **31.3. Termination post COD**

If the termination of the Contract takes place post the occurrence of the COD, then the following consequences shall take place:

- a) the Contractor shall cease all work in relation to O&M of the Facility
- b) the Contractor shall take all necessary steps to safeguard and protect the Facility and all other equipment, materials and goods on the Site; and
- c) the Contractor shall hand over the Site and the Facility to the Employer.

## **32. Termination Payment**

### **A. Termination Payments if Termination prior to COD**

If the Contract is terminated due to the Contractor Event of Default, the termination payment payable by the Employer to the Contractor shall only include 85% of the Construction Payment due to the Contractor on the date of the notice given by the Employer with the intent to terminate as per Clause 30.2 LESS any amounts due and payable by the Contractor under this Contract (including but not limited to any Liquidated Damages payable). In addition, the Contractor shall be obligated to forfeit the Performance Security to the Employer.

If the Contract is terminated due to Employer Event of Default, the Employer shall pay the Contractor the Construction Payments due to the Contractor as on the date of the notice given by the Contractor with the intent to terminate as provided in Clause 30.8 LESS any amounts due and payable by the Contractor under this Contract (including but not limited to any Liquidated Damages payable). In addition, the Employer shall return the Performance Security within 30 days from the date of termination of the Contract.

### **B. Termination Payments if Termination happens post COD**

If the Contract is terminated due to the Contractor Event of Default, the termination payment payable by the Employer to the Contractor shall include the O&M Payments due to the Contractor on the date of the notice given by the Employer to terminate the Contract as provided in Clause 30.2 LESS any amounts due and payable by the Contractor under this Contract (including any Liquidated Damages or any other amount payable by the Contractor). Furthermore, the Contractor shall be obligated to forfeit the O&M Security amount to the Employer.

If the Contract is terminated due to Employer Event of Default the Employer shall pay the Contractor the O&M Payments due to the Contractor as on the date of the notice given by the Contractor with the intent to terminate the Contract as provided in Clause 30.8 LESS any amounts due and payable by the Contractor under this Contract (including any Liquidated Damages or any other amount payable by the Contractor). Furthermore, the Employer shall return the O&M Security within 30 days from the date of actual termination of the Contract.

### **C. Termination Payment due to Force Majeure Event**

#### **a) Non Political Force Majeure Event**

In the event of a termination of this Contract as a result of a Non-Political Force Majeure Event,

the Parties agree that the Contractor shall not be entitled to any termination payment. The Employer shall however return the Performance Security or the O&M Security, as the case may be, to the Contractor within 30 days of actual termination of the Contract.

**b) Indirect and Direct Political Force Majeure Event:**

If the Contract is terminated due to an Indirect Political Force Majeure Event or a Political Force Majeure Event, prior to the COD, the Employer shall be liable to pay to the Contractor, the Construction Payments due to the Contractor for Milestones completed and certified by the Employer as on the date of the notice of termination LESS any amounts due and payable by the Contractor under this Contract (including Liquidated Damages and any amount payable under this Contract). The Employer shall return the Performance Security to the Contractor within 30 days of actual termination of this Contract.

If the Contract is terminated due to an Indirect Political Force Majeure Event or a Political Force Majeure Event, post the COD, the Employer shall be liable to pay to the Contractor, the O&M Payments due to the Contractor as on the date of the notice of termination under LESS any amounts due and payable by the Contractor under this Contract (including Liquidated Damages and any amount payable under this Contract). The Employer shall however return the O&M Security to the Contractor within 30 days of actual termination of this Contract

**Performance Security, O&M Security and Mobilization Advance Guarantee**

- 32.1.** The Contractor shall have submitted to the Employer, within 30 days of the Appointed Date, an unconditional and irrevocable bank guarantee for an amount equal to INR [●]<sup>3</sup> (Rupees []), corresponding to 5% of the Bid Project Cost (the “**Performance Security**”). It is hereby understood that until such time the Performance Security is provided by the Contractor pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security, the Employer shall release the Bid Security to the Contractor. It is further provided that in the event that the Performance Security is not provided by the Contractor within the specified period, the Employer shall have the right to encash the Bid Security and appropriate the proceeds thereof as damages, and thereupon all rights, privileges, claims and entitlements of the Contractor under or arising out of this Contract shall be deemed to have been waived by, and to have ceased with the concurrence of the Contractor, and this Contract shall be deemed to have been terminated by mutual agreement of the Parties.
- 32.2.** The Performance Security shall remain valid until 3 months from the COD. The Performance Security shall be returned within 90 days of the COD.
- 32.3.** The Contractor shall, 30 days prior to the payment linked to the final Payment Milestone, submit an unconditional and irrevocable bank guarantee for an amount equal to INR [●]<sup>4</sup> (Rupees []), corresponding to 20% of the Bid Project Cost (the “**O&M Security**”). For the avoidance of confusion, the Contractor shall receive the payment linked with the final Payment Milestone only if the O&M Security is furnished within the time specified above. Furthermore, notwithstanding anything contained in this Contract, the Performance Security shall only be returned to the Contractor upon the Contractor furnishing the O&M Security.
- 32.4.** In case the O&M Security is not furnished within the time specified above in Clause 33.3, an amount equivalent to the O&M Security amount shall be deducted from the payment linked with the final Payment Milestone and such amount shall be retained by the Employer until the O&M Security is furnished. For the purpose of this Contract, such amount which is withheld shall be deemed to be

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<sup>3</sup> To be populated depending upon the Bid Project Cost being quoted by the Selected Bidder

<sup>4</sup> To be populated depending upon the Bid Project Cost being quoted by the Selected Bidder

an interest free O&M Security. In case the Contractor subsequently furnishes the O&M Security, then the withheld amount shall be returned to the Contractor by the Employer provided that there is confirmation from the Scheduled Bank which is acting as the guarantor.

- 32.5.** The Contractor shall maintain the O&M Security in full force and effect until the expiry of the O&M Period. The O&M Security shall have an initial validity period of 1 year, which must be renewed on a year-on-year basis, before the expiry of the 10th month of the relevant year, until the expiry of the O&M Period. Further, that upon yearly renewal, the value of the O&M Security shall be decreased at the rate of 4% of the Bid Project Cost, every year. For the purpose of illustration, the value of the O&M Security for the second year shall be 16% of the Bid Project Cost and so on.
- 32.6.** The O&M Security shall be returned to the Contractor only if the Contractor has completed all of its obligations during the O&M Period in compliance with the Specifications, O&M Manual and the standards laid down in Annexure 9, to the satisfaction of the Employer. If the Employer is not satisfied and discovers defects and deficiencies in the O&M services at the end of the O&M Period, then the Employer shall be entitled to remedy the defects and debit the cost from the O&M Payments or any other payments due. In such case, the Employer shall also have the right to not return the O&M Security and drawdown such amount from the O&M Security to the extent of the costs incurred by the Employer in remedying the defects and deficiencies in the O&M activities and subsequently return the O&M Security.
- 32.7.** Furthermore, if during the Defect Liability Period, the Employer discovers any defects in the works the Contractor shall promptly remedy the defects at its cost at the Employer's instructions. If the Contractor does not remedy such defects then the Employer shall be entitled to remedy the defects and debit the cost from the O&M Payments or any other payments due. It is clarified that the Employer shall have the right to draw down from the O&M Security such amounts incurred by the Employer in remedying such defects. In case of such draw down the Contractor shall promptly replenish the O&M Security to the full amount.
- 32.8.** The Performance Security shall secure the due performance of the Contractor's obligations during the Construction Period and the O&M Security shall secure the due performance of the Contractor's obligations during the O&M Period. The cost of procuring the Performance Security and the O&M Security shall be borne solely by the Contractor.
- 32.9.** If the Performance Security is scheduled to expire before the COD, then the Contractor shall arrange for an extension of the Performance Security at least 45 days prior to such expiration. If the Contractor fails to procure such extension or replacement, the Employer shall be entitled to drawdown the total amount available under the Performance Security and retain such amount as cash security until such time that the Contractor submits an extension or replacement of the Performance Security. Upon receipt of a renewed or replacement Performance Security, the Employer shall return the unutilized cash security amount for the Performance Security to the Contractor.
- 32.10.** If any O&M Security is not renewed by the expiry of the 10<sup>th</sup> month of the relevant year of the O&M Period, then the Employer shall be entitled to drawdown the total amount available under the O&M Security, and retain such amount as cash security until such time that the Contractor submits an extension or replacement of the O&M Security. If the O&M Security is not renewed within 2 months from the renewal date mentioned above, the Employer shall have the right to treat the same as a Contractor Event of Default and the consequences laid down in this Contract shall be followed. Upon receipt of a renewed or replacement O&M Security or within 30 days of the expiry of the O&M Period, as the case may be, the Employer shall return the unutilized cash security amount for the O&M Security to the Contractor.

- 32.11.** The Employer shall have the right to draw on the Performance Security and claim up to the amount guaranteed upon the Contractor's failure to honour any of its obligations, responsibilities or commitments during the Construction Period, or any amount due and payable by the Contractor to the Employer (including any Delay Liquidated Damages and Termination Compensation), in accordance with this Contract.
- 32.12.** The Employer shall have the right to draw on the O&M Security and claim up to the amount guaranteed upon the Contractor's failure to honour any of its obligations, responsibilities or commitments during the O&M Period, or any amount due and payable by the Contractor to the Employer (including any Availability Liquidated Damages, Performance Liquidated Damages, termination payment), in accordance with this Contract.
- 32.13.** The Employer shall not be required to give any prior notice to the Contractor of its intention to make a demand under the Performance Security or the O&M Security, as the case may be. However, the Employer shall provide the Contractor with a copy of any demand notice issued by the Employer under the Performance Security or the O&M Security, simultaneously with the issuance of the demand notice to the Scheduled Bank that has issued the Performance Security or the O&M Security.
- 32.14.** If the Employer makes a demand under the Performance Security or O&M Security, in part or in full, the Contractor shall immediately and in no event later than 15 days of such demand, restore the value of such Performance Security or O&M Security to the amount stated in this Clause 33.
- 32.15.** Within 30 days from the COD or the termination of this Contract, whichever is earlier, the Performance Security or, as the case may be, the amount retained by the Employer as cash security under Clause 33.9, shall be released to the Contractor subject to the Employer's right to receive any amounts from the Contractor before or upon COD or termination of this Contract and provided that there exists no Contractor Event of Default.
- 32.16.** Upon the expiry of the O&M Period or the termination of this Contract, whichever is earlier, the O&M Security or, as the case may be, the amount retained by the Employer as cash security under Clause 33.10, shall be released to the Contractor after the expiry of 30 days from the date of expiry or termination of this Contract, subject to the Employer's right to receive any amounts from the Contractor before or upon such expiry or termination of this Contract and provided that there is no Contractor Event of Default.

**32.17. Mobilization Advance Guarantee**

Within 30 days from the Effective Date, the Contractor shall submit to the Employer: (i) an unconditional and irrevocable bank guarantee for an amount equal to the 110% of Mobilization Advance in the form set out at Annexure 4 (the **Mobilization Advance Guarantee**). The Mobilization Advance Guarantees shall secure the Mobilization Advance paid to the Contractor. The cost of procuring the Mobilization Advance Guarantees shall be borne solely by the Contractor.

The Mobilization Advance Guarantee shall remain valid until the Mobilization Advance has been adjusted against the part of the payment linked with the first Payment Milestone.

If any Mobilization Advance Guarantee is scheduled to expire before the entire Mobilization Advance has been adjusted, then the Contractor shall arrange for an extension of the relevant Mobilization Advance Guarantee at least 30 days prior to such expiration. If the Contractor fails to procure such extension or replacement, the Employer shall be entitled to drawdown the total amount available under such Mobilization Advance Guarantee and retain such amount as cash security until such time

that the Contractor submits an extension or replacement of the Mobilization Advance Guarantee.

