

**MINISTRY OF HEALTH & FAMILY WELFARE
(GOVT. OF INDIA)**

ALL INDIA INSTITUTE OF AYURVEDA (AIIA), NEW DELHI

Tender

for

**Supply Installation Testing & Commissioning of Modular Operation
Theatre at All India Institute of Ayurveda (AIIA), Sarita Vihar, New Delhi**

VOLUME – II

**CONDITIONS OF CONTRACT
GENERAL INSTRUCTIONS TO TENDERERS (GIT)
SPECIAL INSTRUCTION TO TENDERERS (SIT)
GENERAL CONDITIONS OF CONTRACT (GCC)
SPECIAL CONDITIONS OF CONTRACT (SCC)**

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GENERAL INSTRUCTIONS TO TENDERERS (GIT)

A. PREAMBLE

1. Definitions and Abbreviations

1.1 The following definitions and abbreviations, which have been used in these documents shall have the meanings as indicated below:

1.2. Definitions:

- (i) "Purchaser" means Director, AIIA, Sarita Vihar, New Delhi
- (ii) "Tender" means Bids / Quotation / Tender received from a Firm / Tenderer / Bidder.
- (iii) "Tenderer" means Bidder/ the Individual or Firm submitting Bids / Quotation / Tender
- (iv) "Supplier" means the individual or the firm supplying the goods and services as incorporated in the contract.
- (v) "Goods" means the articles, material, commodities, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, medical equipment, industrial plant etc. which the supplier is required to supply to the purchaser under the contract.
- (vi) "Site" means the places provided by the Employer where the Works are to be executed and any other places as may be specifically designated in the Contract as forming part of the Site.
- (vii) "Earnest Money Deposit" (EMD) means Bid Security/ monetary or financial guarantee to be furnished by a tenderer along with its tender.
- (viii) "Contract" means the written agreement entered into between the purchaser and/or consignee and the supplier, together with all the documents mentioned therein and including all attachments, annexure etc. therein.
- (ix) "Performance Security" means monetary or financial guarantee to be furnished by the successful tenderer for due performance of the contract placed on it. Performance Security is also known as Security Deposit.
- (x) "Consignee" means the Director, AIIA, Sarita Vihar, New Delhi person to whom the goods are required to be delivered as specified in the Contract. If the goods are required to be delivered to a person as an interim consignee for the purpose of despatch to another person as provided in the Contract then that "another" person is the consignee, also known as ultimate consignee.
- (xi) "Specification" means the document/standard that prescribes the requirement with which goods or service has to conform.
- (xii) "Inspection" means activities such as measuring, examining, testing, gauging one or more characteristics of the product or service and comparing the same with the specified requirement to determine conformity.
- (xiii) "Day" means calendar day.
- (xiv) "Drawings" means all drawings, calculations and technical information of a like nature provided by the Engineer 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 Engineer.
- (xv) "Bill of Quantities" means the priced and completed bill of quantities forming part of the Tender.
- (xvi) "Contract Agreement" means the contract agreement (if any) referred to in tender document..

(xvii) "Appendix to Tender" means the appendix comprised in the form of Tender annexed to these Conditions.

(xviii) "Commencement Date" means the date upon which the Contractor receives the notice to commence the works as issued by the HSCC Engineer.

(xix) "Time for Completion" means the time for completing the execution of and passing the Tests on Completion of the Works or any Section or part thereof as stated in the Contract calculated from the Commencement Date.

(xx) "Tests on Completion" means the tests specified in the Contract or otherwise agreed by the Engineer and the Contractor which are to be made by the Contractor before the Works or any Section or part thereof are taken over by the employer.

(xxi) "Taking-Over Certificate" means a certificate issued pursuant to sub clauses in tender document.

(xxii) "Contract Price" means the sum stated in the Letter of Acceptance as payable to the Contractor for the execution and completion of the Works and the remedying of any defects therein in accordance with the provisions of the Contract.

(xxiii) "Retention Money" means the aggregate of all monies retained by the Employer pursuant to Sub-Clause in tender document.

(xxiv) "Works" means the Permanent Works and the Temporary Works or either of them to be executed in accordance with the contract .

"Permanent Works" means the permanent works to be executed (including Plant) in accordance with the Contract.

"Temporary Works" means all temporary works of every kind (other than Contractor's Equipment) required in or about the execution and completion of the Works and the remedying of any defects therein.

"Plant" means machinery, apparatus and the like intended to form or forming part of the Permanent Works.

"Contractor's Equipment" means all appliances and things of whatsoever nature (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects therein, but does not include Plant, materials or other things intended to form or forming part of the Permanent Works.

(xxv). "Section" means a part of the Works specifically identified in the Contract as a Section.

(xxvi) "Cost" means all expenditure properly incurred or to be incurred, whether on or off the Site, including over head and other charges properly allowable there but does not include any allowance for profit.

(xxvii) "Writing" means any hand-written, type-written, or printed communication, including telex, cable and facsimile transmission.

1.3 Abbreviations:

- (i) "TE Document" means Tender Enquiry Document
- (ii) "NIT" means Notice Inviting Tenders.
- (iii) "GIT" means General Instructions to Tenderers
- (iv) "SIT" means Special Instructions to Tenderers
- (v) "GCC" means General Conditions of Contract
- (vi) "SCC" means Special Conditions of Contract
- (vii) "DGS&D" means Directorate General of Supplies and Disposals
- (viii) "NSIC" means National Small Industries Corporation
- (ix) "PSU" means Public Sector Undertaking
- (x) "CPSU" means Central Public Sector Undertaking
- (xi) "LSI" means Large Scale Industry
- (xii) "SSI" means Small Scale Industry
- (xiii) "LC" means Letter of Credit

- (xiv) “DP” means Delivery Period
- (xv) “BG” means Bank Guarantee
- (xvi) “ED” means Excise Duty
- (xvii) “CD” means Custom Duty
- (xviii) “VAT” means Value Added Tax
- (xix) “CENVAT” means Central Value Added Tax
- (xx) “CST” means Central Sales Tax
- (xxi) ”MOH&FW” means Ministry of Health & Family Welfare, Government of India
- (xxii) “Dte. GHS” means Directorate General and Health Services, MOH&FW.
- (xxiii) “CMC” means Comprehensive maintenance Contract (labour, spare and preventive maintenance)
- (xxiv) “RT” means Re-Tender.

2. Introduction

- 2.1 The Purchaser has issued these TE documents for Supply, Installation, Testing & Commissioning and Handing over of MODULAR OPERATION THEATRE at All India Institute of Ayurveda (AIIA), Sarita Vihar.
- 2.2 “General Instruction to Tenderers” (GIT) provides the relevant information as well as instructions to assist the prospective tenderers in preparation and submission of tenders. It also includes the mode and procedure to be adopted by the purchaser for receipt and opening as well as scrutiny and evaluation of tenders and subsequent placement of contract.
- 2.3 The tenderers shall also read the Special Instructions to Tenderers (SIT) related to this purchase, as contained in other section of these documents and follow the same accordingly. Whenever there is a conflict between the GIT and the SIT, the provisions contained in the SIT shall prevail over those in the GIT.
- 2.4 Before formulating the tender and submitting the same to the purchaser, the tenderer should read and examine all the terms, conditions, instructions, checklist etc. contained in the TE documents. Failure to provide and/or comply with the required information, instructions etc. incorporated in these TE documents may result in rejection of its tender.

3. Availability of Funds

- 3.1 Expenditure to be incurred for the proposed purchase will be met from the funds available with the purchaser/consignee.

4. Language of Tender

- 4.1 The tender submitted by the tenderer and all subsequent correspondence and documents relating to the tender exchanged between the tenderer and the purchaser, shall be written in the English language, unless otherwise specified in the Tender Enquiry. However, the language of any printed literature furnished by the tenderer in connection with its tender may be written in any other language provided the same is accompanied by an English translation and, for purposes of interpretation of the tender, the English translation shall prevail.
- 4.2 The tender submitted by the tenderer and all subsequent correspondence and documents relating to the tender exchanged between the tenderer and the purchaser, may also be written in the Hindi language, provided that the same are accompanied by English translation, in which case, for purpose of interpretation of the tender etc, the English translations shall prevail.

5. Eligible Tenderers

- 5.1 This invitation for tenders is open to all suppliers who fulfil the eligibility criteria specified in these documents.

6. Eligible Goods and Services

6.1 All goods and related services to be supplied under the contract shall have their origin in India or any other country with which India has not banned trade relations. The term “origin” used in this clause means the place where the goods are mined, grown, produced, or manufactured or from where the related services are arranged and supplied.

7. Tendering Expense

7.1 The tenderer shall bear all costs and expenditure incurred and/or to be incurred by it in connection with its tender including preparation, mailing and submission of its tender and for subsequent processing the same. The purchaser will, in no case be responsible or liable for any such cost, expenditure etc regardless of the conduct or outcome of the tendering process.

B. TENDER ENQUIRY DOCUMENTS

8. Content of Tender Enquiry Documents

8.1 The Bid Documents comprise the following:

Volume-I	=	Pre Qualification Document
Volume II	=	General Instruction to Tenderers (GIT) Special Instruction to Tenderers (SIT) General Conditions of Contract (GCC) Specific Conditions of Contract (SCC) Sample Forms of Securities Sample Form of Agreement
Volume III	=	Technical Specifications
Volume IV	=	Price Bid (Bill of Quantities)

8.2 The Bidder is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the Bid documents. Failure to comply with the requirements of the Bid Documents will be at the Bidder's own risk. Bids, which are not substantially responsive to the requirements of the Bid documents, will be rejected. **Bidders are requested to clear their queries before submission of bids and submit bids without conditions.**

8.3 The relevant details of the required goods and services, the terms, conditions and procedure for tendering, tender evaluation, placement of contract, the applicable contract terms and, also, the standard formats to be used for this purpose are incorporated in the above-mentioned documents. The interested tenderers are expected to examine all such details etc to proceed further.

9. Amendments to TE documents

9.1 At any time prior to the deadline for submission of tenders, the purchaser may, for any reason deemed fit by it, modify the TE documents by issuing suitable amendment(s) to it.

9.2 Such an amendment will be notified in writing by registered/speed post or by fax/telex/e-mail, followed by copy of the same by registered post to all prospective tenderers, which have received the TE documents and will be binding on them.

9.3 In order to provide reasonable time to the prospective tenderers to take necessary action in preparing their tenders as per the amendment, the purchaser may, at its discretion extend the deadline for the submission of tenders and other allied time frames, which are linked with that deadline.

10. Clarification of TE documents

- 10.1 A tenderer requiring any clarification or elucidation on any issue of the TE documents may take up the same with the purchaser in writing. The purchaser will respond in writing to such request provided the same is received by the purchaser not later than fifteen days (unless otherwise specified in the SIT) prior to the prescribed date of submission of tender.

C. PREPARATION OF BIDS

11.0 Language of Bid

- 11.1 The Bid prepared by the Bidders and all correspondence and documents relating to the Bid exchanged by the Bidder and the Consultant shall be written in the English Language.

12.0 Documents comprising the Bid

- 12.1 The Bid to be prepared by the Bidder shall comprise of the following: the Bid and Appendix thereto, the Bid Security, the Bill of Quantities; the Schedules of Supplementary information, and any other materials required to be completed and submitted in accordance with the instructions to Bidders embodied in these Bid documents. The Forms, Bill of Quantities and Schedules provided in these Bid documents shall be used without exception.

- 12.2 All documents issued for the purpose of Bidding as described in Clause 8.0 and amendments issued in accordance with Clause 9, shall be deemed incorporated in the Bid. Bid Documents prepared and submitted in accordance with tender document Clauses.

- 12.3 The **Two Tender System**, i.e. “Techno – Commercial Tender” and “Price Tender” prepared by the tenderer shall comprise the following:

A) Techno – Commercial Tender (Un priced Tender)

- i) Earnest money furnished in accordance with GIT clause 15.0 alternatively, documentary evidence as per GIT clause 15.8 for claiming exemption from payment of earnest money.
- ii) Application form as per Vol-I (Pre Qualification)
- iii) Documentary evidence, as necessary in terms of clauses 5 and documents required as per Vol.-I , Pre Qualification Criteria.
- iv) Tenderer/Agent who quotes for goods manufactured by other manufacturer shall furnish Manufacturer’s Authorisation Form.
- v) Power of Attorney in favour of signatory of TE documents and signatory of Manufacturer’s Authorisation Form.
- vi) Documents and relevant details to establish in accordance with GIT that the goods and the allied services to be supplied by the tenderer conform to the requirement of the TE documents.
- vii) Performance Statement and other relevant documents along with relevant copies of orders and end users’ satisfaction certificate.
- viii) Technical Literature filled up with all the details including Make, Model etc. of the goods offered along with Technical Compliance Statement.
- ix) Certificate of Incorporation in the country of origin.
- x) Checklist as per Vol-I of Pre Qualification Criteria and documents mentioned in checklist.

B) Price Tender:

The Bidder shall fill the rates in Indian Rupees against each item of Bill Of Quantities both in words and figures in the blank spaces provided in the respective columns. Item for which no rate or price is entered by the bidder will not be paid for by the Consultant when executed and shall be deemed covered by the others rates and prices in the bill of quantities. Correction, if any, shall be made by crossing out, initialling, dating, stamping and rewriting.

NOTE:

1. All pages of the Tender should be page numbered and indexed.
 2. It is the responsibility of tenderer to go through the TE document to ensure furnishing all required documents in addition to above, if any.
- 12.4 The authorized signatory of the tenderer must sign the tender duly stamped at appropriate places and initial all the remaining pages of the tender. Individuals signing the tender or other documents connected with a contract must specify whether he signs as:
- i. A 'Sole Proprietor' of the firm or constituted attorney of such Sole Proprietor.
 - ii. A partner of the firm, if it be a partnership, in which case he must have authority to quote & to refer to arbitration dispute concerning the business of the partnership either by virtue of the partnership agreement or a power of attorney;
 - iii. Constituted attorney of the firm if it is a company.

NOTE:

1. In case of (ii) above, a copy of the partnership agreement or general power of attorney, in either, case, attested by a Notary Public should be furnished, or affidavit on stamped paper of all the partners admitting execution of the partnership agreement or the general power of attorney should be furnished.
 2. In case of the Partnership firms, where no authority to refer disputes concerning the business of the partnership has been conferred on any partner, the tender and all other related documents must be signed by every partner of the firm.
 3. A person signing the tender form or any documents forming part of the contract on behalf of another shall be deemed to warrantee that he has authority to bind such other persons and if, on enquiry, it appears that the persons so signing had no authority to do so, the purchaser may, without prejudice to other civil and criminal remedies, cancel the contract and hold the signatory liable for all cost and damages.
- 12.5 A tender, which does not fulfil any of the above requirements and/or gives evasive information/reply against any such requirement, shall be liable to be ignored and rejected.
- 12.6 Tender sent by fax/telex/cable/electronically shall be ignored.

