

# BID DOCUMENT

For

**Development of IT Infrastructure (HMIS, PACS,  
LAN, EMS, LMS & QMS) for Kalpana Chawla  
Govt. Medical College & Hospital, Karnal,  
Haryana**

VOLUME – III

Specific Conditions of Contract

**August - 2015**



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Tender No: - HSCC/KCGMC/IT/2015/02

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## **SPECIFIC CONDITIONS OF CONTRACT (SCC)**

### **1. Definitions and Interpretation**

In construing these conditions, the specifications, Bill of Quantities and Contract agreement etc the following words and expression shall have the meaning herein assigned to them except where the subject and context otherwise require.

- (a) "Act of Insolvency" shall mean any Act of Insolvency as defined by the Presidency Towns Insolvency Act or Provincial Insolvency Act or any Act amending such original.
- (b) "Approved" means approved in writing, including subsequent written information of previous verbal approval and "approval" means approval in writing, including as aforesaid.
- (c) "As directed" means the direction given by the Engineer In-Charge/Client/Consultant.
- (d) "Bill of Quantities" or "Schedule of items" means the schedule and quantities of items, materials and rates, summaries etc. priced and completed and as finally accepted.
- (e) "Consultant" shall mean consultant appointed by the Client HSCC (India) Ltd., having its corporate office at E-6(A), Sector 1, Noida UP-201301 has been appointed as Consultant for this project. The Consultant shall also have its office at the site. The word "Consultant" is synonymous with "Project Consultant".
- (f) "Day" means a calendar day of 24 hours (beginning and ending at 00 hrs and 24 hrs respectively) irrespective of number of hours worked or not worked in that day.
- (g) "Drawings" means the drawings prepared and issued by the Consultant and referred to in the tender and specifications and any modification of such drawings and such other drawings, calculations and technical information of a like nature as may, from time to time, be issued by the Consultant.
- (h) "I.S." means latest revision of 'Indian Standards Specification' issued by Bureau of Indian Standards.
- (i) "Month" means calendar month without regard to the number of days worked or not worked in that month.
- (j) "Net Prices": If in arriving at the contract amount or contract sum, the Agency/firm shall have added or deducted from the total amount of the items in the Tender any sum, either as a percentage or otherwise, then the net price of any item in the tender shall be the sum arrived at by adding to or deducting from the actual figure appearing in the Tender as the price of that item and similar

percentage or proportionate sum provided always that in determining the percentage or proportion of the sum so added or deducted by the Agency/firm, the total amount of any Prime cost items and provisional sums of money shall be deducted from the total amount of the tender. The expression “net rates” or “net prices” when used with reference to the contract or accounts shall be held to mean rates or prices so arrived at.

- (k) “Notice in writing” or “written notice” shall mean notice in written, typed or printed characters, sent (unless delivered personally or otherwise proved to have been received) by registered post to the site office/ last known private or business address or registered office of the addressee and shall be deemed to have been received when in the ordinary course of post it would have been delivered.
- (l) “Specifications” means the specification included and / or referred to in the Tender document and any modification thereof or addition thereto as may from time to time be issued to the Agency/firm.
- (m) “Temporary Works” means all temporary works of every kind required in or about the execution and completion or maintenance of the Works and the remedying of any defects therein.
- (n) “Urgent Works” means any urgent works which in the opinion of the Client and/or Consultant becomes 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 of services or required to accelerate the progress of the work for which becomes necessary for safety and security or for any other reason the Client and or Consultant may find it necessary.
- (o) “Week” means seven calendar days without regard to the number of hours worked or not worked in any day in that week.
- (p) Words imparting the signal only also include the plural and vice versa where the context requires.
- (q) The “Engineer-in-charge” or “Engineer” “Engineer in Charge”(EIC) means officer nominated by Chairman-cum-Managing Director, HSCC (India) Ltd. to act as Engineer-in-Charge from time to time who shall supervise and be in charge of the work.
- (r) Client/ Principal Employer/ Employer shall mean Director General, Medical Education and Research, Government of Haryana, Panchkula, as defined in Volume – II General Conditions of Contract of the tender documents.

The headings, subheadings and marginal notes (if any) and the catch lines and the Annexure hereto are meant only for convenience of reference and shall not be in any way be taken into account in the interpretation of these presents and the Annexure hereto. The Agency/firm shall have to carry out and complete the works in every respect in accordance with this contract.

