



**INVITATION TO BID, INSTRUCTION TO BIDDERS,
FORM OF BID
AND
GENERAL CONDITIONS OF CONTRACT**

KIOCL Limited
REGISTERED AND CORPORATE OFFICE
II BLOCK, KORAMANGALA, BANGALORE – 560 034.

INDEX

SL.NO.	CONTENTS	PAGE NO.
I	INVITATION TO BID	4
II	INSTRUCTION TO BIDDERS	6 - 8
III	FORM OF BID	10 - 19
IV	GENERAL CONDITIONS OF CONTRACT	21 - 55
V	FORM OF BANK GUARANTEE FOR ADVANCE PAYMENT	56 - 57
VI	FORM OF BANK GUARANTEE FOR SECURITY DEPOSIT	58 - 59
VII	FORM OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT	60 - 61

INVITATION TO BID

INVITATION TO BID

No.....

Date:

Dear Sirs,

Sub:.....

1. Bid documents for the above work are enclosed herewith.
2. Sealed bids will be received until 15.00 hours 1ST onat the location shown below
Bids received after this date are liable to be rejected as per Instructions to Bidders.
3. The Bidders shall abide by all the details of "Instructions to Bidders" enclosed with the tender documents, Sealed bids shall be submitted in the manner as mentioned below:
 - a) First envelope shall contain tJile technical and commercial portions of the offer in four copies and shall be superscribed as "UNPRICED" - "NAME OF THE WORK" containing one full set of all tender documents including all the annexures duly filled-in and signed with official seal on all pages but without any mention of rates and prices.
 - b) Second sealed envelope superscribed "EMD-NAME OF THE WORK" shall contain Demand Draft/Bank Guarantee towards Earnest Money Deposit.
 - c) Third sealed envelope superscribed as "PRICED" - "NAME OF THE WORK" containing schedule of units, quantities and prices of the tender document with all the rates, prices etc. duly signed with official seal on all pages.

Tenderer shall strictly submit the offer in the way as mentioned above.

Sealed bids with the above markings and marked "Confidential" shall be addressed to

- a) **KIOCL Limited, II Block, Koramangala, Bangalore – 560 034**
OR
- b) **KIOCL Limited, Panambur, Mangalore – 575 010**
OR
- c) **KIOCL Limited, Kudremukh, Chickmagalur District – 577 142**

As may be applicable.

4. The bid shall be accompanied by an Earnest Money Deposit (EMD) of Rs.....
(Rupees..... only) to be deposited only in the form of Demand Draft on a Scheduled Bank drawn in favour of "KIOCL Limited, Mangalore/Bangalore/Kudremukh" if the EMD amount is upto and inclusive of Rs. 2 lakhs and Bank Guarantee towards EMD as per the KIOCL's approved format will also be acceptable if the EMD amount is more than Rs. 2 lakhs. No interest will be paid on Earnest Money Deposit. No other form of Earnest Money Deposit will be accepted. Bids not accompanied by EMD shall be liable to be rejected at the sale discretion of the OWNER without any further consideration.
5. This Earnest Money shall be returned to unsuccessful Bidders within 28 days after deciding the successful Bidder and in case of the successful Bidder, the same shall be returned after submission and acceptance of the Security Deposit for this work referred to in Article No.37 of "General Conditions of Contract".
6. Acceptance of the Bid will be intimated to successful Bidder through a Letter Of Intent (LOI) / Work Order/Supply Order.

The time of completion of all works under this Contract shall be from the date of issue of Letter of Intent/Work Order/Supply Order.

Thanking you,

Yours faithfully,
for KIOCL Limited.

Encl : As stated

INSTRUCTIONS TO BIDDERS

INSTRUCTIONS TO BIDDERS

1.0 PURPOSE

- 1.1 It is the purpose of these instructions to serve as a guide to Bidders when preparing proposal for the work described in the attached specifications.

2.0 TENDER CONDITIONS

- 2.1 Sealed Bids will be received until 15.00 1ST hours on the date indicated in the Invitation to Tender/Bid at the location indicated in "Invitation to Bid".

2.2 BIDS RECEIVED AFTER THIS DATE IS LIABLE TO REJECTION AT THE SOLE DESCRETION OF THE OWNER WITHOUT ASSIGNING ANY REASONS.

3.0 REQUEST FOR INFORMATION

- 3.1 Enquiries relating to Engineering and Commercial aspect of this specification shall be made to the address given in the Invitation to Tender/Bid.

4.0 PROPOSAL

- 4.1 Bidder shall prepare his proposal in accordance with the specification and strictly as per the schedule of items. No additions/alterations/changes shall be made by the bidder. While submitting the tender. deviations. if any. shall be separately furnished. Anything not specifically mentioned, but necessary to complete the work. shall be provided by the Bidder and the cost thereof shall be deemed to be included in the prices quoted.

4.2 PROPOSALS SHALL BE SUBMITTED ON THE FORMS PROVIDED FOR THIS PURPOSE. FAILURE TO COMPLY MAY RESULT IN DISQUALIFICATION OF THE BID AT THE SOLE DISCRETION OF THE OWNER WITHOUT ASSIGNING ANY REASONS.

5.0 GENERAL

- 5.1 Bidder shall study thoroughly the General Conditions. Special Conditions. Specifications, Contract Drawings and other documents in the Invitation to Bid and submit his quotations accordingly. By submitting Bid for the work, Bidder will be deemed to have satisfied himself with the actual requirements in the Bid Documents.
- 5.2 By submitting the Bid for the work, Bidder will be deemed to have inspected and examined the worksite, its surroundings, locality, nature of the grounds and subsoil, the scope and nature of the work, materials necessary for the completion of the work, safety requirements, means of access to the worksite and the accommodation which may be required for storage, office. residence etc. Bidder will also be deemed to have obtained all information as to the risks, contingencies, responsibilities and other circumstances which might influence or affect his Bid and to have taken into account all conditions and difficulties that may be encountered during the progress of the work. The rates quoted by him in the Bid shall be deemed to be adequate to complete the work according to the Contract and to cover the entire responsibility involved in executions, completion and maintenance of work. Bidder will be further deemed to have included all labour and material rates which shall include cost of materials with taxes, octroi and other duties, quarry, fees, royalty, lead, litt, loading and unloading freights for the materials, transportation. storage, insurance and all other charges necessary for the completion of the work. He shall collect from OWNER any other information he may require relating to the execution of works All items excluding the items specifically covered under OWNER's scope shall be under the scope of the bidder and same is deemed to be included in the prices quoted
- 5.3 The Bidder shall be deemed to have satisfied himself before bidding as to the correctness or sufficiency of his Bid for the work and of the rates and prices quoted by him which shall cover all his obligations under the Contract including programme of work which may be fixed by OWNER in accordance with General Conditions of Contract and all mailers and things necessary for the proper construction / erection. completion and maintenance of works. No extra charges whatsoever consequent on any misinterpretation or otherwise shall be allowed.

- 5.4 Details and Drawings as are not attached but referred to In the Bid Documents for the work may be seen in the office of the Kudremukh Iron Ore Company limited during office hours. Failure to avail himself of this shall not relieve the Bidder of his responsibility of submission of correct bid for work involved.
- 5.5. Canvassing in any form is strictly prohibited and the Bids submitted by the Bidders, who resort to canvassing will be liable for rejection.
- 5.6 The successful Bidder shall make his own arrangements for all materials except those otherwise specified in the Bid documents for issue by the OWNER at stipulated cost / or free of cost. Any materials or service to be issued/rendered to CONTRACTOR, unless specifically stipulated to be free of cost to the CONTRACTOR, shall be at the rates fixed or to be fixed by ENGINEER / OWNER based on cost plus 15%.
- 5.7 Bids shall be valid for a period of 3 (three) months from the due date of submission of the Bid
- 5.8 OWNER reserves the right to divide and award the work in this invitation to Bid to more than one Bidder if considered necessary. OWNER also reserves the right to reject any or all the Bids without assigning any reason and does not bind himself to accept the lowest Bid or any Bid.
- 5.9 Bidders shall quote the rates in figures as well as in words in English. The amount of each item shall be worked out and the total given. Bid containing "Over Written" or "erased" rate or rates and amounts and rates not shown both in figures and words in English may be liable for rejection. Bidders shall quote rates for all items, failing which the Bid will be considered incomplete and the bid is liable to be rejected. In case of discrepancy between rates in figures and words, the rates indicated in words shall be taken as final. In case of discrepancies between Rates and Amounts, the rates indicated shall be taken as final and the amounts worked out on the basis of quoted rates given in the Bid.
- 5.10 Unless otherwise specified, all rates and prices in the Bid shall cover Sales Tax and other Taxes, Octroi and other Duties, Quarry Fees, Royalties, etc., if any applicable.
- 5.11 Except when so stipulated in the Contract or mutually agreed. no foreign exchange or Import Licence for Importing equipments, components, spares or raw materials will be arranged or provided by ENGINEER / OWNER unless this is mandatory under the Government rules and regulations. OWNER may however, provide project authority certificate and disclaimer certificate as applicable to assist the Contractor, as appropriate.
- 5.12 Bidder shall sign all the pages of the Bid Document The signature in the "Form of Bid" alone shall be deemed to be taken as acceptance of other documents. Bid submitted by Partnership firm may be signed in the Firm's name by all the partners or a person authorised in the partnership deed such as the Managing Partner or any other duly authorised representative, followed by the name and designation of the person so signing. An attested copy of Registered Partnership Deed and proof of registration of the firm and the authorisation of the signatories shall accompany the Bid of any Partnership Firm. Bid by a Company shall be signed with the name of the Company by a person on its behalf and registered duly notorised Power of Attorney or other satisfactory proof showing that the person signing the Bid documents on behalf of the Company is duly authorised to do so, shall accompany the Bid.
- 5.13 Signature of the Bidder shall be attested in English by two responsible witnesses. The witnesses shall be persons of status and their addresses, names, occupations etc. shall be stated below their signature
- 5.14 Bids with rates in units different from those prescrlbsd in the Bid Schedules may be liable for rejection.
- 5.15 If a Bidder seeks to clarify his quotations or rates, this shall only be done in a separate covering letter in the letter, the clarifications/ modifications desired shall be with specific reference to the relevant conditions in the Invitation to Bid and the page numbers and clause numbers of the conditions shall be indicated.
- 5.16 Bidder is responsible to ensure that the bids reach before the date and time specified.
- 5.17 Acceptance of Bid will be intimated to the successful Bidder through a "Letter of Intent/Supply order/Work Order" with the issue of which the CONTRACT shall stand concluded. However, CONTRACTOR may be required to execute a formal agreement within the time specified in the Letter of Intent.

6.0 PARTICULARS TO ACCOMPANY BID

6.1 The following particulars shall also accompany the Bid:

- a) Details of work of similar nature and magnitude carried out by Bidder, in the Proforma shown in Appendix-I
- b) Details of construction equipments belonging to and / or to be procured by the Bidder for use in this work, in the Proforma shown in Appendix-II.
- c) Details of manpower he proposes to engage for completion of work, in the Proforma shown in Appendix-III.
- d) All other details as may be required by ENGINEER in the form or manner stipulated therefor.
- e) List taken into account while preparing the Bid in the proforma as of the bulletins/amendment to Bid documents received and shown in Appendix-VI.
- f) Details of deviations made by the bidder.

6.2 Bidders shall, along With their Bids, submit the following:

- a) Certificate from a Scheduled Bank or any other bank accepted by Owner to prove their financial ability to undertake the work.
- b) Proof for technical and organisational ability to execute the work in its various aspects.
- c) The organisation chart alongwith number of the qualified Engineers and Supervisors who will be deployed at the site together with their qualification in the proforma shown in Appendix-IV Please Indicate separately those available on the roll of the Bidder and the numbers to be recruited for the work.
- d) Details of manufacturing and erection facilities owned and to be deployed on the work.
- e) Income Tax Clearance Certificate valid as on the date of Bid.
- f) List of proposed sub-contractors, if any, in the proforma shown in Appendix-V to be engaged subject to approval of the OWNER.
- g) Details of Insurance coverage presently considered and secured or to be secured by Bidder in the proforma shown in Appendix-VII.
- h) Balance sheet for the preceeding three financial years and the latest unaudited Balance Sheet, if any
- i) Provident Fund Account nos. in respect of workers deployed by the Bidder, if any.
- j) PAN issued by the Income Tax Authorities to the Bidder.
- k) Disputes (arbitrationllaw suits) initiated by or against the bidder during the last 3 years (completed or pending) as per Appendix-VIII.
- l) Sales Tax No. : Central and State.

6.3 BIDS NOT GIVING THE FULL PARTICULARS AS REQUIRED ABOVE ARE LIABLE FOR REJECTION AT THE DISCRETION OF THE OWNER WITHOUT ASSIGNING ANY REASONS.

FORM OF BID

FORM OF BID

(Bidder is required to fill up the blank spaces in this form)

M/s. KIOCL Limited.,
Second Block, Koramangala,
Sarjapura Road,
Bangalore - 560 034.

Attn.:.....
Technical Services Dept.,

OR

M/s. KIOCL Limited.,
New Mangalore Port,
Panambur – 575 010.

Attn.:.....
Contracts Dept.,

OR

M/s. KIOCL Limited
Kudremukh, PO.577142
Chikmagalur District.

Attn.:
Tender and Claims dept.,

Name of work:

.....
.....
.....

(As shown in the "Invitation to Bid")

Sir / Madam,

Having examined the "Invitation to Bid", Instructions to Bidder, General Condition of Contract, Special Conditions, Specifications, Bid Schedules, Contract Drawing and other documents for the above work, I/We, the undersigned offer to construct, erect, complete and maintain the whole of the said works in conformity with the said Bid Documents on the terms and conditions and under the provisions set out or called for in the Contract Documents at the rates listed In the Schedule of the Unit prices.

We agree to keep our Bid valid for a period of three months from the date fixed for receiving the same.

I / We undertake to commence the works within seven days from the date of Issue of Letter of Intent / Supply Order/Work Order and to complete and deliver the whole of the works comprised in the Contract as per the Time Schedule agreed to in the Contract Document.

**DETAILS OF WORKS OF SIMILAR NATURE AND MAGNITUDE CARRIED OUT DURING
 THE LAST THREE YEARS.**

Sl. No.	Name of work done	Value	Date of starting	Date of completion	Date of completion as per contract	Reasons for delay	Remarks

NOTES:

1. In the remarks column, please state whether the works stated above are carried out by you in the name of the firm in which the present Bid is submitted or any previous name or in collaboration with another party. If latter, state role / relationship of the firm vis-à-vis other party/partner and also a copy of the partnership Deed/Joint Venture agreement or the like.
2. Please enclose the true copy of the certificates issued by the authorities for works listed above.
3. In case of any dispute/differences arose amongst the partners, please give brief details in a separate annexure the status of the proceedings and the final result, if any.

(Signature of Bidder)

LIST OF EQUIPMENTS, TOOLS AND PLANT TO BE DEPLOYED ON THIS WORK

Sl. No.	Details of equipments, tools and plants etc.	Nos.	Whether owned or hired or to be procured	If to be procured source / cost

NOTES: Add more sheets, if required.

(Signature of Bidder)

DETAILS OF MANPOWER PROPOSED TO BE DEPLOYED ON THIS WORK

Sl. No.	Category of manpower	Nos. to be deployed by Contractor / By Sub-Contractor	Remarks

(Signature of Bidder)

**DETAILS OF QUALIFIED ENGINEERS AND SUPERVISORY PERSONNEL ETC. TO BE
DEPLOYED FOR THIS WORK**

Sl. No.	Name, qualification and relevant experience	Responsibility areas

NOTE:

Organisational chart shall be enclosed. Attach more sheets, if required.