13.0 Bid Prices

- 13.1 The Bidder shall fill the rates in Indian Rupees against each item of Bill of Quantities both in words and figures in the blank spaces provided in the respective columns. Item for which no rate or price is entered by the bidder will not be paid for by the Consultant when executed and shall be deemed covered by the others rates and prices in the bill of quantities. Correction, if any, shall be made by crossing out, initialling, dating, stamping and rewriting.
- 13.2 All duties, taxes including work contract tax and other taxes, duties and levies payable by the contractor under the contract including contractor profit and overheads etc. or for any other cost shall be included in the rates and prices and the total amount of bid submitted by the bidder. The evaluation and comparison of bids shall be made accordingly.

- 13.3 The rates and prices quoted by the Bidder shall be fixed for items complete in all respect for the duration of the Contract and not subject to adjustment on any account except as otherwise provided in the conditions of Contract.
- 13.4 The Bidder shall fill his most competitive rates in the first instance as no negotiations shall be made after opening of the Tenders except if required with the lowest Bidder.
- 13.5 The all inclusive price of items quoted shall take care of impact of foreign exchange rate fluctuations for imported items.
- 13.6 No Letter of Credit (LC) shall be opened either by HSCC (Consultant) or by the Employer. Any requirement of opening of LC for the imported items/equipments shall be the responsibility of the contractor.

14.0 Bid Validity

- 14.1 The Bid shall remain valid and open for acceptance for a period of **120 days** from the last date fixed for receiving the same.
- 14.2 In exceptional circumstances prior to expiry of the original Bid validity period, the Consultant may request the Bidder for a specified extension in the period of validity. The request and the responses thereto shall be made in writing or by cable or telex. A Bidder may refuse the request without forfeiting his Bid Security. A Bidder agreeing to the request will neither be required nor permitted to modify his Bid, but will be required to extend the validity of his Bid Security correspondingly.

15.0 Earnest Money Deposit (EMD) or Bid Security

- 15.1 The Bidder shall furnish, as part of his Bid, a Bid Security of the amount of **Rs. 5,10,000/- (Rupees Five Lakh Ten Thousand Only)** for MODULAR OPERATION THEATRE System at AIIA, Sarita Vihar, New Delhi. No deviation shall be permitted from this.
- 15.2 The Bid Security shall be in the form of a Demand Draft/Pay Order/Bank Guarantee in favour of **HSCC (India) Ltd. Payable at New Delhi/Noida from any Nationalised/Scheduled bank.**
- 15.3 Any Bid not accompanied by an acceptable Bid Security will be straightaway rejected except for those eligible for exemption as per clause 15.8 of GIT.
- 15.4 The Bid Securities of unsuccessful Bidders will be returned as promptly as possible as but not later than 30 days after the expiration of the period of Bid validity prescribed by the Consultant.
- 15.5 The Bid Security of the successful Bidder will be returned upon the Bidder executing the Contract and furnishing the required Performance Security.
- 15.6 The Bid Security may be forfeited

- a) If a Bidder withdraws his Bid during the period of Bid validity.
- b) In the case of successful Bidder, if he does not :
 - i) enter into the Contract, or
 - ii) furnish the necessary Performance Security
 - iii) agree to arithmetic corrections made as per terms of Bid documents.

15.7 No interest will be payable by the Consultant on the Bid Security amount cited above.

15.8 The tenderers who are currently registered and, also, will continue to remain registered during the tender validity period with Directorate General of Supplies & Disposals or with National Small Industries Corporation, New Delhi for the specific goods as per tender enquiry specification shall be eligible for exemption from EMD. Vague stipulations in the Registration Certificate such as “to customers’ specification” etc. will not be acceptable for exemption from furnishing of earnest money. In case the tenderer falls in these categories, it should furnish copy of its valid registration details (with DGS&D or NSIC, as the case may be).

15.9 The earnest money shall be valid for a **period of forty-five (45) days beyond the validity period of the tender**. As validity period of Tender as per Clause 14 of GIT is 120 days, the EMD **shall be valid for 165 days** from Techno – Commercial Tender opening date.

16.0 Format and Signing of Bid

16.1 The Tender shall be filled & signed only by the firm/ corporation in whose name the Tenders have been issued. The Bid shall be typed or written in indelible ink and duly signed by a person or persons duly authorised to being the Bidder to the Contract. Proof of authorization shall be furnished in the form of written Power of Attorney, which shall accompany the Bid.

16.2 All pages of Bid shall be initialled and stamped by the person signing the Bid where entries or amendments have been made.

16.3 The complete Bid shall be without alterations interlining and erasures except those to accord with instruction issued by the Consultant or as necessary to correct errors made by the Bidder in which case such correction shall be initialled by person signing the Bid.

17. Tender currencies

17.1 The tenderer shall quote only in Indian Rupees.

17.2 Tenders, where prices are quoted in any other way shall be treated as non -responsive and rejected.

18 Tender Prices

18.1 The Bidder shall fill the rates in Indian Rupees against each item of Bill Of Quantities both in words and figures in the blank spaces provided in the respective columns. Item for which no rate or price is entered by the bidder will not be paid for by the Consultant when executed

and shall be deemed covered by the others rates and prices in the bill of quantities. Correction, if any, shall be made by crossing out, initialling, dating, stamping and rewriting.

- 18.2 All duties, taxes including work contract tax and other taxes, duties and levies payable by the contractor under the contract including contractor profit and overheads etc. or for any other cost shall be included in the rates and prices and the total amount of bid submitted by the bidder. The evaluation and comparison of bids shall be made accordingly.
- 18.3 The rates and prices quoted by the Bidder shall be fixed for items complete in all respect for the duration of the Contract and not subject to adjustment on any account except as otherwise provided in the conditions of Contract.
- 18.4 The Bidder shall fill his most competitive rates in the first instance as no negotiations shall be made after opening of the Tenders except if required with the lowest Bidder.
- 18.5 The all inclusive price of items quoted shall take care of impact of foreign exchange rate fluctuations for imported items.
- 18.6 No Letter of Credit (LC) shall be opened either by HSCC (Consultant) or by the Employer. Any requirement of opening of LC for the imported items/equipments shall be the responsibility of the contractor.
- 18.7 the prices of Turnkey (if any), as mentioned in Technical Specification and Bill of Quantities (BOQ) and clauses of Tender document.
- 18.8 the price of annual CMC, as mentioned in Bill of Quantities (BOQ), Technical Specification and Price Schedule.

19. Indian Agent

- 19.1 If a foreign tenderer has engaged an agent in India in connection with its tender, the foreign tenderer, in addition to indicating Indian agent's commission, if any, in a manner described under GIT, shall also furnish the following information:
- a) The complete name and address of the Indian Agent and its permanent income tax account number as allotted by the Indian Income Tax authority.
 - b) The details of the services to be rendered by the agent for the subject requirement.
 - c) Details of Service outlets in India, nearest to the consignee(s), to render services during Warranty and CMC period.
 - d) A copy of agreement between the Agent & their principal detailing the terms & conditions as well as services and after sales services as above to be retendered by agent and the precise relationship between them and their mutual interest in the business.
 - e) Principal / manufacturer's original proforma invoice with the price bid.

20. Firm Price

- 20.1 Unless otherwise specified in the SIT, prices quoted by the tenderer shall remain firm and fixed during the currency of the contract and not subject to variation on any account.

21. Alternative Tenders

- 21.1 Alternative Tenders are not permitted.
- 21.2 However the Tenderers can quote alternate models meeting the tender specifications of same manufacturer with single EMD.
- 21.3 Only one tenderer is permitted to quote for the same manufacturer irrespective of models.

22 Documents Establishing Tenderer's Eligibility and Qualifications

- 22.1 Pursuant to GIT clause 12, the tenderer shall furnish, as part of its tender, relevant details and documents establishing its eligibility to quote and its qualifications to perform the contract if its tender is accepted.
- 22.2 The documentary evidence needed to establish the tenderer's qualifications shall fulfil the following requirements:
 - a) in case the tenderer offers to supply goods, which are manufactured by some other firm, the tenderer has been duly authorised by the goods manufacturer to quote for and supply the goods to the purchaser. The tenderer shall submit the manufacturer's authorization letter to this effect as per the standard form provided in this document.
 - b) the tenderer has the required financial, technical and production capability necessary to perform the contract and, further, it meets the qualification criteria incorporated in the Vol-I ,the Prequalification document.
 - c) in case the tenderer is not doing business in India, it is duly represented by an agent stationed in India fully equipped and able to carry out the required contractual functions and duties of the supplier including after sale service, maintenance & repair etc. of the goods in question, stocking of spare parts and fast moving components and other obligations, if any, specified in the conditions of contract and/or technical specifications.

23. Documents establishing Good's Conformity to TE document.

- 23.1 The tenderer shall provide in its tender the required as well as the relevant documents like technical data, literature, drawings etc. to establish that the goods and services offered in the tender fully conform to the goods and services specified by the purchaser in the TE documents. For this purpose the tenderer shall also provide a clause-by-clause commentary on the technical specifications and other technical details incorporated by the purchaser in the TE documents to establish technical responsiveness of the goods and services offered in its tender.
- 23.2 In case there is any variation and/or deviation between the goods & services prescribed by the purchaser and that offered by the tenderer, the tenderer shall list out the same in a chart form without ambiguity and provide the same along with its tender.
- 23.3 If a tenderer furnishes wrong and/or misleading data, statement(s) etc. about technical acceptability of the goods and services offered by it, its tender will be liable to be ignored and rejected in addition to other remedies available to the purchaser in this regard.

24. Signing and Sealing of Tender

- 24.1 The tenderers shall submit their tenders as per the instructions contained in GIT Clause 12.
- 24.2 Unless otherwise mentioned in the SIT, a tenderer shall submit three copies of its tender marking them as "Original", "Duplicate" and "Triplicate". Duplicate & Triplicate tenders may contain all pages including Technical Literature/Catalogues as per in Original tenders.
- 24.3 The original and other copies of the tender shall either be typed or written in indelible ink and the same shall be signed by the tenderer or by a person(s) who has been duly authorized to bind the tenderer to the contract. The letter of authorization shall be by a written power of attorney, which shall also be furnished along with the tender.

- 24.4 Both the copies of the tender shall be duly signed at the appropriate places as indicated in the TE documents and all other pages of the tender including printed literature, if any shall be initialled by the same person(s) signing the tender. The tender shall not contain any erasure or overwriting, except as necessary to correct any error made by the tenderer and, if there is any such correction; the same shall be initialled by the person(s) signing the tender.
- 24.5 The tenderer is to seal the original and each copy of the tender in separate envelopes, duly marking the same as “Original”, “Duplicate”, ”Triplicate” and so on and writing the address of the purchaser and the tender reference number on the envelopes. The sentence “NOT TO BE OPENED” before _____ (The tenderer is to put the date & time of tender opening) are to be written on these envelopes. The inner envelopes are then to be put in a bigger outer envelope, which will also be duly sealed, marked etc. as above. If the outer envelope is not sealed and marked properly as above, the purchaser will not assume any responsibility for its misplacement, premature opening, late opening etc.
- 24.6 TE document seeks quotation following **two Tender System**, in two parts. First part will be known as **‘Techno - Commercial Tender’**, and the second part **‘Price Tender’** as specified in clause 11 of GIT. Tenderer shall seal **‘Techno - Commercial Tender’** and **‘Price Tender’** separately and covers will be suitably super scribed. Both these sealed covers shall be put in a bigger cover and sealed and procedure prescribed in Paras 21.1 to 21.5 followed & as per instruction given **under 28.3 Clause of GIT**.

D. SUBMISSION OF TENDERS

25. Submission of Tenders

- 25.1 Unless otherwise specified, the tenderers are to deposit the tenders in the tender box kept for this purpose at **HSCC (India) Ltd, Plot E-6 (A), Sector – 1, Noida**. In case of bulky tender, which can not be put into tender box, the same shall be submitted by the tenderer by hand to **CGM (D&E & Projects)** or his nominee, **HSCC (India) Ltd, Plot E-6(A) Sector-1, Noida-201301, Uttar Pradesh**. The officer receiving the tender will give the tenderer an official receipt duly signed with date and time.
- 25.2 The tenderers must ensure that they deposit their tenders not later than the closing time and date specified for submission of tenders. It is the responsibility of the tenderer to ensure that their Tenders whether sent by post or by courier or by person, are dropped in the Tender Box by the specified clearing date and time. In the event of the specified date for submission of tender falls on / is subsequently declared a holiday or closed day for the purchaser, the tenders will be received up to the appointed time on the next working day.

26. Late Tender

- 26.1 A tender, which is received after the specified date and time for receipt of tenders will be treated as “late” tender and will be ignored.

27. Alteration and Withdrawal of Tender

- 27.1 The tenderer, after submitting its tender, is permitted to alter / modify its tender so long as such alterations / modifications are received duly signed, sealed and marked like the original tender, within the deadline for submission of tenders. Alterations / modifications to tenders received after the prescribed deadline will not be considered.
- 27.2 No tender should be withdrawn after the deadline for submission of tender and before expiry of the tender validity period. If a tenderer withdraws the tender during this period, it will result in forfeiture of the earnest money furnished by the tenderer in its tender.

E. TENDER OPENING

28. Opening of Tenders

- 28.1 The purchaser will open the tenders at the specified date and time and at the specified place as indicated in the NIT.

In case the specified date of tender opening falls on / is subsequently declared a holiday or closed day for the purchaser, the tenders will be opened at the appointed time and place on the next working day.

- 28.2 Authorized representatives of the tenderers, who have submitted tenders on time may attend the tender opening provided they bring with them letters of authority from the corresponding tenderers.

The tender opening official(s) will prepare a list of the representatives attending the tender opening. The list will contain the representatives' names & signatures and corresponding tenderers' names and addresses.

- 28.3 Two - Tender system as mentioned in Para 24.6 above will be as follows. The **Techno - Commercial Tenders** are to be opened in the first instance, at the prescribed time and date as indicated in NIT. These Tenders shall be scrutinized and evaluated by the competent committee/ authority with reference to parameters prescribed in the TE document. During the Techno - Commercial Tender opening, the tender opening official(s) will read the salient features of the tenders like brief description of the goods offered, delivery period, Earnest Money Deposit and any other special features of the tenders, as deemed fit by the tender opening official(s). Thereafter, in the second stage, the Price Tenders of only the Techno - Commercially acceptable offers (as decided in the first stage) shall be opened for further scrutiny and evaluation on a date notified after the evaluation of the Techno – Commercial tender. The prices, special discount if any of the goods offered etc., as deemed fit by tender opening official(s) will be read out.

Bids shall be opened at **HSCC (India) Ltd., E-6A, Sector-I, Noida-201301 (UP)** half an hour after the prescribed time for Bid submission in the presence of the Bidders' representatives who may wish to be present.