## **2. Languages, Law & Jurisdiction**

The ruling language in which the Contract and related aspects shall be drawn up shall be English only. The contract its meaning and interpretation & relationship between the parties shall be governed by Laws of India and as applicable to site of work. Notwithstanding any other Court/ Courts having jurisdiction to decided the question(s) forming the subject matter of the reference, if the same had been the subject matter of a suit any and all actions and proceeding arising out of or in relation to the Contract (including any arbitration in terms threerof) shall lie only in the Court of Competent Civil Jurisdiction at Delhi and only the said Court(s) shall have jurisdiction of entertain and try any such action(s) and / or proceeding(s) to the exclusion of all other Courts.

## **3. Errors, Omissions and Discrepancies.**

- (a) In case of errors, omissions and /or disagreement between written and scaled dimensions on the drawings or between the drawings and specifications, etc. the following order of precedence shall apply:
- i. Between scaled and written dimension (or description) on drawing, written dimension shall be adopted.
  - ii. Between the written or shown description or dimensions in the drawings and the corresponding one in the specification, the former shall be taken as correct.
  - iii. Between the written description of the item in the specifications and descriptions in the Bill of Quantities of the same item, the latter shall be adopted.
- (b) Between the duplicate/subsequent copies of the tender and original tender, the original tender shall be taken as correct.
- (c) The several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguity or discrepancies in conditions or specifications the same shall be explained and adjusted by Engineer-in-charge. In case the Agency/firm does not agree with the explanation given by the Engineer-in-charge, then the matter, on his written notice, will be referred to the Client and his decision shall be final and binding to the agency/firm.
- (d) In all cases of omissions and /or doubts or discrepancies in any of the items or specifications, a reference shall be made to the Engineer-in-Charge. Elucidation, elaboration or decision of the Engineer-in-charge shall be considered as authentic. The Agency/firm shall be held responsible for any error that may occur in the work through lack of such reference and precaution.

## **4. Scope of Contract**

Establishment of Hospital Management & Information System, PACS and Local Area Network (LAN) For Kalpana Chawla Govt. Medical College (KCGMC), Karnal, Haryana and Comprehensive Maintenance of entire System for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Years.

## **5. Disruption of Progress**

- (a) The agency/firm shall give adequate but not less than 4 weeks written notice to the Engineer-in-charge whenever planning or progress of the Works is likely to be delayed or disrupted unless any further drawing or order, including a direction, instruction or approval, is required to be issued by the Consultant. The notice shall include details of the drawing or order required explaining why and by when it is required and of any delay or disruption likely to be suffered if it is late.
- (b) If by reason of any failure or inability of the Consultant to issue within 4 weeks any drawing or instruction for which notice has been given by the agency/firm in accordance with Sub-clause 1) and the agency/firm suffers delay, then the Engineer-in-charge, shall on the request of the Agency/firm recommend to the Client any extension of time under respective clause. Notwithstanding anything stated above, the Agency/firm shall not be eligible for any financial compensation arising out of the above.

## **6. Further Drawings and Instructions**

The agency/firm shall carry out and complete the said work in every respect in accordance with this Contract and with the directions of and to the satisfaction of the Consultant. The Consultant may in his absolute discretion and from time to time further issue drawings and/or written instructions, details, directions and explanations, which are hereafter collectively referred to as "Consultant's Instructions" in regard to:

- (a) The variation or modification of the design, quality or quantity of items of works or the addition or omissions or substitution of any item.
- (b) Any discrepancy in the drawings or between the bill of quantities and/or drawings and/or specification.
- (c) The removal from the site of any material brought thereon by the agency/firm and the substitution of any other material therefore.
- (d) The removal and/or re-execution of any works executed by the agency/firm.
- (e) The amending and making good of any defects under clause thereof.

