

**TENDER DOCUMENT**  
**for**

**“Construction of EMRS (Eklavya Model Residential School) At Ziro-II, Village (Comp) Distt. Lower Subansiri, in the state of Arunachal Pradesh (Single Stage)”**

**Tender No: TCIL/CIVIL/PD(NE-1)/2024/EMRS/05**

**Issued on: 25-06-2024**

**Volume I:**

- A. Notice Inviting Tender**
- B. Instructions to Bidders**
- C. General Conditions of the Contract**
- D. Special Conditions of the Contract**

Issued By: Issued By:  
GM (CIVIL)/ Project Director (NE-1)  
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**A. NOTICE INVITING TENDER**

**1.1** Electronic tenders (Final Bid including Price Bids) are invited for “Construction of EMRS (Eklavya Model Residential School) at Ziro-II, Village (Comp) Distt. Lower Subansiri, in the state of Arunachal Pradesh (Single Stage)”.

Submission of Online Bid is mandatory for this Tender. Detailed instructions are given in Section-2 of this Tender Document.

1.1.1	Name of the Work	:	<b>“Construction of EMRS (Eklavya Model Residential School) at Ziro-II, Village (Comp) Distt. Lower Subansiri, in the state of Arunachal Pradesh (Single Stage)”</b>
1.1.2	Estimated cost of Construction works	:	Total estimated cost of construction is Rs. 50,05,56,573.00/- (including GST) and cost of ESI & EPF component as 1,91,93,543.55
1.1.3	Cost of tender document	:	<b>Rs. 23,600/-</b> (Rupees Twenty Three Thousand Six Hundred only) (i.e. Rs. 20,000/- plus 18% GST)
1.1.4	Earnest Money Deposit (EMD)	:	<b>Rs. 60,05,566/- (Rupees Sixty Lacs Five Thousand Five Hundred Sixty Six Only).</b>
1.1.5	Bid Security Declaration	:	The bidders to submit a signed copy of Bid Security Declaration as per the format attached at Annexure-2, <b>along with their Online Bids</b> , accepting that if they withdraw or modify their bids during the period of validity, they will automatically be suspended from being eligible for bidding in any contract with TCIL for the period of three (3) years starting on bid submission closing date..
1.1.7	Completion Period	:	24 (Twenty Four ) Months from 10th day of the date of issue of Letter of Intent (LOI).
1.1.8	Validity of Bid	:	120 days from the date of opening the Bid
1.1.9	Start Date & Time of Publishing Tender	:	25-06-2021, 15:00Hrs
1.1.10	Start Date & Time of Procurement of Tender Document	:	25-06-2024, 15:00Hrs
1.1.11	Last Date & Time of raising/ Seeking information in writing, if any	:	05-07-2024, 11:00Hrs (No query after this date shall be entertained). Bidders are advised to attend Pre- bid meeting for seeking clarifications on their queries.
1.1.12	Last Date & Time for submission of bid	:	16-07-2024, 15:00Hrs
1.1.13	Opening of Technical Bid	:	17-07-2024, 11:00Hrs
1.1.14	Online Opening of Financial bid.	:	To be notified later to Techno-commercially qualified bidders

**Note:-**

- (i) The payment of tender fee shall be made through Demand Draft (DD) in favor of “Telecommunications Consultants India Limited” payable at New Delhi or through digital transfer by NEFT/IMPS/RTGS. **The tender fee is Non-refundable.**
- (ii) EMD shall be submitted in the form of DD/ BG in prescribed format in favor of “Telecommunications Consultants India Limited” payable at New Delhi valid for 180 days or through digital transfer by NEFT/IMPS/RTGS. The Bank Guarantee to be submitted in the prescribed format from a SFMS enabled Scheduled Commercial Bank through SFMS platform as per details below:

<b>Name of Beneficiary and its Details</b>	Name	Telecommunications Consultants India Limited
	Address	TCIL Bhawan, Greater Kailash-1, New Delhi-110048
<b>Name of Beneficiary Bank and its details</b>	Name	<b>ICICI Bank Limited</b>
	Address	9-A, PHELPS Building, Connaught Place, New Delhi- 110001
	IFS Code	ICIC0000007
Bank Account No. of TCIL		<b>000705005880</b>
Account Type		Current

- **The EMD is refundable and shall not attract any interest.**

EMD can also be paid through the following prescribed electronic modes of payment (**UTR No. is to be provided by bidder in the technical online bid**):

- Debit card powered by Ru-Pay
- Unified Payment Interface (UPI) (BHIM-UPI) – TCIL VPA ID – tcil80@ICICI
- Unified Payment Interface (UPI) Quick Response Code: As below.
- Bank details for NEFT: same as given above.



Note: - Bids received without Bid Security (EMD) may be summarily rejected.

- (iii) The bidders shall note that in case the payment of EMD is done through DD /BG modes, then the original Hard Copy of the same shall be submitted to TCIL Guwahati Office, House No. 1421 NH-37 Tetelia, P.O- Gotanagar, PS-Jalukbari, District- Kamrup Metro, Guwahati Assam, Pin-781033 (*address mentioned in the tender document*) before the last date and time for submission of the bid, failing to which, the bid of such bidders shall be rejected summarily and shall not be considered for any further evaluation.
- (iv) In case, the payment of Tender Fee and/or EMD is done through digital modes (i.e. NEFT/RTGS/IMPS/UPI Modes), the bidders shall submit the details of successful transaction clearly mentioning the UTR no., in its online bid, failing to which, the bid of such bidders shall be rejected summarily and shall not be considered for any further evaluation.

Note:- Bids received without Bid Security (EMD) may be summarily rejected.

Bids shall be submitted on GePNIC Portal (<http://etenders.gov.in>). Bidders are advised to visit GePNIC portal (<http://etenders.gov.in>) regularly for updates/amendments, if any. Bidders can contact NIC for Telephonic Help Support / Help Desk Number- 1800 3070 2232, 0120- 4200462 for requisite queries regarding registration, training, demonstration etc. of Government e- Procurement System of NIC (GePNIC).

Bidders are advised to visit the TCIL website and CPP Portal regularly for updates/ amendments, if any. Bids shall be submitted on GePNIC Portal (<http://etenders.gov.in>). Bidders are advised to visit GePNIC portal (<http://etenders.gov.in>) regularly for updates/amendments, if any. Bidders can contact NIC for Telephonic Help Support / Help Desk Number- 1800 3070 2232, 0120-4200462 for requisite queries regarding registration, training, demonstration etc. of Government e- Procurement System of NIC (GePNIC).

Bidders are advised to visit the TCIL website and CPP Portal regularly for updates/ Corrigenda/ Addenda/ Amendments, if any.

### 1.2 Bidding Methodology: -

The bidders to submit the Final Bid documents ONLINE in following two envelopes: -

- (i) **Envelope-I:** - The bidders to submit their Bid Capacity certificate, Bid Security Declaration, Undertaking on Rs. 10/- Stamp Paper as per format at Annexure-1, Value of Existing Commitments & ongoing works, Financial Data last Five year, undertaking for No-Conviction Certificate/Non-Debar Certificate, undertaking for Certification of Genuineness, undertaking of Clause-by-clause compliance, Power of Attorney, and Check List.
- (ii) **Envelope-II:** - The bidders to submit their Price Bids, strictly as per the format provided in the tender document.

### 1.3 Evaluation: -

The bidders who have submitted all the requisite documents in Envelope-I (mentioned at clause 1.2) and meet the Bidding Capacity criteria, will be eligible for opening of the price bids. The successful bidder shall be declared on the lowest cost basis.

**1.4 Permission for Inner Line Permit:** As per office order no POL-67/65 VOL-V dated 07.10.2022 for visiting/working in Arunachal Pradesh it is mandatory to apply Inner Line Permit in advance, in absence of same the person cannot be visit at site as well as in Arunachal Pradesh. The bidder has to exercise that all their personal having valid ILP during their visit/workings.

### 1.5 Site Visit: -

1. The bidder's own responsibility, cost & risk, is encouraged to visit and examine the site of works & its surroundings, go through the MLP, Plan/drawing/details connected to the works as available and obtain all information that may be necessary for preparing the bid and entering into a contract for execution of work. The cost of visiting the site shall be at the bidder's own expense.
2. It shall be deemed that bidder has visited the site and got fully acquainted with the working conditions and other prevalent conditions and fluctuation thereof whether he actually visits the site or not and has taken all the factors into account while quoting his rates.
3. It shall be deemed that bidder has got himself acquainted with the conditions and geological details available for the proposed work site.

**Date and Time for Site Visit:** - 09-07-2024 & 10-07-2024

**Contact Person for site visit –**

1. *Mr. Tapas Swain,  
Zonal Manager/PD (NE-1),  
Mob – 7681006542*
2. *Mr. Uma Shankar Choudhary  
(Project Manager)  
Mob 7566916777*

**1.6 Mobilization period:** 10 days as mobilization period from the date of issuance of LOI

**1.7 Make in India**

- 1 In procurement of all goods, services or works in respect of which the nodal ministry/department has communicated that there is a sufficient local capacity and local competition, only Class-I local supplier as defined under the order shall be eligible to bid irrespective of purchase value.
- 2 Only Class-I and Class-II local suppliers, as defined under the order shall be eligible to bid in procurement undertaken by procuring entity, except when global tender enquiry has been issued.
- 3 In Global tender enquiries, non-local supplier shall also be eligible to bid along with Class-I Local suppliers and Class-II local suppliers. In procurement of all goods, services or works not covered by point (a) above and with estimated value of purchases less than Rs 200 Crores, in accordance with rule 161 (iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure, GoI. GOI Order No. P-45021/2/2017- PP(BE-II), dated 16-09-2020 and TCIL Circular No. TCIL/15/1926/I/20-MM dated 18.02.2021 for Make in India may be referred for further details.

(Mandatory Undertaking for Purchase Preference to MAKE In INDIA is to be submitted along with the Tender. The bidder needs to submit calculation of local content as per format attached in Section-11.)

**1.8 Eligibility Criteria:**

**NOTE: - "Since this is a WORKS Contract, benefits to MSME shall not be applicable."**

**A. Technical Eligibility Criteria**

Experience of having successfully completed similar works during the last 7 (seven) years ending on 30.04.2024, either of the following: -

Three similar completed works costing not less than the amount equal to 40% of estimated cost

OR

Two similar completed works costing not less than the amount equal to 60% of the estimated cost

OR

One similar completed work costing not less than the amount equal to 80% of the estimated cost

**Note: Similar work would mean successfully completed 'Construction of Building works' in the last 7 years for the Government/ Semi Government / Govt. Autonomous Bodies / Private Sector.**

Bidder to submit copies of Completion certificates along with LOA/ Agreement from client clearly mentioning the nature of work, value of work, date of start, time period & actual date of completion. The certificates shall be considered only if it is issued / counter signed by an officer not below the rank of EXECUTIVE ENGINEER OR equivalent.

In case the work experience is of Private Sector, the completion certificate shall be supported with copies of the Letter of Award/ Contract Agreement and corresponding TDS certificates. Value of work will be considered commensurate with the value of corresponding TDS Certificate. The corresponding TDS certificate to be duly certified by the Statutory Auditor. If the requisite TDS certificate is not provided by the bidder, the related work experience will not be considered for any further evaluation.

As per TCIL EOI updated on 22-03-2024 point no 11, No benefit under the MSME Act shall be applicable to MSEs if the project is categorized as Works. Benefits to MSEs shall be given for Goods and Services only. Benefits to Start-ups shall be given irrespective of goods or services or works.

However, no benefits shall be extended to MSEs with regard to payments. For payment, the tender terms and conditions shall be applicable.

**B. Financial Eligibility Criteria:**

**a) Turnover:** Average annual financial turnover on **Construction works** should be at least 30% of the estimated cost put to tender during the immediate last three consecutive financial years i.e. FY 2021-22, 2022-23 & 2023-24.

Bidder shall submit audited Balance Sheets and Profit & Loss account statements for the last three financial years ending on 31.03.2024 i.e. for Financial Years of 2021-22, 2022-23, & 2023 -24.

Bidders to provide a certificate from Statutory Auditors clearly mentioning the figures of turnover from Construction works only during the immediate last three consecutive Financial Years i.e. FY 2021-22, 2022-23 & 2023 -24.

The above certificate should be duly certified by Statutory Auditor/ Chartered Accountant on their letter head with details of Membership No, Contact (email and phone number) and UDIN number. If certificate submitted by the Bidder without above mentioned thereon shall not be considered as part of bid and shall not be taken into account during evaluation of documents.

The applicant should have: (i) access to, or possess available liquid assets and other financial means (independent of any contractual advance payments) sufficient to meet the construction cash flow requirements for the subject contract, of the certain minimum amount specified; (ii) adequate sources of finance to meet the cash flow requirements of works currently in progress and for future contract commitments; and (iii) financial soundness as established by audited balance sheets and/ or financial statements

**(b) Profit/ Loss:** The bidder should not have incurred any loss (profit after tax should be positive) in more than two years during available last five consecutive balance sheets, duly certified and audited by Chartered Accountant. (The balance sheet in case of Pvt / Public Ltd. company means its standalone financial statement and consolidated financial statement both)

**(c) Banker's Certificate from a Commercial Bank or Net worth Certificate:**

Banker's Certificate of the amount equal to 40% of the Estimated Cost put to tender (ECPT),

Or

**Net worth certificates of minimum 10% of the estimated cost put to tender issued by certified Chartered Accountant with UDIN.**

**(d) Bidding Capacity:**

The bidders will be qualified for opening of their Price Bids only if their available Bid Capacity is equal or more than the estimated cost of work put to Tender. The bid capacity Shall be worked out on the following formula:

**Bid capacity = {[AxMxN]-B}**

Where,

A = Maximum value of engineering (Civil/ Electrical/ Mechanical as relevant to work being procured) works executed in any one year during the last five years (updated at the current price level), taking into account the completed as well as works in progress

M = Multiplier Factor = 1.5

N = Numbers of years prescribed for completion of work for which bids has been invited;

B = Value (updated at the current price level) of the existing commitments and ongoing works to be completed in the next 'N' years

**Note :** *The bidders to submit the following documents in respect of Bidding Capacity:-*

*(i) Bid Capacity as mentioned above along with the calculations and supporting documents (copy of letter of award and last bill payment from client for each work) should be duly certified by Statutory Auditor/ Chartered Accountant on their letter head with details of **Membership No, Contact (email and phone number) and UDIN number.***

*- Bidder has to submit the financial data for latest last five financial years ending with FY 2022-23, in Annexure-15 along with audited financial statements. The financial data in the prescribed format shall be certified by the Statutory Auditor/ Chartered Accountant.*

*- Value of existing commitments and ongoing works to be completed during the period of completion of work for which bids have been invited, has to be submitted by the bidder in Annexure-16, which shall be certified by the Statutory Auditor/ Chartered Accountant along with all the supporting documents considered for arriving at the value of works in hand.*

**Any such certified document submitted by the Bidder without UDIN number mentioned thereon shall not be considered as part of bid and shall not be taken into account during evaluation of documents.**

*(ii) In the case of a group, the above formula will be applied to each member to the extent of his proposed participation in the execution of the work. If the proposed % participation is not mentioned then 100% participation will be assumed.*

Special Note: -

1. The bidder should be provided the undertaking that how much EMRS work with him. The undertaking shall be certified by Chattered Accountant.
2. The bid capacity should have equal value of Tender Cost.
3. Any false information in this regard given by bidder than the bidder shall be disqualify after award of work.

### **1.9 Performance Security: -**

The successful bidder is required to submit a Performance Guarantee of 5% of the awarded value of contract in the form of Demand Draft/ Banker's Cheque or Bank guarantee in prescribed format within 10 days from the issuance of LOI, before the signing of agreement. The Performance Guarantee shall be initially valid up to 60 days beyond the stipulated completion date which shall be further extended by the contractor from time to time up to the date of 60 days beyond the issuing of the Handing Over Certificate or Completion Certificate, whichever is later.

Further, retention equivalent to 2.5% (As per Clause 11 (ii) of GCC 2022 of CPWD) of the gross amount of each running and final bill shall be deducted.

The Bank Guarantee to be submitted in the prescribed format issued by a Delhi / Guwahati Branch only from a SFMS enabled Scheduled Commercial Bank through SFMS Platform. Alternatively, BG can also be submitted in physical form from a Scheduled Commercial Bank through its Delhi Branch only.

In the event of the contract being determined or rescinded under provision of any clause / condition of the agreement or the performance of the contractor judged to be poor, the performance guarantee amount shall stand forfeited and the amount such received shall be absolutely at the disposal of employer.

The Performance Bank Guarantee shall be returned after 60 days to date of issuing of the Handing/ Taking Over Certificate or Completion Certificate, whichever is later.

The refund of retention shall be after successful completion of defect liability



period. The security deposit shall be released as per clause 27 (i.e. DLP)

FAILURE OF THE SUCCESSFUL BIDDER TO SUBMIT THE ABOVE-MENTIONED PERFORMANCE SECURITY OR SIGN THE CONTRACT AGREEMENT SHALL CONSTITUTE SUFFICIENT GROUND FOR THE ANNULMENT OF THE AWARD/CANCELLATION OF THE AWARD OF WORK AND ACTIONS AS PER THE BID SECURITY DECLARATION SHALL BE TAKEN AGAINST THE BIDDER

#### **1.10 Security Deposit/ Retention: -**

The Security deposit or the retention money shall be deducted from each running/ final bill of the contractor @ 2.5% (Two Point Five percent only) of the gross value of the Running Account/ final bill.

The refund of retention shall be after successful completion of defect liability period.

#### **1.11 Procedure of award in case of two or more bidders quoting the same lowest rates: -**

In case the lowest tendered amount of two or more bidders is same, then such lowest bidders may be asked to submit sealed revised offer but the revised offer should not be higher than their respective original offers quoted already at the time of submission of the tender. The lowest tender shall be decided on the basis of revised offers.

If the revised amount of two or more bidders received in revised offer, is again found to be equal, then the lowest tender, among such bidders, shall be decided by draw of lots in the presence of tender accepting authority of TCIL.

In case of any such lowest bidder in his revised offer is more than their respective original offer quoted already at the time of submission of tender, then such revised offer shall be treated invalid. Such case of revised offer of the lowest bidder or case of refusal to submit revised offer by the lowest bidder shall be treated as withdrawal of his tender before acceptance and action as per Bid Security Declaration of the tender shall be taken against such bidder.

#### **1.12 GST & PAN Registration:**

The Bidder must be registered for GST and PAN no (Submit copy of GST Registration Certificate and PAN Card).

GST registration certificate of the state in which the work is to be taken up, if already obtained by the bidder. If the bidder has not obtained GST registration in the state in which the work is to be taken up, or as required by GST authorities then in such a case the bidder shall scan and upload following undertaking along with other documents: -

*"If work is awarded to me/us, I / We shall obtain GST registration certificate of the state in which work is to be taken up within one month from the date of receipt of award letter or before release of any payment by the Employer, whichever is earlier, failing which, I/We shall be responsible for any delay in payments which will be due towards me/ us on a/c of the work executed and/ or for any action taken by the Employer or GST Department in this regard."*

**1.13 Registration of company: -**The bidder should be an Indian Registered Company under Companies Act 1956 (or 2013)/ Proprietorship/ Partnership firm. Copy of Certificate of Incorporation/ Registration/ Partnership Deed or any other relevant document, as applicable, should be submitted along with a copy of address proof.

#### **1.14 Labour License:**

##### ***Labour law to be complied by the Contractor***

The contractor shall obtain a valid license under the Contract Labour (R&A) Act, 1970, and the Contract Labour (Regulation and Abolition) Central Rules, 1971, before the commencement of the work, and continue to have a valid license until the completion of the work. The contractor shall also comply with provisions of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act, 1986. The contractor shall also comply with the provisions of the building and other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996 and the building and other Construction Workers Welfare Cess Act, 1996. Any failure to fulfill these requirements

shall attract the penal provisions of this contract arising out of the resultant non-execution of the work and any of the prevalent Labour law of state.

**1.15 Contribution to EPF & ESIC:-** The contractor has to register in EPF & ESIC and submit regular return as per mandatory requirement.

The ESI and EPF contributions on the part of Employer in respect of this contract shall be paid by the contractor. The verification of deployment of Labour will be done through biometric attendance system or any other suitable method as per discretion of the Engineer in Charge.

