

UJVN LIMITED

(A Govt. of Uttarakhand Enterprise)



STANDARD BID DOCUMENT FOR ALL CIVIL CAPITAL WORKS E-TENDER DOCUMENT

1	Officer Inviting Tender	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
2	Name of the Work	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
3	Completion Time of the Work	XX Months AA
4	Tender No	XX/YYYY-YY/OIT/
5	Estimated cost of the Work	Rs XXXXXXXXX/- (Rs XXXXXXXXX) excluding GST
6	Cost of e-Tender Document	Rs XXXXXXXX (including xx GST) Transaction charges extra as applicable
7	Earnest Money	Rs XXXXXXXX/- in favour of UJVN LTD
8	Last Date of On line Submission of e-Tender	xx hrs of dd.mm.yyyy
9	Last Date of Off line Submission of document (Document in original)	xx hrs of dd.mm.yyyy
10	Date of Opening of e-Tender Part-I	xx hrs of dd.mm.yyyy
11	Name of Contractor/Firm Submitting the Tender with Address	
12	Pre Bid Meeting (i)Venue (ii)Date and Time	

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SECTION-I

- NOTICE INVITING TENDER
 - PRESS NOTICE

NOTICE INVITING TENDER for Offline / e-Procurement

e- Tenders are invited for & on behalf of the UJVN Ltd ("the Employer") from the interested bidders in Single Stage two bid systems i.e "Techno-commercial Bid and Financial/Price Bid" for the work "**Name of the work**"


- 1. Completion Time**
The entire Works under the Contract shall have to be completed in all respects within **xx Months** from the date of start of work/procurement.
- 2. Availability of Tender Document (to be changed accordingly for offline bidding process)**
The Tender documents may only be downloaded online from "<http://uktenders.gov.in>". Tender Documents are available online on "<http://uktenders.gov.in>" from **17:00 hrs of dd.mm.yyyy upto 17:00 hrs of dd.mm.yyyy**
- 3. Pre-Bid Meeting:** In case of high value tender i.e. value more than Rs 1.00 Crore, a Pre-Bid meeting is required. Venue, date and time should clearly be mentioned.
- 4. Submission of Tenders**
Only online submission of tenders is permitted, therefore, tender must be submitted online on website: <http://uktenders.gov.in>. For submission of the tenders online, the bidders are required to have Digital Signature Certificate (DSC) from one of the authorized certifying authorities. Bid shall be submitted on-line in two parts
Part I: Techno-Commercial Bid
Part II: Financial Bid

Last date of On-line submission of duly filled tender in two parts is 17:00 hrs. of dd.mm.yyyy (For list of documents please refer Clause-3.3.2 & 10.1 of "instructions to Bidder")

Last date of Off-line submission documents in original is 17:00 hrs of dd.mm.yyyy (in no case shall be less than three days excluding the last date of submission of on-Line bid)
- 5. EARNEST MONEY DEPOSIT**
Part I: Techno-Commercial Bid of the tender must be accompanied with Earnest Money **Rs xxxxx/-** valid up to **Six months** from the date of opening of tender, failing of which, tender shall not be considered. Earnest Money shall be deposited by the Bidder in form of FDR/CDR/TDR or BG issued from any branch of nationalised bank/ scheduled bank & duly pledged in favor of **UJVN Ltd.**
NO FIRM SHALL BE EXEMPTED FROM DEPOSITING EARNEST MONEY ON ANY GROUND WHATSOEVER UNTIL SPECIFIED IN TENDER DOCUMENT.
- 6. Opening of Tender**
Part I : Techno-Commercial Bid of Tenders will be encrypted / opened by the officer inviting tender (OIT) on **dd.mm.yyyy at xx hrs** in the presence of authorized representative(s) of the Bidders who choose to remain present. If the due date of opening of Tenders as aforesaid is declared holiday/strike/ bundh/ on any account, Tenders would be opened on the next working day at the same time.
Part II: Financial Bid/Price Bid of tenders will be opened on a date as decided by officer inviting tender (OIT) after opening and evaluation of Part-I. The opening date of Part-II will be communicated to Bidder by telephone/ e-mail.
- 7. Tender Validity Period**
Tender shall be valid for a period of 120 days from the date of submission of Tender.
- 8. Cost of Tender Document**
The cost of Tender document is Rs. XXXXX/- only (GST as applicable on the date of submission will be extra) which is non-refundable and the payment against the cost of Tender document will be in the form of bank draft issued from a scheduled bank drawn in favor of **UJVN Ltd**, accompanied with **Part I : Techno-Commercial Bid of Tenders**. In case issuing bank is other than PNB, transaction charge shall be borne by the bidder and value of DD shall be inclusive of such transaction charges.
- 9. Whom to Contact**
For any further information on the Tender, the Bidder may contact **to the officer inviting tender (OIT), UJVN Ltd, Office AddressPh No: xxxxxxxx**
- 10.** The undersigned shall have the right to reject all or any of the Tenders without assigning any reason and shall not be bound to accept the lowest or any other Tender or to give any reason for such decision.
- 11.** Tenders for part of work shall not be accepted.
- 12.** For e-Tendering please refer **Clause-32 of "Instructions To Bidders"**
- 13.** UJVN Ltd has no responsibility regarding failure of communication/ internet problem and consequent upon problems encountered by bidders
For & On behalf of UJVN Ltd

Sd/-
Designation of OIT with Address

NOTICE INVITING TENDER
(For publishing in News papers only)

	<p style="text-align: center;">UJVNL LTD. H.O.: "UJJWAL", Maharani Bagh, G.M.S. Road, Dehradun-248006 Telephones: 0135-2763808, Fax: 0135-2763508 CIN No.U40101UR2001SGC025866, Website:www.ujvnl.com</p>
<u>Tender Notice</u>	
Office of the (Designation and complete address of the tender calling office), invites sealed tenders from interested parties. Brief summary of tender is given below : Tender No.....	
Name of work/supply/services etc.	:
Estimated cost	:
Date of availability of bid document on website	:
Last date for submission of tender	:
For fuller & further details, kindly visit our website. The tender documents can be downloaded from the Nigam's website "www.ujvnl.com" <div style="text-align: right;">(Designation of Issuing Authority)</div>	
"Avoid wasteful use of Electricity"	

	<p style="text-align: center;">UJVNL LTD. H.O.: "UJJWAL", Maharani Bagh, G.M.S. Road, Dehradun-248006 Telephones: 0135-2763808, Fax: 0135-2763508 CIN No.U40101UR2001SGC025866, Website:www.ujvnl.com</p>
<u>e-Tender Notice</u>	
Office of the (Designation and complete address of the tender calling office), invites online bids from interested parties. Brief summary of tender is given below : Tender No.....	
Name of work/supply/services etc.	:
Estimated cost	:
Date of availability of bid document on website	:
Last date for submission of bids on website	:
For fuller & further details, kindly visit e-procurement portal http://uktenders.gov.in <div style="text-align: right;">(Designation of Issuing Authority)</div>	
"Avoid wasteful use of Electricity"	

Section-II

Instructions to Bidder (ITB)

Section-II

Instructions to Bidder (ITB)

A. General

1. Scope of Tender

- 1.1 The UJVN LTD. hereinafter referred to as Employer invites Tenders for the work as mentioned in Notice Inviting Tender "SECTION-I" and referred to as "the Works".
- 1.2 The successful Bidder will be required to complete the Works in the period as mentioned in Notice Inviting Tender "SECTION-I" for Completion specified in the Schedule-B in accordance with Conditions of Contract.
- 1.3 Throughout these documents, the terms "Tender" and "Bid" and their derivatives (Tenderer /Bidder, Tender/Bid, Tendering/bidding, etc.) are synonymous. (a bidder may be a individual person, Private Entity or a Government owned entity, a firm or a company fulfilling the Pre-Qualification Criteria.)

2. Eligible Bidder

- 2.1 The tenders are limited to those Firms, companies/ JV's/ Individual Bidders, who meet minimum qualification requirements as stipulated in the sub-clause 3 of this Section. Bidders shall provide such evidence of their continued eligibility to the Employer as the latter shall reasonably request. Bidders should not be under a declaration of ineligibility for corrupt and fraudulent practices by the Employer, any Government institution or Public Sector Undertaking in India in accordance with Sub-clause 31.

3. Qualification of the Bidder

- 3.1 All Bidder shall provide in, Qualification information (tender form), a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.
- 3.2 A firm that is a Bidder (either individually or as a JV member) shall not participate as more than one Bidder. This includes participation as a Subcontractor in particular Bids. Such participation shall result in the disqualification of all Bids in which the firm is involved.
- 3.3 All Bidders shall include the following information and documents with their Tenders in Qualification Information unless otherwise stated in the ITB:

(a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; Council of Architecture Registration Certificate, written power of attorney of the signatory of the Tender to commit the Bidder (This is in the case of a registered firm or company)

(b) Total monetary value of works performed for each of the last **seven financial years**;

(c) Experience in works of a similar nature during last **seven financial years** and details of works in progress or contractually committed with certificates from the concerned officer not below the rank of Executive Engineer or equivalent

(d) Evidence of ownership of major items of equipment or evidence of arrangement of possessing them on hire/lease/buying as defined therein.

(e) Detail of man power resources.

(f) Reports on the financial standing of the Bidder, such as Balance sheet and Profit & Loss statements duly certified by the Chartered Accountant for the past five years accompanied with auditor's reports;

(g) Information regarding any litigation or arbitration during the last five years in which the Bidder is involved, the parties concerned, the disputed amount, and the matter;

(h) Information on Bid Capacity (works for which bids have been submitted and works which are yet to be completed) as on the date of this bid (**applicable for the high value contract of more than Rs 1.00 Cr**).

Bid Capacity: The bidding capacity of the contractor should be equal to or more than the estimated cost of the work put to Tender. The bidding capacity shall be worked out by the following formula:

Where, A = Maximum value of civil engineering works executed in any one year during the last seven years (updated to the price level of the financial year..... (current Financial year) at the rate of 5% per year), taking into account the completed as well as works in progress).

N = Number of years prescribed for completion of the works for which bids are invited (period upto 6 months to be taken as half-year and more than 6 months as one year).

B = Value, at the current price level, of existing commitments & on-going works to be completed during the period of completion of the works for which bids are invited.

Note: The statements showing the value of existing commitments of on-going works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by the Project Manager, not below the rank of an Executive Engineer or equivalent.

Bidder shall submit their Bid capacity as per enclosed Format VIII

- 3.3.1.** To qualify for award of the Contract, each Bidder should have minimum following Techno- Commercial eligibility:

Commercial Eligibility:

- i. Average Annual Financial turnover during the last 3 years (5 years in case of high value contracts), ending 31st March of the previous financial year, should be at least 30% of the estimated cost.
- ii. Financial standing should be established through ITR of last 3 years (5 years in case of high value contracts), Annual Reports (Balance Sheet & Profit & Loss account along with notes of accounts) of last three years (5 years in case of high value contracts) duly certified by a Chartered Accountant. All certificates by a Chartered accountant must bear UDIN (Unique Document Identification Number)
- iii. In case of high value contracts (Value of tender more than Rs 1.00 Cr), following additional financial capacity criteria may also be fixed:
 - The Net worth should be positive and not less than the amount of Equity Share Capital including Share premium in at least Three (3) out of immediately preceding five (5) years.
 - Applicants should have earned profit before taxes in three out of the immediately preceding 5 years.
 - Evidence of adequacy of working capital for this contract (access to line (s) of credit and availability of other financial resources); The working capital required should be minimum 30% of the tender value.

Technical Eligibility:

Experience of having successfully completed similar works as Prime contractor in Govt. department or Govt. Organization or PSU or PPP mode or Public Limited Company during last 7 years ending last day of month previous to the one in which tenders are invited should either be of the following-

- I. Three similar completed works each costing not less than the amount equal to 40% of the estimated cost
OR
- II. Two similar completed works each cost less than the amount equal to 50% of the estimated cost
OR
- III. One similar completed work costing not less than the amount equal to 80% of the estimated cost.

Definition of "Similar work" should clearly be defined in conformity with the scope of work.

3.3.2. Following are the desired documents for consideration of prequalification criteria:

(a) Without submission of following, Bid shall not be processed further:

- i. Earnest money in desired shape.
- ii. Tender cost in form of Demand Draft.
- iii. Non- judicial stamp paper of Rs. 100/- with proper signature on revenue stamp by the Bidder for validity of tender in a prescribed Format-II "Form of Declaration" under section.

SECTION-VI FORMAT of tender document.

- iv. Duly signed Form of Application in a prescribed Format-I "Form of Application" under section
SECTION-VI FORMAT of tender document.

- v. Declaration regarding litigation or Arbitration during last five years.
- vi. Declaration regarding eligibility and not being blacklisted or debarred.
- vii. Power of Attorney in favour of the individual/ person legally authorizes to sign the bid and contract.
- viii Declaration affirming that information furnished in the bid is correct to the best of knowledge and belief of the bidder.

(b) Each Bidder must produce self attested copy of following documents for consideration of prequalification criteria

- i. The PAN Number of Bidder
- ii. Valid GST certificate
- iii. EPF registration
- iv. Audited Balance sheet and Profit & Loss statements duly certified by the Chartered Accountant for the past three years ending 31st March of the previous financial year. Auditor's reports in support of turnover must be enclosed, if applicable.
- v. Documentary proof regarding positive net worth and profit before tax. *(For high Value tender worth Rs One Crore and above)*
- vi. TDS certificates of last financial year issued from employers where bidder has performed the contracts *(If bidder is unable to produce audited balance sheet of last financial years owing to under process, in that case TDS certificate shall be considered for turn-over purpose)*
- vii. Experience Certificates in support of past experience. Without producing experienced/ performance certificate technical eligibility shall not be considered. Also, it is the sole responsibility of bidder to establish 'same nature of supply' as stipulated in Clause 3.3.1

III.4 JV is allowed for Tender having value of more than Rs 1.00 Cr, In case of JV, Bidder shall submit all relevant documents desired for Bidding. For detail seen Appendix of ITB .each partner of Joint Venture should meet the qualification Criteria in proportion to his interest in the Joint Venture. However each partner of joint venture must have minimum share more than 26%.

III.5 Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if the bidder :

- (i) made misleading or false representations in the forms, statements, declarations and attachments submitted in proof of the qualification requirements; and/or
 - (ii) have record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.
 - (iii) participated in the previous Tendering for the same work and had quoted unreasonably high or low Tender prices and could not furnish rational justification for it to the Employer.
 - (iv) don't have enough bid capacity to execute the work. *(For high Value tender worth Rs 1.00 Cr and above)*
- Bidders who meet the minimum qualification criteria will be qualified only if their available Bid capacity is more than the total bid value.

III.6 The bidder or any individual member in case of JV must not be banned/delisted/ blacklisted/debarred from business by any PSU/Govt. Department on the date of submission of bid. If bidder submits false statement regarding banning/delisting/blacklisting/debarring, such bidders shall be debarred from the participation and no correspondence shall be entertained in this regard. In addition to this, the bidder shall be penalized/debarred/blacklisted etc In the event of subsequent blacklisting of the bidders, work shall not be awarded to such bidders

III.7 Preference to Start-ups, Micro and Small Enterprises of Uttarakhand- The preference to Start-ups, Micro and Small Enterprises of Uttarakhand / Other States for the work shall not be applicable.

4. Cost of Tendering

The bidder shall bear all costs associated with the preparation and submission of his Tender, and the Employer will, in no case, be responsible or liable for those costs.

5. Site Visit/Familiarizations with Nature of Work

5.1 The Bidder, in his own interest and cost, should inspect and examine the site and get familiarize with nature of work and satisfy themselves, before submitting their tender, in respect of the site conditions which may influence or affect the work or cost thereof under the Contract. It is the responsibility of Bidder to visit the site along with site Engineers of UJVN Ltd and get familiarized with the site conditions.

Following information will be beneficial while bidding for financial bid

- a) Site conditions including access to the site, existing and required roads and other means of transport/communication for use by him in connection with the works;
- b) The type of equipment and facilities needed, preliminary to, for and in the performance of the work
- c) All other information pertaining to and needed for the work including information as to the risks, contingencies and other circumstances which may influence or affect the work or the cost thereof under this contract.
- d) Source and extent of availability of suitable materials including water etc. and labour (skilled and un-skilled) required for work and Laws and Regulations governing their use and employment;
- e) Geological, meteorological, topographical and other general features of the site and its surroundings as are pertaining to and needed for the performance of the work;
- f) The limit and extent of surface and sub-surface water to be encountered during the performance of the work and the requirement of drainage and pumping;
- g) The type of equipment and facilities needed, preliminary to, for and in the performance of the work;
- h) All other information pertaining to and needed for the work including information as to the risks, contingencies and other circumstances which may influence or affect the work or the cost thereof under this contract.

- 5.2 The Bidder should note and bear in mind that the Employer shall bear no responsibility for the lack of acquaintance of the site and other conditions or any information relating thereto, on their part. The consequences of the lack of any knowledge, as aforesaid, on the part of the Bidder shall be at their risk and cost and no charges or claims whatsoever consequent upon the lack of any information, knowledge or understanding shall be entertained or payable by the Employer.

B. Tender Document

6. Contents of Tender Document

- 6.1 The set of Tender documents comprises the documents listed below and addendum issued in accordance with Clause 8 of ITB.

SECTION-I Notice Inviting Tender
 SECTION-II Instructions to Bidder (ITB)
 SECTION-III General Conditions of Contract,
 SECTION-IV Special Conditions of Contract
 SECTION-V Schedules
 SECTION-VI Format
 SECTION-VII Bill of Quantity
 SECTION-VIII Technical Specifications
 SECTION-IX Safety Manual
 SECTION-X Tender Drawing, if any.

- 6.2 The Bidder is expected to examine carefully all instructions, Forms, Bill of Quantities, qualification information and other schedules, General and Special conditions of contract, specifications and drawings in the Tender Documents. Failure to comply with the requirements of Tender Documents shall be at the Bidder's own risk. Pursuant to clause 22 hereof, Bidders, which are not substantially responsive to the requirements of the Prequalification Documents, shall be rejected.

7. Clarification of Tender Documents

- 7.1 A prospective Bidder requiring any clarification of the Tender documents may notify the Employer in writing at the Employer's address indicated in the Notice Inviting Tender. The Employer will respond to any request for clarification received earlier than 7days prior to the deadline for submission of Tenders
- 7.2 The Bidder is requested to submit any question in writing or by cable so as to reach the Employer not later than one week before the pre-bid meeting.

- 7.3 Any modifications in the Tender documents listed in Clause 6.1 of ITB, which may become necessary, shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 8 of ITB.
- 7.4 The purpose of the pre-bid meeting (Value of tender more than Rs 1.00 Cr) will be to clarify issues and to answer questions on any matter that may be raised at that stage.

8. Amendment of Tender Documents

- 8.1 a. Before the deadline for submission of Tenders, the Employer may issue addendum/corrigendum/cancellation notice. All such notices shall be publish in the website "<http://uktenders.gov.in>" (in case of e- tendering), Office notice boards and through News-Papers and such form the part of the bidding documents
- b. The system shall generate a mail to those bidders who have already uploaded their tenders (in case of e-tendering) and those bidders if they wish can modify their tender
- 8.2 Any addendum/corrigendum thus issued shall be part of the Tender documents.
- 8.3 To give prospective Bidder reasonable time in which to take an addendum into account in preparing their Tenders, the Employer shall extend, as necessary, the deadline for submission of Tenders, in accordance with Clause 18 of ITT.

C. Preparation of Tenders

9. Language of Tender

All documents relating to the Tender shall be in English language.

10. Documents Comprising the Tender

- 10.1 The Tender submitted by the Bidder shall be in two separate parts:

Part I This shall be named "**Techno-Commercial Bid**" and shall comprise the following documents:

1.	Earnest Money as mentioned in Para 3 of NIT(Hard copy shall be submitted before the online opening of tenders)
2.	Tender Cost as mentioned in Para 7 of NIT (<i>Hard copy shall be submitted before the online opening of tenders</i>)
3	Non- judicial stamp paper of Rs. 100/- with proper signature on revenue stamp by the Bidder in a prescribed Format-II "Form of Declaration" under section SECTION-VI FORMAT of tender uploaded document (<i>Hard copy shall be submitted before the online opening of tenders</i>)
4	Duly signed Form of Application in a prescribed Format-I "Form of Application" under section SECTION-VI FORMAT of uploaded tender document (<i>Hard copy shall be submitted before the online opening of tenders</i>)
5	Self attested copy of GST Certificate
6	Self attested copy of EPF Certificate
7	Self attested copy PAN Number Certificate
8	Self attested Documents regarding proof of requisite turn over as Para 3.3.1 of ITB
9	Self attested Documents regarding proof of past experience carried out by the Bidder in past in UJVNL and/ or in other organization
10	Any other document which Bidder thinks to be submitted for his prequalification
11.	Declaration regarding litigation or Arbitration during last five years. (<i>Hard copy shall be submitted before the online opening of tenders</i>)
12.	Declaration regarding eligibility and not being blacklisted or debarred
13	Power of Attorney in favour of the individual/ person legally authorizes to sign the bid and contract. (<i>Hard copy shall be submitted before the online opening of tenders</i>)

Part II. It shall be named "**Financial Bid**" and shall comprise the **Priced Bill of Quantities** for items specified in Section-VII "Bill of Quantities"

- Note: 1. All above documents listed under Part-I "Techno-Commercial Bid" shall be submitted ON-LINE. Documents listed at S.No. 1 to 4 and S. No. 11 to 13 shall also be submitted OFF-LINE in original before the online opening of tenders up to the date as mentioned in NIT.
2. Financial Bid shall only be submitted ON-LINE. OFF-LINE submission of Financial Bid shall not be considered and such bid shall be rejected

- 10.2** Each part shall be separately sealed and marked in accordance with Sealing and Marking instructions in clause 17 of ITT.

10.3 The following documents, which if not submitted with the Tender, will be deemed to be part of the Tender.

Section	Particulars
I	Notice inviting tender
II	Information and Instructions to Bidder
III	General Condition of Contract
IV	Special Condition of Contract
VIII	Technical Specifications
IX	Safety manual
X	Tender Drawings

11. Tender Prices

- 11.1** The Contract shall be for the whole Work, as described in Clause 1.1 of ITB, based on the Priced Bill of Quantities submitted by the Bidder.
- 11.2** The Bidder shall adopt the Item Rate Method or Percentage Rate Method for Priced Bill of Quantities as specified in Section-VII.

Item Rate Method requires the Bidder to quote rates and prices for all items of the works described in the Bill of Quantities. The item for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. Corrections, if any, shall be made by crossing out, initialling, dating and rewriting. If the bidders quote NIL charges, then the bid shall not be accepted.

Nothing shall be added or subtracted in percentage after entering the rates against item of work,

Percentage Rate Method requires the Bidder to quote a percentage above /below/ at par of the rates specified in the Bill of Quantities.

- 11.3** All duties, taxes (except GST), royalties and other levies payable by the Contractor under the Contract, shall herein be included in the rate prices and the total tender price submitted by the Bidder.

12. Currencies of Tender and Payment

The rates and the prices shall be quoted by the Bidder entirely in Indian Rupees.

13. Tender Validity

- 13.1** Tenders shall remain valid for a period of 120 days after the deadline date for Tender submission specified in Clause 18 of ITB.
- 13.2** In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the Bidder may extend the period of validity for a specified additional period. The request and the Bidder's responses shall be made in writing or by cable. A Bidder may refuse the request without forfeiting his Earnest Money. A Bidder agreeing to the request will not be required or permitted to modify his Tender, but will be required to extend the validity of his earnest money for a period of the extension, and in compliance with Clause 14 of ITB in all respects.

14. Earnest Money Deposit (EMD)

- 14.1** The Bidder shall furnish, as part of the Tender, Earnest Money, for the amount specified in the NIT.
- 14.2** Any Tender not accompanied by an acceptable Earnest Money shall be rejected by the Employer as non-responsive.
- 14.3** The Earnest Money of unsuccessful Bidder will usually be returned within 28 days of the award of works to the successful Bidder. But if not returned in due time, no claim from contractor's side shall be entertained.
- 14.4** The Earnest Money of the successful Bidder will be discharged when the Bidder has signed the Agreement and furnished the required Performance Security / initial security Deposit. EMD, in later stage may be converted into

Performance Security / Initial Security Deposit; if so then contractor has to extend validity of EMD up to a period as specified for Performance Security Deposit / initial security Deposit

14.5 The Earnest Money may be forfeited:

- a) if the Bidder withdraws the Tender after Tender opening (techno-commercial Tender) during the period of Tender validity;
- or**
- b) If, the employer rejects the tender under corrupt and fraudulent practice as per Sub-Clause 31 of ITB.
- or**
- c) in the case of a successful Bidder, if the Bidder fails within the specified time limit to
 - i. Sign the Agreement; or
 - ii. Furnish the required Performance Security Deposit.

15. Alternative Proposals by Bidder

Bidder shall submit offers that comply with the requirements of the Tendering documents, including the Bill of Materials and the basic technical design as indicated in the drawings and specifications. Alternative proposals will be rejected considering their proposal as non-responsive.

16. Format and Signing of Tender

16.1 The Bidder shall submit one set of the tender comprising of the documents as described in Clause 10 of ITB.

16.2 The Tender shall be typed or written in indelible ink and shall be signed on each page by a person or persons duly authorized to sign on behalf of the Bidder. All pages of the Tender where entries or amendments have been made shall be initialed by the person or persons signing the Tender. The unsigned Tender shall not be considered and shall liable to be rejected forthwith by Employer. To avoid any discrepancies Bidder should quote the rates in figure and words of English language also

- a) If the tender is submitted by an individual, it shall be signed by the proprietor above his full name and with its current business address.
- b) If the tender is submitted by a proprietary firm, it shall be signed by the proprietor above his full name and full name of his firm with its name and current business address.
- c) If the tender is submitted by a firm in partnership, it shall be signed by all the partners of the firm above their full names and current business addresses, or by a partner holding the power of attorney for the firm for signing the tender, in which case a certified copy of the power of attorney shall accompany the tender. A certified copy of the partnership deed duly registered and current business address of all the partners of the firm shall also accompany the tender.
- d) If the tender is submitted by a limited company or a limited corporation, it shall be signed by a duly authorized person holding the power of attorney or any other legally valid document for signing the tender, in which case a certified copy of the power of attorney or any such legally valid document shall accompany the tender. Such limited company or corporation may be required to furnish satisfactory evidence of its existence before the contract is awarded.
- e) If the tender is submitted by a Joint Venture/ consortium of firms, one of the partners shall be nominated as the lead Partner who shall submit complete information pertaining to each partners in the Joint Venture/ consortium and shall be authorized to receive instructions and incur liabilities for and on behalf of the Joint Venture/ consortium during pre-award/post award (if awarded) and this authorization shall be evidenced in the Joint Venture Agreement submitted with the tender signed by legally authorized signatories of all the partners. The tender and in case of successful tender, the agreement shall be signed by all partners of the Joint Venture/ consortium so as to be legally binding on all partners. All partners of the Joint Venture/ consortium shall be liable jointly and severally for the execution of the contract in accordance with the contractual terms and a statement to this effect shall be included in the Joint Venture Agreement copy of which shall be submitted with the tender.
- f) All witnesses and sureties shall be persons of status and their full names, occupations and addresses shall be stated below their signatures. Each page of the Tender Documents shall be signed by the Bidder.

16.3 The Tender shall contain no overwriting, alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections

shall be made by scoring out the cancelled portion, writing the correction and initialling and dating it by the person or persons signing the Tender.

D. Submission of Tenders (For e-tendering please see clause-32 of ITB)

17. Sealing and Marking of Tenders

17.1 for offline submission of documents, the Bidder shall submit the documents required in an envelope, superscripted as **Part-I “Techno-commercial Bid”**. The contents of the Techno-commercial shall be as specified in clause 10.1 of ITB.

17.2 The envelope containing the Technical Tenders shall

- a) be addressed to the authority inviting tender
- b) bear the name and Tender No. of the Work as mentioned in Tender Notice

17.3 In addition to the identification required in Clause 17.1 and 17.2, the envelope shall indicate the name and address of the Bidder to enable the Tender to be returned unopened, in case it is declared late, pursuant to Clause 19 of ITB, or is declared non-responsive pursuant to Clause 20 of ITB.

18. Deadline for Submission of Tenders

18.1 Off line submission of documents must be received by the Employer/ Authority inviting tender at the address specified in the Tender Form not later than the date and time indicated in the Tender Form. In the event of the specified date for the submission of Tenders being declared a holiday for the Employer, the Tenders will be received up to the specified time on the next working day.

18.2 The Employer/ Authority inviting tender may, in the exceptional circumstances and at its discretion, extend the deadline for submission of Tenders by issuing an amendment in accordance with Clause 8 of ITT, in which case all rights and obligations of the Employer and the Bidder previously subject to the original deadline will then be subject to the new deadline.

19. Late Tenders

Any Tender received by the Employer after the deadline prescribed in Clause 18 of ITT will be returned unopened to the Bidder.

E. Tender Opening and Evaluation

20. Tender Opening

20.1 The Employer/ Authority inviting Tender will open the Tenders received (except those received late) in the presence of the Bidder/Bidder's representatives who choose to attend at the time, date and place specified in the Tender issue Form. In the event of the specified date for the opening of Tenders being declared a holiday for the Employer, the Tenders will be opened at the appointed time and venue on the next working day.

20.2 The envelope, superscripted as **Part-I “Techno-commercial Bid”** shall be opened first and if the cost of the Tendering documents and EMD is not there, or incomplete, the remaining Tender documents will not be processed, and Tender will be rejected.

20.3 In all other cases, the amount of Earnest Money, forms and validity shall be announced. Thereafter, the Bidder's names and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening.

20.4 Evaluation of the techno-commercial bid with respect to Tender security, qualification information and other information furnished in Part-I “Techno-commercial Bid” of the Tender pursuant to Clause 10.1 of ITB, shall be taken up and a list will be drawn up of the responsive Bidders whose financial Tenders are eligible for consideration.

20.5 For submission of documents for timely evaluation of tenders, 06 days time will be provided by UJVN Limited for furnishing of the document by the Tenderers.

If the desired document is not provided by the Tenderers within 06 days, 03 days additional period shall be provided. If the desired document still not provided by the Tenderers, after giving 06 days and 03 days additional time, then tender/tenders will be treated as non responsive and no further correspondence shall be entertained by UJVN Limited in this regard.

20.6 The Employer/ Authority inviting Tender shall inform the Bidder, whose techno-commercial Tenders are found responsive, date, time and place of opening of financial bid. In the event of the specified date being declared a holiday for the Employer/ Authority inviting Tender, the Tenders will be opened at the specified time and venue

on the next working day. Bidder or their representative may choose to attend the meeting of opening of financial Tenders

20.7 The Employer/ Authority inviting tender at his discretion will open **Part-I “Techno-commercial Bid”** and evaluate the tender completely including checking for responsiveness. **Part-II “Financial Bid”** of Tender will be opened after evaluation of Part-I, the date of opening of **Part-II “Financial Bid”** shall be informed to the responsive bidder by email/telephone.

20.8 At the time of the opening of the **Part-II “Financial Bid”**, the names of the Bidder whose Tenders were found responsive in accordance with clause 20.4 of ITB will be announced. The financial Tenders of only responsive Bidders whose financial Tenders are eligible for consideration, will be opened. The remaining Tenders of the bidders will not be opened. The responsive Bidder’s names, the Tender prices, the total amount of each Tender, and such other details as the Employer may consider appropriate will be announced by the Employer at the time of Tender opening. Any Tender price which is not read out and recorded, will not be taken into account in Tender Evaluation

21. Process to be Confidential

Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a contract shall not be disclosed to Bidder or any other persons not officially concerned with such process until the award to the successful Bidder has been announced. Any attempt by a Bidder to influence the Employer’s processing of Tenders or award decisions may result in the rejection of his Tender

22. Examination of Tenders and Determination of Responsiveness

22.1 During the detailed evaluation of “Techno-commercial Bid” of Tenders, the Employer will determine whether each Tender:

- (a) meets the eligibility criteria defined in Clauses 2 and 3;
- (b) has been properly signed;
- (c) is accompanied by the required EMD and cost of tender document; and
- (d) is substantially responsive to the requirements of the Tendering documents. During the detailed evaluation of the ‘Financial Bid’ of Tenders, the responsiveness of the Tenders will be further determined with respect to the remaining Tender conditions, i.e., Price-Bid of bill of quantities, technical specifications and drawings.

22.2 A substantially responsive “Tender” is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation or reservation. A material deviation or reservation is one:

- (a) which affects in any substantial way the scope, quality, or performance of the Works; or
- (b) which limits in any substantial way, the Employer’s rights or the Bidders obligations under the Contract;
- or
- (c) whose rectification would affect unfairly the competitive position of other Bidder presenting substantially responsive Tenders or
- (d) which is inconsistent with the Tendering documents,

22.3 If a “Tender” is not substantially responsive, it will be rejected by the Employer/Authority inviting tender, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

23. Correction of Errors

23.1 In the Price-Bid of Bill of Quantities the rates shall be written both in words and in figures. Bidder shall also show the total on each page and the Grand Total of the whole Contract. Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.

23.2 If on check, there are found to be differences between the rates given by the contractor in words and figures or in the amount worked out by him in the Bill of Quantities and General Summary, the same shall be adjusted in accordance with the following rules;.

- a) In the event of a discrepancy between description in words and figures quoted by a Bidder, the description in words shall prevail.
- b) In the event of an error occurring in the amount column of Bill of Quantities as a result of wrong multiplication of unit price and quantity, the unit price shall be regarded as firm and multiplication shall be amended on the basis of the price.
- c) All errors in totaling in the amount column and in carrying forward totals shall be corrected.