The Employer shall be entitled to utilize such retained amount in the same manner as it would utilise the Mobilization Advance Guarantee. Upon receipt of an extension or replacement Mobilization Advance Guarantee or on adjustment of the entire Mobilization Advance, the Employer shall return the unutilized cash security amount to the Contractor.

The Employer shall have the right to draw on the Mobilization Advance Guarantee in the event of the inadequate adjustment of the Mobilization Advance with the amount due from the first Payment Milestone.

In case the Contract is terminated early before the recovery of mobilisation of advance, then this advance would become an interest bearing advance and the interest rate shall be SBI MCLR rate.

The Employer shall not be required to give any prior notice to the Contractor of its intention to make a demand under any Mobilization Advance Guarantee. However, the Employer shall provide the Contractor with a copy of any demand notice issued by the Employer under a Mobilization Advance Guarantee, simultaneously with the issuance of the demand notice to the Scheduled Bank that has issued the Mobilization Advance Guarantee.

### **33. Payment Terms**

**33.1.** In consideration of the works and services required to be performed by the Contractor for designing, constructing, operating and maintaining the Facility in accordance with this Contract, the Contractor shall be entitled to receive the Construction Payments and the O&M Payments from the Employer in accordance with this Clause 34.

**33.2.** The Contractor shall be deemed to have satisfied itself regarding the adequacy, accuracy and sufficiency of the Construction Payments and the O&M Payments. Apart from any permitted variation, the Construction Payments and the O&M Payments are the total consideration payable to the Contractor for undertaking the Project.

#### **33.3. Construction Payments:**

a) Subject to this Clause 34.3, the Construction Payment will be paid by the Employer to the Contractor in the following 4 equal instalments (the “**Payment Milestones**”):

- A. 1st instalment of 10% of the relevant Bid Project Cost as mobilisation advance;
  - B. 2nd instalment of 30% of the relevant Bid Project Cost shall be released on a pro rata basis after supply of STP materials/equipment at site.
  - C. 3rd instalment of 30% of the relevant Bid Project Cost shall be released on a pro rata basis after installation of STP at site.
  - D. 4th instalment of 30% of the relevant Bid Project Cost shall be released after commissioning of STP and making the plant functional at site including reuse of treated water.
- For the avoidance of doubt, in case of the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Payment Milestones, the payment attached to each Milestone shall be released on a pro rata basis depending upon the completion of the works for each of the three STPs.

b) **Mobilization Advance:** 10 % of the Bid Project Cost shall be payable by the Employer to the Contractor as the Mobilization Advance, within 30 days from the Effective Date, subject to the Contractor having submitted a Mobilization Advance Guarantee in accordance with Clause 33.17. The Mobilization Advance shall be an interest free advance for mobilization and towards execution of the construction

works for the Project. The Mobilization Advance amount shall be deducted and adjusted from the amount payable to the Contractor from the first Payment Milestone.

- c) For the Facility, within 7 days of issuance of the Milestone Completion Certificate for a Milestone, the Contractor shall submit an invoice to the Employer for the amount of payment linked to such Milestone. Any invoice raised by the Contractor for the payments shall be accompanied by a copy of the relevant Milestone Completion Certificate issued by the Employer.
- d) Within 10 days of receipt of an invoice, the Employer shall verify and certify the amounts due and payable to the Contractor, and either:
  - approve the invoice and issue the relevant payment, less any necessary deductions or adjustments in accordance with this Contract and/or Applicable Laws.
  - issue a notice to the Contractor disputing the invoice and directing the Contractor to issue a revised invoice, after rectifying the errors or discrepancies identified by the Employer.
  - the Contractor shall submit a revised invoice to the Employer after rectifying the errors or discrepancies identified by the Employer and this process will be repeated until the Employer approves the invoice.
- e) Any dispute between the Parties in relation to a disputed Invoice will be settled in accordance with dispute resolution mechanism in this Contract.
- f) A certificate issued by the Employer in accordance with this Clause 34.3 shall be referred to as a payment certificate.
- g) Notwithstanding anything to the contrary in this Contract, the Employer shall have no obligation to issue a payment certificate unless:
  - i) the Performance Security remain valid and in effect
  - ii) the Applicable Permits required to be obtained by the Contractor for construction of the Facility is in full force and effect, unless the withdrawal or cancellation of any Applicable Permit is not attributable
  - iii) the Contractor has complied with the EHS Plan, Construction Plan, Drawings and Specifications in undertaking the construction of the Facility; and
  - iv) there is no subsisting Contractor Event of Default.

#### **33.4. O&M Payments**

During the O&M Period, the Employer shall be required to make the O&M Payments to the Contractor comprising of the O&M Charges and the Power Charges (collectively the **O&M Payments**), in accordance with this Clause 34.4. It is clarified that payment of O&M Payments by the Contractor shall be subject to deductions made by the Employer for any liquidated damages and other costs which the Contractor may be liable to pay.

##### **a) O&M Charges:**

The O&M Charges shall be payable by the Contractor during the O&M Period in accordance with the amounts stated for each of the five years by the Contractor, in its price bid. The annual O&M Charges shall be payable by the Contractor on a monthly basis in accordance with the terms of this Clause 34.4.

Provided however that the annual O&M Charges for any particular year post the first year of the O&M Period shall be subject to escalation in accordance with the Price Index.



For the purpose of this Clause 34.4 (a), the Price Index shall mean:

**Calculated on 25% of the sanctioned rate .For this purpose the WPI applicable on the scheduled last date of submission of price bid will be considered as Base .The price variation shall be applicable after completion of 12 months and no variation shall be admissible for the 1<sup>st</sup> 12 months .**

**b) Power Charges**

The actual payment of the Power Charges shall be borne by the Contractor, which shall be subsequently reimbursed by Employer, subject to a cap on the Power Charges based on the Guaranteed Energy Consumption.

The Power Charges for any given quarter of the O&M Period will be calculated as follows:

- i) For the units of energy consumed from the grid (as evidenced by a copy of the bill issued by the distribution licensee), the Power Charges will be calculated by multiplying the number of units consumed in such quarter (subject to the cap provided under Guaranteed Energy Consumption for the Facility) with the Power Unit Rate.
  - ii) The Contractor shall be liable to pay liquidated damages to the Employer for any units of energy consumed beyond the Guaranteed Energy Consumption ("**Power Consumption Liquidated Damages**"), which will be calculated as follows:
    - (I) For excess power consumption up to 5% of the Guaranteed Energy Consumption of the Facility:  
$$\text{Power Consumption Liquidated Damages} = (\text{Number of power units consumed in the relevant quarter} - \text{Guaranteed Energy Consumption for such quarter}) * [\text{Power Unit Rate}] * 0.25$$
    - (II) For excess power consumption between 5% to 10% of the Guaranteed Energy Consumption of the Facility:  
$$\text{Power Consumption Liquidated Damages} = (\text{Number of power units consumed in the relevant quarter} - \text{Guaranteed Energy Consumption for such quarter}) * [\text{Power Unit Rate}] * 0.5$$
    - (III) For excess power consumption above 10% of the Guaranteed Energy Consumption of the Facility:  
$$\text{Power Consumption Liquidated Damages} = (\text{Number of power units consumed in the relevant quarter} - \text{Guaranteed Energy Consumption for such quarter}) * [\text{Power Unit Rate}].$$
  - iii) The Power Consumption Liquidated Damages payable by the Contractor in any quarter of the O&M Period will be deducted from the O&M Payment for the Facility payable to the Contractor for such quarter. If the Power Consumption Liquidated Damages for a quarter exceed the O&M Charges for the Facility for such quarter, then the excess amounts shall, at the discretion of the Employer, either be adjusted against the O&M Charges for the Facility for the subsequent quarter or recovered from the relevant O&M Security.
- c) Any dispute between the Parties in relation to a disputed Invoice will be settled in accordance with dispute resolution mechanism in this Contract.

## **E. FINISHING THE CONTRACT**

### **34. Final Survey and Handover**

#### **34.1. Procedure of Survey**

- a) No later than 30 days from the end of 4<sup>th</sup> year of the O&M Period or 30 days from the date of termination of the Agreement, as the case may be, the Employer shall carry out a survey of the Site and the Facility to assess whether they have been maintained by the Contractor in accordance with its obligations under this Contract and are in working condition in line with the design life stipulated in the Specifications.
- b) The Employer shall notify the Contractor at least 7 days prior to the date on which it wishes to carry out the survey of the Site and the Facility.
- c) If the survey carried out by the Employer shows that the Contractor has not or is not complying with its obligations under this Contract, then the Employer shall notify the Contractor of the rectification and/or maintenance work which is required to ensure that the condition of the Site and the Facility is restored to the Hand-back Conditions.
- d) The Contractor shall carry out such rectification and/or maintenance work to achieve the Hand-back Conditions within 30 days from the receipt of a notice from the Employer in accordance with Clause 35.1 (c) above, at its own cost and risk. Upon completion of the rectification and/or maintenance work, the Contractor shall request the Employer to carry out a final survey and inspection of the Site and the Facility. The Employer shall carry out the final survey within 7 days of receipt of a notice from the Contractor pursuant to this Clause 35.1 (d).
- e) If the Employer is satisfied with the results of the final survey, then the Employer shall notify the Contractor within 7 days of carrying out the final survey that the Site and the Facility comply with the Hand-back Conditions. If the Employer is not satisfied with the results of the final survey, then the Employer shall estimate the cost of restoring the Site and the Facility to the Hand-back Conditions and recover such cost from the Contractor.

#### **34.2. Handover Requirements**

Upon the expiry or early termination of this Contract, the Contractor shall hand over the Site and the Facility to the Employer.

Further, upon the expiry or early termination of the Contract the following hand over requirements are to be fulfilled by the Contractor:

- a) hand over to the Employer, the Site and the Facility
- b) to the extent that such rights and interests are not already vested in the Employer, transfer all its rights and interest in the assets comprised in the Facility and execute such deeds and documents as may be necessary for this purpose and complete all related legal or other formalities;
- c) hand over all documents relating to the Site and the Facility including as-built records, Drawings, online monitoring and metering data, operating logs, manuals, reports, plans and records;
- d) transfer to the Employer (free of cost) the license to use the Proposed Technology and other know-how relating to the Facility;
- e) transfer or cause to be transferred to the Employer any subcontract that the Employer has chosen to take over and terminate all other subcontracts;
- f) transfer to the Employer all Applicable Permits which the Employer may require and which can be legally transferred; and

- g) remove from the Site all employees and workmen, and assets, equipment and materials that are not required to be taken over by the Employer.

It may be noted that this Clause 35.3 shall survive the termination of the Contract.

## **F. OTHER CONDITIONS OF CONTRACT**

### **35. Currencies**

All payments will be made in Indian Rupees.

### **36. Labour**

**36.1.** The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

**36.2.** The Contractor shall, if required by the Project Engineer/Technical Institution/Engineer-in-Charge, deliver to him a return in detail, in such form and at such intervals as the Project Engineer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Engineer may require.

### **37. Compliance with Labour Regulations**

**37.1.** During continuance of the Contract, the Contractor and its Subcontractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. Salient features of some of the major labour laws that are applicable to construction industry are given in the Annexure 7. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/byelaws/Acts/Rules/ regulations including amendments, if any, on the part of the Contractor, all Employer shall have the right to deduct any money due to the Contractor including his amount of Performance Security. All Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer. The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

### **37.2. Construction Safety**

The Contractor should be well conversant with technical as well as administrative and legal aspects of safety and judicial pronouncement. The Contractor shall all times take all reasonable precautions and safety measures to maintain safety of personnel and property. The Contractor shall, at his own expenses and throughout the period of the Contract ensure appropriate and suitable arrangements for health, safety and hygiene requirements for the surroundings. All Applicable Laws in respect of health, safety, hygiene shall be complied with by the Contractor in letter and spirit throughout the Term.