**1.16 Consortium:**

The consortium agreement must be submitted clearly identifying the "Lead Partner". This authorization shall be evidenced by submitting with the bid a Authorization letter/Board Resolution signed by legally authorized signatories of all the partners. Application in consortium is permitted subject to a maximum of three (03) agencies. For Turnover Financial Eligibility Criteria, the turnover of each partner shall be added for the propose eligibility criteria. However, the turnover of lead bidder shall not be less than 25% of average turnover requirement of bid and must fulfil net-worth requirement criteria.

In case of consortium, the experience criteria of similar single work of 70% (60% for MSEs & Startups) value of estimated cost or at least one work out of two similar works of 50% (40% for MSEs & Startups) value of estimated cost or at least one work out of three similar works of 40% (30% for MSEs & Startups) value of estimated cost in last seven years should be fulfilled by lead bidder.

In case Lead Partner nominated by the consortium does not meet the experience criteria and Net Worth Criteria, submitted bid shall not be considered. Each consortium partner shall be jointly and severally responsible for completing the task as per the contract. TCIL, in any case, will deal with the lead partner, who shall be responsible for execution of work and shall be entitled to receive payments as per payment terms.

The bid may be signed by all members of the consortium. Alternatively, the leader may sign the bid. In such a case, the Authorization Letter/ Board Resolution from each member authorizing the leader for signing and submission of bid on behalf of individual member must accompany the bid offer.

The formation of consortium or change in the consortium character/partners after submission of the bid and any change in the bidding regarding consortium will not be permitted.

The bid submission must include documentary evidence to the relationship between consortium partners in the form of Consortium Agreement to legally bind all partners jointly and severally for the proposed agreement, which should set out the principles for the constitution, operation, responsibilities regarding work and financial arrangements, participation (percentage share in the total) and liabilities (jointly and severally) in respect of each and all of the firms in the consortium. Such consortium agreement must evidence the commitment of the parties to bid for the facilities applied for (if pre-qualified) and to execute the contract for the facilities if their bid is successful.

The consortium agreement must provide that the lead partner shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the consortium and the entire execution of the contract shall be done with active participation of the lead partner.

The contract agreement should be signed by each consortium partners so as to legally bind all partners jointly and severally and bid shall be submitted with a copy of the consortium agreement providing the joint and several liabilities with respect to the contract. Subsequent declarations/letters/documents shall be signed by lead partner authorized to sign on behalf of the consortium or authorized signatory on behalf of consortium.

The consortium agreement must specifically state that it is valid for the project for which bidding is done. If consortium breaks up midway before award of work and during bid validity period, bid will be rejected. If consortium breaks up midway before award of work and during bid validity/after award of work/during pendency of contract, in addition to normal penalties as per provision of tender document, all the partners of the consortium shall be debarred from participating in future bids for a minimum period of twelve (12) months or maximum 36 months as per decision of TCIL.

Consortium agreement shall be registered in accordance with law so as to be legally valid and binding on the members before making any payment.

In case of separate entity by way of JV etc., then eligibility of the entity only shall be considered.

- 1.17 Certification of Genuineness:** -The bidder should give an undertaking on the company's letter head that all the documents/ certificates/ information submitted by them against the tender are genuine. In case any of the documents/ certificates/ information submitted by the bidder is found to be false or forged, TCIL shall immediately reject the bid of such bidder(s) or cancel/ terminate the contract and forfeit bid security/ performance security submitted by the bidder and debar them from participation in future EOIs/tenders of TCIL for a period up to 5 years.
- 1.18 No Conviction Certificate:** The bidder to submit duly signed 'No Conviction Certificate' as per the Performa
- 1.19 Non-Debar Certificate:** The bidder to submit duly signed 'Non Debar Certificate' as per the Performa attached
- 1.20 Clause by Clause compliance:** Bidder should submit a statement showing Clause-by-Clause compliance to all Terms & Conditions of all the Sections of the tender on the Letter Head of their Organization along with its Bid.
- 1.21 Additional Performance security:** In Addition to The Performance Security, Additional Performance security (APS) shall also be taken from successful bidder in case of abnormally Low Bid as per slab given below

SL No	Range difference between the estimated cost put to tender and bid amount	"Additional Performance security" to be deposited by the successful bidder
i.	Below 5%	No Additional Performance security
ii.	From 5% and above and below 10%	50% of (Difference between estimated cost put to Tender and Bid Amount)
iii.	From 10% and above	150% of (Difference between estimated cost put to Tender and Bid Amount)

- 1.22 Integrity Pact:-** The tenders of value more than Rs. 5.00 Cr are covered under Integrity. Pact and bidder is required to submit duly filled and signed Integrity Pact, which is also available on TCIL website.
- 1.23** Bidders should note that TCIL may verify authenticity of all the documents/ certificate/ information submitted by them against the tender. In case it is established that the bidder has submitted forged documents/ certificates, the Price Bids of such bidders shall not be opened and such bidders shall be debarred from participating in future bidding processes of TCIL for a minimum period of five years, which may be further extended at the discretion of TCIL. Further, the Security Deposit amount or any other amount lying in any form with TCIL, of such bidders shall also be forfeited.

#### **1.24 RESTRICTIONS ON PROCUREMENT FROM A BIDDER OF A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA**

***Bidders shall submit the following certificate on their letterhead for sourcing products and services in tender***

*"We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. We certify that bidder M/s\_(name of the bidder) is not from such a country or if from such a country, has been registered with the Competent Authority. We hereby certify that bidder M/s. (Name of bidder) fulfills all the requirement in this regard and is eligible to be considered against this EOI. The bidder will not source those products & services whose beneficial owner is from such countries "*

[wherever applicable the bidder must submit evidence of valid registration by Competent Authority]

#### **GUIDELINES FOR ELIGIBILITY OF A 'BIDDER FROM A COUNTRY WHICH SHARES A LAND BORDER**

**WITH INDIA':**

As per Order dated 23.07.2020, issued by Department of Expenditure, Ministry of Finance, Govt, of India in this regard, the following guidelines have been issued by DoE for tenders:-

1. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. Competent Authority for the purpose of registration shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT), as mentioned under Annex I of the Order (Public Procurement No.1) dated 23.07.2020.
2. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.
3. "Bidder from a country which shares a land border with India" for the purpose of this Order means; -
  - i. An entity incorporated, established or registered in such a country; or
  - ii. A subsidiary of an entity incorporated, established or registered in such a country; or
  - iii. An entity substantially controlled through entities incorporated, established or registered in such a country; or
  - iv. An entity whose beneficial owner is situated in such a country; or
  - v. An Indian (or other) agent of such an entity; or
  - vi. A natural person who is a citizen of such a country; or
  - vii. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.
4. The beneficial owner for the purpose of (3) above will be as under:-
  - i. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person (s), has a controlling ownership interest or who exercises control through other means.

**Explanation.**

- a). "**Controlling ownership interest**" means ownership of or entitlement to, more than twenty-five per cent, of shares or capital or profits of the company;
- b). "**Control**" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- ii. In case of a partnership firm, the beneficial owner is the natural persons) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than **fifteen percent of capital or profits of the partnership**;
- iii. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- iv. Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
- v. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate

effective control over the trust through a chain of control or ownership.

vi. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

The bidder must officially procure / download the tender documents before the last date and time of sale of tender document in order to bid for this tender.

All the bidders must ensure that their bid is complete in all respects and conforms to tender terms and conditions, tender specifications etc. failing which the bids are liable to be rejected without seeking any clarifications on any exception/deviation taken by the bidder in their bid.

TCIL reserves the right to accept or reject any or all the tenders without assigning any reason.

**Contacts:**

**TCIL Contact-1-** Mr. Tapas Swain, GM (Civil)/ Project Director (NE-1)

**E-mail ID:** [tapas.swain@tcil.net.in](mailto:tapas.swain@tcil.net.in),

**TCIL Contact-2-** Mr. Uma Shankar Choudhary, Project Manager

**E-mail ID:** [umashankar.choudhary@tcil.net.in](mailto:umashankar.choudhary@tcil.net.in)

**GePNIC - Toll Free Telephone No.:** 1800 3070 2232 Helpdesk; 011-26202601

**Schedule-I**

S. No.	Description	Values/ Description to be Applicable for Relevant Clause(s)
1	Name of the Work	Construction of EMRS (Eklavya Model Residential School) at Ziro-II, Village (Comp) Distt. Lower Subansiri, in the state of Arunachal Pradesh
2	Client/ Owner	NESTS, Ministry of Tribal Affairs, Govt. of India
3	EMD	Rs. 60,05,566/- (Rupees Seventy Four Lakhs, Seventy Five Thousand Three Hundred Ten Only).
4	Estimated Cost of Construction	Total estimated cost of construction is <b>Rs. 50,05,56,573.00/-</b> (including GST) and cost of ESI & EPF component as 1,91,93,543.55
5	Time allowed for Completion of Work	24 (Twenty Four) months from 10 <sup>th</sup> day of the date of issue of Letter of Intent (LOI).
6	Interest Rate of Mobilization Advance	NIL
7	Schedule of Rates applicable	DSR- 2021 for Schedule items, Market rates for non-schedule items.
8	Validity of Tender	120 days from the date of opening of bids
9	Performance Guarantee	<b>5% of the awarded value</b> of contract within 10 days from the issuance of LOI.
10	Security Deposit Retention Money	<b>2.5% (Two Point Five Percent only)</b> of the gross value of each running/ Final bill.
11	Compensation for delay of work	With maximum rate @ 1% (one percent) per month of delay to be computed on per day basis based on quantum of damage suffered due to stated delay on the part of Contractor.  Provided always that the total amount of compensation for delay to be paid under this condition shall not exceed 10 % (ten percent) of the accepted Tendered Value of work.
12. a)	Deviation limit <i>within final estimate</i> for all works except foundation.	<b>FOR BUILDING &amp; ASSOCIATED WORKS WITHIN THE CONTRACT</b> <b>50%</b>
12. b)	Deviation limit <i>within final estimate</i> for foundation work	<b>FOR BUILDING &amp; ASSOCIATED WORKS WITHIN THE CONTRACT</b> <b>100%</b>
12. c)	<b>Total Deviation:</b>	Up to 10% of the tendered amount, subject to the approval of the client.
14	Escalation	No claim on account of any escalation on whatsoever ground shall be entertained at any stage of works. All rates as per Bill of Quantities (BOQ) quoted by contractor shall be firm and fixed for entire contract period as well as extended period for completion of the works. <b>No escalation shall be applicable on this contract.</b>
15	Defect Liability Period	The Defects Liability & Maintenance Period shall be 12 (Twelve) months from the date of handing over the project to the Employer/ Owner.

**B. INSTRUCTIONS TO BIDDERS (ITB)****2.1 BIDDER TO BEAR COST OF PURCHASE OF TENDER**

The Bidder shall bear all costs associated with the preparation and submission of the bid. The Employer in any case will not be responsible or liable for these costs regardless of the conduct of the bidding process.

**2.2 BID DOCUMENTS****2.2.1 Bid Document includes: -**

<b><u>SECTION</u></b>	<b><u>TITLE</u></b>
<b>I</b>	<b>NIT, ITB, GCC, SCC</b>
	A. Notice Inviting Tender
	B. Instructions to Bidders
	C. General (Commercial) Conditions of Contract
	D. Special Conditions of Contract
<b>II</b>	Financial Bid Document
<b>III</b>	Technical Specification, Scope of work
<b>IV</b>	Tender Drawings

2.2.2 Any clarification or communications obtained from the Employer

**2.3 AMENDMENT TO BID DOCUMENTS**

2.3.1 At any time, prior to the date of submission of bids, the Employer may for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the bid documents by amendments.

2.3.2 The amendments/ Corrigendum will be notified on TCIL Website and [etenders.gov.in](http://etenders.gov.in) and these amendments will be binding on them. Bidders are advised to visit TCIL Website regularly for updates on this Tender till the last date and time of submission.

**2.4 Deleted****2.5 EXTENSION OF TIME FOR BID SUBMISSION**

In order to give prospective bidders required time in which to take the amendments into action in preparing their bid, the Employer may at its discretion extend the deadline for submission of bid suitably.

**2.6 Deleted****2.7 VALIDITY PERIOD OF BID**

Bid submitted by the bidder shall remain valid for acceptance for a period of 120 days from the date of opening the Bid. The bidders shall not be entitled during the period of 180 days, to revoke or cancel Bid or vary any term thereof without written consent of the owner. In case of bidder revoking or canceling his Bid or varying any term in regard thereof, the actions as per the Bid Security Declaration shall be taken against such bidders.

The bid valid for a shorter period shall be rejected by the Employer as non-responsive.

In exceptional circumstances, the Employer may request the consent of the bidder for an extension to the period of bid validity. The bid security provided shall also be suitably extended. A bidder accepting the request and granting extension will not be permitted to modify his bid.

## **2.8 CLARIFICATION ON BIDS**

- 2.8.1 To assist evaluation and comparison of the bids, the Employer may at its discretion may ask the bidder for clarification of the bid. The clarification and response from bidder shall be in writing. The clarification will be asked offline / online and the clarification and response from bidder shall also be offline/ online, as applicable.
- 2.8.2 The Employer does not bind himself to accept the lowest or any tender and reserves to himself the right to accept the whole or any part of the tender and altering the quantities offered and tenderer shall supply the same at the rate quoted.

## **2.9 EVALUATION OF TENDERS**

- 2.9.1 The Employer shall evaluate the bids in respect to the substantive responsiveness of the bid or otherwise. The Employer shall carry out detailed evaluation of the substantially responsive bids. The Employer shall check the bid to determine whether they are complete, whether any computational errors have been made or required sureties have been furnished.
- 2.9.2 Arithmetical error shall be rectified on the following basis:-
- a) If there is a discrepancy between the unit price and total price that is obtained multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected by the Employer.
  - b) In case of discrepancy between words and figures, the amount in words shall prevail.
- 2.9.3 A bid determined as substantially non-responsive shall be rejected by the Employer.
- 2.9.4 The Employer may waive any minor infirmity or non-conformity or irregularity in the bid which does not constitute a material deviation.
- 2.9.5 The Employer shall evaluate in detail and compare the bids which are substantially responsive.
- 2.9.6 The evaluation of the ranking shall be carried out on the landed price of goods/ services offered inclusive of all taxes, charges, cost etc.
- 2.9.7 The successful bidder shall be declared on the lowest cost basis.

## **2.10 NOTIFICATION OF SUCCESSFUL BIDDER**

- 2.10.1 Prior to the expiration of the bid period, the Employer will notify the successful bidder in writing by Registered letter or fax, to be confirmed in writing by registered letter that its bid has been accepted.
- 2.10.2 Upon successful bidder furnishing of Performance Guarantee, the Employer will notify each unsuccessful bidder and will discharge its bid bond.

## **2.11 ISSUE OF LETTER OF INTENT**

- 2.11.1 The issue of Letter of Intent shall constitute the intention of the Employer to place the Purchase Order with the successful bidder.
- 2.11.2 The bidder shall within 10 days of issue of Letter of Intent give its acceptance along with Performance Guarantee in conformity with the bid documents.



**2.12 CANCELLATION OF LETTER OF INTENT (LOI)**

Failure of the successful bidder to comply with the requirement of submission of Performance Guarantee in time shall constitute sufficient ground for the cancellation of Letter of Intent (LOI) and further actions as per Bid Security Declaration shall be taken against such bidders. In such case, the Employer may make the offer to any other bidder at the discretion of the Employer or call for new bids.

**2.13 POST BID CLARIFICATIONS**

No post bid clarification at the initiative of the bidders shall be entertained and any effort by the bidders to influence the Employer in the Employer's bid evaluation, bid comparison or award of the contract shall result in rejection of the bid.

**2.14 INSTRUCTIONS REGARDING BID SUBMISSION**

*Participating in this tender shall be through Online submission only.* The bidders can contact NIC for Telephonic Help Support on Toll Free Help Desk Number- 1800 3070 2232 for requisite queries regarding registration, training, demonstration etc of Government e-Procurement System of NIC (GePNIC). Bidders may further note that on-line bid submission can be quite time-consuming. They are advised to start their uploading of bid sufficiently in advance to ensure complete uploading of bid within stipulated time.

**ONLINE SUBMISSION:** -The bidders to submit the ONLINE Final Bid documents in following two envelopes:-

**(i) Envelope-I:** - The bidders to submit their Bid Capacity certificate, Bid Security Declaration, Undertaking on Rs. 10/- Stamp Paper as per format at Annexure-1, undertaking of Clause-by-clause tender compliance, Power of Attorney, and Check List.

**(ii) Envelope-II:** - The bidder is requested to submit the following documents offline (i.e. in form of Hard Copy) in the **Tender Box** at the following address before the due date & time of submission in a Sealed Envelope:-

Office of *Project Director (NE-1), TCIL*  
*H. No. 1421, NH-37 Tetelia, P.O- Gotanagar,*  
*District- Kamrup Metro, Guwahati, Assam, PIN- 781033*

(The envelope shall bear the name of the bidder, **Tender No. & Description** and the words 'DO NOT OPEN BEFORE' (due date & time) and in case of any delay in offline submission, TCIL will not responsible)

- (a) **Tender Fee** in favor of "Telecommunications Consultants India Limited" payable to New Delhi
- (b) **EMD**
- (c) Integrity Pact duly signed in original (which available at TCIL website) on plain paper only, if applicable. Tender for above Rs. 5.00 Crore will require submitting Integrity Pact.

**If bidder fails to submit its documents, as required offline, as mentioned above, his bid is liable to be rejected summarily.**

(d) **Power of Attorney** in physical mode on stamp paper as per law in India or extract of Board resolution (in Original) authorizing the signatory to act on behalf of the bidder. The bidder should ensure that the Digital Signature used for uploading the tender document in GePNIC portal should be of the authorized person mentioned in Power of Attorney/ Board Resolution only.

**NOTE:** For more details for Online Submission of the bid, please go through **Appendix (A) of Section-B,**namely **Detailed instructions for Online Bid Submission**

**2.15 ONE BID PER BIDDER**

Each bidder shall submit only one bid, either individually, or as a partner in a partnership firm or a partner in a Joint Venture/ Consortium or a Public Ltd/ Private Ltd. Company. A bidder who submits or participates in more than one bid will cause all the proposals with the bidder's participation to be disqualified.

**2.16 LANGUAGE OF BID**

All documents relating to the bid shall be in the ENGLISH language.

**2.17 SIGNING OF THE BID**

- 2.17.1 Each page of the bid document shall be signed by the bidder or a person duly authorized by him. The letter of authorization in the form of power of attorney shall be attached to the bid.
- 2.17.2 The bid shall not have any overwriting. In case of mistake, the matter is to be re-written afresh after cutting the earlier one and it should be signed by the bidder.

**2.18 LATE BIDS**

Bidders are advised in their own interest to ensure that bids may be uploaded/ submitted well before the closing date and time. Any bid received after deadline for bid submission, will be rejected and will not be considered.

**2.19 MODIFICATION AND WITHDRAWAL OF BIDS**

- 2.19.1 Bid withdrawal/ modification shall not be allowed after end date and time of bid submission.
- 2.19.2 Withdrawal of a bid between the deadline for submission of bids and the expiration of the period of bid validity specified in the tender or as extended, may result in the forfeiture of the bid security. No bid may be modified after the deadline for submission of bids.

**2.20 EMPLOYER'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS**

The Employer does not bind himself to accept lowest or any other tender/ bid and has the right to cancel the bidding process and reject all bids at any time prior to award of the contract without assigning any reasons whatsoever and without thereby incurring any liability to the affected bidder on the grounds for the Employer's action.

**2.21 STANDARDS-**

The work done under the contract shall conform to the standard mentioned in the Technical Specifications of the tender document.

**2.22 SUB -LETTING**

The contractor cannot assign or transfer and sub-contract its interest/obligations under the contract without written permission of employer. Employer reserves its right to allow sub- contracting, if required, in the interest of work.

**2.23 INTEGRITY PACT PROGRAMME**

- 2.23.1 As a part of implementation of Integrity Pact Program (IPP) in TCIL, all tenders with the estimate value equal to or exceeding the threshold value will be covered under the Integrity Pact Program (IPP) and the vendors are required to sign the IP document and submit the same to TCIL before or along with the bids. The present threshold value is Rs. 5 Crore.
- 2.23.2 Even in case of tenders with the estimated value less than the threshold value, the vendors would be required to sign the IP document if the total value of the Purchase Orders (POs) exceeds the threshold value in respect of: Multiple/repeat POs on the single vendors against a tender PO's placed on multiple vendors against a tender.
- 2.23.3 Only those vendors who have purchased the tender document and signed the IP document can send their grievances, if any, to the Independent External Monitors (IEMs) through the nodal officer, i.e. Chief Vigilance Officer (CVO), TCIL in the prescribed proforma.