- d) The totals of various sections of Bill of Quantities amended shall be carried over to the General Summary and the tendered sum amended accordingly. The tendered sum so altered shall, for the purpose of tender, be substituted for the sum originally tendered and considered for acceptance instead of the original sum quoted by the Bidder. Any rounding off of quantities in Price Bid of Bill of Quantities or in General Summary by the Bidder shall be ignored.

24. Evaluation and Comparison of Tenders

- 24.1 The Employer will evaluate and compare only the Tenders determined to be substantially responsive in accordance with Clause 22.
- 24.2 In evaluating the Price-Bid of Tenders, the Employer will determine for each Tender the Evaluated Tender Price by adjusting the Tender Price by Making any correction for errors pursuant to Sub-clause 23;
- 24.3 Tender rates quoted by Bidders in Priced BOQ shall remain unaltered.
- 24.4 If the Tender, which results in the lowest Evaluated Tender Price, is seriously unbalanced or front loaded in relation to the Engineer's estimate of the items of work to be performed under the contract, the Employer may ask the Bidder to produce detailed rate analysis for any or all items of the Bill of Quantities, as per standard norms giving breakup of number of Labour/material/machine hours; consumables etc. and rates for such components, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. The rate analysis furnished by such lowest Bidder shall be evaluated on various aspects such as technical and payment schedule. Taking into consideration the schedule of estimated contract payments, the Employer shall re-schedule the payment to protect the Employer against financial loss in the event of default of the successful Bidder under the contract. If the detailed rate analysis furnished by such lowest Bidder is not found technically sound enough, the employer/ authority inviting tender may reject such tender and proceed for next lowest tender.

F. Award of Contract

26. Award Criteria

Subject to Clause 28 of ITB, the Employer will award the Contract to the Bidder whose Tender has been determined:

- i. to be substantially responsive to the Tendering documents and who has offered the lowest evaluated Tender price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of Clause 2 of ITB, and (b) qualified in accordance with the provisions of Clause 3 of ITB; and (c) the evaluated Tender Price is within a reasonable variation of the estimated amount of Work.

27. Employer's Right to accept any Tender or Reject any or all Tenders

Notwithstanding Clause 26 above, the Employer reserves the right to accept or reject any Tender, and to cancel the Tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or any obligation to inform the affected Bidder or Bidder of the grounds for the Employer's action.

Employer/ Authority Inviting Tender reserve the right to relax the eligibility criteria for tenders for any or all the work as per requirement.

28. Notification of Award and Signing of Agreement.

- 28.1 The Bidder whose Tender has been accepted will be notified of the award by the Employer prior to expiration of the Tender validity period through the "Letter of Acceptance", which will state the sum that the Employer will pay to the Contractor in consideration of the execution, completion by the Contractor as prescribed by the Contract. -
- 28.2. The notification of award will constitute the formation of the Contract until the Formal Agreement is signed pursuant to clause 28.3 of ITB and further subject only to the furnishing of a performance security deposit and additional performance security deposit, if any in accordance with the provisions of Clause 29 of ITB.
- 28.3. The Agreement will incorporate all agreements between the Employer and the successful Bidder. It will be signed by the Employer and the successful Bidder after the performance security deposit is furnished.
- 28.4 Upon furnishing by the successful Bidder of the Performance Security deposit, the Employer will return the Earnest Money of the other Bidder informing that their Tenders have been unsuccessful.

29. Performance Security Deposit

29.1 Within maximum 28 days or as per time limit given by Engineer-in-charge after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security & additional performance security for unbalanced Tenders in accordance with Clause 3 of General Conditions of Contract, valid till end of Defect Liability Period

29.2 The performance security deposit and additional performance security deposit, if any shall be in **the form of a FDR/CDR/TDR Or BG** issued from any branch of nationalised bank/ scheduled bank **duly pledged in favour of UJVN Ltd.**

29.3 Failure of the successful Bidder to comply with the requirements of Clause 29.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Earnest Money. He will also be debarred from participating in Tenders invited by the Project for one year or more.

30. Advances

Refer Clause 13 of General condition of Contract..

31. Corrupt or Fraudulent Practices

The Employer requires the Bidder/contractors under this contract observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Employer:

(a) defines, for the purpose of these provisions, the terms set forth as follows:

- (i) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to be detrimental to the Employer, and includes collusive practice among Bidder (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

(b) will reject a proposal for award of work if he determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

(c) Will declare a Bidder ineligible, either indefinitely or for a stated period of time, to be awarded a contract/contracts if he at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing for, or in executing, the contract.

(d) Canvassing in any form is strictly prohibited and in case any Bidder is found doing the same his tender shall be summarily rejected.

(e) In case it is found that the tenderer has submitted false information, fabricated information or incorrect information related to pre-qualification criteria of the tender then the tender will be rejected and the tenderer will be debarred to participate in other tenders of UJVN Ltd:-

- (i) First time for three (03) year
- (ii) and for seven years for repetition in submission of false information, fabricated information or incorrect information related to pre-qualification criteria in any tender of UJVN Ltd..

32. Exclusive Clauses for E-Tendering

32.1. Guide Lines Regarding Participation In E-Tendering:

a. PORTAL REGISTRATION: The contractor/bidder intending to participate in the bid is required to register in the portal using his/ her active personal/official email id as his /her Login id and attach his /her valid digital signature certificate(DSC) to his/her unique Login id. She/he will enter relevant information as asked for about the firm/ contractor.

This is a one-time activity for registering in the portal

b. LOGIN TO THE PORTAL: The contractor/ bidder is required to type his/ her Log-In id and password. The system will again ask to select DSC and confirm it with the password of DSC as a second stage authentication. For each Login, a user's DSC will be validated against its date of validity and also against

the Certification Revocation List (CRL) of respective CA stored in system database. The system checks the unique Login ID, password & DSC combination and authentication the login process for use of the portal.

- c. **DOWNLOADING OF BID:** The bidder can download the tender of his choice and save it in his system to undertake necessary preparatory work off-line and upload the complete tender at his convenience before the closing date and time of submission. The document downloaded from website should not be tempered, and if any such tempering is established before or after the opening of bids, the bidder shall be debarred for a minimum three (03) year from participating in the tenders issued by UJVN Ltd.
- d. **CLARRIFICATION ON BID:** The bidder may ask question on-line in the e-procurement portal using his/her DSC, provided the questions are raised within the period of seeking clarification as mentioned in the tender call notice/ bid (refer clause 7.1 of “**Instructions To Bidder**”).The Officer inviting the tender will clarify queries related to the tender.
- e. **PREPARATION OF BID:**
 - i) The bids may consist of general arrangements, drawings or typical or any other drawings to the work for which bid has been invited. Bidder may down load these drawings and take out the print for detail study and preparation of his bid. Any other drawings and documents pertaining to the works available with the officer Inviting tender will be open for inspection by the bidders
 - ii) The bidder shall go through the bid carefully and list the documents those are asked for submission (refer clause 3.3.2 & 10.1 of “**Instructions To Bidder**”). He shall prepare all documents including cost of Tender document, EMD, Declaration Form, Price Bid etc and store in the system.
- f. **PAYMENT OF EMD/ BID SECURITY AND COST OF BID DOCUMENTS:**
 - i) The bidder shall furnish, as part of his Bid, a Bid Security (Earnest Money Deposit) for the amount mentioned under NIT. The bidder shall scan all the written/ printed pages of the Bid Security (EMD) and upload the same in portable document format (PDF) to the system in designated place of the technical bid. Furnishing scanned copy of such documents is mandatory otherwise his/ her bid shall be declared as non responsive and liable to rejection.
 - ii) The validity period of the EMD or Bid Security shall be as mentioned in the bid document. Any bid not accompanied by due Bid Security and not secured as indicated in the bid document shall be rejected as non-responsive.
 - iii) The fixed Deposit Bank Guarantee or any other form as mentioned in detailed NIT in respect of **EMD / Bid Security** and the **Bank Draft** in respect of **Cost of Tender** are to be **scanned and uploaded in PDF format along with the bid**.
 - iv) The bidder shall provide the cost of bid and the Bid security in sealed cover superscripting the name of the work/Supply for which the instruments are intended and the Officer Inviting Tender (OIT). **The original FD's/BG's& DD's towards EMD & Tender cost** respectively shall be **physically produced before the Officer Inviting the Bid** or the concerned authorized officer of the department by Registered Post/ Speed Post or any other delivery system **up to last date and time of submission as stipulated in Notice Inviting Tender.**
 - v) Officer Inviting the Tender (OIT) or other concerned officer authorized to receive the original Bid Security/EMD and Bid Cost shall not be responsible for any postal delay and/or non receipt of the original copy of the Bid Security on or before specified date and time. Non submission of Bid Security and Bid Cost within the designated period will sufficient to declare the bid as non-responsive and liable to rejection

32.2 SUBMISSION OF BID:

- a. The bidder shall carefully go through the tender condition and prepare the required documents accordingly.
- b. Bidders should not be permitted to alter and modify their bids after expiry of the deadline for receipt of bids.
- c. The Protected Bill of Quantities (BOQ) uploaded by Officer Inviting the Tender is the authentic BOQ. Any alteration/ deletion/ manipulation in BOQ shall lead to cancellation Bid.
- d. The Bidder shall upload the scanned copy/copies of document in support of eligibility criteria and qualification information in prescribed format in PDF to the portal in the designated locations of Technical Bid.

- e. The Bidder shall write his name in the space provided in the specified location in the Protected Bill of Quantities (BOQ) published by the Officer Inviting Tender. The Bidder shall type rates in figure only in rate column of respective items without leaving any blank cell in the rate column in case of item rate tender and type percentage excess or less up to one decimal place only in case of percentage rate tender.
- f. The Bidder shall log on to the portal with his/her DSC and move to the desired tender for uploading the documents in appropriate place one by one simultaneously checking the documents.
 - (i) Bids cannot be submitted after due date and time. The Bids once submitted cannot be viewed, retrieve or corrected. The bidder should ensure the correctness of the bid prior to uploading and take printout of the system generated summary of submission to confirm successful uploading of bid. The bids cannot be opened even by the OIT /Opener before the due date & time of opening.
 - (ii) Each process in the e-Procurement is time stamped and the system detect the time of login of each user including the Bidder.
 - (iii) The bidder should ensure clarity/ legibility of the document uploaded by him to the portal.
 - (iv) The system shall require all the mandatory forms and fields filled up by the contractor during the process of submission of the bid/tender.
 - (v) The bidder should check the system generated confirmation statement on the status of the submission.
 - (vi) The bidder should upload sufficiently ahead of the bid closure time to avoid traffic rush and failure in the network.
 - (vii) The Tender Inviting Officer is not responsible for any failure malfunction, or breakdown of the electronic system used during the e-procurement process.
 - (viii) The bidder is required to upload documents and Bill of Qualities duly filled in. It is not necessary on the part of the bidder to upload the drawings and other bid documents (after signing) while uploading his bid. It is assumed that the bidder has referred all the drawings and documents upload by the Officer Inviting the Bid.
 - (ix) Seeking any revision of rates or backing out of the bid claiming for not having referred to any or all the documents provided in the Bid by the Officer Inviting the Bid will be constructed as plea to disrupt the bidding process and in such cases the Bid Security shall be forfeited.
 - (x) The bidder will not be able to submit his bid after expiry of the date & time of submission of Bid (server time). The date & time of Bid Submission shall remain unaltered even if the specified date of submission of bids declared as a holiday for the Officer Inviting the Bid.

32.3 SECURITY OF BID SUBMISSION:

- a. All bid uploaded by the bidder to the portal will be encrypted.
- b. The encrypted bid can only be decrypted/opened by the authorized openers after the due date and time.

32.4 RESUBMISSION AND WITHDRAWAL OF BIDS:

- a. Resubmission of bid by the bidders for any number of times before the final date and time of submission is allowed.
- b. Resubmission of bid shall require uploading of all documents including price bid afresh.
- c. Bid submitted after the predefined times of receipt will not be considered. Which inbuilt in the system.
- d. The bidder should avoid submission of bid at the last moment to avoid system failure or malfunction of internet or traffic or power failure etc.
- e. The bidder can withdraw his bid before the closure date & time of receipt of the bid by uploading scanned copy of a letter addressing to the Officer Inviting Tender citing reasons for withdrawal. Bids once submitted not be allowed to withdraw after the closing *date & time*.

32.5 OPENING OF THE BID:

- a. Bid opening date & time is specified during tender creation or can be extended through corrigendum. Bids cannot be opened before the specified date & time.
- b. All bid openers have to log on to the portal to decrypt the bid submitted by the bidders.
- c. The bidders and guest users can view the summary of opening of bids from any system. Contractor are not required to be present during the bid opening at the opening location if they so desire.
- d. In the event of the specified date of bid opening being declared a holiday for the Officer Inviting the Bid, the bids will be opened at the specified time on the next working day.
- e. In case bids are invited for more than one package the order for opening of the "Bid" shall be that in which they appear in the "Invitation for Bid".
- f. During bid opening the covers containing original financial instruments towards Cost of Bid Security in the form specified in the NIT/ ITT valid for the period stated in the bid, received after last date of receipt of bid and before opening of the bids shall be opened and declared. The OIT/Opener shall continue opening of other documents if he is satisfied about the appropriateness of the Cost of Bid and Bid Security.
- g. Combined Bid Security for more than one work is not acceptable.
- h- Negotiation with bidder after bid opening must be severely discouraged. However, in exceptional circumstances may be sorted to only with the lowest evaluated responsive bidder.
- i- On transfer of a Bid opening Officer, he may be allowed to open the bid from his new location. Further action on bid document shall be taken by the new incumbent of the post.

32.6 EVALUATION OF BIDS:

- a. All the opened bids shall be downloaded and printed for taking up evaluation. The OIT/Openers shall on each page of the documents downloaded and furnish a certificate that the documents as available in the portal for the tender have been downloaded.
- b. The OIT/Evaluators shall take up evaluation of bids with respect to the qualification information and other information furnished subject to confirmation of the Bid Security, the issuing institutions.
- c. After receipt of confirmation of the Bid Security, the bidder may be asked in writing to clarify on the document provided in the Technical Bid, if necessary, with respect to any doubts or illegible documents. The Officer Inviting Tender may ask for any other document of historical nature during Technical evaluation of the tender. Provided in all such cases, furnishing of any documents in no way alters the Bidder's price Bid. Non submission of legible documents may render the bid non responsive.
- d. The bidders will respond in not more than seven days of issue of the clarification letter, failing which the bid of the bidder will be evaluated on its own merit.
- e. Technical evaluation of all bids shall be carried out as per information furnished by bidders. But evaluation of Bids does not exonerate bidders from checking their original documents at later date. If the bidder is found to have misled the evaluation through wrong information, action as per relevant clause of NIT/ITT shall be taken against the Bidder/Contractor.
- f. The OIT/Evaluators will evaluate bids and finalize list of responsive bidders.
- g. The Financial bids of the technically qualified bidders shall be opened on the due date of opening. The OIT/Openers shall log on to the system in sequence and open the financial bids
 - i) The Financial Bid will be opened on the notified date & time in the presence of bidders or their authorized representative who wish to be present.
 - ii) At the time of opening of "Financial Bid", bidders whose technical bids were found responsive will be opened.
 - iii) The qualified bidder's name, bid prices, item wise rates, total amount of each item in case of item rate and percentage above or less in case of percentage rate tenders will be announced.
 - iv) Procurement Officer-Openers shall sign on each page of the downloaded BOQ and the

Comparative Statement and furnish a certificate to that respect.

- v) Bidder can witness principal activities and view the documents/summary reports for that particular work by logging on to the portal with the DSC from anywhere.
- h. Name of Successful bidder and contract amount shall be mentioned in the departmental notice board / bulletin / website.

Office Inviting Tender (OIT)

APPENDIX TO ITB

Clause: 3.4: JOINT VENTURE: (Applicable for the work of more than Rs 1.00 cr)

1. Guidelines for Participation of Joint Venture Firms in Bidding

- A. Separate identity/name shall be given to the Joint Venture firm.
- B. Number of members in a JV firm shall not be more than **Two**.
- C. A member of JV firm shall not be permitted to participate either in individual capacity or as a member of another JV firm in the same tender.
- D. The tender form shall be purchased and submitted only in the name of JV firm and not in the name of any constituent member.
- E. The joint venture firm shall be required to submit Earnest Money Deposit (EMD) along with the tender in terms of the provisions contained in NIT
- F. One of the members of the JV firm shall be its Lead Member who shall have a majority (**at least 51%**) share of interest in the JV firm. The other members shall have a share of not less than **26%**. In case of JV firm with foreign member (s), the lead member has to be an Indian firm with a minimum share of **51%**. A copy of Memorandum of Understanding (MOU) executed by the JV members shall be submitted by the JV firm along with the tender. The complete details of the members of the JV firm, their share and responsibility in the JV firm etc. particularly with reference to financial, technical and other obligations shall be furnished in the MOU. Format for MOU for JV is placed at SECTION VI: FORMATS- JV-1, JV-2 & JV-3
- G. Once the tender is submitted, the MOU shall not be modified/altered/terminated during the validity of the tender. In case the Bidder fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall liable to be forfeited.
- H. Approval for change of constitution of JV firm shall be at the sole discretion of the UJVN Ltd. The constitution of the JV firm shall not be allowed to be modified after submission of the tender/ bid by the JV firm except when modification becomes inevitable due to succession laws and in any case the minimum eligibility criteria should not get vitiated. However, the Lead Member shall continue to be the Lead Member of the JV firm. Failure to observe this requirement would render the offer invalid.
- I. Similarly, after the contract is awarded, the constitution of JV firm shall not be allowed to be altered during the currency of contract except when modification become inevitable due to succession laws etc. and in any case the minimum eligibility criteria should not get vitiated. Failure to observe the stipulation shall be deemed to be breach of contract with all consequential penal action as per contract condition.
- J. On award of contract to a JV firm, a single Performance Guarantee shall be required to be submitted by the JV firm as per tender conditions. All the Guarantees like Performance Guarantee, Bank Guarantee for Mobilization Advance, Machinery Advance etc., shall be accepted only in the name of the JV firm and no splitting of guarantees amongst the members of the JV firm shall be permitted.
- K. On issue of LOA (Letter of acceptance) an agreement among the members of the JV firm (to whom the work has been awarded) shall be executed This JV agreement shall be submitted by the JV firm to the UJVN Ltd before signing the contract agreement for the work. In case the Bidder fails to observe/comply with this stipulation, the full Earnest Money Deposit (EMD) shall be forfeited and other penal actions due shall be taken against partners of the JV and the JV. This joint Venture Agreement shall have, inter-alia following clauses:
 - i. *Joint and Several Liability: Members of the JV firm to which the contract is awarded, shall be jointly and severally liable to the UJVN Ltd for execution of the project in accordance with General Conditions, Special Conditions and Technical Specifications of the Contract,. The JV members shall also be liable jointly and separately for loss, damages caused to the UJVN Ltd during the course of execution of the contract or due to non-execution of the contract or part thereof.*
 - ii. *Duration of the joint Venture Agreement: It shall be valid during the entire currency of the contract including the period of extension if any and the defect liability period after the work is completed.*
 - iii. *Governing Laws: The Joint Venture Agreement shall in all respect be governed by and interpreted in accordance with Indian Laws.*

L. Authorized Member: Joint venture members shall authorize one of the members on behalf of the Joint Venture Firm to deal with the tender, sign the agreement or enter into contract in respect of the said tender, to receive payment, to witness joint measurement of work done, to sign measurement books and similar such action in respect of the said tender/contract. All notices/correspondences with respect to the contract would be sent only to this authorized member of the JV Firm.

M. No member of the Joint Venture Firm shall have the right to assign or transfer the interest right or liability in the contract without the written consent of the other members and that of the UJVN Ltd in respect of the said tender/contract.

N. Documents to be enclosed by the JV firm along with the tender.

i. In case one or more of the members of the JV Firm is/are partnership firm(s), following

Documents shall be submitted:

- a. Notary certified copy of the Partnership Deed
- b. Consent of all the partners to enter into the Joint Venture Agreement on a stamp paper of appropriate value (in original)
- c. Power of Attorney (duly registered as per prevailing law) in favour of one of the partners of partnership firm to sign the JV Agreement on behalf of the partnership firm and create liability against the firm.

ii. In case of one or more members is/are Proprietary Firm or HUF, the following documents shall be enclosed:

Affidavit on Stamp Paper of appropriate value declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern OR he/she is in position of 'KARTA' of Hindu Undivided Family (HUF) and he/she has the authority, power and consent given by other partners to act on behalf of HUF.

iii. In case one or more members is/are limited companies, the following documents shall be submitted:

- a. Notary certified copy of resolutions of the Directors of the Company, permitting the company to enter into a JV agreement, authorizing MD or one of the Directors or Managers of the Company to sign MOU. JV Agreement, such other documents required to be signed on behalf of the Company and enter into liability against the company and/or do any other and on behalf of the company.
- b. Copy of Memorandum and Articles of Association of the Company authorizing the person to do/act mentioned in the para (a) above. 3 Signature of the Tenderer c. Power of Attorney (duly registered as per prevailing Law) by the Company authorizing the person to do/act mentioned in the Para (a) above.

iv. All the members of the JV shall certify that they have not been black listed or debarred by UJVN Ltd or any other Ministry/Department/PSU of the Govt. of India/State Government from participation in tenders/contract on the date of opening of bids either in their individual capacity or as members of the JV or the JV firm in which they were/are members.

O. **Credentials & Qualifying criteria:** Technical and financial eligibility of the JV firm shall be adjudged based on satisfactory fulfillment of the following criteria:

a. Technical Eligibility criteria:

Value of a completed work done by a Member in JV Firm shall be reckoned only to the extent of the concerned member's share in that JV Firm for the purpose of satisfying his/her compliance to the technical eligibility criteria in the tender under consideration.

b. Commercial Eligibility Criterion:

Financial capacity of a Member in JV Firm shall be reckoned only to the extent of the concerned member's share in that JV Firm for the purpose of satisfying his/her compliance of the commercial eligibility criteria in the tender under consideration.

2. FILLING AND SUBMISSION OF JV FIRM:

In case of Joint Venture:

(a) Number of members in a JV firm shall not be more than two partners.

(b) Submit MoU or Joint Venture Agreement, as per Form given in **FORMAT JV-3**

(c) The JV shall nominate a Representative through Power of Attorney as per FORMAT JV-1 who shall have the authority to conduct all business for and on behalf of and all the Parties of the JV during the

bidding process and, in the event of JV is awarded the contract, during contract execution. Submit Power of Attorney by individual partners to lead partner as per **FORMAT JV-2**.

3. In case the Joint Venture is the successful Bidder, contract shall be executed by JV partner agreed **FORMAT JV-3**

SECTION III

GENERAL CONDITIONS OF CONTRACT_

SECTION -III**GENERAL CONDITIONS OF CONTRACT****CLAUSE-1: DEFINITIONS:**

In the contract, the following expression shall, unless the context otherwise requires, have the meanings thereby respectively assigned to them:

- (i) **Contract:** means the document forming the tender, acceptance thereof and the formal agreement executed between the UJVN LTD and the Contractor, together with documents referred to therein.
- (ii) **Contract Price:** means the amount arrived at by multiplying the quantities shown in the Bill of Quantities by the respective item rates as allowed and included in the Letter of Acceptance.
- (iii) **Contractor:** means the successful Bidder who is awarded contract to perform the work covered under these tender documents and shall be deemed to include the contractor's successors, executors, representatives or assigns.
- (iv) **Employer:** means the UJVN LTD. having its registered office at "Ujjwal", GMS Road, Maharani Bagh, Dehradun, Pin-248006 and includes therein legal representatives, successors and assignees.
- (v) **Day:** means a calendar day beginning and ending at midnight.
- (vi) **Tender Drawings:** means the drawings referred to in the Specifications and/or appended with the tender document.
- (vii) **Construction Drawing:** means such drawings approved in writing by the Engineer-in-Charge/ Employer and issued for actual construction of the Works from time to time by the Engineer-in-Charge.
- (viii) **Tender:** means the Letter of Tender and all other documents which the Contractor submitted with the Letter of Tender, as included in the Contract.
- (ix) **Drawing:** means and shall include Tender drawing and Construction Drawing.
- (x) **Engineer-in-Charge/Engineer:** means the Engineering Officer nominated by the Employer or its duly authorized representative to direct, supervise and be In-charge of the works for the purpose of this contract.
- (xi) **Letter of Award or Acceptance:** means a letter from the Employer/Engineer-in-Charge conveying the acceptance of the tender/offer subject to such reservations as may have been stated therein.
- (xii) **Specifications:** means the Technical specification of the Works included in the Contract and any modification thereof or addition thereto made under Clause 18 or submitted by the Contractor and approved by the Engineer.
- (xiii) **Schedules:** means the document(s) entitled schedules, completed by the Contractor and submitted with the Letter of Tender, as included in the Contract. Such document may include the Bill of Quantities, data, lists and schedules of rates and /or prices.
- (xiv) **Sub-Contractor:** means any person named in the Contract as a Subcontractor for a part of the Works or any person to whom a part of the Works has been subcontracted with the consent of the Employer and the legal successors in title to such person, but not any assignee of any such person.
- (xv) **Contractor's Representative:** means the person named by the Contractor in the Contract or appointed from time to time by the contractor (Contractor Representative) who act on behalf of the Contractor.
- (xvi) **Contractor's Personnel:** means Contractor's representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labour and other employees of the contractor and of each Subcontractor; and any other personnel assisting the Contractor in execution of the Works.
- (xvii) **Cost :** means all expenditure properly incurred or to be incurred, whether on or off the Site, including overhead and other charges properly allocable thereto but does not include any allowance for profit.
- (xviii) **Bill of Quantities or Schedule of Quantities & Price:** means the price and complete bill of quantities forming part of the Contract.
- (xix) **Time for Completion :** means the time for completing the execution of and passing the Tests on Completion of the Works or any Section or part thereof as stated in the Contract (or as extended under Clause 39) calculated from the Commencement Date.
- (xx) **Plant:** means machinery, apparatus and like intended to form or forming part of Works.
- (xxi) **Permanent works:** means the permanent works to be executed (including Plant) in accordance with the Contract.

- (xxii) **Temporary works:** means all temporary works of every kind (other than Contractor's Equipment) required in or about the execution and completion of the Works and the remedying of any defects therein.
- (xxiii) **Contractor's Equipment :** means all appliances and things of whatsoever nature (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects therein, but does not include Plant, materials or other things intended to form or forming part of the Permanent Works.
- (xxiv) **Site:** means the land and/or other places, on or through which the works are to be executed including any other lands or places which may be allotted for the purpose of the contract.
- (xxv) **Urgent Works:** means any urgent measures, which in the opinion of the Engineer-in-Charge, become necessary at the time of execution and/or during the progress of work to obviate any risk of accident or failure or to obviate any risk of damage to the structure, or required to accelerate the progress of work or which become necessary for security or for any other reason the Engineer-in-Charge may deem expedient.
- (xxvi) **Week:** means seven consecutive calendar days.
- (xxvii) **Work or Works:** means Permanent Works and/or Temporary Works to be executed in accordance with the Contract.
- (xxviii) **Date of Start:** means the date to commence work at site.
- (xxix) **Tests on Completion:** means the tests which are specified in the Contract or agreed by both Parties and to be carried out before the Work or a section (as the case may be) is taken over by the Employer.
- (xxx) **Defects Notification Period and Unfulfilled Obligations:** means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 43 (Defects Liability Period), with any extension under Sub-Clause 42.1. Further, unfulfilled obligation means, contractor shall have to complete the work and rectifying the defects, if any, under clause 56.
- (xxxi) **Final Payment Certificate:** means the payment certificate issued under Sub -Clause 42.1
- (xxxii) **Interim Payment Certificate:** means a payment certificate issued under Clause 45, other than Final Payment Certificate.
- (xxxiii) **Retention Money:** means the accumulated retention moneys which the Employer retains under Sub-Clause 45.2
- (xxxiv) **Employer's Equipment:** means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Works, as stated in the Specification; but does not include Plant which has not been taken over the Employer.
- (xxxv) **Force Majeure:** is defined in Clause 32 [Force Majeure].
- (xxxvi) **Performance Security:** means the security (or securities, if any) Clause 3 [Performance Security]

CLAUSE-2: INTERPRETATIONS:

- 2.1 Words imparting the singular only shall also include the plural; he includes she and vice versa unless this is repugnant to the context. Unless specifically defined, words shall have normal meaning under the language of Contract.
- 2.2 Heading and marginal notes in these General Conditions shall not be deemed to form part thereof or be taken into consideration in the interpretation or construction thereof of the Contract.
- 2.3 Any error in description, quantity or price in Bill of Quantities or any omission there from shall not vitiate the Contract or release the Contractor from execution of the whole or any part of the Works comprised therein according to drawings and Specifications or from any of his obligations under the Contract.
- 2.4 Relevant and Important pre-contract documents shall form the part of the Contract. Pre Contract document shall include bidding document such as Notice Inviting Tenders, Instruction to Bidders, Bid Data Sheet, Qualification Criteria, etc. These documents will also include communications in the form of letters, communications in form of correspondences of pre- bid meeting and their queries, minutes of meetings, and e-mails between the bidders and the Employer seeking clarifications about the Project/bid conditions.
- 2.5 Detailed drawings shall be followed in preference to small scale drawings (sketch drawings) and figured dimensions in preference to scaled dimensions. In the case of discrepancy between the Letter of acceptance issued by Employer, Special Conditions of Contract, Technical Specifications, General Conditions of Contract, the Tender Drawings and/or Bill of Quantities and other documents of Contract the following order of precedence shall prevail:
 - a) Agreement

- b) Letter of acceptance issued by Employer;
- c) Price Bid
- d) Special Conditions of Contract
- e) Technical Specifications
- f) General Conditions of Contracts
- g) Tender Drawings;
- h) Safety Manual.
- i) Any other document forming part of the Contract

CLAUSE-3: SECURITY DEPOSIT:

The Security Deposit shall comprise of following

- (i) **Performance Security:** Initial Security Deposit to be furnished by the Contractor at the time of entering in agreement towards performance Guarantee.
 - (ii) **Security Deposit/Retention Money:** Retention Money to be recovered from Interim bills/ final bills of the Contractor towards security deposit for defect liability period
- 3.1 The Contractor within 28 days from the date of issue of Letter of Acceptance (LOA) or a period stipulated in LOA, shall furnish a **initial security deposit for performance** as per **clause 3.2** in form of **FDR/CDR/TDR Or BG** of any nationalised bank or any other form demanded by Employer/authority entering in agreement, **duly pledged in favour of UJVN Ltd.** and valid during concurrency of contract period and shall only be released after successful completion of work.

3.2 Performance security shall be deposited as per following formulae:

(i)Percentage Rate Contracts: The performance Security shall be provided by the contractor to the Employer not later than the date specified in the letter of acceptance and shall be issued for an amount of 5% of the Contract Price or the estimated cost of the work, whichever is higher, in the form of **FDR/CDR/TDR Or BG** acceptable to the Employer issued from any branch of nationalised bank/ scheduled bank duly pledged in favour of **UJVN Ltd.** The performance security shall be valid till the defect liability period. The Employer may increase the Performance Security to a level sufficient to protect it against the possibility of financial loss, if the lowest evaluated bid is below the estimated cost of the work. The additional performance security shall be valid till the completion period of the work. The amount of additional performance security shall be worked out as follows:-

- a. Up to 5% below the Estimated Cost: No Additional Performance Security.
- b. From 5% below to 15% below the Estimated Cost, an Additional Performance Security of 0.5% of the estimated cost for every 1% below the estimated cost,
- a. For more than 15% below the estimated cost, an Additional Performance Security of 1% of the estimated amount for every 1% below the estimated cost.

Note:

1. If the percentage below is not a whole number, any percentage above 0.5% shall be rounded off to next higher whole number and any percentage below 0.5% shall be rounded off to immediate lower whole number.
2. The Performance Security as applicable shall be refunded to the contractor after defect liability period and Additional Performance Security as applicable shall be refunded to the contractor after issuance of completion certificate.

(ii) Item Rate Contracts: The performance Security shall be provided by the contractor to the Employer not later than the date specified in the letter of acceptance and shall be issued for an amount of 5% of the contract price or the estimated cost of the work, whichever is higher, in the form acceptable to the Employer from reputable local banks including scheduled banks or nationalized banks acceptable to the Employer. The performance security shall be valid till the defect liability period. The Employer may increase the Performance Security to a level sufficient to protect it against the possibility of financial loss, if the lowest evaluated bid is below the estimated cost of the work. The additional performance security shall be valid till the completion period of the work. The amount of additional performance security shall be worked out as follows:-

- a. No Additional performance security for Item Rates up to 5% below the Estimated Item rate,
- b. An Additional performance security of 10% of the estimated cost of items, for Item Rates from 5% to 15% below the estimated rate,

- c. An Additional performance security of 15% of the estimated cost of items, for Item Rates more than 15% below the estimated rate.

Note:

The Performance Security as applicable shall be refunded to the contractor after defect liability period and Additional Performance Security as applicable shall be refunded to the contractor after issuance of completion certificate.