### **38. Audit and Technical examination**

Employer shall have the right to cause an audit and technical examination of the works and the final bill of the contract including all supporting vouchers, abstract etc. If as a result of such audit and technical examination any sum is found to have been overpaid in respect of any work done by the Contractor under the contract or any work claimed by him to have been done under the Contract and found not to, have been executed, the Contractor shall be liable to refund the amount of overpayment and it shall be lawful for government to recover the same from him and if it is found that the contractor was paid less than what was due to him, under the Contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by government to the Contractor.

### **39. Death or permanent invalidity of Contractor**

If the Contractor is an individual or a proprietary concern, partnership concern, dies during the currency of the Contract or becomes permanently incapacitated, where the surviving partners are only minors, the Contract shall be closed without levying any damages/ compensation as provided in this Contract. However, the Employer is satisfied about the competence of the survivors, then the Employer shall enter into a fresh agreement for the remaining work strictly on the same terms and conditions under which the Contract was awarded.

### **40. Miscellaneous**

#### **40.1. Survival**

- a) Any cause or action which may have occurred in favour of any Party or any right which is vested in any Party under this Contract as a result of any act, omission, deed, matter or thing done or omitted to be done by any Party before the expiry of the Term by efflux of time or otherwise in accordance with this Contract, shall survive the expiry of the Contract.
- b) The provisions of this Contract, to the fullest extent necessary to give effect thereto, survive the Term or the termination of this Contract and the obligations of Parties to be performed or discharged following the termination of this Contract, shall accordingly be performed or discharged by the Parties.

#### **40.2. Entire Agreement**

The Parties hereto acknowledge, confirm and undertake that this Contract (including the GCC and SCC) constitutes the entire understanding between the Parties regarding the development of the Project and supersedes all previous written or oral representations and/or arrangements regarding the Project.

#### **40.3. Non-exhaustive Remedies**

- a) Save and except as provided in this Contract, the remedies available to the Contractor under this Contract are not exhaustive and the Contractor and third parties shall be entitled to all other rights and remedies and to take all actions in law and in equity in addition to the remedies provided for herein.
- b) Save and except as provided in this Contract, the exercise of any rights by any Party under this Contract shall not preclude such Party from availing of any other rights or remedies that may be available to it under this Contract or any other agreement in relation to the Project. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more

remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

#### **40.4. Counterparts**

This Contract (including the GCC and the SCC) may be executed in two counterparts, each of which, when executed and delivered, will be an original, and both counterparts together shall constitute one and the same instrument.

#### **40.5. Language**

The formal text of this Contract and other agreements in relation to the Project shall be in the English language. All notices and communications between the Parties under this Contract shall be in English and all arbitration proceedings undertaken pursuant to this Contract shall be conducted in English.

#### **40.6. Confidentiality**

- a) No recipient Party shall, without the prior written consent of the disclosing Party, at any time divulge or disclose or suffer or permit its representatives to divulge or disclose to any person or use for any purpose unconnected with the Project any Confidential Information during the Term and for a period of 5 years after the expiry or termination of this Agreement, except to its representatives officers, directors, advisors, employers and agents who have a legitimate need to know the Confidential Information in order to perform their duties relating to the Agreement.
- b) This Clause 41.6 shall not apply to Confidential Information which:
  - (i) at the time of disclosure or thereafter has become part of public knowledge or literature without a breach of this Agreement;
  - (ii) is already in the possession of the Party receiving such Confidential Information before it was received from any other Party and which was not obtained under any obligation of confidentiality from the Party which disclosed such information;
  - (iii) was obtained from a third party (other than one disclosing it on behalf of a Party) who was free to divulge the same and who was not under any obligation of confidentiality in relation to such Confidential Information to the Party, which disclosed the information;
  - (iv) is required to be disclosed pursuant to any legal and mandatory requirement of any court, legislative or administrative body or any Government Authority, or the rules of any applicable stock exchange;
  - (v) is disclosed by the Contractor to any Subcontractor of the Contractor;
  - (vi) is disclosed to any professional advisors or consultants of any persons to whom a Party is entitled to disclose Confidential Information under this Clause 41.6;
  - (vii) is disclosed to any person in connection with the dispute resolution provisions under this Contract;
  - (viii) is independently developed by the receiving Party without reliance on the Confidential Information disclosed by the disclosing Party; or
  - (ix) is disclosed to any Government Authority or any other body in any relevant jurisdiction in connection with the obtaining or renewal of any Applicable Permit required for the Project.

Provided that the Party making a disclosure of Confidential Information pursuant to (v) and (vi) (above) shall ensure that any person to whom it makes such disclosure undertakes to hold such

Confidential Information subject to the same confidentiality obligations as those set out in Clause 41.6 (a) above.

- c) In the event that a Party is required or requested to make a disclosure of Confidential Information referred to in Clause 41.6 (b)(v) above, such Party shall prior to such disclosure (to the extent permissible by Applicable Law) use its best efforts to promptly notify the other Party so that appropriate protection order and/or other action can be taken if possible. In the absence of such a protection order restricting disclosure, the Party required to make such disclosure may disclose only that portion of the Confidential Information which it is legally required to disclose and shall use reasonable efforts to obtain assurances that confidential treatment will be accorded to the Confidential Information.

#### **40.7. Amendments**

- a) Any provision of this Contract may be amended, supplemented or modified only by an agreement in writing signed by all the Parties.
- b) A Party may at any time request the other to enter into discussions to review the operation of any part of this Contract and, but without commitment by the other Parties, to determine whether it should be amended by mutual agreement provided that, unless there is such mutual agreement, the provisions of this Contract (as then most recently, if at all, amended) shall continue to apply whatever the outcome of any such discussions or review and whether or not any such discussions or review take place.

#### **40.8. Waiver and Consent**

- a) Any provision or breach of any provision of this Contract may be waived before or after it occurs only if evidenced by an agreement in writing signed by the Parties.
- b) Any consent under or pursuant to any provision of this Contract must also be in writing and given prior to the event, action or omission for which it is sought.
- c) Any such waiver or consent may be given subject to any conditions thought fit by the Party giving it and shall be effective only in the instance and for the purpose for which it is given.

#### **40.9. Severability**

- a) If any provision of this Contract is or becomes illegal, invalid or unenforceable in any respect under any Applicable Law, the legality, validity or enforceability of the remaining provisions will not, in any way, be affected or impaired.
- b) The Parties shall negotiate in good faith with a view to agreeing one or more provisions which may be substituted for any such invalid, illegal or unenforceable provision and which produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the Parties.

#### **40.10. No Agency or Partnership**

Nothing contained or implied in this Contract shall constitute or be deemed to constitute a partnership or agency between the Parties and none of the Parties shall have any authority to bind, commit or make any representations on behalf of the other Parties.

#### **40.11. Costs and Expenses**

Each Party shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution of this Contract. The Contractor shall bear the applicable stamp duty and registration fee (if applicable) in respect of this Contract.

#### **40.12. Third Parties**

This Contract and all rights hereunder are intended for the sole benefit of the Parties and shall not imply or create any rights on the part of, or obligations to, any other person.

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**FORMAT OF PERFORMANCE SECURITY/O&M SECURITY**

Ref. \_\_\_\_\_ Bank Guarantee No. \_\_\_\_\_  
Date \_\_\_\_\_

To  
The Board of Trustees for the Port of Kolkata,  
15, Strand Road  
Kolkata – 700 001

Dear Sirs,

In consideration of the Board of Trustees For the Port of Kolkata, - (hereinafter referred to as the “EMPLOYER” which expression shall unless repugnant to the context or meaning thereof include its successors administrators and assigns) having awarded to \_\_\_\_\_, with registered office at \_\_\_\_\_ (hereinafter referred to as the “CONTRACTOR “ which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) a CONTRACT by issue of EMPLOYER’S work order dated \_\_\_\_\_ the same having been unequivocally accepted by the Contractor resulting in a ‘CONTRACT’ bearing Letter Of Award No \_\_\_\_\_ dated \_\_\_\_\_ Valued at Rs \_\_\_\_\_ for “ \_\_\_\_\_ ” and the contractor having agreed to provide a [Performance Security/O&M Security] for the faithful performance of the obligations during the [Construction Period/ O&M Period] haequivalent to Rs. \_\_\_\_\_ ( rupees \_\_\_\_\_ only) to the EMPLOYER.

We, the \_\_\_\_\_ Bank, \_\_\_\_\_, Kolkata/ Haldia having its Head Office at \_\_\_\_\_ (hereinafter referred to as the “Bank”, which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer on demand any and all monies payable by the Contractor to the extent of Rs. -(only) as aforesaid at any time upto \_\_\_\_\_ without any demur, reservation, contest, recourse or protest an/or without any reference to the CONTRACTOR, Any such demand made by Employer on the Bank shall be conclusive and binding notwithstanding any difference between EMPLOYEEER and CONTRACTOR or any dispute pending before any Court, tribunal, Arbitrator or any other Authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of employer and further agrees that the guarantee herein contained shall continue to be enforceable till the Employer discharges his guarantee.

EMPLOYER shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee from time to time to extend the time for performance of the CONTRACT by CONTRACTOR. Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or any right which they might have against Contractor, and to exercise the same at any time in any manner, and other to enforce or to forbear to enforce any covenants, contained or implied, in the CONTRACT between EMPLOYER and CONTRACTOR or any other course of remedy or security available to EMPLOYER . The Bank shall not be released of its obligations under these presents by any exercise by EMPLOYER of its liberty with reference to the matters aforesaid or any of them or by reason or any other acts of omission or commission on the part of employer or any other indulgence shown by EMPLOYER or by any other matter or thing whatsoever which under Law would, but for this provision, have the effect of reliving the bank.

The Bank also agreed that EMPLOYER at its option shall be entitled to enforce this Guarantee against the Bank as principal debtor, in the first instance without proceeding against CONTRACTOR and notwithstanding any security or other guarantee that EMPLOYER may have in relation to the CONTRACTOR’S liabilities.



Notwithstanding anything contained herein above our liability under this guarantee is restricted to Rs (rupees only) and it shall remain in force up to and including and shall be extended from time to time for such period , on whose behalf this guarantee has been given.

Dated, this ..... day of .....2010 ..... at .....

WITNESSES

-----  
(Signature) (Signature)

-----  
(Name) (Name)

-----  
(Official address) (Designation with Bank Stamp)  
+ Attorney as per power of Attorney No.

Dated .....

<b>S NO.</b>	<b>Preliminary Drawing</b>
1.	Treated Water Network Drawing
2.	Floating jetty Sewage Network Drawing
3.	Sector-13 Sewage Network Drawing
4.	Sector-8 Sewage Network Drawing
5.	Typical House Service Connection Drawing

Note: Please note that the preliminary drawings provided in this Annexure 2 is only for the purpose of reference to the Contractor. The Contractor is obligated to investigate the Site and provide the Drawings in the manner set out in the Contract.