## NAME OF IEMs WITH THEIR CONTACT DETAILS:

i) Shri Anil Kumar Shrivastava,  
Independent External Monitor  
Email ID: anilifs86@gmail.com

ii) Shri Harishwar Dayal,  
Independent External Monitor  
E mail ID: dayalagra@gmail.com

## NAME &amp; CONTACT DETAILS OF NODAL OFFICER (IP) IN TCIL:

Shri Pramod Kumar Choudhary, Chief vigilance Officer E mail ID: [cvotcil@tcil.net.in](mailto:cvotcil@tcil.net.in)

- 2.23.4 If the order, with total value equal to or more than the threshold value, is split to more than one vendor and even if the value of PO placed on any/each vendor(s) is less than the threshold value, IP document having been signed by the vendors at bid stage itself, the Pact shall continue to be applicable.
- 2.23.5 In respect of tenders for Pre-bid tie up/Expression of Interest (EOI): In case of TCIL getting the order from the client, before placement of Purchase Order/Work Order on technically & commercially qualified vendor, the selected vendor is required to sign the IP document.
- 2.23.6 IP document shall be in plain white sheet and to be signed by the vendor and TCIL with two witnesses from each party. The name, designation, company etc. of the persons signing the IP document and the project/tender name shall be clearly mentioned. All pages of the IP document shall be initiated by both parties along with company seal.
- 2.23.7 Tender received without signed & stamped copy of the Integrity Pact document will be liable to be rejected, and the bidder himself will be responsible for that.
- 2.23.8 If the proper integrity pact duly filled and signed has been submitted by pre-qualified bidders, then no further submission of IP is required at this stage.

**2.24 ADVICE TO BIDDERS FOR AVOIDING REJECTION OF THEIR OFFERS**

The Employer has to finalize its purchase/contract within a limited time schedule. Therefore, it may not be feasible for the bidder to seek clarifications for a long time in respect of incomplete offers. The bidders are advised to ensure that their bids are complete in all respects and conform to the terms, conditions and bid evaluation criteria of the tender. Bidders not complying with tender requirements may cause rejection of their bids.

**2.25 SUBMISSION OF FORGED DOCUMENTS**

Bidders should note that TCIL may verify authenticity of all the documents/ certificate/ information submitted by them against the tender. In case it is established that the bidder has submitted forged documents/ certificates, the Price Bids of such bidders shall not be opened and such bidders shall be debarred from participating in future bidding processes of TCIL for a minimum period of five years, which may be further extended at the discretion of TCIL. Further, the Security Deposit amount or any other amount lying in any form with TCIL, of such bidders shall also be forfeited.

**APPENDIX (A) to Section-B****Detailed Instructions for Online Bid Submission**

The bidders are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids online on the CPP Portal.

More information useful for submitting online bids on the CPP Portal may be obtained at: <https://etenders.gov.in/eprocure/app>.

**REGISTRATION:**

- 1) Bidders are required to enroll on the e-Procurement module of the Central Public Procurement Portal (URL: <https://etenders.gov.in/eprocure/app> ) by clicking on the link “**Online bidder Enrollment**” on the CPP Portal which is free of charge.
- 2) As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.
- 3) Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.
- 4) Upon enrolment, the bidders will be required to register their valid Digital Signature Certificate (Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify / nCode / eMudhra etc.), with their profile.
- 5) Only one valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSC’s to others which may lead to misuse.
- 6) Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

**SEARCHING FOR TENDER DOCUMENTS:**

- 1) There are various search options built in the CPP Portal, to facilitate bidders to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.
- 2) Once the bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective „My Tenders” folder. This would enable the CPP Portal to intimate the bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.
- 3) The bidder should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

**PREPARATION OF BIDS:**

- 1) Bidder should take into account any corrigendum published on the tender document before submitting their bids.
- 2) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted,

the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.

3) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document / schedule and generally, they can be in PDF / XLS / RAR / DWF/JPG formats. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.

4) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use “My Space” or “Other Important Documents” area available to them to upload such documents. These documents may be directly submitted from the “My Space” area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

**Note:** *My Documents space is only a repository given to the Bidders to ease the uploading process. If Bidder has uploaded his Documents in My Documents space, this does not automatically ensure these Documents being part of Technical Bid.*

#### **SUBMISSION OF BIDS:**

1) Bidder should log into the site well in advance for bid submission so that they can upload the bid in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.

2) The bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.

3) Bidder has to select the payment option as “offline” to pay the tender fee / EMD as applicable and enter details of the instrument.

4) Bidder should prepare the EMD as per the instructions specified in the tender document. The original should be posted/couriered/given in person to the concerned official, latest by the last date of bid submission or as specified in the tender documents. The details of the DD/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.

5) Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard BoQ format with the tender document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the BoQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the bidder, the bid will be rejected.

6) The server time (which is displayed on the bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.

7) All the documents being submitted by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid opener’s public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.

- 8) The uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 9) Upon the successful and timely submission of bids (i.e. after Clicking “Freeze Bid Submission” in the portal), the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.
- 10) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

**ASSISTANCE TO BIDDERS:**

- 1) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender.
- 2) Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk.

**C. GENERAL (COMMERCIAL) CONDITIONS OF THE CONTRACT****3.1 DEFINITIONS AND INTERPRETATIONS****3.1.1 Definitions**

In the Contract (as hereinafter defined) the following words and expressions shall have the meaning share by assigned to them except where the Contract otherwise requires:

- (a) “Owner/ Client” shall be the National Education Society for Tribal Students (NESTS) ,Ministry of Tribal Affairs , Government of India .
- (b) “Employer/ PMC/ Construction Agency (CA)/ Executing Agency (EA)” shall mean Telecommunications Consultants India Limited i.e. TCIL.
- (c) “Project Director/ Engineer-in-charge/ Engineer” shall mean the officer appointed by Employer for the purpose.
- (d) “Applicant/ bidder/ tenderer” shall mean the party submitting its bid for this tender.
- (e) “Contractor/ Agency” shall mean the tendered selected by the Employer for the performance of the work and shall include the successors and permitted assigns of the Contractor.
- (f) “Contract” means the Conditions i.e. General and special conditions, the technical Specifications, the Drawings, the Bill of Quantities, the Bid, the Letter of Acceptance, the Contract Agreement and such further documents as may be expressly incorporated in the Letter of Acceptance or Contract Agreement.
- (g) “Specifications” means the relevant specification of the Works included in the Contract and any modification thereof or addition thereto as approved by the Employer on behalf of owner.
- (h) “Drawings” means all Drawings, calculations and technical information provided by the Employer to the Contractor under the Contract and all Drawings, calculations, samples, patterns, models, operation and maintenance manuals and other technical information of a like nature submitted by the contractor and approved by the Employer on behalf of the Owner.
- (i) The term „SOR“ or price bid means the schedule of rates as mentioned in falling under detailed notice inviting tender of the main contract.
- (j) “Tender/Bid” means the Contractor’s priced offer to the Employer for the performance and completion of the works and remedying of any defects therein in accordance with the provisions of the Contract, as accepted by the Letter of Acceptance. The word Tender is synonymous with “Bid” and the words “Tender Documents” with “Bidding Documents”.
- (k) “Works” means the Permanent Works and the Temporary Works or either of them as appropriate.
- (l) “Letter of Intent” shall mean intimation by a letter/fax of intent that the tender has been accepted in accordance with the provisions contained in the said letter/fax.
- (m) “Letter of Intent (LOI)” means the formal acceptance by the Employer.
- (n) “Contract Price” means the sum stated in the Letter of Acceptance as payable to the Contractor for performance and completion of the Works and remedying of any defects therein in accordance with the provision of the Contract.

- (o) “Cost” means all expenditure properly incurred or to be incurred, whether on or off the Site, including overhead and other charges properly allowable thereon but does not include any allowance for profit.
- (p) “Day” means a day of 24 hours from midnight to midnight irrespective of the number of hours worked in that day.
- (q) “Working Day” means any day, which is not declared to be holiday or rest day by the Employer.
- (r) “Week” means a period of any consecutive seven days.
- (s) “Writing” means any hand - written, or printed/ typed communication, including fax.
- (t) “Headings” in the clauses/conditions of tender document is for the convenience only and shall not be used for interpretation of the clause/condition.

**3.1.2** Language for all the Drawings, titles, notes, communications, instructions, dimensions etc. shall be English Only.

### **3.2 Headings and Marginal Notes**

The headings and marginal notes in these conditions are indicative only and shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof or of the Contract.

### **3.3 Interpretation**

Words imparting persons or parties shall include firms and corporations and any organization having legal capacity.

### **3.4 Singular and Plural**

Words imparting the singular only also include the plural and vice versa where the context so requires.

### **3.5 Notices, Consents, Approvals, Certificates and Determinations**

Wherever in the Contract, provision is made for giving or issue of any notice, consent, certificate or determination by any person, unless otherwise specified such notice, consent, approval, certificate or determination shall be in writing and the words „notify“, „certify“ or „determine“ shall be construed accordingly.

### **3.6 Project Director and Project Director’s Representative**

#### **3.6.1 Project Director’s Duties and Authority**

Project Director appointed by TCIL reserve the right in checking/ test checking of the operation of the contract in respect of quality, testing, and measurement of Works either directly or through a separate agency or both.

The Project Director may exercise the authority specified in or necessarily to be implied from the Contract and is not required to obtain the specific approval of the Employer before exercising any such authority. Provided further that any requisite approval shall be deemed to have been given by the Employer for any such authority exercised by the Project Director.

#### **3.6.2 Project Director’s Representative**

The Project Director’s Representative shall be appointed by and be responsible to the Project Director and shall carry out such duties and exercise such authority as may be delegated to him by the Project Director under Sub-Clause 3.6.3.



### 3.6.3 Project Director's Authority to Delegate

The Project Director may from time to time delegate to his Representative any/all of the duties and authorities vested in the Project Director and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing and shall not take effect until a copy thereof has been delivered to the Contractor.

Any communication given by Project Director's Representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Project Director, provided that;

- (a) any failure of the Project Director's Representative to disapprove any work, materials or Plant shall not prejudice the authority of the Project Director to disapprove such work, materials or Plant and to give instructions for the rectification thereof; and
- (b) if the Contractor questions any communication of the Project Director's Representative he may refer the matter to the Project Director who shall confirm, reverse or vary the contents of such communication.

### 3.6.4 Appointment of Assistants

The Project Director or his Representative may appoint any number of persons to assist him in carrying out of his duties. He shall notify to the Contractor the names and duties of such persons. Such assistants shall have no authority to issue any instructions to the Contractor save in so far as such instructions may be necessary to enable them to carry out their duties and to secure their acceptance of materials, Plant or workmanship as being in accordance with the Contract, and any instructions given by any of them for those purposes shall be deemed to have been given by the Project Director's Representative.

### 3.6.5 Instructions in Writing

Instructions given by the Project Director shall be in writing, provided that if for any reason the Project Director considers it necessary to give any such instruction orally, the Contractor shall comply with such instruction. Confirmation in writing of such oral instruction given by the Project Director, whether before or after carrying out of the instruction shall be deemed to be an instruction within the meaning of this Sub-Clause. Provided further that if the Contractor, within 5 days, confirms in writing to the Project Director any oral instruction of the Project Director and such confirmation is not contradicted in writing within 7 days by the Project Director, it shall be deemed to be an instruction of the Project Director.

The provisions of this sub-clause shall equally apply to instructions given by the Project Director's Representative and any Assistant of the Project Director or the Project Director's Representative appointed pursuant to Sub-Clause 3.6.4.

### 3.6.6 Project Director to Act Impartially

Wherever, under the Contract, the Project Director is required to exercise his discretion by;

- (a) giving his decision, opinion or consent, or
- (b) expressing his satisfaction or approval, or
- (c) determining value, or
- (d) otherwise taking action, which may affect the rights and obligations of the Employer or the Contractor,

He shall exercise such discretion impartially within the terms of the Contract and having regard to all the circumstances. Any such decision, opinion, consent, expression of satisfaction, approval, determination of value or action may be opened up, reviewed or revised as provided in Clause 3.6.

### 3.7 CONTRACT DOCUMENTS

#### 3.7.1 Language and Law

- (a) The language in which the Contract documents shall be drawn up is English.
- (b) The country, the law of which shall apply to the Contract and according to which the Contract shall be construed is India. For any dispute the jurisdiction of the court shall be the High Court of Delhi

#### 3.7.2 Priority of Contract Documents

The several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the Project Director who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows:

- (a) The Contract Agreement
- (b) The Letter of Acceptance
- (c) The Tender Document
- (d) Special Conditions
- (e) Priced Bill of Quantities
- (f) Specifications
- (g) General Conditions
- (h) Drawings
- (i) Any other document forming part of the Contract

#### 3.7.3 Custody and Supply of Drawings and Documents

The Drawings shall remain in the sole custody of the Project Director, but **two copies** thereof shall be provided to the Contractor free of charge. The Contractor shall make at his own cost any further copies required by him. Unless it is strictly necessary for the purpose of the Contract, the Drawings, Specifications and other documents provided by the Employer or the Project Director shall not, without the consent of the Project Director, be used or communicated to a third party by the Contractor. Upon issue of Defects Liability Completion Certificate, the Contractor shall return to the Project Director all Drawings, Specifications, and other documents provided under the Contract.

One copy of the specifications provided to the Contractor shall be kept by the Contractor on the Site and the same shall at all reasonable times be available for inspection and use by the Project Director and any other person authorized by the Project Director in writing.

#### 3.7.4 Disruption of Progress

The Contractor shall give notice to the Project Director, whenever works is likely to be delayed or disrupted unless any further instruction is issued by the Project Director within a reasonable time. The notice shall include details of the instruction required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.

If, by reason of any failure or inability of the Project Director to issue, within a time reasonable under the circumstances, any instruction for which notice has been given by the Contractor in accordance with this Sub-Clause, the Contractor suffers delay, then the Project Director shall, determine any extension of time to which the Contractor is entitled.

If the failure or inability of the Project Director to issue instructions is caused in whole or in part by the failure of the Contractor to execute the works which he is required to execute under the Contract, the Project Director shall take such failure by the Contractor into account when making his determination for extension of time.

#### 3.7.5 Supplementary Instructions

The Project Director shall have the authority to issue to the Contractor, from time to time, such

supplementary instructions as shall be necessary for the purpose of proper and adequate performance and completion of the Works and remedying of any defects therein. The Contractor shall carry out and be bound by the same.

### **3.8 GENERAL OBLIGATIONS**

#### **3.8.1 Contractor's General Responsibilities**

The Contractor shall, with due care and diligence (to the extent provided for by the Contract), perform and complete the Works and remedy any defects therein in accordance with the provisions of the Contract. The Contractor shall provide all superintendence, labor, materials, Equipment and all other things, whether of temporary or permanent nature, required in and for such remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract. The Contractor shall promptly notify the Project Director of any error, omission, fault or any other defect in the specifications for the Works which he discovers when reviewing the Contract documents or in the process of performance of the Works.

The Contractor shall take the full responsibility for the adequacy, stability and safety of all Site operations and methods of survey, provided that the Contractor shall not be responsible (except as stated hereunder or as may be otherwise agreed) for the design or specification of Works, not prepared by the Contractor. Where the Contract expressly provides that part of the Works shall be designed by the Contractor, he shall be fully responsible for that part of Works, notwithstanding any approval by the Owner / Project Director.

In the event the Contractor defaults in any of the obligations mentioned in the Contract, the Project Director / Employer reserves the right to fulfill the same at the risk and cost of the Contractor.

#### **3.8.2 Contract Agreement**

The Contract Agreement shall be prepared and completed in the form annexed to these Conditions with such modifications as may be necessary.

#### **3.8.3 Inspection of Site**

TCIL/ Client reserves the right to inspect the work through its Engineers/ Officers or any other agency authorized by them from time to time. TCIL/Client will communicate such observations, if any, for compliance by the Contractor.

The Contractor shall be deemed to have inspected and examined the Site and its surroundings and collected information available in connection therewith and to have satisfied himself (so far as is practicable, having regard to considerations of cost and time) before submitting his Bid, as to:

- (a) the form and nature thereof, including the sub-surface conditions,
- (b) the hydrological and climatic conditions,
- (c) the extent and nature of work and materials necessary for the performance and completion of the Works and remedying of any defects therein, and
- (d) the means of access to the Site and the accommodation he may require and in general, shall be deemed to have obtained all necessary information as above mentioned, as to risks, contingencies and all other circumstances which may influence or affect his Bid.

#### **3.8.4 Sufficiency of Tender**

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the tender and of the rates and prices stated in the Bill of Quantities, all of which shall, except in so far as it is otherwise provided in the Contract, cover all his obligations under the Contract (including those in respect of the supply of goods, materials, Plant or services) and all matters and things necessary

for the proper performance and completion of the Works and remedying of any defects therein.

The rate quoted against each item of work shall be for the complete finished item of work and shall be inclusive of all other taxes, duties, levies and all costs and expenses which may be required in and for performance and full protection of the work as describe together with all general risks/ liabilities and obligations set forth or implied in the documents on which the tender is based. Contractor is required to submit the break-up of taxes along with its price bid.

The rates quoted against each item in the Schedule of Quantities shall be deemed to cater for all minor constructional details which are not specifically mentioned, but are fairly and obviously intended and are essential for the full and final completion of the Works and the Contractor is not entitled to make any extra claim on this account.

### **3.8.5 Work to be in Accordance with Contract**

Unless it is legally or physically impossible, the Contractor shall perform and complete the Works and remedy any defects therein in strict accordance with the Contract to the satisfaction of the Owner/ Project Director. The Contractor shall comply with and adhere strictly to the Project Director's instructions on any matter, whether mentioned in the Contract or not, touching or concerning the Works. The Contractor shall take instructions only from the Project Director, or from the Project Director's representative.

### **3.8.6 Program to be submitted**

- A) Within the time stated in the Contract Data, the Contractor shall submit to the Engineer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works, along with monthly cash flow forecasts for the construction of works.
- B) The Contractor shall submit the list of equipment and machinery being brought to site, the list of key personnel being deployed, the list of machinery/ equipment's being placed in field laboratory and the location of field laboratory along with the Program. The Engineer shall ensure these details to be verified at each appropriate stage of the program.
- C) An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining Works, including any changes to the sequence of the activities.
- D) The Contractor shall submit to the Engineer-in-charge for approval an updated Program at intervals no longer than the period stated in the Contract . If the Contractor does not submit an updated Program within this period, the Engineer-in-charge may withhold the amount stated in the Contract from the next payment and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- E) The Engineer's approval of the Program shall not alter the Contractor's Obligations. The Contractor may revise the Program and submit it to the Engineer again at any time. A revised program shall show the effect of Variations and Compensation Events.
- F) The Contractor shall submit to the Engineer Weekly / monthly progress report in prescribed format.
- G) The contractor shall also submit a Quality Assurance Plan and execute works as per the approved QAP. Engineer in charge shall be approving QAP submitted by the contractor.

### **3.8.7 Project Director at Liberty to Object**

The Project Director shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person provided by the Contractor who, in the opinion of the Employer / Project Director, misconducts or is incompetent or negligent in the proper performance of his duties, or whose presence on Site is otherwise considered by the Project Director to be undesirable, and such person

shall not be again allowed upon the Works without the consent of the Project Director. Any person so removed from the Works shall be replaced as soon as possible and no claim whatsoever shall be entertained on this account.

### **3.8.8 Setting Out**

The Contractor shall be responsible for;

- a) the accurate setting - out of the Works in relation to original points, lines and levels of reference given by the Project Director in writing,
- b) the correctness of the position, levels, dimensions and alignment of all parts of the Works, and
- c) the provision of all necessary instruments, appliances and labor in connection with the foregoing responsibilities.

If, at any time during the performance of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required to do so by the Project Director, shall at his own cost rectify such error to the satisfaction of Project Director, unless such error is based on incorrect data supplied in writing by the Project Director.

The checking of any setting – out or of any line or level by the Project Director shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench – marks, sight - rails, pegs and other things used in setting – out of the Works.

### **3.8.9 Safety, Security and Protection of the Environment**

The Contractor shall, throughout the performance and completion of the Works and the remedying of any defects therein;

- a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons, and
- b) provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when and where necessary or required by the Project Director or by any duly constituted authority, for the protection of the Works or for the safety and convenience of the public or others, and
- c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods or operation.

In case of the failure on the part of the Contractor on above accounts, the consequences of the same shall be borne by the Contractor. Alternatively, the Project Director may take reasonable steps to comply with the above at the risk and cost of the Contractor.