(Signature of Bidder)

LIST OF PROPOSED SUB – CONTRACTORS

Sl.No	Name of sub-contractor	Description of work or trade to be carried out	Approximate value of sub-contract

(Signature of Bidder)

BULLETINS

(BIDDER SHALL SUBMIT A LIST OF THE BULLETINS ISSUED BY OWNER, IF ANY, THAT HE HAS TAKEN INTO ACCOUNT WHILE PREPARING THIS BID)

Sl.No.	Bulletin No.	Date	Brief contents

(Signature of Bidder)

DETAILS OF INSURANCE COVERAGE PRESENTLY CARRIED BY BIDDER

Description	Amount of coverage	Individual claim	Occurrence aggregate
a) Public liability & property damage			
b) Fire and Extended coverage			
c) Automobile			
d) All Risks, Builder's Risks etc.			
e) Workman's Compensation			
f) Others as applicable under the prevailing laws or otherwise			

(Signature of Bidder)

DISPUTES / ARBITRATIONS / LEGAL SUITS FOR LAST THREE YEARS

Sl. No.	Brief description of dispute	Dispute with	Value	Status as on date of submission

Note: Attach more sheets, if required

(Signature of Bidder)

GENERAL CONDITIONS OF CONTRACT

GENERAL CONDITIONS OF CONTRACT

Article No		Page No.
1.00	Definitions	23-24
2.00	Expeditious Completion	24-25
3.00	Tender	25
4.00	Site Investigations and Sub-Surface Conditions	25
5.00	Standards of Workmanship	26-29
6.00	Direction and Performance of Work	29
7.00	Survey Lines and Grades	30
8.00	Construction Schedule	30
9.00	Work in Monsoon	30-31
10.00	Power	31
11.00	Water	31
12.00	Land and House	31
13.00	Quarries and Approach Roads	31
14.00	Communication Lines and Natural Water Sources	31
15.00	Telecommunication Facilities	31
16.00	Permits and Licenses	32
17.00	Levy for Entry into Port Area at Mangalore	32
18.00	Materials	32
19.00	Specifications	33
20.00	Rates	33
21.00	Escalation	34
22.00	Wastages	34
23.00	Supply of Drawings	35
24.00	Site Order Book	35
25.00	Progress Report and Daily Reports	35
26.00	Employment of Engineers	36
27.00	Security	36
28.00	Job Site Regulations and Requirements	36
29.00	Execution of Work during Night Time	36
30.00	Fuel Storage Tanks	36
31.00	Alterations and Omissions Variation = Quantities Extra Works	36
32.00	Extension of Time	36-37
33.00	Priority of Agreement, other Contract Documents and Drawings and Construction Documents	37
34.00	Conditions under which work may be caused to be completed by Owner	37-38
35.00	Use of Completed Portions or Items of Work	38
36.00	Payments	39-41
37.00	Security Deposit	42
38.00	Period of Maintenance and Maintenance Certificate	42-43
39.00	Responsibility of Safety	44
40.00	Explosives	44
41.00	Indemnity	44
42.00	Insurance	45
43.00	Labour Laws	45-47
44.00	Confidentiality Title of Drawings and Technical Documentation	47-48
45.00	Co-operation with Other Contractors	48

Article No		Page No.
46.00	Storage	48
47.00	Privileges	49
48.00	Inventions and Patents	49
49.00	Reports & Records	49
50.00	Measurements	50
51.00	Taxes	50
52.00	Audit	51
53.00	Independent Contractor	51
54.00	Assignment	51
55.00	Force Majeure	51
56.00	Termination	52
57.00	Miscellaneous	52-53
58.00	Governing Laws	54
59.00	Settlement of Disputes	54
60.00	Notices	54
61.00	Amendments	54
62.00	Waiver of Breach	55
63.00	Entire Contract	55
64.00	Form of Bank Guarantee for Advance payment	56-57
65.00	Form of Bank Guarantee for Security Deposit	58-59
66.00	Form of Bank Guarantee for Earnest Money deposit	60-61

GENERAL CONDITIONS OF CONTRACT

1.00 DEFINITIONS

- A. As used in the Contract including all documents contained in or referenced by the Invitation to Bid, the following terms shall have the meaning ascribed herein unless the context within which they are used clearly precludes such meaning. Terms and Expressions not herein defined shall have the same meaning as one assigned to them in the Indian Contract Act (Act IR of 1872) and failing that in the General Clauses Act (1897) and subsequent amendments thereof.
1. ACTUAL CONTRACT VALUE means the Final cost of the Work including the cost of Extra Work(s) or adjustments due to changes in works.
 2. APPROVAL of OWNER/ENGINEER shall mean the written approval by OWNER/ENGINEER of a document or drawing or other particulars or matters in relation to the Contract.
 3. "BID" shall mean the offer tendered by BIDDER to the OWNER to do and perform all work and other things necessary to complete the work required for the Project / Portion of the Project as described in the Bid document.
 4. "BIDDER/TENDERER" shall mean the party submitting a bid for the work.
 5. "BID DOCUMENTS" shall mean a document prepared and issued to the Bidder by OWNER which will contain, among other things a description of the Work to be performed, schedule of quantities and the time schedule for completion of work.
 6. "CLEAR DAYS" shall mean consecutive days without interruption for week ends or holidays and shall include the day on which the notice/request is received.
 7. "CONSTRUCTION EQUIPMENT" shall mean all machinery, plant, apparatus, parts, appliances, instruments, articles and things required for erection, construction and completion of the work required for the Project or any Portion thereof and the operation thereof, including supply of maintenance items, spare parts and consumables etc. required therefore.
 8. 'CONTRACT' shall mean and include the Invitation to Bid, Instruction to Tenderers, Offer / bid (initial/modified), the General Conditions, the Specifications, Drawings, Special Conditions and Bulletins, if any, and the Letter of Intent /Work Order/ Supply Order/the Agreement entered into by the parties including mutually agreed subsequent amendments/ changes, if any.
 9. "CONTRACTOR" shall mean the Bidder whose Bid has been accepted and shall include his/ her/its/their heirs, executors, administrators, legal representatives, successors and assigns.
 10. "CONTRACT DRAWINGS" shall mean and include the designs, blue prints or other documents of a similar nature which show or illustrate the character and nature of the work to be performed which are supplied by Owner enclosed with the Bid Document or available with the Owner for inspection by the Bidder or Drawings issued by the Owner during the execution of Contract.
 11. "CONTRACT VALUE" shall mean the amounts as stipulated in the Letter of Intent/Work Order / Supply Order/Agreement which amount represent the estimated total cost of the work to be performed by CONTRACTOR under the CONTRACT.
 12. "EFFECTIVE DATE OF THIS CONTRACT" shall mean the date of issue of Letter of Intent/ Supply Order/Work Order unless otherwise specified.
 13. "ENGINEER" shall mean person/persons nominated by or authorized by OWNER among other things to administer the Contract and / or supervise the work under the Contract.
 14. "IN PLACE" shall mean the work or any items of Work being fully completed / installed and completely incorporated as determined by ENGINEER/OWNER whose decision in this regard shall be final, binding and conclusive on the Parties.

15. "LETTER OF INTENT" shall mean the acceptance by the OWNER of the Bid tendered by CONTRACTOR and the award there under of the work to be performed in accordance with the terms and conditions of CONTRACT.
 16. "MONTH" when used for the purpose of calculating a period of time, shall mean the period from the day of one month to the corresponding day of the next calendar month if such day exists, or, if not, to the last day of the next calendar month.
 17. "OWNER" shall mean KIOCL Limited having its Registered Office at Second Block, Koramangala, Bangalore - 560 034, Karnataka, India and include its Lawful successors and assigns.
 18. PERIOD OF MAINTENANCE shall mean a period of Twelve continuous months or any other period, if specifically stipulated in the Special Conditions calculated from the date the whole work, is "IN PLACE" as certified by ENGINEER/OWNER.
 19. "PORTION" shall mean that part or parts of the work as identified in the Contract and shall include all aspects of such part or parts as are included in the Contract.
 20. "RUPEES" or "Rs" shall mean Rupees, the currency of India.
 21. "SITE" shall mean the actual place or places where the work is to be done by the Contractor and/or services are to be performed under the Contract as notified / indicated by OWNER/ENGINEER.
 22. "SPECIFICATIONS" shall mean and include the descriptions/type, quality, standard of materials and work, general arrangements, statements of technical data, performance and/or documents of a similar nature which are included in the Contract and /or issued or supplied by OWNER relating to the Work.
 23. "SUPERVISION" shall mean the direction and control in relation to the execution of work and instructions given by OWNER/ENGINEER or their authorized representative in relation thereto under the terms of the Contract.
 24. "WORK" shall mean and include all works operations / activities to be performed by CONTRACTOR as set out and/or required in the CONTRACT in accordance with the Bills of Quantities, Specifications and Drawings or to be implied there from or incidental thereto or as may be specified during the execution of work or required in such explanatory/additional instructions and drawings as shall, from time to time, during the progress of the work hereby contracted for, be issued by OWNER/ENGINEER.
 25. "WRITING" shall mean any information, request, notice, data contained or given in any manuscript, typewritten or printed statement or other document under seal or hand and includes telegrams, telexes, faxes and cables and words "In Writing" shall mean any document duly signed by any person authorized to represent CONTRACTOR and OWNER/ENGINEER.
- B. The words "Including" and "Include(s)" as used in this Contract are not to be construed as words of limitation, unless the context otherwise requires or unless a contrary intention otherwise appears in the matter.
- C. Words imparting "Persons" shall include firms, companies, corporations and associations or of individuals, whether incorporated or not.
- D. Word imparting the singular only shall include plural and vice-versa where the context so requires.
- E. Word imparting masculine gender shall also include feminine gender and vice-versa where the context so requires.

2.00 EXPEDITIOUS COMPLETION

It is understood and agreed by and between CONTRACTOR and OWNER/ENGINEER that time stipulated in the Contract is of the essence of this CONTRACT and accordingly CONTRACTOR shall do and perform his obligations in such a manner as not to hinder, delay or impair timely completion of the

works awarded to him or interfere with, delay or impair those Portions or items of work undertaken by other contractors or interfere with, delay or impair the timely completion of the entire Project.

3.00 TENDER

- A. CONTRACTOR acknowledges that this Bid contained all the information required in the Invitation to Bid, specifically for CONTRACTOR's firm lumpsum price or his firm unit price for the work to be performed. CONTRACTOR agrees that the price(s) as awarded include any / all cost components including profits, overhead charges and other costs including but not limited to labour, equipment, materials, insurance, transportation facilities and plant not specified to be furnished by OWNER or others. CONTRACTOR further agrees to do all things necessary to complete such Work in a proper and workman-like manner to the satisfaction of the ENGINEER/OWNER.
- B. CONTRACTOR is expected to review and is chargeable with knowledge of the information contained in or referred by BID DOCUMENTS or that available with OWNER and available for examination by the CONTRACTOR.

4.00 SITE CONDITIONS.

- A. CONTRACTOR by tender of his Bid, acknowledges that he has obtained / collected available data and satisfied himself as to the nature and location of the Work, the general and local conditions, particularly those bearing upon transportation, disposal, handling and storage of materials, equipment, availability of labour, water, electric power, roads and uncertainties of weather, rock soil or other physical condition on the Project, the configuration and strata and sub soil conditions, the character and quantity of Equipment, Plant and facilities needed preliminary to and during the execution and maintenance of the Work and all other matters which can in any way affect the work or the cost thereof under this Contract.
- B. CONTRACTOR further acknowledges that he has obtained and collected data and satisfied himself as to the character, quantity of any and sub surface materials including ground water, to be encountered. CONTRACTOR has considered all exploratory work done on the Project by the OWNER and other firms / agencies in relation to the work to be performed by CONTRACTOR as well as information presented by the Specifications, Contract Drawings or other documents relating to the work. Any failure of CONTRACTOR to acquaint himself with all the available information will not relieve him of the responsibility for assessing the difficulty or estimating the cost of successfully performing the work. Representations made but not so expressly stated and for which liability is not expressly assumed by ENGINEER or OWNER in this Contract and any information on or opinions concerning soils and sub-surface conditions or other matters furnished by or for ENGINEER/OWNER or any understanding, opinions or representations made or expressed by any of their officers, employees or agents, during or prior to the execution of this Contract shall be deemed only for the information of CONTRACTOR to be appropriately checked and utilized by the CONTRACTOR in preparation and submission of the bids and CONTRACTOR shall have no claim against ENGINEER or OWNER resulting from such information.
- C. Contractor shall be deemed to have acquainted himself with the regional / local geology. CONTRACTOR shall bear full responsibilities for deductions and conclusions as to the nature or conditions of the rock and other materials to be excavated, the difficulties of making and maintaining the required excavations and of doing other work affected by the geology of the site of works.
- D. In addition to the information acquired by himself from the tender documents supplied by Owner, the Contractor shall be free to conduct any further test to ascertain / obtain /acquaint additional information to take care of site / soil condition at his cost for which the OWNER shall extend facilities to the extent possible.

5.00 STANDARDS OF WORKMANSHIP

- A. CONTRACTOR guarantees that all workmanship shall be in accordance with Contract Specifications / Indian Standard Specifications and shall conform to any applicable laws, codes and/or regulations and such workmanship shall at all times be satisfactory in all respects to ENGINEER / OWNER. Should ENGINEER/OWNER determine that any work performed by CONTRACTOR fails or is likely to fail to meet the Specifications / Standard of workmanship, ENGINEER / OWNER may direct CONTRACTOR to remove such inferior work and replace such work at Contractor's sole expense, failing which the OWNER/ENGINEER may get it replaced / executed at the Contractor's risk and cost.

- B. The decision of ENGINEER/OWNER in this regard shall be final and binding upon the Parties.

6.00 DIRECTION AND PERFORMANCE OF WORK

- A. While CONTRACTOR shall be free to employ his own methods of executing the Work in accordance with the Specifications, OWNER/ ENGINEER shall have the right to direct, instruct and supervise CONTRACTOR and through him any subcontractors, to provide the maintenance of effective working organizations, to ensure the performance of the Work in the time, sequence and manner as determined by OWNER/ENGINEER, to carry out proper correction and remedy of any and all defects discovered in the work or materials used and to make modifications in construction or the cost of construction in accordance with available construction methods. The decision(s) of OWNER / ENGINEER in these respects shall be final and binding upon the Parties. Nothing herein shall be interpreted as creating any direct relationship between the OWNER/ ENGINEER and the Sub-Contractor or the OWNER/ ENGINEER and the Employees / labour force of the Contractor / Sub- Contractor.
- B. 'i) CONTRACTOR shall employ a competent Manager for the Works and supervisory staff who shall be constantly on the works site and shall give their whole time to the execution and supervision of the Work. Such Manager shall have full authority to represent CONTRACTOR in all matters pertaining to this CONTRACT and the performance of the work hereunder and all directions and notice given to him shall be as binding as if given to CONTRACTOR.
- ii) CONTRACTOR shall employ on the work only such persons as are careful, skilled and experienced in their several trades. CONTRACTOR agrees to remove employees/ labour force engaged on the Work covered by this CONTRACT who are found to lack necessary skill, expertise or care by the ENGINEER/OWNER. CONTRACTOR shall not engage / utilise employees of OWNER, any other Contractor or any subcontractor without obtaining a written release from the party affected. CONTRACTOR shall be solely responsible for employees removed, discharged by him or leaving his employment for any reason whatsoever.
- C. CONTRACTOR shall check all materials and labour to be utilised for the Work and shall keep in convenient form such full and detailed accounts and records as may be necessary for proper financial management under this CONTRACT and the system shall be such as is found satisfactory by the OWNER/ENGINEER. Such records shall include accurate records of all personnel employed, materials brought, material consumed for the Work including the Work executed by the sub-contractor.
- D.
1. Materials and Workmanship will be subject to inspection and approval by ENGINEER / OWNER at all times as considered appropriate. However, such approval / inspection shall not relieve CONTRACTOR of his obligation to perform the Work properly. CONTRACTOR shall co-operate in permitting access for inspection at all places where Work is done, is being done or material is stored and shall provide sufficient, safe and proper facilities at all times for carrying out such inspection of the work by the OWNER/ENGINEER or such personnel / agencies as may be appointed for the purpose.
2. OWNER may appoint an inspection and testing agency whose representative (hereafter referred to as "INSPECTOR") will carry out shop, laboratory and/or field inspection. CONTRACTOR shall furnish such INSPECTOR or ENGINEER / OWNER all facilities for carrying out such inspection at his own cost. However, OWNER will bear his own cost in relation to the tests carried out by them or through their Inspector as a part of their quality control checks.
3. All materials and workmanship shall be of the respective kinds described in this CONTRACT and in accordance with ENGINEER's instructions and shall be subjected from time to time to such tests as ENGINEER may direct at the place of manufacture or fabrication or on the work site or at all or any other mutually agreed location. CONTRACTOR shall at his cost, provide such assistance, instruments, machines, labour and materials as are usually required for examining, measuring, any testing of the work and its quality, weight or quantity of any materials used and shall supply samples of materials before incorporation in the Work for testing as may be selected and required by ENGINEER free of cost.
4. Unless otherwise provided, the cost of all tests as stipulated in this Contract shall be borne by CONTRACTOR excepting as brought out in the following sub para 5.