The agency/firm shall forthwith comply with and duly execute any work comprised such as Consultant's instructions provided always that verbal instructions, directions and explanations given to the agency/firm or his representative upon the works by the Consultant, shall, if involving a variation, be confirmed in writing by the Agency/firm within seven days, and if not dissented from in writing within a further seven days by the Consultant, such shall be deemed to be Consultant's instructions within the scope of the contract

## **7. Programme of Work and Progress Report**

The Agency/firm shall submit to the Engineer within two weeks of the Award of the Contract, six copies of detailed Schedule showing in an approved form the estimated dates of commencement and completion of different parts of the Works including the expected dates for completion of the various Sections of the Works. The detailed Schedule shall be such as it can be updated quarterly or as directed by the Engineer. Six copies of the revised Schedule shall be supplied to the Engineer as and when it is

revised. The Agency/firm shall submit to the Engineer before the second day of every week, a progress report for the preceding week showing the upto date progress and progress during the preceding week on all items of each section of the Works in relation to and in consideration of the detailed Schedule.

## **8. Agency/firm's General Responsibilities**

### **(a) Execution of works:**

The agency/firm shall, subject to the provisions of the Contract, and with due care and diligence, execute and complete the Works & remedy any defects therein in accordance with the Contract. The agency/firm shall provide all man power, including the supervision thereof, items, tools and all other things, required in and for such execution, completion, maintenance and remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract.

If the agency/firm finds any discrepancy in the drawings or between the drawings, bill of quantities and specifications, he shall immediately and in writing refer the same to the Consultant who shall decide which is to be followed

**The successful agency/firm is bound to carry out any items of work necessary for the completion of the job even though such items are not included in the bill of quantities and rates instructions in respect of such additional items and their quantities will be issued in writing by the Consultant.**

The Agency/firm must bear in mind that all the work shall be carried out strictly in accordance with the specifications as given in these documents and also in compliance of the requirements of the local public authorities and to the requirements / satisfaction / direction of the Consultant/ Engineer-in-charge and no deviation of any account will be permitted.

The agency/firm shall have to use items from the makes / manufacturers specified in the list of items of approved brand and/or manufacture contained in the contract documents and as approved by the Consultant. Wherever different pattern/ Design/ Quality of items with same specification/ make as specified in the contract, is available in the market, Consultant/Engineer-in-Charge will approve the pattern/ Design/ Quality of the item which shall be final and binding on the agency/firm.

The Consultant is empowered to cancel an approval of items if subsequently it is found that approved item once brought at site and tested does not meet the requirement as specified in the contract. In such case the Consultant will accord approval of alternate item.

### **(b) Adequacy, stability and safety:**

The Agency/firm shall take full responsibility for the adequacy, stability and safety of all site operations.

## 9. Care of Works

From the commencement to the certified completion of the whole of works, the agency/firm shall take full responsibility for the care thereof and of all works and in case any damage loss or injury shall happen to the works or to any part thereof or to any works from any cause whatsoever save and except the expected risks as defined in sub-clauses of Clause 10.

The agency/firm shall at his own cost repair and make good the same so that on completion, the works shall be in good order and condition and conformity to every respect with the requirements of the contract and Engineer-in-charge's instructions. The agency/firm shall also be liable for any damage to the works occasioned by him including his sub agency/firms in the course of any operations carried out by him for the purpose of completing any outstanding work and complying with his obligations under clause 27 hereof. The agency/firm shall indemnify the Employer from all risks on this account.

## 10. Expected Risks & Force Majeure

### (a) Expected Risks

The "expected risks" are war, hostilities (whether war declared or not), invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, or (unless solely restricted to the Agency/firm or of his sub-Agency/firms and arising from the conduct of, their workmen) riot, commotion or disorder or radiation or contamination by radio-activity and other hazardous properties of any explosive, nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive, nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds, or any such operation of the forces of nature as an experienced agency/firm could not foresee, or reasonably make provision for on insure against all of which are herein collectively referred to as "the expected risk"

### (b) Force Majeure

- i) Any failure or delay in the performance by either party hereto of its obligations under his Contract shall not constitute a breach thereof or give rise to any claims for damages if, and to the extent that it is caused by occurrences beyond the control of the party affected, namely, acts of God, floods, explosions, wars, riots, storms, earthquakes, insurrection, epidemic or other natural disasters. The party so affected shall continue to take all actions reasonably within its power to comply as far as possible with its obligations under this Contract. The affected party shall promptly notify the other party after the occurrence of the relevant event and shall use every reasonable effort to minimize the effects of such event and act in all good faith with due care and diligence.
- ii) In the event of the effect of force majeure continuing beyond the period of One hundred and eighty (180) days, the parties shall mutually decide whether or not to terminate this Contract. In the event of termination of contract the agency/firm shall be paid for the work done and which has



been accepted and certified by the Consultant and shall not assert any additional claims against the Client.