### **3.8.10 Responsibility to Rectify Loss or Damage**

If any loss or damage happens to the Works, or any part thereof, or materials or Plant for incorporation therein, during the period for which the Contractor is responsible for the care thereof, from any cause whatsoever, other than the risks as defined, the Contractor shall at his own cost, rectify such loss or damage so that the Works conform in every respect with the provision of the Contract to the satisfaction of the Project Director. The Contractor shall also be liable for any loss or damage to the Works occurred by him in the course of any operation carried out by him for the purpose of complying with his obligations under referenced Clauses.

**3.9 Force Majeure:**

Any failure or delay in the performance by the contractor hereto of its obligations under his Contract shall not constitute a breach thereof or give rise to any claims for damages if, and to the extent that it is caused by occurrences beyond the control of the party affected, namely, acts of God, floods, explosions, wars, riots, storms, earthquakes, insurrection, epidemic or other natural disasters. The Contractor so affected shall continue to take all actions reasonably within its power to comply as far as possible with its obligations under this Contract. The affected Contractor shall promptly notify TCIL after the occurrence of the relevant event and shall use every reasonable effort to minimize the effects of such event and act in all good faith with due care and diligence.

**a) Breach of Contract:** The failure of Contractor to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under this contract insofar as such inability arise from an event of Force Majeure, provided that the party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this contract, and (b) has informed TCIL/ Client as soon as possible about the occurrence of such an event.

**b) Extension**

**of Time:** Any period within which the Contractor shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which the Contractor was unable to perform such action as a result of Force Majeure.

**3.10 Fossils**

All fossils, coins, articles of value or antiquities and structures and other remains or things of geological or archaeological interest discovered on the Site of the Works shall be deemed to be absolute property of the Employer and the Contractor shall take reasonable precautions to prevent his workmen or any other person from removing or damaging any such article or thing and shall, immediately upon discovery thereof and before removal, acquaint the Project Director or Project Director's representative of such discovery and carry out the Project Directors instructions for dealing with the same.

During excavation if any underground services are noticed and the same is needed to be removed/relocated, the cost of removal/ relocation shall be determined by the Project Director and reimbursed to the Contractor after getting approval of the Client.

**3.11 Patent Rights**

The Contractor shall indemnify the Employer from and against all claims and proceedings for or on account of infringement of any patent rights, design, trademark or name or other protected right in respect of any Contractor's Equipment, materials or Plant used for or in connection with or for incorporation in the Works and from and against all damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, except where such infringement results from the compliance with the design or specification provided by the Project Director.

**3.12 Contractor to Keep Site Clear**

During the performance of the Works, the Contractor shall keep the Site reasonably free from all unnecessary obstructions and shall store or dispose of any Contractor's equipment and surplus materials and clear away and remove from the Site any wreckage, rubbish or temporary Works no longer required.

**3.13 Clearance of Site on Completion**

Before the issue of any Taking - Over Certificate, the Contractor shall clear away and remove from that part of the Site to which such Taking-Over Certificate relates all Contractor's equipment, surplus material, rubbish and temporary Works of every kind, and leave such part of the Site and Works clean and in a workman like condition to the satisfaction of the Owner/ Project Director, provided that the Contractor shall be entitled to retain on Site, until the end of the Defects Liability Period, such materials, Contractor's

Equipment, and temporary Works as are required by him for the purpose of fulfilling his obligations during the Defects Liability Period.

### 3.14 Labour

The Contractor shall make his own arrangements for the engagement of all labor, local or other.

The Contractor shall, if required by the Project Director, deliver to the Project Director's representative, or at his office, a return in detail in such for mandate such intervals as the Project Director may prescribe showing the supervisory staff and the number of the several classes of labour from time to time employed by the Contractor on the Site and such information respecting constructional Plant as the Project Director's Representative may require.

The Contractor shall file all labour returns in detail to the respective authorities / statutory bodies as prescribed under law applicable at the work Site and inform the Employer/ Project Director with copies of such returns directly filed.

The Contractor shall abide by the local laws and regulations governing labour applicable from time to time. During continuance of the Contract, the Contractor shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and by-laws of State or Central Government or local authority, and any other labour law (including rules), regulations, by-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 hereafter. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of the 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 in the amendments/ by-laws/ acts/ rules/ regulations/ including amendments, if any, on the part of the Contractor, the Project Director/ Employer shall have the right to deduct any amount due to the Contractor. The Employer/ Project Director 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/likely to be suffered by the Employer.

The employees of the Contractor and the Sub - Contractors (if any) in no case shall be treated as the Employees of the owner/ Employer at any point of time.

Salient features of some of the major labour laws applicable to establishments engaged in building and other construction Works are as given below: The bidder/contractor will be required to comply with these laws as for their work force /establishments. For these acts, as mentioned below, agency will also act as employer, wherever applicable, in accordance to these laws/acts.

#### 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 the employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more or on death at the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.

#### c) Employees P. F. and Miscellaneous Provision Act, 1952

The benefits payable under the Act are:

- i) Pension or family pension on retirement or death as the case maybe.
- 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 a license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if the employer employs 20 or more contract labour.
- f) Minimum Wages Act,1948  
The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provision of the Act if the employment is a scheduled employment. Construction of Buildings, Roads and Runways are scheduled employments.
- 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 20 or more workmen.
- 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 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get the same 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 regulation of 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 5 or more inter - state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment 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, traveling 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, 1996  
All the establishments who carry on any building or other construction work and employs 10 or more workers are covered under this Act. All such establishments are required to pay cess at rate not exceeding 2% of the cost of construction as may be notified 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 accommodation for workers etc. The employer to whom the Act applies has to obtain a registration certificate from the Registering officer appointed by the Government.  
However the Contractor shall follow various acts with latest amendments.

### **3.15 Details to be Confidential**

The Contractor shall treat the details of the Contract as private and confidential, save insofar as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer or the Project Director. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the decision of the Employer whose award shall be final.

### **3.16 Drawings and Photographs of the Works**

The Contractor shall not disclose details of Drawings furnished to him and Works on which he is engaged without the prior approval of the Project Director in writing. No photographs of the Works or any part thereof or Plant employed thereon shall be taken or permitted by the Contractor to be taken by any of his employees without the prior approval of the Project Director in writing and no such photographs shall be published or otherwise circulated without the approval of the Project Director in writing.

### **3.17 Work not to be sublet, Action in case of insolvency**

The contract shall not be assigned or sublet without the written approval of the Engineer-in-Charge.

### **3.18 The Apprentices Act, 1961**

The Contractor shall duly comply with the provisions of the latest Apprentices Act, the rules made there under and the orders that may be issued from time to time under the said Act and the said rules and on his failure or neglect to do so, he shall be subject to all liabilities and penalties provided by the said Act and the said rules.

### **3.19 Inspection of Operations**

The Employer/Project Director, and any person authorized by him, shall at all reasonable times have access to the Site and to all Workshops and places where materials or Plant are being manufactured, fabricated or prepared for the Works and the Contractor shall afford every facility for and every assistance in obtaining the right to such access.

### **3.20 SUSPENSION OF WORK**

#### **3.20.1 Suspension of Work**

The Contractor shall, on the instructions of Project Director suspend the progress of the Works or any part thereof for such time and in such manner as the Project Director may consider necessary and shall, during such suspension, properly protect and secure the Works or such part thereof so far as is necessary in the opinion of the Project Director. Unless such suspension is:

- a) otherwise provided for in the Contract, or
- b) necessary by reason of some default of or breach of Contract by the Contractor for which he is responsible, or
- c) Necessary for the proper performance of the Works or for the safety of the Works or any part thereof save to the extent that such necessity arises from any act or default by the Project Director or the Employer or from any of the risks defined in referenced clauses will apply.

### **3.20.2 Project Director's Determination Following Suspension**

The Project Director shall, after due consultation with the owner and the Contractor, determine any extension of time to which the Contractor is entitled under the contract.

## **3.21 COMMENCEMENT AND DELAYS**

### **3.21.1 Commencement of Works**

The Contractor shall commence the Works within the period specified in the tender after the receipt by him of an order in writing to this effect from the Project Director and shall proceed with the Works with due expedition and without delay except as may be expressly sanctioned or ordered by the Project Director or be wholly beyond the Contractor's control.

### **3.21.2 Possession of Site**

The Contractor shall take possession of the site from TCIL/ Client and keep it free from all encroachments till completion and handing over of the works to Client.

### **3.21.3 Time for Completion**

The whole of the Works and, if applicable, any Section required to be completed within a particular time as stated in the Bid, shall be completed within the time stated for completion of the whole of the Works or the Section, calculated from the Commencement Date, or such extended time as may be allowed.

## **3.22 Extension of Time for Completion**

The bidder shall immediately submit the detailed work program for all construction activities including cash flow, equipment requirements and labour schedule for the project within 7 days after the acceptance of work order

The time allowed for execution of the Works as specified in the Schedule 'F' or the extended time in accordance with these conditions shall be the essence of the Contract. The execution of the work shall commence from such time period as mentioned in schedule 'F' or from the date of handing over of the site, notified by the Engineer-in-Charge, whichever is later. If the Contractor commits default in commencing the execution of the work as aforesaid, the performance guarantee shall be forfeited by the Engineer in Charge and shall be absolutely at the disposal of the Government without prejudice to any other right or remedy available in law.

As soon as possible but within 7 (seven) working days of award of work and in consideration of

- (a) Schedule of handing over of site as specified in the Schedule 'F'
  - (b) Schedule of issue of designs as specified in the Schedule 'F' ,
- (i) The Contractor shall submit a Time and Progress Chart for each mile stone. The Engineer-in-Charge may within 7 (seven) working days thereafter, if required modify, and communicate the program approved to the contractor failing which the program submitted by the contractor shall be deemed to be approved by the Engineer-in-Charge. The work programmed shall include all details of balance drawings and decisions required to complete the contract with specific dates by which these details are required by contractor without causing any delay in execution of the work. The Chart shall be prepared in direct relation to the time stated in the Contract documents for completion of items of the works. It shall indicate the forecast of the dates of commencement and completion of various trades of sections of the work and may be amended

as necessary by agreement between the Engineer- in-Charge and the Contractor within the limitations of time imposed in the Contract documents

- (ii) In case of non- submission of construction program by the contractor, the program approved by the Engineer-in-Charge shall be deemed to be final.
- (iii) The approval by the Engineer-in-Charge of such program shall not relieve the contractor of any of the obligations under the contract.
- (iv) The contractor shall submit the Time and Progress Chart and progress report using the mutually agreed software or in other format decided by Engineer-in-Charge for the work done during previous month to the Engineer-in-charge on or before 5th day of each month failing which a recovery as per Schedule F to be decided by the NIT approving authority shall be made on per week or part basis in case of delay in submission of the monthly progress report.

If the work(s) be delayed by:-

- (i) force majeure, or
- (ii) abnormally bad weather, or
- (iii) serious loss or damage by fire, or
- (iv) civil commotion, local commotion of workmen, strike or lockout, affecting any of the trades employed on the work, or
- (v) delay on the part of other contractors or tradesmen engaged by Engineer in- Charge in executing work not forming part of the Contract, or
- (vi) any other cause like above which, in the reasoned opinion of the Engineer-in- Charge is beyond the Contractor's control.

then upon the happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer-in-Charge but shall nevertheless use constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-Charge to proceed with the works.

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

In case the work is hindered by the Department or for any reason / event, for which the Department is responsible, the authority as indicated in Schedule 'F' shall, if justified, give a fair and reasonable extension of time and reschedule the mile stones for completion of work Such extension of time or rescheduling of milestone/s shall be without prejudice to any other right or remedy of the parties in contract or in law; provided further that for concurrent delays under this sub clause and sub clause 5.2 to the extent the delay is covered under sub clause 5.2 the contractor shall be entitled to only extension of time and no damages.

Request for rescheduling of Mile stones or extension of time, to be eligible for consideration, shall be made by the Contractor in writing within fourteen days of the happening of the event causing delay on the prescribed forms i.e. Form of application by the contractor for seeking rescheduling of milestones or Form of application by the contractor for seeking extension of time (Appendix -XVI) respectively to the authority as indicated in Schedule 'F'. The Contractor shall indicate in such a request the period by which rescheduling of milestone/s or extension of time is desired. With every request for rescheduling of milestones, or if at any time the actual progress of work falls behind the approved programmed by more than 10% of the stipulated period of completion of contract, the contractor shall produce a revised programmed which shall include all details of pending drawings and decisions required to complete the contract and also the target dates by which these details should be available without causing any delay in execution of the work. A recovery as specified in Schedule 'F' shall be made on per day basis in case of delay in submission of the revised program.

5.4.1 In any such case the authority as indicated in Schedule 'F' may give a fair and reasonable extension of time for completion of work or reschedule the mile stones. Engineer -in- Charge shall finalize/ reschedule a particular mile stone before taking an action against subsequent mile stone. Such extension or rescheduling of the milestones shall be communicated to the Contractor by the authority as indicated in Schedule 'F' in writing, within 21 days of the date of receipt of such request from the Contractor in prescribed form. In event of non application by the contractor for extension of time E-in-C after affording opportunity to the contractor, may give, supported with a program (as specified under 5.4 above), a fair and reasonable extension within a reasonable period of occurrence of the event.

In case the work is delayed by any reasons, in the opinion of the Engineer-in-Charge, by the contractor for reasons beyond the events mentioned in clause 5.2 or clause 5.3 or clause 5.4 and beyond the justified extended date; without prejudice to right to take action under Clause 3, the Engineer-in-Charge may grant extension of time required for completion of work without rescheduling of milestones. The contractor shall be liable for levy of compensation for delay for such extension of time

For any delay attributable to Contractor for which even EOT is sanctioned by the Client / TCIL, all expenses of TCIL shall be recovered from the contractor including salary, TA DA, Office expenses etc.of all related staffs.

**MILESTONES:-**

S. No.	Activity/ Milestone	Time
1	Construction of Compound Wall	Within 3 months from the date of commencement of work
2	Excavation, foundation works and RCC Frame/ Building upto Plinth level	Within 6 months from the date of commencement of work
3	Construction of RCC frame/building from ground floor to stair roof, overhead tank etc.	
	a) up to 50%	Within 12 months from the date of commencement of work
	b) up to 100%	Within 18 months from the date of commencement of work
4	Execution of finishing Items such as brick work, plaster work (inside and outside) including internal water supply lines, flooring (including internal sewer lines), doors and windows, painting, staircase, hand railing, sanitary fixtures etc.	Within 20 months from the date of commencement of work
5	Providing all External Services such as Construction of School buildings, Boys & Girls Hostels, Warden Residences, Kitchen & Dining, including internal water supply, sanitary installation, drainage and providing electrical installations, street lighting & fire extinguishers, footpaths, kerbs and road protection, land protection with retaining walls, compound wall etc.as per the relevant architectural, structuraland other details as outlined in bidding document.	Within 22 months from the date of commencement of work
6	Testing and Commissioning of all internal and external services complete in all respects and handing over the project to the Owner	Within 24 months from the date of commencement of work

**3.23 Compensation for Delay**

The pay as compensation the amount calculated at @ 1% (one percent) per month of delay to be computed on per day basis based on quantum of damage suffered due to stated delay on the part of Contractor. Provided always that the total amount of compensation for delay to be paid under this condition shall not exceed 10% (ten percent) of the accepted Tendered Value of work."

In case CA impose levy of compensation for delay to its contractor, the amount so recovered shall be credited to the NESTS account immediately."

1. If the work is hindered due to a reason beyond the control of Construction Agency or due to any event/reason by owner/client, the construction agency may seek extension of time in writing within fifteen days of happening of event causing delay in prescribed form by NESTS. The fair and reasonable extension of time

shall be granted by owner/client based on the merit of the case provided that the time is the essence of MoU.

2. If the CA fails to comply the progress or achieve one or more milestones as per clause 4.3(a) and 4.3(b) above, the NESTS without prejudice to right and remedy under the agreement be at liberty to cancel the allotment and may entrust the work to the other Construction Agency of approved panel or any other agency.

Additionally, Liquidity Damage:

Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. Liquidated Damages is not a penalty but is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by the purchaser on account of delay/breach on the part of the supplier.

1. The date of delivery of the stores and Installation and/or Commissioning stipulated in the acceptance of the tender should be deemed to be the essence of the contract and delivery must be completed not later than the dates specified therein. Extension will not be given except in exceptional circumstances subject to conditions as enumerated in the contract/tender including levying of Liquidated Damages in terms of Clause 3.13.2 below.

2. While granting extension of delivery period as per tender terms, the liquidated damages shall be levied as follows:

i. For delivery of stores: Should the supplier fails to deliver the store or any consignment thereof within the period prescribed and agreed for delivery, the purchaser, without prejudice to other remedies available to the purchaser shall be entitled to recover Liquidated Damages, for breach of contract, a sum equivalent to 0.5% of the value of the delayed supply and/ or undelivered material/ supply for each week of delay or part thereof for a period up to eight (8) weeks, and thereafter at the rate of 1.0% of the value supply and/ or undelivered material/ supply for each week of delay or part thereof for another eight (8) weeks of delay.

ii. Installation & Commissioning: Should the supplier fail to install and commissioning the project with the stipulated time the purchaser shall be entitled to recover Liquidated Damages, 0.5% of the value of the purchase order for each week of delay or part thereof for a period up to eight (8) weeks and thereafter at the rate of 1.0% of the value of the purchase order for each week of delay or part thereof or another eight (8) weeks of delay. In cases where the delay affects installation/commissioning of only a part of the project and part of the equipment is already in commercial use, then in such cases, LD shall be levied on the affected part of the project.

iii. Provisions contained in (i) shall not be applicable for durations (periods) which attract L.D. against (ii) above.

### 3.24 Extension LIABILITY: -

The Defects Liability & Maintenance Period shall be 12 (Twelve) months from the date of handing over the project to the Employer/Owner.

If the contractor or his working people or servants shall break, deface, injure or destroy any part of building in which they may be working, or any building, road, road kerb, fence, enclosure, water pipe, cables, drains, electric or telephone post or wires, trees, grass or grassland, or cultivated ground contiguous to the premises on which the work or any part is being executed, or if any damage shall happen to the work while in progress, from any cause whatever or if any defect, shrinkage or other faults appear in the work within twelve months after a certificate final or otherwise of its completion shall have been given by the Engineer in- Charge as aforesaid arising out of defect or improper materials or workmanship the contractor shall upon receipt of a notice in writing on that behalf make the same good at his own expense or in default the Engineer-in-Charge cause the same to be made good by other workmen and deduct the expense from any sums that may be due or at any time thereafter may become due to the contractor, or from his security deposit or the proceeds of sale thereof or of a sufficient portion thereof. The security deposit of the contractor shall not be refunded before the expiry of twelve months after the issue of the certificate final or otherwise, of completion of work, or till the final bill has been prepared and passed whichever is later.

In case the defects are such as cannot be rectified or the Contractor fails to rectify these satisfactorily and completely, TCIL reserves his right to accept the work at reduced rates (provided defects are non-structural) or to get the rectification work done at the risk and cost of the Contractor. The decision of TCIL, in this regard, shall be final and binding on the Contractor

### 3.25 CONTRACTOR TO SEARCH

If any defects, shrinkage or other fault in the Works appears at any time prior to the end of the Defects Liability Period, the Project Director may instruct the Contractor, to search under the directions of the Project Director for the cause thereof. If such defect, shrinkage or other fault is one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case remedy such defect, shrinkage or other fault at his own cost in accordance with the provisions of referenced clause.

### 3.26 ALTERATIONS, ADDITIONS AND OMISSIONS

#### 3.26.1 Variations: -

2.3 The work shall be completed within the amount of Administrative Approval & Expenditure Sanction (A/A & E/S). Any expenditure beyond this ceiling cost is not likely to be reimbursed by the owner unless the Construction Agency submits a revised estimate along with proper reasons/ justifications for the excess expenditure. The owner, if satisfied with reasons/ justifications submitted by the Construction Agency, will issue revised A/A & E/S and expenditure will be reimbursed on the basis of revised A/A & E/S. However, any likely expenditure beyond the sanctioned cost shall require the prior approval of NESTS. The decision of the Owner in this regard shall be final & binding on Construction Agency. If at the time of finalization, it is noted that for some reasons payment has been released to the Construction Agency in excess of the actual expenditure incurred, the same shall be refunded to the NESTS by the Construction Agency within 30 days of excess coming to notice. NESTS shall have all right to adjust such excess from any sum due in this work or any other work or head. The decision of the Owner in this regard shall be final & binding on Construction Agency.