5. If any test(s) are ordered by ENGINEER, which are either.
- i. not so intended or provided for in the CONTRACT or become necessary due to lack of clear-cut results obtained from the tests carried out by the Contractor as per its quality control programme.
 - OR
 - ii. though so intended or provided for, is ordered by ENGINEER to be carried out by an independent agency at any place and if the test results establish that the material/ workmanship conform to the Contract Specifications.

In all cases, the decision of the Engineer in this regard shall be final, binding and conclusive on the Parties.

- E. Prior to the completion of the work by CONTRACTOR and the acceptance thereof by ENGINEER/OWNER, the work shall remain under the custody and care of and at the risk of CONTRACTOR and CONTRACTOR shall be responsible for all loss and damage to the Work and equipment in the CONTRACTOR's care and custody and shall repair, renew and make good at his own expense, all such loss and damage however caused including theft, pilferage etc.
- F. CONTRACTOR shall repair, restore and replace at his own cost any other work or any personal property (including, but not limited to, tools and equipment) belonging to OWNER, which CONTRACTOR or his sub-contractors or suppliers or their respective employees or invitees, may damage or destroy while on the Project.
- G. CONTRACTOR shall co-operate with ENGINEER/OWNER for ensuring the performance of the Work and in the preparation of all documents and reports necessary and advisable for such purposes.
- H. CONTRACTOR shall co-ordinate the work of his sub-contractors and his material suppliers and in scheduling of materials so that the construction and completion of the work will progress smoothly, expeditiously and economically.
- I. All materials and workmanship supplied by CONTRACTOR shall conform to the CONTRACT including any Specifications, Drawings or other documents and shall be so delivered, stored and handled by CONTRACTOR as to prevent any loss, damage, adulteration, deterioration or avoidable wastage.
- J.
 - 1. CONTRACTOR shall, at any time during progress of the work or within the Period of maintenance upon written notice from ENGINEER/OWNER to do so, proceed to remove from the site all materials and structures determined by ENGINEER/OWNER to be defective, deficient or otherwise unsatisfactory, whether assembled or not and dismantle all parts of the work which shall stand rejected as unsound, improper, unsatisfactory or which in any way fail to conform to the requirements of this Contract and replace all such work, materials and/or structures at his cost in time periods stipulated by the OWNER/ENGINEER.
 - 2. The cost and risk of such removal and replacement shall be borne solely by CONTRACTOR. If CONTRACTOR does not remove and replace such rejected / condemned work, materials and structures within a reasonable time as specified in OWNER/ENGINEER'S written notice, OWNER may remove or have the same removed and replace the same and charge the cost thereof to CONTRACTOR, who will continue to bear the risk thereof.
 - 3. Further more, if any applicable law, ordinance, statute or regulation creates a more extended liability for faulty materials, structures or workmanship, then the provisions of such law ordinance, statute or regulation shall apply to the Contractor/Sub-contractor in the same manner and the same extent, as applicable to the OWNER, as a part of contractor's obligations under the Contract.
- K. All equipment operated by CONTRACTOR for the work shall be of such type, standard & quality and shall be operated, inspected, serviced, maintained and equipped with spares in such a manner, as to ensure effective and smooth operation with a minimum of down time acceptable to ENGINEER / OWNER whose decision in this regard shall be final and binding upon and conclusive on the Parties. If any piece of Equipment fails to meet the aforesaid requirement, CONTRACTOR shall at his sole expense and using his own resources replace it with appropriate equipment. The Contractor shall have no claim whatsoever for any additional compensation owing to this replacement.

- L. Any work not specifically mentioned but that may reasonably be inferred from the Specifications, Contract Drawings or other documents as being required to produce the intended result shall be performed and completed by the CONTRACTOR without raising any claim or demanding any additional remuneration.
- M. If by reason of any emergency, accident or failure or other event occurring in or in connection with the work or any part thereof either during the execution of the work or during the period of maintenance, any remedial or other item of work or repair, shall in the opinion of ENGINEER/ OWNER, be urgently necessary for ensuring security and stability of the work and CONTRACTOR is unable or unwilling at once to do such work or repair, ENGINEER / OWNER may have such work or repair executed by others as ENGINEERS/OWNER considers necessary. If the work or repair so done in work which, in the opinion of ENGINEER, CONTRACTOR was liable to at his own expense under this CONTRACT all costs and charges incurred in so doing shall on demand be paid by CONTRACTOR to OWNER or may be deducted by OWNER from any moneys payable to CONTRACTOR, provided that ENGINEER/OWNER shall soon after the occurrence of any such emergency as may be reasonably practicable notify CONTRACTOR thereof in writing.

N.

1. OWNER / ENGINEER or any person authorised by him shall, at all times, have access to the work and to the location of any work to and all workshop and places where any part of work is being carried out and Contractor shall afford every facility and every assistance to the OWNER/ENGINEER or any person authorised by them in obtaining the right to such access.
2. No items of work shall be covered up or put out of view without a notice to and the prior approval of ENGINEER and CONTRACTOR shall afford full opportunity for ENGINEER to examine and measure any item of work which is about to be covered up or put out of view such as examination of the foundations before other permanent item(s) of work are placed thereon. CONTRACTOR shall give due notice to ENGINEER whenever any such item(s) of work such as foundation is/are ready or about to be ready for examination by ENGINEER.
3. If no such notice is given or prior approval obtained, CONTRACTOR shall, at his cost, uncover any part or parts of the Work or make openings in or through the same as ENGINEER may, from time to time, direct for ENGINEER's examination or check and later on reinstate and make good such part or parts to the satisfaction of ENGINEER.

If any such part or parts have been covered up or put out of view after compliance with the requirements set forth above and are found by the ENGINEER to be executed in accordance with this CONTRACT, the expenses of uncovering, making openings in or through reinstating and making good the same shall be reimbursed by OWNER. If, however, the Contractor did not notify the Engineer or obtain Engineer's prior approval and / or the work is not in conformity with the Contract provision, the cost of opening up and reinstating shall be borne by the Contractor.

O.

1. If the Contract provides for the use of any special description of materials to be supplied from OWNER's store or if it is required that CONTRACTOR is required to use certain stores to be provided by OWNER (such materials and stores and the prices to be charged thereof as hereinafter mentioned being so far as practicable for the convenience to CONTRACTOR but not so has in any way to control the meaning or effect of this CONTRACT), CONTRACTOR shall be supplied with such materials and stores as required from time to time to be used by him for the purpose of this CONTRACT only (this being calculated from Specification, Contract drawings etc). The value of the full quantity of materials and stores so supplied shall be charged by the OWNER at the rates specified in the schedule of items and shall be to CONTRACTOR's account. All materials supplied to CONTRACTOR shall continue to remain the absolute property of OWNER and shall not on any account be removed from the location of the Work and shall at all times be opened to inspection by ENGINEER. Any such materials unused and in perfectly good condition at the time of the completion or termination of this CONTRACT shall be returned to OWNER's store by a notice in writing but CONTRACTOR shall not be entitled to return any such material except with such consent and shall have no claim for compensation on account of any such material so supplied to him as aforesaid, being left with him or for any wastage in or damage to any such materials. In cases under the CONTRACT, such materials and stores are to be supplied to CONTRACTOR free of charges, all unused and waste materials shall be returned

to OWNER by CONTRACTOR at CONTRACTOR's own cost and CONTRACTOR shall be responsible to account fully for such materials and stores.

2. All materials (eg. stone and other materials) obtained in the work of dismantling, excavation etc. will be considered to be OWNER's property and issued to CONTRACTOR (if he requires the same for the Work) at rates approved by OWNER. If these materials are not required by CONTRACTOR, they will be disposed off by the OWNER to the best advantage of OWNER.
3. The operation of the preceding paragraphs shall not be deemed to imply any approval by ENGINEER for the materials or other matters referred to therein nor shall it prevent the rejection of any such materials at any time by ENGINEER. The OWNER shall permit the Contractor to arrange such materials on his own.

P. SITE CLEAN UP

During the progress of the Work and as required by ENGINEER, CONTRACTOR shall keep areas occupied by him and access to such areas in the neat, clean and safe condition and free from accumulation of packing or crating materials, waste and rubbish. Rubbish and combustible wastes shall be removed on a daily basis. On the completion of any item of work, CONTRACTOR shall promptly fill up any pits and excavations and remove from such area all of his equipment and surplus material to approved areas. Upon completion of the work, CONTRACTOR shall before final payment is made, at his own expense and to the satisfaction of ENGINEER, dispose off or remove from the work site all equipment, rubbish, unused material and other equipment and materials belonging to him or used under his direction during the performance of the Work and shall leave the premises (including the quarters of CONTRACTOR employees) in a neat and clean condition satisfactory to ENGINEER.

In the event of CONTRACTOR's failure to comply promptly with any of the foregoing, OWNER/ENGINEER may, after serving a written notice of three (3) days to the CONTRACTOR, cause the same to be accomplished by any other agency at CONTRACTOR'S expense and the cost of the same may be deducted from any money due to or becoming due or payable to CONTRACTOR whether under this or any other contract. Furthermore, the said clause shall apply should it become necessary for OWNER to have the complete or part of worksite cleared as indicated above at the expense of CONTRACTOR.

ENGINEER/OWNER shall, under no circumstances, be held liable for any loss or damage caused to CONTRACTOR'S property left at the worksite owing to its removal and / or disposal through public auction or otherwise of such materials and property as deemed fit by the OWNER.

7.00 SURVEY LINES AND GRADES

- 7.01 As considered appropriate, ENGINEER will establish reference bench marks from which CONTRACTOR shall establish such other points, lines, elevations etc. as he may require for the proper execution of the Work.
- 7.02 CONTRACTOR shall be responsible for the true and proper setting out of the works and for the correctness of the positions, levels, dimensions and alignments of all the parts of the works and for the provisions of all necessary instruments, appliances and labour in connection therewith. If, at any time during the progress of the work any error appears or arises in the positions, levels, dimensions or alignments of any part of the works, CONTRACTOR, on being required to do so by ENGINEER, shall at his own expense, rectify such error to the satisfaction of ENGINEER unless such error is based on incorrect data supplied in writing by ENGINEER / OWNER, in which case the expenses of rectifying the same shall be borne by OWNER. The checking of any setting out or anyline or level by ENGINEER shall not in any way relieve CONTRACTOR of his responsibility for the correctness thereof and CONTRACTOR shall carefully protect and preserve all the bench marks, side rails, pegs and other things used in setting out of the works till such time required and thereafter remove with the prior written approval of the ENGINEER.

8.00 CONSTRUCTION SCHEDULE

- 8.01 Construction schedule shall be submitted by the Contractor to the OWNER/ENGINEER within fifteen days of award of Work or as agreed upon, indicating therein the different component items of work and time required for completion of each component item month wise and season wise, so as to complete the work in all respects within the stipulated period of completion.

CONTRACTOR shall also furnish his approach to work, indicating briefly his method of working, his plans in tackling the construction programme vis-a-vis the capacity of equipments he proposes to deploy on various components of work etc. CONTRACTOR shall obtain approval of ENGINEER / OWNER to the above. They shall mutually decide upon updating any changes in agreed Schedule including crashing required and maintain joint records in connection with all important activities. In case of any disagreement, the decision of ENGINEER shall be final and binding on the Parties.

- 8.02 CONTRACTOR shall submit a weekly schedule of work, identifying each item of work, for acceptance by ENGINEER and submit regular progress reports, as directed by the ENGINEER on all activities in an approved format.

9.00 WORK IN MONSOON

- 9.01 The execution of works may entail working in the monsoon also. CONTRACTOR must maintain minimum labour force as may be required for the job and plan and execute the construction works according to the prescribed construction schedule. Even if the work has to be stopped in the monsoons, the Contractor shall maintain to the satisfaction of Engineer requisite manpower and facilities to undertake regular monsoon protection works and for tackling any contingencies that may arise.

10.00 POWER

- 10.01 Power required for the work to the extent available may be provided free of cost at one point. Contractor shall draw power from this point complying all applicable statutory rules and regulations. CONTRACTOR shall strictly follow all safety rules and regulations. CONTRACTOR shall comply with the Indian Electricity Act & Rules, Factories Act & Rules and all other relevant statutes.
- 10.02 No electricity will be supplied to staff quarters and labour colony of CONTRACTOR and quarry sites.
- 10.03 CONTRACTOR shall make his own arrangements for drawing the distribution lines from the tapping point at the sub-station. ENGINEER/OWNER does not guarantee continuous power and CONTRACTOR shall make alternate arrangements by stand-by generating set etc. No claim whatsoever on this account shall be entertained by ENGINEER/ OWNER.
- 10.04 ENGINEER/OWNER will not be liable for any loss or damage to CONTRACTOR's equipment as a result of variation in voltage or frequency or interruptions of power supply or for any other losses to CONTRACTOR arising there from. CONTRACTOR shall ensure that electrical equipments deployed by him are such that the aggregate power factor does not fall below 0.9 at his premises.
- 10.05 CONTRACTOR shall ensure that there is no wastage or misuse of power. If any wastage or misuse of power is detected, the quantity so wasted or misused shall be charged to CONTRACTOR at rates to be decided by ENGINEER/ OWNER, whose decision shall be final and binding.

11.00 WATER

- 11.01 Water for construction purposes will be supplied by ENGINEER/OWNER at one point free of cost. CONTRACTOR shall make his own arrangements for pumping and storing the required quantity of water and for the necessary distribution pipelines. Any shifting of this distribution pipelines necessary in the course of the work, whether necessiated by his work or others, must be done at his own cost and no claim on this account will be entertained. CONTRACTOR shall make judicious use of the water and shall ensure that there is no wastage and leakages etc.
- 11.02 CONTRACTOR shall have to make his own arrangements for requirement of drainage and water for his works, staff and labour. All the precautions shall be taken so as not to pollute the water source or surroundings.

- 11.03 ENGINEER reserves the right to draw water from the distribution lines laid down by CONTRACTOR, should the same be required for any other works or needs.

12.00 LAND AND HOUSE

- 12.01 No housing accommodation for CONTRACTOR or his personnel will be made available by ENGINEER/OWNER. CONTRACTOR will have to make his own arrangements with due regard to the weather and monsoon conditions, as applicable.

- 12.02 Land to the extent available may be allocated for temporary use for site office, stores, bar bending yards near the construction site, free of cost on the basis of recommendation of ENGINEER. For other requirements such as labour camps, staff quarters etc., CONTRACTOR will make his own arrangement. CONTRACTOR shall maintain the areas allotted to him in a neat and clean condition as required by ENGINEER/OWNER. CONTRACTOR shall make his own arrangements of water, sanitary and power facilities for labour camps/staff quarters. On completion of the work, all temporary structures must be removed by CONTRACTOR with approval of ENGINEER and the land brought to its original condition. OWNER reserves the right, on completion of work, to take over any or all of the structures put up by CONTRACTOR at terms to be mutually agreed upon.

13.00 QUARRIES AND APPROACH ROAD

- 13.01 Where required, CONTRACTOR shall locate suitable quarries for stone aggregate, sand and borrow area and satisfy himself of the quality and quantity of the materials required for construction. CONTRACTOR shall make his own arrangements for obtaining the quarries and establish source of required materials of appropriate quality.

- 13.02 CONTRACTOR shall not extract any materials from OWNER's land except with the prior written consent of OWNER. Permission to quarry materials from OWNER's land for bonafide use of the works may be given to the extent of the quantities available at the sole discretion of OWNER, failing which the Contractor shall make his own arrangements.

- 13.03 Washing of sand/gravel, stone aggregate for concrete/filter material shall be done where the percentage of deleterious materials is more than that specified in the Bureau of Indian Standards (BIS) specification.

- 13.04 The approach roads to work site, quarries, borrow areas and dumping areas should be laid /provided and maintained by CONTRACTOR, wherever necessary, at his cost.

- 13.05 Removal of overburden in quarries and its disposal, wherever necessary shall be done by CONTRACTOR at his cost, in conformity with the direction of the ENGINEER/State Authorities as applicable.