## **11. Agency/firm's Superintendence**

- (a) The agency/firm shall be solely responsible for the means, methods, techniques sequence and procedure of execution of work. The Agency/firm shall be responsible to see the completed work complies accurately with the Contract Document.

The Agency/firm shall give or provide all necessary superintendence during the execution of the Works.

- (b) Agency/firm's Senior Representative for Execution & Coordination of Works  
The Agency/firm shall have on site all times during working hours throughout the course of the Contract or at least one Competent senior representative who shall be empowered to make decisions binding on the Agency/firm in respect of all matters likely to arise in connection with the execution & coordination of the works at the site and shall keep the Engineer-in-charge/Consultant informed at all times about the name and designation of such representative. Agency/firm's Senior Representative shall have the power to take joint measurement and sign the measurement books / bills. Any direction, explanations, instructions or notices given by the Consultant/Engineer-in-charge/third party to such representative shall be held to be given to the Agency/firm. In case of absence of Senior Representative from the site, other alternative representative must be available at site with same powers.

- (c) Agency/firm's Employees  
The Agency/firm shall provide and employ, after approval from the Consultant/Engineer-in-charge on the site in connection with the execution, completion of works and remedying any defects therein all Engineering staff / technical assistants are qualified, skilled and experienced in their respective trades, foremen and leading hands as are component to give proper supervision, ensuring quality & output to the work they are required to supervise, and also such skilled, semi-skilled and unskilled labour as are necessary for the proper and timely execution, completion of work and remedying and defects in the works. No child labour shall be employed on the work. All the skilled semi-skilled and unskilled labour shall work under the sole guidance of the agency/firm's senior representative.

- (d) Removal of Agency/firm's Employees  
The Agency/firm shall on the direction of the Consultant/Engineer-in-Charge immediately dismiss from the works any person employed thereon by him who may, in the opinion of the Consultant/ Engineer-in-Charge be incompetent or misconduct himself and such person shall not be again employed on the works without the permission of the Engineer-in-charge/Consultant.

- (e) Unauthorized Persons  
No unauthorized persons are allowed on the site. The Agency/firm shall instruct all such persons to keep out and shall take steps to prevent trespassing. However the agency/firm will make sure to provide free access at any time for Engineer-in-charge/Client/Consultant to the site and other working places.

## **12. Compliance with Statutes, Regulations, Etc.**

The agency/firm shall conform to the provisions of any statute, ordinance, law, act of the legislature relating to the works, and to the regulations and by-laws of any local or other duly constituted authority and of any water, electric supply and other companies and/or authorities with whose systems the structure is proposed to be connected. The agency/firm shall keep the Client/Engineer-in-charge/Consultant indemnified against all fines or penalties or liability of every kind for breach of any such statutory ordinance, law act of the legislation, regulations, and byelaws as aforesaid.

The agency/firm shall before making any variations from the drawings or specifications that may be necessitated by so regulations, give to the Engineer-in-charge written notice, specifying the variation proposed to be made and the reasons for making it and apply for instructions thereon. The agency/firm will not execute any work without written permission from the Engineer-in-charge/Consultant.

The agency/firm shall bring to the attention of the Engineer-in-charge/Consultant all notices required for execution by the said acts, regulations or bye-laws to be given to any authority and pay to such authority, or to any public office all fees that may be properly chargeable in respect of the works, and lodge the receipts with the Engineer-in-charge/Consultant.

## **13. Setting out**

The agency/firm shall be responsible for the true and proper setting-out of the Works in relation to original points or reference issued by Engineer-in-charge/Consultant in drawing or in writing and for the correctness, subject as above mentioned, of the position, levels, dimensions and alignment of all parts of works and for the provision of all necessary instruments, appliances and labour in connection therewith. If, at any time during the progress of the works, and during defects liability period, any error shall appear or arise in the position, levels, dimensions or alignment of any part of the Works, the agency/firm, on being required to do by the Engineer-in-charge/Consultant and / or Client or his authorised representative shall at his own cost, rectify such error to the satisfaction of the Engineer-in-charge. The checking of any setting out or of any line or level by the Consultant shall not in any way relieve the Agency/firm of his responsibility for the correctness thereof. The agency/firm shall carefully protect and preserve the benchmarks; sight-rails, pegs and other things used in setting-out the Works. Any rectification works required should be done by the Agency/firm at his own cost.