[2.3(a) For variation up to 10% excess over original A/A & E/S, proper justification of excess variation shall be submitted by the Construction Agency and the funds in respect of excess expenditure will be released only if the justification given by C.A. is found to be in order by the NESTS.

2.3 (b) For variation beyond 10% excess over original A/A & E/S, is foreseen, the CA shall immediately submit a Revised Estimate with proper justification and the funds in respect of excess expenditure will be released only if the justification given by C.A. is found to be in order and the revised estimates are approved by the NESTS

2.4 The Construction Agency shall not make any variation on its own from the approved LOP (Layout plan), Drawings and scope of work as approved in A/A & E/S without the approval of NESTS Headquarter. For any variation necessitated due to site conditions or any other reasons thereof, approval of NESTS Headquarter shall be obtained.

Note:

1. No claim will be admissible without approval from client/NESTS.
2. As per NESTS agreement clause 2.4, which has been proposed in SCR, The Construction Agency shall not make any variation on its own from the approved LOP (Layout plan), Drawings and scope of work as approved in A/A & E/S without the approval of NESTS Headquarter. For any variation necessitated due to site conditions or any other reasons thereof, approval of NESTS Headquarter shall be obtained.
3. If at the time of finalization, it is noted that for some reasons payment has been released to the Construction Agency in excess of the actual expenditure incurred, the same shall be refunded to the NESTS by the Construction Agency within 30 days of excess coming to notice. NESTS shall have all right to adjust such excess from any sum due in this work or any other work or head. The decision of the Owner in this regard shall be final & binding on Construction Agency.
4. No deviation shall be allowed in respect of specifications, quantities, expenditure, etc without prior approval of TCIL/ NESTS.
5. If any deviation is required for proper execution of the project, a proposal is required to be submitted by the contractor as per below mentioned clause to TCIL for review and further approval from NESTS:

**3.26.2 Valuation of Variations**

In the case of extra item(s) (items which are not available in the contract ), the contractor may within fifteen days of receipt of order or occurrence of the item(s) submit claim for market rates supported with proper analysis of rate and Manufacturer's specification for the work, invoices, vouchers, etc,(as applicable) failing which the rate(s) approved later by the Engineer- in- charge shall be final and binding. Where the contractor submits claim for market rates in the manner prescribed above, the Engineer-in-Charge shall within 45 days of the receipt the of claims, after giving consideration to the analysis of the rates and other documents submitted by the contractor, determine the rates on the basis of the market rates and the contractor shall be paid in accordance with the rates so determined. The rates of extra items so determined by the Engineer in charge shall be final and binding on the contractor, and shall not be arbitrable.

**Deviation, Extra Items and Pricing**

(i) In the case of contract items, which exceed the limit laid down in Schedule-I, the contractor may within fifteen days of receipt of order or occurrence of the excess, claim revision of the rates, supported with proper analysis of the rates and invoices, vouchers, etc, (as applicable) for the quantity in excess of the above-mentioned limit. The Engineer-in-Charge shall within 45 days of receipt of the claims, after giving consideration to the analysis of the rates and other documents submitted by the contractor, determine the rates on the basis of the market rates and the contractor shall be paid in accordance with the rates so determined. The rates so determined by the Engineer in charge shall be final and binding on the contractor, and shall not be arbitrable.

(ii) In the case of contract items, which exceed the limits laid down in Schedule-I, the Engineer-in-Charge shall after giving notice to the contractor within 30 days of submission of that bill occurrence of the excess and after taking into consideration any reply received from him within fifteen days of the issue of such notice, reduce the rate for quantity in excess of the above mentioned limit on the basis of the market rates , within 30 days of the expiry of the said period of 15 days and the contractor shall be paid in accordance with the rates so determined. The rates so determined by the Engineer in charge shall be final and binding on the contractor and shall not be arbitrable.

(iii) The cost of any operation necessarily in contemplation of tenderer while quoting tender or necessary or incidental to proper execution of an item of work included in the Schedule of quantities or in the schedule of rates mentioned in Schedule-I, whether or not, specifically indicated in the description of the item and the relevant specifications, shall be deemed to be included in the rates quoted by the tenderer or the rate given in the said schedule of rates, as the case may be. Nothing extra shall be admissible for such operations.

However, as per the User Division, the limits for variation as mentioned in Schedule-I are as under: -

**A. Deviation limit within final estimate for all works except foundation: -**

<b>BUILDING WORK</b>
<b>50%</b>

Note: - The Deviation Limit of Building Work shall also apply for combined works (Building and Road) within final estimate.

**B. Deviation limit within final estimate for foundation work: -**

<b>BUILDING WORK</b>
<b>100%</b>

Note: -The Deviation Limit of Building Work shall also apply for combined works (Building and Road) within final estimate

**3.26.3 Cost Escalation:**

No claim on account of any escalation on whatsoever ground shall be entertained at any stage of works. All rates



as per Bill of Quantities (BOQ) quoted by contractor shall be firm and fixed for entire contract period as well as extended period for completion of the works. No escalation shall be applicable on this contract.

### 3.27 DEFECT LIABILITY PERIOD

All defects notice during the currency of the contract and, also during the defect liability period of 12 months after completion of the work except those pertaining to leakage/ dampness which are governed by clause 3.8 above (waterproofing) shall be got completely and satisfactorily rectified by the Construction Agency immediately after notifying the defects without any extra payment for the same. In case the defects are such as cannot be rectified or the Construction Agency fails to rectify these satisfactorily and completely, the Owner reserves his right to accept the work at reduced rates (provided defects are non-structural) or to get the rectification work done at the risk and cost of the Construction Agency. The decision of the Owner, in this regard, shall be final and binding on the Construction Agency.

In case the defects are such as cannot be rectified or the Contractor fails to rectify these satisfactorily and completely, TCIL reserves his right to accept the work at reduced rates (provided defects are non-structural) or to get the rectification work done at the risk and cost of the Contractor. The decision of TCIL, in this regard, shall be final and binding on the Contractor.

### 3.28 Extension of Time

The bidder shall immediately submit the detailed work program for all construction activities including cash flow, equipment requirements and labour schedule for the project within 7 days after the acceptance of work order.

### 3.29 Extension of Time for Completion (EoT)

The time allowed for execution of the Works as specified in the Schedule 'F' or the extended time in accordance with these conditions shall be the essence of the Contract. The execution of the work shall commence from such time period as mentioned in schedule 'F' or from the date of handing over of the site, notified by the Engineer-in-Charge, whichever is later. If the Contractor commits default in commencing the execution of the work as aforesaid, the performance guarantee shall be forfeited by the Engineer in Charge and shall be absolutely at the disposal of the Government without prejudice to any other right or remedy available in law.

As soon as possible but within 7 (seven) working days of award of work and in consideration of

- (a) Schedule of handing over of site as specified in the Schedule 'F'
- (b) Schedule of issue of designs as specified in the Schedule 'F' ,

(i) The Contractor shall submit a Time and Progress Chart for each mile stone. The Engineer-in-Charge may within 7 (seven) working days thereafter, if required modify, and communicate the program approved to the contractor failing which the program submitted by the contractor shall be deemed to be approved by the Engineer-in-Charge. The work program shall include all details of balance drawings and decisions required to complete the contract with specific dates by which these details are required by contractor without causing any delay in execution of the work. The Chart shall be prepared in direct relation to the time stated in the Contract documents for completion of items of the works. It shall indicate the forecast of the dates of commencement and completion of various trades of sections of the work and may be amended as necessary by agreement between the Engineer-in-Charge and the Contractor within the limitations of time imposed in the Contract documents

(ii) In case of non- submission of construction program by the contractor, the program approved by the Engineer-in-Charge shall be deemed to be final.

(iii) The approval by the Engineer-in-Charge of such program shall not relieve the contractor of any of the obligations under the contract.

(iv) The contractor shall submit the Time and Progress Chart and progress report using the mutually agreed software or in other format decided by Engineer-in-Charge for the work done during previous month to the Engineer-in-charge on or before 5th day of each month failing which a recovery as per Schedule F to be decided by the NIT approving authority shall be made on per week or part basis

in case of delay in submission of the monthly progress report.

If the work(s) be delayed by:-

- (i) force majeure, or
- (ii) abnormally bad weather, or
- (iii) serious loss or damage by fire, or
- (iv) civil commotion, local commotion of workmen, strike or lockout, affecting any of the trades employed on the work, or
- (v) delay on the part of other contractors or tradesmen engaged by Engineer in- Charge in executing work not forming part of the Contract, or
- (vi) any other cause like above which, in the reasoned opinion of the Engineer-in- Charge is beyond the Contractor's control.

then upon the happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer-in-Charge but shall nevertheless use constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-Charge to proceed with the works.

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

In case the work is hindered by the Department or for any reason / event, for which the Department is responsible, the authority as indicated in Schedule 'F' shall, if justified, give a fair and reasonable extension of time and reschedule the mile stones for completion of work Such extension of time or rescheduling of milestone/s shall be without prejudice to any other right or remedy of the parties in contract or in law; provided further that for concurrent delays under this sub clause and sub clause 5.2 to the extent the delay is covered under sub clause 5.2 the contractor shall be entitled to only extension of time and no damages.

Request for rescheduling of Mile stones or extension of time, to be eligible for consideration, shall be made by the Contractor in writing within fourteen days of the happening of the event causing delay on the prescribed forms i.e. Form of application by the contractor for seeking rescheduling of milestones or Form of application by the contractor for seeking extension of time (Appendix -XVI) respectively to the authority as indicated in Schedule 'F'. The Contractor shall indicate in such a request the period by which rescheduling of milestone/s or extension of time is desired. With every request for rescheduling of milestones, or if at any time the actual progress of work falls behind the approved program by more than 10% of the stipulated period of completion of contract, the contractor shall produce a revised program which shall include all details of pending drawings and decisions required to complete the contract and also the target dates by which these details should be available without causing any delay in execution of the work. A recovery as specified in Schedule 'F' shall be made on per day basis in case of delay in submission of the revised program.

In any such case the authority as indicated in Schedule 'F' may give a fair and reasonable extension of time for completion of work or reschedule the mile stones. Engineer -in- Charge shall finalize/ reschedule a particular mile stone before taking an action against subsequent mile stone. Such extension or rescheduling of the milestones shall be communicated to the Contractor by the authority as indicated in Schedule 'F' in writing, within 21 days of the date of receipt of such request from the Contractor in prescribed form. In event of non application by the contractor for extension of time E-in-C after affording opportunity to the contractor, may give, supported with a program (as specified under 5.4 above), a fair and reasonable extension within a reasonable period of occurrence of the event.

In case the work is delayed by any reasons, in the opinion of the Engineer-in-Charge, by the contractor for reasons beyond the events mentioned in clause 5.2 or clause 5.3 or clause 5.4 and beyond the justified extended date; without prejudice to right to take action under Clause 3, the Engineer-in-Charge may grant extension of time required for completion of work without rescheduling of milestones. The contractor shall be liable for levy of compensation for delay for such extension of time.

For any delay attributable to Contractor for which even EOT is sanctioned by the Client / TCIL, all expenses of TCIL shall be recovered from the contractor including salary, TA DA, Office expenses etc. of all related staffs.

**3.30 MEASUREMENT: Measurements of Work Done**

TCIL/Client reserves the right to get the work including measurement etc. checked with reference to the bills and accounts of Contractor audited by its own officers or any other agency appointed by them for this purpose. Results/ findings of TCIL/Client on such checking shall be final and binding upon the Contractor.

The Project Director shall, except as otherwise provided, ascertain and determine by measurement the value of work done in accordance with the Contract.

The measurement of all items having financial value shall be entered in Measurement Books and/or Level Field book so that a complete record is obtained of all Works performed under the Contract.

All measurements and levels shall be taken by the Project Director or his authorized representative along with Contractor from time to time during the progress of the work and such measurements shall be signed and dated by the Project Director and countersigned by the Contractor or their representatives in token of their acceptance. If the Contractor objects to any of the measurements recorded, a note shall be made to that effect with reason and signed by both the parties.

If for any reason, the Contractor or his representative is not available and the work of recording measurements is suspended by the Project Director or his representative, the Project Director shall not entertain any claim from the Contractor for any loss or damages on this account. If the Contractor or his authorized representative does not remain present at the time of such measurements after the Contractor or his authorized representative has been given notice in writing three (3) days in advance or fails to countersign or to record objection within a week from the date of the measurement, then such measurements recorded in his absence by the Project Director or his representative shall be deemed to be accepted by the Contractor.

The Contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for measurements and recording levels. Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provisions in the relevant Indian Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurement shall be taken in accordance with relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.

The Contractor shall give not less than seven days notice to the Project Director or his authorized representative in charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of measurement and shall not cover up and place beyond the reach of measurement any work without consent in writing of the Project Director or his authorized representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of measurements without such notice having been given or the Project Director's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was performed.

Project Director or his authorized representative may cause either themselves or through another officer of the TCIL to check the measurements recorded jointly or otherwise as aforesaid and all provisions stipulated herein above shall be applicable to such checking of measurements or levels. In case of any dispute, decision of Engineer-in charge shall be final.

It is also a term of this Contract that recording of measurements of any items of work in the Measurement Book and / or its payment in the interim, on account or final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it

relieve the Contractor from liabilities from any over measurement or defects noticed till completion of the Defects Liability Period.

### 3.31 Action in case Work not done as per Specifications:

If it shall appear to the Engineer-in-charge or his authorized subordinates in charge of the work or to the Chief Engineer in charge of Quality Assurance or his subordinate officers or the officers of the organization engaged by the Department for Quality Assurance or to the Chief Technical Examiner or his subordinate officers, that any work has been executed with unsound, imperfect, or unskillful workmanship, or with materials or articles provided by him for the execution of the work which are unsound or of a quality inferior to that contracted or otherwise not in accordance with the contract, the contractor shall, on demand in writing rectify or remove and reconstruct the work so specified in whole or in part, as the case may require or as the case may be, remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost. In the event of the failing to do so within a period specified by the Engineer-in- Charge in his demand aforesaid, then the contractor shall be liable to pay compensation

The design, methodology and quality of rectification of defects carried out by the contractor shall be as per sound engineering practice

### 3.32 Computerized Measurement Book

- (i) Engineer-in-Charge shall, except as otherwise provided, ascertain and determine by measurement the value of work done in accordance with the contract.
- (ii) All measurements of all items having financial value shall be entered by the contractor and compiled in the shape of the Computerized Measurement Book having pages of A-4 size as per the format of the department so that a complete record is obtained of all the items of works performed under the contract. All such measurements and levels recorded by the contractor or his authorized representative from time to time, during the progress of the work, shall be got checked by the contractor from the Engineer-in-Charge or his authorized representative as per interval or program fixed in consultation with Engineer-in-Charge or his authorized representative. After the necessary corrections made by the Engineer-in-Charge, the measurement sheets shall be returned to the contractor for incorporating the corrections and for resubmission to the Engineer-in-Charge for the dated signatures by the Engineer-in- Charge and the contractor or their representatives in token of their acceptance.
- (iii) Whenever bill is due for payment, the contractor would initially submit draft computerized measurement sheets and these measurements would be got checked/test checked from the Engineer-in-Charge and/or his authorized representative. The contractor will, thereafter, incorporate such changes as may be done during these checks/test checks in his draft computerized measurements, and submit to the department a computerized measurement book, duly bound, and with its pages machine numbered. The Engineer-in-Charge and/or his authorized representative would thereafter check this MB, and record the necessary certificates for their checks/test checks.
- (iv) The final, fair, computerized measurement book given by the contractor, duly bound, with its pages machine numbered, should be 100% correct, and no cutting or over-writing in the measurements would thereafter be allowed. If at all any error is noticed, the contractor shall have to submit a fresh computerized MB with its pages duly machine numbered and bound, after getting the earlier MB cancelled by the department. Thereafter, the MB shall be taken in the Project Director's Office records, and allotted a number as per the Register of Computerized MBs. This should be done before the corresponding bill is submitted to the Project Director's Office for payment. The contractor shall submit two spare copies of such computerized MB's for the purpose of reference and record by the various officers of the department.
- (v) The contractor shall also submit to TCIL separately his computerized Abstract of Cost and the bill based on these measurements, duly bound, and its pages machine numbered along with two spare copies of the "bill. Thereafter, this bill will be processed by the Project Director office and allotted a number as per the computerized record in the same way as done for the measurement book meant for measurements.
- (vi) The contractor shall, without extra charge, provide all assistance with every appliance, labour and other things necessary for checking of measurements/levels by the Engineer-in- Charge or his representative.

- (vii) Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provision in the relevant Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurements shall be taken in accordance with the relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.
- (viii) The contractor shall give not less than seven days' notice to the Engineer-in-Charge or his authorized representative in charge of the work before covering up or otherwise placing beyond the reach of checking and/or test checking the measurement of any work in order that the same may be checked and/or test checked and correct dimensions thereof betaken before the same is covered up or placed beyond the reach of checking and/or test checking measurement and shall not cover up and place beyond reach of measurement any work without consent in writing of the Engineer-in-Charge or his authorized representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of checking and/or test checking measurements without such notice having been given or the Engineer-in-Charge's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.
- (ix) Engineer-in-Charge or his authorized representative may cause either themselves or through another officer of the department to check the measurements recorded by contractor and all provisions stipulated herein above shall be applicable to such checking of measurements or levels.
- (x) It is also a term of this contract that checking and/or test checking the measurements of any item of work in the measurement book and/or its payment in the interim, on account of final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the contractor from liabilities from any over measurement or defects noticed till completion of the defect's liability period.

### **3.33 Failure to Comply with Project Director's Decision**

Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in relevant clause and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration in accordance with the referenced clause.

### **3.34 NOTICES**

#### **3.34.1 Notice to Contractor**

All the certificates, notices or instructions to be given to the Contractor by the Project Director under the terms of the Contract shall be sent by post or E-mail to or left at the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose.

#### **3.34.2 Notice to Project Director**

Any notice to be given to the Employer or to the Project Director under the terms of the Contract shall be sent by post or facsimile transmission to or left at the respective address nominated for that.

#### **3.34.3 Change of Address**

Both parties may change a nominated address to another address in the country where the Works are being performed by prior notice to the other party, with a copy to the Project Director, and the Project Director may do so by prior notice to both parties.

### **3.35 CHANGES IN COST AND LEGISLATION**

#### **3.35.1 Subsequent Legislation**

If during the concurrency of the contract there occur changes to any National or State Statue, Ordinance, Decree or other Law or any regulation or bye-law of any local or other duly constituted authority, or the

introduction of any such State Statute, Ordinance, Decree, Law, regulation or bye-law which causes reduced cost to the Contractor, in the performance of the Contract, such reduction in cost shall, be determined by the Project Director and shall be deducted from the Contract Price and the Project Director shall notify the Contractor accordingly, with a copy to the Employer.

### 3.35.2 Other Changes in Cost

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other 'Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

### 3.35.3 HEALTH AND SANITARY ARRANGEMENT FOR WORKERS

In respect of all labour directly or indirectly employed in the Works for the performance of the Contractor's part of this Agreement, the Contractor shall comply with or cause to be complied with all the rules and regulations of the local sanitary and other authorities or as framed by the Owner from time to time for the protection of health and sanitary arrangements for all workers.

The Contractor shall provide in the labour colony all amenities such as electricity, water and other sanitary and health arrangements. The Contractor shall also provide necessary surface transportation to the place of work and back to the colony for their personnel accommodated in the labour colony.

The successful bidder shall follow the health and safety management as per CPWD work manual 2022 amended dt 09.11.2022/ GCC 2020 amended dt 21.06.2023

### 3.36 ARBITRATION

"All disputes or differences whatsoever arising among the parties under and/ or in connection with and/ or in respect of this tender/ EOI/ Agreement/ Purchase Order/ MOU shall be referred to and decided by a sole arbitrator, who shall be nominated by CMD, TCIL. The arbitration shall be conducted in accordance with Arbitration and Conciliation act 1996, as amended from time to time, and the venue of arbitration shall be New Delhi." To mitigate the risk at Clauses of the agreement with Client, the following may be included in tender: -

#### 1. DISPUTES BETWEEN CONSTRUCTION AGENCY AND CONTRACTOR(S) APPOINTED BY CONSTRUCTION AGENCY:

"The disputes between Construction Agency and its contractors shall be resolved by the Construction Agency themselves and NESTS shall not be responsible for any liabilities whatsoever arising out of such dispute/ claims made by other parties. All claims in favour of the contractor as per the arbitration award or court order may be submitted by CA to the owner who will then take a decision regarding payment of the claim or a portion of the claim on satisfying itself that such claims have arisen in spite of proper supervision and due diligence and all actions taken reasonably within its power by the CA.