**LIST OF EQUIPMENT FOR QUALITY CONTROL LAB****(To be filled-in by the Bidder)****The following Equipment/ Machines shall be required for quality control for the various civil works.**

<b>Minimum Requirement</b>			<b>Available with the Bidder</b>	
<b>S. No.</b>	<b>Name of Equipment/ Machinery</b>	<b>Quantity</b>	<b>Name of Equipment/ Machinery</b>	<b>Quantity</b>
1	Digging tools like pick axe, shovel, etc.	One set		
2	IS Sieves Nos. with lid and pan (90 mm, 80 mm, 63 mm, 53 mm, 45 mm, 37.5 mm, 26.5 mm, 19 mm, 13.2 mm, 11.2 mm, 9.5 mm, 4.75 mm, 2.8 mm, 5.6 mm, 3.35 mm, 2.36 mm, 600 Micron, 425 Micron, 300 Micron, 150 Micron, 180 Micron, 90 Micron and 75 Micron)	ONE SET		
3	Sand Pouring Cylinder with tray complete for field Density test	One set		
4	Speedy moisture meter complete with chemicals	One set		
5	Straight Edges 3.00 metre width	Two set		
6	Liquid Limit and plastic limit testing apparatus complete with water bottle and glass wares	One set		
7	Electronic/digital balance 5 kg	One no.		
8	Pan balance with weight box, 5 kg.	One no.		
9	Slump cone	Two no.		
10	Concrete cube moulds (150 mm X 150mm)	Twelve no.		
11	Free swelling index test Apparatus	Six no.		
12	Flakiness and elongation testing gauges	Two no.		
13	Water absorption test apparatus	One no.		
14	Specific gravity test apparatus	One no.		
15	B.S. compaction apparatus	One no.		
16	Proving rings	One each		
17	Glass ware	One set		
18	Auto level and staff	Three nos		
19	Rapid moisture meter	One no.		
20	Post Hole Auger with extensions	One set		
21	Measuring tape,	One set		

Minimum Requirement			Available with the Bidder	
S. No.	Name of Equipment/ Machinery	Quantity	Name of Equipment/ Machinery	Quantity
	spatula, glassware, porcelain dish, pestle mortar			
22	Standard Proctor Density Test Apparatus with rammer	One set		
23	Electronic/digital balance 1 kg with the least count of 0.01 gm	One set		
24	Camber Board	Two no.		
25	Core Cutter (10 cm dia) 10cm/15cm height complete with dolly and hammer	One set		
26	CBR Testing machine	One no.		
27	Oven (ambient to 200°C)	One no.		
28	Digital Thermometers	Three no.		
	Aggregate Soundness test apparatus	One no.		
30	Concrete cube testing machine	One no.		
31	First aid box	One no.		
32	Sampling Pipette	One no.		
33	Balance	One no.		
34	Dial Gauges	Six No.		
35	Thickness gauge	One set		
36	Water still (4 ft.)	One no.		
37	A.I.V. testing equipment	One no.		

*The above list of essential equipment for quality control is indicative and for guidance and is not complete. Other apparatus and equipment as desired/required by the Engineer-in-Charge shall be procured by the Contractor*

**BANK GUARANTEE FORM' FOR MOBILIZATION ADVANCE**

To,

\_\_\_\_\_ [name of Employer]  
 \_\_\_\_\_ [address of Employer]  
 \_\_\_\_\_ [name of Contractor]

In accordance with the provisions of the General Conditions of Contract, ("Mobilization Advance") of the above-mentioned Contract \_\_\_\_\_ [name and address of Contractor] (hereinafter called "the Contractor") shall deposit with \_\_\_\_\_ [name of Employer] a bank guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of [amount of Guarantee\* [in words]].

We, the \_\_\_\_\_ [bank of financial institution] as instructed 'by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to

\_\_\_\_\_ [name of Employer] on his first demand without whatsoever right of obligation on our part and without his first claim to the Contractor, in the amount not exceeding [amount of guarantee]\*[in words].

We further agree that no change or addition to or other modification of the terms of the Contractor or Works to be performed there under or of any of the Contract documents which may be made between [name of Employer] and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until \_\_\_\_\_ [name of Employer] receives full repayment of the same amount from the Contractor.

Yours truly,

Signature and Seal :  
 Name of Bank/Financial Institution:  
 Address : '

Date :

\*An amount shall be inserted by the Bank or Financial Institution representing the amount of the Advance Payment, and denominated in Indian Rupees.

**Milestone Completion Certificate**

Name of Work:

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Agreement No. \_\_\_\_\_ Date \_\_\_\_\_

Amount of Contract Rs \_\_\_\_\_

Name of Agency: \_\_\_\_\_

Description of Milestone: \_\_\_\_\_

Certified that the above mentioned work was physically completed on..... (Date) and taken over  
on..... (Date) and that I have satisfied myself to best of my ability that the work has been done  
properly.

Date of issue

Engineer In Charge

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### Final Construction Completion Certificate

Name of Work:

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Agreement No. \_\_\_\_\_ Date: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

Description of Completion of Works:

Certified that the above mentioned work was physically completed on \_\_\_\_\_ (date)

And taken over on \_\_\_\_\_ (date).

Agreement amount Rs. \_\_\_\_\_

Final amount paid to Contractor Rs. \_\_\_\_\_

Incumbency of officers for the work

I have satisfied myself to best of my ability that the work has been done properly.

Date of Issue

Engineer In Charge

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### SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE

- (a) Workmen Compensation Act 1923: - The Act provides for compensation in case of injury by accident arising out of and during the course of employment.
- (b) Payment of Gratuity Act 1972: - Gratuity is payable to an employee under the Act on satisfaction of certain conditions on separation if an employee has completed the prescribed minimum years (say, five years) of service or more or on death the rate of prescribed minimum days' (say, 15 days) wages for every completed year of service. The Act is applicable to all establishments employing the prescribed minimum number (say, 10) or more employees.
- (c) Employees P.F. and Miscellaneous Provision Act 1952: The Act Provides for monthly contributions by the Employer plus workers at the rate prescribed (say, 10% or 8.33%). The benefits payable under the Act are:
  - i. Pension or family pension on retirement or death as the case may be. '
  - ii. Deposit linked insurance on the death in harness of the worker.
  - iii. Payment of P.F. accumulation on retirement/death etc.
- (d) Maternity Benefit Act 1951: - The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.
- (e) Contract Labour (Regulation & Abolition) Act 1970: - The Act provides for certain welfare measures to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The principal Employer is required to take Certificate of Registration and the Contractor is, required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ prescribed minimum (say 20) or more contract labour.
- (f) Minimum Wages Act 1948: - The Employer is to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Construction of buildings, roads, runways is scheduled employment.
- (g) Payment of Wages Act 1936: - It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.
- (h) Equal Remuneration Act 1979: - The Act provides for payment of equal wages for work of equal nature to male and female workers and for not making discrimination against female employees in the matters of transfers, training and promotions etc.
- (i) Payment of Bonus Act 1965: - The Act is applicable to all establishments employing prescribed minimum (say, 20) or more workmen. The Act provides for payments of annual bonus 'within the prescribed range of percentage of wages to employees drawing up to the prescribed amount of wages, calculated in the prescribed manner. The Act does not apply to certain establishments. The newly set-up establishments are exempted for five years in certain circumstances. States may have different number of employment size.



- (j) Industrial Disputes Act 1947: - The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- (k) Industrial Employment (Standing Orders) Act 1946: - It is applicable to all establishments employing prescribed minimum (say, 100, or 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and gets these certified by the designated Authority.
- (l) Trade Unions Act 1926: - The Act lays down the procedure for registration of trade unions of workmen and Employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.
- (m) Child Labour (Prohibition & Regulation) Act 1986: - The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulations o employment of children in all other occupations and processes. Employment of child labour is prohibited in building and construction industry.
- (n) Inter-State Migrant Workmen's (Regulation of Employment & Conditions of Service) Act 1979: - The Act is applicable to an establishment which employs prescribed minimum (say, five) or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The inter-State migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as Housing, Medical-Aid, Travelling expenses from home up to the establishment and back etc.
- (o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996: - All the establishments who carry on any building or other construction work and employs the prescribed minimum (say, 10) or more workers are covered under this Act. All such establishments are required to pay cess at the rate not exceeding 2% of the cost of construction as. may be modified by the Government., The Employer of the establishment- is required to provide safety measures at the building or construction work and other welfare measures, such as canteens, first-aid facilities, ambulance, housing accommodations for workers near the-work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.
- (p) Factories Act 1948: - The Act lays down the procedure for approval of plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. it is applicable to premises employing the prescribed minimum (say, 10) persons or more with aid of power or another prescribed minimum (say, 20) or more persons without the aid of power engaged in manufacturing process.

## CONSTRUCTION SAFETY

- 1) IS: 3696(Part-1, 2) Safety code for scaffolds and ladder
- 2) IS: 3764 Safety code for excavation work
- 3) IS: 7205 Safety code for erecting of structural steel work
- 4) SP: 70-2001 Handbook on Construction Safety Practices

1. On all excavation work, safety precautions for the protection of life and property are essential: While measures to avoid inconveniences to the public are desirable. Such measures and precautions include the erection and maintenance signs (to forewarn public), barricades, bridges, and detours: placing and maintenance of lights both for illumination and also as danger signals, provision of watchmen to exclude unauthorised persons particularly children, from trespassing on the work: and such other precautions as local conditions may dictate.

2. Suitable scaffolds should be provided for workmen for all works that cannot safely be done from the ground, or from solid construction except such short period work as can be done safely from ladders. When a ladder is used, an extra mazdoor shall be engaged for holding the ladder and if the ladder is used for carrying materials as well suitable footholds and hand-hold shall be provided on the ladder and the ladder shall be given an inclination not steeper than  $\frac{1}{4}$  to  $1\frac{1}{4}$  horizontal and 1 vertical.)

3. Scaffolding of staging more than 3.6 m (12ft.) above the ground or floor, swung or suspended from an overhead support or erected with stationary support shall have a guard rail properly attached or bolted, braced and otherwise secured at least 90 cm. (3ft.) high above the floor or platform of such scaffolding or staging and extending along the entire length of the outside and ends there of with only such opening as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.

4. Working platforms, gangways and stairways should be so constructed that they should not sag unduly or unequally, and if the height of the platform or the gangway or the stairway is more than 3.6 m (12ft.) above ground level or floor level, they should be closely boarded, should have adequate width and should be suitably fastened as described in (2) above.

5. Every opening in the floor of a building or in a working platform shall be provided with suitable means to prevent the fall of person or materials by providing suitable fencing or railing whose minimum height shall be 90 cm. (3ft.)

6. Safe means of access shall be provided to all working platforms and other working places. Every ladder shall be securely fixed. No portable single ladder shall be over 9m. (30ft.) in length while the width between side rails in rung ladder shall in no case be less than 29 cm. (11½") for ladder upto and including 3 m. (10 ft.) in length. For longer ladders, this width should be increased at least ¼" for each additional 30 cm. (1 foot) of length. Uniform step spacing of not more than 30 cm shall be kept. Adequate precautions shall be taken to prevent danger from electrical equipment. No materials on any of the sites or work shall be so stacked or placed as to cause danger or inconvenience to any person or the public. The Contractor shall provide all necessary fencing and lights to protect the public from accident and shall be bound to bear the expenses of defence of every suit, action or other proceedings at law that may be brought by any person for injury sustained owing to neglect of the above precautions and to pay any damages and cost which may be awarded in any such suit; action or proceedings to any such person or which may, with the consent of the Contractor, be paid to compensate any claim by any such person.

(a) Excavation and Trenching - All trenches 1.2 m. (4ft.) or more in depth, shall at all times be supplied with at least one ladder for each 30 m. (100 ft.) in length or fraction thereof, Ladder shall extend from bottom of the trench to at least 90 cm. (3ft.) above the surface of the ground. The side of the trenches which are 1.5 m. (5ft.) or more in depth shall be stepped back to give suitable slope or securely held by timber bracing, so as to avoid the danger of sides collapsing. The excavated materials shall not be placed within 1.5 m. (5ft.) of the edges of the trench or half of the depth of the trench whichever is more. Cutting shall be done from top to bottom. Under no circumstances, undermining or undercutting shall be done.