Envelope No. 1 : Shall be opened first. If the Bid Security & tender document fee (if document downloaded from website) is not found as prescribed, the Bid shall be summarily rejected.

Envelope No. 2 : Shall be opened next. Bids of parties who do not accept the conditions laid above in the Bid documents are also liable to be rejected. (Volume I, II & III)

- 28.4. The Consultant will examine the Bids to determine whether they are complete, whether the requisite bid securities have been furnished, whether the Bids have been properly signed and stamped and whether the Bids are generally in order.
- 28.5 Telegraphic/ Fax offer will be treated as defective, invalid and rejected. Only detailed complete Bids received prior to the closing time and date of the Bids will be taken as valid.
- 28.6 The Bidder's names, general technical details, the presence of the requisite Bid Security and such other details as the Consultant, at his discretion may consider appropriate will be announced at the Bid opening.

Envelope No. 3 : Containing the sealed Price Bid (Volume-IV), shall be opened for those bidders whose bid is found to be generally in order and substantially responsive,

either at the bid opening or at a subsequent date to be intimated in advance to such eligible Bidders.

- 28.7 Only summary of prices quoted by the Bidders will be read out.
- 28.8 The Bid of any Bidder who has not complied with any of the instructions contained herein may not be considered.
- 28.9 Bids shall be addressed and submitted to the following
- Chief General Manager (D&E & Proj.),
HSCC (India) Ltd.),
E-6A, Sector-I, Noida-201301 (UP)

F. SCRUTINY AND EVALUATION OF TENDERS

29. Basic Principle

- 29.1 Tenders will be evaluated on the basis of the terms & conditions already incorporated in the TE document, based on which tenders have been received and the terms, conditions etc. mentioned by the tenderers in their tenders. No new condition will be brought in while scrutinizing and evaluating the tenders.

30. Scrutiny of Tenders

- 30.1 The Purchaser will examine the Tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed stamped and whether the Tenders are generally in order.
- 30.2 The Purchaser's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 30.3 The tenders will be scrutinized to determine whether they are complete and meet the essential and important requirements, conditions etc. As prescribed in the TE document. The tenders, which do not meet the basic requirements, are liable to be treated as non – responsive and will be rejected.
- 30.4 The following are some of the important aspects, for which a tender shall be declared non – responsive and will be summarily ignored;
- (i) Bidder not meeting the Prequalification Criteria as per Vol-I of Prequalification document.
 - (ii) Tender is unsigned.
 - (iii) Tender validity is shorter than the required period.
 - (iv) Required EMD (Amount, validity etc.)/ exemption documents have not been provided.
 - (v) Tenderer has quoted for goods manufactured by other manufacturer(s) without the required Manufacturer's Authorisation Form.
 - (vi) Tenderer has not agreed to give the required performance security of required amount in an acceptable form in terms of GCC clause 5, read with modification, if any, in “Special Conditions of Contract”, for due performance of the contract.
 - (vii) Goods offered are not meeting the tender enquiry specification.
 - (viii) Tenderer has not agreed to other essential condition(s) specially incorporated in the tender enquiry like terms of payment, liquidated damages clause, warranty clause, dispute resolution mechanism applicable law.
 - (ix) Poor/ unsatisfactory past performance.
 - (x) Tenderers who stand deregistered/banned/blacklisted by any Govt. Authorities.

- (xi) Tenderer is not eligible as per Pre Qualification and other conditions of contract.
- (xii) Tenderer has not quoted for the entire quantity as specified in the Bill of Quantities (BOQ).
- (Xiii) Tenderer has not agreed for the delivery terms & delivery schedule.

31. Minor Infirmary/Irregularity/Non-Conformity

- 31.1 If during the evaluation, the purchaser find any any minor informality and/or irregularity and/or non-conformity in a tender, the purchaser will convey its observation on such 'minor' issues to the tenderer by registered/speed post etc. asking the tenderer to respond by a specified date. If the tenderer does not reply by the specified date or gives evasive reply without clarifying the point at issue in clear terms, that tender will be liable to be ignored.

32 Discrepancies in Prices

- 32.1 If, in the price structure quoted by a tenderer, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless the purchaser feels that the tenderer has made a mistake in placing the decimal point in the unit price, in which case the total price as quoted shall prevail over the unit price and the unit price corrected accordingly.
- 32.2 If there is an error in a total price, which has been worked out through addition and/or subtraction of subtotals, the subtotals shall prevail and the total corrected; and
- 32.3 If there is a discrepancy between the amount expressed in words and figures, the amount in words shall prevail, subject to sub clause 32.1 and 32.2 above.
- 32.4 If, as per the judgement of the purchaser, there is any such arithmetical discrepancy in a tender, the same will be suitably conveyed to the tenderer by registered / speed post. If the tenderer does not agree to the observation of the purchaser, the tender is liable to be ignored.

33. Discrepancy between original and copies of Tender

- 33.1 In case any discrepancy is observed between the text etc. of the original copy and that in the other copies of the same tender set, the text etc. of the original copy shall prevail. Here also, the purchaser will convey its observation suitably to the tenderer by register / speed post and, if the tenderer does not accept the purchaser's observation, that tender will be liable to be ignored.

34. Qualification Criteria

- 34.1 Tenders of the tenderers, who do not meet the required Qualification Criteria prescribed in Vol-I of tender document and not meeting the technical specification will be treated as non - responsive and will not be considered further.

35.0 Evaluation of Bids

Process to be Confidential

- 35.1 After the public opening of Bids, information relating to the examination, clarification, evaluation and comparisons of Bids and recommendations concerning the Award of Contract shall not be disclosed to Bidders or other persons not officially concerned with such process.

35.2 Any effort by the Bidder to influence the Consultant in the process of examination, clarification, evaluation and comparison of Bids and decision concerning Award of Contract may result in the rejection of the Bidder's Bid.

36.0 Clarification of Bids

36.1 To assist in the examination, evaluation and comparison of Bids, the Consultant may ask Bidders individually for clarification of their Bids, including breakdowns of unit prices. The request for clarification and the response shall be in writing or cable or telex, but no change in the price or substance of the Bid shall be sought, offered or permitted except as required to confirm the correction or arithmetical errors discovered by the Consultant during the evaluation of the Bids in accordance with Clause 24 hereof.

37.0 Determination of Eligibility & Responsiveness

37.1 The Consultant will determine whether the Bid is substantially responsive to the requirements of the Bid documents.

For the purpose of this Clause, a substantially responsive Bid is one which conforms to all the terms, conditions and specifications of the Bid documents without any deviation or reservation.

37.2 A Bid, which in relation to the cost estimates of the Consultant is unrealistically priced and which cannot be substantiated satisfactorily by the Bidder may be rejected as non responsive.

37.3 Every effort has been taken to put forth general specifications in these bid documents. If inadvertently, any of the specification drawn happens to match with the specifications of any one particular firm's product only, in respect of critical parameters, than it will not automatically mean that this particular firm's offer is only technically suitable. In general, the specifications offered by other firms will be assessed in their own entirety to ascertain whether or not the broad functions in general expected of the requirement are available with reasonable tolerance on the desired requirements of the purchaser and accordingly the offers would be considered based on prudent assessment and sole discretion of the Consultant.

38.0 Correction of Errors

38.1 Bids, determined to be substantially responsive will be checked by the Consultant for any arithmetical errors in computation and summation. Errors will be dealt by the Consultant as follows :

- a) Where there is discrepancy between rates indicated in figures and in words, rates in words will govern.
- b) Incorrectly added totals will be corrected.

- c) In case of any clerical error between rates indicated in figures and words, the rate in words would prevail. In case there is any inconsistency between the rate and the value extended (after multiplication with the tender quantity),The rate quoted shall multiplication with the tender quantity),the rate quoted shall prevail.

38.2 If a Bidder does not accept the correction of errors as outlined above, his Bid will be rejected.

39.0 Evaluation and Comparison of Bids

39.1 Only such of the Bids as have been determined to be substantially responsive to the requirements of the Bid documents, in accordance with Clause 37 will be evaluated. Other non-responsive Bids will be rejected.

39.2 Bidders shall note that no preference of any nature will be given to any Bidder notwithstanding any custom, usage or instructions to the contrary.

39.3 Evaluation of the Bids will take into account, in addition to the Bid amounts, the following factors:

- a) Arithmetical errors corrected in accordance with Clause 38.
- b) Such other factors as the Consultant considers may have a potentially significant impact on Contract execution price and payments.

39.4 Offers, deviations and other factors, which are in excess of the requirements of the Bid documents or otherwise result in the accrual of unsolicited benefits to the Consultant, shall not be taken into account in Bid evaluation.

39.5 Price adjustment provisions applying to the period of execution of the Contract shall not be taken into account in Bid evaluation except to the extent specifically stated in the Contract.

40. Additional Factors and Parameters for Evaluation and Ranking of Responsive Tenders

40.1 Further to GIT Clause 39 above, the purchaser's evaluation of a tender will include and take into account the following:

- i) Bidder should quote prices firm and inclusive of all..

40.2 The purchaser's evaluation of tender will also take into account the additional factors, if any, incorporated in SIT in the manner and to the extent indicated therein.

41. Tenderer's capability to perform the contract

- 41.1 The purchaser, through the above process of tender scrutiny and tender evaluation will determine to its satisfaction whether the tenderer, whose tender has been determined as the lowest evaluated responsive tender is eligible, qualified and capable in all respects to perform the contract satisfactorily.
- 41.2 The above-mentioned determination will, inter alia, take into account the tenderer's financial, technical and production capabilities for satisfying all the requirements of the purchaser as incorporated in the TE document. Such determination will be based upon scrutiny and examination of all relevant data and details submitted by the tenderer in its tender as well as such other allied information as deemed appropriate by the purchaser.

42. Contacting the Purchaser

- 42.1 From the time of submission of tender to the time of awarding the contract, if a tenderer needs to contact the purchaser for any reason relating to this tender enquiry and / or its tender, it should do so only in writing.
- 42.2 In case a tenderer attempts to influence the purchaser in the purchaser's decision on scrutiny, comparison & evaluation of tenders and awarding the contract, the tender of the tenderer shall be liable for rejection in addition to appropriate administrative actions being taken against that tenderer, as deemed fit by the purchaser.

G. AWARD OF CONTRACT

43. Purchaser's Right to accept any tender and to reject any or all tenders

- 43.1 The purchaser reserves the right to accept in part or in full any tender or reject any or more tender(s) without assigning any reason or to cancel the tendering process and reject all tenders at any time prior to award of contract, without incurring any liability, whatsoever to the affected tenderer or tenderers.

44. Award Criteria

- 44.1 Subject to GIT clause 38 above, the contract will be awarded to the lowest evaluated responsive tenderer decided by the purchaser in terms of GIT Clause 36.

45. Variation of Quantities at the Time of Award/ Currency of Contract

- 45.1 At the time of awarding the contract, the purchaser reserves the right to increase or decrease by up to twenty five (25) per cent, the quantity of goods and services mentioned in the schedule (s) in the "Bill of Quantities " (rounded of to next whole number) without any change in the unit price and other terms & conditions quoted by the tenderer.
- 45.2 If the quantity has not been increased at the time of the awarding the contract, the purchaser reserves the right to increase by up to twenty five (25) per cent, the quantity of goods and services mentioned in the contract (rounded of to next whole number) without any change in the unit price and other terms & conditions mentioned in the contract, during the currency of the contract after one year from the Date of Notification of Award.

46. Notification of Award

- 46.1 Before expiry of the tender validity period, the purchaser will notify the successful tenderer(s) in writing, by registered / speed post or by fax/ telex/cable (to be confirmed by registered / speed post) that its tender for goods & services, which have been selected by the

purchaser, has been accepted, also briefly indicating therein the essential details like description, specification and quantity of the goods & services and corresponding prices accepted. The successful tenderer must furnish to the purchaser the required performance security within thirty days from the date of dispatch of this notification, failing which the EMD will be forfeited and the award will be cancelled. Relevant details about the performance security have been provided under GCC Clause 5 .

46.2 The Notification of Award shall constitute the conclusion of the Contract.

47. Signing of Agreement

Upon the receipt of the notification of Award by the successful Bidder, the successful Bidder shall fill the Agreement in accordance with form of Agreement included in the Bid documents and submit the same to the Consultant within two weeks of the date of receipt of notification of Award. The Consultant shall return the draft duly approved within one day from the date of receipt of the draft and the successful Bidder shall get the same engrossed, have the correct amount to stamp duly adjudicated by Superintendent of Stamps and thereafter return the same duly signed and executed on behalf of the successful Bidder, all at his own cost within 3 days from the receipt of the approved draft.

48. Non-receipt of Performance Security and Contract by the Purchaser/Consignee

48.1 Failure of the successful tenderer in providing performance security and / or returning contract copy duly signed in terms of GIT clauses 43 and 44 above shall make the tenderer liable for forfeiture of its EMD and, also, for further actions by the Purchaser/Consignee against it as per the clause 24 of GCC – Termination of default.

49. Return of E M D

49.1 The earnest money of the successful tenderer and the unsuccessful tenderers will be returned to them without any interest, whatsoever, in terms of GIT Clause 15.

50. Publication of Tender Result

50.1 The name and address of the successful tenderer(s) receiving the contract(s) will be mentioned in the notice board/bulletin/web site of the purchaser.

51. Corrupt or Fraudulent Practices

51.1 It is required by all concerned namely the Consignee/Tenderers/Suppliers etc to observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Purchaser: -

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) “corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Purchaser, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Purchaser of the benefits of free and open competition

- (b) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract by the purchaser if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing the contract.

SECTION - III
SPECIAL INSTRUCTIONS TO TENDERERS
(SIT)

Sl. No.	GIT Clause No.	Topic	SIT Provision	Page No.
A	1 to 7	Preamble	No Change	24
B	8 to 10	TE documents	No Change	24
C	11 to 24	Preparation of Tenders	No Change	24
D	25 to 27	Submission of Tenders	No Change	24
E	28	Tender Opening	No Change	24
F	29 to 42	Scrutiny and Evaluation of Tenders	No Change	24
G	43 to 51	Award of Contract	No Change	24

**SPECIAL INSTRUCTIONS TO TENDERERS
(SIT)**

The following Special Instructions to Tenderers will apply for this purchase. These special instructions will modify/substitute/supplement the corresponding General Instructions to Tenderers (GIT) incorporated in Section II. The corresponding GIT clause numbers have also been indicated in the text below:

In case of any conflict between the provision in the GIT and that in the SIT, the provision contained in the SIT shall prevail.

- A Preamble**
No Change

- B TE documents**
No Change

- C Preparation of Tenders**
No Change

- D Submission of Tenders**
No Change

- E Tender Opening**
No Change

- F Scrutiny and Evaluation of Tenders**
No Change

- G Award of Contract**
No Change

SECTION - IV
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GENERAL CONDITIONS OF CONTRACT (GCC)

1. Application

- 1.1 The General Conditions of Contract incorporated in this section shall be applicable for this purchase to the extent the same are superseded by the Special Conditions of Contract.