- 3.3 **Security Deposit/Retention Money** shall be deducted by the Engineer-in-Charge from the all interim bills/final bill of the Contractor @ 5% (five percent) of the total value of each bill of the work done (including those of price variation) towards security deposit. Security deposit thus retained shall only be released after expiry of defects liability period and the Engineer I/C has certified that all Defects notified by the Engineer I/C to the contractor before the end of this period have been corrected.
- 3.4 If the Contractor expressly requests in writing, he will be permitted to convert the amount of Security/Retention Money deducted from his interim bills/final Bill into CDR/FDR/TDR **Or BG** but shall be pledged in favour of **UJVN Ltd..**
- 3.5 All compensation or other sums of money payable by the Contractor to the Employer under the terms of this Contract or any other contract or on any other account whatsoever, may be deducted from Security Deposit .Also in the event of the contractor's Security Deposit being reduced by reasons of such deductions, as aforesaid, the Contractor shall, within 14 days of receipt of notice of demand from the Engineer-in-Charge, make good the deficit in Security Deposit.
- 3.6 If any occasion arises under the Contract due to which the periods of validities of **FDR/CDR/TDR Or BG** as may have been furnished by the Contractor from time to time, are required to be extended/renewed, the Contractor shall get the validity periods of such guarantees extended/renewed, and furnish these to the Engineer- in- Charge one month before the expiry date of the aforesaid Guarantees originally furnished, failing which the existing **FDR/ CDR/TDR Or BG** shall be invoked by the Engineer – in – charge. Also in case of any deficit in securities on any account as might occur or is noticed, the Contractor shall forthwith recoupe/replace the same with acceptable Security Deposit.
- 3.7 **FDR/CDR/TDR Or BG** as aforesaid shall be valid till the date of expiry of Defects Liability Period under the Contract (Clause 43).

CLAUSE-4: REFUND OF SECURITY DEPOSIT:

The Security Deposit amount shall, on demand, shall be returned to the contractor after expiry of Defects Liability Period (Clause 43).

CLAUSE-5: SUFFICIENCY OF TENDER:

- 5.1 The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Tender and of the rates and prices stated in the Bill of Quantities, all of which shall, except insofar as it is otherwise provided in the Contract, cover all his obligations under the Contract and all matters and things necessary for the proper execution and completion of the Works and the remedying of any defects therein.
- 5.2 If, however, during the execution of the Works the Contractor encounters physical obstructions or physical conditions, other than climatic conditions on the Site, which obstructions or conditions were, in his opinion, not foreseeable by an experienced Contractor, the Contractor shall forthwith give notice thereof to the Engineer-in-Charge. On receipt of such notice, the Engineer-in-Charge shall, if in his opinion such obstructions or conditions could not have been reasonably foreseen by an experienced contractor shall determine, and shall notify the Contractor accordingly, with approval of the Employer. Such determination shall take account of any instruction which the Engineer-in-Charge may issue to the Contractor in connection therewith, and any proper and reasonable measures acceptable to the Engineer-in-Charge which the Contractor may take in the absence of specific instructions from the Engineer-in-Charge.

CLAUSE-6: CONTRACT DOCUMENTS:

- 6.1 The Contract shall be signed in one original and attested photocopy shall be issued to contractor. The language of the contract shall be English.-
- 6.2 The Contractor shall furnish free of charge, 10 true copies of the Contract to the Employer.

- 6.3 One copy of Contract shall be kept by the contractor on the Site in good order and the same shall at all reasonable time be available for inspection and use by the Engineer-in-Charge, his representatives or by other Inspecting Officers.
- 6.4 None of these Documents shall be used by the Contractor for any purpose other than that of this contract.

Clause 7: LIFE-SAVING APPLIANCES AND FIRST-AID EQUIPMENT:

The Contractor shall provide and maintain upon the works sufficient, proper and efficient life-saving appliances and first-aid equipment in accordance with the requirement of ILO Convention No.62. The appliances and equipment shall be available for use at all time.

CLAUSE-8: DUTIES AND POWERS OF ENGINEER-IN-CHARGE'S REPRESENTATIVE:

- 8.1 The duties of the representative of the Engineer-in-Charge are to watch and supervise the works/supply and to test and examine any materials to be used or workmanship employed in connection with the works/supply.
- 8.2 The Engineer-in-Charge may, from time to time in writing, delegate to his representative any of the powers and authorities, vested in the Engineer-in-Charge and shall furnish to the contractor a copy of all such written delegation of powers and authorities. Any written instruction or written approval given by the representative of the Engineer-in-Charge to the contractor within the terms of such delegation shall bind the contractor and the Employer as though it has been given by the Engineer-in-Charge.
- 8.3 Failure of the representative of the Engineer-in-Charge to disapprove any work or materials shall be without prejudice to the power of the Engineer-in-Charge thereafter to disapprove such work or materials and to order the pulling down, removal or breaking up thereof. The Contractor shall, at his own expense, again carry out such works as directed by the Engineer-in-Charge.
- 8.4 If the Contractor is dissatisfied with any decision of the representative of the Engineer-in-Charge, he will be entitled to refer the matter to the Engineer-in-Charge who shall thereupon confirm, reverse or vary such decision and the decision of the Engineer-in-Charge in this regard shall be final and binding on the contractor.

CLAUSE-9: ASSIGNMENT AND SUB- Contracting:

- 9.1 The Contractor shall not sub-contract, transfer or assigns the whole or any part of the work/trade under the Contract. Provided that the Engineer-in-Charge may, at his discretion, approve and authorize the Contractor to sub-let any part of the Work/trade, which, in his opinion, is not substantial, after the Contractor submits to him in writing the details of the part of the work(s) or trade proposed to be sublet, the name of the sub-contractor thereof together with his past experience in the said work/trade and the form of the proposed sub-contract. Nevertheless any such approval or authorization by the Engineer-in-Charge shall not relieve the Contractor from his any or all liabilities, obligations, duties and responsibilities under the Contract. The Contractor shall also be fully responsible to the Employer for all the acts and omissions of the sub-contractor, his employees and agents or persons directly employed by the Contractor. However, the employment of piece rate workers and purchase of material shall not be construed as sub-letting. Request for sub- contracting shall contain.
- a) Contractor's certification regarding the financial soundness of the proposed Sub-contractor for the work/trade;
 - b) its scope and estimated value in relation to the Contract Price;
 - c) experience of the Sub-contractor, in the related areas of work/trade;
 - d) the manpower, equipment, material and other resources available with the Sub-contractor for the work/trade;
 - e) Domicile of the Sub-contractor and particulars of its other existing operations or contracts if any, in India.
- 9.2 The subcontracting of the entire work will be treated as assignment, and subcontracting entire work or part of it without prior-approval shall be treated as breach of the contract.
- 9.3 The assigning of complete work to other agency without permission from Engineer-In Charge will be strictly prohibited.
- 9.4 The Engineer-in-charge at his discretion may withdraw the permission even after issuance of approval for assigning the work from contractor. Once an approval is so withdrawn, the contractor will immediately remove the subcontractor.
- 9.5 Direct payment to the sub contractor, if any shall be solely on the discretion of Engineer In Charge which shall be final & binding to all parties.

- 9.6 **Debitable Agency:** In case of incompetence of a contractor for delivering the required progress or quality of works, the Engineer-in-charge may assign whole or part of work to a Debitable Agency.

Debitable Agency will be deployed on risk and cost to the contractor at a rate on which an independent party is agree to work & no claim shall be entertained in respect of this. To deploy debitale agency Engineer – in-charge can assign the debitale work to the working contractor/ existing sub-contractor/competent contractor preferably working near the project area.

The Engineer-in-charge shall have a right to withdraw the approval for Debitable Agency at any stage of work. Once approval is so withdrawn, the Debitable Agency shall immediately leave the site without any claim, what so ever the reason may be.

CLAUSE-10: FACILITIES TO OTHER CONTRACTORS:

- 10.1 The Contractor shall, in accordance with the requirements of the work as decided by the Engineer-in-Charge, afford all reasonable facilities to other contractors engaged contemporaneously on separate contracts and for departmental labour and labour of any other properly authorized authority or statutory body which may be employed at the site for execution of any work not included in the Contract or of any contract which the Employer may enter into in connection with or ancillary to the works. In all matters of conflict of interest, the Engineer-in-Charge shall direct what compromise should be made and his decision shall be final and binding on the parties.
- 10.2 If, however, pursuant to Sub-Clause 10.1 the Contractor shall, on the written request of the Engineer-in-Charge:
- (a) make available to any such other contractor, or to the Employer or any such authority, any roads or ways the maintenance of which is the responsibility of the Contractor ,
 - (b) permit the use, by any such, of Temporary facilities or Contractor's Equipment on the Site, or
 - (c) provide any other service of whatsoever nature for any such,
- the Engineer-in-Charge shall determine the payment admissible to the Contractor at the cost of other contractors or Employer as the case may be.

CLAUSE-11: CHANGES IN CONSTITUTION:

Where the Contractor is a partnership firm, prior approval in writing of the Engineer-in-Charge shall be obtained before any change is made in the constitution of the firm. Where the Contractor is an individual or a Hindu undivided family business concern, such approval, as aforesaid, shall likewise be obtained before the Contractor enters into any partnership firm which would have the right to carry out the work undertaken by the Contractor. If prior approval as aforesaid is not obtained, the Contract shall be deemed to have been assigned in contravention of Clause 38 thereof and the same action will be taken and the same consequences shall ensure as provided for in the said Clause 38.

CLAUSE-12: POSSESSION AND USE OF SITE:

- 12.1 Save in so far as the Contract may prescribe:
- (a) the extent of portions of the Site of which the Contractor is to be given possession from time to time,
 - (b) the order in which such portions shall be made available to the Contractor, and, subject to any requirement in the Contract as to the order in which the Works shall be executed, the Employer will give to the Contractor possession of
 - (c) so much of the Site, and
 - (d) such access as, in accordance with the Contract, is to be provided by the Employer as may be required to enable the Contractor to commence and proceed with the execution of the Works in accordance with the programme referred to in Clause 14, if any, and otherwise in accordance with such reasonable proposals as the Contractor shall, by notice to the Engineer. The Employer will, from time to time as the Works proceed, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the execution of the Works in accordance with such programme or proposals, as the case may be.
- 12.2 If the Contractor suffers delay from failure on the part of the Employer to give possession in accordance with the terms of Sub-Clause 12. 1, the Engineer-in-Charge shall, determine any extension of time to which the Contractor is entitled under Clause39. The contractor shall be responsible to arrange the land for Contractor's infrastructure works namely field office(s), colony, workshop(s), stores, magazines for explosives in isolated locations, assembly yard, and access thereto over routes as may be required for execution of the Works at his own cost and Employer shall not be responsible for making available the same.

12.3 The Contractor shall provide at his own cost all temporary pathways/roads required at site or to quarries or borrow areas and shall alter, adopt and maintain the same as required from time to time and shall bear all expenses and charges for special or temporary way leaves required by him in connection with access to the site and shall take up and clear them away and make good all damages done to the site as and when no longer required and as and when ordered by the Engineer-in-Charge.

12.4 The Employer shall arrange land for Permanent Works, dumping area free of cost to the Contractor on "as is where is" basis. Muck disposal area shall be provided as approved by MoEF & CC, GoI. The contractor shall ensure that muck shall be dumped in the muck disposal area only and in no case dumping of muck is allowed beyond the periphery of designated muck disposal area. For any discrepancy and penalty contractor shall be solely responsible.

The Contractor shall be responsible for arrangement of quarry for aggregates for which the Contractor shall initiate the process and apply to concerned department of Govt of Uttarakhand as per prevailing mining/River dredging policy for allotment of quarry/arrangement of Riverbed Material. Employer shall extend all necessary support and assistance for allotment of quarries and arrangement of construction materials (RBM & excavated material reuse) to the contractor.

On the completion of the Works, the Contractor shall handover entire land including site given to him by Employer in good condition and free from encumbrances.

The use or occupation of the land by the Contractor shall not confer on him any right or interest of any kind. The Contractor shall vacate the land upon receipt of one month's notice of the Engineer.

CLAUSE-13: ADVANCES AND RECOVERY THEREOF:

13.1.1 Advances for Initial Mobilization, Preliminary, Enabling and Ancillary Works

The employer will make an advance to the Contractor for the cost of mobilization in respect of the works not exceeding 10% (Ten percent) of the Contractor price named in the letter of acceptance against Bank Guarantee of 110% amount of the mobilization advance for his initial mobilization, preliminary, enabling and ancillary works, such as labour mobilization, construction of offices, labour huts, staff quarters, stores, workshops, laying of air, water and electric lines against Bank Guarantee, subject to the following conditions:

- I. The advance shall bear simple interest @ 1% (One Percent) more than the State Bank Prime lending Rate percent per annum. The monthly interest shall be calculated on outstanding balance of advance on the last day of the previous calendar month.
- II. Initially a lump sum advance up to 5.0 % (Five percent) of the Contract Price shall be paid within one month of the signing of the agreement and on Contractor's furnishing the requisite Bank Guarantee on the approved form incorporated in the contract from a Nationalized Bank or a Scheduled Bank in India.
- III. The balance advance shall be released upon mobilization of resources at site to the satisfaction of the Engineer-in-Charge and on furnishing the Bank Guarantee from a Nationalized or scheduled bank.
- IV. The Bank Guarantee so furnished shall be valid till the said advance along with interest there upon has been fully recovered. If there arise any occasion under the Contract due to which the period of validities of such Bank Guarantees, are required to be extended or the same be renewed, the Contractor at his own cost shall get the validity period of such guarantees extended or the same be renewed, as the case may be, and furnish the same to the Engineer-In-Charge before 60 days of the date of expiry of the BG failing which the Engineer-In-Charge shall be at liberty, to invoke the existing Bank Guarantee or to withhold the payments of the Interim bills till such time the amount of outstanding advance including interest thereupon is fully recovered.

13.1.2 Recoveries

The recovery of advance shall start after the Contractor has received a gross payment equivalent to 10% of Contract Price and shall be effected on pro-rata basis to the gross value of work billed in such a way that the full advance with interest there upon is recovered by the time 90% of the Contracted Price is paid.

The interest shall be calculated on the outstanding amount of principal at the close of each month. The recovery of interest shall be started when the Contractor has received a gross payment equivalent to 5% of the Contract Price and interest as accrued/accruing till the time 10% of Contract Price is paid shall be recovered in suitable installments in such a way that the above said accrued interest is fully recovered by the time the Contractor receives a gross payment equivalent to 10% of the Contract Price and thereafter the interest as may be due on 1st of each month will be recovered from the Interim bills of the Contractor to be paid during that month. Recoveries will first be credited to interest due and residual applied to the principal.

The bank guarantee towards mobilization advance shall remain effective for the period till the advance is recovered with interest. The advance shall be used by the Contractor exclusively for the mobilization expenditure, including the acquisition of construction plant, in connection with the Works. Should the Contractor misappropriate any

portion of the advance, it shall become due and repayable immediately. The advance or the balance amount of the advance, as the case may be, shall also become due and repayable immediately, after the termination of the employment of the Contractor in accordance to relevant Clause. If payment due against the work done is less than the interest to be paid by the firm/contractor, then additional Bank Guarantee will be submitted by the firm/contractor of value sufficient for recovering interest. Non-submission of the same will be considered as breach of contract.

Department will have full power to recover the any type of due/all the dues of contractors from retained money, RA bills/FDRS's of contractor available with the department irrespective of the purpose of taking FDR'S or retaining money from the contractor. If the security for the contract fails to suffice, then recovery from the other contracts of the same contractor may be made.

13.1.3. ADVANCE FOR CONSTRUCTION EQUIPMENT:

No advance for construction equipment shall be paid by the Nigam.

13.1.4 SECURED ADVANCE FOR NON PERISABALE MATERIAL BROUGHT TO SITE

(Specify the item OR items for which this will be given here)

70 % of the invoice value will be payable subjected to following:-

- Such Materials have been delivered to site and are properly store and protected against damage or deterioration to the satisfaction of E/I.
- The material/ materials are in accordance with the specification for the works.
- The quantities of materials are not excessive and shall be used within a reasonable time as determined by Engineer-In Charge.

The 100 % deduction against secure advance shall commence in the next Interim Payment Certificate (RA Bills) or thereof accordingly.

CLAUSE-14: COMMENCEMENT OF WORK:

- 14.1 The Contractor shall commence the Work(s) immediately after the issue of Letter of Acceptance and shall proceed with the same with the expedition and without delay as may be expressly sanctioned or ordered by the Engineer in- charge. If the Contractor commits default in the commencement of work as stipulated in the Letter of Acceptance, the Engineer-in-Charge shall without prejudice to any other right or remedy be at liberty to cancel the Contract and forfeit the earnest money.
- 14.2 Contractor shall follow a mutually agreed planning & scheduling to complete the work/trade within stipulated time frame. However, it shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

CLAUSE-15: WORKS TO BE CARRIED OUT IN ACCORDANCE WITH SPECIFICATIONS, DRAWINGS AND ORDERS, ETC:

- 15.1 The Contractor shall execute the Works/trade in the most substantial and workmanlike manner and both as regards material and otherwise in every respect in strict conformity with the Specification. The Contractor shall also conform exactly, fully and faithfully to the designs, drawings, Specifications and instructions in writing in respect of the work, duly signed by the Engineer-in-Charge issued from time to time. The Contractor shall take full responsibility for the adequacy of all the site operations and methods of construction.

The Contractor shall give prompt notice to the Engineer-in-Charge, with a copy to the Employer, of any error, omission, fault or other defect in the design of or Specifications for the Works which he discovers when reviewing the Contract or executing the Works.

- 15.2 The Contractor shall be entitled to receive, the documents set forth herein during the performance of the Contract:

- | | |
|--|--------|
| a. Construction drawings and revisions thereto | 1 sets |
| b. Specifications or revisions thereof other than
Standard printed Specifications / available in Nigam website. | 1 sets |
| c. Explanations, instructions etc. | 1 copy |

Such further drawings, explanations, modifications and instructions, as the Engineer-in-Charge may issue to the Contractor from time to time in respect of the Work, shall be deemed to form integral part of the Contract and the Contractor shall to carry out the Work accordingly.

- 15.3 The Contractor shall give notice to the Engineer-in-Charge, whenever planning or execution of the Works/Trade is likely to be delayed or disrupted unless any further drawing or instruction is issued by the Engineer-in-Charge within a reasonable time. The notice shall include details of the drawing or instruction required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.
- 15.4 If, by reason of any failure or inability of the Engineer-in-Charge to issue, within a time reasonable in all the circumstances, any drawing or instruction for which notice has been given by the Contractor in accordance with Sub-Clause 15.3, the Contractor suffers delay then the Engineer-in-Charge shall, after approval of the Employer determine any extension of time to which the Contractor is entitled under Clause 39.
- 15.5 In the case of any class of work for which there is no specification in the contract such work/Trade shall be carried out in accordance with the detailed specification (latest) published I. S. I. New Delhi and in the event of there being no detailed specifications for the same, the work shall be carried out in all respects in accordance with the instruction and requirements of the Engineer-in-charge / Engineer of the Contract.

CLAUSE-16: SETTING-OUT THE WORKS:

- 16.1 The Engineer-in-Charge shall establish/indicate the Bench Marks and convey the same in writing to Contractor immediately after Letter of Acceptance. Engineer in-charge shall be responsible for correctness of such data / bench marks conveyed to the Contractor.
- 16.2 The Contractor shall be responsible for the true and proper setting out of all the work (in relation to the afore-mentioned Bench Marks) for the correctness of the location, grades, dimensions and alignment of all components of the work; and for the provisions of all instruments, appliances, materials and labour required in connection therewith. If at any time during the progress of work, any error shall appear or arise in the location, grades, dimensions, or alignment of any part of the Work, the Contractor on being required to do so by the Engineer-in-Charge shall, subject to Clause 16.1 hereof, at his own expense, rectify such error to the satisfaction of the Engineer-in-Charge.
- 16.3 The Contractor shall afford all reasonable facilities and assistance to the Engineer-in-Charge for checking the setting out and lines and grades established by the Contractor. The checking of any setting out or of any line and grade by the Engineer-in-Charge shall not in any way relieve the contractor of his responsibility for the correctness thereof.

CLAUSE-17: URGENT WORKS:

If any part of work/ trade (in respect whereof the decision of the Engineer-in-Charge shall be final and binding) becomes necessary, the contractor shall execute the same as may be directed.

CLAUSE-18: DEVIATIONS:

- 18.1 The Engineer-in-Charge shall have powers to make any deviations in the original specifications or drawings or designs of the works or any part thereof that are, in his opinion, necessary at the time of or during the course of execution of the Works. For the aforesaid purpose or for any other reason, if it shall, in the opinion of the Engineer-in-Charge, be desirable, he shall also have the powers to make Deviations, such as (i) Variations (ii) Extra Item (iii) Additions/Omissions and (iv) Alterations or Substitutions of any kind. No such Deviations in the specifications or drawings or designs or Bill of Quantities, as aforesaid, shall in any way vitiate or invalidate the Contract and any such Deviations which the Contractor may be directed to do shall form integral part of the Contract as if originally provided therein and the Contractor shall carry out the same on the same terms & conditions in all respects on which he agreed to do the works under the contract subject to clause 18.2.1.i and ii

18.2.1 Variation in Quantities:

The rates for such items of work as are required to be executed due to Deviations, as stated in sub clause 18.1 above shall be payable in the manner as stated hereunder

- i) If the rates for the additional, altered or substituted item of work are specified in the Bill of Quantities of contract of the work, the contractor is bound to carry out the additional, altered or substituted item of work at the same rates as specified in the Bill of Quantities of contract of the work.

- ii) However, the quoted rates hold good for all plus or minus variation in any item of work upto any extent.

18.2.2 Extra Item:

- i) If the rates for the additions, altered or substituted item of work are not specifically provided in the Bill of quantities of contract for the work, the rates of such items of work as far as practicable shall be derived from the quoted rates of analogous item(s) in the Bill of Quantities.
- ii) In case, where analogous items are not available in the bill of quantities then such items of work shall be carried out at the rates approved in the current PWD SoR/ CPWD DSR. No price adjustment shall be allowed on the value of extra item work, if any approved by UJVNL.

Current rate of PWD SoR/ CPWD DSR is the rate prevailing at the time of execution of that particular extra item during execution of contract.

- (iii) If the rates for altered, additional or substituted item of work cannot be determined in the manner specified in para (i) & (ii) above, then the contractor shall submit analysis of rates on the basis of prevailing market rates. The Engineer-in-Charge shall examine the rate analysis submitted by the Contractor and fix the rates accordingly whose decision shall be conclusive, final and binding on the Contractor and which shall be approved by competent authority of employer and pay to the contractor accordingly. But under no circumstances, the contractor shall suspend the work on the plea of no settlement of rates of items, falling under this clause.
- iv) Over and above the cost of labour, material arranged by the Contractor and ownership & operational cost of plant and machinery, an element to cover the Contractor's overheads, profits, and supervision charges shall be as per prevailing rates of CPWD/SOR-Uttarakhand.
- v) In case where the Bill of Quantities does not contain any analogous item, such an item shall be termed as 'extra item'. The rates for an 'extra item' shall require approval of the Employer. The Contractor shall, within 15 days (or as decided by the Engineer) from the receipt of order to execute such item, submit rate analysis to the Engineer supported by documentary evidence of basic rates adopted therein, notwithstanding the fact that the rate for such an item exists in the Contract. Such rate analysis shall have regard to the cost of Materials, actual wages of labour and ownership & operational cost of Contractor's Equipment required as per standard norms, or if standard norms are not specified/available then on the basis of labour/material/ Contractor's Equipment actually engaged for the particular work. The standard norms for including indirect charge for labour and Materials specified herein shall mean those specified in "Guidelines for preparation of project Estimates for River valley Projects (latest version)" of Central water Commission, Govt. of India, and if not available therein, then those of State's Public Works Department/CPWD. Standard norms for Contractor's Equipment use shall mean the norms of Bureau of Indian Standards (IS: 11590 :1995- latest version) and if not available therein then those specified in Guidelines for preparation of project estimates for River Valley Projects (latest version)" of Central Water Commission, Government of India.

An element of 20% shall be allowed over and above the cost of labour and Materials arranged by the Contractor and ownerships & operational Cost of Contractor's Equipment to cover the Contractor's overheads, profits and supervision charges.

Provided that for the Materials issued by the Employer to the Contractor and/or Equipment supplied on rental charges by the Employer to the Contractor or where the works were executed through specialized agencies for, the Contractor shall be entitled to only 10% of such cost of materials/rental charges to cover local transportation/handling, overhead, supervision, profit etc. Provided further that for the works got executed through specialized agencies, the Contractor shall be entitled to only 10% of such payments made to the specialized agencies towards the Contractor's overhead, supervision, profit etc.

The rates under sub-clause (i), (ii), (iii), (iv), (v) shall be worked out by the Engineer-in-charge and the contractor and after approval of employer shall be payable to contractor.

- 18.3 Provided further that if Additions/Omissions and Alterations or Substitutions of any kind to the work shall have the effect of increasing or decreasing the total value of this contract work upto any extend for minus or plus variation then no price adjustment shall be applicable
- 18.4 If requested by the Contractor, the Time for Completion of the Works shall, in the event of any deviation resulting in additional cost over the Contract Price, be extended in the proportion which the altered, additional or substituted work bears to the original Contract Price plus such further additional time as may be considered reasonable by the Engineer-in-Charge.
- 18.5 Under no circumstances, the Contractor shall suspend the work on account of no settlement of rates of such Deviated items and time extension.

- 18.6 Provided that no deviation, instructed to be done by the Engineer – in – charge pursuant to Clause 18.1 shall be valid under Clause 18.2 unless within 15 days of the date of such instruction before the commencement of execution of deviated items, notice shall have been given either ;
- a) By the Contractor to the Engineer-in-charge of an intention to Claim extra payment or varied rate or price or
 - b) By Engineer-in-charge to the Contractor of his intention to vary a rate or price for the deviated items.

CLAUSE-19: CONTRACTOR'S SUPERVISION:

- 19.1 The Contractor shall appoint at his own expense adequate number of personnel with sufficient experience to supervise the Works. The name of authorized site representative shall be intimated in writing to the Engineer-in-charge.

The contractor or his authorized representatives present at the site(s) shall superintend the execution of the works with such additional assistance in each trade, as the work involved shall require and considered reasonable by the Engineer-in-Charge. Directions/instructions given by the Engineer-in-Charge to the Contractor's authorized representatives shall be considered to have the same force as if these had been given to the Contractor himself.

CLAUSE-20: INSTRUCTIONS AND NOTICES:

- 20.1 Except as otherwise provided in this Contract, all notices to be given on behalf of the Employer and all other actions to be taken on its behalf may be given or taken by the Engineer-in-Charge or any officer for the time being entrusted with the functions, duties and powers of the Engineer-in-Charge.
- 20.2 All instructions, notices and communications etc. under the contract shall be given in writing and any such oral orders/instructions given shall be confirmed in writing and no such communication which is not given or confirmed in writing shall be valid.
- Either party may change a nominated address to another address by prior notice to the other party.
- 20.4 The Engineer-in-Charge shall communicate or confirm the instructions to the Contractor in respect of the execution of work in a 'Work Site Order Book' maintained in the office of the Engineer-in-Charge or his representative and the Contractor or his authorized representative shall confirm receipt of such instructions by signing the relevant entries in this book. If required by the Contractor, he shall be furnished a certified true copy of such instruction(s).

CLAUSE-21: CONSTRUCTION EQUIPMENT:

- 21.1 The Contractor shall provide and install all necessary construction equipment and machinery required for the execution of the Works under the Contract, at his cost and shall use such methods and appliances for the purpose of all the operations connected with the Work covered by the Contract which shall ensure the completion of Work(s) within the specified Time for completion.
- 21.2 Schedule of construction equipments as per SECTION –V SCHEDULE: C
- 21.3 The Contractor shall not remove construction equipment, except for purpose of removing it from one part of the site to another, without written consent of the Engineer-in-charge.

Provided always that any such approval of Construction equipment schedule in 21.2 shall not absolve the Contractor of his obligations for due execution of the Works within the Time for Completion as per the Contract.

CLAUSE-22: PATENT RIGHTS:

The Contractor shall indemnify the Employer, its representatives or its employees against any action, claim or proceedings relating to infringement or use of any patent or design or any alleged patent or design rights and shall pay any royalties or other charges which may be payable in respect of any article or material or part thereof included in the Contract. In the event of any claim being made or action being brought against the Employer or any agent, servant or employee of the Employer in respect of any such matters as aforesaid, the Contractor shall immediately be notified thereof. Provided that such indemnity shall not apply when such infringement has taken place in complying with the specific directions issued by the Employer, but the Contractor shall pay any royalties or other charges payable in respect of any such use, the amount so paid being reimbursed to the Contractor only if the use was the result of any drawings and/or specifications issued after submission of the tender.

CLAUSE-23: MATERIALS:

23.1 Contractor has to arrange all material, labour and T&P etc. required for proper completion of work in due time. Delay in arrangement of material shall not be excused and suitable penalty as per **Schedule-A** or as decided by Engineer-in-charge, shall be imposed against the contractor. All material shall be approved from Engineer –in-charge prior to its delivery at site.

23.2 Subject to clause 31.2, the Contractor shall at his own expense provide/arrange all materials required for the bonafide use on work under the Contract except those listed and specified in **Schedule 'A'** under **SECTION- V SCHEDULE**. The quantity of such materials as stipulated in the aforesaid **Schedule 'A'** to be issued by the Employer will be that as may be actually required for the work and shall be subject to the terms and conditions as set forth in the sub-clause 23.4 *ibid*.

23.3 All materials to be provided by the Contractor shall be in conformity with the Specifications laid down in the Contract and the Contractor shall furnish from time to time proof and samples, at his cost, of the materials as may be specified by the Engineer-in-Charge for his approval before use in the Works. The Engineer-in-Charge shall also have powers to have such tests, in addition to those specified in the Contract, as may be required and the contractor shall carry out the same. The cost of materials consumed in such tests and also expenses incurred thereon shall be borne by the contractor in all cases except when the materials are agreed to be issued by the Employer under the contract and also where such tests which are in addition to those provided in the Contract.

The Engineer reserves the right to waive any off the test requirements if found necessary to expedite the work or to conform to the latest and best practices as may be shown by standards prescribed by trade organizations, manufacturers or engineering societies. The Contractor would also arrange for the test of the material issued by the Nigam. However, the cost of these tests shall be borne by the Nigam.

23.3 The Engineer-in-Charge or his representative shall be entitled at any time to inspect and examine any materials intended to be used in or on the works, either on the site or at factory or workshop or other place(s) where such materials are assembled, fabricated, manufactured, or at any place where these are lying or from where these are being obtained. For this purpose, the contractor shall afford such facilities as may be required for such inspection and examination.

23.4 For the materials listed under **SECTION- V :Schedule: A**, which the Employer has agreed to issue to the Contractor for use in the work under the Contract, the Contractor shall, before 90(ninety) days of the requirement in accordance with the agreed phased programme of the construction of work(s), send a requisition in writing to the Engineer-in-Charge. The issue of such materials shall be subject to the following terms and conditions:

- (i) All materials issued by the Employer to the contractor for use in the work shall vest in the Employer and the Contractor shall hold all such items of materials as mere custodian in trust on behalf of the Engineer-in-Charge.
- (ii) All costs, such as loading, transportation, unloading, storage etc. whatsoever as may be required for the following activities shall be borne by the Contractor:
 - (a) from the place/point of issue by the Employer to the ultimate use for/in the works and/or
 - (b) in connection with the return of materials by the Contractor to the Employer stores, wherever necessary under the provisions of the Contract.
- (iii) The Contractor shall maintain an account of receipt and use of materials issued by the Employer each day and submits the same monthly to the Engineer-in-Charge in the form as may be prescribed by Engineer-in-Charge for the purpose of check and accounting. The Contractor shall also, from time to time, render proper account of all materials issued by the Employer.

23.5 Material used at site shall be as per Technical Specification and direction of Engineer-in-charge and if found defective the same shall not be allowed to used at site and contractor has to remove the defective material from site at its own cost within three days of such direction issued from Engineer-in-charge.

23.6 SAFETY REQUIREMENT

23.6.1 General

The provisions detailed here in under are supplementary to safety requirements as stipulated in Central, State or local bodies laws, rules, regulations etc. applicable for the time being and as amended from time to time. Where the provisions conflict with the aforementioned laws etc. by reasons of amendment or any other causes, the stipulations of the aforementioned laws etc. shall govern.

23.6.2 Safety Provision

The contractor shall arrange for the safety in his operation as required including the provisions in the safety Manual published by the Central Water and Power Commission New Delhi (January 1962 edition) as amended

form time to time. In case the contractor fails to make such arrangements the Engineer-In-Charge shall be entitled to cause them to be provided and to recover the cost thereof from the contractor.

23.6.3 **Explosive**

All operations involving in procurement handling, storage, transportation and use of explosives in surface as well as underground work shall be performed by the contractor in accordance with all applicable Central, State Municipal laws in ordinances as required by the Chief Controller of Explosives, Agra/Nagpur, Government of India/Explosive Act 1983 or as amended time to time. The Contractor shall arrange permanent/portable explosive magazines of approved type and its license for all requirements of explosives for carrying out the Works at his own cost.

It shall be the responsibility of the Contractor to acquire the License from competent authority for Explosive Vans etc.

Contractor shall maintain a register of explosives, explosives substances and their use as well as quantity and shall ensure controlled blasting. The stock and register shall be got verified by the contractor from the authorities specified in Explosive Act 1884, Explosive Substance Act 1908 and Explosive Rules 1983.

CLAUSE-24: POWER SUPPLY:

The Contractor shall make arrangements for the full anticipated requirements of construction power by obtaining connection from State authorities and also installing diesel generating sets as an alternate, and operate these sets for his requirements of power at no cost to the Employer. Permission from state authorities, if required for installing DG sets shall be arranged by the Contractor for which the Employer shall issue necessary recommendations. The Employer shall assist the Contractor to obtain construction power from State authorities to meet the power requirement or standby power arrangements. The Contractor shall not have any claim, if construction power is not available from State. The Contractor shall also be responsible for making all payments to the relevant authorities and shall not make any claims to the Employer if the power is not available due to grid failure or otherwise.