#### 2. DISPUTES BETWEEN OWNER AND CONSTRUCTION AGENCY:

In the event of any dispute or differences relating to the interpretation and applications of the provisions of commercial contracts(s) between Construction Agency, a Centre Public Sector Undertakings (CPSE) and NESTS, a body under Ministry of Tribal Affairs, Government of India, such dispute shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSE Disputes) as mentioned in DPE F. No 4(1)/2013-DPE(GM)/FTS-1835, dated 22.05.2018.

"Any Payment against arbitration shall be subject to the receipt of payment thereof from the Client/ owner."

As per the agreement clause with the Client: -

1. Any failure or delay in the performance by the contractor hereto of its obligations under his Contract shall not constitute a breach thereof or give rise to any claims for damages if, and to the extent that it is caused by occurrences beyond the control of the party affected, namely, acts of God, floods, explosions, wars, riots, storms, earthquakes, insurrection, epidemic or other natural disasters. The Contractor so affected shall continue to take all actions reasonably within its power to comply as far as possible with its obligations under this Contract. The affected Contractor shall promptly notify TCIL after the occurrence of the relevant event and shall use every reasonable effort to minimize the effects of such event and act in all good faith with due care and diligence.

**a) Breach of Contract:** The failure of Contractor to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under this contract insofar as such inability arise from an event of Force Majeure, provided that the party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this contract, and (b) has informed TCIL/ Client as soon as possible about the occurrence of such an event.

**b) Extension of Time:** Any period within which the Contractor shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which the Contractor was unable to perform such action as a result of Force Majeure.

### 3.37 Dispute Resolution:

1. The parties to this agreement/contract agree that they shall resolve all disputes or differences whatsoever arising between them under and/or in connection with and/or in respect of this Tender/EOI/Agreement Purchase Order/MoU through a "Conciliation and Settlement Mechanism (CSM)" and the detailed guidelines/procedure for such CSM is annexed hereto as Annexure-A. That it is understood and agreed between the parties that the CSM annexed as Annexure-A with the present agreement forms and shall be treated as part and parcel of the present agreement.

2. If the parties fail to resolve such disputes through the conciliation proceedings, then and only then, a party shall refer the dispute to arbitration as mentioned in the following manner:

2.1 All disputes or differences whatsoever arising among the parties under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU shall be referred to and decided by a sole arbitrator, who shall be appointed by the CMD, TCIL only. The arbitration shall be conducted in accordance with Arbitration and Conciliation Act of 1996, as amended from time to time, and the venue of the arbitration shall be in New Delhi.

2.2 Notwithstanding the generality of the above, it is a term of this contract that no person other than a person appointed by CMD, TCIL as aforesaid, should act as arbitrator and if for any reason that is not possible or any party does not agree to such appointment of Arbitrator by CMD, TCIL for whatsoever reason, then the matter is not to be referred to arbitration at all and such disputes shall be resolved under the mechanism provided by the state in form of Courts of Law/Ordinary Civil Courts for resolution of such disputes under applicable Laws.

3. The courts at New Delhi shall have exclusive jurisdiction in respect to any dispute pertaining to this agreement.

4. The parties shall continue to perform their respective obligations as per the Agreement during the pendency of proceedings under this clause.

Establishment of a Conciliation & Settlement Mechanism (CSM) for Contractual Disputes under the contract agreements with the Contractors/ Concessionaires/ Consultants in TCIL -

1) Objective: The TCIL has been entering into various contract agreements with the Contractors/ Concessionaires/ Consultants for implementing projects and obtaining services in various modes. Several disputes have been arising under these contract agreements. The associated legal costs and diversion of manpower of both parties are enormous. The early resolution/ settlement of claim, preferably through an out-of-court settlement process, is in the interest of all the stakeholders.

2. The Standing Operating Procedure (SOP)

The procedure given hereunder will be implemented for resolving disputes through conciliation mechanism:

1) If any commercial/contractual dispute arises between TCIL and Bidder/MoU partner/vendor/Contractor, then any of the party shall send a reference about the dispute containing a written brief identifying the subject of the dispute to the CMD, TCIL along with a copy of such reference to other party for resolution of dispute through conciliation.

- 2) CMD, TCIL or his authorized representative shall, within seven days of receipt of such a reference, nominate an officer of TCIL to act as the conciliator and shall arrange to issue necessary intimation to both the parties.
- 3) Within three days of appointment of conciliator by CMD, TCIL both the parties shall intimate to the conciliator, the name of their respective officer(s) who shall be representing such a party in the conciliation proceedings. The maximum number of such office(s) shall not be more than three and no legal practitioner/advocate shall be part of such a team.
- 4) Thereafter, both the teams of the parties shall meet on the dates as fixed by the conciliator, discuss the agenda and explore the possibilities of conciliation/settlement. First such meeting shall be held within Seven (7) days of the nomination of the conciliation team by both the parties. The venue for conducting conciliation proceedings will be TCIL Bhawan, Greater Kailash-I, New Delhi 110048.
- 5) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.
- 6) The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.
- 7) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.
- 8) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. such proposals need not be in writing and need not be accompanied by a statement of the reasons therefore.
- 9) The teams thereafter can meet any number of times under the guidance and supervision of Conciliator and will try to find a solution that is acceptable to both the parties. The conciliation may be successful or partially successful. On the points of dispute or part of a dispute wherein parties have agreed for a common ground, the officers representing each party shall seek approval of their respective company/entity. After that a settlement deed shall be drafted and signed by the authorized representatives of the parties. When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively and this shall not be challenged by any of the party in any court or under any law. The parties shall unequivocally affirm, declare and confirm in the settlement agreement that they have signed the agreement without any coercion, duress, inducement and were fully competent to sign the said agreement.
- 10) The conciliator shall endorse and authenticate the settlement agreement and furnish a copy thereof to each of the parties.
- 11) The conciliation process shall be concluded within 60 days of nomination of its representatives by the second party. However, the parties, with mutual consent can extend this period and then the conciliation proceedings shall be concluded in this extended period.
- 12) If no settlement is arrived between the parties in the time mentioned in clause 5) above, then the conciliation proceedings shall be deemed to have been failed.
- 13) The conciliator shall intimate the appointing authority the final outcome of the conciliation proceedings.

### 3. Resort to arbitral or judicial proceedings:

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject matter of the conciliation proceedings except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

### 4. Admissibility of evidence in other proceedings.

- 1) The parties shall not rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings,-
  - (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
  - (b) admissions made by the other party in the course of the conciliation proceedings;
  - (c) Proposals made by the parties or conciliator;
  - (d) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the other party.

### 5. Confidentiality.

Notwithstanding anything contained in any other law for the time being in force, the parties shall keep



confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

6. Termination of conciliation proceedings.

The conciliation proceedings shall be terminated on happening of any of the conditions below: -

- 1) by the signing of the settlement agreement by the parties, on the date of the agreement; or
- 2) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or
- 3) by a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- 4) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- 5) by the Lapse of time or extended time as provided in clause 2(12) above

**3.38 SAFETYCODE**

**3.38.1 General**

Contractor shall adhere to the safe construction practice and guard against hazardous and unsafe working conditions and shall comply with Employer's safety rules as set forth herein.

**3.38.2 Safety Regulations**

- a) In respect of all labour, directly or indirectly employed in the work for the performance of Contractor's part of this Agreement, the Contractor shall at his own expenses arrange for all the safety provisions as per safety codes of Indian Standards Institution, the Electricity Act and such other acts as applicable.
- b) The Contractor shall observe and abide by all fire and safety regulations.

**3.38.3 First Aid**

- a) Contractor shall maintain adequate First Aid facilities for its employees and labour. Suitable medical assistance should be available throughout the tendency of the Contract.
- b) Contractor shall make outside arrangements for Ambulance service and for the treatment of injuries. Names of those providing these services shall be furnished to Employer and their telephone numbers shall be prominently posted in Contractor's field office.
- c) All critical industrial injuries shall be reported promptly to the Employer, and a copy of the Contractor's report covering each personal injury requiring the attention of a physician shall be furnished to the Employer.

**3.38.4 General Safety**

All necessary personal safety equipment as considered adequate by the Project Director should be kept available for the use of the persons employed on the Site and maintained in condition suitable for immediate use, and the Contractor shall take adequate steps to ensure proper use of equipment by those concerned.

**3.38.5 Preservation of Peace**

The Contractor shall take requisite precautions and use his best endeavors to prevent any riotous or unlawful behavior by or amongst his workmen and others employed on the Works and for the preservation of peace and protection of the inhabitants and security of property in the neighborhood of the Work. In the event of the Employer requiring the maintenance of a Special Police Force at or in the vicinity of the Site during the tenure of Works, the expenses thereof shall be borne by the Contractor and if paid by the Employer shall be recoverable from the Contractor.

**3.39 Insurance and Contractor's All Risk policy:-****3.39.1 Insurance:-**

The Contractor shall get all the works/ buildings insured till the expiry of defect liability period from a government/ govt. approved insurance agency.

TCIL/ Client shall not be liable in respect of any damages or compensation payable by law in respect or in consequence of any accident or injury to any machine, workmen or other person in the employment of the contractor or any third person. The contractor shall indemnify and keep indemnified TCIL/ Client against all such damages and compensation, save and except as aforesaid. Contractor shall take Contractor's all risk policy in accordance with the requirement and shall pay all premium at its own. Contractor shall take other policy required for all Plant and Equipment / Workmen compensation etc. at his cost for the following events which are due to the Contractor's risk.

- a) Loss of or damage to the Works, Plant and Materials;
- b) Loss of or damage to Equipment;
- c) Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- d) Personal injury or death.
- e) Any other risk except covered under CAR policy clause.

**3.39.2 Contractor's All Risk Policy (CAR Policy):**

The contractor is required to take CAR (Contractor's All Risk policy) from Government/ Govt. approved insurance agency in the joint name with first name of TCIL and bear all costs towards the same for the full period of execution of works including the defect liability period for the full amount of contract against all loss of damage from whatever cause arising for which he is responsible under the terms of the contract and in such manner that the TCIL and the contractor are covered during the period of construction of works and/or also covered during the period of defect liability for loss or damage.

The contractor is required to submit the aforesaid original CAR Policy and Workmen's Compensation Policy to TCIL in accordance with Client's requirement and prevailing statutory laws before the start of work for the full period of execution of works including the defect liability period. In case of delay in work, the contractor shall arrange to get the policies extended time to time at its own cost and submit the same to TCIL. Failing which, TCIL shall obtain these policies and recover such amount plus applicable TCIL charges as decided by TCIL, from RA bills of the contractor.

The contractor shall be solely responsible for all consequences, losses etc. due to their non-compliance in this regard.

**3.40 Settlement of claims for compensation on accidents of casual and contractual workers**

In case of any accident occurred during the course of construction to casual and contractual employees of contractor which leads to death, permanent disability, injury to such employees, any compensation paid to these suffered workers by TCIL shall be recovered from the contractor. The compensation shall be given in accordance to the guidelines for settlement of claims for compensation on accidents applicable to the department of Telecommunications and public sector undertakings under its administrative control. In no case, a claim for appointment of any of the dependent on the compensate grounds would be entertained by TCIL.

The contractor is advised to go through the guidelines for settlement of claims for compensation on accidents applicable to the department of Telecommunications and public sector undertakings under its administrative control and a set of guidelines can also be obtained from the office of tender issuing authority of TCIL for this work.

**3.41 PRICE BASIS**

The price to be quoted must be inclusive of the cost all materials including structural steel, Reinforcement steel,

cement, labours and consumables etc. and it is also inclusive of all taxes, duties, levies and Royalty that are or may be levied during execution until the completion of the work and the project will be taken over by ultimate client i.e. Client/Employer. It should also include cost of complete and maintenance in defect liability period.

- (i) Price indicated in the schedule shall be for site of works as mentioned in the tender document.
- (ii) Price quoted should be in Indian rupees, inclusive of all costs and charges as applicable. The contractor shall give the total price in Indian Rupees in Financial Bid.

The offer shall be firm in Indian Rupees and detailed pricing should also be given as per the price schedule given in the, Financial Bid, Price is to be quoted for the complete works.

- (iii) A bid submitted with an adjustable price quotation will be treated as non-responsive and rejected.
- (iv) Price shall be inclusive of all costs, charges, taxes, duties & levies etc.as applicable
- (v) Any reduction in taxes has to be passed on to the Employer.
- (vi) The contractor shall submit its cost as per financial bid format.
- (vii) Evaluation of bid will be made based on total price inclusive of taxes, stated in the tender.

#### **3.42 GENERAL LIEN/ set off:**

(a) Whenever under this contract, any sum of money is recoverable from and payable by the supplier, the purchaser shall be entitled to recover such sum by appropriating in part or in whole the security deposit of the supplier, if a security is taken from the supplier. In the event of the security being insufficient or if no security has been taken from the supplier, the balance or the total sum recoverable, as the case may be, shall be deducted from any sum due to the supplier or which at any time thereafter may become due to the supplier under this or any other contract with the purchaser. Should this sum not be sufficient to cover the full amount recoverable, the supplier, shall pay to the purchaser on demand the remaining balance due.

b) Any some of money (including refundable security deposit) due and payable to the supplier, under this contract or any other contract entered between the parties herein whether continuing or completed may be appropriated by TCIL and set off against any claim of TCIL of any nature whatsoever, arising under this contract or any other contract entered into between the parties, herein whether continuing or completed.

#### **3.43 DISCIPLINE**

The contractor shall carry out operations hereunder with due diligence and in a safe and workmanlike manner according to good practice. The contractor shall maintain strict discipline and good contract among its employees and its labor, and shall abide by and conform to all rules and regulations.

#### **3.44 SAFETY AND LABOUR LAWS**

The contractor shall be registered in Labour Department and other concerned department as required to carry out such works. The contractor shall comply with the provision of all laws including Labour Laws, rules, regulations and notifications issued there under from time to time. All safety and labour laws enforced by statutory agencies shall be applicable in the performance of this contract and the contractor shall abide by these laws. Any failure to fulfill this requirement shall attract the penal provisions of the contract arising out of the resultant non-execution of work.

In case of accident arising out of and in the course of this contract, the Employer/ client will not be responsible for payment of any compensation or under any other law. It will be the sole responsibility of the contractor for payment towards loss or compensation whatsoever.

**3.45 APPLICABLE LAWS**

This contract shall be interpreted, construed and governed by the laws of the Republic of India and the parties hereby submit to the exclusive jurisdiction of the Court at Delhi and to all Courts at Delhi having jurisdiction in appeal there from. Any dispute, in relation to the contract, shall be submitted to the appropriate court of the Republic of India for determination. The parties to the contract shall continue to fulfill their respective obligations under the contract during the currency of the contract pending the final decision of the court.

**3.46 Changes in firm's Constitution to be Intimated: -**

Where the contractor is a partnership firm, the previous approval in writing of TCIL shall be obtained before any change is made in the constitution of the firm. Where the contractor is an individual or a Hindu undivided family business concern, such approval as aforesaid shall likewise be obtained before the contractor enters into any partnership agreement where under the partnership firm would have the right to carry out the works hereby undertaken by the contractor.

**3.47 Termination of Contract on death of contractor: -**

Without prejudice to any of the rights or remedies under this contract, if the contractor dies, TCIL shall have the option of terminating the contract without levy of compensation to the contractor.

**3.48 Termination of Insolvency: -**

TCIL may at any time terminate the contract by giving written notice to the supplier, without compensation to the supplier, if the supplier becomes bankrupt or otherwise insolvent as declared by the competent court; provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to TCIL.

**3.49 Termination :**

1 The owner shall have right to terminate the agreement and / or reduce the scope of work mentioned in A/A & E/S or the agreement with the Construction Agency without assigning any reason thereof and giving 4 (Four) weeks' notice to the Construction Agency. In the event of termination of the contract and / or reduction in scope of work mentioned in A/A & E/S or agreement, no claim of the Construction Agency, arising out of such action of the owner shall be entertained by the owner. In the event of such termination, the Construction Agency shall stop the work and shall submit the measurements of the work actually done up to the date of termination of contract duly checked and certified by the competent technical authority of his organization within one month after issue of the termination, failing which the owner reserves the right to have the measurement taken without any further notice and the measurement so taken will be binding upon the Construction Agency. Also, full outstanding amount lying with the Construction Agency shall be refunded to the owner within two months of the date of termination". The payment due to the contractor and the PMC charge for the work carried out up to date of termination shall be paid by the owner.

2 On such termination surplus material lying at site and T&P, if any, will not be taken over by the Owner. Construction Agency will therefore include a clause in its contract agreement with the contractor that in the event, this agreement with the NESTS is terminated as given in clause 1, the agreement between Construction Agency and Contractor will automatically stand terminated and that he should take away T&P and surplus materials from the site of work after the joint measurements are taken of the same.

**3.50 Conditions for reimbursement of levy/taxes if levied after receipt of Tenders:-**

- (i) All tendered rates shall be inclusive of any tax, levy or cess applicable on last stipulated date of receipt of tender including extension if any. No adjustment i.e. increase or decrease shall be made for any variation in the rate of GST, Building and Other Construction Workers Welfare Cess or any tax, levy or cess applicable on inputs.

However, effect of variation in rates of GST or Building and Other Construction Workers Welfare Cessor

imposition or repeal of any other tax, levy or cess applicable on output of the works contract shall be adjusted on either side, increase or decrease.

Provided further that for Building and Other Construction Workers Welfare Cess or any tax (other than GST), levy or cess varied or imposed after the last date of receipt of tender including extension if any, any increase shall be reimbursed to the contractor only if the contractor necessarily and properly pays such increased amount of taxes/levies/cess.

Provided further that such increase including GST shall not be made in the extended period of contract for which the contractor alone is responsible for delay as determined by TCIL for extension of time under the contract.

- (ii) The contractor shall keep necessary books of accounts and other documents for the purpose of this condition as may be necessary and shall allow inspection of the same by a duly authorized representative of the Government and/or the Engineer-in-Charge and shall also furnish such other information/document as the Engineer-in-Charge may require from time to time.
- (iii) The contractor shall, within a period of 30 days of the imposition of any such further tax or levy or cess, or variation or repeal of such tax or levy or cess give a written notice thereof to the Engineer-in-charge that the same is given pursuant to this condition, together with all necessary information relating thereto.

**3.51** All Statutory Approvals to be taken from local or other authorities for execution project work by contractor: The architectural consultant only assist to contractor for approvals. [All applicable approvals and certificates require before commencement of work, during the work and after completion of work, such as Building plans approval, Electrical connections (HT/LT), Water supply connections, Sewerage connections, FireNOC, Completion certificate, Occupancy certificate, etc., shall be taken by contractor. The Shifting of any type of existing services/utilities (electrical (HT/LT), sewerage, water-supply, etc.) which comes under construction site or which may get affected by construction works, shall be properly done by contractor complete in all respect with satisfaction of engineer in charge.