2. Use of contract documents and information

- 2.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract or any provision thereof including any specification, drawing, sample or any information furnished by or on behalf of the purchaser in connection therewith, to any person other than the person(s) employed by the supplier in the performance of the contract emanating from this TE document. Further, any such disclosure to any such employed person shall be made in confidence and only so far as necessary for the purposes of such performance for this contract.
- 2.2 Further, the supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC sub-clause 2.1 above except for the sole purpose of performing this contract.
- 2.3 Except the contract issued to the supplier, each and every other document mentioned in GCC sub-clause 2.1 above shall remain the property of the purchaser and, if advised by the purchaser, all copies of all such documents shall be returned to the purchaser on completion of the supplier's performance and obligations under this contract.

3. Patent Rights

- 3.1 The supplier shall, at all times, indemnify and keep indemnified the purchaser, free of cost, against all claims which may arise in respect of goods & services to be provided by the supplier under the contract for infringement of any intellectual property rights or any other right protected by patent, registration of designs or trademarks. In the event of any such claim in respect of alleged breach of patent, registered designs, trade marks etc. being made against the purchaser, the purchaser shall notify the supplier of the same and the supplier shall, at his own expenses take care of the same for settlement without any liability to the purchaser.

4. Country of Origin

- 4.1 All goods and services to be supplied and provided for the contract shall have the origin in India or in the countries with which the Government of India has trade relations.
- 4.2 The word "origin" incorporated in this clause means the place from where the goods are mined, cultivated, grown, manufactured, produced or processed or from where the services are arranged.
- 4.3 The country of origin may be specified.

5. Performance Security

- 5.1 Within thirty (30) days from date of the issue of notification of award by the Purchaser/Consignee, the supplier, shall furnish performance security to the Purchaser/Consignee for an amount equal to ten percent (10%) of the total value of the contract, valid up to sixty (60) days after the date of completion of all contractual obligations by the supplier, including the warranty obligations, initially valid for a period of minimum 30 months from the date of Notification of Award.

- 5.2 The Performance security shall be denominated in Indian Rupees as detailed below:
- a) It shall be in any one of the forms namely Account Payee Demand Draft or Fixed Deposit Receipt drawn from any Scheduled bank in India or Bank Guarantee issued by a Scheduled bank in India, in the prescribed form as provided in Annexure- B of this document in favour of the Purchaser/Consignee. The validity of the Fixed Deposit receipt or Bank Guarantee will be for a period up to sixty (60) days beyond Warranty Period.
- 5.3 In the event of any failure /default of the supplier with or with out any quantifiable loss to the government including furnishing of consignee wise Bank Guarantee for CMC security, the amount of the performance security is liable to be forfeited. The Administration Department may do the needful to cover any failure/default of the supplier with or without any quantifiable loss to the Government.
- 5.4 In the event of any amendment issued to the contract, the supplier shall, within twenty-one (21) days of issue of the amendment, furnish the corresponding amendment to the Performance Security (as necessary), rendering the same valid in all respects in terms of the contract, as amended.
- 5.5 The supplier shall enter into Annual Comprehensive Maintenance Contract with respective consignees, 3 (three) months prior to the completion of Warranty Period. The CMC will commence from the date of expiry of the Warranty Period.
- 5.6 Subject to GCC sub – clause 5.3 above, the Purchaser/Consignee will release the Performance Security without any interest to the supplier on completion of the supplier's all contractual obligations including the warranty obligations & after receipt of Consignee wise bank guarantee for CMC security in favour of Head of the Hospital/ Institute/ Medical College of the consignee as per the format.

6. Technical Specifications and Standards

- 6.1 The Goods & Services to be provided by the supplier under this contract shall conform to the technical specifications and quality control parameters mentioned in 'Technical Specification' (Vol-III) of tender document.

7. Packing and Marking

- 7.1 The packing for the goods to be provided by the supplier should be strong and durable enough to withstand, without limitation, the entire journey during transit including transhipment (if any), rough handling, open storage etc. without any damage, deterioration etc. As and if necessary, the size, weights and volumes of the packing cases shall also take into consideration, the remoteness of the final destination of the goods and availability or otherwise of transport and handling facilities at all points during transit up to final destination as per the contract.
- 7.2 The quality of packing, the manner of marking within & outside the packages and provision of accompanying documentation shall strictly comply with the requirements as per Technical Specifications and Quality Control Requirements. In case the packing requirements are amended due to issue of any amendment to the contract, the same shall also be taken care of by the supplier accordingly.
- 7.3 Packing instructions:

Unless otherwise mentioned in the Technical Specification and Quality Control Requirements , the supplier shall make separate packages for each consignee (in case there is more than one

consignee mentioned in the contract) and mark each package on three sides with the following with indelible paint of proper quality:

- a. contract number and date
- b. brief description of goods including quantity
- c. packing list reference number
- d. country of origin of goods
- e. consignee's name and full address and
- f. supplier's name and address

8. Inspection, Testing and Quality Control

- 8.1 The purchaser and/or its nominated representative(s) will, without any extra cost to the purchaser, inspect and/or test the ordered goods and the related services to confirm their conformity to the contract specifications and other quality control details incorporated in the contract. The purchaser shall inform the supplier in advance, in writing, the purchaser's programme for such inspection and, also the identity of the officials to be deputed for this purpose. The cost towards the transportation, boarding & lodging will be borne by the purchaser and/or its nominated representative(s).
- 8.2 The Technical Specification and Quality Control Requirements incorporated in the contract shall specify what inspections and tests are to be carried out and, also, where and how they are to be conducted. If such inspections and tests are conducted in the premises of the supplier or its subcontractor(s), all reasonable facilities and assistance, including access to relevant drawings, design details and production data, shall be furnished by the supplier to the purchaser's inspector at no charge to the purchaser.
- 8.3 If during such inspections and tests the contracted goods fail to conform to the required specifications and standards, the purchaser's inspector may reject them and the supplier shall either replace the rejected goods or make all alterations necessary to meet the specifications and standards, as required, free of cost to the purchaser and resubmit the same to the purchaser's inspector for conducting the inspections and tests again.
- 8.4 In case the contract stipulates pre-despatch inspection of the ordered goods at supplier's premises, the supplier shall put up the goods for such inspection to the purchaser's inspector well ahead of the contractual delivery period, so that the purchaser's inspector is able to complete the inspection within the contractual delivery period.
- 8.5 If the supplier tenders the goods to the purchaser's inspector for inspection at the last moment without providing reasonable time to the inspector for completing the inspection within the contractual delivery period, the inspector may carry out the inspection and complete the formality beyond the contractual delivery period at the risk and expense of the supplier. The fact that the goods have been inspected after the contractual delivery period will not have the effect of keeping the contract alive and this will be without any prejudice to the legal rights and remedies available to the purchaser under the terms & conditions of the contract.
- 8.6 The purchaser's/consignee's contractual right to inspect, test and, if necessary, reject the goods after the goods' arrival at the final destination shall have no bearing of the fact that the goods have previously been inspected and cleared by purchaser's inspector during pre-despatch inspection mentioned above.
- 8.7 Goods accepted by the purchaser/consignee and/or its inspector at initial inspection and in final inspection in terms of the contract shall in no way dilute purchaser's/consignee's right to reject the same later, if found deficient in terms of the warranty clause of the contract, as incorporated under GCC Clause 15.
- 8.8 Principal/ Foreign supplier shall also have the equipment inspected by recognised/ reputed agency like SGS, Lloyd or equivalent (acceptable to the purchaser) prior to despatch at the supplier's cost and furnish necessary certificate from the said agency in support of their claim.

9. Terms of Delivery

- 9.1 Goods shall be delivered by the supplier in accordance with the terms of delivery and as per the delivery period specified in the schedule of requirement. Please note that the time shall be the essence of the contract.

10. Transportation of Goods

- 10.1 Instructions for transportation of imported goods offered from abroad:

The supplier shall not arrange part-shipments and/or transshipment without the express/prior written consent of the purchaser. The supplier is required under the contract to deliver the goods under CIP (Named place of destination ie. Consinee AIIA, Sarita Vihar) terms; the shipment shall be made by Indian flag vessel or by vessels belonging to the conference lines in which India is a member country through India's forwarding agents/coordinators. In case the forwarding agent/coordinators are unable to provide timely adequate space in Indian flag vessel or by vessels belonging to the conference lines, the supplier shall arrange shipment through any available vessel to adhere to the delivery schedule given in the contract.

In case of airlifting of imported goods offered from abroad, the same will be done only through the National Carrier i.e. Air India wherever applicable. In case the National Carrier is not available, any other airlines available for early delivery may be arranged.

- 10.2 Instructions for transportation of domestic goods including goods already imported by the supplier under its own arrangement:

In case no instruction is provided in this regard in the SCC, the supplier will arrange transportation of the ordered goods as per its own procedure.

11. Insurance:

- 11.1 Unless otherwise instructed in the SCC, the supplier shall make arrangements for insuring the goods against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the following manner:

- i) in case of supply of domestic goods on Consignee site basis, the supplier shall be responsible till the entire stores contracted for arrival in good condition at destination. The transit risk in this respect shall be covered by the Supplier by getting the stores duly insured. The insurance cover shall be obtained by the Supplier and should be valid till 3 months after the receipt of goods by the Consignee.
- ii) in case of supply of the imported goods on CIP Named place of Destination Basis (Consignee), the additional extended Insurance (local transportation and storage) would be borne by the Supplier from the port of entry to the consignee site for a period including 3 months beyond date of delivery.

If the equipment is not commissioned and handed over to the consignee within 3 months, the insurance will be got extended by the supplier at their cost till the successful installation, testing, commissioning and handing over of the goods to the consignee. In case the delay in the installation and commissioning is due to handing over of the site to the supplier by the consignee, such extensions of the insurance will still be done by the supplier, but the insurance extension charges at actuals will be reimbursed.

12. Spare parts

- 12.1 If specified in the List of Requirements and in the resultant contract, the supplier shall supply/provide any or all of the following materials, information etc. pertaining to spare parts manufactured and/or supplied by the supplier:
- a) The spare parts as selected by the Purchaser/Consignee to be purchased from the supplier, subject to the condition that such purchase of the spare parts shall not relieve the supplier of any contractual obligation including warranty obligations; and
 - b) In case the production of the spare parts is discontinued:
 - i) Sufficient advance notice to the Purchaser/Consignee before such discontinuation to provide adequate time to the purchaser to purchase the required spare parts etc., and
 - ii) Immediately following such discontinuation, providing the Purchaser/Consignee, free of cost, the designs, drawings, layouts and specifications of the spare parts, as and if requested by the Purchaser/Consignee.
- 12.2 Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the goods so that the same are used during warranty and CMC period.

13. Incidental services

- 13.1 Subject to the stipulation, if any, in the SCC (Vol-II), Bill of Quantities (BOQ) (Vol-IV) and the Technical Specification (Vol-III), the supplier shall be required to perform the following services.
- i) Installation & commissioning, Supervision and Demonstration of the goods
 - ii) Providing required jigs and tools for assembly, minor civil works required for the completion of the installation.
 - iii) Training of Consignee's Doctors, Staff, operators etc. for operating and maintaining the goods
 - iv) Supplying required number of operation & maintenance manual for the goods

14. Distribution of Dispatch Documents for Clearance/Receipt of Goods

The supplier shall send all the relevant despatch documents well in time to the Purchaser/Consignee to enable the Purchaser/Consignee clear or receive (as the case may be) the goods in terms of the contract.

Unless otherwise specified in the SCC, the usual documents involved and the drill to be followed in general for this purpose are as follows.

- A) For Domestic Goods, including goods already imported by the supplier under its own arrangement

Within 24 hours of despatch, the supplier shall notify the purchaser, consignee, and others concerned if mentioned in the contract, the complete details of despatch and also supply the following documents to them by registered post / speed post (or as instructed in the contract):

- (i) Four copies of supplier's invoice showing contract number, goods description, quantity, unit price and total amount;
- (ii) Delivery Documents
- (iii) Two copies of packing list identifying contents of each package;
- (iv) Inspection certificate issued by the nominated Inspection agency, if any.
- (v) Certificate of origin;
- (vi) Insurance Certificate as per GCC Clause 11.

- (vii) Manufacturers/Supplier's warranty certificate & In-house inspection certificate, third party certificates etc.

B) For goods imported from abroad

Within 24 hours of despatch, the supplier shall notify the purchaser, consignee, and others concerned if mentioned in the contract, the complete details of despatch and also supply the following documents to them by registered post / speed post (or as instructed in the contract). Any delay or demurrage occurred during the customs clearance on account of the non-availability of technical support/ clarifications /documents from the supplier shall be borne by the supplier:

- (i) Four copies of supplier's invoice showing contract number, goods description, quantity, unit price and total amount;
- (ii) Original and four copies of the negotiable clean, on-board Bill of Lading/Airway bill, marked freight pre paid and four copies of non-negotiable Bill of Lading/Airway bill;
- (iii) Four Copies of packing list identifying contents of each package;
- (iv) Insurance Certificate as per GCC Clause 11.
- (v) Manufacturer's/Supplier's warranty certificate;
- (vi) Inspection Certificate for the despatched equipments issued by recognized/ reputed agency like SGS, Lloyd or equivalent (acceptable to the purchaser) prior to despatch
- (vii) Manufacturer's own factory inspection report;
- (viii) Certificate of origin
- (ix) Port of Loading;
- (x) Port of Discharge and
- (xi) Expected date of arrival.