(b) Safety Measures for digging bore holes:

- i. If the bore well is successful, it should be safely capped to avoid caving and collapse of the bore well. The failed and the abandoned ones should be completely refilled to avoid caving and collapse;
  - ii. During drilling, Sign boards should be erected near the site with the address of the drilling Contractor and the Engineer in-charge of the work.
  - iii. Suitable fencing should be erected around the well during the drilling and after the installation of the rig on the point of drilling, flags shall be put 50m around the point of drilling to avoid entry of people;
  - iv. After drilling the borewell, a cement platform (0.50m x 0.50m x 1.20m) 0.60m above ground level and 0.60m below ground level should be constructed around the well casing;
  - v. After the completion of the bore well, the contractor should cap the bore well properly by welding steel plate, cover the bore well with the drilled wet soil and fix thorny shrubs over the soil. This should be done even while repairing the pump;
  - vi. After the bore well is drilled the entire site should be brought to the ground level.
8. Demolition - before any demolition work is commenced and also during the progress of the work,
- i. All roads and open areas adjacent to the work site shall either be closed or suitably protected.
  - ii. No electric cable or apparatus which is liable to be a source of danger or a cable or apparatus used by the operator shall remain electrically charged.
  - iii. All practical steps shall be taken to prevent danger to persons employed from risk of fire or explosion or flooding. No floor, roof or other part of the building shall be so overloaded with debris or materials as to render it unsafe.
9. All necessary personal safety equipment as considered adequate by the Engineer-in-Charge should be kept available for the use of the person employed on the site and maintained in a condition suitable for immediate use, and the Contractor should take adequate steps to ensure proper use of equipment by those concerned. The following safety equipment shall invariably be provided:--
- i. Workers employed on mixing asphaltic materials, cement and lime mortars shall be provided with protective footwear and protective goggles.
  - ii. Those engaged in white washing and mixing or stacking of cement bags or any material which is injurious to the eyes, shall be provided with protective goggles.
  - iii. Those engaged in welding works shall be provided with welder's protective eye shields.
  - iv. Stone breaker shall be provided with protective goggles and protective clothing and seated at sufficiently safe intervals.
  - v. When workers are employed in sewers and manholes, which are in active use, the Contractors shall ensure that the manhole covers are opened and ventilated at least for an hour before the workers are allowed to get into the manholes, and the manholes so opened shall be cordoned off with suitable railing and provided with warning signals or boards to prevent accident to the public. In addition, the Contractor shall ensure that the following safety measure are adhered to :-

- a. Entry for workers into the line shall not be allowed except under supervision of the JE or any other higher officer.

- b. At least 5 to 6 manholes upstream and downstream should be kept open for at least 2 to 3 hours before any man is allowed to enter into the manhole for working inside.
  - c. Before entry, presence of Toxic gases should be tested by inserting wet lead acetate paper which changes colour in the presence of such gases and gives indication of their presence.
  - d. Presence of Oxygen should be verified by lowering a detector lamp into the manhole. In case, no Oxygen is found inside the sewer line, workers should be sent only with Oxygen kit.
  - e. Safety belt with rope should be provided to the workers. While working inside the manholes, such rope should be handled by two men standing outside to enable him to be pulled out during emergency.
  - f. The area should be barricaded or cordoned off by suitable means to avoid mishaps of any kind. Proper warning signs should be displayed for the safety of the public whenever cleaning works are undertaken during night or day.
  - g. No smoking or open flames shall be allowed near the blocked manhole being cleaned. (h) The malba obtained on account of cleaning of blocked manholes and sewer lines should be immediately removed to avoid accidents on account of slippery nature of the malba.
  - h. Workers should not be allowed to work inside the manhole continuously. He should be given rest intermittently. The Engineer-in-Charge may decide the time up to which a worker may be allowed to work continuously inside the manhole.
  - i. Gas masks with Oxygen Cylinder should be kept at site for use in emergency.
  - j. Air-blowers should be used for flow of fresh air through the manholes. Whenever called for, portable air blowers are recommended for ventilating the manholes. The Motors for these shall be vapour proof and of totally enclosed type. Non sparking gas engines also could be used but they should be placed at least 2 metres away from the opening and on the leeward side protected from wind so that they will not be a source of friction on any inflammable gas that might be present.
  - k. The workers engaged for cleaning the manholes/sewers should be properly trained before allowing to work in the manhole.
  - l. The workers shall be provided with Gumboots or non-sparking shoes, bump helmets and gloves, non-sparking tools, safety lights and gas masks and portable air blowers (when necessary). They must be supplied with barrier cream for anointing the limbs before working inside the sewer lines.
  - m. Workmen descending a manhole shall try each ladder stop or rung carefully before putting his full weight on it to guard against insecure fastening due to corrosion of the rung fixed to manhole well.
  - n. If a man has received a physical injury, he should be brought out of the sewer immediately and adequate medical aid should be provided to him.
  - o. The extent to which these precautions are to be taken depend on individual situation but the decision of the Engineer-in-Charge regarding the steps to be taken in this regard in an individual case will be final.
- vi. The Contractor shall not employ men and women below the age of 18 years on the work of painting with products containing lead in any form. Wherever men above the age of 18 are employed on the work of lead painting, the following precaution should be taken:
- a. No paint containing lead or lead products shall be used except in the form of paste or readymade paint.
  - b. Suitable face masks should be supplied for use by the workers when paint is applied in the form of spray or a surface having lead paint is dry rubbed and scrapped.
  - c. Overall shall be supplied by the Contractors to the workmen and adequate facilities shall be provided to enable the working painters to wash during and on the cessation of work.

10. An additional clause (viii)(i) of Safety Code (iv) the Contractor shall not employ women and men below the age of 18 on the work of painting with product containing lead in any form, wherever men above the age of 18 are employed on the work of lead painting, the following principles must be observed for such use :

- i. White lead, sulphate of lead or product containing these pigment, shall not be used in painting operation except in the form of pastes or paint ready for use.
- ii. Measures shall be taken, wherever required in order to prevent danger arising from the application of a paint in the form of spray.
- iii. Measures shall be taken, wherever practicable, to prevent danger arising out of from dust caused by dry rubbing down and scraping.
- iv. Adequate facilities shall be provided to enable working painters to wash during and on cessation of work.
- v. Overall shall be worn by working painters during the whole of working period.
- vi. Suitable arrangement shall be made to prevent clothing put off during working hours being spoiled by painting materials.
- vii. Cases of lead poisoning and suspected lead poisoning shall be notified and shall be subsequently verified by medical man appointed by competent authority.
- viii. The employer may require, when necessary medical examination of workers. (ix) Instructions with regard to special hygienic precautions to be taken in the painting trade shall be distributed to working painters. When the work is done near any place where there is risk of drowning, all necessary equipments should be provided and kept ready for use and all necessary steps taken for prompt rescue of any person in danger and adequate provision, should be made for prompt first aid treatment of all injuries likely to be obtained during the course of the work.

11. Use of hoisting machines and tackle including their attachments, anchorage and supports shall conform to the following standards or conditions:-

- i. These shall be of good mechanical construction, sound materials and adequate strength and free from patent defects and shall be kept repaired and in good working order.
- ii. Every rope used in hoisting or lowering materials or as a means of suspension shall be of durable quality and adequate strength, and free from patent defects.
- iii. Every crane driver or hoisting appliance operator, shall be properly qualified and no person under the age of 21 years should be in charge of any hoisting machine including any scaffolding winch or give signals to operator.
- iv. In case of every hoisting machine and of every chain ring hook, shackle swivel and pulley block used in hoisting or as means of suspension, the safe working load shall be ascertained by adequate means. Every hoisting machine and all gear referred to above shall be plainly marked with the safe working load. In case of a hoisting machine having a variable safe working load each safe working load and the condition under which it is applicable shall be clearly indicated. No part of any machine or any gear referred to above in this paragraph shall be loaded beyond the safe working load except for the purpose of testing.
- v. In case of departmental machines, the safe working load shall be notified by the Electrical Engineer in-Charge. As regards Contractor's machines the Contractors shall notify the safe working load of the machine to the Engineer-in-Charge whenever he brings any machinery to site of work and get it verified by the Electrical Engineer concerned.

13. Motors, gearing, transmission, electric wiring and other dangerous parts of hoisting appliances should be provided with efficient safeguards. Hoisting appliances should be provided with such means as will reduce to the minimum the risk of accidental descent of the load. Adequate precautions should be taken to reduce to the minimum the risk of any part of a suspended load becoming accidentally displaced. When workers are employed on electrical installations which are already energized, insulating mats, wearing apparel, such as

gloves, sleeves and boots as may be necessary should be provided. The worker should not wear any rings, watches and carry keys or other materials which are good conductors of electricity.

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

15. To ensure effective enforcement of the rules and regulations relating to safety precautions the arrangements made by the Contractor shall be open to inspection by the Engineer-in-Charge or their representatives.

16. Notwithstanding the above clauses from (1) to (14), there is nothing in these to exempt the Contractor from the operations of any other Act or Rule in force in the Republic of India.

**KPIs for Operation and Maintenance:**

The Bidder shall be responsible for the operation and maintenance of the project for a period of 5 years from COD. During operation and maintenance all the expenses for repairs, replacements and consumables except electricity (to be borne by authority upto the limit mentioned in BID) shall be on the part of Bidder. It shall be the responsibility of Bidder that the system runs at desired capacity and efficiency during the O&M Period. Employer shall extend all the necessary support to the Bidder for fulfilling the Obligations for operating and maintaining the facility successfully. During O&M the scope of Contractor shall be to operate and maintain the Sewage Treatment plant. A brief detail is given in Service level agreement.

Details of minimum Staff to be deployed by Bidder for Operation and maintenance of the project,

Sr..No.	Particulars	No.
1	Operator	2

The payment against the O&M shall be made in 4 equal instalments after completion of each quarter. If Bidder does not employ the no. of staffs shown, proportionate deduction shall be made accordingly.

**Treated Water Standards**

Parameters	(STP Design Parameters)
pH	6.5 – 9.0
BOD (mg/l)	Not more than 20
COD (mg/l)	Not more than 75
TSS (mg/l)	Not more than 30
Fecal Coliform (MPN/100ml)	Less than 100

## SERVICE LEVEL AGREEMENT

The variations allowed in treated effluent quality during Operation & Maintenance (O&M) period of 15 years and during Defect Liability Period, and penalty for not maintaining the standards are as below:

<b>Parameter</b>	<b>Maximum Allowed Concentration (MAC)</b>
<i>BOD</i>	<i>30 mg/l</i>
<i>TSS</i>	<i>100 mg/l</i>
<i>Faecal Coliforms(FC)</i>	<i>&lt;100 MPN/100 ml</i>
<i>COD</i>	<i>150 mg/l</i>
<i>Oil &amp; GREASE</i>	<i>10 Mg /l</i>
<i>PH</i>	<i>6.5-9.0</i>

During trial run and commissioning, no penalties will be applied and Contractor will rectify the plant to ensure successful commissioning.

However, after COD, Haldia Dock Complex will impose following penalties/liquidated damages for not maintaining the guaranteed parameters, as described below:

### **Condition A:**

Liquidated Damages for non-compliance of treated effluent standards

<b>Event Triggering the recovery of Liquidity Damages</b>	<b>Liquidated Damages</b>	<b>Frequency</b>
Non-conformance with MAC for BOD/COD Standard	Rs. 2000/-	For every event of non- conformance
Non-conformance with MAC for TSS Standard	Rs. 2000/-	For every event of non-conformance
Non-conformance with MAC For PH value	Rs. 2000/-	For every event of non-conformance
Non-conformance with MAC for oil & Grease	Rs. 2000/-	For every event of non-conformance
Non-conformance with MAC for Faecal Coliform Standard	Rs. 2000/-	For every event of non-conformance

### **Condition-B: Breakdown of Equipment:**

In case of breakdown of equipment for more than the stipulated time period as below, on discretion of Engineer-in-Charge, the Contractor shall be penalized as mentioned below:

<b>Equipment/ Systems</b>	<b>Breakdown Time Period</b>	<b>Penalty Imposed</b>
<b>Critical Equipment/ Instrumentation</b> (Critical equipment shall mean those equipment's / systems which are essential to ensure the plants performance and it shall include all flow and treated water quality measuring instruments and systems including submersible mixers , blowers, sludge and MLSS recirculation pumps, disinfection (chlorination system), filters electrical systems such as critical electrical system such transformers, electrical panels etc.)	More than 72 hours	3% of previous Month Cost per day of default beyond permitted breakdown time period



**Condition- C:****Grid Power Failure:**

In any case, if the Grid Power failure is more than 8 hrs in a single occasion in a day or cumulative Grid Power failure is more than 8 hrs in a day

No treatment standards will be compulsory. However, Contractors are encouraged to maintain standards as far as possible. No penalties will be imposed on Contractor for the above contingencies. Above relaxation shall be applicable only for a period of 24 hours after resuming regular Grid Power.