## **14. Quality of Materials, Workmanship and Test**

- (a) All items and workmanship shall be the best of the respective kinds described in the Contract and in accordance with the Engineer-in-charge/Consultant's instructions and shall be subjected from time to time to such tests as the Consultant may direct at the place of manufacture or fabrication or on the Site or at an approved testing laboratory. The source of supply and / or manufacturing within/ out side India may be inspected by the Engineer-in-charge/Consultant/ any representative as nominated by the client. The expenditure on this account is deemed to be included in the rate quoted.

The agency/firm shall upon the instruction of the Consultant's representative furnish him with documentation to prove that the items comply with the requirements of contract and for requirement stated above. The Consultant may issue instruction in regard to removal of items from site or any work, if these are not in accordance with the contract. The agency/firm shall provide such assistance instruments, machinery, labour and items as are normally required for examining, measuring, sampling and testing and material or part of work before incorporation in the works for testing as may be selected and required by the Consultant.

The Engineer-in-charge/Consultant may carry out Third Party Quality Assurance/Audit by an independent agency/ individual/firm/institute at any time. The agency will be permitted and offered all support related to site inspection by the Agency/firm. Suggestions therein will be carried out without any extra cost.

(b) Cost of Tests

The cost of making any test shall be borne by the agency/firm as intended by or provided for the Contract or as found necessary by the Engineer-in-charge/Consultant for ascertaining whether the quality of items intended to be used by the agency/firm in the Works is acceptable, whether any finished or partially finished work is appropriate for the purposes which it was intended to fulfill.

(c) Standards and codes

The agency/firm shall at his cost provide one set of approved standards and codes to which the Proposed materials, items and works to be executed shall conform. Such a set shall be handed over to Engineer-in-charge/Consultant for ready reference. All materials, items and works, when submitted for approval shall have reference of Tender Specifications and drawings and of clauses of relevant standard codes for acceptance criteria.

**15. Absence of Specifications**

If the specifications do not contain particulars of materials and works which are obviously necessary for the proper completion of the works, and the intention to include, which is inferred, all such materials and works shall be supplied and executed by the Agency/firm without extra charge. If the Agency/firm requires additional information, he shall, in pursuance of Clause 2 hereof, so request in writing well in advance to commencement of the particular work to the Consultant who will issue such detailed information within a reasonable time.

**16. Obtaining Information's related to Execution of work**

No claim by the agency/firm for additional payment will be entertained which in consequent upon failure on his part to obtain correct information as to any matter affecting the execution of the works, nor will any misunderstandings or the obtaining of incorrect information or the failure to obtain information relieve him from any risks or from the entire responsibility for the fulfillment of the contract.

## **17. Access for Inspection**

Persons nominated by Engineer-in-charge/Consultant shall at all reasonable times have free access to work and/ or to the site where items are store or from which they are being obtained and the Agency/firm shall extend necessary service to Engineer-in-charge/Consultant and their representatives every facility necessary for checking measurements, inspection and examination and test of the materials and workmanship.

## **18. Assignment**

The agency/firm shall not, without the prior consent of the Engineer-in-charge assign the Contract or any part thereof, or any benefit or interest therein or there under, otherwise than by:

- A change in favour of the Agency/firm's bankers of any moneys due or to become due under the Contract, or
- Assignment to the Agency/firm's insurers (in case where the insurers have discharged the Agency/firm's loss or liability) of the Agency/firm's right to obtain relief against any other party liable.

The Agency/firm shall not sub-contract the whole of the Works. The agency/firm shall not subcontract any part of the Works without the prior consent of the Engineer-in-charge/Consultant, except where otherwise provided by the Contract. Any such consent shall not relieve the Agency/firm from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any Sub agency/firm, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Agency/firm, his agents, servants or workmen. Such Permission may be granted only for the specialized work etc and the decision of Engineer-in-charge/Consultant shall be final.