CLAUSE-25: SUPPLY OF WATER:

The Contractor shall make his own arrangements for water required for and in connection with the work at its own cost. It shall be the responsibility of the contractor to satisfy himself that the water arranged by him is fit for construction & consumption & he shall adequately treat such water whenever it is not found fit for the said purposes.

CLAUSE-26: WATCHING AND LIGHTING:

The contractor shall provide and maintain at his own expense towards lights, guards, fencing and watching when and where necessary or as required by the Engineer-in-Charge for the protection of the works or for the safety and convenience of those employed on the works or the public.

CLAUSE-27: WORK DURING NIGHT OR ON SUNDAYS AND HOLIDAYS:

- 27.1** Subject to any provisions to the contrary contained in the Contract, the Contractor shall have the options to carry out the works continuously during night, Sunday or holidays, without any additional cost to Employer. However, doing so, labor rules shall be followed by contractor.
- 27.2** For a particular work, if it is stipulated in tender document that contracted work is to be performed in night also and accordingly period of completion is worked out, in that case it is mandatory to perform work day and night to complete the work on or before due date of completion. No extra payment shall be made to contractor for arrangement of all resources required for work in day and night; it shall be considered that all such expenses are included in rates quoted by contractor during bidding. However doing so, labour rules and safety of workers, T&P and employees of contractor and employer shall be ensured by contractor by all such arrangements.

CLAUSE-28: SITE DRAINAGE, PROTECTION OF TREES AND PREVENTION OF NUISANCE:

- 28.1** The Contractor shall, throughout the execution and completion of the Works and remedying of any defects therein have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons.
- 28.2** The Contractor shall endeavor to protect from damage, the trees marked by the Engineer-in-Charge at the site of work or in the lands licensed to him for use under the contract. Where necessary, the contractor shall provide at his expense temporary fencing to protect such trees/ site drainage as per site requirement. No tree shall be cut unless authorized by Engineer-in-Charge in writing to do so.

- 28.3 The contractor shall at no time, cause or permit any nuisance on the site or cause any thing which shall cause unnecessary disturbance or inconvenience to the public in general and owners/tenants/occupants of adjacent properties.

CLAUSE-29: LABOUR:

- 29.1 The Contractor shall employ labour in sufficient numbers to maintain the required rate of progress and quality to ensure workmanship of the degree specified in the Contract.
- 29.2 During continuance of the Contract, the Contractor and his sub-contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the law enforcing authority on account of contravention by the Contractor or his Sub-contractor of any of the provisions of any Act or rules made there under, regulations or notifications including amendments.
- 29.3 The employees of the Contractor and his sub-contractor in no case shall be treated as the employees of the Employer at any point of time. In case of any accident, damaged claimed by labour or his family members shall be borne by contractor under the provision of labour laws
- 29.4 Contractor shall resolve all disputes between him and labour/ labours without involving UJVN limited.
- 29.5 The Contractor shall employ labour in sufficient numbers to maintain the required rate of progress and quality to ensure workmanship of the degree specified in the Contract. The Contractor shall not employ in connection with the works any person who has not completed Eighteen years of age. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from the region of the project. Unskilled labour shall be recruited from local region only.
- 29.6 The Contractor shall furnish and deliver fortnightly to the Engineer-in-Charge, a distribution return of the number and description by trades of the works of people employed on the works. The contractor shall also submit on the 4th and 19th of every month to the Engineer-in- charge a true statement showing in respect of the second half of the preceding month and the first half of the current month.
- (i) The accidents that occurred during the said fortnight showing the circumstances under which they happened and the extent of damage and injury caused by them, and
 - (ii) The number of female workers who have been allowed maternity benefit as provided in the Maternity Benefit Act, 1961 or Rules made there under.
- 29.7 The Contractor shall ensure to obtain the EPF code number from the concerned authorities before start of work and will not engage any sub-contractor who does not possess EPF code number.
- 29.8 During continuance of the Contract, the Contractor and his sub-contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention by the Contractor of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/acts/rules/regulations including amendments, if any, on the part of the Contractor, the Engineer/Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and his sub-contractor in no case shall be treated as the employees of the Employer at any point of time.

Salient features of some of the major labour laws that are applicable to construction industry are given below.

- (i) Workmen Compensation Act 1923 as amended by Amendment Act No.65 of 1976.
The Act provides for compensation in case of injury or death by accident arising out of and during the course of employment.
- (ii) Payment of Gratuity Act 1972

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

(iii) Employees PF and Miscellaneous Provision Act 1952 including FPS-71/EPS-95.

The Contractor is required to possess PF Code from the concerned Regional Provident Fund Commission. The benefits payable under the Act are:

- (a) Pension or family pension on retirement or death as the case may be.
- (b) Deposit linked insurance on the death in harness of the worker.
- (c) Payment of PF accumulation on retirement/death etc.

(iv) Maternity Benefit Act 1961 (Amended)

The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.

(v) Contract Labour (Regulation and Abolition) Act 1970 with Rules framed there under as amended.

The Act provides for certain welfare measures and wages to be provided by the Contractor to contract labour and in case the Contractor fails to provide, the same are required to be provided by the Principal Employer by Law and recover the same from the Contractor from any amount/monies due to him. The principal employer is required to take Certificate of Registration and the Contractor is required to take a License from the designated Officer. The Act is applicable to the establishments of contractor if they employ 20 or more contract labour.

(vi) Minimum Wages Act 1948 (Amended)

The Contractor is to pay not less than the Minimum Wages fixed by appropriate Government as per provisions of the Act..

(vii) Payment of Wages Act 1936 (Amended)

It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.

(viii) Equal Remuneration Act 1979

The Act provides for payment of equal wages for work of equal nature to male and female workers and not for making discrimination against Female employees in the matters of transfers, training and promotions etc.

(ix) Payment of Bonus Act 1965 and Amendment Act No.43 of 1977 and No.48 of 1978 and any amendments thereof.

The Act is applicable to all establishments employing 20 or more workmen. The Act provides for payments of annual bonus subject to a minimum of 8.33 % of wages and maximum of 20 % of wages to employees drawing Rs. 3,500/- P.M. or less. The bonus to be paid to employees getting Rs. 2,500/- PM or above up to Rs. 3,500/- PM shall be worked out by taking wages as Rs 2,500/- p.m. only. All amounts of Bonus are required to be paid within eight months of closing of financial year. The Act does not apply to certain establishments, classes of employees. The newly set up establishments are exempted for five years in certain circumstances.

(x) Industrial Disputes Act 1947(Amended)

The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.

(xi) Industrial Employment (Standing Orders) Act 1946 (Amended)

It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Contractor on matters provided in the Act and get the same certified by the designated Authority.

(xii) Trade Unions Act 1926

The Act lays down the procedure for registration of trade unions of workmen and employers. The trade unions registered under the Act have been given certain immunities from civil and criminal liabilities.

- (xiii) Child Labour (Prohibition and Regulation) Act 1986
The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of children in all other occupations and processes. Employment of child labour is prohibited in Building and Construction Industry.
 - (xiv) Inter-State Migrant Workmen's (Regulation of Employment and Conditions of Service) Act 1979
The Act is applicable to an establishment, which employs 5 or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The inter-state migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as housing, medical aid, traveling expenses from home upto the establishment and back, etc.
 - (xv) The Factories Act 1948
The Act lays down the procedure for approval of plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing 10 persons or more with aid of power or 20 or more persons without the aid of power engaged in manufacturing process.
 - (xvi) The Personal Injuries (Compensation Insurance) Act, 1963 and any modifications thereof and rules made there under from time to time.
 - (xvii) The Building and other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess act of 1996:- All the establishments who carry on any building or other construction work and employs the prescribed minimum (say, 10) or more workers are covered under this Act. All such establishment are required to pay cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the building or construction work and other welfare measures, such as canteens, first-aid facilities, ambulance, housing accommodations for workers near the work place etc. The Employer to whom the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.
 - (xviii) Any other act governing the deployment of labour in the work area will be considered.
The Contractor shall duly comply with the provisions of the Apprentices Act 1961 (III of 1961) the rules made there under and the orders that may be issued from time to time under the said Act and the said Rules and on his failure or neglect to do so he shall be subjected to all liabilities and penalties provided by the said Act and said Rules.
- 29.9 The Engineer-In-Charge shall on a report having been made by an authorized Inspecting Officer as defined in the Contract Labour (Regulation and Abolition) Act and Rules or on his own in his capacity as Principal Employer, have the power to deduct from the amount due to the Contractor any sum required or estimated to be required for making good the loss suffered by worker(s) by reasons of non-fulfillment of the conditions of the Contract for the benefit of workers, non-payment of wages or of deductions made by him from wages which are not justified by the terms of the contract or non-observance of the relevant Acts and Rules with amendments made from time to time. If the Employer makes payment to Contractor's labour due to non-payment of wages to labour by the Contractor, the Employer shall recover the amount thus paid plus 15% towards interest and administration charges from the next Interim Bill of the Contractor.
- 29.10 The Contractor shall indemnify the Employer against any payments to be made under and for observance of the Regulations, Laws, Rules as stipulated in clause 29.4 above without prejudice to his right to claim indemnity from his sub-contractors. In the event of the Contractor's failure to comply with the provisions of sub-clause 29.4 or in the event of decree or award or order against the Contractor having been received from the competent authority on account of any default or breach or in connection with any of the provisions of sub-clause 29.4 above, the Engineer-in-Charge, without prejudice to any other right or remedy under the Contract, shall be empowered to deduct such sum or sums from the bills of the Contractor or from his Security Deposit or from other payments due under this contract or any other Contract to satisfy within a reasonable time the provisions of the various Acts/Laws/Rules/Codes as mentioned under sub-clause 29.4 above, on the part of the Contractor under the Contract on behalf of and at the expenses of the Contractor and make payment and/or provide amenities/facilities/services accordingly. In this regard, the decision of the Engineer-In-Charge shall be conclusive and binding on the contractor.
- 29.11 The Contractor shall at his own expense comply with or cause to be complied with the Provisions/Rules provided for welfare and health of Contract Labour in the Contract Labour (Regulation & Abolition) Act and other relevant Acts and Rules framed there under or any other instructions issued by the Employer in this regard for the protection of health and for making sanitary arrangements for workers employed directly or indirectly on the works.

In case, the Contractor fails to make arrangements as aforesaid, the Engineer-In-Charge shall be entitled to do so and recover the cost thereof from the Contractor.

- 29.12 The Contractor shall at his own expense arrange for the safety provisions as required by the Engineer-in-Charge, in respect of all labour directly or indirectly employed for performance of the Works and shall provide all facilities in connection therewith. In case the Contractor fails to make arrangements and provide necessary facilities as aforesaid, the Engineer-In-Charge shall be entitled to do so and recover the cost thereof from the Contractor. But this will not absolve the Contractor of his responsibility or otherwise thereof.
- 29.13 In the event of any injury, disability or death of any workmen in or about the work employed by the Contractor either directly or through his sub-contractor, Contractor shall at all times indemnify and save harmless the Employer against all claims, damages and compensation under the Workmen Compensation Act, 1923 as amended from time to time or in other law for the time being in force and rules there under from time to time and also against all costs, charges and expenses of any smooth action by proceedings arising out of such accidents or injury, disability or death of a workmen and against all sum or sums which may with the consent of the Contractor be paid to compromise or compound any claim in this regard. If any award, decree or order is passed against the Contractor for recovery of any compensation under the Workmen Compensation Act, 1923, for any injury, disability or death of a workman by any competent court, the said sum or sums shall be deducted by the Engineer-in-charge from any sum then due or that may become due to the Contractor or from his Security Deposit or sale thereof in full or part under the Contract or any other contract with the Employer towards fulfillment of the said decree, award or orders.
- 29.14 Provided always that the Contractor shall have no right to demand payments/claims whatsoever on account of his compliance with his obligations under this clause and Labour Regulation except those specifically mentioned in the clause 46 pertaining to Price Adjustment/Variation.
- 29.15 Contractor must be well versed with all existing labour rules, laws, regulations, byelaws and notifications of State or Central Government or local authority. Here state or local authority means where work is being executed within the Geographical boundaries.

CLAUSE-30: REMOVAL OF CONTRACTOR'S MEN:

The Contractor shall employ on the execution of the Works only such persons who are skilled and experienced in their respective trades and the Engineer-in-Charge shall be at liberty to object to and instruct the contractor to remove from the works any persons employed by the Contractor on the execution of the works who, in the opinion of the Engineer-in-Charge, misconducts himself or is incompetent or negligent in the proper performance of his duties. The contractor shall forth-with comply with such requisition and such person shall not be again employed upon the works without permission of the Engineer in- charge. Any person so removed shall be replaced immediately.

CLAUSE-31: MATERIALS OBTAINED FROM EXCAVATION AND TREASURE, TROVE, FOSSILS ETC:

- 31.1 Materials of any kind obtained from excavation on the site shall remain the property of the Employer and shall be disposed off as directed by the Engineer-in-Charge.
- 31.2 However, if any of the materials thus obtained from excavation on the site is such as can be used in the execution of the work under the contract, the contractor will be allowed to use the same free of cost (except that any amount of royalty, levies are paid by the Contractor) for the aforesaid purposes provided the same is found suitable and is approved by the Engineer-in-Charge.
- 31.3 Fossils, coins, articles of value, structures and other remains or things of geological or archeological interest discovered on the site shall be the absolute property of the Employer. The Contractor shall take reasonable precautions to prevent his labour or any other person from removing or damaging any such article or thing and shall immediately upon the discovery thereof and before removal acquaint the Engineer-in-Charge with such discovery and carry out the Engineer-in-Charge's directions as to the disposal of the same at the expense of the Employer.

CLAUSE-32: FORCE MAJEURE:

32.1 Definition of Force Majeure

In this Clause, "Force Majeure" means an exceptional event or circumstance:

- (a) which is beyond a Party's control,
- (b) which such Party could not reasonably have provided against before entering into the Contract,
- (c) which having arisen such Party could not reasonably have avoided or overcome, and
- (d) which is not substantially attributable to the other Party.

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

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies.
- (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
- (iii) riot, commotion, disorder, strike, or lockout by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors.
- (iv) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.
- (vi) earthquake (above 7 magnitudes on Richter Scale)
- (vii) Project construction stopped in compliance of Directions/Orders/Notification of Government of India/Government of Uttarakhand.

32.1(i) Notice of Force Majeure

If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 10 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall have given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

32.1(ii) Duty to Minimize Delay

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure.

A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

32.1(iii) Consequences of Force Majeure

If the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 32.1(i) [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Clause 52 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Clause 39: time for completion and extensions, and
- (b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 32.1 [Definition of Force Majeure] and, in the case of subparagraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

After receiving this notice, the Engineer shall proceed to agree or determine these matters.

32.1 (iv) Force Majeure Affecting Subcontractor

If any Subcontractor is entitled under any contract or agreement relating to the

Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

32.1(v) Optional Termination, Payment and Release

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 32.1(i) [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given.

Upon such termination, the Engineer shall determine the value of the work done and issue a Payment Certificate which shall include:

- (a) the amounts payable for any work carried out for which a price is stated in the Contract;

- (b) the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, and the Contractor shall place the same at the Employer's disposal;
- (c) any other Cost or liability which in the circumstances was reasonably incurred by the Contractor in the expectation of completing the Works;
- (d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost); and
- (e) the Cost of repatriation of the Contractor's staff and labor employed wholly in connection with the Works at the date of termination.

32.1(vi) Release from Performance under the Law

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 32.1(v) [*Optional Termination. Payment and Release*] if the Contract had been terminated under Sub-Clause 32.1(v)

- 32.2 On occurrence of Force Majeure, the liability of either party shall be dealt with, in accordance with the provisions of sub-clause 34.2
- 32.3 There should be a request for extension of time arising out of "Force Majeure" the same shall be considered in accordance with clause 39.
- 32.4 Notwithstanding provisions elsewhere provided in the Contract for cost compensation resulting from extension of Time for Completion, if the event or circumstance is of the kind described in sub-paragraph (i) to (vii) of sub-clause 32.1 (*definition of Force Majeure*). Cost compensation shall be as per Annexure-I of Appendix to Bid depending upon the Risk allocation Schedule Annexure-IV of Appendix to bid.

32.5 Risk and Responsibility:

32.5.1 Indemnities

The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and
- (b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:
 - (i) arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, and
 - (ii) is attributable to any negligence, willful act or breach of the Contract by the Contractor, the Contractor's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, Losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d) (i), (ii) and (iii) of Sub-Clause 34.4 (iii) [*Insurance Against Injury to Persons and Damage to Property*].

32.5.2 Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 42 [*COMPLETION*]

CERTIFICATE) for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Employer.

After responsibility has accordingly passed to the Employer, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 32.5.3 [*Employer's Risks*], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

Upon request of the Contractor, the Engineer may allow an interest bearing advance for redoing the damaged works against Bank Guarantee for 110% of the advance/payment to be released to the Contractor. Bank guarantee for the same shall be issued by a Nationalized/scheduled bank notified as a scheduled bank under the provision of Reserve Bank of India Act, 1934 through any of its branches in India.

The rate of interest and terms of such advance payment under this Sub-clause shall be the same as those applicable for the mobilization advance.

On receipt of the insurance claim, the Contractor shall repay the complete advance amount along with the applicable interest thereupon or alternatively, the same shall be recovered by the Engineer from the Interim Payments Certificates so that the whole of the amount is recovered before certification of the 90% of Accepted Contract Amount.

32.5.3 Employer's Risks

The risks referred to in Sub-Clause 32.5.4 below are:-

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies.
- (b) rebellion, revolution, insurrection, military or usurped power, or civil war, within the Country,
- (c) commotion or disorder within the Country by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors.
- (d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,
- (e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.
- (f) use or occupation by the Employer of any part of the Permanent Works. Except as may be specified in the Contract.
- (g) design of any part of the Works by the Employer's Personnel or by others for whom the Employer is responsible.

32.5.4 Consequences of Employer's Risks

If and to the extent that any of the risks listed in Sub-Clause 32.5.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Clause 52 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Clause 39 [*TIME FOR COMPLETION AND EXTENSIONS*], and
- (b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 32.5.3 [*Employer's Risks*].

After receiving this further notice, the Engineer shall proceed in accordance to agree or determine these matters.

32.5.5 Intellectual and Industrial Property Rights

In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

- (a) an unavoidable result of the Contractor's compliance with the Contract, or
- (b) a result of any Works being used by the Employer:
 - (i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
 - (ii) in conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

32.5.6 Limitation of Liability

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Clause 38 [*Payment on Termination*] and Sub-Clause 32.5.1 [*Indemnities*].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-clause 24: power supply, clause 25: supply of water, clause 26: watching and lighting, Sub-Clause 32.5.5 [*Intellectual and Industrial Property Rights*], shall not exceed the sum stated in the Particular Conditions or (if a sum is not so stated) the Accepted Contract Amount.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

32.5.7 Risk Allocation Schedule and Risk Register

The Contractor and the Engineer shall maintain a Risk Register as per Annexure III of Appendix to Bid. In case the Contractor or the Engineer, as the case may be, believes that any matter or event is the risk of the other Party under a particular item of the Risk Allocation Schedule, the Contractor shall enter full particulars of the same with prior approval of the Engineer within a period of 10 days from the date of occurrence of such matter, or on the direction of the Engineer together with the grounds for such claim and the material in support thereof in the Risk Register. Such direction should come from the engineer within 10 days of occurrence of the event. Merely making an entry of an event in the Risk Register shall not constitute an admission of liability on account thereof by either Party.

The Engineer on its own or at the request of the Contractor, as the case may be, shall promptly undertake appropriate contingency planning strategy and record it duly in the Risk Register and the same shall be regarded as a prompt communication tool between the Contractor and the Engineer. The Engineer/Contractor shall respond to every risk event brought to its notice by other Party by recording steps to be taken by the respective Party in mitigating the risk. Failure of the Contractor or the Engineer, as the case may be, to record in the Risk Register any matter or event which it considered to be the risk of the other Party in accordance with the Risk Allocation

Schedule or otherwise as per provision specified expressly elsewhere in the Contract, within 10 days of occurrence of the relevant event or matter, shall be deemed to be an irrevocable waiver of such Party's claim regarding said risk. No claim shall be admissible under sub clause 2.5 and/or clause 20 of the GCC in respect of any matter or event not being an Employer's risk or the Contractor's risk or which has not been entered by the Party claiming on that account in the Risk Register within the period stipulated therefor.

In the event of any conflict between provision of risk sharing as contained in "Risk Allocation Schedule" and the other provisions of the Contract, the provisions contained in the Risk Allocation Schedule shall prevail. Risk Allocation Schedule is placed at Annexure-IV of Appendix to Bid.

If contractor is compensated on account of events occurring due to Force Majeure or events described in Risk allocation Schedule, the contractor shall record full Satisfaction and shall waive his right to make any claim attributable to Force Majeure/Events given in Risk allocation Schedule.

Add new sub clause 32.5.8 Maintenance of Record of Hindrances and Idling of Resources

Contractor shall bring each hindrance to the notice of Engineer not later than 10 days of the occurrence of the event leading to such hindrance, including the likely idling of man and machinery, failing which the same shall not be considered or taken into account for any purpose whatsoever.

The Contractor/Engineer shall record hindrances in respect of procurement, supply and Site work related issues, in the Hindrance register(s) as per Format prescribed in Annexure-V of 'Appendix to Bid'. This up-to-date Hindrance Register record shall be submitted by the Contractor on monthly basis.

If due to any hindrance, Contractor's resources are rendered idle, the Contractor shall get the same verified from the Engineer on a regular basis. Up-to-date, duly verified idling of manpower and Equipment shall be submitted by the Contractor to the Engineer at the end of each month in the format included in Appendix to Bid or as accepted by the Engineer. The Contractor shall submit the above details along with reasons for such idling. If due to any reason the details could not be verified, the Contractor shall submit the same to the Engineer and shall provide all assistance to the Engineer for verification of the same. For working out time related cost claim i.e, idling charges mechanism is given at *Appendix to Bid*.

CLAUSE 33: LIABILITY FOR DAMAGE, DEFECTS OR IMPERFECTIONS AND RECTIFICATIONS THEREOF

- 33.1 If the Contractor or his labour or sub-contractor, injure, destroy or damage roads, fence enclosures, water pipes, cables, buildings, drains, electricity or telephone posts, wires, trees, grass line, cultivated land in the area in which they may be working or in the areas continuous to the premises on which the work or any part of it is being executed or if any damage is caused during the progress of work, the Contractor shall upon receipt of a notice in writing in that behalf from the Engineer-in-Charge, make the same good at his costs.
- 33.2 If it appears to the Engineer-in-Charge or his representative at any time during construction or reconstruction or prior to the expiration of the Defects Liability period that any work has been executed with unsound, imperfect or unskilled workmanship or that any materials or articles provided by the Contractor for execution of the Works are unsound or of a inferior quality, or otherwise not in accordance with the Contract, or that any defect, shrinkage or other faults found in the work arising out of defective or improper materials or workmanship, the Contractor shall, upon receipt of a notice in writing from the Engineer-in-Charge, forthwith rectify or remove and reconstruct the work so specified in whole or in part, as the case may be, and/or remove the materials/articles so specified and provide other proper and suitable materials at his own expense.
- 33.3.1 If the Contractor fails to rectify, make good or remove and reconstruct the work as notified herein above, the Engineer-in-Charge shall have power to carry out such damages, defects or imperfections by any means or through any other agency or by himself at the risk and cost of the Contractor. In such a case the value of such rectification/replacement, reconstruction through such agencies shall be recovered from the Contractor from any amount due to him. The decision of Engineer-in-Charge in this regard shall be final and binding on the contractor.

CLAUSE-34: CONTRACTOR'S LIABILITY AND INSURANCE:

- 34.1 From commencement to completion of the Work(s) as a whole, the Contractor shall take full responsibility for the care thereof and for taking precautions to prevent loss or damage. He shall be liable for any damage or loss that may happen to the Works or any part thereof and to the Employer's Plant, Equipment and Material (hired or issued to the Contractor). Any such loss or damage shall be restored in good order and condition and in conformity in every respect with the requirements of the Contract and instructions of the Engineer-in-Charge.
- 34.2 i) Neither party to the Contract shall be liable to the other in respect of any loss or damage which may occur or arise out of "Force Majeure" to the Works or any part thereof or to any material or article at site but not incorporated in the Works or to any person or anything or material whatsoever of either party provided such a loss or damage could not have been foreseen or avoided by a prudent person and the either party shall bear losses and damages in respect of their respective men and materials. As such liability of either parties shall include claims/compensation of the third party also.

- ii) Provided, however, in an eventuality as mentioned in sub clause 34.2 (i) above, the following provisions shall also have effect:

- (a) The Contractor shall, as may be directed in writing by the Engineer-in-Charge proceed with the erection and completion of the works under and in accordance with the Contract; and
- (b) The Contractor shall, as may be directed in writing by the Engineer-in-Charge, re-execute the works lost or damaged, remove from the site any debris and so much of the works as shall have been damaged and carry the Employer's T&P, Equipment, Material etc, to the Employer's stores. The cost of such re- execution of the works, removal of damaged works and carrying of Employer's store shall be ascertained in the same manner as for deviations and this shall be paid separately to the Contractor.

Provided always that the Contractor shall, at his own cost, repair and make good so much of the loss or damage as has been by any failure on his part to perform his obligations under the Contract or not taking precautions to prevent loss or damage or minimize the amount of such loss or damage.

- 34.3 The Contractor shall indemnify and keep indemnified the Employer against all losses and claims for death, injuries or damage to any person or any property whatsoever which may arise out of or in consequence of the construction and maintenance of works during the Time for Completion and also against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of or in relation thereto, and such liabilities shall include claims/compensations of the third party.

34.4 (i) General Requirements for Insurances

Insuring party means – The Contractor

Insured party means- UJVN Ltd/Employer.

Premium of insurance policy is to be paid by Contractor but UJVN Ltd is deemed to be insured party.

Insurance company Head office/ Branch Office shall be based on Dehradun.

In this Clause "insuring Party" means (Contractor), for each type of insurance the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause. Wherever the Employer is the insuring Party, each insurance shall be affected with insurers and in terms consistent with the details annexed to the Particular Conditions.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the Joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods stated in the Appendix to Tender (calculated from the Commencement Date), submit to the other Party:

- (a) Evidence that the insurances described in this Clause have been effected, and

- (b) Copies of the policies for the insurances described in Sub-Clause 34.4 (ii)

[Insurance for Works and Contractor's Equipment] and Sub-Clause 34.4 (iii)

[Insurance against injury to Persons and Damage to Property].

When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.

If the contractor/insuring party fails to effect and keep in force any of the insurances required under the contract, or fails to provide satisfactory evidence, policies and receipts in accordance with this sub-clause, the employer may, without prejudice to any other right or remedy, effect insurance for the coverage relevant to such default and pay the premiums due.

In such cases the premium paid by the employer plus overheads (equal to 25% of the premium paid) shall be recoverable from the contractor by the employer and may be deducted by the employer from any money due, or to become due, to the contractor or recover the same as debt due from the contractor. The contractor shall not dispute the amount of premium paid by the employer or the overhead charges thereon.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payments by one Party to the other Party shall be subject to Contractor's Claims, as applicable. All policies to be taken by the contractor shall be as per local Insurance Regulations and jurisdiction.

Add the follows after sub-clause 34.4(i):

Any errors or acts of commission or omission on the part of the Contractor shall not vitiate the claim of employer or lender or of any other party that employer may assign the policy to.

Excess clause for all the insurance policy shall be less than One (01) Crore Rupee.

Any other insurance as per prudent market practice to be bought by contractor.

34.4 (ii) Insurance for works and Contractor's Equipment

The insuring party means Contractor, insured means Employer and UJVNL/Employer will be beneficiary. Parties mean Contractor and Employer.

The insuring Party shall insure the Works, Plant, Materials and Contractor's documents by Contractor's All Risk (CAR) insurance policy, for not less than 125% of the Accepted Contract Amount in the joint name of the insuring party and the Employer, with the Employer as principal insured within 4 months of the Commencement Date.

The policies are to be reviewed periodically and are to be maintained at not less than the full replacement cost at all times.

The insuring Party shall insure the constructed structure for Defects Notification Period even after issuance of taking over certificate by Civil Engineering Completed Risk (CECR) Insurance Policy in the name of the Employer for 100 % of executed value. The taking over of the structures shall be with this policy only.

In addition to above, policy(ies) shall cover cost of demolition, removal of debris, professional fees and escalation. The insurance policy shall have an express provision to the effect that the insuring party (the Contractor) shall necessarily obtain prior 'no objection' certificate from the Engineer before payment of insurance claim to the Contractor under the insurance policy. The Condition that insurance company shall also necessarily obtain no objection certificate from the Employer at the time of release of insurance claim to Contractor shall also be included in the insurance policy for the Works (CAR insurance policy).

The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 43 [Defects Liability]).

The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.

Unless otherwise stated in the Particular Conditions, insurances under this Sub-Clause:

- (a) shall be effected and maintained by the Contractor as insuring Party.
- (b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated between the Parties for the sole purpose of rectifying the loss or damage.
- (c) shall cover all loss and damage from any cause except sub para (a) to (g) listed in sub clause 32.5.3 (Employer's Risks),
- (d) Deleted; and
- (e) any excess amount deducted from the settled claim amount shall be borne by the Contractor and the Employer in proportion to the amount of the share of loss relating to respective Parties in such settled claim.
- (i) a part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below).
- (ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,
- (iii) a part of the Works which has been taken over by the Employer, except to the extent that the Contractor is liable for the loss or damage, And
- (iv) Goods while they are not in the Country, subject to Sub-Clause 45.8.

If more than one year after the Base Date, the cover described in sub-paragraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Employer, with supporting particulars. The Employer shall then (i) be entitled subject to Employer's Claims to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 34.4 (i) *[General Requirements for Insurances]*.

34.4(iii) Insurance against Injury to Persons and Damage to Property

The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 34.1 (ii) *[Insurance for Works and Contractor's Equipment]*) or to any person (except persons insured under Sub-Clause 34.4 (iv) *[Insurance for Contractor's Personnel]*, which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount stated in the Appendix to Tender, with no limit on the number of occurrences. If an amount is not stated in the Appendix to Tender, this Sub-Clause shall not apply.

Unless otherwise stated in the Particular Conditions, the insurances specified in this Sub-Clause:

- (a) shall be effected and maintained by the Contractor as insuring Party.
- (b) shall be in the joint names of the Parties.
- (c) shall be extended to cover liability for all loss and damage to the Employer's property (except things insured under Sub-Clause 34.1 (ii) arising out of the Contractor's performance of the Contract, and
- (d) shall include a cross liability clause such that the insurance shall apply to the Contractor and to the Employer as separately insured.
- (i) the Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works.
- (ii) damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any defects and
- (iii) a cause listed in Sub-Clause 32.5.3 Employer's Risks except to the extent that cover is available at commercially reasonable terms.

34.4 (iv) Insurance for Contractor's Personnel

The Contractor shall effect and maintain insurance against liability for claims, Damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer and the Engineer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

- 34.5 If the Contractor receives instructions from the Employer to insure against War Risk, such insurance if available shall be effected, at the cost of the Employer.
- 34.6 The Employer shall not be liable for in respect of any damages or compensation payable to any workman or other person in the employment of the Contractor or any subcontractor.
- 34.7 The Contractor shall insure against such liability and shall continue such insurance during the whole of the time and that any persons are employed by him on the Works.
- 34.8 The Contractor shall at his own expense arrange for the safety provisions as laid down in Safety Manual of the Employer in respect of the works covered under this Contract. In case, the Contractor fails to comply with the provisions of the safety manual, the Engineer-in-Charge shall be entitled to and make the necessary arrangement at the risk and cost of the Contractor. This will, however, not absolve the Contractor of his overall responsibility to execute the works under the Contract.
- 34.9 The Contractor shall avail '**Group personal accident insurance policy**' covering all the personnel employed by the Contractor for execution for Works complying requirement of Workmen Compensation Act 1923 as amended by Amendment Act No. 65 of 1976 or amended from time to time.

CLAUSE 35: SUSPENSION OF WORKS:

- 35.1 The contractor shall on the order of the Engineer in- charge suspend the progress of the works or any part thereof for such time or times and in such manner as the Engineer-in-Charge may consider necessary and shall during such suspension properly protect and secure the work so far as is necessary in the opinion of the Engineer in-charge. If such suspension is:
- (a) Provided for in the Contract, or
 - (b) Necessary for the proper execution of the Works or by reason of weather conditions or by some default on the part of the Contractor, or
 - (c) Necessary for the safety of the Works or any part thereof.
- The Contractor shall not be entitled to extra costs (if any) incurred by him during the period of suspension of the works
- 35.2 If the progress of works or any part thereof is suspended on the order of the Engineer-in-Charge for more than three months at a time the contractor may serve a written notice on the Engineer-in-Charge requiring permission within 15 days from the receipt thereof to proceed with the Works or that part thereof in regard to which progress is suspended and if such permission is not granted within that time the Contractor by a further written notice so served may (but is not bound to) elect to treat the suspension where it affects part only of the Works as an omission of such part or where it affects the whole of the Works as an abandonment of the Contract by the Employer.