- 13.06 Construction of roads and/or the use of existing roads by CONTRACTOR for the transportation of materials, machinery, supplies, fuels etc., and to serve for all his other requirements to and from the Work site or on the work, shall have the prior approval of ENGINEER/State Authority.

14.00 COMMUNICATION LINES AND NATURAL WATER RESOURCES

- 14.01 CONTRACTOR shall not close any communication lines without the permission of ENGINEER. CONTRACTOR shall also not obstruct any natural lines of drainage without the prior written approval of ENGINEER.

15.00 COMMUNICATION FACILITIES

- 15.01 CONTRACTOR shall provide, maintain and operate at his cost all communication facilities as may be necessary for safe and efficient performance of the Work.

16.00 PERMITS & LICENCES

- 16.01 CONTRACTOR shall secure and pay for all licences and permits which he may require to comply fully with all laws, ordinances and/or regulations of the proper public authorities in connection with the performance of the Work.
- 16.02 CONTRACTOR shall be responsible for all losses / damages and shall defend, indemnify and save harmless OWNER and ENGINEER in accordance with Article 41 hereof. Indemnify OWNER from and against all damages and liability which may arise out of the failure of CONTRACTOR to secure and pay for any such licenses and permits or to comply fully with any and all applicable laws, ordinances and regulations.

17.00 LEVIES FOR ENTRY INTO PORT AREA AT MANGALORE

- 17.01 It is the responsibility of CONTRACTOR to pay the Port authorities the charges levied for entry of men and vehicles into Port area at the rates fixed by them.

18.00 MATERIALS

- 18.01 The work is for complete job including labour and supply of all materials. Unless otherwise specified, CONTRACTOR shall make his own arrangements for cement, steel, stone ballast, stones, stone chips, sand and other construction materials as required for satisfactory completion of the Work.
- 18.02 In case of materials supplied by OWNER, the CONTRACTOR shall ensure that only the required quantities of materials are indented and got issued. Any such materials remaining unused and in perfectly good condition at the time of completion or termination of the contract shall be returned to OWNER at a place or places as directed by ENGINEER, by a notice in writing under his hand, if he shall so require. Credit for such materials will be given at the issue rate. The CONTRACTOR shall bear the cost of loading, transporting and unloading and incidental charges for returning the surplus materials from and to the stores where from they were issued or as directed by the OWNER/ENGINEER.
- 18.03 All CONTRACTOR's materials shall be generally inspected and approved by ENGINEER from time to time at the source of supplies. CONTRACTOR shall provide all facilities for such inspection free of cost to ENGINEER. Notwithstanding any inspection at the source, the ENGINEER shall have liberty to reject any material brought to site that does not conform to the specifications without being liable for compensation.
- 18.04 All rejected materials shall be removed from the Site by CONTRACTOR at his own cost, as directed by the ENGINEER.
- 18.05 CONTRACTOR shall at his own cost, properly store all materials brought by him to the work site to prevent damage owing to rain, wind, direct exposure to sun etc., and also from theft, pilferage etc. CONTRACTOR shall maintain stocks of all materials required by him for proper and speedy execution of the work without any interruption.
- 18.06 All materials, construction plants and equipments, once brought by CONTRACTOR within the project area, are not to be removed from there without the prior written authority from ENGINEER.
- 18.07 **ASSISTANCE FOR PROCUREMENT OF MATERIALS**
- A. CONTRACTOR shall be responsible for procurement of all materials required for satisfactory completion of the work. However, OWNER may at his discretion, release suitable quantity of materials available with OWNER. CONTRACTOR shall make necessary arrangements for payments, transportation etc., for the quantity of materials so released.
- B. Where the CONTRACT is terminated owing to any default on the part of CONTRACTOR, CONTRACTOR shall pay all transport charges incurred for transporting any materials to any other place to be nominated by OWNER.

19.00 SPECIFICATIONS

- 19.01 All technical documents regarding construction of works are given in the Metric System and all works should be carried out as per Drawings and Specifications. Where the Specifications are not available in the drawings, the Specifications given in the Bid Documents shall apply. Where the Specifications are not available in either of the above, B.I.S. Specifications (Latest editions, unless otherwise specified) will be followed. For points not covered by the B.I.S. Specifications and/or the portion thereof and if no mention be made therein, the written instructions of ENGINEER shall be binding on CONTRACTOR.
- 19.02 If CONTRACTOR performs any work in a manner contrary to the Specifications or Drawings or any of them and without such reference to ENGINEER, he shall bear all the costs arising or ensuring there from and shall be responsible for the losses to ENGINEER/OWNER.

20.00 RATES

The rates to be quoted are intended to provide for works duly and properly completed in accordance with the General and Special Conditions of Contract, Specifications and Drawings together with such alterations and/or additions as may be required/ordered and without prejudice to the generality thereof and shall include for details of construction which are obviously and fairly intended and which may not have been specifically referred to in these documents and working drawings, but are essential for execution and satisfactory completion of work including those of minor nature and shall be deemed to include and cover but not limited to inter-alia the following:

- i) The cost of all superintendence and labour, materials, tools, plants, equipments, mobilising and demobilising of equipments, fuel, lubricants, fixtures, transport charges, temporary and permanent works and quarrying charges, testing, screening, washing, handling of materials, stacking and removal charges of any rejected materials, water and power arrangements and satisfactory maintenance of the same for the full and satisfactory completion of the Work intended.
- ii) All fees, duties, royalties, rent and compensation to OWNER for surface damage or taxes and impositions payable to local authorities in respect of land and structures for all materials supplied for the Work or other duties/or expenses for which CONTRACTOR may become liable or may be put to under any provision of the law for the purpose of or in connection with the execution of the Contract including levies payable on all transactions.
- iii) Watching and lighting arrangements as required for satisfactory performance.
- iv) Setting of work profiles etc. and of construction, repair and upkeep of all central lines, bench marks and levels and pegs thereof, including provision of masonry/concrete pillars showing the central lines of structures, grid lines and levels and maintenance and protection of the same including providing fencing etc., throughout the period of Contract.
- v) Erection, maintenance and removal of temporary works and building.
- vi) Supply of samples, moulds, cost of testing of materials, works etc.
- vii) Working in all conditions including in/under water, liquid, mud, foul conditions etc., and shall also include bailing or pumping out water from the foundations, basement or any other place of construction collected from rains or any other source whatsoever, de - sludging and allied operation, at any stage of work and any time till the completion of Work including all suspension period and delays whatsoever, cost of curing including pumping of curing water wherever necessary.
- viii) Diversion and draining works, protection works, temporary facilities, bridges, gangways, drainage etc.
- ix) Work at all depths in foundations below Ground level and in superstructures up to all heights above ground level including all lifts and descents involved at any other place of work and disposal areas.
- x) Cost of all leads unless otherwise specified in the Specification / Schedule.

- xi) Provision of centering, scaffolding, strutting props etc.
- xii) All materials and labour required for fencing and protection against risk of accidents, for providing necessary planking, strutting gangway with handrails, gumboots, helmets, safety belts etc., during the progress of work.
- xiii) Diversion including compensation payable for barrier arrangements for the safety of the public or employees during the execution of works, all sanitary and medical arrangements for labour camps as may be prescribed by ENGINEER.
- xiv) Works in all shapes, straight, inclined or curved and all sizes as shown or as required.
- xv) Clearing the sites after the completion of the work of all debris, left out construction materials, machine, equipment, temporary houses, offices, stores, workshops, labour colonies etc., including micro dressing the area in neat and clean shape.
- xvi) Such other incidental charges or contingencies as may have been provided in the Specifications or as necessary or levied

21.00 ESCALATION

- 21.01 No escalation will be admissible on rates, materials, labour, royalties, taxes etc. on any account unless otherwise specifically provided for.

22.00 WASTAGES

- 22.01 For the purpose of accounting of ENGINEER/OWNER supplied materials either free or on cost recoverable basis, the following wastages shall be allowed which shall include loss of cement in bags / transit and in case of steel, rolling margin as per BIS, invisible wastage and cut pieces of less than 3 meters in length or plates of size less than 0.5 sq. meter subject to one dimension not exceeding 300 mm.

a) CEMENT : 5 % (Five Percent)

The theoretical quantity of cement to be used in the work shall be calculated on the basis of the norms indicated for consumption of cement or as per the authorised design mix. Where such norms are not given, norms available in CPWD Schedule showing quantity of cement to be used in different items of works shall be applicable. Where CPWD norms are not available, it shall be calculated as directed by the ENGINEER.

In the event of it being discovered that the quantity of cement used is less than the quantity ascertained as herein before, the cost of quantity of cement not so used, shall be recovered from the CONTRACTOR on the basis of actual landed cost plus 50 % as compensation/ damages, provided such works are technically accepted. Shortage of cement after accounting as stipulated above will be charged at rate specified in Article 22.02.

b) REINFORCED STEEL :

5% on the actual quantity incorporated in the works and measured for payment by ENGINEER/OWNER.

c) STRUCTURAL STEEL:

- (i) Sections 5% on the quantity computed based on DOD lists.
- (ii) Plates 7.5% on the quantity computed based on DOD lists.

d) STEEL PIPES:

3% on the quantity computed from the measurements/ "As made" drawings.

e) C.I. PIPES:

5% on the quantity computed from the measurements/ "As made" drawings.

f) OTHER MATERIALS:

5% unless otherwise specified.

22.02 Quantity in excess of the above specified wastages shall be charged at actual cost +50%, unless otherwise specified.

22.03 The surplus / balance steel beyond the maximum permissible limits allowable for invisible wastages including rolling margin shall be returned to OWNER.

23.00 SUPPLY OF DRAWINGS

23.01 OWNER / ENGINEER will provide drawings and other information for start of the first item of work. Subsequently, ENGINEER will maintain a flow of drawings and other required information sequenced and timed in such a manner as to permit CONTRACTOR to execute the work in accordance with the scheduled and subsequent scheduled releases.

23.02 Only three sets of drawings will be supplied by ENGINEER. Failure on the part of ENGINEER to provide drawing or maintain flow of drawings as stated above will attract the provision of Article 32 hereof.

23.03 One set of drawings shall be returned to ENGINEER/OWNER showing therein all additions and alterations in the process of execution. This set of drawings will show the "As Built Installation". However, all alterations, additions or deletions from the original drawings must have the prior approval in writing of ENGINEER.

24.00 SITE ORDER BOOK

24.01 CONTRACTOR shall provide at Site, a "Site order" book. The pages in the site order book shall be machine numbered. CONTRACTOR shall be responsible for obtaining all the orders entered in the order and within 24 hours, he or his authorised agent shall sign the orders issued by ENGINEER and shall carry them out strictly in accordance with these instructions and compliances shall also be recorded by CONTRACTOR and got duly countersigned by ENGINEER or his authorised agent.

25.00 PROGRESS REPORT AND DAILY REPORTS

25.01 Progress reports shall be submitted by CONTRACTOR in the proforma furnishing the details as required by ENGINEER.

25.02 CONTRACTOR shall submit daily reports of the following by 10 AM:

- i) Total number of labourers in the working areas.
- ii) Total number of local labourers in the working areas.
- iii) List of equipments deployed and worked.
- iv) Progress Report of the previous day.

26.00 EMPLOYMENT OF ENGINEERS

26.01 To ensure proper execution of work, CONTRACTOR must engage adequate number of full time qualified engineers possessing the requisite experience.

27.00 SECURITY

27.01 CONTRACTOR shall make his own arrangements to protect his materials, plant and equipment from pilferage, vandalism, accidental damage or loss of any kind and ENGINEER/OWNER shall not be responsible for any such occurrences.

28.00 JOB SITE REGULATIONS AND REQUIREMENT

28.01 CONTRACTOR shall comply with and be bound by all regulations and requirements established by ENGINEER governing CONTRACTORS, Sub-contractors and their employees engaged in the work under this CONTRACT or in preparation for such work.

29.00 EXECUTION OF WORK DURING NIGHT

29.01 When the work is carried out at night or in obscured daylight, adequate arrangements for floodlighting the working area shall be made by CONTRACTOR at his own cost and got approved by ENGINEER.

30.00 FUEL STORAGE TANKS

30.01 The storage of gasoline (petrol) and other fuel oils or other inflammable materials shall conform to the regulations for such storage issued by the concerned Statutory Authorities / State Government and Central Government Authorities.

31.00 ALTERATIONS AND OMISSIONS - VARIATIONS IN QUANTITIES - EXTRA WORKS

- A. Revisions to the Specifications and Drawings, may, from time to time during the progress of work, be issued by ENGINEER. Additionally, ENGINEER may, from time to time without invalidating CONTRACT make changes in the Specification and issue additional instructions and/or require additional work to be performed or delete certain work.
- B. The quantities contained in the "Schedule of Units and Quantities" are only approximate and subject to variations. Payment will be based upon the actual quantities as certified by ENGINEER and at the unit rates stipulated in the CONTRACT
- C. Rates for extra, altered or substituted work (hereinafter called "extra works") shall be determined as set forth hereinafter in consultation with OWNER. If the rates for extra work are not specifically provided for in the CONTRACT the rates will be derived by ENGINEER from the rates for similar items/clauses of works as are specified in the CONTRACT. The decision of ENGINEER in this regard shall be final and binding on and conclusive to Parties. In the absence of similar items of work, the rate for extra work/item shall be established by ENGINEER on the basis of inputs and its cost as determined by ENGINEER, plus 15% towards Contractor's overheads, profits etc.
- D. CONTRACTOR shall not be entitled to any claim because of any variation (plus or minus) in the Contract Value above the Estimate Value of Contract.
- E. CONTRACTOR shall expeditiously perform such work as is directed by ENGINEER regardless of whether such work requires variation of quantities or includes extra work with payment being made in accordance with this CONTRACT.

32.00 EXTENSION OF TIME

- A. If CONTRACTOR believes that the work is being delayed owing to the failure of OWNER to keep a commitment, he shall immediately notify ENGINEER/OWNER in writing, if ENGINEER/OWNER is satisfied that the reasons stated by CONTRACTOR have a bearing on the time schedule and that such delay cannot be made up by CONTRACTOR by rearranging the sequence of items of work, a change in method, by compressing the execution time required through improved

supervision, more manpower or more effective equipment, by paying incentives or in any other way, then OWNER shall extend, by written notice, the said specified required completion time for a period of time equivalent to any such delay on receipt of request from the CONTRACTOR along with full justification. The decisions of OWNER in this regard shall be final and binding on the Parties.

- B. The Contractor shall not delay / discontinue execution of job for want of grant of extension of time.
- C. Such extensions shall be in full settlement and satisfaction of any or all claims which CONTRACTOR may have against OWNER for damages or losses as a result of any such delay.

33.00 PRIORITY OF AGREEMENT, OTHER CONTRACT DOCUMENTS AND DRAWING AND CONSTRUCTION DOCUMENTS.

- A. All Documents and Drawings forming part of the CONTRACT are intended to be read together and to be complete and in agreement.
- B. If conflicts between documents arise the documents shall prevail in the order stipulated below:
 - 1. Special conditions shall prevail over General Conditions.
 - 2. Specifications shall prevail over Tender Drawings.
 - 3. Description of items in "Schedule of Units and Quantities" read in conjunction with preamble to the Schedule, if any, shall prevail over those provided in Specification and Drawings.
 - 4. Between two issues of the same document, the document revised or re-issued as of the later date shall prevail.
 - 5. All Specifications, Drawings and other documents shall be interpreted in conformity with these General Conditions of Contract as supplemented by and/or modified in the Special Conditions.
 - 6. Wherever a Lumpsum Price for the Work is stipulated in the Award, the quantities stipulated in the "Schedule of Units and Quantities", if any, shall be disregarded in construing this Contract, and CONTRACTOR shall perform all the Work as envisaged in this CONTRACT including the Specifications and Drawings and CONTRACTOR shall be paid only the amount of such Lumpsum price in consideration thereof.
- C. All dimensions marked on the Drawings are to be taken as correct in preference to measurements by scale.
- D. CONTRACTOR shall bring to the attention of ENGINEER any obvious errors, omissions or discrepancies in the Specifications, Contract Drawings or other documents and shall request clarification from ENGINEER, whose decision shall be final and binding on and conclusive to the Parties. If work is done incorrectly because of failure to obtain this clarification from ENGINEER, CONTRACTOR shall correct such work at his own expenses.