## **19. Claims**

The agency/firm shall send to the Engineer-in-charge once in a month an account giving particulars as complete and fully detailed as required of all claims for any additional payments, to which the agency/firm may consider himself entitled and of all extra or additional / substituted work ordered by the Consultant which he has executed during the preceding month subject to provisions under relevant clauses of contract hereof.

## **20. Variations**

- (a) The Consultant shall make a variation in the form, quality or quantity of the works or any part thereof that may be necessary and for that purpose or if for any other reason it shall, in his opinion be desirable, he shall order the agency/firm to do and the agency/firm shall do any of the following:
- i) Increase or decrease the quantity of any work included in the contract
  - ii) Change the character or quality or kind of any such work
  - iii) Execute additional work of any kind necessary for the completion of the works.

- iv) Change any specified sequence or timing of construction of any part of the work.

No such variation shall in any way vitiate or invalidate the contract, but the cost, if any, of all such variations shall be taken in account for payment to the agency/firm as an addition or adjustment to the amount of the contract sum. Provided that where the issue of instruction to vary the works is necessitated by some default or breach by the agency/firm or for which he is responsible, any additional cost attributable to such default or breach shall be borne by the agency/firm.

- b) The Consultant Shall omit any component from scope of works that may be necessary and for that purpose or if for any other reason it shall, in his opinion be desirable and shall issue such instructions to the agency/firm. The agency/firm shall do the same without in any way vitiate or invalidate the contract. Any cost attributable to above shall be borne by the Agency/firm.

- c) Orders for variation to be in writing

The agency/firm shall make no such variations without an order in writing by the Consultant, provided that no order in writing shall be required for increase up to 02% or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this Clause, but is the result of the quantities exceeding or being less than those stated in the schedule of items.

## **21. Virtual Completion Certificate**

When the whole of the Works have been substantially and virtually completed and have satisfactorily passed any final test that may be prescribed by the Contract:-

- (a) The Agency/firm shall give a notice to that effect to the Consultant accompanied by an undertaking to finish any outstanding work during the Defects Liability Period. Such notice and undertaking shall be in writing and shall be deemed to be a request by the Agency/firm.
- (b) The Consultant shall review whether the works are completed in such a condition so as to be put to its proper or other intended final use and / or occupied without any short comings and no major or minor items of works are remaining which in the opinion of the Consultant will cause undue difficulties in satisfactory use/ occupation of the Works

## **22. Defect after completion**

Any defect or faults which any appear within the “Defects Liability Period” arising in the opinion of the Engineer-in-charge/Consultant from items or workmanship not in accordance with the contract, shall upon the direction in writing of the Engineer-in-charge/Consultant / Authorized representative of the Client, and within such reasonable time as shall be specified therein, be amended and made good by the agency/firm, at his own cost and in case of default, the Engineer-in-charge/Consultant/Client may employ and pay other persons to amend and make good such defects, faults and all damages,

loss and expenses consequent thereon or incidental thereto shall be made good and borne by the agency/firm and such damage, loss and expenses shall be recoverable from the bills due or may be deducted from any money due to that may become due to the agency/firm, or the may in lieu of such amending and making good by the agency/firm deduct from any monies due to the agency/firm, a sum, to be determined by the Engineer-in-charge. If no amount is available with the Department, the Department may recover from the dues of another government department.

Any defects, or faults which may appear or be noticed within the defect liability period, and arising in the opinion of the Engineer-in-charge/Consultant from materials or workmanship not having in accordance with the contract, shall upon the direction in writing of the Engineer-in-charge's/Consultant's representative and within such reasonable time as shall be specified therein and without any delay, be amended and made good or replaced by the agency/firm at his own cost.

All such works shall be carried out by the agency/firm at his own expense if the necessity thereof shall, in the opinion of the Engineer-in-charge/Consultant, be due to the use of materials or workmanship not in accordance with the Contract, or due to neglect or failure on the part of the agency/firm to comply with any obligation, expressed or implied, on the agency/firm's part under the Contract.

During the defects liability period the agency/firm shall retain at least one of his authorized representative at site along with required manpower.

## **23. Approval and acceptance**

### **(a) Provisional Acceptance**

The work shall be deemed to have been provisionally accepted after fulfillment of all the following by the Agency/firm.