CLAUSE 36: FORECLOSURE OF CONTRACT IN FULL OR IN PART DUE TO ABANDONMENT OR REDUCTION IN SCOPE OF WORK:

- 36.1 If at any time after acceptance of the tender the Employer decides to abandon or reduce the scope of the Works Trade for reason whatsoever and hence does not require the whole or any part of the Works to be carried out, the Engineer-in-Charge shall give notice in writing to that effect to the Contractor, and the contractor shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the works.
- (a) Any expenditure incurred on preliminary works/ trade, e.g. temporary access roads, temporary labour huts, staff quarters and site office; storage accommodation workshop, installation and dismantling of Construction Equipment (batching plant, crushing plant) and water storage tanks.
 - (b) i) The Employer shall have the option to take over Contractor's materials or any part thereof, either brought to site or of which the Contractor is legally bound to accept delivery from suppliers (for incorporation in or incidental to the Work), provided, however, the Employer shall be bound to take over the material or such portions thereof as the Contractor does not desire to retain. The cost shall, however, take into account purchase price, cost of transportation and deterioration or damage which may have been caused to materials whilst in the custody of the Contractor.
 - ii) For Contractor's materials not retained by the Employer, reasonable cost of transporting such materials from Site to Contractor's permanent stores or to his other Works, whichever is less. If materials are not transported to either of the said places, no cost of transportation shall be payable.

- (c) If any materials issued by the Employer are rendered surplus, the same except normal wastage for the materials used in the works shall be returned by the Contractor to the Employer.
 - (d) Reasonable compensation for transfer of T&P from Site to Contractor's permanent stores or to his other works whichever is less. If T&P are not transported to either of the said places, no cost of outward transportation shall be payable.
- 36.2 The Contractor shall, if required by the Engineer in- charge, furnish to him books of account, wage books, time sheets and other relevant documents as may be necessary to enable him to certify the reasonable amount payable under this condition.
- 36.3 If the contract termination/ fore closure is triggered on account of orders by Courts, Govt. of India and/or Govt. of Uttarakhand or due to natural calamity, no claim of contractor whatsoever due to such termination or/fore closure of contract shall be payable by the UJVN Limited and no correspondence in this regard shall be entertained.

CLAUSE-37: TERMINATION OF CONTRACT ON DEATH:

If the Contractor is an individual or a proprietary concern and the individual or the proprietor dies, or if the Contractor is a partnership concern and one of the partners dies, then, unless the Engineer-in-Charge is satisfied that the legal representatives of the individual Contractor or of the proprietor of the proprietary concern and in the case of partnership, the surviving partners are capable of carrying out and completing the contract, the Engineer-in-Charge shall be entitled to terminate the Contract as to its uncompleted part without the Employer being in any way liable to payment of any compensation whatsoever on any account to the estate of the deceased Contractor and/or to the surviving partners of the Contractor's firm on account of termination of the Contract. The decision of the Engineer-in-Charge that the legal representatives of the deceased Contractor or the surviving partners of the Contractor's firm cannot carry out and complete the Works under the Contract shall be final and binding on the parties. In the event of such termination, the UJVN Ltd shall not hold the estate of the deceased Contractor and/or the surviving partners of the Contractor's firm liable for damages for not completing the Contract. Provided that the power of the Engineer in-charge of such termination of contract shall be without prejudice to any other right or remedy, which shall have accrued or shall accrue to him under the Contract.

CLAUSE-38: DEFAULT BY THE CONTRACTOR AND TERMINATION OF CONTRACT IN FULL OR IN PART:

38.1 If the Contractor:

- i) fails or refuses to comply with the conditions of the contract or with the instructions, decision of the Engineer-in-Charge and does not remedy it or take any effective steps to remedy it immediately after a notice in writing is given to him by the Engineer-in-Charge; or
- ii) fails to prosecute or complete the Works or any item of Works with such diligence and such number of skilled and unskilled labour, plant and equipment as in the opinion of the Engineer-in-Charge will ensure its as per construction programme and within the time specified in **Schedule 'B'** or any extended time under the Contract and does not complete the Work(s) or any item of Work(s) within the period specified in a notice given in writing by the Engineer-in-Charge. In such event, the Engineer-in-Charge may communicate by written notice to the contractor his decision to terminate the Contractor's right to proceed with the entire work or such part of the work on which there has been delay; or
- iii) is engaged in corrupt or fraudulent practices in competing for or in the execution of the Contract. For the purpose of this clause
 - a) 'Corrupt Practice' means offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or execution of Contract.
 - b) 'Fraudulent Practice' means mis-representation of fact (or as per clause 31 of ITB) in order to influence the tendering process or the execution of a Contract and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the employer of the benefits of free and open competition.
- iv) being an individual, or if a firm, any partner thereof, shall at any time be adjudged insolvent or have a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation for the purpose of amalgamation or reconstruction under any insolvency Act for the time being in force or make any conveyance or assignment of his effective or composition or arrangement for the benefit of his creditors or purport as to do, or if any application be made under any insolvency Act for the time being in force for the sequestration of his estate or if a trust deed be executed by him for benefit of his creditors; or

- v) being a company shall pass a resolution or the Court shall make an order for the liquidation of its affairs or a receiver or manager on behalf of the debenture holders shall be appointed or circumstances shall arise which entitle the Court or debenture holders to appoint a receiver or manager; or
- vi) Suffers an execution being levied on his goods; or
- vii) Assigns, transfers, sublets (engagement of labour on a piece-work basis or of labour with materials not being incorporated in the work shall not be deemed to be subletting) or attempts to assign, transfer or sublet the entire works or any portion thereof without the prior written approval of the Engineer-in-Charge.

In all above events, a notice will be served by registered post/email to contractor by the Engineer-in-charge stating the either of the reason from i) to vii). The Engineer-in-Charge, after the expiry of a period of 14(fourteen) days from the date of receipt of notice by the contractor, shall have powers to terminate the Contract in full or in part as aforesaid without prejudice to any other right or remedy which shall have accrued or shall accrue of which cancellation notice in writing to the Contractor under the hand of the Engineer- in charge shall be conclusive evidence.

viii)

- 38.3 if the contract is terminated in whole or in part, recourse may be taken to any one or more of the following actions:
 - a) Forfeiture of the performance security;
 - b) upon such terms and in such manner as it deems appropriate, taking over the site and to complete the works himself or with another contractor (risk Purchase) and use the contractor's materials, equipment, temporary works as he/ they think proper.
 - c) However, the contractor shall continue to fulfill the contract to the extent not terminated.
- 38.2 The Engineer-in-Charge shall, on such termination of the contract, have powers to take possession of the site of work or in part the contract as well as the land/premises allotted to the contractor for his preliminary, enabling and ancillary works and any materials, constructional equipment, implements, stores, structures etc. thereon. The Engineer-in-Charge shall also have powers to carry out the incomplete work by any means or by himself at the risk and cost of the contractor. In such a case, cost of the work done through such agencies shall be paid to the Debitable agency and the Contractor shall pay the excess amount, if any, incurred in completing the work as aforesaid, as stipulated under sub clause 38.4 hereunder.
- 38.3 On termination of the Contract in full or in Part, the Engineer-in-Charge may direct that a part or whole of such plant, equipment and materials, structures be removed from the site of the work as well as from the land/premises allotted to the contractor for his preliminary, enabling and ancillary works, within a stipulated period. If the Contractor shall fail to do so within the period specified in a notice in writing by the Engineer-in-Charge, the Engineer-in-Charge may cause them to be sold, holding the net proceeds of such sale to the credit of the Contractor, which shall be released after completion of works and settlement of amounts under the Contract.
- 38.4 If the expenses incurred or to be incurred by the UJVN Ltd for carrying out and completing the incomplete work or part of the same, as certified by the Engineer-in-Charge, are in excess of the value of the work credited/to be credited to the Contractor, the difference shall be paid by the Contractor to the Employer. If the Contractor fails to pay such an amount, as aforesaid, within 14(fourteen) **days** of receipt of notice in writing from the Engineer-in-Charge, the Engineer-in-Charge shall recover such amount from any sums due to the Contractor on any account under this or any other contract or from his Security Deposit or otherwise.
- 38.5 The Engineer-in-Charge shall have the right to sell any or all the Contractor's unused materials, constructional equipment, implements, temporary buildings/structures etc. and apply the proceeds of sale thereof towards the satisfaction of any sums due from the Contractor under the Contract and if thereafter there may be any balance outstanding from the Contractor, the Engineer-in-Charge shall have powers to recover the same as debt.
- 38.6 All decisions/actions of the Engineer-in-Charge under this clause, as aforesaid, shall be conclusive and binding on the contractor.
- 38.7 **Termination of contract by other mean**
If the contract termination/ fore closure is triggered on account of orders by Courts, Govt. of India and/or Govt. of Uttarakhand or due to natural calamity or due to reason beyond the control of UJVN Ltd, no claim of contractor whatsoever due to such termination or/fore closure of contract shall be payable by the UJVN Limited and no correspondence in this regard shall be entertained.

CLAUSE-39: TIME FOR COMPLETION AND EXTENSIONS:

- 39.1 Time for Completion allowed for execution of the Works as specified in Notice Inviting Tender. However, where intermediate mile stones are required to be achieved, contractor shall submit the construction schedule as per **Schedule-B** under SECTION V "SCHEDULE" which will be approved by Engineer-in-Charge and the contractor will execute the work accordingly. Which shall be reviewed by Engineer-in-Charge from time to time shall form the basis of performance of work done by contractor as per construction schedule submitted by contractor.
- 39.2 However, if the work is delayed on account of:
- i) Delay in handing over of site to the Contractor as per clause 12; or
 - ii) Increase in the quantum of work to be done under the contract as per clause 18; or
 - iii) Suspension of work /trade as per clause 35; or
 - iv) Rebuilding of work as per clause 34; or
 - v) "Force Majeure" as per clause 32 or
 - vi) Any other cause which, in the opinion of the Engineer-in-Charge is beyond the Contractor's control;
- Then, immediately upon the happening of any such event as aforesaid, the Contractor shall inform the Engineer-in charge within fourteen days (14 days) accordingly, but the Contractor shall nevertheless use constantly his best endeavors to prevent and/or make good the delay and shall do all that may be required in this regard. The Contractor shall request, in writing, for extension of time, to which he may consider himself eligible under the Contract, within fourteen days (14 days) of the date of happening of any such events as indicated above.
- 39.3 In any such case as may have arisen due to any of the events, as aforesaid, and which shall be brought out by the Contractor in writing, the Engineer-in-Charge may give a fair and reasonable extension of Time on prescribed format as per Format VI for Completion of work with a condition that the contractor shall give no claim certificate due to time extension of the contract/work, after taking into consideration the nature of the work delayed and practicability of its execution during the period of extension. Provided in the event of non-receipt of a request for such extensions from the Contractor for reasons whatsoever, the Engineer-in-Charge may, at his sole discretion and with due regard to the event, grant fair and reasonable extension of time sue-motto.
- Such extensions, if admissible, shall be communicated to the Contractor by the Engineer-in-Charge in writing.
- Provided that Engineer- in – charge is not bound to make any determination unless the Contractor has;
- a) within 14 days after such event has first arisen notified the Engineer-in-charge and
 - b) Within 28 days or such other reasonable time as may be agreed by the Engineer – in – charge detailed particulars of any extension of Time for Completion to which the Contractor may consider himself entitled.
- 39.4 In case, if Engineer –in Charge finds the proposal of time extension is due to default of contractor, the extension of time may be granted by Engineer-in charge with penalty as per clause 40.

CLAUSE-40: LIQUIDATED DAMAGE/COMPENSATION FOR DELAY:

- 40.1 If the Contractor fails to complete all items of work(s) /trade in respect of any of the sub-group/group and/or work as a whole, as the case may be and as specified in NIT or any extended period under Clause 39 as may be allowed, liquidated damage shall levied at a rate 0.05 % (plus GST) of the value of the contract value per day of delay subject to a maximum of 10% (plus GST) of contract value.
- 40.2 The Employer/Purchaser without prejudice to all its other remedies under the contract may deduct from the payable Contract Price the amount of Liquidity damage (Plus GST) as calculated in above manner.
- 40.3 Once the maximum of Liquidity damage is reached, the Employer/Purchaser may terminate the contract pursuant to clause 38 of GCC (default by the contractor and termination of contract in full or in Part).

CLAUSE-41: INSPECTION AND APPROVAL:

- 41.1 All works / items of supply embracing more than one process shall be subject to examination and approval at each stage thereof and the Contractor shall give due notice to the Engineer-in-Charge or his authorised representative, when each stage is ready. In default of such notice, the Engineer-in-Charge shall be entitled to appraise the quality and extent thereof and the decision of the Engineer-in-Charge in this regard shall be final and binding.
- 41.2 No work/ item of supply shall be covered or put out of view without the approval of the Engineer-in-Charge or his authorized representative and the Contractor shall afford full opportunity for examination of foundations before

permanent work is placed thereon. The Contractor shall give due notice to the Engineer-in-Charge or his authorized representative whenever any such work or foundation is ready for examination and the Engineer in-charge or his representative shall, without unreasonable delay, unless he considers it unnecessary and advises the Contractor accordingly, examine and measure such work or such foundations. In the event of the failure of the contractor to give such notice, he shall, if required by the Engineer-in-Charge, uncover such work at the Contractor's expense.

- 41.3 The Engineer-in-Charge or his representative shall have powers at any time to inspect and examine any part of the works and Contractor shall give such facilities as may be required for such inspection and examination.
- 41.4 The Contractor shall uncover any part of the works/ item of supply and/or make opening in or through the same as the Engineer-in-charge may from time to time direct for his verification and shall reinstate and make good such part to the satisfaction of the Engineer-in-Charge. If any such part has been covered up or put out of view after being approved by the Engineer-in-Charge and is subsequently found, on uncovering, to be executed in accordance with the contract, the expenses of uncovering and/or making openings in or through, reinstating and making good the same, shall be borne by the Employer. In any other causes all such expenses shall be borne by the Contractor.
- 41.5 Work executed by the firm /contractor under this bid shall be subject to third party inspection and firm shall be liable to adhere direction of such third party/quality testing and shall make good executed work as per requirement of test, at his own cost. Engineer-in-charge as per its own assessment, shall have right to enforce penalty on the contractor, if any deviation from quality standard is noticed during and after the execution/completion of the work till release of performance guarantee against the contract. Any penalty imposed on the contractor on the basis of third party inspection/quality test report shall be recovered from the any amount payable to the contractor.
- 41.6 There shall also be a Project Monitoring system for high value works (Contracts exceeding Rs. 100 Lakh shall be treated as high Value contracts).

CLAUSE-42: COMPLETION CERTIFICATE:

- 42.1 The work shall be completed to the entire satisfaction of the Engineer-in-Charge and in accordance with the time specified in NIT or any extended period under Clause 39 as may be allowed. As soon as the Works under the Contract is completed as a whole, the Contractor shall give notice of such completion to the Engineer-in-Charge. The Engineer-in-Charge, within two week of receipt of such notice, shall inspect the work and shall satisfy himself that the Work(s) has been completed in accordance with the provisions of the Contract and then issue to the Contractor a certificate of completion indicating the date of completion. If in the notice of Engineer-in-Charge there are defects in the Works or the Works are not considered to be complete, he shall issue a notice in writing to the Contractor to rectify/replace the defective work or any part thereof or complete the work, as the case may be, within such time as may be notified and after the Contractor has complied with as aforesaid and gives notice of completion, the Engineer-in-Charge shall inspect the work and issue the completion certificate in the same manner as aforesaid.
- 42.2 No certificate of completion shall be issued as stipulated under 42.1 above nor Work be considered to be completed unless the Contractor shall have removed from the work site and/or premises all his belongings/temporary arrangements brought/made by him for the purpose of execution of the work and clean the site and/or premises in all respects and made the whole of the site and or premises fit for immediate occupation/use to the satisfaction of the Engineer-in-Charge. If the Contractor fails to comply with the above mentioned requirements on or before the date of completion of the Work, the Engineer-in-Charge, may, as he thinks fit and at the risk and cost of the Contractor, fulfill such requirements and remove/dispose of the Contractor's belongings/temporary arrangements, as aforesaid, and the Contractor shall have no claim in this respect except for any sum realized by the sale of Contractor's belongings/temporary arrangements less the cost of fulfilling the said requirements and any other amount that may be due from the Contractor. If the expenditure on the aforesaid account exceed the amount realized by sale of such Contractor's belongings/temporary arrangements than the Contractor shall on demand, pay the amount of such excess expenditure.

CLAUSE-43: DEFECTS LIABILITY PERIOD:

- 43.1 The "Defect Liability Period" for the entire work under the Contract from the certified date of completion is Will be 18 months from date of completion as per clause-42 of GCC
- 43.2 If during the Defects Liability Period any portion of the Works/ item of supply is found defective or deficient in any manner and is repaired/rectified/replaced pursuant to the defects liability provisions of the Contract, the Defects

Liability Period for such portion of the Works, shall, notwithstanding anything to contrary contained herein, be operative for a further period of 6 months from the date of such repair/rectification/ replacement but shall not in any case be operative for more than 18 months from the date of completion stated in the Completion Certificate.

CLAUSE-44: MEASUREMENTS:

- 44.1 The Engineer-in-Charge shall except as otherwise stated ascertain and determine by measurement, the value of work/ trade done in accordance with the Contract.
- 44.2 Notwithstanding any provision in the relevant standard method of measurement or any general or local custom, measurement of work done under the Contract shall be taken in accordance with the procedure set forth in the Technical Specifications or Bill of Quantities under the Contract. In the case of items of work, which are not covered by the Technical Specifications or Bill of Quantities, measurement shall be taken in accordance with the relevant standard methods of measurements laid down by the Bureau of Indian Standards (BIS).
- 44.3 Measurement shall be taken jointly by the Engineer in- charge or his representative and by the Contractor or his authorized representative.
- 44.5 Before taking measurement of any works, the Engineer in- charge or his representative, shall give a reasonable notice to the Contractor. If the Contractor fails to attend or send an authorised representative for measurement after such a notice or fails to countersign or to record the objection within a week from the date of taking the measurements, then in that event the measurements taken by the Engineer in- charge shall be taken to be correct and final measurements of such work.
- 44.6 The Contractor shall, without extra charge, provide assistance with every appliance, labour and other appliances (theodolite, level etc.) and things necessary for measurement.
- 44.7 Measurement shall be signed and dated by both parties on the Site on completion of measurement. If the Contractor objects to any of the measurements recorded by the representative of the Engineer-in-Charge a note to that effect shall be made in the measurement book against the item objected to and such note shall be signed and dated by both parties engaged in taking the measurement. The decision of the Engineer-in-Charge on any such dispute or difference or interpretation shall be final and binding on the contractor in respect of all contract items, substituted items, extra items and deviations. Provided that items of work which are not susceptible to measurement at the later date must be measured jointly and signed accordingly by both the parties at the time of execution of such items.

CLAUSE- 45 PAYMENTS

A: Advance Payment to contractors for construction works. Please refer GCC clause 13.1.1

B: PAYMENT ON ACCOUNT:

- 45.1 Running Account / Interim bills shall be submitted by the Contractor monthly on or before the date fixed by the Engineer-in-Charge for the work executed. The Engineer-in-Charge shall then verify the bills with reference to the measurements recorded in the measurement book(s).
- 45.2 Payment on account for amount admissible shall be made on the Engineer-in-Charge certifying the sum to which the contractor is considered entitled by way of interim payment for the work executed, after deducting there from the amounts already paid, the security deposit and such other amounts as may be withheld/deductible or recoverable in terms of the Contract.
- 45.3 Payment of the Contractor's bills shall be made by the Employer within 60 days from the date of submission of the bill subject to the acceptance of the Engineer in- charge.
- 45.4 Payments due to the Contractor shall be made through RTGS/NEFT as per the bank account detail provided by the contractor.
- 45.5 Any interim bills given relating to work done or materials delivered, may be modified or corrected by any subsequent interim bills or by the final bill. No certificate(s) of the Engineer-in-Charge supporting an interim payment shall itself be conclusive evidence that any work or materials to which it relates is/are in accordance with the Contract.
- 45.6 There should be a request for extension of Time for completion, pending its consideration; interim payments shall continue to be made as provided herein.

- 45.7 In case of disputed items for which payment has been withheld, the Engineer-in-charge will intimate to the Contractor in writing the details of such disputed items. The Contractor shall submit in writing the clarifications / modifications in regard to these disputed items to the Engineer-in-charge. After receipt of 16 such clarifications / modifications and acceptance thereof by the Engineer-in-charge payment on receipt of such disputed items shall be released within 30 days thereafter.
- 45.8 With respect to material and Plant brought by the Contractor to the Site for incorporation in the Permanent Works, the Contractor shall receive a credit in the month in which these materials and Plant are brought to the Site and be charged a debit in the month in which they are incorporated in the Permanent Works, both such credit and debit to be determined by the Engineer-in-Charge in accordance with the following provisions:
- (a) no credit shall be given unless the following conditions shall have been met to the Engineer-in-Charge's satisfaction:
 - (i) The materials and Plant are in accordance with the Specifications for the Works.
 - (ii) the materials and Plant have been delivered to the Site and are properly stored and protected against loss, damage, or deterioration;
 - (iii) The Contractor's record of the requirements, order, receipts and use of materials and Plant are kept in a form approved by the Engineer-in-charge, and such records are available for inspection by the Engineer-in-charge.
 - (iv) The Contractor has submitted a statement of his cost of acquiring and delivering the materials and Plant to the Site, together with such documents as may be required for the purpose of evidencing such cost;
 - (v) The materials are to be used within a reasonable time.
 - (b) The amount to be credited to the Contractor shall be the equivalent of 75 percent of the Contractor's reasonable cost of materials and Plant delivered to the Site, as determined by the Engineer-in-Charge after review of the documents listed in sub-para (a)(iv) above; However for perishable material such as lime, cement, sand, aggregate, stone, Timber etc. shall not be credited to contractor to pay such amount. Bricks, rolled steel joists, reinforced steel, GI roofing sheets etc shall be considered imperishable material for which contractor may be credited such amount.
 - (c) The amount to be debited to the Contractor for any materials and Plant incorporated into the Permanent Works shall be equivalent to the credit previously granted to the Contractor for such materials and Plant pursuant to Sub-Clause (b) above, as determined by the Engineer-in-Charge.
- 45.9 All interim/progress payments before final payment shall be regarded as provisional payments only and not as payment for work actually completed and shall not preclude defective /imperfect/incomplete work to be removed. Any interim/progress payment will not be considered as an admission by the employer of due performance of the contract or any part thereof by the contractor nor shall it preclude, determine or affect in any way the powers of the Purchaser/Employer under these conditions or in any other way vary or affect the contract.
- 45.10 **No claim Certificate**
The contractor will submit a 'No Claim Certificate' to Engineer-in-Charge/UJVN Ltd before
- (i) Final payment under the contract
 - (ii) Release of Performance Security
 - (iii) Release of Bank Guarantee in lieu of Performance Security
 - (iv) In lieu of time extension, variation and extra item
- 45.11 **INTERMEDIATE/RUNNING ACCOUNT PAYMENT:**
- From each Intermediate/RA Bill shall be processed for payment with following deductions/recoveries/Retention
- (a) Ninety Five percent (95%) of the running bill value shall be paid on regular interval after satisfactory performance of work. Deducted amount 5% towards security deposit shall only be refunded to contractor after completion of Defect liability period. (Clause 3.3 General Condition of Contract)
 - (b) In case, item or its part(s) executed at site found unsatisfactory, an amount may be retained by Engineer-In-Charge from running bill(s) or final bill. The retention money shall only be released unless the Engineer-In-Charge is satisfied that unsatisfactory item of work has been replaced in its best way
 - (c) From each running bill/final bill following deductions are mandatory-
 - i. Tax Deduction at Source towards Income tax, GST & Labour cess etc. at the rate prevailed concurrency of contract.

- ii. Deduction towards royalty as per the government rules and guidelines.
 - iii. Any other deductions towards new statutory taxes/duties if levied in future OR change in tax/duties/levies rate as stipulated in Appendix of Clause-47; shall be governed by clause 47.1 & 47.2 of General Condition of Contract.
- (d) Recovery against material issued to contractor, if any, at a rate stipulated in Schedule-A
 - (e) Retention in lieu of time extension till time extension not granted by the Engineer-In Charge of UJVNL at a rate as per Clause-40 of GCC
 - (f) Before making first payment, contractor is required to submit his PAN/TIN/GST & EPF number to payment unit of UJVNL.

45.12 Payment through Escrow Mechanism

If determined/decided by Engineer-in charge at any stage of execution of contract.

The Employer intends that fund released under the Contract as advance or against Interim Payment Certificates is utilized only for the Works under the Contract and the Contractor and their sub-contractors/sub-vendors are not permitted to divert project funds to any other business/purposes. The Contractor shall provide a detailed month-wise cash flow estimate at the beginning of each financial year duly revised at each quarterly interval, if so required, by the Engineer. The submission to and consent by the Engineer of such programmes or the provision of such general description or cash flow estimates shall not relieve the Contractor of any of his duties or responsibilities under the Contract. The Employer may start to release the payment to the Contractor through the designated Escrow Account at any stage of execution of contract. The Escrow Account shall be opened by the Contractor in the joint name of the Contractor and the Employer with a schedule Nationalized Bank having a branch in Dehradun (Uttarakhand). The Contractor shall share the details of the Escrow Account with the Engineer before submitting the Statement under the Contract. The designated Escrow Account shall be jointly operated by the Contractor and the Employer. For this purpose, appropriate authorization for the operation of Escrow Account will be done by the Employer and the Contractor. Escrow Mechanism shall also apply to the sub-contractors/sub-vendors for work or any part thereof having value more than 5 crores. Payments in excess of Rs. 50 lakhs shall be made only through escrow mechanism. The tripartite Escrow Account Agreement shall be as per the Format included in the Appendix to Bid. (Annexure –II)

During the currency of the Contract, the Contractor, or sub-contractor, or sub-vendor, or all may become subject to any scheme of Corporate Debt Restructuring or any other scheme of debt restructuring (DR) scheme. Since the Escrow Account involves an independent tripartite agreement between the bank, the Employer and the Contractor /sub-contractor /sub vendors, the Escrow account /agreement shall have an overriding effect over the terms & conditions of the DR scheme and the Contractor or its sub-Contractor /sub vendor shall be required to disclose this condition to the DR authorities while submitting the case under DR.

C. No Interest on Any Dues:

No interest shall be payable by UJVNL Ltd on amounts due to contractors pending final settlement of claim. Further no interest shall be payable by UJVNL Ltd on any delayed amount /payment/Earnest money deposit/ Performance security/ Security deposit/or any other withheld/retained amount.

a. **No claim for delayed payment due to dispute etc.** – The Contractor agrees that no claim for interest or damages will be entertained or payable by the UJVNL Limited in respect of money or balances which may be lying with the UJVNL Limited owing to any disputes, differences or misunderstandings between the parties or in respect of any delay or omission on the part of the Engineer-in-charge in making intermediate or final payments or in any other respect whatsoever.

b. **Interest on money due to the contractor** – No omission on the part of the Engineer-in-charge to pay the money due upon the measurement or otherwise shall vitiate or make void the contract, nor shall the contractor be entitled to interest upon any guarantee or payments in arrears nor upon any balance which may on the final settlement of his accounts be due to him.”

CLAUSE-46: PRICE ADJUSTMENT:

The amount payable to be the Contractor shall be adjusted for rise or fall in the cost of labour, Goods and other inputs to the works, by the addition or deduction of the amount determined by the formulae prescribed hereunder . To the extent that full compensation for any rise or fall in costs is not covered by the provisions of this or other clauses, the BOQ unit rate shall be deemed to have included amounts to cover the contingency of other rises and falls in costs or prices.

Subject to the conditions laid down hereunder, BOQ unit rates are subject to price adjustment in accordance with the Price Adjustment Formulae incorporated in this clause.

However if the Contractor fails to complete the Works within the Time for Completion prescribed under Clause 8.2, adjustment of prices thereafter until the date of completion of the Works shall be made using either:

- the indices or prices applicable on the date 49 days prior to the expiry of the Time for Completion, or
- the current indices or prices; whichever is more favourable to the Employer.

Payment to the Contractor for work done shall be adjusted for increase or decrease in the cost of labour, materials and petrol, diesel, oil and lubricants and other inputs according to the procedure mentioned hereafter. The adjustment to the Interim payments in respect of changes in cost and legislation shall be determined from the following formulae for INR currencies of payment the Price Adjustment Formula for the various components of the Contract Price shall be construed as stipulated hereinafter. The formula designed for governing and calculating the price adjustment to be applied shall be as follows:

Category –I: For all item of structural steel supports, steel ribs, steel lagging and metal works (steel) including steel pipes, steel liner in pressure shaft & penstock

$$CC1 = CC0 \{ F + s \times S1/S0 + l \times L1/L0 + b \times B1/B0 + e \times E1/E0 + m \times M1/M0 + u \times U1/U0 + p \times P1/P0 + d \times D1/D0 \}$$

Category – II: For all item of reinforcement steel, rock bolts, rock anchors and wire mesh etc.

$$CCII = CC0 \{ F + s \times S1/S0 + l \times L1/L0 + m \times M1/M0 + u \times U1/U0 + p \times P1/P0 + d \times D1/D0 \}$$

Category – III: For all item of concrete, shotcrete, masonry, cement grouting and cement variation etc.

$$CCIII = CC0 \{ F + c \times C1/C0 + l \times L1/L0 + d \times D1/D0 + m \times M1/M0 + u \times U1/U0 + p \times P1/P0 \}$$

Category – IV: For excavation items

$$CCIV = CC0 \{ F + p \times P1/P0 + l \times L1/L0 + d \times D1/D0 + m \times M1/M0 \}$$

Category –V: For all the balance items not included in category-I, II, III, and IV above.

$$CCV = CC0 \{ F + l \times L1/L0 + d \times D1/D0 + m \times M1/M0 + u \times U1/U0 + p \times P1/P0 \}$$

Where

CCI, CCII, CCIII, CCIV and CCV = Adjusted gross value of work done month-wise for the items listed under Category-I, Category-II, Category-III, Category-IV and Category-V respectively.

CC0 = Gross value of work done month-wise for item listed under Category-I, Category-II, Category-III,

Category-IV and Category-V respectively.

'F' = Fixed portion of the gross value which will not be subjected to any adjustment = 25%

's' = Coefficient weightage of steel content in the cost of work.

'l' = Coefficient weightage of labour (for skilled categories) content in cost of work.

'b' = Coefficient weightage of oxygen gas content in the cost of work.

'e' = coefficient weightage of other electrodes content in the cost of work.

'm' = coefficient of other materials content in the cost of work.

'u' = coefficient weightage of other labour content in the cost of work.

'c' = coefficient weightage of cement content in the cost of work.

'd' = coefficient weightage of high speed diesel oil content in the cost of work.

'p' = coefficient weightage of Construction Equipment (Machinery & Machine Tools)

'S' = index for MS Long Product Index number of wholesale price in India – by Group & Sub-groups (Base: 2011-12=100) Published by Economic Advisor, Ministry of Industry/govt. of India under the head Basic Metals & alloys, a2 MS Long Product'.

'L' = labour Index

Consumer Price Index Numbers For Industrial workers –all- India (Base: 2016=100) published by Labour Bureau, Ministry of Labour, Govt. of India.

'B' = Index for oxygen gas Basic Inorganic Chemicals)

Index Number of wholesale Price In India by Groups & Sub Groups (base: 2011-12=100) published by Economic Advisor, Ministry of Industry/Govt of India under the head.

'E' = Index for Electrode (Metal Products)

Index Numbers of Wholesale Prices In India by Group & sub Groups

(base: 2011-12=100) Published by Economic Advisor, ministry Of Industry /Govt. of India under the head.

'M' = Index for Material (all commodities)

Index Numbers of Wholesale Prices In India –by Group & Sub-groups (Base: 2011 - 12=100) published by Economic Advisor, Ministry of Industry/Govt. of India under the head: 'other Material /all Commodities'.

'U' = Rate of minimum wage applicable for unskilled labour notified by

the State Govt. as amended from time to time as per the provisions of the Minimum Wages Act 1948.

'C'= Index for cement

Index numbers of Wholesale Prices in India – by group & sub-group (base : 2011-12=100) published by the Economic Advisor, Ministry of Industry/Govt. of India Under the head 'Pozzolona Cement'.

'D'= High Speed Diesel oil

High Speed Diesel oil All inclusive Monthly Average price for bulk supply at ...(nearest fuel depot)

'P'= wholesale Price index for manufacture of machinery for mining, quarrying & construction' as published by Economic Adviser, Ministry of Industry, Govt. of India under the head 'Manufacture of Machinery for Mining, Quarrying & Construction'

Sub –Script For all category (I,II,III,IV&V):

'O'= Refers to index /price as on 28 days Prior to last date for submission of price bids. In case of High Speed Diesel, all inclusive official price for bulk supply of Diesel at price mentioned in Appendix to Tender applicable as on 28th day before the last date of submission of price bids.

'I'= Refers to index/price as applicable for the month prior to the month in which the work is executed for which price adjustment is applicable.

If at any time the current indices are not available, provisional indices as determined by the Engineer, will be used subject to subsequent correction of the amount paid to the Contractor when the current indices become available.

The weighting shall be those listed in annexure-III to Appendix to Tender.

The base cost indices or prices shall be those prevailing on base date of the tender. Current indices or prices for 'all Commodities (cost elements) shall be those prevailing one month prior to the last day of the period and current indices or prices for labour (cost element) shall be the month under consideration to which a particular Interim Payment Certificate is related as determined by the amount paid to the Contractor when the current indices become available.