15. Warranty

- 15.1 The supplier warrants comprehensively that the goods supplied under the contract is new, unused and incorporate all recent improvements in design and materials unless prescribed otherwise by the purchaser in the contract. The supplier further warrants that the goods supplied under the contract shall have no defect arising from design, materials (*except when the design adopted and / or the material used are as per the Purchaser's/Consignee's specifications*) or workmanship or from any act or omission of the supplier, that may develop under normal use of the supplied goods under the conditions prevailing in India.
- 15.2 The **warranty/Defect Liability Period** shall remain valid for **24 months** or the period as mentioned in the Bill of Quantities list of requirement/ General Technical specification, after the goods or any portion thereof as the case may be, have been delivered, installed and commissioned at the final destination and accepted by the purchaser / consignee (s) in terms of the contract, unless specified otherwise in the SCC
- a. No conditional warranty like mishandling, manufacturing defects etc. will be acceptable.
 - b. Warranty as well as Comprehensive Maintenance contract will be inclusive of all accessories and Turnkey work
 - c. Replacement and repair will be under taken for the defective goods.
 - d. Proper marking has to be made for all spares for identification like printing of installation and repair dates.
- 15.3 In case of any claim arising out of this warranty, the Purchaser/Consignee shall promptly notify the same in writing to the supplier. The period of the warranty will be as per G.C.C clause number 15.2 above irrespective of any other period mentioned elsewhere in the bidding documents.
- 15.4 Upon receipt of such notice, the supplier shall, within 8 hours on a 24(hrs) X 7 (days) X 365 (days) basis respond to take action to repair or replace the defective goods or parts thereof, free

of cost, at the ultimate destination. The supplier shall take over the replaced parts/goods after providing their replacements and no claim, whatsoever shall lie on the purchaser for such replaced parts/goods thereafter. The penalty clause for non rectification will be applicable as per tender conditions

- 15.5 In the event of any rectification of a defect or replacement of any defective goods during the warranty period, the warranty for the rectified/replaced goods shall be extended to a further period of twenty four (24) months from the date such rectified / replaced goods starts functioning to the satisfaction of the purchaser.
- 15.6 If the supplier, having been notified, fails to respond to take action to repair or replace the defect(s) within 8 hours on a 24(hrs) X 7 (days) X 365 (days) basis, the purchaser may proceed to take such remedial action(s) as deemed fit by the purchaser, at the risk and expense of the supplier and without prejudice to other contractual rights and remedies, which the purchaser may have against the supplier.
- 15.7 During Warranty period, the supplier is required to visit at each consignee's site at least once in 6 months commencing from the date of the installation for preventive maintenance of the goods
- 15.8 The Purchaser/Consignee reserve the rights to enter into Annual Comprehensive Maintenance Contract between Consignee and the Supplier for the period as mentioned in Section VII, Technical Specifications after the completion of warranty period.
- 15.9 The supplier along with its Indian Agent and the CMC provider shall ensure continued supply of the spare parts for the machines and equipments supplied by them to the purchaser for 10 years from the date of installation and handing over.
- 15.10 The Supplier along with its Indian Agent and the CMC Provider shall always accord most favoured client status to the Purchaser vis-à-vis its other Clients/Purchasers of its equipments/machines/goods etc. and shall always give the most competitive price for its machines/equipments supplied to the Purchaser/Consignee.

16. Assignment

- 16.1 The Supplier shall not assign, either in whole or in part, its contractual duties, responsibilities and obligations to perform the contract, except with the Purchaser's prior written permission.

17. Sub Contracts

- 17.1 The Supplier shall notify the Purchaser in writing of all sub contracts awarded under the contract if not already specified in its tender. Such notification, in its original tender or later, shall not relieve the Supplier from any of its liability or obligation under the terms and conditions of the contract.
- 17.2 Sub contract shall be only for bought out items and sub-assemblies.
- 17.3 Sub contracts shall also comply with the provisions of GCC Clause 4 ("Country of Origin").

18. Modification of contract

- 18.1 If necessary, the purchaser may, by a written order given to the supplier at any time during the currency of the contract, amend the contract by making alterations and modifications within the general scope of contract in any one or more of the following:
 - a) Specifications, drawings, designs etc. where goods to be supplied under the contract are to be specially manufactured for the purchaser,
 - b) Mode of packing,
 - c) Incidental services to be provided by the supplier
 - d) Mode of despatch,
 - e) Place of delivery, and
 - f) Any other area(s) of the contract, as felt necessary by the purchaser depending on the merits of the case.

18.2 In the event of any such modification/alteration causing increase or decrease in the cost of goods and services to be supplied and provided, or in the time required by the supplier to perform any obligation under the contract, an equitable adjustment shall be made in the contract price and/or contract delivery schedule, as the case may be, and the contract amended accordingly. If the supplier doesn't agree to the adjustment made by the Purchaser/Consignee, the supplier shall convey its views to the Purchaser/Consignee within twenty-one days from the date of the supplier's receipt of the Purchaser's/Consignee's amendment / modification of the contract.

19. Prices

19.1 Prices to be charged by the supplier for supply of goods and provision of services in terms of the contract shall not vary from the corresponding prices quoted by the supplier in its tender and incorporated in the contract except for any price adjustment authorised in the SCC.

20. Taxes and Duties

20.1 Supplier shall be entirely responsible for all taxes, duties, fees, levies etc. incurred until delivery of the contracted goods to the purchaser.

20.2 Further instruction, if any, shall be as provided in the SCC.

21. Terms and Mode of Payment

21.1 Payment Terms

Payment shall be made subject to recoveries, if any, by way of liquidated damages or any other charges as per terms & conditions of contract in the following manner.

For purposes of estimating the contract value of works executed for certificate of payment, the following norms shall be followed:

- 1) 65 % of the BOQ rates shall be paid on receipt of equipment/materials at site and after inspection and verification of equipment/materials and their respective documents including internal factory final inspection-cum quality report, third party inspection report etc. on pro-rata basis.
- 2) 25% of BOQ rates shall be paid on satisfactory erection, installation and commissioning of entire system and successful completion of running tests and removal of all defects if arises during running and operation of the system at site and take over by Employer (AIIA Sarita Vihar).
- 3) 10 % of BOQ rates shall be paid on completion of 30 days trial run from date of takeover by the Employer (AIIA, Sarita Vihar).

A) Payment for Domestic Goods Or Foreign Origin .

Payment shall be made in Indian Rupees as specified in the contract in the following manner:

a) On delivery:

65 % payment of the contract price shall be paid on receipt of goods in good condition and upon the submission of the following documents:

- (i) Four copies of supplier's invoice showing contract number, goods description, quantity, unit price and total amount;
- (ii) Proof of Delivery and receipt.
- (iii) Two copies of packing list identifying contents of each package;
- (iv) Inspection certificate issued by the nominated Inspection agency, if any.

- (v) Insurance Certificate as per GCC Clause 11 and documents also to be submitted confirming that dispatch documents and Air Way Bill/Bill of Lading in case of imported goods and confirmation that goods has already been sent to all concerned as per the contract.
- (vi) Certificate of origin.

b) On Acceptance:

25% of BOQ rates shall be paid on satisfactory erection, installation and commissioning of entire system and successful completion of running tests and removal of all defects if arises during running and operation of the system at site and take over by Employer (AIIA Sarita Vihar).

Final 10 % of BOQ rates shall be paid on completion of 30 days trial run from date of takeover by the Employer (AIIA, Sarita Vihar).

B) Payment of Turnkey, if any:

Turnkey payment will be made as indicated in the relevant Price Bid (Vol-IV) and shall not be subject to further escalation / exchange variation.

C) Payment for Annual Comprehensive Maintenance Contract Charges:

The consignee will enter into CMC with the supplier at the rates as stipulated in the contract. The payment of CMC will be made on six monthly basis after satisfactory completion of said period, duly certified by the consignee on receipt of bank guarantee for an amount equivalent to 2.5 % of the cost of the equipment as per contract in the prescribed format valid till 2 months after expiry of entire CMC period.

- 21.2 The supplier shall not claim any interest on payments under the contract.
- 21.3 Where there is a statutory requirement for tax deduction at source, such deduction towards income tax and other tax as applicable will be made from the bills payable to the Supplier at rates as notified from time to time.
- 21.4 The payment shall be made in the Indian Rupees.
- 21.5 The supplier shall send its claim for payment in writing, when contractually due, along with relevant documents etc., duly signed with date, to respective consignees.
- 21.6 While claiming payment, the supplier is also to certify in the bill that the payment being claimed is strictly in terms of the contract and all the obligations on the part of the supplier for claiming that payment has been fulfilled as required under the contract.
- 21.7 While claiming reimbursement of duties, taxes etc. (like sales tax, excise duty, custom duty) from the Purchaser/Consignee, as and if permitted under the contract, the supplier shall also certify that, in case it gets any refund out of such taxes and duties from the concerned authorities at a later date, it (the supplier) shall refund to the Purchaser/Consignee forthwith.
- 21.8 In case where the supplier is not in a position to submit its bill for the balance payment for want of receipted copies of Inspection Note from the consignee and the consignee has not complained about the non-receipt, shortage, or defects in the supplies made, balance amount will be paid by the paying authority without consignee's receipt certificate after three months from the date of the preceding part payment for the goods in question, subject to the following conditions:
 - (a) The supplier will make good any defect or deficiency that the consignee (s) may report within six months from the date of despatch of goods.
 - (b) Delay in supplies, if any, has been regularized.
 - (c) The contract price where it is subject to variation has been finalized.
 - (d) The supplier furnishes the following undertakings:

“I/We, _____ certify that I/We have not received back the Inspection Note duly receipted by the consignee or any communication from the purchaser or the consignee about non-receipt, shortage or defects in the goods supplied. I/We _____ agree to make good any defect or deficiency that the consignee may report within three months from the date of receipt of this balance payment.

22. Delivery

- 22.1 The supplier shall deliver of the goods and perform the services under the contract within the time schedule specified by the Purchaser/Consignee in the Bill of Quantities and as incorporated in the contract. The time for and the date of delivery of the goods stipulated in the schedule shall be deemed to be of the essence of the contract and the delivery must be completed not later than the date (s) as specified in the contract.
- 22.2 Subject to the provision under GCC clause 26, any unexcused delay by the supplier in maintaining its contractual obligations towards delivery of goods and performance of services shall render the supplier liable to any or all of the following sanctions:
- (i) imposition of liquidated damages,
 - (ii) forfeiture of its performance security and
 - (iii) termination of the contract for default.
- 22.3 If at any time during the currency of the contract, the supplier encounters conditions hindering timely delivery of the goods and performance of services, the supplier shall promptly inform the Purchaser/Consignee in writing about the same and its likely duration and make a request to the Purchaser/Consignee for extension of the delivery schedule accordingly. On receiving the supplier's communication, the Purchaser/Consignee shall examine the situation as soon as possible and, at its discretion, may agree to extend the delivery schedule, with or without liquidated damages for completion of supplier's contractual obligations by issuing an amendment to the contract.
- 22.4 When the period of delivery is extended due to unexcused delay by the supplier, the amendment letter extending the delivery period shall, inter alia contain the following conditions:
- (a) The Purchaser/Consignee shall recover from the supplier, under the provisions of the clause 23 of the General Conditions of Contract, liquidated damages on the goods and services, which the Supplier has failed to deliver within the delivery period stipulated in the contract.
 - (b) That no increase in price on account of any ground, whatsoever, including any stipulation in the contract for increase in price on any other ground and, also including statutory increase in or fresh imposition of customs duty, excise duty, sales tax/ VAT, Service Tax and Works Contract Tax or on account of any other tax or duty which may be levied in respect of the goods and services specified in the contract, which takes place after the date of delivery stipulated in the contract shall be admissible on such of the said goods and services as are delivered and performed after the date of the delivery stipulated in the contract.
 - (c) But nevertheless, the Purchaser/Consignee shall be entitled to the benefit of any decrease in price on account of reduction in or remission of customs duty, excise duty, sales tax/ VAT, Service Tax and Works Contract Tax or any other duty or tax or levy or on account of any other grounds, which takes place after the expiry of the date of delivery stipulated in the contract.
- 22.5 The supplier shall not dispatch the goods after expiry of the delivery period. The supplier is required to apply to the Purchaser/Consignee for extension of delivery period and obtain the same before despatch. In case the supplier dispatches the goods without obtaining an extension,

it would be doing so at its own risk and no claim for payment for such supply and / or any other expense related to such supply shall lie against the purchaser.

22.6 Passing of Property

22.6.1 The Property in the goods shall not pass to the purchaser unless and until the goods have been delivered to the consignee in accordance with the conditions of the contract.

22.6.2 Where there is a contract for sale of specific goods and the supplier is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing is done.

22.6.3 Unless otherwise agreed, the goods remain at the supplier's risk until the property therein is transferred to the purchaser.

23. Liquidated damages

23.1 Subject to GCC clause 26, if the supplier fails to deliver any or all of the goods or fails to perform the services within the time frame(s) incorporated in the contract, the Purchaser/Consignee shall, without prejudice to other rights and remedies available to the Purchaser/Consignee under the contract, deduct from the contract price, as liquidated damages, a sum equivalent to 0.5% per week of delay or part thereof on delayed supply of goods and/or services until actual delivery or performance subject to a maximum of 10% of the contract price. Once the maximum is reached Purchaser/Consignee may consider termination of the contract as per GCC 24.

During the above-mentioned delayed period of supply and / or performance, the conditions incorporated under GCC sub-clause 22.4 above shall also apply.

24. Termination for default

24.1 The Purchaser/Consignee, without prejudice to any other contractual rights and remedies available to it (the Purchaser/Consignee), may, by written notice of default sent to the supplier, terminate the contract in whole or in part, if the supplier fails to deliver any or all of the goods or fails to perform any other contractual obligation(s) within the time period specified in the contract, or within any extension thereof granted by the Purchaser/Consignee pursuant to GCC sub-clauses 22.3 and 22.4.

24.2 In the event of the Purchaser/Consignee terminates the contract in whole or in part, pursuant to GCC sub-clause 24.1 above, the Purchaser/Consignee may procure goods and/or services similar to those cancelled, with such terms and conditions and in such manner as it deems fit and the supplier shall be liable to the Purchaser/Consignee for the extra expenditure, if any, incurred by the Purchaser/Consignee for arranging such procurement.

24.3 Unless otherwise instructed by the Purchaser/Consignee, the supplier shall continue to perform the contract to the extent not terminated.

25. Termination for insolvency

25.1 If the supplier becomes bankrupt or otherwise insolvent, the purchaser reserves the right to terminate the contract at any time, by serving written notice to the supplier without any compensation, whatsoever, to the supplier, subject to further condition that such termination will not prejudice or affect the rights and remedies which have accrued and / or will accrue thereafter to the Purchaser/Consignee.

26. Force Majeure

- 26.1 Notwithstanding the provisions contained in GCC clauses 22, 23 and 24, the supplier shall not be liable for imposition of any such sanction so long the delay and/or failure of the supplier in fulfilling its obligations under the contract is the result of an event of Force Majeure.
- 26.2 For purposes of this clause, Force Majeure means an event beyond the control of the supplier and not involving the supplier's fault or negligence and which is not foreseeable and not brought about at the instance of , the party claiming to be affected by such event and which has caused the non – performance or delay in performance. Such events may include, but are not restricted to, acts of the Purchaser/Consignee either in its sovereign or contractual capacity, wars or revolutions, hostility, acts of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes excluding by its employees , lockouts excluding by its management, and freight embargoes.
- 26.3 If a Force Majeure situation arises, the supplier shall promptly notify the Purchaser/Consignee in writing of such conditions and the cause thereof within twenty one days of occurrence of such event. Unless otherwise directed by the Purchaser/Consignee in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 26.4 If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period exceeding sixty days, either party may at its option terminate the contract without any financial repercussion on either side.
- 26.5 In case due to a Force Majeure event the Purchaser/Consignee is unable to fulfil its contractual commitment and responsibility, the Purchaser/Consignee will notify the supplier accordingly and subsequent actions taken on similar lines described in above sub-paragraphs.