- i). Submitting As-Built Drawings, Catalogues, Brochures, and Data Sheets, manuals in the form as directed by Engineer in Charge
- ii). Obtaining Certificate of Completion from the Engineer-in-charge

### **(b) Certificate of Final Completion**

The contract shall not be considered as completed until a Certificate of Final Completion shall have been issued by the Engineer-in-charge stating that the Works have been completed to their satisfaction and remedying / rectifying of defects have been satisfactorily performed.

The Engineer-in-charge shall give the Certificate for Final Completion:

- Twenty-eight days after the expiration of the Defects Liability Period OR
- If different Defect Liability Periods shall become applicable to different sections or parts of the Works, the expiration of the latest of such period OR
- As soon thereafter as any works ordered during such period shall have been completed to the satisfaction of the Client.

Provided always that the issue of the Certificate of Final Completion shall be a condition precedent to payment or return to the Agency/firm the Performance security in accordance with the conditions set out in the contract.

- (c) Following approvals may be obtain from client for related work of this project:-
- i) Acceptance of all the items supplied at site as per the contract.
  - ii) Acceptance of user requirement, User Acceptance Test, Final Acceptance Test for application system.
  - iii) For jointly inspection done by HSCC, Agency and Client/Third Party.
  - iv) Handing over/Taking over the system (Hardware, Software, Application Software and other items).
- Any other approval which should be required in interest of the execution of the project work.

#### **24. Works by Other Agencies**

The Client/ Engineer-in-charge/Consultant reserves the right to use premises and any portion of the site for the execution of any work not included in this contract which it may desire to have carried out by other persons simultaneously, and the agency/firm shall allow the reasonable facilities for the execution of such work. Such work shall be carried out in such manner as not to impede the progress of the works included in the contract and the agency/firm shall not be responsible for any damage or delay which may happen to or occasioned by such work.

#### **25. Billing & Certification**

- a) The agency/firm shall submit to the Engineer after the end of each month a detailed statement including measurements showing the estimated contract value of the Permanent Works executed up to the end of the month together with particulars of other amounts to which he is entitled under the Contract.
- b) The statement shall be submitted on a printed proforma (Prepared at the cost of the Agency/firm) approved by the Engineer along with soft copy of the same in a CD/Pen drive.
- c) Payment against each R/A bills upon each of the Engineer's certificates shall be made by the HSCC (I) Ltd. acting for and on behalf of Employer or by the Employer directly within 30 working days after such certificate has been issued by the Engineer.
- d) The Engineer may at any time make any corrections or modifications to any certificate, which shall have been issued by him and shall have power to withhold any certificate if the Works or any parts thereof are not being carried out to his satisfaction.
- e) The responsibility for making the payments or meeting other obligations to the Agency/firm in respect of all Works as certified by the Engineer shall be that of the Employer and not of the Engineer.

- f) After completion of work and prior to final payment, the agency/ firm shall furnish to the engineer, a release of claim against the Employer arising out of contract, other than claims specifically identified, evaluated and excepted from the operation of the release by agency/firm.
- g) Monthly/stage bill not submitted in approved formats will not be accepted.

**26. Payments to Specialized agencies in Composite Contracts**

In case of composite tenders, running payment for all the works shall be made by Engineer to the agency/firm.

In case agency/firm fails to make the payment to the specialized agency(s) associated by him within 15 days of receipt of each running account payment, then on the written complaint of the specialized agency associated for such specialized work, Engineer shall serve the show cause to the agency/firm and if reply of agency/firm either not received or found unsatisfactory, Engineer may make the payment directly to the specialized agency(s) associated for specialized work as per the terms and conditions of the agreement drawn between agency/firm and specialized agency(s) approved by Engineer. Such payment made to the specialized agency(s) shall be recovered by Engineer from the next RA/ final bill due to agency/firm as the case may be.