Appendix-1 to General Condition of Contract

These conditions vary and add to the Conditions of Contract set out in General and Special Conditions of contracts including appendixes:

- 1 (a) The use of privately owned or privately hired machinery on contractor work can only be permitted after approval of Engineer-in – charges TCIL. Only those private machineries either owned or privately hired will be used on works which have been approved by the Engineer-in– charge. For this purpose i.e. machineries will be registered and approved for particular use by the Engineer-in – charge.
  - (a) Each private machinery will have an authorized log book issued by the concerned Project Director along with issue certificate of machinery by the Engineer-in –charge.
  - (b) The maintenance and upkeep of hire machinery and tools and plants shall be responsibility of the contractor.
  - (c) The Engineer-in – charge or his representative is empowered to check all privately hired/owned machinery & report direct to this office if any under specifications machinery is being used by the contractor.
2. The contractor shall follow the contract labour (regulation) Act and rules.
  - i. The Government shall have right to cause an audit and the technical examination of the work and the final bills of the contractor including all supporting vouchers abstract etc. to made available within Three Years after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been over paid in respect of any work done by the contractor under the contractor any work claimed by him under the contractor and found not to be have executed the contractor shall be liable to refund the amount of over payment. Besides, it shall be lawful for the department to recover the sum from him in the manner prescribed legally permissible and if is found that the contractor, in respect of any work executed by him has not been paid the amount of such under payment shall be duly paid by Government to the contractor.
  - ii. Any material not confirming to the specification collected at site shall have to be removed by the contractor within a period of three days of the instructions issued by the Engineer -in- Charge in writing, failing which, such material shall be removed by the department at risk and cost of the contractor after expiry of three days period.
  - iii. The material collected at site and paid provisionally shall remain under the watch and ward of the contractor till it is consumed fully on the work.
  - iv. The contractor shall arrange his own land for the erection plants, storage and parking of Machineries stacking of material etc.
  - v. It shall be responsibility of the contractor himself to procure earth required for construction of project at his cost.
  - vi. The work should be got executed with the equipment's, as per C.P.W.D. specifications. Wherein the details of the type of equipment's are given for various specifications and or policy circulars on the subject issued from time to time.
  - vii. Guidelines prescribed by Indian Standards will applicable for Q.C. System.
    - 1) Action should be taken in respect of every work and every item of work inspected, wherein and observation is made.
    - 2) The work or the item of work which has been reported as 'Poor' should be got re-done whereas the work or item of work which has been reported as 'Average' should be rectified
    - 3) In case of works under progress all works should be of a quality which should be graded as 'Good' and in case of completed works all works should be of quality which should be graded as 'Very Good'

- 4) As per the Revised Guidelines, The works in progress which has been graded as 'Poor' or will be re-inspected to see that the necessary rectification has been carried out. Action will be taken to black list the Contractor in respect of works found 'Poor' or 'Average' on completion. Action for making the work as 'Very Good' shall also be taken in respect of works classified only as 'Good' on completion.
  - 5) Decision given by Engineer will be binding on contractor.
- viii. The Contractor will procure cement required for the execution of work from authorized plant at his level and furnish the cement testing certificate from Government agency/Regional Laboratory/ Engineering College.
  - ix. Testing of cement shall be done as per norms, for which equipment shall be made available at site by contractor in a laboratory, to be established at plant site by the contractor.
  - x. The contractor will establish a field testing laboratory at the site of work & will provide all the equipment to the field staff required for various quality control tests. He will also ensure that the quality control tests as conducted are conducted and entered in the register as per the norms fixed by CPWD/Quality Control Manual.

**D. SPECIAL CONDITIONS OF CONTRACT****4.1 SOURCE OF FUNDS**

The work of “Construction of EMRS (Eklavya Model Residential School) at Ziro-II, Village (Comp) Distt. Lower Subansiri, in the state of Arunachal Pradesh ” will be undertaken through funds arranged by Client i.e. NESTS and the payments to the Contractor will be made subject to the availability of funds from the Client.

**4.2 MOBILIZATION PERIOD AND PERIOD OF COMPLETION**

A mobilization period of **10 days (Ten)** shall be given for the mobilization of men, machinery/ equipment's and materials at site. The date of start of work to be reckoned from the 10<sup>th</sup> day from the date of issue of Letter of Intent (LOI) to start the work.

The Works are to be performed within a period of **24 (Twenty Four) months** from 10<sup>th</sup> day of the date of issue of Letter of Intent (LOI). The contractor shall ensure to complete all the works in the provided time period as time is the essence of this contract.

**4.3 PERFORMANCE AMOUNT AND SECURITY DEPOSIT**

The successful bidder is required to submit a Performance Guarantee of 5% of the awarded value of contract in the form of Demand Draft/ Banker's Cheque or Bank guarantee in prescribed format within 10 days from the issuance of LOI, before the signing of agreement. The Performance Guarantee shall be initially valid up to 60 days beyond the stipulated completion date which shall be further extended by the contractor from time to time up to the date of 60 days beyond the issuing of the Handing Over Certificate or Completion Certificate, whichever is later. (C/66-69)

Further, retention equivalent to 2.5% (As per Clause 11 (ii) of GCC 2022 of CPWD) of the gross amount of each running and final bill shall be deducted.

The Bank Guarantee to be submitted in the prescribed format issued by a Delhi / Guwahati Branch only from a SFMS enabled Scheduled Commercial Bank through SFMS Platform. Alternatively, BG can also be submitted in physical form from a Scheduled Commercial Bank through its Delhi Branch only.

In the event of the contract being determined or rescinded under provision of any clause / condition of the agreement or the performance of the contractor judged to be poor, the performance guarantee amount shall stand forfeited and the amount such received shall be absolutely at the disposal of employer.

The Performance Bank Guarantee shall be returned after 60 days to date of issuing of the Handing/ Taking Over Certificate or Completion Certificate, whichever is later.

The refund of retention shall be after successful completion of defect liability period. The security deposit shall be released as per clause 27 (i.e. DLP)

**FAILURE OF THE SUCCESSFUL BIDDER TO SUBMIT THE ABOVE MENTIONED PERFORMANCE SECURITY OR SIGN THE CONTRACT AGREEMENT SHALL CONSTITUTE SUFFICIENT GROUND FOR THE ANNULMENT OF THE AWARD/CANCELLATION OF THE AWARD OF WORK AND ACTIONS AS PER THE BID SECURITY DECLARATION SHALL BE TAKEN AGAINST THE BIDDER**

**Security Deposit/ Retention:-**

The Security deposit or the retention money shall be deducted from each running/ final bill of the contractor **@ 2.5% (Two Point Five percent only)** of the gross value of the Running Account/ final bill.

The refund of retention shall be after successful completion of defect liability period.

**4.4 MOBILISATION OF RESOURCES**

The contractor shall provide all labour, machinery, equipment's/ machineries, tools & plants and any other



equipment to carry out the work in workmanlike manner and complete the same. No expenses for mobilization and de- mobilization at the completion of work in all respects shall be paid and are deemed to be included in the rates quoted.

It shall be Contractor's responsibility to get the approvals sanctioned prior to performance from TCIL/ local authority for any modification/revision. Nothing extra shall be paid for getting them sanctioned and for carrying out the same.

**4.5 MOBILIZATION ADVANCE: -**

There is no provision for Mobilization advance.

**4.6 SECURED ADVANCE: -**

DELETED

**4.7 SITE MEETING**

Weekly Site meeting, to be attended by representatives of the Project Director and Contractor shall be held every Wednesday for progress monitoring and other issues. In the event of Wednesday being a holiday, the meeting will be held on the next working day.

**4.8 LIST OF DOCUMENTS TO BE MAINTAINED AT SITE BY THE CONTRACTOR**

- i. Daily Works Register
- ii. Level Book
- iii. Measurement Book
- iv. Site Instruction Book
- v. BOQ with approved drawings Any other documents required by Project Directors to check progress of work etc. shall be maintained by Contractor at Site.

**4.9 INTERIM PAYMENT**

All interim payments shall be treated as payments by way of advances against final payments and not as payments for the work done or be considered as an admission of the due performance of the Contract.

**4.10 RISK AND COST CLAUSES:**

If contractor:

(i) At any time makes default during currency of work or does not execute any part of the work with due diligence and continues to do so even after a notice in writing of 7 working days in this respect from the Engineer-in-Charge; or

(ii) Commits default in complying with any of the terms and conditions of the contract and does not remedy it or takes effective steps to remedy it within 7 working days even after a notice in writing is given in that behalf by the Engineer-in-Charge; or Fails to complete the work(s) or items of work with individual dates of completion, on or before the date(s) so determined, and does not complete them within the period specified in the notice given in writing in that behalf by the Engineer-in-Charge.

(iii) The Engineer- in-Charge without invoking action under clause 3 (when the contract can be determined) may, without prejudice to any other right or remedy against the contractor which have either accrued or accrue thereafter to Government, by a notice in writing to take the part work / part incomplete work of any item(s) out of his hands and shall have powers to:

(a) Take possession of the site and any materials, constructional plant, implements, stores, etc., thereon; and/or

(b) Carry out the part work / part incomplete work of any item(s) by any means at the risk and cost of the contractor.

The Engineer-in-Charge shall determine the amount, if any, is recoverable from the contractor for completion of the part work/ part incomplete work of any item(s) taken out of his hands and execute at the risk and cost of the contractor, the liability of contractor on account of loss or damage suffered by TCIL/Client because of action under this clause shall not exceed 10% of the tendered value of the work.

In determining the amount, credit shall be given to the contractor with the value of work done in all respect in the same manner and at the same rate as if it had been carried out by the original contractor under the terms of his contract, the value of contractor's materials taken over and incorporated in the work and use of plant and machinery belonging to the contractor.

The certificate of the Engineer-in-Charge as to the value of work done shall be final and conclusive against the contractor provided always that action under this clause shall only be taken after giving notice in writing to the contractor. Provided also that if the expenses incurred by the department are less than the amount payable to the contractor at his agreement rates, the difference shall not be payable to the contractor.

Any excess expenditure incurred or to be incurred by TCIL in completing the part work/ part incomplete work of any item(s) or the excess loss of damages suffered or may be suffered by TCIL as aforesaid after allowing such credit shall without prejudice to any other right or remedy available to TCIL in law or per as agreement be recovered from any money due to the contractor on any account, and if such money is insufficient, the contractor shall be called upon in writing and shall be liable to pay the same within 30 days.

If the contractor fails to pay the required sum within the aforesaid period of 30 days, the Engineer-in-Charge shall have the right to sell any or all of the contractors' unused materials, constructional plant, implements, temporary building at site etc. and adjust the proceeds of sale thereof towards the dues recoverable from the contractor under the contract and if thereafter there remains any balance outstanding, it shall be recovered in accordance with the provisions of the contract.

In the event of above course being adopted by the Engineer-in-Charge, the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagements or made any advance on any account or with a view to the execution of the work or the performance of the contract.

#### **4.11 CO-OPERATION WITH OTHER WORKING CONTRACTORS**

The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as referred to in the Contract Data. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

The Contractor should take up the works in convenient reaches as decided by the Engineer to ensure there is least hindrance to the smooth flow of traffic including movement of vehicles and equipment of other Contractors till the completion of the Works.

#### **4.12 SITE OFFICE, PROJECT MONITORING & TECHNICAL PERSONNEL:-**

##### **4.12.1 Site Office cum Transit Camp: -**

The Contractor will provide to TCIL at his own cost furnished Site Office cum Transit Camp (i.e. office tables, chairs, almirahs, Laptop (1 No), Desktop (1 No), printer (1 No laser and colour), scanners (1 No), Telephone, internet facility, beds with complete bed roll, ACs, toilets, Fridge, Ceiling Fans, heaters, washing machine etc.) with minimum built up area of 1000 Sq. Ft. and suitably equipped with electricity, water supply, security and one 4-wheeler with driver, fuel and routine maintenance, from 10<sup>th</sup> day of issue of LOI till completion and handing over of the works .

In case the contractor fails to provide necessary facilities to TCIL staff as aforesaid, the Engineer-in-charge shall

be at liberty to make arrangement of the facilities and recover the costs incurred on behalf of the contractor from his/it's running bills and/or any other dues recoverable under the contract.

Sl. No.	Descriptions	Quantity	Rate (Rs.)	One time Recovery Amount (Rs.)	Monthly Recovery
1	Furnished Site Office cum Transit Camp (with electricity & water supply & regular maintenance)	1000 (sq. ft)			35000
2	Vehicle- Bolero	1			60,000
3	Split Air Conditioners (1.5 Ton)	2	50,000	100,000	
4	Geyser- 15 ltr.	2	15,000	30,000	
5	Room Heater	2	12,000	24,000	
6	Fans	4	3,000	12,000	
7	Bed & Mattress & Blanket & Quilt	4	5,000	20,000	
8	Iron Rack & Almirah for Records keeping	4	15,000	60,000	
9	Chairs Revolving	1	12,000	12,000	
10	Chairs Project Office	6	5,000	30,000	
11	Executive Table	1	15,000	15,000	
12	Non-Executive Table	4	10,000	40,000	
13	Laptop & Desktop	1	60,000	60,000	
14	Laser Color Printer with scanner	1	25,000	25,000	
15	Dining table set	1	30,000	30,000	
16	Fridge	1	25,000	25,000	
17	Washing Machine	1	15,000	15,000	
18	Gas Connection	2	10,000	20,000	
19	TV & Dish	1	30,000	30,000	
20	Kitchen items	1	15,000	15,000	
21	Inverter	1	50,000	50,000	
22	RO	1	18,000	18,000	
23	Unseen Other require for furnishing Guest house cum office	1	25,000	25,000	
	<b>Total</b>			<b>6,56,000</b>	<b>95,000</b>

#### 4.12.2 Project Monitoring:

The successful bidder shall, at its own cost, create the necessary IT infrastructure (at Site/ TCIL HQ) for close monitoring of the project progress.

The Contractor shall also make sufficient arrangement for photography/ videography preferably by maintaining a camera/video camera at Site so that photographs video can be taken of any specific activity at any point of time. The Contractor shall also provide software like MS Project etc. for the purpose of preparing progress report, etc.

#### 4.12.3 Technical Personnel: -

- The contractor shall provide and employ at his own cost the following technical staff during the execution of the works till successful completion and handing over of the work to the client.
- The minimum requirement of such technical staff and their qualification & experience shall not be lower than that

specified as under: -

Technical Personnel	Numbers	Min. Experience in building construction works	Amount to be paid incase of default of non-deployment of personnel
i)Assistant Engineer (AE):- Graduate in CivilEngineering	02	7 Years	Rs.44,000/- per monthper person
ii)Junior Engineer (JE):- Diploma in Civil Engineering	02	7 Years	Rs.41,000/- per monthper person

- c) The Engineer-in-charge will approve the CV of such engineers to be deployed by the contractor based on the ability, qualification and experience and any proposed replacement of technical personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel stated in the contract data.
- d) If the Engineer-in-charge asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating justifiable reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the Works in the Contract.  
The contractor, in any case, has to deploy minimum 50% of technical staff as mentioned above otherwise suitable action as deemed fit under the contract shall be taken against the contractor by TCIL. For non- deployment of the remaining technical staff, the recovery of amount as mentioned above per month per person shall be made from the contractor's running payments and the amount so deducted on this account shall be final and binding on the contractor. The Engineer-in-charge shall be at liberty to engage suitable staff against the same for the purpose till the successful completion and handing over of the works to the Client
- e) The Contractor shall not employ any retired Gazetted officer who has worked in any Govt. Engineering Department before completing the period of Three Years or as per latest Govt. guidelines/ orders etc. after the date of retirement. The Contractor shall comply with all the relevant laws/ orders/ guidelines etc. of Govt. regarding employment after retirement. Any non-compliance of such law/ order/ guidelines etc. and consequences thereof shall be the sole responsibility of the contractor.

#### 4.13 Employees and Contractors Risks

The Employer carries the risks which this Contract states are Employees risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

#### 4.14 Employer's Risks

The Employer is responsible for the excepted risks which are (a) in so far as they directly affect the execution of the Works in the Employees country, the risks of war, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot commotion or disorder (unless restricted to the Contractors employees), natural calamities and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the design of the Works, other than the Contractor's design.

#### 4.15 Contractor's Risks

All risks of loss or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

#### 4.16 Contractor to Construct the Works

The Contractor shall construct and install and maintain the Works in accordance with the Specifications and Drawings.

The contractor shall construct the works with intermediate technology, i.e. by manual means with medium input of machinery required to ensure the quality of works as per specifications. The contractor shall deploy the equipment and machinery as given in Contract Data.

#### **4.17 The Works to Be Completed by the Intended Completion Date**

The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the program submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion Date.

#### **4.18 Approval by the Project Director**

- i. The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Director, who is to approve them.
  - ii. The Contractor shall be responsible for design of Temporary Works.
  - iii. The Engineer's approval shall not alter the Contractors responsibility for design of the Temporary Works.
  - iv. The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 4.18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Engineer before their use.

#### **4.19 Safety**

The Contractor shall be responsible for the safety of all activities on the Site.

#### **4.20 Access to the Site**

The Contractor shall allow access to the Site and to any place where work in connection with the Contract is being carried out, or is intended to be carried out to the engineer and any person/ persons/ agency authorized by:

- i. The Project Director & its authorized representatives
- ii. The officials of Employer
- iii. The officials of Owner

#### **4.21 Instructions**

The Contractor shall carry out all instructions of the project director, which comply with the applicable laws where the Site is located.

#### **4.22 Delays Ordered by the Project Director:**

The Project Director may instruct the Contractor to delay the start or progress of any activity within the Works. Delay/ delays totaling more than 30 days will require prior written approval of the Employer.

#### **4.23 Management Meetings**

- i. The Project Director may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the plans for the Works.
- ii. The Project Director or his representative shall record the business of management meetings and provide copies of the record to those attending the meeting. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all those who attended the meeting.

**4.24 Identifying Defects**

- i. The Project Director shall check the Contractors work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractors responsibilities. The Project Director or his representative may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect.
- ii. The contractor shall be solely responsible for:
  - a) Carrying out the mandatory tests prescribed in the Specifications, and
  - b) For the correctness of the test results, whether preformed in his laboratory or elsewhere.
- iii. If the Project Director instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples.

**4.25 Correction of Defects noticed during the Defect Liability Period of works for one Year.**

- i. The Project Director shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at the handing over of the works and ends after one year. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- ii. Every time notice of Defect/ Defects is given, the Contractor shall correct the notified Defect/Defects within the duration of time specified by the Project Director's notice.
- iii. The Contractor shall do the routine maintenance of works to the required standards and in the manner as defined in the document and keep the entire structure in Defect free condition during the entire maintenance period which begins at Completion and handing over of the works and ends after one Year.
- iv. The routine maintenance standards shall meet the standard minimum requirements.
- v. To fulfill the objectives laid down in sub clauses, the Contractor shall undertake detailed inspection of the works at least once in a month. The Project Director can reduce this frequency in case of emergency; The Contractor shall forward to the Engineer the record of inspection and rectification each month.
- vi. The Project Director may issue notice to the Contractor to carry out maintenance of defects, -if any noticed in his inspection, or brought to his notice. The Contractor shall remove the defects within the period specified in the notice and submit to the Engineer a compliance report.

**4.26 Uncorrected Defects**

If the Contractor has not corrected a Defect pertaining to the Defect Liability Period and of these Conditions of Contract, to the satisfaction of the Project Director, within the time specified in the Project Director's notice, the Project Director will assess the cost of having the Defect corrected, and the Contractor will pay this amount, on correction of the Defect.

**4.27 Bill of Quantities**

- i. The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning and maintaining works, to be done by the Contractor.
- ii. The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item for the construction of works.

**4.28 Cash Flow Forecasts**

When the program is updated, the Contractor shall provide the Engineer with an updated cash flow forecast.

## 4.29 Payment Terms

(all the guidelines issued by National Education system for Tribal Student-Nests (i.e. client) for execution of work, Quality control, submission of RA bills and payment shall be claimed by bidder on back to back basis)

- A. Maximum fund release on completion of the project shall not be more than 98% of Gross work done executed. The remaining 2% payment shall be only after successful completion of defect liability period

S. No.	Fund release on completion of work ( physical/financial completion)	% release on accepted awarded amount(*)	Cumulative % release on accepted awarded amount(*)
1	2% completion of work	10%	10%
2	5% completion of work	5%	15%
3	15% completion of work	10%	25%
4	25% completion of work	10%	35%
5.	35% completion of work	10%	45%
6.	45% completion of work	10%	55%
7	55% completion of work	10%	65%
8	65% completion of work	10%	75%
9	75% completion of work	10%	85%
10	90% completion of work	5%	95%
11	100% completion including all clearances and approvals including occupancy certificates	3%	98%
12	Successful completion of Defect Liability period of 12 months (DLP)	2%	100%

**(\*)Note: - The above payment terms are CA to NESTS. The CA shall release the fund to contractor against actual work done at site and measurement as per due process. Payment to contractor made only against the fund available from NESTS.**

No Running Account Bill shall be paid for the work till the applicable labour licenses, registration with EPFO, ESIC and BOCW Welfare Board, whatever applicable are submitted by the contractor to the Engineer-in-Charge.

All running bills shall be accompanied with the Geo-tagged photographs in sufficient nos. (in duplicates) and angles illustrating the progress of work and for which claims raised in RA bill is evident. The photographs shall be duly signed by the Contractor. The RA bill shall also accompany the progress chart showing status of work against agreed schedule, delays and way to mitigate such delays. The bills not submitted on the prescribed format may not be considered for payment. TDS shall be deducted on prescribed norms of the Govt. enforce time to time from the bills.

- B. The Contractor shall submit Running Account (RA) bills in the prescribed Performa as approved by NESTS for the work done with all requisite documents. However, any further instructions issued by NESTS from time to time regarding submission of RA bills shall be applicable on back-to-back basis

Payment shall be released on back-to-back basis after receipt from client. The interim or running account bill shall be submitted by the Contractor periodically for work executed on the basis of recorded measurement on the format of the Employer in triplicate.