In case, Government of India , stops publishing any of the price indices at any time and announces a new series with a linking factor for conversation of index of new series to the old series, regulation of price variation will be done using the indices of new series along with linking factor from the period the indices of old series become unavailable. However ,if the new series released by the relevant source does not have the linking factor the new series shall be used without use of linking Factor and current as well as base indices of new series shall be used from the date indices of old series becomes unavailable. Provided always that, in case new Price Index Series covers indices as on Base Date of the Tender, then new Price Index Series shall substitute the contractual Price Index Series (base : 2011-12=100) from the base date ab-initio.

Variations arising on account of payment related to rates for varied works (extra, altered and substituted item) whose cost has been worked out on actual analyzed cost or on market price basis as envisaged in sub-clause 12.3 shall be regulated with to such variation in cost as are subsequent to date of settlement of the rates, instead of the date of submission of Price Bids.

CLAUSE-47: TAXES, DUTIES AND LEVIES ETC:

- 47.1 All existing customs duty, Import duty, business taxes, Income tax, labour cess or any other tax or duty or levy such as Octroi, Royalty that may be levied in accordance with laws and regulation in force the last date of submission of price bid that the Contractor has to pay on the Contractor's equipment, plant, materials and supplies (permanent, temporary and consumables) acquired for the purpose of the Contract and for the services performed under the Contract shall be payable by the Contractor, and the Employer shall not entertain any claim in this regard. The rate quoted by the Contractor shall be deemed to be inclusive of all such taxes, duties, levies, royalty etc except GST which shall be paid extra as applicable.. Any statutory variation in the rate of aforesaid taxes, if any, during the continuation of the Contract including extension thereof shall be account for to the employer and contractor.
- 47.2 "However, if a New Tax or Duty or Levy, other than those existing on 28 days before the date of submission of price bid i.e. _____ (date to be entered in Agreement) is imposed in India under a statute or law during the continuation of the Contract and the Contractor becomes legally liable there under to and actually pays the same for bonafide use on the Works contracted, then the Contractor shall immediately inform the Engineer-in-Charge in this regard. The Employer will reimburse the same to the Contractor on production of satisfactory proof of payment, provided that the amount thus claimed is not paid under Price variation clause 46 of General Conditions of the Contract. Changes in the rate of deductions towards advance tax rates of Income Tax or any other tax payable to appropriate authorities shall not be construed as a change in the rate(s) of taxes and will not be subject to adjustment.
- 47.3 The Contractor's staff and labor will be liable to pay personal income taxes in respect of such of their salaries and wages as are chargeable under the laws and regulations for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws and regulations.
- 47.4 Taxes will be deducted as per statutory laws applicable at the time of payment against the contract. The contractor shall be liable to pay input credit if any, to the employer as per the prevailing GST rules & regulations.

CLAUSE-48: PAYMENT OF FINAL BILL:

48.1 The final bill shall be submitted by the Contractor within one month of the date fixed for completion of the Work or of the date the Certificate of Completion furnished by the Engineer-in-Charge. No further claim in this regard unless as specified herein under shall be entertained. Payment shall be made within **3 months**, of the submission of Final bill. If there shall be any dispute about any item or items of the work then the undisputed item or items only shall be paid within the said period of **three months**. The Contractor shall submit a list of the disputed items within thirty days from the disallowance thereof and if he fails to do so, his claim shall be deemed to have been fully waived and absolutely extinguished. Provided further the Employer shall not be liable to the Contractor for any matter or thing arising out of or in connection with the Contract or execution of the Works, unless the Contractor shall have included a claim in respect thereof in his Final Bill.

48.2 While paying the final Bill, following deductions shall be made:

From each Intermediate/RA Bill shall be processed for payment with following deductions/recoveries/Retention

- (a) Ninety Five percent (95%) of the running bill value shall be paid on regular interval after satisfactory performance of work. Deducted amount 5% towards security deposit shall only be refunded to contractor after completion of defect liability period (Clause 3.3 General Condition of Contract).
- (b) In case, item or its part(s) executed at site found unsatisfactory, an amount may be retained by Engineer-In-Charge from running bill(s) or final bill. The retention money shall only be released unless the Engineer-In-Charge is satisfied that unsatisfactory item of work has been replaced in its best way.
- (c) From each running bill/final bill following deductions are mandatory-
 - i. Tax Deduction at Source towards Income tax, GST & Labour cess etc. at the rate prevailed concurrency of contract.
 - ii. Deduction towards royalty as per the prevailing government rules.

The contractor shall pay all royalties, rents and other payments as per prevailing rules/notification of GoU/ Gol for:

- (a) Natural material used, and
- (b) The disposal of material, as per the direction of the Engineer, from demolition and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.
- (c) The royalty rents and other payment for the material quarried shall be paid directly to the concerned authorities by the Contractor and he shall provide the documentary evidence/certification from the concerned authorities along with the Interim Payment Certificates in support of such payments or shall be deduct by UJVNL as per prevailing rule of GoU/Gol at the time of billing. The Contractor shall be responsible for the reconciliation of the quantities of materials on which royalty is payable and settlement of the total amount of royalty charges to be paid, with the concerned authorities and any payment due to be paid to them arising out of such reconciliation and settlement shall also be paid by him. In the event that the Contractor fails to pay the balance amount or reconcile and settle the total amount of royalty and any claims are raised by the concerned authorities on the above accounts, the same shall be paid by the Employer and recovered from the Contractor's following Interim Payment Certificate.

In the event of there being statutory variation in the rates of royalty charges/fresh levy of royalty on Materials, methodology (muck reuse and river dredging) or any variation in the royalty rates due to any change in applicable/prevaling rule, the same shall be reimbursed to or recovered from the Contractor upon submission of satisfactory documentary evidence of having made the payment at revised rates as per case for positive and negative variation. The base rate for calculating the increase or decrease shall be the rates as mentioned in Govt of Uttarakhand notification No: 842/VII-1/2016/24-k/2007 dated 19th May 2016 and letter No 1689/VII-1/80-k/2016 dated 28th October 2016 or as amended time to time. For the payment of royalty, concerned authorities shall be the state Govt of Uttarakhand. The cost of royalty and taxes if any on the royalty, shall be borne by the contractor for river dredging/muck reuse/quarry allotted to the contractor or employer and such cost shall deemed to be included in the rates of applicable items.

- iii. Any other deductions towards new statutory taxes/duties if levied in future OR change in tax/duties/levies rate as stipulated in Appendix of Clause-47; shall be governed by clause 47.1 & 47.2 of General Condition of Contract.
- (d) Recovery against material issued to contractor, if any, at a rate stipulated in **Schedule-A**
- (e) Retention in lieu of time extension till time extension not granted by the Engineer-In Charge of UJVNL at a rate as per Clause-40 of GCC.
- (f) In case extension sought by the contractor is rejected by the Engineer-In-Charge, whole retention amount in lieu of time extension will be withheld on account of clause 40-GCC.

CLAUSE-49: OVER PAYMENT AND UNDER PAYMENT:

- 49.1 Whenever any claim whatsoever for the payment of a sum of money to the Employer arises out of or under this Contract against the Contractor, the same may be deducted by the Employer from any sum then due or which at any time thereafter may become due to the Contractor under this Contract and failing that under any other contract with the Employer or from any other sum whatsoever due to the contractor from the Employer or from his security deposit, or he shall pay the claim on demand.
- 49.2 The Employer reserve the right to carry out post- payment audit and technical examination of the final bill including all supporting vouchers, abstracts, etc. The Employer further reserves the right to enforce recovery of any overpayment when detected, notwithstanding the fact that the amount of the final bill may be included by one of the parties as an item of dispute before an arbitrator appointed under clause 55 of this Contract and notwithstanding the fact that the amount of the final bill figures in the arbitration award.
- 49.3 If as a result of such audit and technical examination any overpayment is discovered in respect of any work done by the Contractor or alleged to have been done by him under the Contract, it shall be recovered by the Employer from the Contractor by any or all of the methods prescribed above, and if any under-payment is discovered, the amount shall be duly paid to the Contractor by the Employer.
- 49.4 Provided that the aforesaid right of the Employer to adjust overpayments against amounts due to the Contractor under any other contract with the Employer shall not extend beyond the period of two years from the date of payment of the final bill or in case the final bill is a MINUS bill, from the date the amount payable by the Contractor under the MINUS final bill is communicated to the Contractor.
- 49.5 Any sum of money due and payable to the Contractor (including the security deposit returnable to him) under the Contract may be withheld or retained by way of lien by the Engineer-in-Charge or Employer against any claim of the Employer or such other person or persons in respect of payment of a sum of money arising out of or under any other contract made by the Contractor with the Engineer-in-Charge or Employer or with such other person or persons.

The sum of money so withheld or retained under this clause by the Engineer-in-Charge or Employer will be kept withheld or retained as such by the Engineer in- Charge or Employer or till his claim arising out of in the same Contract or any other contract is either mutually settled or determined by the arbitrator under Clause 54 hereof, or by the competent court.

CLAUSE-50: CONTRACT MATTERS TO BE TREATED AS CONFIDENTIAL:

- 50.1 All documents, correspondence, decisions and orders concerning the Contract shall be considered as confidential and/or restricted in nature by the Contractor and he shall not divulge or allow access to them by any unauthorized person.
- 50.2 The Contractor shall take necessary steps to ensure that all persons employed on any work in connection with this Contract have noted that the Indian Official Secret Act, 1923 (XIX of 1923) applies to them and shall continue so to apply even after the execution of such Works under the Contract.

CLAUSE-51: LAWS GOVERNING THE CONTRACT:

Unless otherwise hereinafter provided, this Contract shall be construed, interpreted and governed by laws of India.

CLAUSE-52: DISPUTE AVOIDANCE & RESOLUTION MECHANISM:

- 52.1.1 If any dispute, difference or controversy shall at any time arise between the contractor on the one hand and the Engineer-in-Charge on the other touching out of this the contract, or as to the true construction, meaning, and intent or any part or condition of, or payment for the same, or as to the true intent, meaning, interpretation, construction or effect of the clauses of the contract, specifications or drawings any of them, or as to anything to be done, committed or suffered in pursuance of the contract or specifications, or as to the mode of carrying the contract into effect, or as to the breach or alleged breach of the contract, or as to obviating or compensating for

the commission of any such breach, or as to any other matter or thing, whatsoever connected with or arising out of the contract, and whether before or during the progress or after the completion of the contract, such question, difference or dispute shall be referred for adjudication to the 'Dispute Resolution Mechanism' elaborated herein under.

- 52.1.2.** Any dispute arising out at any time between the contractor on the one hand and the Engineer-in-Charge on the other within four-corners of the contract and not resolved at the Engineer-in-Charge level in that case such question, difference or dispute shall be referred for adjudication in following order:

i. Negotiation/ Mutual Consultation ii. Conciliation by Sole Conciliator	}	<i>Internal Mechanism for Dispute Resolution</i>
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52.1.3 PROCEDURE FOR CLAIMS:

- 52.1.3.1** Except as otherwise provided in any other provision of the Contract, if the Contractor intends to claim any additional payment pursuant to any Clause of these Conditions or otherwise, he shall give claim notification to the Engineer-in-charge, within 15 days from the day when Contractor became aware of the event and circumstances giving rise to the claim has first arisen.

- 52.1.3.2** Upon the happening of the event referred to in Sub-Clause 52.1.3.1, the Contractor shall keep such contemporary records as may reasonably be necessary to support any claim he may subsequently wish to make. Without necessarily admitting the Employer's liability, the Engineer-in-Charge shall, on receipt of a notice under Sub- Clause 52.1.3.1, inspect such contemporary records and may instruct the Contractor to keep any further contemporary records as are reasonable and may be material to the claim of which notice has been given. The Contractor shall permit the Engineer-in-Charge to inspect all records kept pursuant to this Sub-Clause and shall supply him with copies thereof as and when the Engineer-in-charge so instructs.

- 52.1.3.3** Within 90 days from the day when Contractor became aware of the event and circumstances giving rise to the claim has first arisen under Sub-Clause 52.1, the Contractor shall send to the Engineer-in-Charge an account, giving detailed particulars of the amount claimed and the grounds upon which the claim is based. For further clarification Engineer-in-Charge may ask more documentary proof/ accounts regarding claimed amount, and contractor within a 14 (fourteen days) shall send further documents /accounts to the Engineer-in-Charge.

Further, where the event giving rise to the claim has a continuing effect, such account shall be considered to be an interim account and the Contractor shall, at such intervals as the Engineer-in-Charge may reasonably require, send further interim accounts giving the accumulated amount of the claim and any further grounds upon which it is based. In cases where interim accounts are sent to the Engineer-in-Charge, the Contractor shall send a final "account within 30 days of the end of the effects resulting from the event. The Contractor shall, if required by the Engineer-in-Charge to do so, also send the copy of all accounts to the Employer which have sent to the Engineer-in-Charge pursuant to this Sub-Clause.

- 52.1.3.4** The Contractor shall be entitled to have any interim payment certified by the Engineer-in-Charge pursuant to Clause 52.1.3.1 such amount in respect of any claim as the Engineer-in-Charge, may consider due to the Contractor provided that the Contractor has supplied sufficient particulars to enable the Engineer-in-Charge to determine the amount due. If such particulars are insufficient to substantiate the whole of the claim, the Contractor shall be entitled to payment in respect of such part of the claim as such particulars may substantiate to the satisfaction of the Engineer-in-Charge. The Engineer-in-Charge shall notify the Contractor of any determination made under this Sub-Clause.

52.1.4 SUM PAYABLE BY WAY OF COMPENSATION TO BE CONSIDERED AS REASONABLE WITHOUT REFERENCE TO ACTUAL LOSS:

All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation without reference to the actual loss or damage sustained and whether or not damage shall have been sustained.

52.2 DISPUTE RESOLUTION BY INTERNAL MECHANISM

Any dispute arising out at any time between the contractor on the one hand and the Engineer-in-Charge on the other within four-corners of the contract and could not be resolved at the Engineer-in-Charge level, shall first be resolved through Internal Mechanism for Dispute Resolution set by the Employer. This mechanism is basically conciliation in nature whereby dispute between the parties is resolved out of the court with amicable dispute settlement process. With the assistance of the negotiator / conciliator who acts as a neutral third party.

52.2.1 DISPUTE RESOLUTION BY NEGOTIATION/CONCILIATION

- i.——If the dispute is not resolved at Engineer-in-Charge level, the claim shall be referred to concerned GM within 15 days from the date the claim is denied by Engineer in Charge on the request of contractor

through written communication and a meeting will be convened at GM level in UJVN Ltd. wherein authorized representatives of both parties shall discuss all issues. At this level, parties shall put up their views and documentary proof related to work within contractual obligation and clauses binding to both parties. Both parties should try to negotiate with a view to reconcile the disputes and look for solutions. The higher authority shall try to bring both parties on a consensus solution and record the deliberation in detail.

- ii.——The process shall be completed in 60 days. However if any party is not satisfied with the decision, the aggrieved party to the case, in next 15 days from the date of decision by the said higher authority through written communication, may refer its claim for conciliation by sole conciliator.

If negotiation does not resolve the dispute between the parties the aggrieved party, within a period of 15 days from the date of failure to resolve the same through mutual consultation, shall notify the other party in writing about such a dispute it wishes to refer for conciliation.

52.2.2 DISPUTE RESOLUTION BY CONCILIATOR

I. Commencement of Conciliation

- i. If negotiation at the level of UJVNL higher authority does not resolve the dispute between the parties and engagement of a third party seems inevitable to amicably solve the disputes, the dispute shall be referred to Conciliation by Sole Conciliator under provision of Part-III of Arbitration & Conciliation Act 1996.
- ii. The party initiating conciliation shall send to the other party a written invitation to such invitation for Conciliation containing sufficient information of the dispute to enable the other party to be fully informed as to the nature, amount of the claim, if any, and apparent cause of action.
- iii. If the party initiating Conciliation does not receive any reply within thirty days from the date for Conciliation request, or within such other period as specified in the request, it shall be treated as rejection of the request for conciliation by the other party and the aggrieved party shall have right to take any alternative action available under the contract.
- iv. If the other party rejects the invitation, there will be no Conciliation proceedings.
- v. During concurrency of Conciliation proceedings, either of the parties shall not invoke the disputes in any other forum or Court of law.

II. Appointment of Sole Conciliator

- i. The Sole conciliator shall be appointed from the empanelled members of UJVN Ltd.
- ii. The members may be empanelled as per eligibility criteria laid down under section 43 of Arbitration & Conciliation Act 1996 & subsequent amendment or from the panel of experts approved by UJVNL.
- iii. Aggrieved party, within a period of 15 days from the date of failure to resolve the same through mutual consultation, shall notify the other party in writing about such a dispute it wishes to refer for Conciliation. Such Invitation for Conciliation shall contain sufficient information as to the dispute to enable the other party to be fully informed as to the nature of the dispute, amount of the monetary claim, if any, and apparent cause of action.
- iv. If Conciliator is not appointed until the request for Conciliation is initiated, Engineer in charge will initiate the case for appointment of Conciliator within a week from receiving the proposal for conciliation. After appointment of Conciliator by competent authority of UJVN Limited, Engineer in charge will notify the same to the other party.
- v. The contractor will submit his consent for the appointed Sole Conciliator as per provision of Arbitration & Conciliation Act 1996 & subsequent amendment.

III. Fee of the Conciliator

Fee of conciliators as approved by UJVNL, subject to condition that it will not exceed the fee schedule given in the Arbitration & Conciliation Act 1996 & subsequent amendment. The cost of Conciliation proceedings including but not limited to fees for Conciliator, cost towards Air/Train/Car travel, Local transport, fooding & lodging, conference facility etc., as per convenience of conciliator, shall be paid as determined by UJVNL from time to time and shall be paid equally by the parties to the dispute.

IV. Submission of Claim to the Conciliator

- i. The party seeking conciliation shall submit dispute issues with and related documents to Conciliator with a copy of claim to other party within a period of 14 days from the date of appointment of Conciliator. Preferably the aggrieved part shall provide statement of disputes in the following format:
 - a. Chronology of the dispute.
 - b. Brief of the contract.
 - c. Brief history of the dispute.
 - d. Issues.

S. No.	Description of Claims / Counter Claims	Amount (in foreign currency/ INR)	Relevant Contract Clause

- e. Details of Claim(s)/Counter Claim(s)
- f. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract).
- g. Other relevant information with respect to claim/dispute.
- h. The legal basis for the claim, whether based on a term of the Contract or otherwise, and if based on a term of the Contract, clearly identifying the specific term
- i. The facts relied upon in support of the Claim in sufficient detail to permit verification
- j. Details of the amount claimed and how it has been calculated

Note: Statement of claims shall be restricted to maximum limit of 20 pages.

- ii. The parties shall be represented by their in-house employees. No party shall be allowed to bring any advocate or outside consultant/advisor/agent to contest on their behalf. Ex-officers of UJVNL who have handled the subject matter in any capacity shall not be allowed to attend and present the case before Conciliator on behalf of contractor. However, ex-employees of parties may represent their respective organizations. Parties shall not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till execution of settlement agreement, if so arrived. In case, parties are unable to reach a settlement, no interest shall be claimed by either party for the period from the date of notice invoking Conciliation till the date of recommendations by Conciliator and 30 days thereafter in any further proceeding.

V. Conciliation Proceedings

- i. All the conciliation proceedings shall be governed by Arbitration and Conciliation Act 1996 and subsequent Amendment, if any. However, the conciliator does not have the right to enforce its decisions. Conciliation is an informal process to resolve dispute between parties with a 'Round –Table' discussion where Conciliator is allowed to discuss issues in dispute, develop all alternatives to help the parties bring them in a mutually agreed out come
- ii. During the conciliation process, if it appears to the conciliator that there exists an element of settlement, which may be acceptable to both parties, he/she shall formulate terms of possible settlement & submit them to parties for their observation. Conciliator may communicate to parties orally or in writing. Conciliator may meet and discuss the issues with the parties together or with each of them separately
- iii. Conciliator /ESC will conclude its proceedings in maximum 10 meetings, and give its recommendations within 90 days to 180 days of its first meeting depending upon the claim amount & documentation involved. Conciliator will give its recommendations to both the parties recommending possible terms of settlement.
- iv. Conciliator /ESC may grant variation in the time limits mentioned for various steps to be taken by either party during proceedings of Conciliation, based on genuine reasons/grounds. Managing Director, UJVNL may extend the time/number of meetings, in exceptional cases, if Conciliator requests for the same with sufficient reasons.
- v. The parties shall keep confidential all matters relating to the Conciliation proceedings. Parties shall not rely upon them as evidence in arbitration proceedings or court proceedings.
- vi. Parties are free to terminate Conciliation proceedings at any stage as provided under the Arbitration & Conciliation Act 1996 & subsequent amendment
- vii. If the parties reach to a mutual consensus during the conciliation proceedings, a Settlement Agreement under section 73 of the Arbitration & Conciliation Act 1996 & subsequent amendment will be drafted

within 15 days of contractor's acceptance and same shall be authenticated by the Conciliator. Provided that draft settlement agreement is approved by competent authority of UJVNL. Once settlement agreement between Engineer in-charge on behalf of UJVNL Ltd and contractor is finalized & agreed by both party, the settlement agreement shall be signed by both parties (between Engineer in-charge on behalf of UJVNL Ltd and contractor)

52.3. APPEAL AGAINST CLAIM / SETTLEMENT

Each party who is not satisfied with the said conciliation process / settlement agreement, may appeal to court of Law. The appellant court in case of civil suit will be the District court of the project area and in case of commercial suit will be Commercial Court at Dehradun.

CLAUSE 53: BREAKUP OF LUMP SUM ITEMS

For the purposes of statements submitted in accordance with Sub-Clause 45, the Contractor shall submit to the Engineer-in-Charge, a break-up for each of the lump sum items contained in the Tender. Such break-ups shall be subject to the approval of the Engineer-in-Charge.

CLAUSE 54: DEFECTS LIABILITY PERIOD & UNFULFILLED OBLIGATIONS

The Contract shall not be considered as completed until a Defects Liability Certificate shall have been signed by the Engineer-in-Charge and delivered to the Contractor, stating the date on which the Contractor shall have completed his obligations to execute and complete the Works and remedy any defects therein to the Engineer-in-Charge's satisfaction. The Defects Liability Certificate shall be given by the Engineer-in-Charge within 28 days after the expiration of the Defects Liability Period.

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

Clause 55: ENVIRONMENTAL AND ECOLOGICAL BALANCE

The Contractor shall be required to ensure that there shall be no indiscriminate felling of trees by him or his labourers or their family members and he will be solely responsible for their acts in this regard. The Contractor shall try to maintain ecological balance by preventing deforestation, water pollution and defacing of natural landscape in the vicinity of work areas. The Contractor shall so conduct his construction operations as to prevent an unnecessary destruction of, scarring or defacing the natural surroundings in the vicinity of the work area. In order to maintain the ecological balance, the Contractor shall specifically observe the following instructions:

- a) Where unnecessary destruction, scarring, damage or defacing may occur as a result of the Contractor's operation, the same shall be repaired, replanted or otherwise corrected at the Contractor's expense. The Contractor will prevent scattering of rocks and other debris outside the work areas. All work areas shall be smoothed and graded in a manner to conform to the natural appearance of the landscape as directed by the Engineer-in-Charge.
- b) All trees and shrubs, which are not specifically required to be cleared or removed for construction purposes, shall be preserved and shall be protected from any damage that may be caused by the Contractor's construction operation and equipment. The removal of trees or shrubs will be permitted only after prior approval by the Engineer-in-charge. Special care shall be exercised where trees or shrubs are exposed to injuries by construction equipment, blasting, and excavating, dumping, chemical damage or other operation and the Contractor shall adequately protect such trees by use of protective barriers or other methods approved by the Engineer-in-Charge. Trees shall not be used for anchorage.
- c) The Contractor's construction activities shall be performed by methods that will prevent entrance or accidental spillage of solid matter contaminants, debris and other objectionable pollutants and wastage into river. Pollutants and wastes shall be disposed of in a manner and at sites approved by the Engineer in-Charge. The Contractor shall fully comply with Water (Prevention and Control of Pollution) Act, 1974 section -33(A).
- d) In the Conduct of construction activities and operation of equipment, the Contractor shall utilize such practicable methods and devices as are reasonably available to control, prevent and otherwise minimize air pollution. The contractor shall fully comply with Air (Prevention and Control of Pollution) Act, 1981 section -31(A).

- e) Burning of materials resulting from clearing of tree, bush, combustible construction materials and rubbish may be permitted only when atmospheric conditions for burning are considered favorable.
- f) Separate payment will not be admissible to the Contractor for complying with the provisions of this clause and all costs shall be deemed to have been included in the ITEM OF RATE mentioned in the Bill of Quantities. If any provision(s) is not complied with, within a reasonable time even after issue of a notice in this respect, the necessary actions would be carried out by the Engineer-in-charge at the cost of the Contractor.

Clause 56: GENERAL

- 56.1 Save and except as expressly provided elsewhere in this Contract all costs, expenses, charges and liabilities for the completion of the Works in accordance with the Contract and/or for the due and faithful performance and/or the fulfillment of all of the Contractor's obligations under the Contract including furnishing of bank guarantees to the Employer pursuant to the Contract shall be to the account of and be borne by the Contractor and shall be deemed to be included in the unit rates provided for in the Bill of Quantities and the Employer shall not be liable in any manner whatsoever therefore.
- 56.2 Whenever any claim whatsoever for the payment of a sum of money to the Employer arises out of or under this contract against the Contractor, the same may be deducted by the Employer from any sum then due or which at any time thereafter may become due to the Contractor under this Contract and failing or under any other contract between the Employer and the Contractor or from any other sum whatsoever due to the Contractor from the Employer or from his Security Deposit or he shall pay the claim on demand.

Clause: 57: Banning/Debarring of the Bidders/ Contractors

- 57.1 Indulging in unfair / corrupt practice in tender process
- 57.2 Indulging in bid rigging or collusive bidding
- 57.3 Subcontracting of whole or part of supply/ work without permission of Employer/UJVN Ltd
- 57.4 Tampering with downloaded bid document form the website.

In case it is found that the tenderer has submitted false information, fabricated information or incorrect information related to pre-qualification criteria of the tender then the tender will be rejected and the tenderer will be debarred to participate in other tenders of UJVN Ltd:-

- (i) First time for three (03) year
- (ii) and for seven years for repetition in submission of false information, fabricated information or incorrect information related to pre-qualification criteria in any tender of UJVN Ltd.

SIGNATURE OF CONTRACTOR

Office Inviting Tender

Appendix to Bid

The following provisions in Appendix to Bid shall complement, amend or supplement the provisions of Conditions of Contract (Part I and Part II). Whenever there is a conflict, the provisions herein shall prevail over those in Conditions of Contract.

Item	Sub-Clause	Data
Employer's name and address.....	1(iv)	The Employer is UJVN Ltd., "Ujjwal", Maharani Bagh, G.M.S. Road, Dehradun - 248001, Uttarakhand, India and shall include its successors and assigns.
Contractor's name and address.....	1(iii)	----- -----
Engineer and address.....	1(x)	The "Engineer" shall be an employee of the Employer notified time to time. This being so, all submissions by the Contractor to the Employer required under the Contract shall be made to the Engineer. Separate endorsement to Employer of correspondence with the Engineer required under the Contract is dispensed herewith. The word "Engineer" is synonymous with "Engineer-in-Charge". The Engineer shall nominate one or more "Engineer's representative" who shall be an employee of the Employer notified from time to time.
Time for Completion of the Works.....	1(xix)	48 months reckoned from date of commencement
Defects Notification Period.....	1(xxx)	18months
Electronic transmission system.....	Fax / e-mail
Governing Law.....	52	State of Uttarakhand/ India
Ruling language.....	6.1	English
Language for communications.....	English and Hindi
Time for access to the Site.....	12	Within 30days from the Commencement Date
Idle Time Cost Claim	Refer Annexure-I of Appendix to Bid
Amount of Performance Security	3	5% (five percent) of the Accepted Contract Amount and additional if required under the contract
Amount of Retention Money		5% (five percent) of the Accepted Contract Amount of Interim Payment Certificate.
Rate/Amount of Delay Damages on account of Work as a whole (LD)	40.1	0.05% of Interim Payment Certificate per day of delay subject to maximum 10% (ten percent) of the Balance Contract Amount.
(i) Adjustments for Changes in Cost (ii) Place of nearest fuel Depot	46	(i) Refer Annexure III of Appendix to tender (ii) Dehradun
Maximum Amount of Advance Payment		10 percent of the Accepted Contract Amount
Interest rate on Advance payment	13.1.1, 13.1.1(i)	1 % (one percent) more than the Prime Lending Rate of State Bank of India
Plant and Materials intended for the Works	45.8	Annexure IX Cement, steel.
Insuring party	34.4.1, 34.4.2, 34.4.3	Insuring party is the "Contractor"

Periods for submission of insurance:		
(a) evidence of insurance	34.4.1	4 months
(b) relevant policies	34.4.1	4 months
Minimum Amount of Third Party Insurance	34.4.3	Rs.50lac per occurrence on reinstatement basis. Deductibles: Rs.10 lac per occurrence of property damage.

Annexure-I
(Refer Sub-clause 32.4)

Mechanism for working out Time related Cost claims:

The valuation of idling time cost claims of the Contractor shall cover compensation for idling time related cost as given below:

(Note: Idling time cost claims shall be payable only when idling time is more than 30 days in a stretch. If the Contractor's resources are idle in case of any hindrance, the Contractor shall get the same verified from the Engineer or his authorized representative not later than 07 (seven) days of occurrence of the event giving rise to claim. Up to date duly verified idling of manpower and Contractor's Equipment shall be submitted by the Contractor in the format approved by the Engineer. For equipment maximum Idling time cost claims shall be subjected to Schedule L equipments. If due to any reason the details could not be verified, the Contractor shall submit the same to the Engineer and shall provide all assistance to the Engineer for verification of the same.)

(a) Cost of owned Equipment

Cost of owned Equipment will comprise of the following elements:

i. Depreciation Cost

Annual Depreciation = $0.9 \times \text{Book Value} / \text{Life in years}$.
(Based on life in years)

Depreciation cost = $\{(\text{Idle period in days} / 365) \times 0.5 \times \text{Annual Depreciation}\}$.

However, if the equipment has completed its scheduled life in years, in that case the depreciation shall be considered as zero.

ii. Interest on capital Investment: $(\text{Rate of Interest} \# / 100) \times \text{Average Annual Cost}$

The average annual cost is determined as follows:

Average Annual Cost = $\text{Book value of Equipment} \times (n+1) / 2n$

Where:

- "n" refers for number in years of life of equipment.
- Book value = purchase price plus freight, insurance, all taxes and duties, port clearance charges, erection and commissioning charges and other incidental charges.

the interest rate shall be the rate of interest applicable for Construction Equipment advance in the Contract.

iii. Insurance Charges

Insurance charges in respect of Contractor's Plant & Machinery (CPM) policy shall be considered as per actual.

(b) Cost of leased/hired Equipment

In case of leased/hired Equipment, the hire charges shall be admissible for the idle period. The value of the claim amount shall be assessed by the Employer keeping in view documentary evidence provided by the Contractor, prevailing market rate and reasonableness of the claim.

NOTE:- Cost of equipment either at (a) or (b) above shall be applicable for the specific Equipment i.e. owned or hired or leased as the case may be.

(c) Cost of Labour

The labour directly engaged for the works at Site by the Contractor or through Sub-contractor, as verified by the Engineer, will be reimbursed for idle period in case Contractor produces proof that idle labour has been paid wages during the period of idling.

Cost of equipment related labour, as verified by Engineer, will be worked out as per CWC norms limited to

actual whichever is lower.

The above cost will be considered for payment based on the supporting details such as attendance sheet, receipt of deposit of provident fund duly certified by the Contractor.

In addition to actual cost of labour, indirect charges shall be considered. The indirect charges (other than salary) shall be 60% and 40% for skilled and unskilled labour respectively. Indirect charges shall be applicable on the basic wages. Basic wages means component of wages on which statutory deductions like Employee Provident Fund is deposited to the statutory authority.

(d) Cost of Site staff

The Cost of site executives/supervisory staff shall be considered for payment as per actual. The site staff implies all the staff posted at the site excluding staff posted at the Head office. Cost of site staff shall be supported by relevant documents. The cost shall be considered for payment based on the supporting details in form of pay ledger, bank details, detailed pay slips, Form 16 of Income tax issued by the Contractor as well as sub-contractor's and receipt of deposit of Provident Fund duly certified by the Contractor. In this head, staff physically deployed at site shall only be considered.

Note:

For (a), (b), (c) & (d) – 'The contractor must submit monthly statement jointly verified by contractor & Engineer's representation for idling of Equipment, labour and Site staff along with details/documents like copy of original Invoice of Contractor's owned Equipment deployed by him at the Site, hire charge agreement for hired Equipment and proof of payment of hiring charges of equipment deployed by Contractor at the Site, attendance sheet with wages and EPF deposit receipts of labour and site staff during the idling period to be eligible for payment of any idle charges'

The eligible claim of the Contractor for specific resources (Equipment/labour/site staff) becoming idle due to disruption of work shall be assessed and considered for payment. However, where the event giving rise to admissible cost claim to the Contractor do not disrupt whole of the works but only particular components/sub component for which specific allocation of resources (equipment/labour/site staff) is not possible or these are unidentifiable then the assessment of idle claim shall be done on the pro rata basis.