**Condition-D:****Residual Handling & Disposal**

The Plant Residuals shall conform to the following specifications:

**Screenings**

The screenings shall comprise of all particles of an effective size in excess of 5 mm and be "free of dripping water "i.e. the screenings on collection does not contain any dripping water when disposed from the plant

**Grit**

The grit removed shall contain less than 3% organic matter on dry basis of an average particle size between of more than 100 microns but less than 1000 microns and be free of dripping water

**Excess Bio Solids (Sludge)**

The excess Bio Solids (Sludge) produced shall contain approximately 20-22% of Solid Content Concentration with VSS/TSS ratio of not less than 48%, for "spadeable" or "open body truck able" consistency for easy transportation and disposal.

The Waste Water Treatment Residuals i.e. Screenings / Grit and Dewatered Bio Solids shall be handled and transported by the Bidder in a nuisance free manner following environmental guidelines prescribed by SPCB\CPCB. If the performance of the Bidder is not found satisfactory in respect of processing, handling and transportation of the sludge, the Employer shall have the liberty to recover from Bidder two (2) times the cost incurred for handling and transportation of the residuals. The residuals shall be disposed by the Bidders as per the guidelines provided by the Employer

**Screenings & Grit:** Disposal to the Sanitary Land fill (the tipping charges shall be borne by the Contractor)

**Dewatered Sludge:** Ultimate Disposal of dewatered sludge shall be the responsibility of the Contractor. Sludge shall be disposed within the battery limit of plant area.

***SPECIFICATIONS***

***TO BE PROVIDED BY THE BIDDER***

**PROFORMA OF FORM OF AGREEMENT***(On Non Judicial Stamp Paper of INR. 1000.00)*

This agreement, made on the day of \_\_\_\_\_ between (name and address of Employer) (hereinafter called "the Employer) and \_\_\_\_\_ (name and address of contractor) hereinafter called "the Contractor" of the other part.

Whereas the Employer is desirous that the Contractor execute \_\_\_\_\_ (name and identification number of Contract) (hereinafter called "the Works") and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein, at a cost of INR. \_\_\_\_\_

NOW THIS AGREEMENT WITNESSED as follows:

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the conditions of contract hereinafter referred' to and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all aspects with the provisions of the contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying the defects wherein Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall be deemed to form and be ready and construed as part of this Agreement viz.
  - i. Letter of Acceptance
  - ii. Contractor's Technical and Financial Bid
  - iii. Condition of Contract: General and Special
  - iv. Drawings
  - v. Specifications
  - vi. Any other documents listed in the RFP as forming part of the Contract.

In witnessed whereof the parties there to have caused this Agreement to be executed the day and year first before written.

The Common Seal of affixed in the presence of:

Signed, Sealed and Delivered by the said \_\_\_\_\_ in the presence of:

Binding Signature of Employer \_\_\_\_\_

Binding Signature of Contractor \_\_\_\_\_

# Integrity Pact

Between

**Syama Prasad Mookerjee Port, Kolkata** hereinafter referred to as **“The Principal/ Employer”**.

And

..... hereinafter referred to as **“The Bidder/Bidder”**

## Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for ..... The Principal values full compliances with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s) and/or Bidder(s).

In order to achieve these goals, an Independent External Monitor (IEM) appointed by the principal, will monitor the bid process and the execution of the contract for compliance with the principles mentioned above.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the PRINCIPAL/EMPLOYER to get the contractual work executed and/or to obtain/dispose the desired said stores/ equipment at a competitive price in conformity with the defined specifications/ scope of work by avoiding the high cost and the distortionary impact of corruption on such work /procurement/ disposal and Enabling BIDDERS/ BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the PRINCIPAL/EMPLOYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

## **Section 1 – Commitments of the Principal/ Employer.**

- (1) The Principal commits itself to take measures necessary to prevent corruption and to observe the following principles:
  - a. No employee of the Principal, personally or THOROUGH family members, will in connection with the bid for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b. The Principal will, during the bid process treat all Bidder(s) with equity and reason. The Principal will, in particular, before and during the bid process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information THOROUGH which the Bidder(s) could obtain an advantage in relation to the bid process or the contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons.
- (2). If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code (IPC)/Prevention of Corruption (PC) Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

## **Section-2 –Commitments of the Bidder(s) / Bidder(s)**

- (1) The Bidder(s)/Bidder(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the bid process and during the contract execution.
  - a. The Bidder(s) /Bidder(s) will not directly or THOROUGH any other person or firm, offer, promise or give to any of the Principal's employees involved in the bid process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the bid process or during the execution of the contract.
  - b. The Bidder(s)/Bidder(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contract, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - c. The Bidder(s)/Bidder(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/Bidder(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d. The Bidder(s)/Bidder(s) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the Bidder(s)/Bidder(s) of Indian Nationality shall furnish the name and address of the foreign principles, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Bidder(s). Further, as mentioned in the Guidelines, all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is annexed and marked as Annex-A.
  - e. The Bidder(s)/Bidder(s) will when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2). The Bidder(s)/Bidder(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

## **Section-3-Disqualification from bid process and exclusion from future contracts**

If the Bidder(s)/Bidder(s) before award or during execution has committed a transgression THOROUGH a violation of Section 2 above, or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Bidder(s) from the bid process or take action as considered appropriate.

## **Section 4-Compensation for damages**

- (1) If the Principal has disqualified the Bidder(s) from the bid process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
- (2) If the Principal has terminated the contract according to Section 3 or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover

from the Bidder liquidated damages of the contract value or the amount equivalent to Performance Bank Guarantee.

#### **Section 5-Previous transgression**

- (1) The Bidder declares that no previous transgressions occurred in the last 3 years from the date of signing the Integrity pact with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Undertaking / Enterprise in India, Major Ports/ Govt. Departments of India that could justify his exclusion from the bid process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the bid process or action can be taken as considered appropriate.

#### **Section 6- Equal treatment of all Bidders/Bidders/Sub-Bidders**

- (1) The Bidder(s)/Bidder(s) undertake(s) to demand from all subbidders a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal, will enter into agreements with identical conditions as this one with all Bidders, Bidders and Sub-bidders.
- (3) The Principal will disqualify from the bid process all bidders who do not sign this Pact or violate its provisions.

#### **Section 7- Other Legal actions against violating Bidder(s)/ Bidder(s)/ Sub Bidder(s)**

The actions stipulated in this Integrity pact are without prejudice to any other legal action that may follow in accordance with provisions of the extant law in force relating to any civil or criminal proceedings.

#### **Section 8 – Role of Independent External Monitor(IEM):**

- (a) The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this pact.
- (b) The Monitors shall not be subject to instructions by the representatives of the parties and shall perform their functions neutrally and independently.
- (c) Both the parties accept that the Monitors have the right to access all the documents relating to the contract.
- (d) As soon as the Monitor notices, or has reason to believe, a violation of this pact, he will so inform the authority designated by the Principal and the Chief Vigilance Officer of Syama Prasad Mookerjee Port, Kolkata.
- (e) The BIDDER/ BIDDER(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the PRINCIPAL including that provided by the BIDDER/ BIDDER. The BIDDER/ BIDDER will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation, if any. The same is applicable to sub-bidders. The Monitor shall be under contractual obligation to treat the information and documents of the Bidder/Bidder/ Sub-bidder(s) with confidentiality.
- (f) The Principal/ Employer will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Bidder. The parties offer to the Monitor, the option to participate in such meetings.
- (g) The Monitor will submit a written report to the designated Authority of Principal/ Employer/ Chief Vigilance Officer of Kolkata Port Trust within 8 to 10 weeks from the date of reference or intimation to him

by the Principal/ Employer/ Bidder/ Bidder and should the occasion arise, submit proposals for correcting problematic situation. BIDDER/ BIDDER can approach the Independent External Monitor (s) appointed for the purposes of this Pact.

(h) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or to take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

(i) If the Monitor has reported to the Principal substantiated suspicion of an offence under the relevant IPC/PCA, and the Principal/ Employer has not, within reasonable time, taken visible action to proceed against such offence or reported to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

(j) The word 'Monitor' would include both singular and plural.

### **Section 9 – Facilitation of Investigation:**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the PRINCIPAL/EMPLOYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER/BIDDERS and the BIDDER/BIDDER shall provide necessary information and documents **in English** and shall extend all possible help for the purpose of such examination.

### **Section 10 – Pact Duration:**

The pact beings with when both parties have legally signed it and will extend upto 2 years or the complete execution of the contract including warranty period whichever is later. In case bidder/bidder is unsuccessful this Integrity Pact shall expire after 6 months from the date of signing of the contract.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/determined by Chairman, SMP, KOLKATA.

### **Section 11 – Other Provisions:**

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal in Kolkata.
- (2) Changes and supplements as well as termination notices need to be made in writing in English.
- (3) If the Bidder is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the reminder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

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(For & on behalf of the Principal)

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(For & on behalf of Bidder/Bidder).

(Office Seal)

(Office Seal)

Place :

Date :

Witness 1:

(Name & Address) .....

.....

.....

Witness 2:

(Name & Address) .....

.....

.....



**GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS**

- 1.1 There shall be compulsory registration of Indian agents of Foreign suppliers for all Bids. An agent who is not registered with SMP, KOLKATA shall apply for registration in the prescribed Application-Form.
- 1.2 Registered agents will file an authenticated Photostat copy (duly attested by a Notary Public)/Original certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission/ remuneration/salary/retainer ship being paid by the principal to the agent before the placement of order by SMP, KOLKATA.
- 1.3 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order.

**2.0 DISCLOSURE OF PARTICULARS OF AGENTS/REPRESENTATIVES IN INDIA. IF ANY.**

- 2.1 Bidders of Foreign nationality shall furnish the following details in their offer:

- 2.1.1 The name and address of the agents/representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent/representative be a foreign Company, it is to be conformed whether it is real substantial Company and details of the same shall be furnished.
- 2.1.2 The amount of commission/ remuneration included in the quoted price(s) for such agents/representatives in India.
- 2.1.3 Confirmation of the Bidder that the commission/remuneration if any, payable to his agents/representatives in India, is to be paid by SMP, KOLKATA in Indian Rupees only.

**2.2 Bidders of Indian Nationality shall furnish the following details in their offers:**

- 2.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e. whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to bid either directly or THOROUGH the agents /representatives.
- 2.2.2 The amount of commission/remuneration included in the price(s) quoted by the Bidder for himself.
- 2.2.3 Confirmation of the foreign principals of the Bidder that the commission/remunerations, if any, reserved for the Bidder in the quoted price(s), is to be paid by SMP, KOLKATA in India in equivalent Indian Rupees.
- 2.3 In either case, in the event of contract materializing, the terms of payment will provide for payment of the commission/remuneration, if any payable to the agents/representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
- 2.4 Failure to furnish correct and detailed information as called for in paragraph-2.0 above will render the concerned bid liable for rejection or in the event of a contract materializing, the same liable to termination by SMP, KOLKATA. Besides this there would be a penalty of banning business dealings with SMP, KOLKATA named sum.