34.00 CONDITIONS UNDER WHICH WORK MAY BE CAUSED TO BE COMPLETED BY OWNER.

- A. If CONTRACTOR shall, at any time in the judgment of ENGINEER, fail to engage enough properly skilled workmen or materials, plant, equipment, tools, facilities and supplies of the proper quality or fail to execute the Work with promptness and diligence or fail to make prompt payment to sub contractors or for materials or labour or fail in performance of any of his obligations within the intended meaning of this CONTRACT as provided for herein and shall within three (3) days after receipt of written notice from ENGINEER, fail to remedy or commence to remedy any such defaults or shall interfere with or disrupt or threaten to interfere with or disrupt the work or any portion thereof in any manner, whether by reason of labour disputes, shortage of labour, materials or

otherwise or if the presence of CONTRACTOR or his agents or employees upon OWNER's premises or the fact that this CONTRACT has been made results in acts by third parties, which interfere with or disrupt the work or any portion thereof in any manner, whether by reason of a labour dispute, picketing, boycotting or otherwise or if a petition in bankruptcy shall be filed by or against CONTRACTOR or CONTRACTOR shall become insolvent, OWNER may, in any such event, terminate this CONTRACT with immediate effect or may exclude CONTRACTOR and his employees, sub-contractors and agents from the work or any portion thereof without terminating this CONTRACT.

Having exercised either of the above options, the work may be finished by their agencies to be appointed by OWNER and for that purpose the agency so appointed shall be authorised to enter upon the premises and take charge of all materials, tools, equipment, facilities and supplies thereof and may have the work so taken over finalised by whatever method OWNER may deem expedient.

- B. CONTRACTOR shall not be entitled in any such event as aforesaid to receive any further payment under this CONTRACT until such Work shall be wholly finished and maintained as determined by OWNER and all Payments shall be subject to Article 36F Final Payment. CONTRACTOR shall be entitled to payment only for the work performed by CONTRACTOR prior to the time of termination or exclusion as provided in paragraph A above. However, should any excess cost, expenses or any damages be incurred in completing the work, CONTRACTOR shall pay OWNER, such excess cost, expenses and/or damages as may be determined by OWNER whose decision in regard to the quantum shall be final and binding on and conclusive to the Parties and such cost, expenses or damages may be deducted or retained by OWNER in accordance with the provisions of the CONTRACT.
- C. Any unused materials, tools, equipment, facilities and supplies furnished by CONTRACTOR for the work shall be returned to CONTRACTOR following the completion thereof.
- D. The cost and expense of completing the work, as herein provided and any damage incurred through default of CONTRACTOR shall be audited and certified by OWNER, whose certificate thereof shall be final and binding and conclusive to the Parties.
- E. In the event this CONTRACT is terminated as aforesaid, CONTRACTOR shall not be released from any costs, expenses, penalties or damages which may be assessed against or levied on the CONTRACTOR.

35.00 USE OF COMPLETED PORTIONS OR ITEMS OF WORK

- A. Whenever, as determined by ENGINEER/OWNER any portion or item of work performed by CONTRACTOR, is in a condition suitable for use and require such use in the best interests of the Work, OWNER may cause the same to be taken over and used. Such use by OWNER shall, in no case, be construed as constituting final acceptance and shall neither relieve CONTRACTOR of any of his responsibilities under the CONTRACT nor act as a waiver of any of the conditions thereof provided that CONTRACTOR shall not be liable for the cost of repairs, rework or renewals which may be required owing to ordinary wear and tear resulting from such use.
- B. If, as a result of CONTRACTOR's failure to comply with the provisions of this CONTRACT. CONTRACTOR has to perform work on the portion or item of work being used, such operation or use may continue until such portion or item of work can without injury to the WORK be taken out of service provided that the period of such operation or use pending completion of appropriate remedial action, shall not exceed twelve (12) months, unless otherwise mutually agreed upon in writing between the parties hereto. Nothing contained herein shall prejudice the right of OWNER or ENGINEER for claiming damages for any delay in completion of work or extra costs involved.
- C. CONTRACTOR shall not use any permanently installed equipment unless such use is approved in advance by ENGINEER in writing on such terms as may be stipulated in such approval. Where CONTRACTOR's written request is granted for the use of certain equipment, CONTRACTOR shall properly use and maintain the equipment. Upon completion of its use and at his expense, repair, if necessary, such equipment to the satisfaction of ENGINEER.

36.00 PAYMENTS

A. ADVANCE PAYMENTS

- I. Normally mobilisation advance will not be paid. However, in exceptional case, if the same is agreed to, the OWNER may approve payment of the following advance to CONTRACTOR to the extent and under the conditions as may be stipulated by OWNER at his entire discretion. Such advance payments shall carry interest at State Bank of India's lending rate.
 1. Initial mobilisation advance against Bank Guarantee in favour of the OWNER from any Nationalised / Scheduled Bank and in the format approved by the OWNER.
 2. Equipment brought to site against hypothecation of the said Equipment:- Advance against machinery shall be made only in respect of those machines, the requirement of which is approved by ENGINEER as being minimum and The value in case of second hand machinery being subject to the assessment of ENGINEER/OWNER.
 3. The recovery of mobilisation advance and the advance against old/new machinery shall be made on prorata basis during the period of Contract, starting from when 10% of the value of the Work is completed and recovered in full by the time 90% of the Work is completed. The OWNER, however, reserves the right to recover the full advance from the payments due to the CONTRACTOR in the event of termination of the CONTRACT or such circumstances that the necessity of advances is otherwise classified.
 4. The value of Bank Guarantee furnished against mobilisation advance shall progressively stand reduced to the extent recoveries are effected from the bills of CONTRACTOR towards the mobilisation advance.
- II. Advance to the extent of 75 % against cost of imperishable materials brought to the work site for incorporating in the Work, shall be paid at the sole discretion of the Owner.

Advance against materials to be incorporated in the item of Work brought to the work site shall be recovered from running bills prorata according to quantity of work billed for including wastage, if any.

B. PROGRESS PAYMENTS

1. OWNER shall pay to CONTRACTOR for such WORK as is performed by CONTRACTOR and as certified by ENGINEER as being acceptable in accordance with the provisions of this CONTRACT. Payment shall be based upon the quantity of work IN PLACE as per terms stipulated in the CONTRACT.
2. CONTRACTOR shall submit to OWNER a fortnightly bill showing the unit of work IN PLACE and the amounts claimed to be payable to CONTRACTOR in accordance with the terms and conditions of this CONTRACT. In case of a lumpsum CONTRACT, OWNER may stipulate in the CONTRACT Progressive Payments as a percentage based on the Progress Work as certified by ENGINEER. Upon receipt by ENGINEER of said bill, ENGINEER shall review such bill and within Fifteen (15) clear days from submission shall,
 - a) Approve such bill and certify the same for payment
OR
 - b) Approve part of the bill(s) and certify that part for payment, request further clarifications / revisions from CONTRACTOR as to the balance and upon receipt of satisfactory clarifications/revisions from CONTRACTOR, certify the balance for payment
OR
 - c) Reject the entire bill subject to further clarification/ revisions from CONTRACTOR. Upon receipt by ENGINEER of satisfactory clarification/revisions to such rejected bill, ENGINEER shall approve and certify the clarified/revised bill for payment.

Payment for all bills shall be due from OWNER, except as otherwise provided herein within Fifteen (15) Clear Days of receipt by Owner ENGINEER's certification of such bills.

3. All equipment and materials brought to the Worksite by CONTRACTOR when so brought shall be deemed to vest in OWNER without prejudice to the obligation of CONTRACTOR for their safe custody. CONTRACTOR shall intimate to ENGINEER all equipment and material brought to the Worksite at the time of bringing to the Worksite and the said Equipment and materials shall be subject to check by ENGINEER/OWNER at all times. No such equipment or materials shall be removed from the Worksite by CONTRACTOR without the express written permission of OWNER.
4. Delay of Payment shall not be construed as a breach of this CONTRACT
5. OWNER shall, in accordance with the Indian Income Tax Laws, withhold from payments to be made to CONTRACTOR as advance Tax, all amounts as may be required.
6. Payments made pursuant to this CONTRACT by Owner shall not be construed as the waiver of any breach hereof by CONTRACTOR or as an acceptance of defective Work or items of work not in conformity with the terms and conditions of this CONTRACT.
7. Progress payments shall be made as the Work progresses based upon quantities of Work In Place, less appropriate adjustment.

OWNER or his designated representatives may verify the progress of the work at any time. CONTRACTOR shall co-operate in permitting access, for verification of the progress to all places where work is being done or material is stored and shall provide safe and proper facilities at all times for such verification of progress.

8. Ad hoc / Advance of 75% will be released against the work done as assessed by the ENGINEER and on submission of progressive bill by the CONTRACTOR, pending detailed scrutiny/ verification by the ENGINEER. This will be adjusted fully on passing and releasing the full payment against the bill.
9. All progressive payments shall be regarded as advances against final payment and not as payment for Work done.

C. LIQUIDATED DAMAGES

1. The date(s) of completion of Work as stipulated in the CONTRACT including various intermediate milestones fixed by Engineer shall be of the essence of CONTRACT.
2. If, CONTRACTOR fails to complete the Work or the component part of the work within the stipulated completion date or the component milestone stipulated in the CONTRACT, CONTRACTOR shall pay to OWNER, as liquidated damages for such default (unless extension of time is granted by Engineer as provided under Article 32.0 hereof) for everyday which lapse between the date prescribed thus for and the actual date of completion of such component part of the Work, the amounts determined on the basis of the percentages of the apportioned value of such components as specified herein.
 - i) Delay for first 20 days 0.1 % per day.
 - ii) Delay beyond first 20 days 0.15% per day.

Subject to maximum of 5% of the total CONTRACT VALUE.

3. OWNER reserves the right to waive the liquidated damages either in part or in full at his sole discretion.
4. The payment or deduction or retention of such liquidated damages shall not relieve CONTRACTOR of the obligations and liabilities under this CONTRACT.
5. OWNER may recover, deduct or retain the liquidated damages as assessed above from any moneys due or which may become due or payable to CONTRACTOR in this or any other Contract or in any other manner decided by the OWNER.

6. Liquidated damages as provided herein above relate only to delay in the performance by CONTRACTOR of the Work or component part thereof and the parties hereto agree that such amount for such events are pre-estimated, fair and reasonable and acceptable to the parties.
7. Component Completion Milestone as used in this Article shall mean that point at which the respective component is sufficiently complete to permit CONTRACTOR or others to proceed with subsequent steps towards completion of the Work or any portion thereof without interference from or with the immediate area or an adjacent area. OWNER/ENGINEER shall be the sole judge as to whether such Component Completion Milestone has been achieved and his decisions shall be final, binding and conclusive. Nothing in this paragraph shall be deemed to limit CONTRACTOR's obligations to complete all components to the satisfaction of ENGINEER/OWNER.

D. CONSEQUENTIAL DAMAGES

In case of Turnkey contracts, the Contractor will have to compensate the Owner towards Consequential Damages suffered by Owner due to time and / or cost overrun in completion of the turnkey projects. This will be in addition to the Liquidated Damages leviable.

E. CLAIMS AND DEDUCTIONS

1. CONTRACTOR shall send to ENGINEER/OWNER once each month an account giving full and detailed particulars of all claims for any additional expense(s), to which CONTRACTOR may consider himself entitled and of all Extra Work(s) ordered by ENGINEER which he has executed during the preceding month and no claim for payment for any such work(s) will be considered as has not been included in such particulars, provided always that OWNER shall be entitled to authorise payment to be made for any such work(s), notwithstanding CONTRACTOR's failure to comply with this condition of CONTRACT, if he has, at the earliest practicable opportunity, notified OWNER / ENGINEER in writing that he intends to make a claim for such work.
2. All costs, charges or expenses, which OWNER may have paid to others for which, under this CONTRACT, CONTRACTOR is liable and all costs, claims, charges, damages or expenses to which OWNER and/or ENGINEER are entitled to receive from CONTRACTOR under this CONTRACT may be retained by OWNER from or set-off against any money payable by OWNER to CONTRACTOR under this CONTRACT or any other contract, without prejudice to the right of OWNER and/or ENGINEER, to recover such costs, claims, charges, penalties or expenses as otherwise provided by or under law.

F. FINAL PAYMENT

Final payment of all sums due to CONTRACTOR shall be made as follows:

1. On completion of the work(s) and acceptance thereof, CONTRACTOR shall prepare a final bill of all the works performed by him under the CONTRACT and submit the same for certification by ENGINEER within a period of 60 days of the completion of Work.
2. ENGINEER shall verify the bill and check the admissibility thereof under the CONTRACT, determine the liquidated damages, consequential damages, if any, recoverable from CONTRACTOR, make appropriate adjustment for all recoveries and advances and certify to OWNER that the work under CONTRACT is duly performed by CONTRACTOR and the amount, if any, payable or recoverable from CONTRACTOR.
3. Final payment of all sums, if any, due to CONTRACTOR shall be made by OWNER.. OWNER having always the right to recheck the bill of CONTRACTOR fully.
4. CONTRACTOR shall provide ENGINEER and OWNER with a certificate satisfactory to both that all privileges, liens, claims, obligations and liabilities against or chargeable to ENGINEER or OWNER have been fully paid, satisfied and released and that CONTRACTOR has no claim(s) against OWNER and/or ENGINEER

37.0 SECURITY DEPOSITS

- A. Within 15 days of the award of the CONTRACT, CONTRACTOR shall deposit with OWNER an initial Security Deposit of 3% (three percent) of the Contract Value and the same shall be in cash or in any of the following forms.
1. Demand drafts drawn in favour of OWNER from any Nationalised / Scheduled Bank.
 2. Bank Guarantee in prescribed Proforma (attached), executed by a Nationalised Bank / Scheduled Bank. If the bank guarantee is from a non-Indian Bank, the same shall be got stamped at Bangalore, Karnataka State, India, by the Foreign Banker's Associates / Subsidiaries or agents in India, in accordance with the laws applicable in State of Karnataka, India.
- B. If CONTRACTOR fails to provide the security within the period specified, such failure will constitute a breach of the Contract and the Owner shall be entitled to award the work elsewhere at CONTRACTOR's risk and cost.
- C. No claims shall lie against OWNER either in respect of interest due, if any, on security deposits or depreciation in their value.
- D. As and by way of additional security, from every progressive bill of CONTRACTOR, Security Deposit at the rate of 7% of the Gross Value of such bill as determined before payment shall be retained by OWNER or CONTRACTOR can submit additional Security Deposit by Bank guarantee.
- E. Whenever the Security Deposit is furnished by CONTRACTOR in any form other than cash or Demand Draft, CONTRACTOR shall be entirely responsible to keep such form of security deposit enforceable by OWNER by extending the validity thereof, if required, by removing the restrictions thereon, within one month before the due date of expiry and keep them enforceable until released by OWNER after the period of maintenance.
- F. The Security Deposit shall remain at the entire disposal of OWNER as a security for satisfactory execution and completion of the Work(s). OWNER shall be at liberty to deduct and appropriate from the Security Deposit such damages (liquidated or otherwise) and other dues and recoveries from CONTRACTOR under this CONTRACT and the amount by which Security Deposit is reduced by such appropriations will be made by further deductions from CONTRACTOR's subsequent bills to that extent as to make up the Security Deposit to the full.
- G. Notwithstanding anything to contrary, in as much as the Security Deposit is to be in cash with OWNER, OWNER shall be entitled to enforce any of the approved forms of Security Deposit furnished by CONTRACTOR at any time and realise cash thereof irrespective of whether or not CONTRACTOR disputes such right. However, if CONTRACTOR obtains the extension of the time limit, if any, for the enforceability of such form of Security Deposit and intimates OWNER of such extension within one month before expiry, OWNER may not enforce such form of Security Deposit, unless it has otherwise become enforceable.
- H. On due and satisfactory performance of all the obligations of CONTRACTOR under this CONTRACT including completion of work in all respects carrying out the obligations of CONTRACTOR during Period of Maintenance, Security Deposit shall be released by OWNER subject to recoveries, deductions and retentions there from as provided under the CONTRACT.