Contractor shall submit the bill with all requisite certificates/ documents. Engineer-in-Charge shall arrange to have the bill verified by taking or causing to be taken where necessary, the requisite

measurement of the work within 15 working days. Observations if any shall be conveyed by the Engineer-in-Charge to the Contractor within 25 working days from date of submission of Bill. Contractor shall resubmit the bill after compliance of observations. Payment on account of amount admissible shall be made by the Engineer-in-Charge certifying the sum to which the Contractor is considered entitled by way of interim payment at such rates as decided by Engineer-in-Charge. The amount shall be paid after the presentation of the corrected bill by the Contractor to the Engineer-in-Charge or his representative; subject to the availability of funds with TCIL. Any delay in release of payment by Employer shall not entitle the Contractor to any compensation / interest from Employer.

All such interim payments shall be regarded as payment by way of advances against final payment only and shall not preclude the requiring of bad, unsound and imperfect or unskilled work to be rejected, removed, taken away and reconstructed or re-erected. Any certificate given by the Engineer-in-Charge relating to the work done or materials delivered forming part of such payment, may be modified or corrected by any subsequent such certificate(s) or by the final certificate and shall not by itself be conclusive evidence that any work or materials to which it relates is/are in accordance with the Contract and specifications. Any such interim payment, or any part thereof shall not in any respect conclude, determine or affect in any way powers of the Engineer-in-Charge under the Contract or any of such payments be treated as final settlement and adjustment of accounts or in any way vary or affect the Contract. Pending consideration of extension of date of completion, interim payments shall continue to be made as herein provided without prejudice to the right of the Employer to take action under the terms of this Contract for delay in the completion of work, if the extension of date of completion is not granted by the Competent Authority. It is clearly agreed and understood by the Contractor that notwithstanding anything to the contrary that may be stated in the agreement between Employer and the Contractor; the Contractor shall become entitled to payment only after Employer has received the corresponding payment(s) from the Owner for the work done by the Contractor. Any delay in the release of payment by the Owner to Employer leading to a delay in the release the corresponding payment by Employer to the Contractor shall not entitle the Contractor to any compensation/interest from Employer.

### C. Payment of Final Bill:

The final bill shall be submitted by the Contractor in the same manner as specified in interim bills within three months of physical completion of the work or within one month of the date of the final certificate of completion furnished by the Engineer-in-Charge whichever is earlier. No further claims shall be made by the Contractor after submission of the final bill and these shall be deemed to have been waived and extinguished. Payments of those items of the bill in respect of which there is no dispute and of items in dispute, for quantities and rates as approved by Engineer-in-Charge, will be made within six months, the period being reckoned from the date of receipt of the bill by the Engineer-in-Charge or his authorized representative; subject to availability of funds from the Client.

The Contractor shall submit the final bill in the prescribed Performa with required details. **“The Contractor shall record the final measurement & finalize the bill with TCIL and final claim so determined shall be raised with TCIL for final settlement”**. Final payment will not be released unless the standard measurements needed for the periodical maintenance works and certificate of handing over of buildings and services, are submitted by the Contractor to TCIL/ Client along with original guarantees for 10 years for water/ leak proofing works referred to in the tender document.

#### 4.30 Cost of Repairs

Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at his cost if the loss or damage arises from the Contractors acts or omissions.

#### 4.31 Completion of Construction and Maintenance

The Contractor shall request the Engineer to issue a certificate of completion of the construction of the



works in whole or in parts, and the Engineer will do so upon deciding that the works is completed.

#### 4.32 Taking Over

The Owner/ Employer shall take over the works within fifteen days of the Project Director issuing a certificate of completion of works. The Contractor shall continue to remain responsible for its routine maintenance during the defect liability period.

#### 4.33 Contractor liable to pay compensation even if action not taken under Clause 4.34:-

In any case in which any of the powers conferred upon the Engineer-in-Charge by *Clause-4.34* thereof, shall have become exercisable and the same are not exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions hereof and such powers shall notwithstanding be exercisable in the event of any future case of default by the contractor and the liability of the contractor for compensation shall remain unaffected. In the event of the Engineer-in-Charge putting in force all or any of the powers vested in him under the preceding clause he may, if he so desires after giving a notice in writing to the contractor, take possession of (or at the sole discretion of the Engineer-in-Charge which shall be final and binding on the contractor) use as on hire (the amount of the hire money being also in the final determination of the Engineer-in-Charge) all or any tools, plant, materials and stores, in or upon the works, or the site thereof belonging to the contractor, or procured by the contractor and intended to be used for the execution of the work/or any part thereof, paying or allowing for the same in account at the contract rates, or, in the case of these not being applicable, at current market rates to be certified by the Engineer-in-Charge, whose certificate thereof shall be final, and binding on the contractor, clerk of the works, foreman or other authorized agent to remove such tools, plant, materials, or stores from the premises (within a time to be specified in such notice) in the event of the contractor failing to comply with any such requisition, the Engineer-in-Charge may remove them at the contractor's expense or sell them by auction or private sale on account of the contractor and his risk in all respects and the certificate of the Engineer-in-Charge as to the expenses of any such removal and the amount of the proceeds and expenses of any such sale shall be final and conclusive against the contractor.

#### 4.34 Payment upon Termination

- i. If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for value of the work done and materials ordered less liquidated damages, if any, less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in relevant clause of the document. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be recovered from the security deposit, and performance security. If any amount is still left un-recovered it will be a debt payable to the Employer.
- ii. If the Contract is terminated at the Employers convenience, the Engineer shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractors personnel employed solely on the Works, and the Contractors costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the Contract, and less taxes due to be deducted at source as per applicable law.

#### 4.35 Property

All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer for use for completing balance construction work if the Contract is terminated because of the Contractor's default, till the Works is completed after which it will be transferred to the Contractor and credit, if any, given for its use.

#### 4.36 Labour

- i. 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.
- ii. The Contractor shall, if required by the Engineer, deliver to the Engineer a return in detail, in such form and at such intervals as the 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.

#### 4.37 COMPLIANCE WITH LABOUR REGULATIONS

During continuance of the Contract the Contractor and his sub Contractors 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 Appendix to Part I General Condition of Contract. 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/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, the Engineer/Employer shall have the right to deduct any money due to the Contractor including his amount of performance security. The Employer/Engineer 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.

4.38 The employees of the Contractor and its Sub-Contractors/ sub agencies (if any) in no case shall be treated as the employees of the Employer at any point of time.

#### 4.39 Drawings and Photographs of the Works

- i. The contractor shall do photography/video photography of the site firstly before the start of the work, secondly mid-way in the execution of different stages of work and lastly after the completion of the work. No separate payment will be made to the contractor for this.
- ii. The Contractor shall not disclose details of Drawings furnished to him and works on which he is engaged without the prior approval of the Engineer in writing. No photograph of the works or any part thereof or plant employed thereon, except those permitted under clause 4.44 shall be taken or permitted by the Contractor to be taken by any of his employees or any employees of his sub- Contractors without the prior approval of the Engineer in writing. No photographs/Video photography shall be published or otherwise circulated without the approval of the Engineer in writing.

#### 4.40 INSPECTION & Right to check measurements, bills, accounts etc.:

TCIL/ Client reserves the right to inspect the work through its Engineers/ Officers or any other agency authorized by them from time to time. TCIL/Client will communicate such observations, if any, for compliance by the Contractor.

TCIL/Client reserves the right to get the work including measurement etc. checked with reference to the bills and accounts of Contractor audited by its own officers or any other agency appointed by them for this purpose. Results/ findings of TCIL/Client on such checking shall be final and binding upon the Contractor

#### 4.41 Inspection & review by the Engineer-in-Charge and External Audit

The Engineer-in-Charge, his authorized subordinates, senior officers of department QA unit or any other third party may inspect and review the progress and quality of the work and issue appropriate directions to the Contractor for taking remedial action in the event the work is not in accordance with the provisions of this Agreement. The work may be inspected at any time/stage by external inspection teams like CTE or TE, Third Party Quality assurance agency, CPWD team etc. may conduct inspection of the quality of the works. The findings of the inspections shall be notified to the Contractor for taking remedial action in accordance with the agreement. The Contractor shall provide all assistance as may be required by the inspection teams in the conduct of its inspection here under.

#### 4.42 BANNING OF NON-PERFORMING VENDOR

In case any of the vendor's work/PO/agreement is cancelled/terminated by TCIL after award, due to non-performance, the vendor may be banned/blacklisted up to 2 years or action as deemed fit may be taken by TCIL.

#### 4.43 AMENDMENT TO BID DOCUMENTS

- a) At any time, prior to the date of submission of bids, TCIL may for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the bid documents by amendments, which shall be available on TCIL Website and the e-tendering portal.
- b) In order to give the required time to the prospective bidders, in which to take the amendments into action in preparing their bid, TCIL may at its discretion extend the deadline for submission of bid suitably.

#### 4.44 BID PRICE

The prices quoted by the bidder shall remain firm during the entire period of the contract and shall not be subject to variation (unless asked by TCIL). Clauses such as "at actual", "extra", "to be given later" etc. shall also be treated as non-responsive & are liable for rejection.

#### 4.45 MODIFICATION AND WITHDRAWAL OF BIDS

- a) Bid withdrawal/modification shall not be allowed after end date and time of bid submission.
- b) Withdrawal of a bid between the deadline for submission of bids and the expiration of the period of bid validity specified in the tender or as extended, may result in the forfeiture of the bid security. Such defaulting vendor is liable to be debarred from participating in future bids for a period of up to 2 years.

#### 4.46 CLARIFICATION OF BIDS

During evaluation of bids, TCIL may at its discretion ask the Bidder for clarifications/ confirmations/ deficient documents of its bid. The request for clarification and the response shall be in writing and no change in the price of substance of the bid shall be sought or permitted.

#### 4.47 PURCHASER'S RIGHT TO SEEK QUOTES DIRECTLY FROM OEM

This is a work Contract and rates are to be quoted by the bidder in % above / below / at par, hence not considered

#### 4.48 TERMINATION FOR DEFAULT

- a) TCIL may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the supplier, terminate this contract in whole or in part.

- if the supplier fails to deliver any or all the services/goods within the time period specified in the contract, or any extension thereof granted by TCIL.
- if the supplier fails to perform any other obligation(s) under the contract;
- if the supplier, in either of the above circumstances, does not remedy his failure within a period of 15 days (or such longer period as TCIL may authorize in writing) after receipt of the default notice from TCIL.

- Failure of the successful bidder to comply with the requirement of submission of performance security shall constitute sufficient ground for cancellation of the award of work and forfeiture of the bid security

- b) In the event TCIL terminates the contract in whole or in part pursuant to above clause, TCIL may procure, upon such terms and in such manner as it deems appropriate, goods/services similar to those undelivered and the supplier shall be liable to TCIL for any excess cost for such similar goods/services. However, the supplier shall continue the performance of the contract to the extent not terminated.

**4.49 Non-compliance**

At any time, in case it comes to the knowledge of TCIL any of wrong information related with eligibility of the bidder or non-compliance to any terms and conditions of tender, then TCIL reserves the right to cancel or reject the bid of such bidder, cancel the tender or take any other action as deemed fit in accordance with tender terms and conditions.

**4.50 ADDITIONAL CLAUSES FOR DEBARMENT:**

A. A bidder or any of its successor, shall be debarred from participating in any procurement process undertaken by TCIL for a period not exceeding three (3) years if he has been convicted of an offence as under:

- a) under the Prevention of Corruption Act, 1988; or
- b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.

B. A bidder or any of its successor, shall be debarred from participating in any procurement process undertaken by TCIL for a period not exceeding two (2) years if the following code of integrity as per rule 175 of GFRs 2017, is breached:

1. prohibition of

- a) Making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.
- b) any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.
- c) any collusion, bid rigging or anticompetitive behaviour that may impair the transparency, fairness and the progress of the procurement process.
- d) improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.
- e) any financial or business transactions between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly.
- f) any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.
- g) Obstruction of any investigation or auditing of a procurement process.
- h) making false declaration or providing false information for participation in a tender process or to secure a contract;
  - a) disclosure of conflict of interest.
  - b) Disclosure by the bidder of any previous transgressions made in respect of the provisions of sub-clause (i) with any entity in any country during the last three years or of being debarred by any other procuring entity.

C. A bidder or any of its successor, shall be debarred from participating in any procurement process undertaken by TCIL for a period not exceeding two (2) years if the following is breached:

- (i) If a Bidder withdraws the proposal or increases the quoted prices after opening of the Proposal and during the period of Bid validity period or its extended period, if any.
- (ii) In case of a successful Bidder, if the Bidder fails to sign the Agreement in accordance with the terms and conditions (including timelines for execution of the Agreement) of this tender or fails to furnish the Performance Security in accordance with the terms and conditions (including timelines for furnishing Performance Security ) of this tender.
- (iii) During the Bid process, if a Bidder indulges in any act as would jeopardize or unnecessarily delay the process of bid evaluation and finalization.

The debarment in all cases shall be automatically extended to all its allied firms. In case of Joint ventures/Consortium is debarred all partners shall also stands debarred for a period specified in debarment order. The names of partners should be clearly specified in the debarment order.

**4.51 Release of GST Payment along with payment of RA Bill**

- a) In all projects, where running bill continue to be raised periodically, GST shall be paid along with running bill but amount equivalent to GST of previous RA bill as well as current RA shall be withheld if GST of previous bill is not paid/reflecting at time of payment of next (current) RA bill.
- b) At the time of final bill of the project, GST shall be paid only if payment of all GST dues of the project

by vendor is visible in GST portal.

- c) The above shall be applicable for all projects involving payment in multiple trenches (Running bill).

Note: As payment of GST dues in statutory requirement hence no undertaking is required separately for this from vendor.

#### 4.52 Quality, Tests, Specifications etc.:-

1. Contractor shall be responsible to ensure the quality and progress of the project. Contractor shall ensure that the project is completed within the stipulated time and maintain the quality as per norms & specifications stipulated by NESTS/CPWD.
2. The Contractor shall carry out the whole work in the most systematic and workmanship manner, strictly as per the architectural drawings (duly approved by NESTS), specifications and instructions/ guidelines issued from time to time by the Owner, latest CPWD specifications with up to date correction slips, latest editions of relevant IS Code with up to date correction slips and sound engineering practices should be followed.
3. The Contractor shall take up the work in such a manner so as to make available the accommodation or the work as per the priority to be fixed by the owner at the time of start of the work and complete all buildings with essential services (internal and external) within the stipulated time of completion.
4. The Contractor shall arrange to carry out all mandatory tests on construction materials as prescribed in CPWD specifications and BIS Code of practice and maintain all such records of mandatory tests conducted to ensure the quality of work. The Contractor shall produce copy of test reports regularly to TCIL/Client during inspection of works and whenever desired otherwise also.
5. The Contractor shall be fully responsible for quality, technical/ structural soundness and effective & efficient construction management of the work. It shall ensure that all drawings issued by the owner are thoroughly examined as per the prevailing site conditions before actual execution and any deficiency/ defect and/ or suggestions for improvement to suit the local conditions may be brought to the notice of TCIL/Client in writing and his approval shall be obtained before execution. No deviation from approved drawings/ designs, specifications etc. shall be carried out without written approval of the NESTS, HQ. Any deviation from this shall make the Contractor fully responsible to bear the extra cost involved, if any.
6. The Contractor shall devise a quality assurance mechanism to ensure compliance with the provisions of this Agreement (the "Quality Assurance Plan" or "QAP").
7. The quality plan and design mix from a recognized Govt. Institution should be shall be available before the time of commencement.
8. The agency shall ensure thorough checking / cross checking of reinforcement before casting of RCC and all RCC casting in presence of TCIL representative and mandatory testing of materials as prescribed frequencies as per quality plan etc. and ensure quality construction.
9. The important activities like layout and positioning of columns, Beams, Brick work shall be marked properly as per Architectural drawings to avoid any deviation.
10. The Agency shall continuously share the geotagged photographs of ongoing construction to TCIL WhatsApp group. The photographs need to be shared in every stage of construction for important items and milestones like foundation, reinforcement, RCC casting of foundations, columns, beams & slab, masonry work etc. as well as along with each running bill
11. The Contractor shall ensure that the Materials and workmanship are in accordance with the requirements specified in this Agreement, Specifications and Standards and Sound Engineering practice. The work shall be of the specified quality and standard, both in respect of ingredients as well as the intended functions it is supposed to perform for service life.
12. The Contract warrants that all Materials shall be new, unused, not reconditioned, unless otherwise allowed as per contract or by Engineer-in-Charge, and in conformity with Specification and Standards, Applicable Laws and Sound Engineering Practice, and that the Contractor shall not use any materials which are generally recognized as being deleterious under Sound Engineering Practice.

**4.53 Water- proofing treatment:-**

The Contractor shall carry out the work of water proofing treatment through specialized firm, who shall submit the 10 years guarantee bond against leakages/ dampness on a Rs. 100/- stamp paper to the Client as per Performa specified. The guarantee shall include rectification of works within the guarantee period of 10 years free of cost if leakage/ dampness is reported by TCIL/ Client. Guarantee bond shall be tripartite agreement form.

The Contractor shall be solely responsible to TCIL/Client for ensuring enforcements of these guarantees.

**4.54 Transfer of obligations:-**

The Contractor shall not assign or transfer or part with any of the rights, duties or obligations of the awarded work, wholly or partly to any other agency without the prior written consent of the TCIL/Client.

**4.55 Progress of Work**

- a. The Contractor shall ensure that associated development works and bulk services are simultaneously carried out so as to make the buildings functional immediately on completion. Any building even if it is physically ready for occupation, shall be deemed to be completed only from the date the services like water supply, sewerage and electricity are made available for it, by the Contractor.
- b. The Contractor shall comply with the Fair Wage Clause and CPWD Contractor's Labour Regulations mentioned in the section 34 of latest CPWD Works Manual.

**4.56** The contractor shall be required to provide key equipment's/machinery, as required for proper completion of works within scheduled period in accordance to work plan, as per directions of Engineer- in charge.

**4.57** The date by which "as-built' drawings (in scale as directed) in 5 sets are required, is within 30 days of issue of certificate of completion of whole or section of the work, as the case maybe.

**4.58** The period for setting up a field laboratory with the prescribed equipment is 15 days from the date of notice to start work.

**4.59** The project shall be monitored as per Critical Path Method, PERT Chart which shall be submitted by contractor at the time of signing of Agreement.

**4.60** Within the total period as aforesaid, the contractor shall take up the work in such a manner as to make available the accommodation or the work constructed for the use in a reasonable and phased manner.

**4.61** The contractor shall be fully responsible for observation for and compliance with all labour and laws applicable in the matter and shall indemnify and keep indemnified the "OWNER"/ Employer against effect of non observance of and non compliance with any such laws.

**4.62** The contractor shall send completion report with drawings and maintenance schedules to the office of the "Employer" in writing within 30 days of completion of work.

**4.63** Any notice, request or consent required or permission in to be given or made pursuant to this contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered inperson to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, or facsimile to such Party at the address specified in the agreement. All notices to the agreement shall be deemed to have been served when served at the address mentioned in the agreement.

**4.64** Notice and other communications under this agreement shall be in writing and communication through post, courier, e-mail or any other recognized mode of such communication. All notices and communications shall be directed to the address as mentioned in the agreement.

**4.65** Safety of its employees and workers in land around the premises/ work area is the responsibility of Contractor. The Contractor shall keep Employer/Client indemnified from all the losses and Employer/Client

shall not be responsible/ liable for any mis-happening/ safety lapses at site.

- 4.66** Contractor shall maintain the record of quality control test conducted.
- 4.67** Mandatory labour laws governing the latest Central and State Government regulations shall be adhered by the Contractor. In this connection, contractor shall co- ordinate with the concerned local authorities.
- 4.68** Contractor shall guard the completed portion of work till its final handing over to the Employer/Client. During the execution/ construction of work if any damages of Client structures/ Properties occur the same has to be re-constructed/ repaired immediately by the Contractor without any extra cost.
- 4.69** Contractor shall ensure that a well established testing laboratory shall be within a period of 1 months from the award of work with all the necessary equipment's required for testing of materials.
- 4.70** Contractor has to make their own arrangement for setting up RMC/batching plant, site office, labour huts and cement godown etc.
- 4.71** Handing over the premises to Employer/Client after completion of work, and ensure that all temporary structures/labour hutments etc. are removed, contractor shall settle all dues and shall issue a clearance receipt for it to Employer/Client.