**Technical Bid**

**Brief of the Project proposed to be established by the Tenderer**  
**(to be filled up, signed with seal, scanned, uploaded and attached)**

<b>Sl No</b>		
<b>1.</b>	DETAILS OF PROJECT ON CONCERNED LAND IN BRTIEF	
	A.PROJECT REPORT IS TO BE SUBMITTED	
<b>2</b>	PROJECT COST	Rs .....Crs
<b>3</b>	SOURCES OF FINANCING OF THE ABOVE PROJECT .	
<b>4</b>	SCHEDULE OF IMPLEMENTATION OF THE ABOVE PROJECT	
<b>5</b>	MEASURES TO BE ADOPTED FOR COMPLYING WITH ENVIRONMENTAL REGULATION	

**DATE:**


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**SIGNATURE**
**PLACE****DESIGNATION & SEAL OF THE OFFICER****ENCLOSURE: ..... NOS.**

**Part – I: Technical Bid****DOCUMENTS TO BE UPLOADED (Documents to be filled up, signed with seal, scanned, uploaded and attached)**

Following documents for meeting the pre-qualification criteria should be uploaded by the Bidder along with offer otherwise their offer may be rejected :

- i) Declaration by the Tenderer/Bidder : Appendix - A of tender document
- ii) Power of Attorney: Appendix - B & C of tender document
- iii) Profile of the tenderer (for each member / in case of a consortium): Appendix - D
- iv) Certificate regarding Net Worth: Appendix D1
- v) Details of the proposed Project to be established by the tenderer : Appendix – E
- vi) Annexure- IIC
- vii) Required certificates & documents as indicated below [duly signed].
  - (a) GST registration certificate (for each member in case of a Consortium).
  - (b) PAN (for each member in case of a Consortium).
  - (c) (i) Partnership Deed in case the tenderer is a Partnership Firm. (In case of consortium, such should be submitted for all Consortium members).
  - (ii) Memorandum & Articles of Association in case the applicant is a company (in case of consortium, such should be submitted for all consortium members).
- (d) Audited Balance Sheet and Profit & Loss Account for the last three financial years with Audit Report (of each member in case of Consortium).

The tenderer shall submit Audited Balance Sheet and Profit & Loss Account for the last three (3) financial years. If due date (Scheduled opening date of tender) is falling within three months (April to June) of the closing of the latest Financial year , the latest financial year may be ignored and net worth previous to the latest financial year may be submitted.
- (e) Net worth of tenderer at the end of the most recent financial year based on Audited Annual Accounts as per Appendix-D1 supported by Statutory Auditor/ Chartered Accountant/ Certified Public Accountant for each member in case of a Consortium
- (f) Current IT Return (for each member in case of Consortium).
- (g) Valid Professional Tax Challan (for each member in case of Consortium).
- (h) Other documents, which the tenderer wants to submit (duly signed).

- (i) An undertaking with the Techno-commercial offer that in case of being successful tenderer, they should submit valid Trade Licence before commencement of project.
- (j) Tender Document , corrigendum and addendum (if any) duly signed and sealed.
- (k) Joint Bidding Agreement as per clause 2.4 (for consortium).

## Part – I: Technical Bid

**DECLARATION BY THE TENDERER / BIDDER****(To be filled up, signed with seal, scanned, uploaded and attached)**

1. I/We, \_\_\_\_\_ (Name of tenderer/bidder) having examined the Tender Document (No.....) and fully understood its content including the General Information & Instructions to Tenderers and evaluation criteria, hereby submit the tender for allotment of ----- [PLOT (msg. about 3600 sq. mtrs) [Tenderers are to indicate the Plot No applied for] of SMP, Kolkata land in the Residential Zone of HDC on “as is where is” basis through tender-cum-auction for the purpose for setting up of Industry.
2. I/We accept all the terms & conditions of the Tender Document [No..... ]
3. I/We have deposited requisite Earnest Money and Tender Document Cost for the said tender as per procedure mentioned in Schedule of Tender.
4. I/We submitted copies of the required documents as mentioned at Appendix – 1 of the Tender Document.
5. I/We have not quoted amount of additional rate of rent as zero or negative value in price bid (Appendix-F).
6. I/We any of the consortium members have not been debarred by the Central / any State Government or Quasi-Government Agency or PSU in India.
7. I / We declare that:-
  - a. I / We have examined and have no reservations to the Tender Document issued by SMP, Kolkata thereon.
  - b. I / We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt, fraudulent or coercive practices to influence the evaluation process of the tender.
8. I / We understand that SMP, Kolkata reserves the right to accept or reject any tender and to annual the tendering process and reject all tenders at any time without any liability or any obligation for such acceptance, rejection or annulment without assigning any reason thereof.
9. I / We hereby undertake that we will abide by the decision of SMP, Kolkata in the matter of examination, evaluation and selection of successful tenderer and shall refrain from challenging or questioning any decision taken by SMP, Kolkata in this regard.
10. I/We declare that I/we, are not a Member/Associate of any other tenderer/bidder applying for prequalification.
11. I/We, on behalf of my/our concern / company hereby declare that I/ any partner /any director of my/our concern / company or any associate is not associated with any other Applicant bidding for the instant tender.

Date :

.....  
Signature of the bidder with office seal

Witness :-

Sl. No.	Name	Address	Signature
1.			
2.			

**Part – I: Technical Bid**

[To be submitted on a Non judicial Stamp Paper of Rs. 50 or more)

FORMAT FOR POWER OF ATTORNEY  
(REGARDING AUTHORISING SIGNATORY OF THE TENDERER)

**(To be downloaded, filled up, signed with seal, scanned and uploaded)**

Dated :

POWER OF ATTORNEY

To whomsoever it may concern

Mr. \_\_\_\_\_ (Name of the Person(s), domiciled at  
\_\_\_\_\_ (Address), acting as \_\_\_\_\_ (Designation and name  
of the firm), and whose signature is attested below, is hereby authorized on behalf of  
\_\_\_\_\_ (Name of the tenderer) to provide information and respond to  
enquiries etc. as may be required by the Haldia Dock Complex, Syama Prasad Mookerjee Port,  
Kolkata or any governmental authority in connection with Haldia Dock Complex, Syama Prasad  
Mookerjee Port, Kolkata's Tender No. .... and is hereby further authorized to sign  
and file relevant documents in respect of the above.

(Attested signature of Mr. \_\_\_\_\_)

-----  
(Name and Signature of the Tenderer / lead member in case of consortium)

Seal of the office

**Part – I: Technical Bid**

[To be submitted on a Non judicial Stamp Paper of Rs. 50 or more]

FORMAT FOR POWER OF ATTORNEY  
(REGARDING AUTHORISATION OF LEAD MEMBER)

**(To be downloaded, filled up, signed with seal, scanned and uploaded)**

Know all men by these present that We, \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_  
(hereinafter collectively referred to as "the Consortium") hereby appoint and authorize  
\_\_\_\_\_ as our attorney.

Whereas HaldiaDock Complex , Syama Prasad Mookerjee Port, Kolkata (hereinafter referred to as "Port") has invited tender for allotment of two plots of land in the Dock Zone of HDC vide Tender No. .... for setting up STP at Residential Zone of Haldia Township.

Whereas the members of the Consortium are interested to participate in the said tender in accordance with the terms & conditions of the Tender No. ....

And whereas it is necessary under tender conditions for the members of the Consortium to appoint and authorize one of them being in Charge (Lead Member) to do all acts, deeds and things in connection with the aforesaid tender.

We hereby nominate and authorize \_\_\_\_\_ as our constituted attorney in our name and on our behalf to do or execute all or any of the acts or things in connection with submitting the tender to Port, to follow up with Port and thereafter to do all acts, deeds and things on our behalf until culmination of the process of bidding and thereafter till the Lease Deed is entered into with the successful bidder.  
In Witness hereof we have signed this deed on this the \_\_\_\_\_ day of \_\_\_\_\_.

1. For and on behalf of \_\_\_\_\_ [Name &signature of Authorized representative of Consortium]
2. For and on behalf of \_\_\_\_\_ [Name &signature of Authorized representative of Consortium]
3. For and on behalf of \_\_\_\_\_ [Name &signature of Authorized representative of Consortium]



Part – I: Technical BidPROFILE OF THE TENDERER

(To be filled up, signed with seal, scanned, uploaded and attached)

1.	(a) Name of the tenderer  <u>[Refer to item 2 of Annexure-II of the Tender before filling up]</u>	:	
	b(i) Address for communication.  b(ii) Address of local/branch office, if any.	:	
	(c) Reference of communication modes.  (i) Telephone  (ii) Fax  (iii) Email	:	

	<p>Date of Incorporation and commencement of business of tenderer (in the case of a Consortium, of each member)</p> <p>PAN Number details (in the case of a Consortium, of each member)</p> <p>GST Registration details(in the case of a Consortium, of each member)</p> <p>Current IT Return(in the case of a Consortium, of each member)</p>		
	(h) Professional Tax Challan (in the case of a Consortium, of each member)		
2.	Brief description of the Tenderer, or in the case of a Consortium, of each member, including years of operations of the existing business, the extent it involves/ is dependent on port based activities etc.	:	
3.	Details of the existing business of the tenderer or in the case of a Consortium, of each member and their proposed role in this project.		
4.	Past experience, if any, of the tenderer (of each member in case of Consortium)	:	

5.	<p>Net worth of tenderer at the end of the most recent financial year as per Appendix D1 based on Audited Annual Accounts supported by a Statutory Auditor/ Chartered Accountant/ Certified Public Accountant for each member in case of a Consortium. [Ref.4.2(ii)]</p> <p>[Note 1]: Where the Applicant is a Consortium, the Net Worth would be taken as arithmetic sum of the respective Net Worth of individual members.</p> <p>[Note 2]: Net Worth of bidders should not be less than the amount as mentioned at Clause 4.2 (ii) of this tender.</p> <p>[Note 3] Net Worth = [{Proprietor's Capital (For proprietorship firms) / Partner's Capital (For Partnership firm)/ Paid up Capital (For Companies) + Free reserve} – intangible assets].</p>	:	
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Date : \_\_\_\_\_

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(Signature)

Place : \_\_\_\_\_

(Designation & Seal of Office)

Enclosures : \_\_\_\_\_ Nos.

☐ Data should be provided separately for each Consortium member.

**Part – I: Technical Bid****FORMAT FOR DEMONSTRATING NET WORTH  
(at the end of the most recent financial year)**

[Reference Clause no: 4.2 (ii)]

(To be downloaded, filled up, signed with seal, scanned and uploaded )

This is to certify that Net Worth of M/s..... , Address..... , for the most recent financial year (i.e. ....) is Rs. .... calculated as per the formula given below:

Net Worth = [{Proprietor's Capital (For proprietorship firms) / Partner's Capital (For Partnership firm)/ Paid up Capital (For Companies) + Free reserve} – intangible assets].

Signature of Authorized Signatory.....

Name: .....

Designation: .....

Date: .....

Seal

**CERTIFIED BY**

Name of Certified Public Accountant / Chartered Accountant Firm..... Registration

No. &amp; other details .....

Name of the Signatory .....

Signature ..... Date

.....

## **BASIS OF PAYMENT OF FIXED RATE OF REVENUE TO THE SERVICE PROVIDER**

Haldia dock complex is divided into four zones – Haldia Township, Chiranjibpur, Durgachak and Dock area. The total average water supplied in port premises is ~ 7.06 MLD and supplies are met through municipal water supply from Haldia Development Authority, HDA (4.15 MLD) and Bore wells (2.92 MLD) located inside port premises. In addition to this IOC area withdraws 2.2 MLD water from other sources. Wastewater generated in township is 2.06 MLD which is further categorized as black water and grey water. Black water is the water that is being generated from toilets and grey water is the water that is being generated from bathrooms, kitchen etc. Currently, the black water of township area goes to an existing oxidation pond having 3 nos. of primary and secondary cells, where black water is treated before discharging it to the river basin. Grey water from the township area is being directly discharged to river basin through open drains without any prior treatment.

The floating jetty and upcoming population in sector-8 and sector-13 will have a combined wastewater generation of ~ 0.68 MLD.