(e) Interest on Mobilization Advance

The Contractor shall submit amount of expenditure along with their period duly certified by their statutory auditors towards the utilization of the mobilization advance for the Works. On the basis of the certification made by the Statutory Auditor an average investment for the period may be considered and the amount of interest on mobilization advance worked out accordingly. Further, for the purpose of calculation of interest on mobilization advance, interest rate as mentioned in the relevant Contract shall be considered. The cost of construction equipment purchased by the Contractor out of the mobilization advance on which interest on capital investment is already considered at Sl.No. a (ii) above shall be excluded for the purpose of working out interest on Mobilization advance.

However, where the events giving rise to admissible cost claim to the Contractor do not disrupt whole of the Works but only particular component/structure of the Project, then the admissible interest on mobilization advance payable to the Contractor shall be worked out on pro-rata basis.

(f) Overheads

Overhead costs include but not limited to Office and share of head office expenses, Legal charges, General establishment, Watch and Ward, Local conveyance, Travelling expenses, Social welfare, salaries of Managerial and clerical staff etc. and Publicity etc.

$$\text{Overhead Charges} = \frac{3\% \text{ of Accepted Contract Amount} \times \text{authorized Time extension entitling cost claim}}{\text{Contractual Time for Completion (48 months)}}$$

The lump-sum component of overhead as 3% (three percent) shall cover all other charges not included expressly in any of the items of claim at Sl. (a) to (e) as above.

(g) Bank Guarantees and Insurance charges

These charges are to be considered towards cost compensation for the idle period based upon documentary evidence of payment of premium amount by the Contractor towards Performance Bank Guarantee, Retention Money Bank Guarantee and Contractor's All Risk (CAR) Insurance Policy.

(h) The taxes applicable on cost claims

The applicable taxes on the above elements of cost claim shall be reimbursed to the Contractor as per actual based on the documentary evidence.

Annexure II
(Refer Sub-clause 45.12)

ESCROW ACCOUNT AGREEMENT

THIS ESCROW ACCOUNT AGREEMENT is entered into on this the *** day of *** 20**.

AMONGST

1 [*** LIMITED], a company incorporated under the provisions the Companies Act,1956 and having its registered office at *** (hereinafter referred to as the “Contractor” which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);

2 *** [name and particulars of the Escrow Bank] and having its registered office at **** (hereinafter referred to as the “Escrow Bank” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and

3 UJVNL, (hereinafter referred to as the “UJVNL” or the “Employer”, which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

(A) The Employer had entered into Contract Agreement (enclosed as Annex I) with the Contractor (the “Contract Agreement”) for execution of Balance Civil works of Bhilangna IIA Hydropower Project (hereinafter referred to as the “Works”).

(B) Accordingly, as per clause 45.12 of Particular Conditions of Contract, the Contractor is required to establish an Escrow Account, inter alia, on the terms and conditions stated therein.

NOW IT IS HEREBY AGREED as follows:**1 DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

“Agreement” means this Escrow Account Agreement and any amendment thereto made in accordance with the provisions contained herein;

“Escrow Account” means an escrow account established in terms of and under this Agreement;

“Parties” means the parties to this Agreement collectively and “Party” shall mean any of the Parties to this Agreement individually;

1.2 Interpretation

1.2.1 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein shall, unless repugnant to the context, have their literal English meaning. Words importing the singular only also include the plural and vice versa where the context requires.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

- 2.1.1 The Contractor hereby appoints the Escrow Bank to act as trustee for the Employer and the Contractor in connection herewith and authorizes the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretions as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.
- 2.1.2 The Contractor hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Employer and the Contractor, and applied in accordance with the terms of this Agreement. No person other than the Employer, and the Contractor shall have any rights hereunder as the beneficiaries of or as third party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Contractor or the Employer with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Employer and the Contractor or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

- 2.3.1 Immediately after execution of this Agreement, the Contractor shall open and establish the Escrow Account with the **** (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Indian National Rupees.
- 2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.
- 2.3.3 The Escrow Bank and the Contractor shall, after consultation with the Employer, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Contractor. For the avoidance of doubt, such fee and expenses relating to opening and operation of said account shall be borne by the Contractor. The Employer shall not be held liable for any claim of Escrow Bank from the Contractor with regard to such fee and expenses.

2.5 Rights of the parties

The rights of the Employer and the Contractor in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Employer and the Contractor shall have no other rights against or to the monies in the Escrow Account.

3 DEPOSITS INTO ESCROW ACCOUNT

- 3.1 Employer intends that funds released for the project as advance or against work done is deposited in the ESCROW account to ensure that these are utilized for the project itself and Contractor & their sub-contractors/sub-vendors are not able to divert project funds to their other business

3.2 Interest on deposits

The Escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall

he credited to the Escrow Account and shall be used to make due payments in the manner as provided in Clause 4 of this Agreement.

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals

The Escrow Bank shall allow withdraw and appropriate the amounts from the Escrow Account strictly in accordance with the instructions issued by the Employer to the Contractor, as mutually agreed/decided by Employer, and the contractor; provided that such amounts shall be appropriated in the following order:

- (a) All payments relating to construction/ completion of the Works;
- (b) All payments relating to construction/completion of other projects of the Employer under execution by the Contractor; and
- (c) Balance, if any, in accordance with the instructions of the Contractor after receiving the prior written approval of the Employer.

4.2 All payments relating to construction/completion of the Project

- (i) The Contractor shall provide the Employer with the following details:
 - (a) The amounts due for payment to the suppliers/sub-contractors in respect of the work already completed;
 - (b) The remaining works in the Project along with the estimated costs of the respective works and the schedule for completion of such remaining works.
 - (c) The monthly/bi-annual/annual or any other periodic schedule of funds, (as agreed with the Employer), required to complete the above remaining works.
- (ii) The Engineer shall verify the genuineness in respect of the above overdue payments/remaining works, the associated costs, the schedule and the (periodic) requirement of funds.
- (iii) On approval of Employer and subject to availability of funds in the designated Escrow Account, the total requirement of funds shall be earmarked for payment of the outstanding dues and completion of the remaining works..
- (iv) The Contractor shall then be allowed to withdraw the funds required to meet his obligations in the order mentioned under (i) above for completion of the Works.
- (v) Balance amounts in the Escrow Account, if available, shall be earmarked and concurrently used for the completion of other projects of Employer, as per conditions set forth in this Agreement keeping the progress work in view.

4.4 Post completion of the Works, and subject to availability of funds in the Escrow Account, balance funds shall be appropriated in accordance with the instructions of the Contractor in terms of the this Agreement.

5 Event of Escrow Default

5.1 Following events shall constitute an 'event of default' by the Contractor unless such event of default has occurred as a result of Force Majeure or any act or omission of the Employer of the Escrow Bank:

- (i) The Contractor causes the Escrow Bank to transfer funds to any account of the contractor in breach of the terms of Escrow account Agreement;
- (ii) The Contractor fails to make any refund due to the Employer in breach of the terms of ESCROW account Agreement within 5(five) days of such refund becoming due.
- (iii) The Contractor commits or causes any other breach of the provisions of Escrow account Agreement and fails to cure the same within a cure period of 5 (five)days; or

6 OBLIGATIONS OF THE ESCROW BANK

6.1 Segregation of funds

Monies received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be

segregated from other funds of the Escrow Bank.

6.2 No set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

6.3 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

6.4 Independent Concurrent Audit

A firm shall be engaged to carry out independent concurrent audit for the purpose of monitoring the utilization of funds from escrow bank account.

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect till completion of the Works, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Contractor may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Employer, terminate this Agreement with Escrow Bank and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to Employer and arrangements are made to the satisfaction Employer for transfer of amounts deposited in the Escrow Account to a new Escrow established with the successor Escrow Bank. The termination of this Agreement shall take effect Only Upon coming into force of an Escrow Account Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall close the Escrow Account at the request made by the Contractor and the Employer and pay any amount standing to the credit thereof to the Contractor. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 MISCELLANEOUS PROVISIONS

8.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at Dehradun shall have jurisdiction over all matters arising out of or relating to this Agreement.

8.2 Waiver of sovereign immunity

The Contractor unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Contractor with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

8.3 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorized representatives of the Parties.

8.4 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

8.5 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

8.6 Notices

All notices or other communications to be given or made under this Agreement shall be in writing and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by e-mail. The address for service of each Party and its e-mail are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

8.7 LANGUAGE

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

8.8 Original Document

This Agreement may be executed in three counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND

(Signature)

DELIVERED

(Name)

For and on behalf of

CONTRACTOR by:

(Designation)

(Address)

SIGNED, SEALED AND

SIGNED, SEALED AND

DELIVERED

DELIVERED

For and on behalf of

For and on behalf of

ESCROW BANK by:

UJVN Ltd. by:

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

Fax No./E-mail

Fax No./E-mail

In the presence of

1.

2.

Annexure-III
(Refer Clause 32.5.7)

Risk Register

S. No	Risk	Item/ component of works which could not be executed on account of this risk	Date of start of hindrance	Date of removal of hindrance	Overlapping period (if any)	Net hindrance in days	respons e	Risk allocation		Sign of Engineer's representative	Sign of contract or's representative	Remarks
								employer	contractor			
1	2	3	4	5	6	7				8	9	10

Annexure-IV
(Refer Sub-clause 32.5.7)

Risk Allocation Schedule

S.N.	Risk	Probabili ty of Occurre nce	Potential Impact	Response	Risk Allocation		Remarks
					Employer	Contractor	
I. METEOROLOGICAL/HYDROLOGICAL							
1	Adverse climatic conditions including heavy rains/cloud burst	Medium	Non-working conditions leading to delay in construction	Cleaning/ draining/ dewatering of work areas	Nil	Yes	-
II. SEISMOLOGICAL							
1	Occurrence of high intensity earthquake which produces Peak Ground Acceleration > 0.18g at the site in consideration	Very Low	Damage to Dam/other structures. Landslides in work areas/access roads	To make emergency preparedness plan, cleaning of areas affected by damage and stabilization and restoration of damages to structures.	-EOT -Cost of redoing the damaged Permanent Works, which shall include insurance of the work	All other than those borne by the Employer.	
III. CONSTRAINED ACCESS TO SITE							
1	Obstruction of Highways/roads connecting the Site due to heavy traffic/ bad weather conditions/accidents etc.	Medium	Difficulty in access and executing works	Liaisoning with road maintenance authorities & suitably to be accounted while planning overall scheme for construction of project as per schedule.	Nil	All	
IV. WORKING IN AREAS PERTAINING TO PROJECT ACTIVITIES							
1	Fossils in project work area	Low	Possibility of delay in project and extra work	-planning for number of man/ machinery so as to avoid delay	-EOT -Variation as per clause 18 of GCC -compensation as per clause 31 of GCC -Time related cost claims as per relevant clause of GCC as per Annexure-I of Appendix to Bid	All other than those borne by the Employer	
V. DUMPING AREAS							
1	Instability of disposed muck	Low	Environment al Hazards	Providing stabilisingmeasur es	Nil	All	
2	Failure of slopes in dumping areas	Very low	Obstruction to work	Cleaning &Providingstabili zing measures	Nil	All	

VI. POLITICAL AND SOCIAL RISKS							
1	War, hostilities, invasion, acts of foreign enemies, rebellion, revolution, insurrection or usurped power, or civil war	Very Low	Non-working in project, hence impact in project execution/leading to delay in construction.	Extra resources to cover up delays	-EOT -Cost of redoing the damaged permanent Works as per BOQ rates	All other than those borne by the employer	Sharing of Risk
2	Contamination by radio activity from any nuclear fuel, or from any nuclear waste or radioactive material;						
3	Pressure waves caused by aircraft or other aerial devices travelling at sonic/supersonic speed	Very Low	Non-working in project, hence impact in project execution/leading to delay in construction.	Extra resources to cover up delays	-EOT -Cost of redoing the damaged permanent Works as per BOQ rates -75% of Cost claim, worked out as per Annexure-I of Appendix to Bid	All other than those borne by the employer	Sharing of Risk
4	Act of any political or religious incidence or delays caused by the Authorities	Medium	Non-working in project, hence impact in project execution/leading to delay in construction.	Extra resources to cover up delays	- EOT -Cost of redoing the damaged permanent Works as per BOQ rates -75% of Cost claim, worked out as per Annexure-I of Appendix to Bid	All other than those borne by the employer	Sharing of Risk
VII. ECONOMIC AND LEGAL RISKS							
1	Fluctuation of prices of materials, labour and equipment.	High	Impact on Cost	Arrangement of resources as per requirement	As per price adjustment formula provided in clause 46 of GCC/COPA.	Whatever not covered by price adjustment formula	Sharing of Risk
2	Changes in administrative regulation/government policies/law.	Low	Time/Cost implication	To timely comply with administrative regulation/government policies/law	-EOT -Adjustment of cost as per clause 46 of GCC/COPA	All other than those borne by the employer	Sharing of Risk
3	Variation in rates of cost of material, royalty and charges there upon.	High	Impact on cost	Timely compliances	Nil	All	
4	Variation in tariff rates of electricity	High	Impact on cost	Timely compliances	Nil	All	
VIII. BEHAVIORAL RISKS							
1	(a) Employer's obligations						
	-delay in handing over of site - modification in schedule which affects the Works of the Contractor. - suspension of Works ordered by the Employer. - delay in Drawings, specifications or instructions. - additional tests for	Low	Slowdown in project hence impact in project execution/leading to delay in construction	To organize/plan the works as per the requirements	-EOT -Time related cost as per relevant clause of GCC/COPA as per Annexure-I of Appendix to Bid	All other than those borne by the employer	

	a Work which is then found to have no defect. -Encountering geological conditions materially different than those specified in the Contract and further save as risk sharing for geological conditions referred to in this Risk Allocation Schedule.						
	(b) Contractor's Behavioral Risks						
	<ul style="list-style-type: none"> -Labour injuries and accidents - Improper interference with the convenience of the public. - damage cost by transportation of goods. - acts or defaults by sub-contractors. - Defects in Material, plants and workmanship - failure to depute a competent management team. - Lack of forward planning and budgetary control - casual attention towards critical targets of time, cost and quality - failure to use proper tools and techniques relating to forward planning and control - Delays in procurement of materials and Construction Equipment due to a casual approach - deployment of inadequate & inappropriate material and/or construction equipment/inadequate maintenance of construction equipment/inadequate workshop facilities for repair of construction equipment and shortage of spare parts for construction equipment 	High	Slowdown in project hence impact in project execution/leading to delay in construction	Extra resources to cover up delays	Nil	All	

	<ul style="list-style-type: none"> - Non-deployment of competent specialised sub-contractors - shortage of tradesmen and supervisors - inadequate quality control facilities 						
IX. UNDERGROUND EXCAVATIONS							
1	Occurrence of hard rock strata substantially adverse than that specified in Information for Bidders (IFB)	Medium	Excessive wear & tear of drilling bits	Use of proper drilling bits to meet out the requirement.	Nil	All	
2	Occurrence of sudden loose fall/chimney formation due to geological reasons beyond the control of contractor ≥ 5 m deep from crown to SPL	Low	Delay in construction	-Cleaning - Stabilization	-EOT - varied works as per clause 18 of GCC/COPA	All other than those borne by Employer	
3	Squeezing ground conditions substantially adverse than that mentioned in Information for Bidders (IFB)	Low	Delay in construction	-Monitoring of underground convergence -Use of staged excavation techniques/multiple heading -provision of special stabilization measures	-EOT - varied works as per clause 18 of GCC -Time related cost as per relevant clause of GCC/COPA as per Annexure-I of Appendix to Bid	All other than those borne by Employer	
4	Dewatering after HRT break-through	Low	Slow progress due to drain water higher than drain capacity	- Dewatering of work area	Nil	All	
5	Ingress of water higher 4000 liters per minute within 100 m from tunnel/cavern face	Medium	Delay in construction	-Treatment of rock mass -Dewatering of work area	-EOT - varied works as per clause 18 of GCC/COPA	All other than those borne by Employer	
6	Occurrence of hot water spring beyond limit of 40 degree centigrade	Very low	Delay in construction	Arrangements for maintaining workable temperature	-EOT - varied works as per clause 18 of GCC - Time related cost as per relevant clause of GCC/COPA as per Annexure-I to Appendix to Bid	All other than those borne by Employer	
7	Emission of harmful gases out of construction activities	Very low	Delay in construction	-Provisions of effective exhaust system -Keeping arrangements of oxygen cylinders and other first	Nil	All	

				aid things			
8	Encountering of harmful gases namely methane more than 10000 ppm out of underground excavation	Very low	Delay in construction	Making arrangements for appropriate tunneling equipment.	-EOT - varied works as per clause 18 of GCC - Time related cost as per relevant clause of GCC/PCC as per Annexure-I to Appendix to Bid	All other than those borne by Employer	
9	Occurrence of rock busting ground conditions	Very low	Delay in construction	Adopting appropriate precautions/ tunneling methods	-EOT - varied works as per clause 18 of GCC - Time related cost as per relevant clause of GCC/PCC as per Annexure-I to Appendix to Bid	All other than those borne by Employer	

X. GENERAL HAZARDS

1	Opposition by the land rehabilitees	Low	Closure of site/stoppage of work.	Interaction with district administration and local leaders.	-EOT -Time related cost as per relevant clause of GCC/PCC as per Annexure-I to Appendix to Bid	All other than those borne by the employer	
2	Dust in work areas and access roads	Medium	Non-working conditions resulting in delay in construction	Sprinkling of water	Nil	All	
3	Accidents, strike by workers other than general strike in the area.	Low	Closure of site/stoppage of work.	Effective management of work sites	-EOT	All	
4	Non availability of explosives in time due to security reasons	Low	Delay in construction	Liaison with administrative authorities	Nil	All	
5	Non availability of water/power supply	Low	Delay in work	Standby arrangements	Nil	All	
6	Stoppage/delay of work consequent upon the Govt orders other than default of contractor	Low	Delay of work	Communication with Engineer and local authorities	-EOT -Time related cost as per relevant clause of GCC/PCC as per Annexure-I of Appendix to Bid	All other than those borne by the Employer	
7	Stoppage/slow progress of work consequent upon default of contractor	Medium	Delay of work	Deployment of additional resources as per requirement	Nil	All	
8	Damage to third parties due to construction of project road provided the damage is not due to fault of Contractor	Low	Closure of site/stoppage of work.	Interaction with district administration/forest and local leaders	Compensation to third parties	All other than those borne by the Employer	

Note: Cost of redoing of damaged Permanent Work shall mean to include all the activities (e.g. dewatering, removal of debris

etc) required for redoing of damaged Permanent Works. Such cost shall be paid by the Employer provided the same is arising as a consequence of uninsurable events as per Contract.

Annexure-V**(Refer Clause 32.5.8)****Hindrance Register**

S. No.	Nature of Hindrance	Party responsible (Employer/contractor)	Date & Time of occurrence	Period for which it is likely to last	Period for which extension required	Remarks
1						
2						
3						
4						
5						
6						

Signature of Contractor

Signature of Engineer's Representative
RepresentativeDate:
Time:
Place:Date:
Time:
Place:

Annexure-VI
(Refer Sub-clause 46)

Table-1

Calculation of weightage for Price Adjustment Formula:

Component s	Labour (Skilled)	Labour (Un- Skilled)	Ceme nt	Stee l	Oxyge n	Electrod es	POL	Other Materia ls	Machine ry Charges	Fixed Charg es	Total
	i	u	c	s	b	e	d	m	P		
Category-I	8%	7%	0	52 %	2%	4%	0	1%	1%	25%	100%
Category-II	4%	9%	0	56 %	1%	1%	1%	2%	1%	25%	100%
Category-III	6%	5%	25%	0	0	0	20 %	6%	13%	25%	100%
Category- IV	10%	8%	0	0	0	0	25 %	19%	13%	25%	100%
Category-V	7%	7%	6%	28 %	1%	1%	11 %	7%	7%	25%	100%

(Refer Clause55)

At the end of sub-clause 55, add:

The Contractor shall be required to ensure that there shall be no felling of trees by him or his labour or their family members and he will be solely responsible for their acts in this regard. The Contractor shall try to maintain ecological balance and take care to prevent deforestation, water pollution and defacing of natural landscape in the vicinity of work areas. The Contractor shall conduct his construction operations in a manner that prevents any unnecessary destructions of, scarring or defacing of the natural surroundings in the vicinity of the work area. In order to ensure environmental safety, the Contractor shall specifically observe the following instructions:

- a) where unnecessary destruction, scarring, damage or defacing may occur as a result of the Contractor's operation, the same shall be repaired, replanted or otherwise corrected at the Contractor's expense. The Contractor shall prevent scattering of rocks and other debris outside the work areas. All work areas shall be smoothed and graded in a manner that conform with the natural appearance of the landscape as directed by the Engineer,
- b) all trees and shrubs which are not specifically required to be cleared or removed for construction purpose shall be preserved and protected from any damage that may be caused by the Contractor's construction operation and Equipment. The removal of trees and shrubs will be permitted only after prior approval by the competent authority i.e. Forest Department, or the Engineer. Special care shall be exercised where trees or shrubs are exposed to injury or damage by Contractor's Equipment, blasting, excavating, dumping, chemical damage or any other operation and the Contractor shall adequately protect such trees and shrubs by use of protective barriers or other methods approved by the Engineer. Trees and shrubs shall not be used for anchorage,
- c) the Contractor's including its sub-contractor's construction activities shall be performed by methods that will prevent entrance or accidental spillage of solid matter contaminants, debris and other objectionable pollutants and wastage into the river. Pollutants and waste shall be disposed of in a manner and at sites approved by the Engineer. The contractor and subcontractor shall fully comply with section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974,
- d) in the conduct of construction activities and operation of Construction Equipment, the Contractor including its subcontractor, shall utilize such practicable methods and devices as are reasonably available to control, prevent and otherwise minimize air pollution. The contractor and subcontractor shall fully comply with Section 31(A) of the Air (Prevention And Control Of Pollution) Act, 1981,
- e) burning of materials resulting from clearing of tree, bush, combustible construction material and rubbish may be permitted by the Engineer only when atmospheric conditions for burning are considered favorable,
- f) the Contractor including its subcontractor shall provide alternative fuel arrangement i.e. cooking gas/kerosene oil, electricity free of cost to all its canteen/mess, laborers and staff working in the project during the whole period of construction activity to avoid felling of trees for use as firewood. In case alternative fuels supply i.e. kerosene, gas, electricity is not available in the Project Area, the Contractor shall approach the forest department/corporation in the project area for assisting it in meeting the demand of fuel wood. The Contractor is liable to obtain all the permissions/clearances required to open the fuel depot,
- g) no wood shall be used for scaffolding, shuttering or centering in the construction of Works,
- h) wood, if required, shall have to be purchased from the State Forest department,
- i) the Contractor and its sub-contractor shall be required to prevent flowing of debris and muck into the river. Necessary retaining structures like walls/crates etc shall be constructed for the purpose. The contractor shall also stabilize the muck fully i.e. consolidation and compaction of the muck shall be carried out in the muck dump sites before handing it over to the Employer at the end of construction period,
- j) medical facilities as well the recreational facilities shall also be provided to the laborers by the Contractor and its sub-contractors,
- k) all labourers to be engaged for the construction Works shall be thoroughly examined by health personnel and adequately treated before they are deployed for the Works,
- l) the Contractor shall employ maximum numbers of local people in not only un-skilled category but also in semi-skilled and skilled categories by imparting skills through training to selected locals. Detailed plans regarding this should be submitted by the contractor within two months from the Commencement Date,
- m) all the Contractor's Equipment which are likely to generate high noise levels are to be fully equipped (with noise reduction measures) to meet the ambient noise control standards,
- n) the Employer shall facilitate the Contractor in obtaining necessary permits from district authorities. The Contractor shall not allow any of its employee/labourers employed by it to settle in that area even temporarily, and
- o) Solid waste generated, especially plastic waste, etc. should not be disposed of as landfill material. It should be treated with scientific approach and recycled. Use of single-use plastics may be discouraged.

Annexure-VIII
(Refer Clause 45.8)

List of the Materials intended for the works:

1. Cement
2. Steel (Structural, Reinforcement)

SECTION IV
SPECIAL CONDITIONS OF CONTRACT

SPECIAL CONDITION OF CONTRACT

These special conditions shall be read and construed along with General Condition of Contract modified by the provisions hereof. But if there be any conflict or inconsistency between the Special Condition and General Conditions then special conditions shall prevail.

A. SCOPE OF WORK:

1. GENERAL:

- 1.1 Scope of this tender covers the work in totality for which tendering is intended. Items of work mentioned in bill of quantity (Section VII) form the work in general. Each individual item shall be executed as per technical specification or as per the direction of Engineer-In- Charge in such a way that it completes the work in proper way. Scope of work will remain in existence until unless the work for which tendering is intended, is completed properly as per General condition of contract, Special condition of contract and technical specification. A prior visit to site is essential before submitting the tender.
- 1.2 After receiving LOI, contractor shall authorize his site representative, who will be responsible to contractor and will keep close liaison with the concerned J.E./A.E for taking day to day instructions at site whether verbal or in writing, regarding emergency work or routine work.
- 1.3 All materials used in above tender should be approved by the E/I of the work before taking into use
- 1.4 Contractor or his authorized representative shall keep close liaison daily with concerned J.E. /A.E. for taking day to day instructions progress/complaints pertaining to the work
- 1.5 Contractor has to follow the labour rules, other rules applicable for this type of work and statutory rules laid by GOUK/GOI.

The scope of work stipulated above is not confined to particular site, on requirement or in emergent situation, contractor may be asked to execute the work at other site within eight Kms from the site under scope of tender

2. EXCLUSIVE:

- 2.1 Under Scope of this work contractor has to execute the work of "xxxxxxxxxx"
- 2.2 A tentative list of required T&P is at **Schedule C.**
- 2.3 It is the sole responsibility of the contractor to follow the statutory rules and laws regarding labour and mining. In case the violation of laws, if any penalty or punishment is imposed by the law enforcing bodies, UJVNL shall not bear such penalty or punishment.
- 2.4 During execution of work, material or items samples such as cement, fine aggregate, coarse aggregate, steel , concrete, epoxy etc. if required, may be collected and referred to laboratory test by Engineer-in-Charge and bill thus raised by concerning laboratory shall be paid by contractor or deducted from Contractor's bill.

B. ELECTRICITY:

The electricity connection for the work shall be arranged by the contractor and all expenditure in this regard shall be borne by the contractor himself.

- C. **WATER:** For construction work water shall be arranged by contractor on his own cost. If not provided departmentally, however if used from Nigam source the same shall be charged @ 1.5% of the items of works executed by/with cement.

D. MATERIAL:

All material including cement and steel shall be arranged by contractor. However, on exigency Cement and steel may be provided to the contractor and issue rates as mentioned in '**Schedule-A**' shall be deducted from contractor's bill. However, in case in non-issuance of any material from UJVNL, contractor shall not claim any compensation.

E. TERMS & CONDITIONS OF PAYMENT

1. PRICES:

- a. Prices shall be firm during the currency of the contract as specifically indicated in contract Document.
- b. **The Bidder** shall quote his rates for all items required for complete work. The rate quoted by the contractor shall be deemed to be inclusive of all such taxes & duties levies, royalty and incidental charges and shall also include cost towards boarding, lodging and transportation of contractor's staff and labour, which shall be the responsibility of the contractor only etc except GST which shall be paid

extra as applicable.(refer clause -47 of GCC) The above charges shall remain firm during the continuation of the Contract and changes, if any shall be governed by **clause-47.1 & 47.2 of GCC.**

- c. Royalty from each RA bill shall be deducted as per '**prevailing government rules.**
- d. Rate of each item of work shall only payable to contractors after completion of work as per site requirement/ as per technical specification or as per direction of Engineer In- charge or his representative, otherwise **clause 4** of SCC shall be imposed on contractor.

2. PENALTY:

- a. Liquidated damage shall be as per charged as per **Clause -40 of GCC.**
- b. If any day, it is found at site that contractor has deployed lesser material / man power and machinery at site which is unable to perform the work within time frame then penalty shall be imposed by Engineer –In – Charge on his discretion, penalty thus imposed shall be charged from contractor's forthcoming bill.
- c. In case contractor fails to achieve desired progress as per **Schedule-B**, Liquidated Damage may be imposed accordingly.

3. REMOVAL OF DEFECTIVE MATERIAL:

Material used at site shall be as per Technical specification and direction of Engineer –In – Charge and if found defective the same shall not be allowed to use at site and Contractor has to remove the defective material from site at his own cost within three days of such direction issued by Engineer –In – Charge.

4. PAYMENT

All intermediate/Running account and final payment shall be processed as per Clause-45 & 48.

F. TERMS AND CONDITIONS OF PRICE BID:

- a. Bidders are advised to go through General condition/special condition/ Schedules/Technical specification/safety manual/ tender Drawing before quoting their rates. A prior site visit is also advisable
- b. Quantity of work may vary up to any extent on either side and no extra rate shall be paid towards variation of quantity.
- c. Rates quoted shall be inclusive of cartage, loading, unloading, insurance during transportation etc and other miscellaneous expenditures.
- d. The rate quoted shall be considered exclusive of GST & inclusive of all other taxes & duties such as royalty, I.T., excise duty, Labour Cess, EPF & insurance of labors etc at prevailing rates at the time of submission of '**FINANCIAL BID**'.
- e. All work shall be carried out as per technical specification and as per instructions of Engineer-in-charge.
- f. Bidder has to enter only **either on percentage rate or Item-rates** basis in Bill of Quantity. Lump- Sum rates shall not be considered in any case and tender shall be rejected without giving any reason.
- g. Bidder shall not write anything on Bill of Quantity except rate. After quoting rates on bill of quantity nothing shall be added or deducted by the bidder from quoted rates, such practice shall not be accepted and only quoted rates shall be considered for bidding

Note: Only price bid submitted on-line shall be entertained. Hard copy or Scanned copy of price bid shall not be accepted. Bidders are advised not to submit their price bid with Part-I Techno- Commercial bid.

G. GENERAL:

In case of any discrepancy in terms and conditions, order of precedence shall prevail as per clause -2 of General Condition of Contract. However, if interpretation of any term and condition is not cleared from General Condition of Contract, Special Condition of Contract, Price Bid, Technical Specification; decision of Engineer- In- Contract shall be final and binding to contractor.

Signature of Contractor

Office Inviting tender

SECTION V

SCHEDULES

ISSUE OF DEPARTMENTAL MATERIALS TO THE CONTRACTOR
(Refer Clause 23 of General Conditions of Contract)

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SCHEDULE-B**SCHEDULE FOR ACHIEVEMENT OF MAJOR MILESTONES OF WORKS AND
COMPENSATION FOR DELAY**

Sl. No.	Description of works (Group/Sub-Group)	Schedule completion period from the date of issue of Letter of Award.	Compensation for delay
1			0.05% of the contract Price per day for delay in whole of the work subjected to maximum of 10.0% (Ten percent) of Contract Price or executed work whichever is higher.
2			

The bidder shall submit construction schedule after written date of commencement & such schedule may be revised depending upon the final date of completion. However, construction schedule as submitted initially or amended time to time & duly approved by Engineer In Charge shall be considered for compensation for the delay & decision of Engineer in Charge shall be final & binding upon the contractor.

SCHEDULE-C**LIST OF PLANT & MACHINERY REQUIRED**

(See Clause 21 of GCC)

The key equipments for construction of works and field testing laboratory are:	For Construction of above Proposed Works (Tentative)		
	S. No.	Name of the Equipment	Quantity
	1	Hydraulic Excavator 1.5 Cum	
	2	JCB break hoe Loader	
	3	Dumpers 15 T capacity	
	4	Bulldozers 90HP	
	5	Roller Compactor 1 T	
	6	Concrete Batching and Mixing Plant 30Cum/hr	
	7	Tower Crane of 80 m boom with Pouring Bucket 1.5 Cum	
	8	Concrete Pump 25 cum	
	9	Vibratory needle Type	
	10	Transit Mixer 3 cum	
The bidder must produce the documentary evidence in support of his owning/leasing/procurement of the above equipment: No payment will be made for equipments.			

NOTE: Above list is tentative. Any additional plant & machinery required for proper completion of work shall be arranged by contractor on his own cost, no additional payment shall be paid to contractor.