27. Termination for convenience

- 27.1 The Purchaser/Consignee reserves the right to terminate the contract, in whole or in part for its (Purchaser's/Consignee 's) convenience, by serving written notice on the supplier at any time during the currency of the contract. The notice shall specify that the termination is for the convenience of the Purchaser/Consignee. The notice shall also indicate interalia, the extent to which the supplier's performance under the contract is terminated, and the date with effect from which such termination will become effective.
- 27.2 The goods and services which are complete and ready in terms of the contract for delivery and performance within thirty days after the supplier's receipt of the notice of termination shall be accepted by the Purchaser/Consignee following the contract terms, conditions and prices. For the remaining goods and services, the Purchaser/Consignee may decide:
- a) To get any portion of the balance completed and delivered at the contract terms, conditions and prices; and / or
 - b) To cancel the remaining portion of the goods and services and compensate the supplier by paying an agreed amount for the cost incurred by the supplier towards the remaining portion of the goods and services.

28. Governing language

- 28.1 The contract shall be written in English language following the provision as contained in GIT clause 4. All correspondence and other documents pertaining to the contract, which the parties exchange, shall also be written accordingly in that language.

29. Notices

- 29.1 Notice, if any, relating to the contract given by one party to the other, shall be sent in writing or by cable or telex or facsimile and confirmed in writing. The procedure will also provide the

sender of the notice, the proof of receipt of the notice by the receiver. The addresses of the parties for exchanging such notices will be the addresses as incorporated in the contract.

29.2 The effective date of a notice shall be either the date when delivered to the recipient or the effective date specifically mentioned in the notice, whichever is later.

30. Resolution of disputes

30.1 If dispute or difference of any kind shall arise between the Purchaser/Consignee and the supplier in connection with or relating to the contract, the parties shall make every effort to resolve the same amicably by mutual consultations.

30.2 If the parties fail to resolve their dispute or difference by such mutual consultation within twenty-one days of its occurrence, then, unless otherwise provided in the SCC, either the Purchaser/Consignee or the supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided the applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 of India. In the case of a dispute or difference arising between the Purchaser/Consignee and a domestic Supplier relating to any matter arising out of or connected with the contract, such dispute or difference shall be referred to the sole arbitration of an officer in the Ministry of Law and Justice, appointed to be the arbitrator by the Director General (Health Services). The award of the arbitrator shall be final and binding on the parties to the contract subject to the provision that the Arbitrator shall give reasoned award in case the value of claim in reference exceeds Rupees One lakhs (Rs. 1,00,000/-)

30.3 Venue of Arbitration: The venue of arbitration shall be the place from where the contract has been issued, i.e., New Delhi, India.

30.4 Jurisdiction of the court will be from the place where the tender enquiry document has been issued, i.e., New Delhi, India.

31. Applicable Law

The contract shall be governed by and interpreted in accordance with the laws of India for the time being in force.

32. Withholding and Lien in respect of sums claimed

Whenever any claim for payment arises under the contract against the supplier the purchaser shall be entitled to withhold and also have a lien to retain such sum from the security deposit or sum of money arising out of under any other contract made by the supplier with the purchaser, pending finalization or adjudication of any such claim.

It is an agreed term of the contract that the sum of money so withheld or retained under the lien referred to above, by the purchaser, will be kept withheld or retained till the claim arising about of or under the contract is determined by the Arbitrator or by the competent court as the case may be, and the supplier will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention.

32. General/ Miscellaneous Clauses

32.1 Nothing contained in this Contract shall be constructed as establishing or creating between the parties, i.e. the Supplier/its Indian Agent/CMC Provider on the one side and the Purchaser on the other side, a relationship of master and servant or principal and agent.

32.2 Any failure on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.

32.3 The Supplier shall notify the Purchaser/Consignee /the Government of India of any material change would impact on performance of its obligations under this Contract.

- 32.4 Each member/constituent of the Supplier/its Indian Agent/CMC Provider, in case of consortium shall be **jointly and severally liable** to and responsible for all obligations towards the Purchaser/Consignee/Government for performance of contract/services including that of its Associates/Sub Contractors under the Contract.
- 32.5 The Supplier/its Indian Agent/CMC Provider shall at all times, indemnify and keep indemnified the Purchaser/Government of India against all claims/damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under CMC or the Contract.
- 32.6 The Supplier/its Agent/CMC Provider shall, at all times, indemnify and keep indemnified the Purchaser/Consignee/Government of India against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its employees or agents or by any other third party resulting from or by any action, omission or operation conducted by or on behalf of the supplier/its associate/affiliate etc.
- 32.7 All claims regarding indemnity shall survive the termination or expiry of the contract.

SECTION – V

SPECIAL CONDITIONS OF CONTRACT (SCC)

The following Special Conditions of Contract (SCC) will apply for this purchase. The corresponding clauses of General Conditions of Contract (GCC) relating to the SCC stipulations have also been incorporated below.

These Special Conditions will modify/substitute/supplement the corresponding (GCC) clauses.

Whenever there is any conflict between the provision in the GCC and that in the SCC, the provision contained in the SCC shall prevail.

1.0 General

- 1.1 The following additional specific conditions and specifications shall be read in conjunction with instructions to bidders, General and Specific conditions of Contract. If there are any provisions in these additional specific conditions and specifications which are at variance with the provisions in the above mentioned documents, the provisions in these additional specific conditions and specification shall take precedence.

2.0 Scope of Contract

- 2.1 The Scope of work involves **Supply, installation, testing, commissioning and handing over of MODULAR OPERATION THEATRE for All India Institute of Ayurveda, Sarita Vihar, New Delhi** as detailed in specifications, Bill of Quantities & drawings etc.

3.0 Stores and Materials

- 3.1 The contractor shall provide everything necessary for the proper execution of the work according to the intent and meaning of the drawings, Bill of Quantities and specifications taken together whether the same may or may not be particularly shown or described therein provided that the same can be reasonably inferred therefrom. In case of any discrepancy in the drawings or between the drawings, Bill of Quantities and specifications, the more stringent shall be followed. The decision of the Consultant in this regard will be final and binding upon the contractor.

4.0 Supply of Equipment/materials

Equipment/materials shall be strictly as per the specifications/standards given in the bid documents and approved by the Employer.

4.1 The contractor shall submit manufacturers test certificates of all the equipment supplied.

4.2 The contractor shall submit the original "Excise Paid Certificates", and exit Gate passes form manufacturer's factory/works clearly bearing the batch numbers and date of despatch.

5.0 Working Drawings etc.

5.1 The Contractor shall within 20 days of signing of the contract prepare and submit to the Consultant for approval, 2 sets of detailed working/shop drawings for the systems/ equipment indicating the layout of equipments, fabrication details, foundation details of equipments, electrical drawings, piping layout drawings indicating position/location of valves etc. and other drawings as required for the execution of the works under the contract.

5.2 The shop drawings shall also contain details of construction, size, arrangement, operating clearances, performance characteristics, and capacity of all items of equipment, as also details of all related items of work by other disciplines.

5.3 If the Consultant makes any amendment in the above drawings, the Contractor shall supply two fresh sets of drawings with the amendments duly incorporated, along with the drawings on which corrections were made. After final approval has been obtained from the Consultant, the Contractor shall submit a further six sets of shop drawings for the exclusive use of and retention by the Consultant.

5.4 The shop Drawings shall be submitted for approval sufficiently in advance of planned delivery and installation of any material, to allow Consultant ample time for scrutiny. No claims for extension of time shall be entertained because of any delay in the work due to failure to produce shop drawings in time.

5.5 Approval rendered on shop drawings shall not be considered as a guarantee of measurements or of building conditions. Where drawings are approved, said approval does not mean that drawings have been checked in detail nor does it in any way relieve the Contractor from his responsibility of furnishing materials or performing work and giving the performance of the MODULAR OPERATION THEATRE Equipments at AIIA, Sarita Vihar, New Delhi as required by the Contract.

6.0 Completion Drawings

6.1 Following "AS BUILT" drawings shall be submitted by the contractor on completion of the work.

- a. Installation drawings giving complete details of the entire equipment including foundations.
- b. Electrical drawings showing cable sizes, equipment capacities, control components and control wiring.
- c. Schematic control drawings giving detailed sequence of operation and notes to explain the operation of the control circuit.
- d. Piping drawings showing all pipe sizes, valves and fittings indicating its location.
- e. Any other drawings to be supplied as per instructions of the Consultant.

The Drawings shall be cross checked and approved by the Consultant before acceptance.

7.0 Operation and Service Manuals

- 7.1 The contractor shall submit 3 sets of operation and service manuals in respect of the complete systems/ equipments including salient details of equipments, controls etc.

Following minimum details shall be furnished:

- i) Detailed equipment data as approved by the Consultant.
- ii) Manufacturer's maintenance and operating instruction.
- iii) Approved test readings.

The contractor shall also submit four (4) sets of technical literature on all automatic controls and complete technical literature on all equipment and materials. The contractor shall frame under glass, in the systems/ equipment room all consolidated control diagrams and all piping diagrams.

8.0 Inspection

- 8.1 **The Contractor should get third party certificates from the third party certifier like SGS/TUV. The third party certifier should certify that the MODULAR OPERATION THEATRE inspected meet tender specification in their original letter head.** The Consultant and his representatives shall at all reasonable time have free access to the contractor's premises/works. The contractor shall give every facility to the Consultant and

his Representative and necessary help for inspection and examinations and test of the materials and workmanship.

- 8.2 The Consultant's Representative shall have full powers to inspect drawings of any portion of the work or examine the materials and workmanship of the MODULAR OPERATION THEATRE and their equipments & accessories at the contractor's works or at any other place from where the material or equipment is obtained. Acceptance of any material or equipment shall in no way, relieve the contractor of his responsibility for meeting the requirement of the specifications and giving the performance of the equipments and complete system/ equipments as per the contract.

9.0 Sub - Contracting

The contractor may subcontract the works with the written approval of the Consultant but subcontracting of any works shall not relieve the contractor from the responsibility of supplying the equipments/materials and giving the performance of the MODULAR OPERATION THEATRE Equipments as per the conditions given in the contract and the overall responsibility of the contractor for compliance with the contract terms does not alter by subcontracting.

10.0 Material Submittals

The contractor shall submit material submittals for all equipments, materials and machinery for the written approval of the Consultant before placing orders. The material submittals shall comprise of at least the following :

- a. Manufacturer's technical catalogues and brochures giving technical data about performance and other parameters.
- b. Manufacturers drawings/ sketches showing construction, dimensional and installation details.
- c. Rating charts and performance curves clarifying rating of equipment selected or proposed.

11.0 Samples and Prototypes

The contractor shall submit samples of valves, controls , copper pipes , gas outlets, alarms and/ or any other parts or equipment as required by the Consultant for prior approval in writing before placing the order. The contractor shall also construct prototype or samples of work as laid down in the contract or as instructed by the Consultant. Such samples and prototypes after approval shall be retained by the Consultant and shall serve as the standards to be achieved in final construction.

12.0 Testing and Commissioning

- 12.1 Tests on the equipment as called for in the Specifications shall be carried out by the Contractor in accordance with the specifications, the relevant Standard Specifications and the relevant Indian and International Standards.
- 12.2 The initial tests shall include but not be limited to the following :
- a. To operate and check the proper functioning of all electrically operated components/equipments.
 - b. To operate and check the proper functioning of all electrical panels, switch gears, safety and other controls.
 - c. To check the systems against leaks in different circuits, alignment of motor, Belt adjustments etc.
 - d. To check the vibration and noise levels of the equipment.
 - e. Setting of all control and all such other tests which are essential for smooth functioning of the equipments, system, plant.
 - f. Leakage detection test for the complete pipeline distribution system
 - g. Check the operation and functioning of valves
 - h. Check proper functioning of complete safety system like alarms, interlocking etc.
- 12.3 The Contractor shall pay for and arrange without any extra cost, all necessary balancing and testing equipment, instruments, materials, accessories, power, water, fuel and the requisite labour for testing and commissioning of various equipments and the complete System/ Equipments. Any defects in materials and/or in workmanship detected in the course of testing shall be rectified by the Contractor entirely at his own cost, to the satisfaction of the Consultant. The installation shall be tested again after removal of defects and shall be commissioned only after approval by the Consultant. All tests shall be carried out in the presence of the Consultant or the Consultant's Representative.

13.0 Provisional Taking Over

- 13.1 After completion of the installation of the System / Equipments and associated works the same shall be tested for its performance as per the contract. All adjustments should be made prior to this test so that proper conditions/working are achieved during this testing.

The System/ Equipments shall be provisionally taken over after successful completion of the above tests and the defects liability period shall commence after provisional taking over of the equipments/systems.

14.0 Operation and Maintenance of MODULAR OPERATION THEATRE at AIIA, Sarita Vihar.

14.1 After provisional taking over, the contractor shall provide maintenance services for the complete MODULAR OPERATION THEATRE till the successful completion of Defect Liability Period. The comprehensive maintenance services during this period shall be inclusive of all spares, accessories, manpower, tools and tackle, replacement of parts, routine servicing and maintenance of equipments/system etc. complete in all respect. The consumables like water, electricity etc., during this period shall be arranged and provided by the Employer/Consultant.

14.2 During providing maintenance services, the contractor shall deploy adequate skilled manpower, spare parts and tools and tackles for smooth operation and maintenance of the complete MODULAR OPERATION THEATRE . The Employer/Consultant shall have the right to ask for more manpower or ask for the replacement of existing manpower in case it is found that the operation and maintenance services provided by the contractor is not satisfactory. The decision of Employer/Consultant in this regard shall be final and binding on the contractor.

15. Guarantee and Defects Liability Period

15.1 All the equipments, components and the MODULAR OPERATION THEATRE as a whole shall be guaranteed for its performance and against any manufacturing defect. The defect liability shall be valid for a period of **2 year** (24 months) from the date of satisfactory completion of works and issue of provisional taking over certificate. The contractor shall guarantee that all equipments shall be free from any defect due to the defective materials and bad workmanship or any other cause and that the equipment shall work satisfactorily and that the performance and efficiencies of the equipment shall be not less than the guaranteed values. Any parts found defective during the defect liability period shall be replaced by the contractor at his own expense. The services of the contractor's personnel, if requisitioned during this period for such work, shall be made available free of any cost to the Employer/Consultant. If the defects are not remedied within a reasonable time mentioned in the written notice, the Consultant may proceed to do so at the contractors risk and expenses without prejudice to any other rights. Joint inspection report shall also be deemed as written notice for this purpose.

The contractor shall submit a Guarantee, jointly along with the Original Equipment Manufacturer/s (OEM), that they shall supply all necessary spares

demanded for the routine and emergency maintenance of MODULAR OPERATION THEATRE Equipments for a period of 10 years from the date of issue of provisional taking over certificate. A detailed list of spares will be supplied by the Contractor for the purpose of enabling the Employer/Consultant to decide spares needed for routine and emergency maintenance.