38.00 PERIOD OF MAINTENANCE AND MAINTENANCE CERTIFICATE

- A. To the extent that the work shall, at or as soon as practicable after the expiry of the Period of Maintenance, be delivered upto OWNER in as good and perfect condition (fair wear and tear excepted) to the satisfaction of OWNER, as that, in which they were at the commencement of the Period of Maintenance, CONTRACTOR shall execute all such work of repair, modification, reconstruction, rectification and making good of defects, imperfections, shrinkages or other faults as may be required on CONTRACTOR in writing by ENGINEER / OWNER during the Period of Maintenance or within fourteen days after the expiry as a result of an inspection made

by or on behalf of OWNER prior to its expiry. The decision of OWNER shall be final, conclusive to and binding on the Parties in this regard.

- B. All such work shall be carried out by CONTRACTOR at his own expense if the necessity thereof shall, in the opinion of ENGINEER/OWNER, be due to the use of material or workmanship not in accordance with this CONTRACT or to neglect or failure on the part of CONTRACTOR to comply with any obligation expressed or implied on CONTRACTOR's part under this Contract. If, in the opinion of ENGINEER/OWNER, such necessity is due to any other cause, the value of work shall be ascertained and paid for as if it was Extra Work. In case the CONTRACTOR fails to keep the required work force at Site during maintenance period, the OWNER reserves the right to change / replace any portion of the work without waiting for the CONTRACTOR, if the same is essential for keeping the operations running. The cost of such work will be recovered from the CONTRACTOR.
- C. If CONTRACTOR fails to do any such work as aforesaid required by OWNER/ENGINEER, OWNER shall be entitled to have such work carried out at CONTRACTOR's own cost and OWNER shall be entitled to recover from CONTRACTOR the cost thereof or may deduct the same from any money payable to CONTRACTOR or otherwise.
- D. CONTRACTOR shall, if required by ENGINEER/OWNER in writing, search for the cause of any defect, imperfection or fault under the directions of ENGINEER. Unless such defects, imperfection or fault shall be one, for which CONTRACTOR is not liable under this CONTRACT, the cost of the work carried out by CONTRACTOR is not liable under this CONTRACT, the cost of the Work carried out by CONTRACTOR in searching as aforesaid, shall be borne by OWNER. But if such defect, imperfection or default shall be one for which CONTRACTOR is liable as aforesaid, the cost of work carried out in searching as aforesaid, shall be borne by CONTRACTOR and he shall, in such case, repair, rectify and make good such defect, imperfection of default at his own expenses to the satisfaction of ENGINEER/OWNER. The decision(s) of ENGINEER / OWNER in these respects shall be final and binding on and conclusive to the Parties.
- E. The work shall not be considered completed, until the work shall have been completed and maintained to ENGINEER/OWNER's satisfaction. The Maintenance Certificate shall be given by ENGINEER fourteen days after the expiration of the period of maintenance on the request of CONTRACTOR, or as soon thereafter, as any work ordered during such period, shall have been completed to the satisfaction of OWNER/ENGINEER and full effect shall be given to this Article, notwithstanding any previous entry on or the taking possession of or using thereof.
- F. No certificate other than the Maintenance Certificate referred to above shall be deemed to constitute approval of any work or other matter in respect of performance of this CONTRACT or any part thereof or the accuracy of any claim or demand made by CONTRACTOR or of Extra Work, having been ordered by OWNER or should any other certificate conclude or prejudice any of the powers of ENGINEER/OWNER.
- G. ENGINEER/OWNER may by any certificate make any correction or modification in any previous certificate, which shall have been issued by him and shall have the power to withhold any certificate if the work or any item hereof is not being carried out to his satisfaction.
- H. No claim by CONTRACTOR for any matter or thing arising out of or in connection with this CONTRACT or the execution of the Work shall be considered unless CONTRACTOR shall have made a claim in writing in respect thereof before giving of the Maintenance Certificate.
- I. Period of Maintenance shall be calculated from the date of completion of the Works certified by ENGINEER
- J. The period of maintenance shall cover a period of twelve (12) months (unless otherwise specified in the (CONTRACT) after a final certificate of the completion of the work has been issued by ENGINEER as stated above.

39.00 RESPONSIBILITY FOR SAFETY

CONTRACTOR shall comply safety regulations as per statutory requirement under The Factory Act and other relevant statutes.

- A. The safety of all persons employed by CONTRACTOR and his SUB-CONTRACTORS on the work site or any other person who enters upon the work site for reasons relating to this CONTRACT, shall be the sole responsibility of CONTRACTOR and CONTRACTOR shall defend, indemnify and save harmless OWNER and ENGINEER from / and against any actions, claims, damages, cost resulting from death to or injuries sustained by these person(s), on the work site. Statutory regulations for safety of workers shall be followed and the workmen provided with necessary safety gadgets.
- B. Contractor shall at all times maintain good order among his employees and shall not employ on the work site any unfit person or anyone not skilled in the work assigned to him Contractor shall confine his employees and all other persons, who come on to the work site at Contractor's request or for reasons relating to this CONTRACT, and confine his equipment to that portion of the Work where the work under this CONTRACT is to be performed or to roads leading to and from, such work sites and to any other area which ENGINEER/OWNER may permit CONTRACTOR to use.
- C. CONTRACTOR shall take all reasonable measures and precautions at all times to prevent injuries to or the death of any of his employees or any other person who enters upon the project. Such measures and precautions shall include, but shall not be limited to, all safeguards and warnings necessary to protect workman and others against any conditions on the portion of the WORK which could be dangerous and to prevent accidents of any kind whenever work is being performed in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of or are being operated by CONTRACTOR, his sub-contractors, OWNER / ENGINEER or other CONTRACTOR or other persons.
- D. It is understood that if employees of ENGINEER/OWNER perform any acts for the purpose of discharging the responsibility undertaken by CONTRACTOR in this article, whether requested to perform such acts by CONTRACTOR or not, such employees of OWNER or ENGINEER, while performing such acts, shall be considered the agents and servant of CONTRACTOR, subject to the exclusive control of CONTRACTOR

40.00 EXPLOSIVES AND HAZARDOUS MATERIALS.

- 40.01 The character, storage and method of use of all explosives / hazardous materials shall be subject to and in conformity with any applicable laws, ordinances and/or regulations. In case of blasting, the hours during which blasting operations may be carried out shall be subject to the approval of ENGINEER/OWNER.

41.00 INDEMNITY

- A. CONTRACTOR shall defend, indemnify and save harmless ENGINEER and OWNER, their Officers, Directors, Servants and Employees from and against any and all expenses and cost (including court cost and attorney's fees), damages or liabilities of any kind or nature whatsoever, which may arise out of or result from any claims, demands, causes of action and/or judgements stated or obtained by or threatened to be instituted by CONTRACTOR, his employees, other contractors, any third party or any person or persons including, but not limited to, property damage or the death or injury of any person resulting from any defects, faults, shortages, errors, omissions, neglect, whether deliberate or accidental or wilful misconduct of CONTRACTOR, his agents, servants or sub-contractors, in the use, occupation, ownership of property or the performance of any work undertaken by CONTRACTOR, his agents, servants or sub-contractors. These obligations shall survive the completion, cancellation or termination of this CONTRACT.
- B. Should ENGINEER or OWNER deem himself insecure as to the ability of CONTRACTOR to so indemnify, ENGINEER/OWNER may demand that CONTRACTOR promptly provide reasonable

assurance in form and substance satisfactory to OWNER, of CONTRACTOR's ability to comply with the provisions of this Article. CONTRACTOR's failure to provide such satisfactory assurance shall be a sufficient ground for termination of this CONTRACT OWNER shall have the final decision of the satisfactoriness of any such assurance and OWNER's decision shall be final and binding.

42.00 INSURANCE

- A. CONTRACTOR shall maintain and require his sub-contractors to maintain in full force and effect, from Insurance Companies in India acceptable to OWNER from the time of execution of this CONTRACT.
 - 1. All such Insurances as are required by law concerning the ownership, operation or use of any motor vehicles, specifically including liability insurance protection
 - 2. Such Insurance(s) in such amounts to cover such risks as shall be required by OWNER.
 - 3. CONTRACTOR shall obtain and maintain such Insurance(s) as will protect CONTRACTOR and OWNER from claims under any employee benefit laws, workmen's compensation laws and disability benefit laws, from claims of damages because of bodily injury, occupational sickness or disease or death of any of CONTRACTOR's employees resulting from or relating to the Work.
 - 4. CONTRACTOR shall obtain and keep in full force and effect Insurance(s) of such types and for such amounts as are required by Indian Laws, Ordinances or Regulations.
- B. CONTRACTOR shall submit copies of such policies and coverage for written approval by ENGINEER/OWNER.
- C. CONTRACTOR shall ensure that the insurer furnishes ENGINEER/OWNER with evidence of such Insurance(s), a copy of the issued policy and any amendments thereto and prompt notification of any cancellation or termination thereof. Should CONTRACTOR default in paying any premium when due, OWNER, without prejudice to other remedies set forth in this CONTRACT shall be at liberty to pay such premium and recover the same from CONTRACTOR.
- D. Any such insurance requirements are hereby established as the minimum policies and coverages which CONTRACTOR must secure and keep in force. CONTRACTOR shall, at all times, be free to obtain additional or increased coverage at CONTRACTOR's sole expense.
- E. The provisions contained within this Article are not intended and do not impair or in any manner limit the liabilities or obligation assumed by CONTRACTOR as may be set forth more fully elsewhere in this CONTRACT.

43.00 LABOUR LAWS

CONTRACTOR shall comply with any and all laws, ordinances, regulations and decisions of courts (which shall be deemed to be a part of this CONTRACT) concerning the health, sanitary arrangements, wages, welfare, safety and employment of any and all of his workers upon the work site or any portion thereof and shall exclusively bear the consequences of failure to comply therewith. CONTRACTOR shall indemnify and hold ENGINEER and OWNER harmless from any claims, fines or penalties which may be made against ENGINEER or OWNER as a result of CONTRACTOR's failure to fulfill these obligations.

Without limiting the generality of the foregoing, CONTRACTOR shall fully comply with the following:

- A. CONTRACTOR shall not employ children below the age stipulated under law.
- B. Minimum Wages Act: CONTRACTOR shall comply with the provisions of the Minimum Wages Act and any Rules made thereunder by any Government in respect of all employees employed by him in carrying out this CONTRACT. CONTRACTOR shall pay the employees wages not less

than the minimum rates of wages, if any, fixed by such Government for that Category (including wages, payable for weekly holidays contemplated under the Minimum Wages Act).

CONTRACTOR, subject to the authority given to ENGINEER under the paragraphs of this Article and subject to OWNER's right to control access to the project, shall have full control of labour employed by CONTRACTOR on or about the work, with the power to employ and discharge and CONTRACTOR shall fulfil his obligations to pay or cause to be paid wages or compensations made applicable by any laws, ordinances or regulations promulgated by the Government of India or any State Government or local authorities. In the event of failure of CONTRACTOR to disburse wages due to his own and sub-contractors labour, the OWNER reserves the right to effect such payments directly and adjust the same against amount due to the CONTRACTOR.

CONTRACTOR shall, at all times indemnify OWNER against all claims arising out of provisions of such Minimum Wages Act and any Rules framed thereunder as admissible in respect of any workman employed by CONTRACTOR in carrying out this CONTRACT and against all costs and expenses incurred by OWNER in connection with and without prejudice to other means of recovery. OWNER shall be entitled to deduct from any moneys due or to become due to CONTRACTOR (whether in this CONTRACT or any other Contract) all money paid or payable by OWNER by way of wages and other dues (including compensation, penalty, if any, imposed for committing breach of any provision of any such act by CONTRACTOR) in connection with any claim thereto and CONTRACTOR shall abide by the decision of OWNER as to sum payable by CONTRACTOR under the provisions of this paragraph.

CONTRACTOR shall ensure payment of minimum wages not only as existing at the time of award but also as may be notified by statutory authorities.

- C. CONTRACTOR shall comply with all the provisions of the Contract Labour (Regulation and Abolition) Act and the Rules made thereunder. CONTRACTOR shall get his establishment registered and/or obtain Licence, as the case may be, from the authorities declared under the said Act and Rules and intimate OWNER before starting the work under this CONTRACT. If CONTRACTOR fails to obtain the licence before commencement of the work, ENGINEER/OWNER shall have the right to terminate this CONTRACT without any reference to CONTRACTOR and in such case CONTRACTOR shall be liable to pay all the expenditure and cost incurred or may be incurred owing to cancellation of this CONTRACT.

CONTRACTOR shall ensure, as provided in the said Act, that the disbursement of wages to his direct and indirect labour is made in the presence of the authorized representative of OWNER. CONTRACTOR shall give for this purpose prior notice to the authorized representative of OWNER at least 48 hours prior to the time of actual payment of wages regarding the date, place and time at which the disbursement of wages is to be made for his direct and indirect labour. CONTRACTOR shall also ensure that the payment to his indirect labour is made on the same date and time and at the same place where his direct labourers are paid. Further, the payment of wages by CONTRACTOR to his direct labourers shall be made only on working days and only at this place of work and not otherwise. In case the total strength of the direct and indirect labourers of all the work that CONTRACTOR is executing exceeds at any time the strength of the workers specified in his licence, it shall be CONTRACTOR's responsibility to ensure that his licence is modified for the increased strength prior to the engagement of such additional direct and indirect labourers.

- D. CONTRACTOR shall, at all times, indemnify OWNER against all claims for compensation under the provision of the Workman's Compensation Act 1923 (viii of 1923) or any other law for the time being in force by or in respect of, any workmen employed by CONTRACTOR in carrying out this CONTRACT and against all costs and expenses or damages incurred by OWNER in connection there with and without prejudice to any other means of recovery. OWNER shall be entitled to deduct from any money payable to CONTRACTOR (whether under this CONTRACT or any other contract) all money paid or payable by OWNER by way of compensation aforesaid or for costs or expenses in connection with any claim thereto and CONTRACTOR shall abide by

the decision of OWNER as to the sum payable by CONTRACTOR under the provisions of this paragraph.

- E. In respect of labourers directly or indirectly employed on the work, CONTRACTOR shall provide at his costs, reasonable facilities for securing proper working and living conditions such as water supply, lavatories, bathing places, cleanliness etc. Where women labour is employed, urinals and lavatories shall be provided separately by CONTRACTOR for male and female workers as well as crèches for the infant children of women labourers. Labourers engaged on hazardous jobs and occupations shall be provided with necessary safety appliances by CONTRACTOR free of charge. CONTRACTOR shall provide hutments for labourers employed on the work.
- F. CONTRACTOR's establishment will be subject to inspection, investigation etc., by ENGINEER/OWNER for assuring proper and faithful compliance of the provision of this CONTRACT by CONTRACTOR with regard to the implementation of Labour Laws and other matters anticipated herein. CONTRACTOR shall abide by the decisions and orders of ENGINEER/OWNER with regard to any such matter and furnish, if required, necessary compliance report within the stipulated time.
- G. CONTRACTOR shall be responsible for the observance of the provisions of this clause by subcontractors employed by him in the execution of this CONTRACT.
- H. CONTRACTOR shall comply with the provisions of the Payment of Wages Act, 1936 and Rules made thereunder in respect of all employees employed by him in carrying out this CONTRACT.
- I. CONTRACTOR shall comply with all the provisions of Employees Provident Fund and Misc. Act 1952, Rules and Schemes made thereunder. CONTRACTOR shall get his establishments covered under the said Act, Rules and Schemes made thereunder and intimate to the OWNER the Account Number allotted or any other arrangement approved by the concerned authorities before starting working under this Contract. If CONTRACTOR fails to comply the aforesaid before commencing the work, ENGINEER/OWNER shall have the right to terminate this CONTRACT without any reference to the CONTRACTOR and in such cases, the CONTRACTOR shall be liable to pay to the ENGINEER/OWNER all the expenses and cost incurred or may be incurred owing to the cancellation of this CONTRACT. The ENGINEER/OWNER shall also have the right to recover any penalties levied by the concerned authorities for any failure on the part of the CONTRACTOR,
- J. The CONTRACTOR shall comply with all the Provisions of the Factory Act, Rules and Regulations made thereunder.
- K. The CONTRACTOR shall comply with all the provisions of the Maternity Benefit Act 1961 and Rules made thereunder in respect of female workers, if any engaged by them.
- L. The CONTRACTOR shall furnish all the information required by the OWNER monthly or at such intervals to enable the OWNER to satisfy himself that all labour and welfare measures prescribed by Law have been fulfilled by the CONTRACTOR from time to time.