SCHEDULE-D**SCHEDULE OF STANDARD CONSUMPTION OF MATERIAL**

Sl. No.	Item	Unit	No. of cement bag	Sand in Cum	Bricks in Nos,	Stone/ Ballast Cum.
A	Its Class Brick Work in cement mortar					
1.	1:3 Mix	Cum	2.65	0.27	460	-
2.	1:4 Mix	Cum	1.90	0.27	460	-
3.	1:5 Mix	Cum	1.58	0.27	460	-
4.	1:6 Mix	Cum	1.33	0.27	460	-
5.	1:8 Mix		0.94	0.27	460	-
B	Cement Concrete					
1.	1:1:2	Cum	11.00	0.40	-	0.80
2.	1:1.5:3	Cum	7.80	0.44	-	0.85
3.	1:2:4	Cum	6.00	0.46	-	0.90
4.	1:3:6	Cum	4.25	0.48	-	0.92
5.	1:4:8	Cum	3.20	0.51	-	0.95
6.	1:5:10	Cum	2.50	0.50	-	0.95
7.	1:6:12	Cum	2.25	0.48	-	0.95
C	Cement Plaster 12mm thick.					
1.	1:2 Mix	Sqm	0.19	0.015	-	-
2.	1:3 Mix	Sqm	0.16	0.015	-	-
3.	1:4 Mix	Sqm	0.11	0.015	-	-
4.	1:5 Mix	Sqm	0.09	0.015	-	-
5.	1:6 Mix	Sqm	0.08	0.015	-	-
6.	20mm thick Cement Plaster. (1:2 Mix) in DADO. 20mm thick marble flooring 1:2 Cement mortar cover	Sqm	0.28	0.019	-	-
7.	15mm base coat & top coat 5mm. Rough cast finish plaster. Extra material for rough phase plaster.	Sqm	0.32	0.019	-	-
8.	3mm thick floating coat of neat cement	Sqm	0.09	-	-	-
D	Damp Proof Course.					
1.	20mm thick DPC with 1:2 Mix.	Sqm	0.28	0.019	-	-
2.	20mm thick DPC with 1:1.5:3 Mix.	Sqm	0.20	0.011	-	0.021
3.	40mm thick DPC with 1:2:4 Mix.	Sqm	0.26	0.018	-	0.036
4.	25mm thick DPC in 1:1.5:3.	Sqm	0.247	0.011	-	0.023
5.	40mm thick DPC in 1:1.5:3.	Sqm	0.40	0.022	-	0.042
E	Cement Pointing					
1.	1:2 Mix	Sqm	0.045	0.003	-	-
2.	1:3 Mix	Sqm	0.035	0.003	-	-
3.	1:4 Mix	Sqm	0.027	0.003	-	-
4.	Raised Pointing on brickwork in 1:2 C.M.	Sqm	0.107	0.004	-	-
5.	Drip course in 1:2 Mix (25x12mm section)	R.M.	0.005	0.010	-	-

F	Flooring					
1.	25mm thick 1:2:4 in flooring over 75mm cc 1:4:8 including rendering etc. complete.	Sqm	0.45	-	-	-
2.	25mm thick CC 1:2:4 flooring without base concrete	Sqm	0.21	-	-	-
3.	40mm thick CC 1:2:4 flooring without base concrete	Sqm	0.30	0.018	-	0.036
4.	Flat brick soiling 1:6 without top pointing.	Sqm	0.09	-	-	-
5.	BOE flooring 1:6 without top pointing.	Sqm	0.13	-	-	-
6.	Mosaic flooring including 6mm mosaic 25mm CC 1:2:4 and 75mm CC 1:4:8 complete.	Sqm	0.55	-	-	-
7.	20mm Mosaic dado complete with plaster 1:2 Mix.	Sqm				
8.	Top coat 5mm thick white cement over 15mm thick 1:2 cement mortar.	Sqm	0.30	-	-	-
9.	6mm thick white glazed tiles flooring & skirting in 1:3 cement mortar.	Sqm	0.23	0.019	-	-
	½" thick white glazed tile flooring in 1:3 Mix.	Sqm	0.35	-	-	-
	75mm thick CC 1:3:6 in Apron with rendering in 1:2 mix.	Sqm				
G.	R.B. work in 1:3 Mix.	Cum	3.60	0.33	420	-
H.	Stone work					
1.	R.R. 1:6	Cum	1.40	0.30	-	1.00
2.	R.C.R. 1:6	Cum	1.24	0.25	-	1.25
3.	R.C.R. 1:4	Cum	1.85	0.25	-	1.25
I.	White Washing					
1.	Cement washing	Sqm	0.008	0.64	-	-
2.	Cement washing in 1:2 (Cement & Lime)	Sqm	0.002	0.62	-	-
J.	Block Masonry					
1.	Masonry in CC 1:4:8 laid in 1:6 C.M.	Cum	4.40	-	-	0.91
2.	Masonry in CC 1:3:6 laid in 1:6 C.M.	Cum	5.60	-	-	0.88
K.	Laying of Kota stone	Sqm	0.11	0.08	-	-

NOTE:

1. However, on later stage as per mix design, consumption of material may be varied for which contractor shall not make any claim whatsoever.
2. The above consumption includes wastage up to 2% (Two Percentage).
3. The cement consumption is 5% (Five percentages) less in case use of shingle in place of broken graded stone aggregate.

SECTION VI

FORMATS

FORMAT-I**APPLICATION FOR TENDER**

To

1. I/We have read and examined the following tender documents relating to
 "-----" (Name of work)

SECTION-I Notice Inviting Tender
 SECTION-II Instructions to Bidder (ITT)
 SECTION-III General Conditions of Contract,
 SECTION-IV Special Conditions of Contract
 SECTION-V Schedules
 SECTION-VI Form and Proforma
 SECTION-VII Bill of Quantity
 SECTION-VIII Technical Specifications
 SECTION-IX Safety Manual, if any
 SECTION-X Tender Drawing, if any.

2. I/We hereby tender for execution of the works referred to in the documents mentioned in paragraph above upon the terms and conditions contained of referred to in the aforesaid documents and in accordance to all respects with the specifications, designs, drawings and other details given there in and at the rates contained in "Bill of Quantity" and within the period(s) completion as given in SECTION-I Notice Inviting Tender and subject to such terms and conditions as stipulated in contract.
3. I/We agree to keep this tender open for acceptance for 120 days after the deadline date for Tender submission and also agree not to make any modifications in its terms and conditions of our own accord.
4. A sum of Rs. (Rupees..... only) is hereby forwarded in form of FDR from Scheduled Bank of India as earnest Money. I/We agree that if I/We fail to keep the validity of tender open, as aforesaid, or make any modifications in the terms and condition of my/our tender of our own accord and/or fail to commence the execution of the works as provided in the documents referred in paragraph above, after the acceptance of our tender, I/We shall become liable for forfeiture of my/our earnest money, as aforesaid and the Employer shall without prejudice to any other right of remedy, be at liberty to forfeit the said earnest money absolutely.
5. I/We agree to abide by and fulfill all the terms and conditions and provisions of the above mentioned tender documents.
6. I/We certify that the Tender submitted by me/us is strictly in accordance with the terms, conditions, specifications etc. as contained in your tender documents referred in paragraph 1) above and it does not contain any deviations to the aforesaid documents. It is further certified that information furnished in the Tender submitted by us correct to the best of our knowledge and belief.

(Signature of person duly sign the Tender on behalf of the Bidder along with seal of company/Firm)

Signature _____

Designation _____

Date _____

Name of Company/Firm _____

Address _____

Postal Address _____

Telephone No. _____

Fax No. _____

e- mail _____

FORMAT-II**FORM OF DECLARATION*****(To be furnish in stamp paper of Rs 100/-)***

M/s _____ (name of Bidder) having its registered office at _____ (hereinafter referred to as "The Bidder") having carefully studied all the documents, specifications, drawings etc. pertaining to the Work for "-----" (name of work), the local and site conditions and having undertaken to execute the said works.

DO HEREBY DECLARE THAT:

1. The Bidder is familiar with all the requirements of the Contract.
2. The Bidder has not been influenced by any statement or promise of any person of the Employer but only the Contract Documents.
3. The Bidder is financially solvent.
4. The Bidder is experienced and competent to perform the contract to the satisfaction of the Employer.
5. The Bidder is familiar with all the general and special laws, acts, ordinances, rules and regulations of the Municipalities, District, State and Central Government of India that may affect the work, its performance or personnel employed therein.
6. The Bidder hereby authorize the Employer to seek reference from the bankers of Bidder for its financial position.
7. The Bidder undertakes to abide by all labour welfare legislations.
8. The statement submitted by the Bidder is true and correct.
9. After submitting the tender, if it is found at later stage that Bidder has submitted any wrong/ false document to influence the tender then UJVN Ltd. has right to make any suitable legal action against the Bidder and forfeit the bid security/EMD or any sum payable to Bidder.
10. The Bidder is agree to extend the validity of rates entered in the BoQ "Priced Bid" for a period of 120 days after the deadline date for Tender submission.(a separate certificate in this respect will be provided by the Bidder).
11. The Bid, consisting of the "Technical Bid and the Price Bid", shall be valid for period of 120 days in accordance with the Bidding Documents, and it shall remain binding upon the Bidder and shall be accepted to bidder at any time before expiration of that period. The proposal in response to the above invitation shall not be withdrawn within 120 days from the date of the opening of the tender, also to the condition that if thereafter Bidder withdraws his proposal within said period, the earnest money deposited by the Bidder shall be forfeited by the UJVN Ltd. in the discretion of the later."

Certified that I/we have visited the site and get familiarized with nature of WORK/ SUPPLY and site conditions. I/we will not make any claim regarding damage to WORK/SUPPLY, T&P, labour etc and will be fully responsible to complete the WORK/SUPPLY as per General condition/special condition/Bill of Quantity/Technical specification/ as per instructions of Engineer-In-Charge.

Dated _____

Signature

For and behalf of Bidder

FORMAT-III**FORM OF AGREEMENT**

This agreement made the ----- between ----- (herein after referred to as the Contractor of the one part and the UJVNL Ltd of the other.

WHEREAS the UJVNL is about to construct the “-----” (hereinafter called the works) mentioned, enumerated or referred to in certain General Conditions Specifications, Schedules, Drawing, Form of tender, Covering letter and Schedule of Prices which for the purpose of identification have been signed

by: _____ on behalf of _____ (Contractor) and _____ (The Engineer-in-charge of the UJVNL) on behalf of Managing Director Uttarakhand Jal Vidyut Nigam Ltd and all of which shall form part of this contract as through separately set out herein and are included in the expression (Contract) wherever herein used.

AND WHEREAS the UJVNL has accepted the tender of the Contractor for the provisions and execution of the said work for the sum of **Rupees** _____ **only** upon the terms and subject to the conditions hereinafter mentioned.

NOW PRESENT WITNESS and the parties hereto hereby agree and declare as follows:-
That is to say, in consideration of the payments to be made to the Contractor by the UJVNL as hereinafter mentioned the Contractor shall duly provide the plan for the said works and things in the Contract mentioned or described or which are limited there form or therein respectively or may be reasonably necessary for the completion of said works within and at the time and in the manner and subject to the terms, and conditions and stipulations mentioned in the said contract.

And in consideration at the due provisions, erection, execution consideration and completion of the said works and maintenance thereof, as aforesaid the UJVNL will pay to the Contractor the said sum of **Rupees** _____ **only** or such other sums as may be become payable to the Contractor under the provisions of this contract such payments to be made at such time and in such manner as is provided of the contract.

In WITNESS WHEREOF the parties hereto have signed this deed hereunder on the dates respectively mentioned against the signatures of each.

Signed

Signed

(For and on behalf of the UJVNL)

by (date)
(Contractor)in the presence of and of
(date)

in the presence of and of

FORMAT-IV**PROFORMA OF BANK GUARANTEE FOR BID SECURITY (EMD)**

To,
DDO

Sir,

WHEREAS M/s A Company within the meaning of the Companies Act, 1956 having its registered office at (hereinafter called the "Bidder") has/have in response to your Bid No.

AND WHEREAS the Bidder is required to furnish to you a Bank Guarantee for the sum of Rs. as Bid Security against the Bidder's offer as aforesaid.

AND WHEREAS We (Name of the Bank) a scheduled Bank having its registered office at Have at the request of the Bidder, agreed to give you this guarantee as hereinafter contained.

NOW THEREFORE in consideration of the premises set forth hereinabove, WE the undersigned do hereby duly covenant on behalf of the Bank that the aforesaid Proposal of the Bidder shall remain open for acceptance by you during the period of validity as mentioned in the Proposal or any extension thereof, (such extension shall always be deemed to have been made with free and due consent of the Bank and shall not be called into question by the Bank) and if the Bidder shall for any reason back out, whether expressly or impliedly, from his said proposal during the period of its validity or any extension thereof as aforesaid, we hereby guarantee to you the payment of the sum of Rs.....on demand, without demur, without any reference or recourse to the Bidder and notwithstanding the existence of any dispute between you or your authorized representative and the Bidder in this regard AND WE hereby further agree as follows:-

1. That you may without affecting the guarantee grant time or other indulgence to or negotiate further with the Bidder in regard to the conditions contained in the said Bid document and thereby modify, alter and vary these conditions or add thereto any further conditions as may be mutually agreed upon between you and the Bidder AND any such modification, alteration and variance shall always be deemed to have been made with the free and due consent of the Bank and shall not be called into question by the Bank.
2. That this guarantee shall not be affected by any change in the Constitution of the Bidder or any change in the Constitution of the Bank.
3. Notwithstanding the pendency of any settlement, conciliation, arbitration or any other mode of redressal of any dispute, divergence or difference of opinion between you and the Bidder the amount specified hereinabove shall be payable by the Bank on demand, without demur, without reference and without recourse to the Bidder.
4. That this guarantee shall be payable and encashable at branch, without demur, without reference or recourse to Bidder.
5. That this guarantee commences from the date hereof and shall remain in force till the Bidder, if his proposal is accepted by you, furnishes the security as required under the said specifications and executes a formal agreement as therein provided or till four months after the period of validity or the extended period of validity, as the case may be, of the proposal, whichever is earlier. It is emphasized that you will be the sole judge and authority to grant or not to grant such extension and such extension shall neither be called into question nor shall be disputed by the Bank.
6. That it is undertaken by the Bank consciously that payment under this guarantee shall be made by the Bank upon receipt of your first written demand signed by Authorized Signatory of UJVN Ltd declaring the Contractor to be in default under the Contract, without cavil or argument, any sum or sums as specified hereinabove without you need to prove or show grounds or reasons for such demand and without the right of the Contractor to dispute or question such demand.
7. That this guarantee shall be governed by the Laws of State of Uttarakhand/ India and that the jurisdiction of Courts, regarding any dispute in which this Bank Guarantee is in issue, shall exclusively lie at District Court of Dehradun or High Court of Uttarakhand at Nainital and jurisdiction of other Courts shall not lie.
8. Notwithstanding anything contained hereinabove, this guarantee shall be valid upto **six months** if not encashed by your before the said date or not extended further by the Bank.
9. That the expression "The Bidder" and the "Bank" and the "UJVN Ltd." Herein used shall, unless such interpretation is repugnant to the subject or context include their respective legal heirs, successor and executors, administrators and assignees.

The Bank Guarantee shall be checked through the BG message transferred by issuing Bank through SFMS to Punjab National Bank, xxxxxx Dist. Dehradun) Uttarakhand .IFSC Code: PUNBxxxxx and written confirmation with effect is issued by the Bank of Beneficiary.

Yours faithfully,

For Bank

Note: 1. (**) Employer may also present any of his demands at the counters of the..... *(Name and branch of the Bank in India)* for further relay to us.

(To be inserted in case of a foreign currency bank guarantee issued by an overseas bank outside India)

FORMAT-V**PROFORMA OF BANK GUARANTEE IN LIEU OF PERFORMANCE GUARANTEE**

TO

UJVN LTD

Sir,

WHEREAS by an Agreement No. Dated made between (1) M/s (hereinafter called the "the Contractor") and you, a Contract Valued at Rs. has been awarded by you to the Contractor and same has been unequivocally and unconditionally accepted by the Contractor for(Name of work)..... **(NIT no: xxxxxxxxxxxxxxxxx)**

AND WHEREAS in accordance with the clause of the said Contract the Contractor is desirous of furnishing a Bank Guarantee in the sum of Rs. Towards security deposit valid up to months beyond the date of completion of the work under the said contract.

AND WHEREAS WE (Name of the Bank) (Hereinafter referred to as the "Bank") a scheduled Bank, having its registered office at have at the request of the Contractor agreed to guarantee the payment of Rs. on demand and without demur towards security deposit being valid up to beyond the date of completion of the supply under the said contract.

NOW THEREFORE in consideration of the premises set forth hereinabove, WE the undersigned do hereby duly covenant on behalf of the Bank as herein below:

1. That the Bank hereby undertakes to pay to you on demand, without demur and without any recourse or reference to the Contractor, the sum of Rs. Immediately after the presentment of this Guarantee through your Engineer of the Contract.
2. That you may without affecting the guarantee grant time or other indulgence to or negotiate further with the Contractor in regard to the conditions contained in the said Contract document and thereby modify, alter and vary these conditions or add thereto any further conditions as may be mutually agreed upon between you and the Contractor AND any such modification, alteration and variance shall always be deemed to have been made with the free and due consent of the Bank and shall not be called into question by the Bank.
3. That you shall be the sole Judge as to whether the Contractor has committed the breach or breaches if any of the terms and conditions of the said contract and you shall be the sole judge of the extent of losses, damages, costs, charges and expenses caused to or suffered by or which may be caused to or suffered by you, from time to time and your demand in this regard shall be final conclusive, determinate and binding and shall not be called into question by the Bank.
4. That it shall not be open to Bank to know the reasons of, or to investigate or to go into the merits of the demand or to question or to challenge the demand or to know any facts affecting the demand to pay the sum demanded under clause : 1 hereinabove. It shall also not be open to the Bank to require proof of the liability of the Contractor to pay the amount, before paying the sum demanded under clause: 1 above.
5. This guarantee shall come into force immediately and continue in force and remain valid till **Six** months after the completion of all supply under the said Contract. However, if the period of completion of work under the said contract is extended and upon such extension if the Contractor fails, before the terms of the this guarantee expires, to furnish a fresh or renewed guarantee for the extended period the Bank shall pay you the said sum of Rs. on demand and without demur.
6. Notwithstanding the pendency of any settlement, conciliation, arbitration or any other mode of redressal of any dispute, divergence or difference of opinion between Nigam and the Contractor the amount specified hereinabove shall be payable by the Bank on demand, without demur, without reference and without recourse to the Contractor.
7. That this guarantee shall not be affected by any change in the Constitution of the Contractor or any change in the Constitution of the Bank.
8. That this guarantee shall be payable and encashable at at the branch of theBank without demur, without reference or recourse to Contractor.
9. That it is undertaken by the Bank consciously that payment under this guarantee shall be made by the Bank upon receipt of your first written demand signed by your Engineer of the Contract declaring the Contractor to be in default under the Contract, without cavil or argument, any sum or sums as specified hereinabove without you being required to prove or show grounds or reasons for such demand and without the right of the Contractor to dispute or question such demand.
10. That this guarantee shall be governed by the Laws of State of Uttarakhand/ India and that the jurisdiction of Courts, regarding any dispute in which this Bank Guarantee is in issue, shall exclusively lie at District Court of Dehradun or High Court of Uttarakhand at Nainital and jurisdiction of other Courts shall not lie.

11. Notwithstanding anything contained hereinabove, this guarantee shall be valid upto six months if not encashed by your before the said date or not extended further by the Bank.
12. That the expression the "Contractor" and the "Bank" and the "UJVN Ltd." Herein used shall, unless such interpretation is repugnant to the subject or context include their respective successor and assignees.

The Bank Guarantee shall be checked through the BG message transferred by issuing Bank through SFMS to Punjab National Bank, xxxx(Dist. xxxx) Uttarakhand . IFSC Code: PUNBxxxxxxx and written confirmation with effect is issued by the Bank of Beneficiary.

Yours faithfully,

For Bank

FORMAT-VI**PROFORMA OF TIME EXTENSION CASE**

S No	Particulars	Details
1	Name of work	
2	Agreement No & Date.	
3	Value of Agreement	
4	Name of contractor /Firm	
5	Date of Start as per Agreement	
6	Due date of completion as per Agreement	
7	Actual date of completion	
8	Date of application of Time extension from contractor	
9	Amount of work done upto date of application by Contractor in Rs and in %	
10	Date up to which extension already sanctioned already sanctioned, if any	
a)	First time Extension Sanctioned, if any	
b)	Second time Extension Sanctioned, if any	
11	Amount of work done up to last sanctioned extensions in Rs and in %	
12	Date upto which Time extension is demanded at present	
13	Justification in support of time extension	
14	No Claim certificate	

15. Brief particular of work to be executed during time extension

Value of work as per Agreement	Value of work executed during the period specified in the agreement.	Approx. Value of work to be executed during extension period.

16. Whether there will be any loss or financial liability arise to the Nigam
Due to proposed extension

(Signature of contractor)

FORMAT-VII**NO CLAIM CERTIFICATE**

It is to certify that grant of time Extension for the work "xxxxxxxxxxxxx" against Agg No...."xxxxxxxxxx" from "xxxxxxx" to "xxxxxx" shall not form basis of any extra claim what so ever the reason may be

Sign of Contractor

()

Name of Firm xxxxxxxxxxxxxxxxxxxxx

Note: As per clause 39.3 of GCC no claim due to time extension of the contract/work will be admissible.

FORMAT-VIII

BID CAPACITY {AS per ITT Clause 3.3(h)}							
Name of the Work :							
NIT No:							
Estimated Cost of tender: Rs.							
LIST OF EXISTING COMMITMENT AND ONGOING WORKS							
Sr. No.	Name of Works	Client Name & Address	Work Order Value (in Rs)	Work Executed till Date (Rs)	Balance Amount of work to be completed (Rs)	Balance period to complete the works (Total months)	Balance Amount of work to be completed during time of completion of work as specified in the NIT of UJVNL* (Rs)
1	2	3	4	5	6	7	8
	Balance Amount of work to be completed during time of completion of work as specified in the NIT of UJVNL*					Rs	
<p>It is certify that the above particulars furnished are true and correct. If any information given is found to be concealed at a later date, the Contract will be terminated forthwith without prejudice to the rights thereon consequent on termination and the bidder will be debarred for minimum one year. I/We agree for debarring tendering for one year if any facts are suppressed.</p>							
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">SIGN AND STAMP OF BIDDER</div> <div style="width: 45%; text-align: center;">COUNTER SIGN BY PROJECT MANAGER/ EXECUTIVE ENGINEER</div> </div>							

FORMAT JV-1**FORMAT FOR POWER OF ATTORNEY FOR AUTHORISED SIGNATORY OF JOINT VENTURE (JV) PARTNERS POWER OF ATTORNEY*(Not Applicable)**

(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the Power of Attorney.)

Know all men by these present, we do hereby constitute, appoint and authorize Mr/Ms.....who is presently employed with us and holding the position ofas our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the work of including signing and submission of all documents and providing information/ responses to UJVN Ltd representing us in all matters, dealing with UJVN Ltd in all matters in connection with our Tender for the said project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us. Dated this theday of.....20xx.

Signature of the attorney

Signature of the attorney is
attested

(Signature of authorized
signatory)

(by the authorised signatory of the company)
(Signature and Name in Block letters of
Signatory)

Seal of Company

Witness:

Witness 1:

Name :

Address :

Occupation :

Witness 2:

Name :

Address :

Occupation : Notes: i) To be executed by all the partners individually, in case of a Joint Venture.

ii) The made of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.

iii) In case of incorporated companies, the common seal of the company has to be embossed on all pages

FORMATJV-2**FORMAT FOR POWER OF ATTORNEY TO LEAD PARTNER OF JOINT VENTURE (JV)**

(To be executed on non-judicial stamp paper of the appropriate value in accordance with relevant stamp Act. The stamp paper to be in the name of the company who is issuing the Power of Attorney)

POWER OF ATTORNEY Whereas UJVN Ltd has invited Tender for the work of Whereas, the members of the Joint Venture comprising of M/s.....M/s.....and M/s....., are interested in submission of bid for the work(insert name of work..... in accordance with the terms and conditions contained in the bidding documents. Whereas, it is necessary for the members of the Joint Venture to designate one of them as the Lead Partner, with all necessary power and authority to do, for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture's bid for the project, as may be necessary in connection the Joint Venture's bid for the project. NOW THIS POWER OF ATTORNEY WITNESSETH THAT: We, M/s....., hereby designate M/s....., being one of the partners of the Joint Venture, as the lead partner of the Joint Venture, to do on behalf of the Joint Venture, all or any of the acts, deeds or things necessary or incidental to the Joint Venture's Tender for the contract, including submission of Tender, participating in conferences, responding to queries, submission of information/documents and generally to represent the Joint Venture in all its dealings with UJVN Ltd any other Government Agency or any person, in connection with the contract for the said work until culmination of the process of Tendering till the contract agreement is entered into with the UJVN Ltdl and thereafter till the defect liability period. We hereby agree to ratify all acts, deeds and things lawfully done by lead member, our said attorney pursuant to this power of attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/ Joint Venture. Dated this theday of.....20xx

Signature of the attorney

Signature of the attorney is attested

(by the authorised signatory of the company)

Notes:

- i) To be executed by all the partners individually, in case of a Joint Venture.
- ii) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure. iii) In case of incorporated companies, the common seal of the company has to be embossed on all pages.

(Name in Block letters of Executants)

Seal of Company

Witness 1:

Name :

Address :

Occupation :

Witness 2:

Name :

Address :

Occupation :

FORMAT JV-3

**DRAFT MEMORANDUM OF UNDERSTANDING (MOU) FOR JOINT VENTURE PARTICIPATION
BETWEEN**

M/s.....having its registered office at..... (hereafter referred to as) acting as the Lead Partner of the first part. And M/s.....having its registered office at.....(hereafter referred to as '.....') in the capacity of a Joint Partner of the other part. The expressions of.....andshall whatever the context admits, mean and include their respective legal representatives, successors-in-interest and assigns and shall collectively be referred to as "the Parties" and individually as "the Party" WHEREAS; UJVN Ltd (hereinafter referred to as "Client") has invited bids for.....(insert name of work)

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The following documents shall be deemed to form and be read and construed as an integral part of this MOU. i) Notice for bid, and ii) Tender document iii) Any Addendum / Corrigendum issued by (Southern Railway Mechanical organization) iv) The Tender submitted on our behalf jointly by the Lead partner.

2. The 'Parties' have studied the documents and have agreed to participate in submitting a 'Tender' jointly.

3. The name of the Joint Venture firm shall be

4. M/s..... shall be the lead member of the JV for all indents and purpose and shall represent the Joint Venture in its dealing with Client. For the purpose of submission of Tender proposals, the parties agree to nominate as the leader duly authorized to sign and submit all documents and subsequent clarifications, if any, to the Client. However, M/s..... shall not submit any such proposals, clarifications or commitments before securing the written clearance of the other partner which shall be expeditiously given by M/s..... to M/s.....

5. The 'Parties' have resolved that the distribution of share and responsibilities is as under:

a) Lead Partner share.....%;

Responsibilities . i).....

ii).....

iii).....

b) Joint Venture Partner's share.....%

Name.....

Responsibilities i).....

ii).....

iii).....

c) Joint Venture Partner's share.....%

Name.....

Responsibilities

i).....

ii).....

iii).....

6. JOINT AND SEPARATELY RESPONSIBILITY The Parties undertake that they shall be jointly and separately liable to the client in the discharge of all the obligations and liabilities as per the contract with the client and for the performance of contract awarded to their JV.

7. ASSIGNMENT AND THIRD PARTIES The parties shall co-operate throughout the entire period of this MOU on the basis of exclusively and neither of the parties shall make arrangement or enter into agreement either directly or indirectly with any other party or group of parties on matters relating to the Project except with prior written consent of the other party.

8. EXECUTIVE AUTHORITY The said Joint Venture through its authorized representative shall receive instructions, payments from the client. The management structure for the project shall be prepared by mutual consultations to enable completion of project to quality requirements within permitted cost and time.

9. **GUARANTEES AND BONDS** Till the award of the work, the lead partner shall furnish Earnest Money and all other bonds/guarantees to the Client on behalf of the Joint Venture, which shall be legally binding on all the partners of the Joint Venture.

10. **INDEMNITY** Each party hereto agrees to indemnify the other party against its respective parts in case of breach / default of the respective party of the contract works of any liabilities sustained by the Joint Venture.

11. For the execution of the respective portions of works, the parties shall make their own arrangements to bring the required finance, plants and equipment, materials, manpower and other resources.

12. **DOCUMENTS & CONFIDENTIALITY** Each party shall maintain in confidence and not use for any purpose related to the Project all commercial and technical information received or generated in the course of preparation and submission of the bid.

12. **DISPUTE AND ARBITRATION** Any dispute, controversy or claim arising out of or relating to this agreement shall be settled in the between the parties as per procedure laid in Clause -54 & 55 of GCC

13. **VALIDITY** This MOU/ JV Agreement shall remain in force till the occurrence of the earliest to occur of the following unless by mutual consent, the parties agree in writing to extend the validity for a further period.

a. The Tender submitted by the joint venture is declared unsuccessful, or

b. Cancellation / shelving of the project by the client for any reasons prior to award of work.

c. Execution of detailed JV agreement by the parties, setting out detailed terms after award of work by the client.

14. This MOU is drawn in.....number of copies with equal legal strength and status. One copy is held by M/s..... and the other by M/s..... & M/s..... and a copy submitted with the proposal.

15. This MOU shall be construed under the laws of India.

16. **NOTICES** Notice shall be given in writing by registered mail or commercial courier or Fax to the following Fax numbers and addresses.

Lead Partner

.....
(Name and Address)
Fax no:

Other Partner

.....
(Name and Address)
Fax no.....

IN WITNESS WHERE OF THE PARTES, have executed this MOU the day, month and year first before written.

M/s.....
.....
(Seal)

M/s.....
.....
(Seal)

Witness:

1..... (Name & Address)
2..... (Name & Address)

Advance Payment Security**PERFORMA OF BANK GUARANTEE TO RECEIVE ADVANCE PAYMENT**

To,

UJVN Ltd
"Ujjawal, Maharani Bagh, General Mahadev Singh Road,
Dehradun,

Sir,

WHEREAS M/s a Company within the meaning of the Companies ACT, 1956 having its registered office at (hereinafter called the "Contractor") has by a Deed of Agreement made on the..... Agreed with you, the Uttaranchal Jal Vidyut Nigam Ltd, to perform the Contract nodt..... in accordance with the terms, specifications and conditions contained therein.

AND WHEREAS the Contractor under the aforementioned Contract wishes to receive an advance payment for Rs. for which the contract requires him to obtain a guarantee, so that the advance payment made by you to the Contractor can be secured.

AND WHEREAS We..... (Name of the Bank) (hereinafter referred to as the "Bank") a nationalized Bank, having its registered office at have at the request of the Contractor agreed to guarantee the refund of the said advance for Rs..... to you on demand and without demur and also without recourse to the Contractor, immediately upon the presentment of your statement in writing, stating that.

- a- the Contractor has failed to repay the advance payment in accordance with the conditions of the Contract and
- b- the amount which the Contractor has failed to repay.

Notwithstanding anything contained hereinabove at (a) & (b) the veracity and bonafide of such a statement made by you shall not be called into question by the Bank by any mode.

AND WHEREAS you have agreed to make the said advance on the security cover provided by such Bank Guarantee.

NOW THEREFORE in consideration of the premises set forth hereinabove, We.....the undersigned do hereby duly covenant on behalf of the Bank as herein below:

- 1- That this guarantee shall become effective upon receipt of the first installment of the advance payment by the Contractor. Such guaranteed amount shall be reduced by the amount of the advance payment repaid to you. Your statement regarding such repayment shall be the sole, final, binding and conclusive evidence thereof and shall not be called into question by the Bank.
- 2- That you may, without affecting the guarantee, grant time or other indulgence to, or negotiate further with the Contractor in regard to the conditions contained in the said Contract document and thereby modify, alter and vary these conditions or add thereto any further conditions as may be mutually agreed upon between you and the Contractor AND any such modification, alteration and variance shall always be deemed to have been made with the free and due consent of the Bank and shall not be called into question by the Bank.
- 3- That this Bank Guarantee shall be honored for payment if presented before the expiration of contractual period or any extension thereof. You shall be the sole authority to extend the time of the Contractor on the request of the contractor and your authority in extending the time in relation to encashment of Bank Guarantee shall not be called into question by the Bank.
- 4- Notwithstanding the pendency of any settlement, conciliation, arbitration or any other mode of redressal of any dispute, divergence or difference of opinion between Nigam and the Contractor the amount specified hereinabove shall be payable by the Bank on demand, without demur, without reference and without recourse to the Contractor.
- 5- That the guarantee shall not be affected by any change in the Constitution of the Contractor or and change in the Constitution of the Bank.
- 6- That this guarantee shall be payable and encashable at Dehradun at the branch..... of the Bank at Dehradun, without demur, without reference or recourse to Contractor.
- 7- That it is undertaken by the Bank consciously that payment under this guarantee shall be made by the Bank upon receipt of your first written demand signed by your Engineer of the Section declaring the Contractor to be in default under the Contract, without cavil or argument, any sum or sums as specified

hereinabove without you being required to prove or show grounds or reasons for such demand and without the right of the Contractor to dispute or question such demand.

- 8- That this guarantee shall be governed by the Laws of State of Uttarakhand/India and that the jurisdiction of courts, regarding any dispute in which this Bank Guarantee is in issue, shall exclusively lie at District court of Dehradun or High Court of Uttarakhnad at Nainital and jurisdiction of other courts shall not lie.
- 9- Notwithstanding anything contained hereinabove, this guarantee shall be valid uptoif not encashed by you before the said date or not extended further by the Bank.
- 10- That the expression "Contractor" and the "Bank" and "UJVN Ltd." Herein used shall, unless such an interpretation is repugnant to the subject or context include their respective legal heirs, successors, executors, administrators and assignees.

Yours faithfully

For Bank

SECTION VII

BILL OF QUANTITIES

(Price bid shall be submitted as per attached online BOQ Separately in Part-II)

PART –II: FINANCIAL-BID**BILL OF QUANTITY***(This part shall be submitted On-Line as “Part-II FINANCIAL BID”)***Name of work:-**

Item no	Description of Item	Unit	Estimated Qty.	Unit Rate Quoted in Rs	Quoted Amount
1					
2					
3					
4					
5					
6					
7					
	Total				

Signature of contractor

OIT

SECTION VIII

TECHNICAL SPECIFICATIONS

(Technical specification is as per prevailing IS Codes / CPWD guidelines and is available on UJVNL website i.e. www.ujvnl.com. The specifications of works which are not included in website are included in this section)

SECTION IX

Safety Manual

(All safety norms as mentioned in Clause 23.6 of General Conditions of Contract shall be strictly adhered to during actual execution of the Works)

SECTION X

DRAWINGS AND LAYOUT

(The drawing and layout annexed with tender document are merely for the purpose to assess the rates for bidding. During execution of work separate drawing shall be issued)