16.0 Measurement of Works

16.1 All works shall be measured in units as specified in the bill of quantities against each item. In case the method of measurement for any item is not clarified in the specifications, the same shall be measured in accordance with the relevant standards/codes.

16.2 The Consultant may from time to time intimate to the contractor that he requires the works to be measured and the contractor shall forthwith attend or send a qualified agent to assist the Consultant or the Consultant's Representative in taking such measurements and calculations and to furnish all particulars or give all assistance required by either of them. Should the contractor not attend or neglect or omit to send such agent, then the measurements of the works, carried out by the Consultant or his Representative shall be taken to be the correct measurements of the works, in accordance with the standard method of measurements, as in prevalent use.

The contractor or his agent may at the time of measurement take such notes and measurements as he may require. The contractor shall submit Running bills supported by detailed measurement sheets.

17.0 Variation in Quantities

17.1 The quantities for ancillary work given in the drawings and/or specifications are for the guidance of the bidder. The contractor shall, however, be paid on the basis of actual quantities of works carried out.

18.0 Performance Guarantee

18.1 The contractor shall submit a performance guarantee certificate that the equipments and the complete System & equipments shall maintain the desired performance and shall also guarantee that the capacity of various components as well as the whole system covered under scope of work, technical schedules and bill of quantities etc. shall not be less than the specified capacities. The guarantee of the specific equipment supplier alone with regard to the performance of the system shall not be acceptable. However, this does not alter the overall responsibility of the contractor for compliance with the contract terms and conditions.

19.0 Painting

19.1 All equipment and ancillary items such as pipes, supports etc., will be painted in approved manner, using standard colour scheme as approved by the Consultant.

20.0 Safe Custody and Storage

20.1 Safe custody of all materials and equipments supplied by the contractor shall be his own responsibility till the final taking over by the Consultant. He should, therefore, employ sufficient staff for watch and ward at his own expenses. The Consultant may, however, allow the contractor to use the manifold room/any other spare able room in site premises for temporary storage of his equipment if such spaces are ready and available.

21.0 Terms of Payment

21.1 As per GCC Clause 21.

22.0 Training of Personnel

The contractor shall arrange to train the Employer's personnel on the following aspects.

- a) Operation and routine maintenance of all equipments and the complete System.
- b) Adjustments of settings for controls and protective devices.
- c) Preventive maintenance.
- d) Disassembling and assembling of equipments including identification and replacement of worn out parts.

23.0 Downtime Penalty

The maintenance services during the period of the defect liability, the contractor shall attend to any problem/ fault arising in is put back to satisfactory operation within 72 Hours. In case of failure by the contractor in restoring proper functioning of the System within 72 Hours from the date of intimation, a downtime penalty shall be paid by the contractor @ Rs 10,000(Rs Ten Thousand) per day for a period of 4 days after 72 hours; and @ Rs 20,000(Rs Twenty Thousand) per day thereafter.

- 23.0 Comprehensive Maintenance Contract (CMC)**
- 23.1 **The bidder must quote cost of CMC for 3 years after completion of 2 Years defect liability period in the Price Bid and the rate will be added with the total cost of MODULAR OPERATION THEATRE System for evaluation and ranking purpose.**
- 23.2 **The bidder should quote cost of CMC for 3 Years after DLP in the Price Bid and the rate of CMC will be added for evaluation and ranking purpose.**
- 24.4 **Comprehensive Maintenance contract (CMC):**
(AIIA, Sarita Vihar reserves the right for contract, placement of order and necessary payment.)
- 24.5 The purchaser / consignee reserve the rights to enter into Annual Comprehensive Maintenance Contract between Consignee and the Supplier for the period as required after the completion of Defect liability period.
- 24.6 The supplier along with its Indian Agent and the CMC provider shall ensure continued supply of the spare parts for the machines and equipments supplied by them to the purchaser for 5 years after the expiry of two years defect liability period
- 24.7 The Contractor shall provide comprehensive maintenance services for the **MODULAR OPERATION THEATRE for a period of Thirty Sixty (36) Months after completion of defect liability period** as detailed below:
- a. For the MODULAR OPERATION THEATRE along with accessories and system for 5 years.
 - b. With labour and spares after satisfactory completion of defect liability period.
 - c. The cost of CMC may be quoted along with taxes applicable on the date of tender opening.
 - d. The payment of CMC will be made on quarterly basis after satisfactory completion of contract, duly certified by user.
 - e. **There will be 95% uptime during CMC period of the complete system otherwise with penalty of extension of CMC period by double the downtime period.**
- 24.8 The comprehensive maintenance services during this period shall be inclusive of all spares, accessories, manpower, tools and tackle, replacement of parts, routine servicing and maintenance of equipment/systems etc. complete in all respects. The consumables like water, electricity and detergents during this period shall be arranged and provided by the Consignee. The Contractor shall carry out all routine and special

maintenance of the equipment/plant/system and attend to any defects that may arise in operation of the equipments/system and plant. Consumable items required during the maintenance, loss of which is not attributable to bad material and/or workmanship will be arranged by the Consignee without cost to Contractor.

25.0 Retention Money

A retention amounting to 10 (Ten) percent of the amounts, determined in accordance with the procedure set out shall be made by the Engineer in the first and following Interim Payment Certificates, until the amount so retained reaches a limit of retention money (5% of Contract Price).

25.1 Payment of Retention Money

- (a) Upon the issue of the Taking-Over Certificate with respect to the whole of the Works, one half of the Retention Money, or upon the issue of a Taking-Over Certificate with respect to a Section or part of the Permanent Works only such proportion thereof as the Engineer determines having regard to the relative value of such Section or part of the Permanent Works, shall be certified by the Engineer for payment to the Contractor.
- (b) upon the expiration of the Defects Liability Period for the Works the other half of the Retention Money shall be certified by the Engineer for payment to the Contractor. Provided that, in the event of different Defects Liability Periods having become applicable to different Sections or parts of the Permanent Works pursuant to tender Clause , the expression "expiration of the Defects Liability period" shall, for the purposes of this Sub-Clause, be deemed to mean the expiration of the latest of such periods. Provided also that if at such time, there shall remain to be executed by the Contractor any work ordered, pursuant to tender clauses, in respect of the Works, the Engineer shall be entitled to withhold certification until completion of such work of so much of the balance of the Retention Money as shall, in the opinion of the Engineer, represent the cost of the work remaining to be executed.

26.0 Certificates and Payments

- a) Deleted
- b) The Contractor shall submit to the Consultant after the end of each month a detailed statement including measurements showing the estimated contract value of the Permanent Works executed up to the end of the month together with particulars of other amounts to which he is entitled under the Contract.
- c) The statement shall be submitted on a printed proforma (prepared at the cost of the Contractor) approved by the Consultant along with soft copy of the same in a CD.

- d) The Contractor shall be paid monthly, on the certification of the Engineer, the amount due to him which shall be the sum of the following amounts :
- i) Subject to and in accordance with these Specific Conditions, the estimated value of the Permanent Works executed upto the end of the previous month less retention money named in the Bid, and
 - ii) Deleted
- e) Deleted
- f) Retention Money at the rate of 10% shall be deducted from each Interim Payment Certificate subject to the maximum of 5% of the contract price.
- g) The Retention Money shall, subject to Clause 25.0 of Special Conditions of Contract, become due and shall be paid to the Contractor when the Consignee/Employer shall issue the Taking Over certificate notwithstanding that at such time there may be outstanding claims by the Contractor against the Consultant, provided always that if at such time there shall remain to be executed by the Contractor any Works ordered during the Defect Liability Period pursuant to tender clauses, the Consultant shall be entitled to withhold payment until the completion of such Works as much of the Retention Money as the Consultant may in his absolute discretion think fit.
- h) Payment against each monthly R/A bills upon each of the Consultant's certificates shall be made by the Consultant within 30 days after such certificate has been issued by the Consultant.
- i) The Consultant may at any time make any corrections or modifications to any certificate, which shall have been issued by him and shall have power to withhold any certificate if the Works or any parts thereof are not being carried out to his satisfaction.
- j) The responsibility for making the payments or meeting other obligations to the Contractor in respect of all Works as certified by the engineer shall be that of the Consultant and not of the employer.
- k) After completion of work and prior to final payment, the contractor shall furnish to the Consultant, a release of claim against the Consultant arising out of contract, other than claims specifically identified, evaluated and excepted from the operation of the release by contractor.

27.0 Defects Liability Certificate

The Contract shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Engineer and delivered to the Employer, with a copy to the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete Works and remedy any defects therein to the Engineer's satisfaction. The Defects Liability Certificate shall be given by the Engineer within 28 days after the expiration of the Defects Liability Period, or, if different defects liability periods shall become applicable to different sections or part of the Permanent Works, the expiration of the latest such period, or as soon thereafter as any works instructed and have been completed to the satisfaction of the Engineer. Provided that the issue of the Defects Liability Certificate shall not be condition precedent to payment to the Contractor of the second portion of the Retention Money in accordance with the conditions set out in Sub-Clause 25.1.

28.0 Unfulfilled Obligations

Notwithstanding the issue of the Defects Liability Certificate the Contractor and the Employer shall remain liable for the fulfilment of any obligation incurred under the provisions of the Contract prior to the issue of the Defects Liability Certificate which remains unperformed at the time such Defects Liability Certificate is issued and, for the purpose of determining the nature and extent of any such obligation, the Contract shall be deemed to remain in force between the parties to the Contract.

29.0 Statement of Completion

Not later than 84 days after the issue of the Taking-Over Certificate in respect of the whole of the Works, the Contractor shall submit to the Engineer a Statement of Completion with supporting documents showing in detail, in the form approved by the Engineer.

- (a) the final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate;
- (b) any further sums which the Contractor considers to be due; and
- (c) an estimate of amounts which the Contractor considers will become due to him under the Contract.

Estimated amounts shall be shown separately in such Statement at Completion.

29.0 Final Statement

Not later than 56 days after the issue of the Defects Liability Certificate , the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail, in the form approved by the Engineer.

- (a) the value of all work done in accordance with the Contract; and
- (b) any further sums which the Contractor considers to be due to him under the Contract.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed (for the purposes of these Conditions referred to as the "Final Statement").

If, following discussions between the Engineer and the Contractor and any changes to the draft final statement which may be agreed between them, it becomes evident that a dispute exists, the engineer shall issue an Interim Payment Certificate for those parts of the draft final statement which are not in dispute. The Final Statement shall be agreed upon settlement of the dispute.

30.0 Discharge

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the contract. Provided that such discharge shall become effective only after payment due under the Final Certificate issued has been made and the performance security referred to in Sub- Clauses of tender document has been returned to the Contractor.

31.0 Final Certificate

Within 28 days after receipt of the Final Statement, and the written discharge, the Engineer shall issue to the employer (with a copy to the Contractor) a Final Certificate stating:

- (a) the amount which, in the opinion of the Engineer, is finally due under the Contract, and
- (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled under the Contract, the balance, if any, due from the Employer to the Contractor or from the Contractor to the Employer as the case may be.

32.1 Responsibility to Rectify Loss of 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 defined in Sub-Clauses of tender document, the Contractor shall, at his own cost, rectify such loss or damage so that the Permanent Works conform in every respect with the provisions of the Contract to the satisfaction of the Engineer. The Contractor shall also be liable for any loss or damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations.

32.2 Loss or Damage Due to Employer's Risk

In the event of any such loss or damage happening from any of the risks defined in Sub-Clause 32.3, or in combination with other risks, the Contractor shall, if and to the extent required by the Engineer, rectify the loss or damage and the Engineer shall determine an addition to the Contract Price in accordance with and shall notify the Contractor accordingly. In the case of combination of risks causing loss or damage any such determination shall take into account the proportional responsibility of the Contractor and the Employer.

32.3 Employer's Risks

The Employer's risks are :

- (a)
 - (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - (ii) rebellion, revolution, insurrection, or military or usurped power, or civil war,
 - (iii) ionising radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component thereof,
 - (iv) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed,
- (b) loss or damage due to the use or occupation by the Employer of any Section or part of the Permanent Works, except as may be provided for in the Contract,
- (c) loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible,
and
- (d) any operation of the forces of nature (insofar as it occurs on the site) which an experienced contractor:
 - (i) could not have reasonably foreseen, or
 - (ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures:
 - (A) prevent loss or damage to physical property from occurring by taking appropriate measures, or
 - (B) insure against.

34.0 Insurance (Modification to GCC Clause 11.0)

34.1 Insurance of Works and Contractor's Equipment

The Contractor shall, without limiting his or the Employer's obligations and responsibilities and should insure:

- (a) the Works, together with materials and Plant for incorporation therein, to the full replacement cost and it being understood that such insurance shall provide for compensation to be payable to rectify the loss or damage incurred.
- (b) an additional sum of 15 percent of such replacement cost, or as may be specified in Part II of these Conditions, to cover any additional costs of and incidental to the rectification of loss or damage including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatsoever nature, and it being understood that such insurance shall provide for compensation to be payable to rectify the loss or damage incurred.
- (c) the Contractor's Equipment and other things brought onto the Site by the Contractor, for a sum sufficient to provide for their replacement at the Site.

The insurance shall be issued by an insurance company which has been determined by the contractor to be acceptable to the Consultant.

34.2 Scope of Cover

The insurance in paragraph (a) and (b) of Sub Clause 34.1 shall be in the joint names of the Contractor and the Employer and shall cover:

- (a) the Employer and the Contractor against all loss or damage from whatsoever cause arising (including natural calamities, earthquake, subsidence, landslide, rock slide, flood, storm, cyclone, fire, theft, burglary, strike, riot, sabotage, terrorism), other than as provided in Sub- Clause 32.3, from the commencement date until the date of issue of the relevant Taking-Over Certificate in respect of the Works or any Section or part thereof as the case may be, and
- (b) the Contractor for his liability:
 - (i) during the Defects Liability Period for loss or damage arising from a cause occurring prior to the commencement of the Defects Liability Period, and
 - (ii) for loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations.

It shall be the responsibility of contractor to notify the Insurance Company of any change in the nature and extent of the works and to ensure the adequacy of the Insurance cover at all times during the period of contract.

34.3 Exclusions

There shall be no obligation for the insurance to include loss or damage caused by the risks listed under sub clause 32.3 para a (i) to (iv).

If the Contractor receives instructions from the Employer to insure against War Risk, such insurance if normally available shall be effected, at the cost of the Employer, with

an Insurance Company acceptable to the Consultant and shall be in the joint names of the contractor and the Employer.

34.4 Deleted

34.5 Damage to Persons and Property

The Contractor shall, except if and so far as the Contract provides otherwise, indemnify the Employer against all losses and claims in respect of:

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

Which may arise out of or in consequence of the execution and completion of the Works and the remedying of any defects therein, and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, subject to the exceptions defined in below Sub-Clauses 34.6.