44.00 CONFIDENTIALITY: TITLE TO DRAWINGS AND TECHNICAL DOCUMENTATION

- A. Title to all technical data including, but not limited to, Specifications, Drawings, Bills of materials, How Diagrams, Layout details and the contents thereof, furnished by ENGINEER to CONTRACTOR shall remain with ENGINEER or with OWNER as the case may be.
 - 1. Such data shall not be used or divulged to others by CONTRACTOR except to the extent necessary in connection with CONTRACTOR's performance hereunder.
 - 2. CONTRACTOR shall use his best efforts to prevent any disclosure of such data to others by CONTRACTOR's personnel and shall take all reasonable steps necessary to prevent such disclosures.

3. At ENGINEER'S request, any Specifications, Drawings or other technical data furnished to CONTRACTOR by ENGINEER shall be returned to ENGINEER/OWNER upon
 - a) Complete or partial termination, as provided for herein, of CONTRACTOR's services:
or,
 - b) Completion of the Work.

- B. CONTRACTOR shall not have any title in Specifications, Drawings, Bills of materials, Diagrams, Reports, Layout details, Memorandum as well as any other technical data and the contents thereof whether prepared by ENGINEER or CONTRACTOR and ENGINEER/ OWNER, as the case may be, shall have the full title thereof, such materials and data shall not be used or divulged to others by CONTRACTOR except to the extent necessary in connection with CONTRACTOR's performance hereunder.

- C. The provisions relating to confidentiality of technical data as set forth above shall not apply to technical data which
 1. In the case of data furnished to CONTRACTOR by ENGINEER were known to CONTRACTOR prior to the time they were furnished in and in the case of data prepared thereunder or by any third party under CONTRACTOR's direction, were known to CONTRACTOR or such third party prior to their preparation hereunder (except if CONTRACTOR and/or such third party are prohibited from disclosing such technical data by separate prior agreement) ; or
 2. Is or later becomes generally available to public; or
 3. Is received from third parties having a bonafide right to make such disclosure.

- D. CONTRACTOR, before making disclosure to third party of any of the information referenced in this Article, shall obtain a written commitment from such third party to abide by the provisions of this Article, Such commitments shall be approved by ENGINEER and shall expressly set forth the provisions contained in this Article and shall be signed by such third party,

- E. No part of this CONTRACT nor any information relating to the project or any portion thereof shall be made public by CONTRACTOR in any manner without the prior review and written consent of ENGINEER. In addition, CONTRACTOR shall not make public any information related to the progress of the work or any portion thereof.

- F. Obligations arising under this Article shall survive complete termination of this CONTRACT.

45.00 CO-OPERATION WITH OTHER CONTRACTORS

- 45.01 CONTRACTORS and his sub-contractors, if any, shall co-operate with OWNER/ENGINEER and other contractors on the project and shall so carry out their work so that other Contractors shall not be hindered, delayed or interfered with, in the progress of their work and so that the Work shall be properly and expeditiously completed. CONTRACTOR shall also plan his operations as to avoid interference with the operations of OWNER or other Contractors or sub-contractors on the work site any portion thereof or other items of work in the area. Where precedence of the work between various Contractors is involved, the decision of ENGINEER/OWNER shall be final and without recourse.

46.00 STORAGE

- 46.01 CONTRACTOR shall provide or cause to be provided all storage yards, transit sheds and warehouses necessary for the performance of his work at locations approved by ENGINEER / OWNER. Material supplies, equipment and plant stored by CONTRACTOR shall be effectively protected against pilferage and against damage by the elements. CONTRACTOR shall adopt all procedures, maintain all personnel and keep all records so that at all times CONTRACTOR can account for
- store receipts
 - storage locations

- inventories
- disbursements
- final destinations

of all stored items received for CONTRACTOR's work on the Works or/ and portion thereof.

47.00 PRIVILEGES

47.01 CONTRACTOR shall also pay, satisfy and discharge liens and all claims, obligations and liabilities which may be asserted against ENGINEER or OWNER or his property by reason of or as a result of any acts or omissions of CONTRACTOR, his employees, representatives, licencees or suppliers or his sub-contractors, in connection with or relating to the performance of this CONTRACT.

48.00 INVENTIONS AND PATENTS

- A. If any officer or employee of CONTRACTOR, during the performance of the Work, makes any invention directly related to the project, such invention shall be promptly disclosed to ENGINEER and OWNER.
- B. CONTRACTOR agrees to indemnify, save and defend harmless ENGINEER/OWNER from and against any and all suits, legal proceedings, claims, demands, damages, costs and attorney's fees incidental to any infringement or to any claimed infringement of any patent or patents in the manufacture, sale or use of any materials or apparatus furnished by CONTRACTOR under this CONTRACT. ENGINEER and/or OWNER may be represented in any such or legal proceedings by attorneys of their own selection.

49.00 REPORTS AND RECORDS

- A. Within Fifteen (15) days of the award, Contractor shall submit to ENGINEER/OWNER, CONTRACTOR's programme, the content and form of which shall be satisfactory to OWNER / ENGINEER, showing the order of procedure and method in which he proposes to carry out the work and time limit and sequence of carrying out the work and shall, whenever required by ENGINEER/OWNER, furnish for his information particulars in writing of CONTRACTOR's arrangements for the carrying out of the Work and constructional plant and temporary works which CONTRACTOR intends to supply, use or construct as the case may be, The approval by ENGINEER/OWNER of such programme or the furnishing of such particulars shall not relieve CONTRACTOR of any of his duties or responsibilities under this CONTRACT.
- B. CONTRACTOR shall submit to ENGINEER/OWNER by the Fifth (5) day of each month for each part of his Work under this CONTRACT and in summary.
 - 1. A month by month forecast and a historical record upto completion of his requirements and actual use of:
 - manpower by craft, type and position or other description.
 - materials and supplies including quantity on hand and delivery status.
 - construction equipment and plant furnished by CONTRACTOR.
 - 2. A month by month forecast upto completion of the amount of work done and the amount remaining to be completed and all historical record of the work performed.
 - 3. Such other reports as ENGINEER/OWNER may from time to time specify.

50.00 MEASUREMENTS

- A. The mode of measurement shall be in accordance with Bureau of Indian Standard Specifications as laid down in BIS 1200 unless otherwise specified to the contrary. In the event BIS does not specify any mode of measurement for a particular item of work, the same shall be measured as directed by ENGINEER/OWNER.
- B. ENGINEER shall, unless otherwise stated, ascertain the value and work done in accordance with this CONTRACT. ENGINEER shall, when he requires any part or parts or the work to be measured, give notice to CONTRACTOR who shall forthwith attend or send a qualified agent to assist ENGINEER or ENGINEER's representative in making such measurement and shall furnish all particulars required by either of them. Should CONTRACTOR not attend or neglect or omit to send such agent, then the measurement made by ENGINEER or approved by him shall be taken to be the correct measurement of the work.

C. RECORDS OF MEASUREMENTS

- I. Progress payments of all Work in place will be on the basis of measurement sheet/books.
- II. All pages of measurement books/sheets shall be machine numbered. All receipts and issues of measurement books/sheets shall be recorded in a register. The eventual return of all measurement books/sheets shall be recorded and carefully preserved.

D. DETAILED MEASUREMENT

All measurement shall be neatly written on the measurement books/sheets. Each set of measurements shall commence with entries stating

- a) Full Name of Work as given in the Contract.
- b) Location of work.
- c) Name of CONTRACTOR.
- d) Date of CONTRACT entered into with CONTRACTOR.
- e) Date of Commencement of work,
- f) Date of completion of work.
- g) Date of measurement.

At the end of measurements, dated signature, designation of the person, who recorded the measurements shall be made.

E. CONTRACTOR'S SIGNATURE ON MEASUREMENT BOOK

Measurements entered in the Measurement Book shall invariably be signed by CONTRACTOR or his authorised agent in token of his acceptance. Should CONTRACTOR fail to sign, ENGINEER shall note this in such Measurement Book and the measurements recorded by ENGINEER shall be final and binding on and conclusive to the Parties.

51.00 TAXES

- 51.01 CONTRACTOR shall pay all contributions, fees, taxes and premiums payable under all applicable laws relating to the employment and/or measured upon the payroll of employees engaged in the performance of work under CONTRACT and all sales tax, excise, octroi, royalty, transportation, privilege, occupational and other taxes and duties applicable to Equipment, materials and supplies furnished or work performed which CONTRACTOR is required by law to pay and shall keep harmless OWNER from liability for such contributions, premiums and taxes. Under no circumstances shall CONTRACTOR be reimbursed for any income taxes or corporate taxes, fees or levies.

52.00 AUDIT

- A. CONTRACTOR's accounts, related to the Work or any portion thereof shall be available for audit by designated representatives of OWNER at all reasonable times.
- B. Such representatives shall at all times be afforded proper facilities for inspection of CONTRACTOR's accounts and shall have access to CONTRACTOR's premises, work and materials, records, ledgers and vouchers of every description pertaining to CONTRACTOR's performance of this CONTRACT.

53.00 INDEPENDENT CONTRACTOR

- 53.01 In the performance of the work, CONTRACTOR shall act as an independent Contractor and not as agent or employee of ENGINEER or of OWNER.

54.00 ASSIGNMENT

- A. CONTRACTOR shall not assign this CONTRACT or sublet it in whole or in part without prior written consent of OWNER, nor shall CONTRACTOR assign any moneys due or to become due hereunder without the prior written consent of OWNER. Any permitted assignment of subletting under this CONTRACT shall not release CONTRACTOR from his obligation to perform and any assignee or sub-contractor shall be considered the agent of CONTRACTOR and, as between the parties, hereto, CONTRACTOR shall be and remain liable as if no such assignment or subletting had been made.
- B. Without restricting the foregoing, CONTRACTOR hereby agrees and undertakes to include in his contract(s) with sub-contractor(s), in their essence, all the terms and conditions of this CONTRACT.

55.00 FORCE MAJEURE

- A. Any delay, in or failure of performance of the CONTRACT by CONTRACTOR or OWNER shall not constitute defaults by such party or give rise to any claim for damages against it, if and to the extent such delay or failure of performance is caused by acts of God, acts of war or hostilities, acts or omissions of Government, invasion, revolution, civil commotion, blockade, embargo, sabotage, fires, severe earth quakes, typhoons, cyclones, lightning, plague, epidemic or other act, omission or circumstances, (excluding monsoon) which are beyond the reasonable control of the parties affected which they could not have reasonably foreseen and guarded against and which by exercise of reasonable care and diligence, they are unable to prevent (hereinafter referred to as Force Majeure). ENGINEER/OWNER shall be the sole judge to decide whether or not an event is Force Majeure and decision is final and binding. Monsoon season is not considered a FORCE MAJEURE event.
- B. The party affected by the occurrence of the event of Force Majeure shall promptly notify within 10 days of such occurrence to the other part hereto at its commencement and termination along with the copies of any documents, if any, showing the existing or termination of such event and its effect on the WORK. Delay occasioned by Force Majeure shall give rise to an extension of the time for performance of either party obligations under this CONTRACT commensurate with such delay.
- C. Should CONTRACTOR or OWNER be prevented from fulfilling his obligations as provided for under this CONTRACT by the existence of a cause of Force Majeure lasting continuously for a period of forty five (45) days, the party which is so prevented shall prior to the termination of the Force Majeure condition and after the expiry of the said period of forty five (45) days have the option to terminate this CONTRACT without further liability to either party, except that CONTRACTOR shall be paid for the work performed upto the date of such termination.

56.00 TERMINATION

Except as otherwise provided in Article 34, conditions under which the work may be caused to be completed, which Article, if applicable shall expressly, supersede the provisions of this Article, if either party hereto commits a breach of any of the terms and provisions contained in this CONTRACT and required to be observed/complied with on its part other than delay in payment or non-payment by OWNER and CONTRACTOR of any amounts when due, the party affected by such breach shall notify the other party of such breach and the party committing the breach shall have fifteen (15) clear days from the receipt of such notice to correct or commence action to correct such breach.

1. If the party committing the breach fail or neglect to remedy or commence action to remedy such breach within the said fifteen (15) clear days from the date of service of the notice as aforesaid, the party affected by the breach may thereafter serve on the party committing the breach a written notice of seven (7) clear days terminating this CONTRACT.
2. In the event of termination of this CONTRACT by OWNER, as aforesaid, OWNER subject to the provisions of paragraph (3) below shall pay to CONTRACTOR such amounts as may remain due and outstanding at the time of such termination in accordance with the terms and provisions of this CONTRACT.
3. If this CONTRACT is terminated by OWNER on account of breach of any of its terms and provisions which CONTRACTOR failed to remedy in spite of notices having been given to them as aforesaid, OWNER shall be entitled to make a claim on, and demand payment in respect thereof from CONTRACTOR for damages (including liquidated damages / consequential damages) arising as a result of such breach. For the purpose aforesaid, OWNER shall be entitled to deduct or retain amounts for such damages from moneys payable to CONTRACTOR any amount payable or which may become payable to CONTRACTOR in accordance with the terms and provisions of this CONTRACT.
4. If this CONTRACT is terminated by CONTRACTOR on account of breach of any of its terms and provisions which OWNER failed to remedy in spite of notices having been given to him as aforesaid, CONTRACTOR shall be entitled to make claim and demand payment in respect thereof from OWNER for actual damages arising as a result of such breach.
5. OWNER shall have the right to terminate this CONTRACT hereunder on fifteen (15) clear days notice without assigning any reason therefor, in which event OWNER will pay CONTRACTOR for all work performed upto the date of such termination in accordance with the Award. Such work performed shall be documented to the satisfaction of OWNER and OWNER shall take full credit for any amounts previously paid to CONTRACTOR. OWNER shall not pay or be liable to pay any damage or other claim by CONTRACTOR for his expected profit or interest on the value of the uncompleted items of Work and CONTRACTOR hereby waives any right of action in damages or otherwise against OWNER by reason of such termination.

57.00 MISCELLANEOUS

- A. CONTRACTOR shall, at his own cost, provide the material for and execute all temporary shoring, timbering and strutting and such other structures as are necessary during the execution of Work for stability and safety of all structures, excavations and work such that no damage, injury or loss is caused or likely to be caused to any person or property.
- B. CONTRACTOR shall, at his own cost, provide such sheds, store houses as OWNER/ENGINEER may consider necessary for storing of materials and shall also, at his own cost provide all construction equipments.
- C. Any demurrage charges that may be incurred owing to CONTRACTOR's failing to unload or load the same on being called upon to do so, unload his own materials and equipments booked in the name of the OWNER will be debited to CONTRACTOR's account and shall be paid by him to the proper officer on demand or deducted from any sum which may be due to him from OWNER.

- D. When work is being carried out in or around a running plant where the plant must run uninterrupted, CONTRACTOR can only work at specified places and times mutually arranged. Progress of Work in certain areas might have to be expedited as required by ENGINEER/OWNER.
- E. The use or sale of ardent spirits or other intoxicating beverages upon the work spot and any other unlawful activities are strictly forbidden and CONTRACTOR shall strictly comply with these conditions.
- F. Except where otherwise specified, CONTRACTOR, shall pay all tollage and other royalties, rent and other payments or compensation (if any) for getting stone, sand, gravel, clay or other materials required for the Work or temporary works or any of them.
- G. All operations necessary for the execution of the Work and for the construction of any temporary works shall so far as compliance with requirements of the CONTRACT permits, be carried on so as not to interfere unnecessarily or improperly with the public convenience or the access to use and occupation of public or private roads, railway tracks and footpaths or to or of properties whether in the possession of OWNER or any other person and works of other Contractors and CONTRACTOR shall save harmless ENGINEER/OWNER and indemnify ENGINEER/OWNER in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to any such matters.
- H. CONTRACTOR shall use every reasonable means to prevent any of the highways or bridges communicating with or on the routes to project from being subjected to extraordinary traffic of CONTRACTOR or any of his sub-contractors and in particular, shall select routes and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of plant materials and equipment from and to the project shall be limited so far as reasonably possible and so that no unnecessary damage or injury may be occasioned to such highways and bridges. Damages, if any, shall be rectified by the CONTRACTOR at his own cost.
- I. Where the nature of the work is such as to require the use by CONTRACTOR of waterborne transport, the foregoing provisions of this clause shall be construed as though highway included a lock, dock, seawall or other structural related to a waterway and vehicles included craft and shall have effect accordingly.
- J. CONTRACTOR shall, in accordance with the requirements of ENGINEER/ OWNER, afford all reasonable facilities for any other contractors employed on the project and their workmen and for the workmen of OWNER and of any other properly authorised authority or statutory body, who may be employed in the execution on or near the location of any work not included in this CONTRACT or of any contract which ENGINEER/OWNER may enter into in connection with or ancillary to the project.
- K. Should the general conduct of the work, including the premises of OWNER under occupation of CONTRACTOR lead to infringement of the Indian Penal Code, either in consequence of the riotous or illegal proceedings of CONTRACTOR's labour, supervising staff of others to such an extent as to necessitate the employment of Special Police or Magistrate, the cost of such extra force is to be defrayed by CONTRACTOR and not by ENGINEER / OWNER.
- L. CONTRACTOR must take sufficient care in moving his construction plants and Equipments from one place to another so that they may not cause any damage to the property of ENGINEER/OWNER or other person particularly to the overhead and underground cables and, in the event of his failure to do so, the cost of such damages, including eventual loss of working hours on any work as estimated by OWNER/ ENGINEER, is to be borne by CONTRACTOR.
- M. All fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archeological interest discovered on the site shall be, as between OWNER and CONTRACTOR deemed to be absolute property of OWNER and CONTRACTOR shall take reasonable precautions to prevent his workmen or any other persons from removing or damaging any such article and shall immediately, upon discovery thereof and before removal acquaint OWNER / ENGINEER of such discovery and carry out OWNER / ENGINEER's orders as to the disposal of the same.