IOC area is also connected to existing sewerage system of HDC and has a wastewater generation of 1.10 MLD

The total wastewater generation will be 3.85 MLD, so a STP of 4.0 MLD has been considered to be setup at HDC township area.

It is proposed to collect grey water and black water in an existing sewage network and treated at proposed 4.0 MLD STP.

While there are large number of process options which could be considered suitable for the purpose of producing recycled water, only the process options which were technically and operationally proven were considered. The processes selected have demonstrated the capability to produce water that meets the treated water quality requirement for horticulture purposes.

The proposed scheme is based on any technically accredited sewage treatment system .

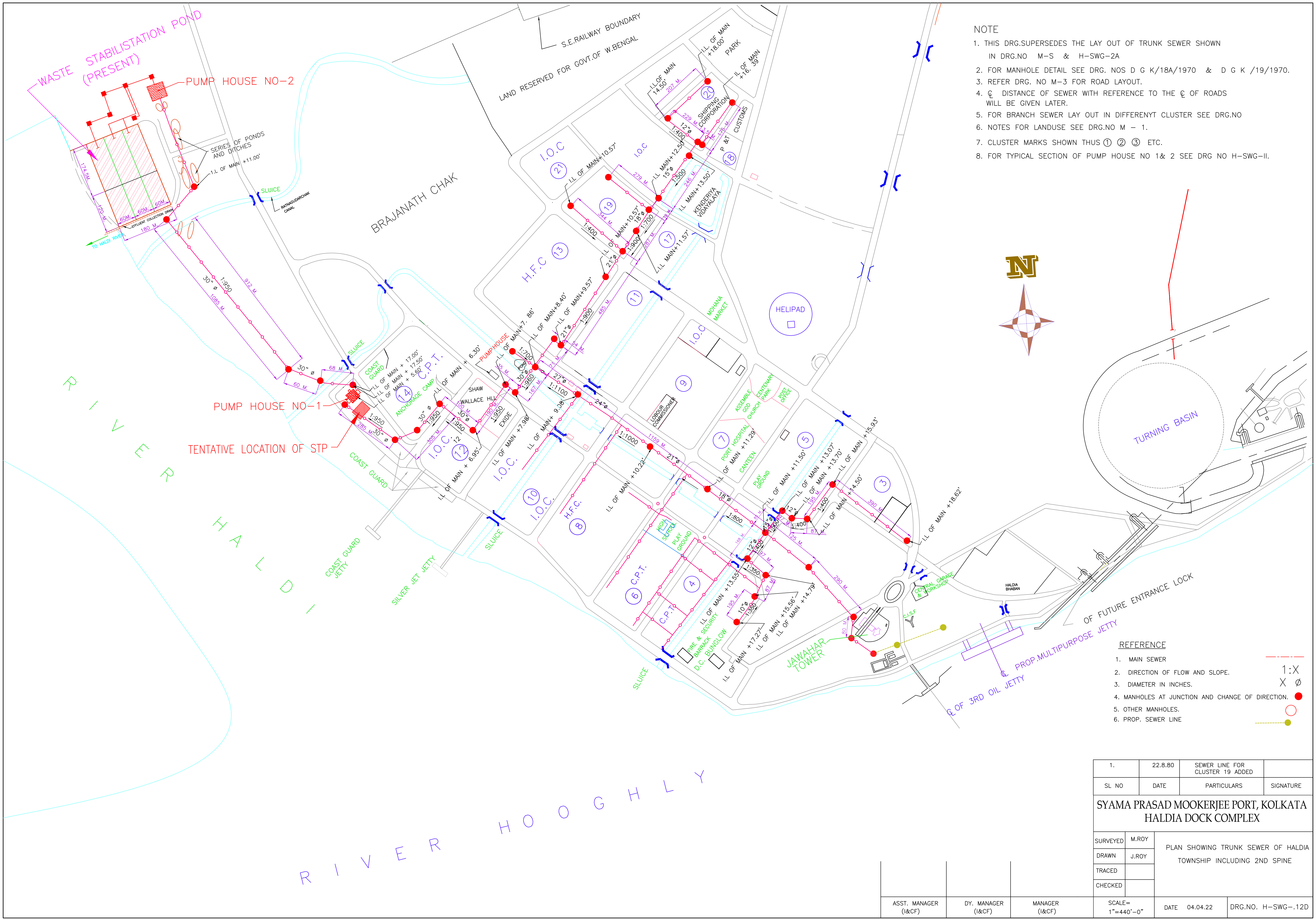
Rehabilitation of sewage network at sector 8 and sector 13 has been considered. The total length of sewer network to be laid is 5.2 Km of which 3.7 Km of sewer length to be laid at sector-8 and sector-13 and 1.50 Km needs to be laid to connect to the floating jetty. A 4.0 MLD of sewage treatment plant on any proven technically accredited technology is proposed with provision of recycled water network of 6.20 Km. The recycled water shall be used for re-use in horticulture and sprinkling inside port township area. The capital investment has been estimated is approx. ~15.64 Crores (INR) which includes sewer network to capture grey water together with laying 3.7 KM of new pipeline at Cluster 8 & 13 , recycled water network including pumping station and STP installation cost along with operation & maintenance cost

1. Based on the Capex and Opex and detailed financial projections for the project, the project appears to be viable for the PPP developer at a revenue of Rs. 29.70 /KL of treated the wastewater.

2. Although there are multiple procurement models that can be used for wastewater treatment projects, DBFOT model coupled with land lease model are most suitable for the project under consideration. Further, based on the project size and characteristics, DBFOT model with 15 years period of O&M after commissioning of plant has been recommended for the project after which the service provider shall transfer the plant facility to the concessioning authority without any financial liability .

## **LAY OUT PLAN OF EXISTING SEWERAGE SYSTEM AT HALDIA TOWNSHIP**





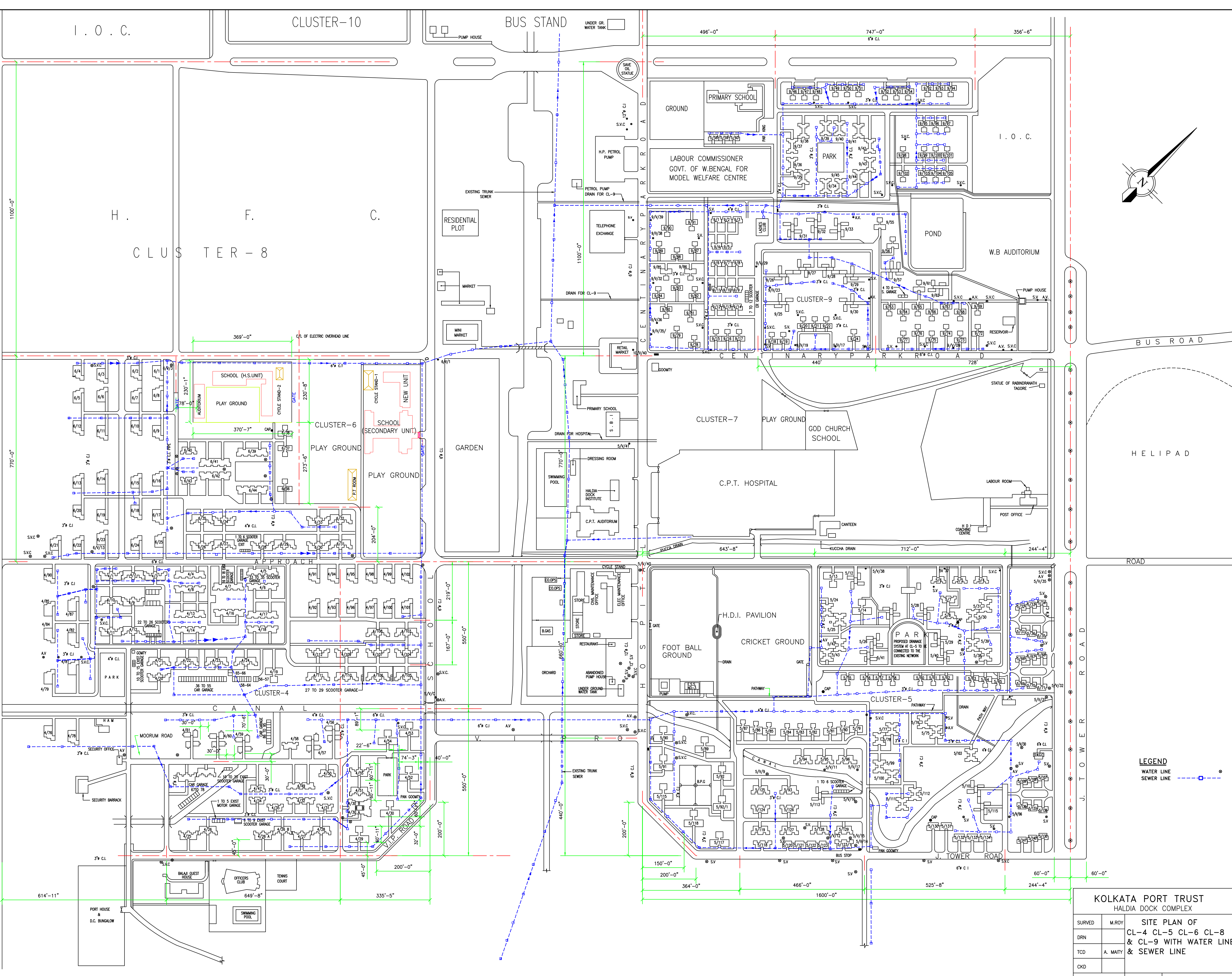
- NOTE
1. THIS DRG.SUPERSEDES THE LAY OUT OF TRUNK SEWER SHOWN IN DRG.NO M-S & H-SWG-2A
  2. FOR MANHOLE DETAIL SEE DRG. NOS D G K/18A/1970 & D G K /19/1970.
  3. REFER DRG. NO M-3 FOR ROAD LAYOUT.
  4. C. DISTANCE OF SEWER WITH REFERENCE TO THE C. OF ROADS WILL BE GIVEN LATER.
  5. FOR BRANCH SEWER LAY OUT IN DIFFERENYT CLUSTER SEE DRG.NO
  6. NOTES FOR LANDUSE SEE DRG.NO M - 1.
  7. CLUSTER MARKS SHOWN THUS ① ② ③ ETC.
  8. FOR TYPICAL SECTION OF PUMP HOUSE NO 1& 2 SEE DRG NO H-SWG-II.

REFERENCE

1. MAIN SEWER
2. DIRECTION OF FLOW AND SLOPE.
3. DIAMETER IN INCHES.
4. MANHOLES AT JUNCTION AND CHANGE OF DIRECTION.
5. OTHER MANHOLES.
6. PROP. SEWER LINE

1.	22.8.80	SEWER LINE FOR CLUSTER 19 ADDED	
SL NO	DATE	PARTICULARS	SIGNATURE
SYAMA PRASAD MOOKERJEE PORT, KOLKATA HALDIA DOCK COMPLEX			
SURVEYED	M.ROY	PLAN SHOWING TRUNK SEWER OF HALDIA TOWNSHIP INCLUDING 2ND SPINE	
DRAWN	J.ROY		
TRACED			
CHECKED			
ASST. MANAGER (I&CF)	DY. MANAGER (I&CF)	MANAGER (I&CF)	SCALE= 1"=440'-0"
			DATE 04.04.22
			DRG.NO. H-SWG-.12D





LEGEND  
WATER LINE  
SEWER LINE

KOLKATA PORT TRUST	
HALDA DOCK COMPLEX	
SURVED	M.ROY
DRN	
TCD	A. MAITY
CKD	
SITE PLAN OF CL-4 CL-5 CL-6 CL-8 & CL-9 WITH WATER LINE & SEWER LINE	
SCALE=1"=120'-0"	DATE=11.01.18 DRG.NO. I-R/M-150-A1g