34.6 Exceptions

The "exceptions" referred to in Sub-Clause 34.5 are:

- (a) the permanent use or occupation of land by the Works, or any part thereof,
- (b) the right of the Employer to execute the Works, or any part thereof, on, over, under, in or through any land,
- (c) damage to property which is the unavoidable result of the execution and completion of the Works, or the remedying of any defects therein, in accordance with the Contract.
- (d) death of or injury to persons or loss of or damage to property resulting from any action or neglect of the Employer, his agents, servants or other contractors, not being employed by the Contractor, or in respect of any claims, proceedings, damages, costs, charges and expenses in respect thereof or in relation thereto or, where the injury or damage was contributed to by the Contractor, his servants or agents, such part of the said injury or damage as may be just and equitable having regard to the extent of the responsibility of the Employer, his servants or agents or other contractors for the injury or damage.

34.7 Indemnity by Employer

The Employer shall indemnify the Contractor against all claims, proceedings, damages, costs, charges and expenses in respect of the matters referred to in the exceptions defined in Sub-Clause 34.6.

34.8 Third Party Insurance (Including Employer's Property)

The Contractor shall, without limiting his or the Employer's obligations and responsibilities under clause 34.5 to 34.7 and should insure, in the joint names of the Contractor and the Employer, against liabilities for death of or injury to person or loss of

or damage to any property (other than the Works) arising out of the performance of the Contract other than the exceptions defined in paragraphs (a), (b) and (c) of Sub-Clause 34.6.

34.9 Minimum Amount of Insurance

Such insurance shall be for at least Rs. 50,000/- per incident . Number of incident unlimited.

34.10 Cross Liabilities

The insurance policy shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Employer as separate insured.

34.11 Accident or Injury to Workmen

The Employer shall not be liable for or in respect of any damages or compensation payable to any workman other than for death or injury resulting from any act or default of the Employer, his agents or servants. The Contractor shall indemnify and keep indemnified the Employer against all such damages and compensation, other than those for which the Employer is liable as aforesaid, and against all claims, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

34.12 Insurance Against Accident to Workmen

The Contractor shall insure against such liability and shall continue such insurance during the whole of the time that any persons are employed by him on the Works. Provided that, in respect of any persons employed by any Subcontractor, the Contractor's obligations to insure as aforesaid under this Sub-Clause shall be satisfied if the Subcontractor shall have insured against the liability in respect of such persons in such manner that the Employer is indemnified under the policy, but the Contractor shall require such Subcontractor to produce to the Consultant, when required, such policy of insurance and the receipt for the payment for current premium.

34.13 Evidence and Terms of Insurance

The Contractor shall provide evidence to the Consultant as soon as practicable after the respective insurance have been taken out but in any case prior to the start of work at the Site that insurance required under the Contract have been effected and shall, within 84 days of the Commencement Date, provide the insurance policies to the Employer. When providing such evidence and such policies to the Employer, the Contractor shall notify the Engineer of so doing. Such insurance policies shall be consistent with the general terms agreed prior to the issue of the Letter of Acceptance. The Contractor shall effect all insurance for which he is responsible with insurers and in terms approved by the Consultant.

34.14 Adequacy of Insurance

The Contractor shall notify the insurers of changes in the nature, extent or programme for the execution of the Works and ensure the adequacy of the insurance at all times in

accordance with the terms of the Contract and shall, when required, produce to the Consultant the insurance policies in force and the receipts for payment of the current premiums.

34.15 Remedy on Contractor's Failure to Insure

If the Contractor fails to effect and keep in force any of the insurance required under the Contract, or fails to provide the policies to Consultant within the period required by Sub-Clause 34.13, then and in any such case the Employer may effect and keep in force any such insurance and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Contractor, or recover the same as a debt due from the Contractor.

34.16 Compliance with Policy Conditions

In the event that the Contractor or the Employer fails to comply with conditions imposed by the insurance policies effected pursuant to the Contract, each shall indemnify the other against all losses and claims arising from such failure.

The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to, the insurance referred to in Clauses 34.1 to 31.4, 34.8 to 34.12) with insurers from India.

26.1 Compliance with Statutes Regulations

The Contractor shall conform in all respects, including by the giving of all notices and the paying of all fees, with the provision of :

- (a) any National or State Statute, Ordinance, or other Law, or any regulation, or bye-law of any local or other duly constituted authority in relation to the execution and completion of the Works and the remedying of any defects therein, and
- (b) the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the Works, and the Contractor shall keep the Employer indemnified against all penalties and liability of every kind for breach of any such provision.

Provided always that the Employer shall be responsible for obtaining any planning, zoning or other similar permission required for the Works to proceed and shall indemnify the Contractor in accordance with Sub-Clause 31.7.

ANNEXURE - A

FORM OF AGREEMENT

AGREEMENT

This Agreement made the _____ day of _____ 20_____ between **M/s HSCC (India) Ltd., E6A, Sector-I, Noida-201301 on behalf of All India Institute of Ayurveda (AIIA), Sarita Vihar** after called "The Employer") represented by M/s HSCC (India) Ltd. who enters into this Agreement of the one part and M/s (hereinafter called "The Contractor") of the other part.

Whereas the Consultant is desirous that certain works should be executed by the Contractor, viz _____ ("the Works") and has accepted a Bid by the Contractor for the execution and completion of the works and the remedying of any defects therein.

Now this Agreement witnesseth as follows :

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz :
 - (a) The Letter of Award;
 - (b) The said Bid;
 - (c) The General Conditions of Contract;
 - (d) Instructions to Tenderers (GIT & SIT) and Specific Conditions of Contract;
 - (e) The Specification;
 - (f) The Drawings;
 - (g) The Priced Bill of Quantities;
 - (h) Any other relevant documents referred to in this Agreement or in the aforementioned documents
3. In consideration of the payments to be made by the HSCC(India)Ltd acting as Consultant to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Consultant to execute and complete the Works and remedy any defects therein in conformity with the provisions of the Contract in all respects.
4. The Consultant hereby covenants to pay the Contractor through HSCC in consideration of the execution and completion of the Works and the remedying of defects therein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

signed, Sealed, and Delivered by the Said

Binding Signature of [HSCC India Ltd.] for and on behalf of All India Institute of Medical Sciences (AIIA), Sarita Vihar, New Delhi.

Binding Signature of Contractor _____

In the presence of

Witness (1) :

Witness (2) :

PROFORMA FOR PERFORMANCE BANK GUARANTEE

(On a stamp paper of appropriate value from any Nationalised Bank or Scheduled Bank)

To,

M/s HSCCdia) Ltd.,
Plot No. 6(A), Block E, Sector 1,
NOIDA - 201 301.

Dear Sir,

In consideration of the (hereinafter called 'Consultant') having awarded to M/S..... (hereinafter referred to as the said Contractor or 'Contractor' which expression shall wherever the subject or context so permits include its successors and assignees) a Contract No _____ in terms inter alia, of the HSCC Letter No. _____ dated _____ and the General Conditions of Contract and upon the condition of the Contractor's furnishing Security for the performance of the Contractor's obligations and discharge of the Contractor's liability under and in connection with the said Contract upto a sum of Rs. _____ (Rupees _____ only) amounting to _____ percent of the total Contract value.

1. We, _____ (hereinafter called 'The Bank' which expression shall include its successors and assignees) hereby jointly and severally undertake to guarantee the payment to the Consultant in rupees forthwith on demand in writing and without protest or demur or any and all moneys payable by the Contractor to the consultant in respect of or in connection with the said Contract inclusive of all the consultant's losses and damages and costs, (inclusive between attorney and client) charges and expenses and other moneys payable in respect of the above as specified in any notice of demand made by the consultant to the Bank with reference to this guarantee upto an aggregate limit of Rs. _____ (Rupees _____ only).
2. We _____ Bank Ltd. further agree that the Consultant shall be sole judge of and as to whether the said Contractor has committed any breach or breaches of any of the terms and conditions of the said Contract and the extent of loss, damage, cost, charges and expenses caused to or suffered by or that may be caused to or suffered by the consultant on account thereof and the decision of the consultant that the said Contractor has committed such breach or breaches and as to the amount or amounts of loss, damage, costs, charges and expenses caused to or suffered by the consultant from time to time shall be final and binding on us.
3. The Consultant shall be at liberty without reference to the Bank and without affecting the full liability of the Bank hereunder to take any other Security in respect of the Contractor's obligations and liabilities hereunder or to vary the Contract or the work to be done there under vis-a-vis the Contractor or to grant time or indulgence to the Contractor or to reduce or to increase or otherwise vary the prices of the total Contract value or to release or to forbear from enforcement of all or any of the Security and/or any other Security(ies) now or hereafter held by The Consultant and no such dealing(s) reduction(s) increase(s) or other indulgence(s) or arrangements with the Contractor or release or forbearance whatsoever shall absolve the bank of the full liability to the Consultant hereunder or prejudice the rights of the Consultant against the bank.
4. This guarantee shall not be determined or affected by the liquidation or winding up, dissolution, or change of constitution or insolvency of the Contractor but shall in all respects and for all purposes be binding and operative until payment of all monies payable to the Consultant in terms thereof.

HSCC (India) Limited

5. The bank hereby waives all rights at any time inconsistent with the terms of this guarantee and the obligations of the Bank in terms hereof shall not be anyway affected or suspended by reason of any dispute or disputes having been raised by the Contractor stopping or preventing or purporting to stop or prevent any payment by the Bank to the Consultant in terms hereof.
6. The amount stated in any notice of demand addressed by the Consultant to the Bank as liable to be paid to the Consultant by the Contractor or as suffered or incurred by the Consultant on account of any losses or damages or costs, charges and/or expenses shall be conclusive evidence of the amount so liable to be paid to the Consultant or suffered or incurred by the Consultant as the case may be and shall be payable by the Bank to The Consultant in terms hereof.
7. This guarantee shall be a continuing guarantee and shall remain valid and irrevocable for all claims of the Consultant and liabilities of the Contractor arising upto and until midnight of _____.
8. This guarantee shall be in addition to any other guarantee or Security whatsoever that the Consultant may now or at any time anyway may have in relation to the Contractor's obligations/or liabilities under and/or in connection with the said Contract, and the Consultant shall have full authority to have recourse to or enforce this Security in preference to any other guarantee or Security which the Consultant may have or obtain and no forbearance on the part of the Consultant in enforcing or requiring enforcement of any other Security shall have the effect of releasing the Bank from its full liability hereunder.
9. It shall not be necessary for the Consultant to proceed against the said Contractor before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank notwithstanding that any Security which The Consultant may have obtained or obtain from the Contractor shall at the time when proceedings are taken against the said bank hereunder be outstanding or unrealised.
10. We, the said Bank undertake not to revoke this guarantee during its currency except with the consent of the Consultant in writing and agree that any change in the constitution of the said Contractor or the said bank shall not discharge our liability hereunder.
11. We _____ the said Bank further that we shall pay forthwith the amount stated in the notice of demand notwithstanding any dispute/difference pending between the parties before the arbitrator and/or that any dispute is being referred to arbitration.
12. Notwithstanding anything contained herein above, our liability under this guarantee shall be restricted to Rs. _____ (Rupees _____) and this guarantee shall remain in force till _____ and unless a claim is made on us within 3 months from that date, that is before _____ all the claims under this guarantee shall be forfeited and we shall be relieved of and discharged from our liabilities there under.

Dated _____ day of _____ 20

For and on behalf of Bank.

Issued under seal :

PROFORMA FOR BID SECURITY BANK GUARANTEE

(To cover payment of Bid Security and Conditions of Contract)

(On a stamp paper of appropriate value from any Nationalised Bank or Scheduled Bank)

To

M/s HSCC (India) Ltd.,
Plot No. 6(A), Block E, Sector 1,
NOIDA - 201 301.

Dear Sir,

In consideration of your agreeing to accept Bank Guarantee for Rs.
(Rupees) in lieu of payment from
M/s having its /their registered office at
.....
(hereinafter called the Bidder) towards Bid Security in respect of your Tender no.
..... calling for Tender for
at and for due fulfilment of the terms and conditions of the said
Tender, we hereby undertake and agree to indemnify and keep you indemnified to the extent of Rs
..... (Rupees
.....).

In the event of any loss or damages, costs, charges or expenses caused to or suffered by you by reason
of any breach or non observance on the part of the Bidder of any terms and conditions of the said
Tender, we shall on demand and without cavil or argument, and without reference to the Bidder,
irrevocably and unconditionally pay you in full satisfaction of your demand the amounts claimed by
you, provided that our liability under this guarantee shall not at any time exceed Rs
.....
(Rupees).

This guarantee herein contained shall remain in full force and till you finalise the Tender and select the
Tender as per your choice and it shall in the event of the said Bidder being selected and entrusted with
the said work, continue to be enforceable till the said Bidder executes the Agreement with you and
commences the work as stipulated under the terms and conditions of the said Tender have been fully
and properly carried out by the said Bidder and accordingly discharges the guarantee.

We also agree that your decision as to whether the Bidder has committed any breach or non observance
of the terms and conditions of the said Tender shall be final and binding on us.

We under take to pay the Consultant any money so demanded by the Consultant notwithstanding any
dispute or disputes raised by the Contractor(s) in any suit or proceedings pending before any Court or
Tribunal relating thereto, our liability under this present being absolute and equivocal.

The payment so made by us under this bond shall be a valid discharge of our liability for payment there
under and the Contractor(s) shall have no claim against us for making such a payment.

This guarantee shall continue to be in full force and effect for a period of 165 days from the date of
submission of Bid. Notwithstanding the above limitations, we shall honour and discharge the claims
preferred by you within thirty days of expiry of this guarantee.

We shall not revoke this guarantee during its currency except with your previous consent in writing.
This guarantee shall not be affected by any change in Constitution of our bank or of the Bidder firm.
Your neglect or forbearance in the enforcement of the payment of any money, the payment whereof is

HSCC (India) Limited

intended to be hereby secured or the giving of time for the payment hereto shall in no way relieve us our liability under this guarantee.

Dated this day of

Yours faithfully,

For

MANUFACTURER'S AUTHORIZATION FORM

No. -----

Dated -----

To

Dear Sir,

Tender No. -----

We _____ who are established and reputed manufacturer of _____ (name & description of works offered) having factories at _____ (address of factory) do hereby authorize M/s _____ (Name & address of agent) which has been our dealer/distributor since _____, to submit a bid, and sign the contract with you for the goods manufactured by us against the above tender.

No company or firm or individual other than M/s _____ are authorized to bid and conclude the contract for goods manufactured by us against this specific tender.

We hereby extend our full guarantee and defect liability period as per the clause of Condition of Contract and Additional Specific Conditions of Contract of above tender for goods and services offered for supply by our authorized firm .

Yours faithfully,

(Name)
(Name of Manufacturer)

Note: This authorization letter should be on the letter head of the manufacturer and should be signed by a person competent and having the power of attorney to bind the manufacturer. It should be included by the bidder in its bid.