58.00 GOVERNING LAWS

58.01 This CONTRACT shall be governed and interpreted in accordance with the Laws in India. Any provision, required to be included in a contract of this type by any applicable and valid law, ordinance, rule or regulation, shall be deemed to be incorporated herein.

59.00 SETTLEMENT OF DISPUTES

- A. If at any time any question, disputes or difference of whatsoever nature shall arise between the Owner and the Contractor upon or in relation to or in connection with the Contract, either party may forthwith give to the other notice in writing of the existence of such question, dispute or difference and the same other than the questions, disputes or differences for the decision of which specific provisions have been made in the foregoing Articles of these conditions hereinafter referred to as "Excepted Matters" and the decision of such "Excepted Matters" according to the said provisions shall be final and binding on the Parties shall be referred to Arbitration by a sole arbitrator to be appointed by the Chairman cum Managing Director / Managing Director of the Owner or any person acting in such capacity.
- B. When the Sole Arbitrator withdraws from his office for any reason whatsoever, he shall be replaced by the Chairman cum Managing Director/ Managing Director of the OWNER or any person acting in that capacity. The arbitral proceedings shall continue from that stage onwards and the earlier hearings shall not be repeated.
- C. The language to be used in the arbitration proceedings shall be English.
- D. The award of the arbitrator shall be final, conclusive and binding on the Parties.
- E. The provisions of Arbitration and Conciliation Act, 1996 and the Rules there under and amendments thereto in force shall be applicable to this Contract.
- F. The Venue of Arbitral Proceedings shall be only in Bangalore, India.
- G. Only courts in Bangalore shall have jurisdiction regarding the matters relating to this arbitration.

60.00 NOTICES

60.01 Any written notices or other documents or drawing required by this CONTRACT shall be sent by Registered Post, Postage prepaid or by cable or Telex, fax, courier, charges prepaid or hand delivered and shall be forwarded to the respective Address set forth below unless another address is substituted by written notice:

FOR OWNER: _____

FOR ENGINEER _____

FOR CONTRACTOR: _____

WITH A COPY TO: _____

61.00 AMENDMENTS

61.01 This CONTRACT may be amended by a writing specifically made in this behalf which shall be mutually agreed upon and duly signed by the authorised representatives of the parties hereto.

62.00 WAIVER OF BREACH

62.01 Any failure by OWNER or ENGINEER, at any time or from time to time, to enforce or require the strict keeping and performance by CONTRACTOR of any of the terms or conditions of this CONTRACT shall not constitute a waiver by OWNER or ENGINEER of a breach of any such terms or conditions and shall not affect or impair such terms or conditions in any way, or the right of OWNER or ENGINEER at any time to avail itself of such remedies as it may have for any such breach or breaches of such terms and conditions.

63.00 ENTIRE CONTRACT

63.01 This CONTRACT and any annexures attached hereto or documents referred to herein shall constitute the entire CONTRACT and understanding between the parties hereto as to the subject matter hereof and shall supersede all prior agreements/CONTRACTS, negotiations and Letter of Intent, whether written or oral, pertaining to this Work and either party shall be bound by any conditions, definitions, warranties or representations with respect to the subject matter of this CONTRACT, otherwise than as expressly provided herein.

FORM OF BANK GUARANTEE FOR ADVANCE PAYMENT

To
The KIOCL Limited.,

Second Block, Koramangala, **OR**
Bangalore - 560 034.

New Mangalore Port,
Panarnbur,
Mangalore - 575010

OR Kudremukh,
Chickmagalur Dist. 575 142.

In consideration of KIOCL Limited (hereinafter referred to as "Company") agreeing to pay to M/s..... (hereinafter referred to as, "Contractor") a sum of Rs (Rupees only) as and by way of advance in terms of Order No..... dated..... (hereinafter referred to as "Contract") on production of Bank Guarantee by the Contractor for Rs..... (Rupees..... only) we, (hereinafter referred to as "the Bank") do hereby covenant and agree with the Company as follows:

1. We hereby guarantee the payment to the Company the said advance of Rs..... (Rupees..... only) and interest thereon at 15.5 percent per annum from the date of demand till payment against any loss or damage caused to or suffered or that may be caused to or suffered by the Company by reason of any breach by the said Contractor of any of the terms and conditions contained in the said Contract.
2. Notwithstanding anything contained hereunder, we hereby unconditionally and irrevocably undertake to pay to the Company to the extent of Rs..... (Rupees..... only) plus interest thereon at 15.5 percent per annum from the date of demand till payment without any demur merely on a demand from the Company stating that the amount claimed is due by way of loss or damage caused to or suffered or would be caused to or suffered by the Company by reason of breach by the said Contractor of any of the terms and conditions contained in the said Contract. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs (Rupees..... only) and interest thereon as mentioned above from the date of demand till payment.
3. Our liability under this present Guarantee is absolute and unequivocal and we undertake to pay the Company the amount so demanded notwithstanding the Contractor raising any dispute and/or disputes or filing any suit or proceeding before any Court or Tribunal Authority. The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment hereunder.
4. We.....further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged and till the Company certifies that the terms and conditions of the said Contract have been fully and properly carried out by the said Contractor and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before we shall be discharged from all liability under this Guarantee thereafter.
5. This Guarantee shall not be revocable by us except with the written consent of the Company and shall continue to be enforceable till..... Should it be necessary to extend this Guarantee beyond the said date, we undertake to extend the validity of this Guarantee for such further period as may be required by the Company, and such extension shall be given one month before the expiry of the Guarantee failing which the amount covered under this Guarantee shall become forthwith payable, notwithstanding that the Contract is continuing and / or the Company has or has not terminated the Contract or preferred any claim against the Contractor.
6. We, further agree with the Company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said Contractor from time to time or to postpone for any time or from time to time exercise of any of the powers exercisable by the Company against the said Contractor and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Contractor or for any indulgence by the Company to the said Contractor or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

7. This Guarantee shall not in any way be affected due to change in our constitution or by your taking or varying or giving up any securities from the Contractor or any other person, firm or Company on its behalf or by the change in the constitution, the winding up, dissolution, insolvency or death as the case may be of the Contractor.
8. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we were your principal debtors in respect of all your claims against the Contractor hereby guaranteed by us as aforesaid and we hereby expressly waive all our rights of suretyship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
9. We also undertake not to revoke this Guarantee during its currency except with the previous consent of the Company in writing.

Dated the day of..... . 20

For

(indicate the name of Bank)

IMPORTANT NOTE

The following points should be taken care of while submitting the Bank Guarantee:

1. The Bank Guarantee should be on non-judicial stamp paper having a value as per Rules in force.
2. The stamp paper should be purchased in the name of the Bank, who give the Guarantee and not in the name of the Contractor.
3. The Bank Guarantee should be strictly as per the proforma.
4. The Bank Guarantee should be from any of the Nationalised Banks or Scheduled Banks.
5. If any correction is made on the Guarantee, the same should be endorsed by the Bank with its official seal.

FORM OF BANK GUARANTEE FOR SECURITY DEPOSIT

In consideration of KIOCL Limited (hereinafter called Company) having agreed to exempt.....(hereinafter called the said Supplier (s) / Contractor(s)) from demand under the terms and conditions of Purchase Order No..... Dated..... made between And for (hereinafter referred to as 'contract') of security deposit for the due fulfillment by the said suppliers(s) / Contractor (s) of the terms and conditions contained in the said contract on production of a Bank Guarantee for Rs..... (Rupees.....only).

1. We,..... (hereinafter referred as "the Bank") at the request of Supplier, (s) Contractor (s) do hereby guarantee the payment to the Company an amount not exceeding Rs..... (Rupees.....only) and interest thereon at 15.5 percent per annum from the date of demand till payment against any loss or damage caused to or suffered or would be caused to or suffered by the Company by reason of any breach by the said Supplier(s)/ Contractor(s) of any of the terms and conditions contained in the said Contract.
2. We do hereby unconditionally and irrevocably undertake to pay to the Company an amount to the extent of Rs. (Rupeesonly) and interest thereon at 15.5 percent per annum from the date of demand till payment without any demur, merely on a demand from the Company stating that the amount claimed is due by way of loss or damage caused to or suffered or would be caused to or suffered by the Company by reason of breach by the said Supplier(s) / Contractor(s) of any of the terms and conditions contained in the said Contract or by reason of the Supplier(s)/ Contractor(s) failure to perform the said contract. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs..... (Rupees.....only) and interest thereon as mentioned above from the date of demand till payment.
3. Our liability under these presents is absolute and unequivocal and we undertake to pay to the Company the amount so demanded notwithstanding the Supplier(s)/Contractor(s) raising any dispute and / or disputes or filing any suit or proceeding before any Court or tribunal or other Authority. The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment there under and the Contractor(s) Supplier(s) shall have no claim against us for making such payment.
4. We.....further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the contract and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said contract have been fully paid and its claims satisfied or discharged or till the Company certifies that the terms and conditions of the said contract have been fully and properly carried out by the said Supplier(s) / Contractor(s) and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before....., we shall be discharged from all liability under this Guarantee thereafter.
5. This Guarantee shall not be revocable by us except with the written consent of the Company and shall continue to be enforceable till.....should it be necessary to extend Guarantee beyond the said date, we undertake to extend the validity of this Guarantee for such further period as may be required by the Company, and such extension shall be given one month before the expiry of this Guarantee filing which the amount covered under this Guarantee shall become forthwith payable, notwithstanding that the Contract is continuing and /or the Company has or has not terminated the Contract or preferred any claim against the Supplier (s) Contractor(s).
6. We..... further agree with the Company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the Contract or to extend time or performance by the said Supplier(s)/ Contractor(s) from time to time or to postpone for any time or from time to time in exercise of any of the powers exercisable by the Company against the said Supplier(s) Contractor(s) and to forbear or enforce any of the terms and conditions

relating to the Contract and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Supplier(s)/Contractor(s) or for any forbearance, act or omission on the part of the Company or any indulgence by the Company to the said Supplier(s)/Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties, but for this provision, have effect of so relieving us.

7. This Guarantee shall not in any way be affected due to change in our constitution or by your taking or varying or giving up any securities from the CONTRACTOR(S)/ SUPPLIERS or any other person, firm or Company on its behalf or by the change in the constitution, winding up dissolution, insolvency or death as the case may be of the CONTRACTOR(S)/SUPPLIER(S).
8. In order to give full effect to the Guarantee herein contained you shall be entitled to act as if we were your principal debtors in respect of all your claims against the CONTRACTOR(S)/ SUPPLIER(S) hereby Guaranteed by us as aforesaid and we hereby expressly waive all our rights of suretyship and other rights if any which are in any way inconsistent with the above or any other provisions of this Guarantee.
9. We..... also undertake not to revoke this Guarantee during its currency except with previous consent of the Company in writing.

Dated the day of 20

For.....

(Indicate the name of Bank)

IMPORTANT NOTE

The following Points should be taken care of while submitting the Bank Guarantee:-

1. The Bank Guarantee should be on non-judicial stamp paper having a value of Rs.100/-or as applicable in the State of Karnataka.
2. The stamp paper should be purchased in the name of the Bank, who give the guarantee and not in the name of the Supplier.
3. The Bank Guarantee should be strictly as per the profoma.
4. The Bank Guarantee should be from any of the Nationalised Bank, Scheduled Bank or any other bank Acceptable to owner
5. If any correction is made on the guarantee the same should be endorsed by the Bank with its official seal.

FORM OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT

In consideration of KIOCL Limited (hereinafter called "Company") having agreed to exempt..... (hereinafter called the said "Bidder") from demand under the terms and conditions of the tender documents vide No dated of Earnest Money Deposit for the due fulfilment by the said Bidder of the terms of conditions contained in the tender document on production of Bank Guarantee of Rs (Rupees only).

1. We, (hereinafter referred to as "the Bank") at the request of Bidder do hereby guarantee the payment to the Company an amount not exceeding Rs..... (Rupees..... only) and interest thereon at 15.5 percent per annum from the date of demand till payment against any loss or damage caused to or suffered, would be caused to or suffered by the Company by reason of any breach by the said Bidder of any of the terms and conditions contained in the said Tender Documents.

2. We, do hereby unconditionally and irrevocably undertake to pay to the Company an amount to the extent of Rs..... (Rupees only) and interest thereon at 15.5 percent per annum from the date of demand till payment without any demur, merely on a demand from the Company slating that the amount claimed is due by way of loss or damage caused to or suffered or would be caused to or suffered by the Company by reason of breach by the said Bidder of any of the terms and conditions contained in the said Tender Documents. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs..... (Rupees only) and interest thereon as mentioned above from the date of demand till payment.

3. Our liability under this present Guarantee is absolute and unequivocal and we undertake to pay the Company the amount so demanded notwithstanding the Bidder raising any dispute and/or disputes or filing any suit or proceeding before any court or tribunal or other Authority. The payments so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder and the Bidder shall have no claim against us for making such payment.

4. We, further agree that the Guarantee herein contained shall remain in full force and effect during the period as required by the Company. Unless a demand or claim under this Guarantee is made on us in writing on or before....., we shall be discharged from all liability under this Guarantee thereafter.

5. This Guarantee shall not be revocable by us except with the written consent of the Company and shall continue to be enforceable till Should it be necessary to extend this Guarantee beyond the said date, we undertake to extend the validity of this Guarantee for such further period as may be required by the Company and such extension shall be given one month before the expiry of this Guarantee, failing which the amount covered under this Guarantee shall become forthwith payable.

6. We, further agree with the Company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the Tender Documents or to extend time of finalising the bid from time to time and to forbear or enforce any of the terms and conditions relating to the Tender Documents and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Bidder or for any forbearance, act or omission on the part of the Company or any indulgence by the Company to the said Bidder or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

7. This Guarantee shall not in any way be affected due to change in our constitution or by your taking or varying or giving up any securities from the Bidder or any other person, firm or Company on its behalf or by the change in the constitution, winding up, dissolution, insolvency or death as the case may be of the Bidder.
8. In order to give full effect to the Guarantee herein contained, you shall be entitled to act as if we are your principal debtors in respect of all your claims against the Bidder hereby Guaranteed by us as aforesaid and we hereby expressly waive all our rights of suretyship and other rights, if any, which are in any way inconsistent with the above or any other provisions of this Guarantee.
9. We, also undertake not to revoke this Guarantee during its currency except with the previous consent of the Company in writing.

Dated the day of..... 20

For

(indicate the name of Bank)

IMPORTANT NOTE

The following points should be taken care of while submitting the Bank Guarantee:

1. The Bank Guarantee should be on non-judicial stamp paper having a value as per Rules in force.
2. The stamp paper should be purchased in the name of the Bank, who give the Guarantee and not in the name of the Bidder.
3. The Bank Guarantee should be strictly as per the proforma.
4. The Bank Guarantee should be from any of the Nationalised Banks or Scheduled Banks.
5. If any correction is made on the Guarantee, the same should be endorsed by the bank with its official seal.