**27. Urgent Repairs**

If, by reason of any accident, or failure, or other event occurring to or in connection with the works, or any part thereof, either during the execution of the works, or during period of Defects Liability any remedial or other work or repair, shall, in the opinion of the Engineer-in-charge/Consultant/Client be urgently necessary for the safety of the Works and the Agency/firm is unable or unwilling at once to do such work or repair, the Engineer-in-charge/Consultant may employ and pay other persons to carry out such work or repair as the case may be and may consider necessary. If the work or repair so done by the other agency is the work which, in the opinion of the Engineer-in-charge/Consultant the Agency/firm was liable to do at his own expense under the Contract, all expenses incurred by Other agency in so doing shall be recoverable from the Agency/firm by the Engineer-in-charge/Consultant, or may be deducted by the Engineer-in-charge/Consultant from any monies due or which may become due to Agency/firm.

**28. Operations and Maintenance Manual**

The Agency/firm shall also provide and submit to the Engineer-in-charge/Consultant with two copies in a durable plastic case of the operating and Maintenance Instruction Manuals as may be applicable for the works. The arrangement of these manuals shall be as follows:



- SECTION A: Index
- SECTION B: Full set of Indexed Photographs showing all salient features of the Project.
- SECTION C: Description and details of items used for the project along with Catalogues & Addresses of the Suppliers.
- SECTION D: Planned maintenance instruction and dates for order replacements.
- SECTION E: List of recommended Spare parts of consumables.
- SECTION F: List of "As-Built" Drawings

Until the Record Drawings, prints, transparencies and manuals referred to above have been received and approved by the Consultant, Contract shall not be considered as complete and payment of monies will be withheld until such drawings, etc. have been submitted to and approved by the Consultant and the cost of providing such records including proper submission thereof is deemed to be included in the Contract Sum quoted by the Agency/firm.

## 29. Insurance Policies

### Employer's Risks

#### 29.1.1 The Employer's risks are:

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

- (A) prevent loss or damage to physical property from occurring by taking appropriate measures, or
- (B) insure against.

### **29.1.2 Insurance of Works and Agency/firm's Equipment**

The Agency/firm shall, without limiting his or the Employer's obligations and responsibilities under Clause 29.1.1 insure:

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

The insurance under clause 29.1.2 shall be issued by an insurance company which has been determined by the agency/firm to be acceptable to the Consultant.

### **29.1.3 Scope of Cover**

The insurance in paragraphs (a) and (b) of Sub-Clause 29.1.2 shall be in the joint names of the Agency/firm and the **Employer** and shall cover:

- (a) the **Employer** and the Agency/firm against all loss or damage from whatsoever cause arising (including natural calamities, earthquake, subsidence, landslide, rock slide, flood, storm, cyclone, fire, theft, burglary, strike, riot, sabotage, terrorism), other than as provided in Sub-Clause 29.1.5, from the commencement date until the date of issue of the relevant Taking-Over Certificate in respect of the Works or any Section or part thereof as the case may be, and
- (b) the Agency/firm for his liability:
  - (i) during the Defects Liability Period for loss or damage arising from a cause occurring prior to the commencement of the Defects Liability Period, and
  - (ii) for loss or damage occasioned by the Agency/firm in the course of any operations carried out by him for the purpose of complying with his obligations under Clauses 26 aforesaid.

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

### **29.1.4 Responsibility for Amounts not Recovered**

Any amounts not insured or not recovered from the insurers shall be borne by the **Employer** or the Agency/firm in accordance with their responsibilities Clause 29.1.1.

#### 29.1.5 Exclusions

There shall be no obligation for the insurance in Sub-Clause 29.1.2 to include loss or damage caused by the risks listed under sub clause 29.1.1 para a (i) to (iv).

If the Agency/firm receives instructions from the **Employer** to insure against War Risk, such insurance if normally available shall be effected, at the cost of the **Employer**, with an Insurance Company acceptable to the Consultant and shall be in the joint names of the agency/firm and the **Employer**.

#### 29.2.1 Damage to Persons and Property

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

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

Which may arise out of or in consequence of the execution and completion of the Works and the remedying of any defects therein, and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, subject to the exceptions defined in Sub-Clause-29.2.2.

#### 29.2.2 Exceptions

The "exceptions" referred to in Sub-Clause 29.2.1 are:

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

#### 29.2.3 Indemnity by Employer

The **Employer** shall indemnify the Agency/firm against all claims, proceedings, damages, costs, charges and expenses in respect of the matters referred to in the exceptions defined in Sub-Clause 29.2.2.

- 29.3.1 Third Party Insurance (Including Employer's Property)**  
The Agency/firm shall, without limiting his or the **Employer's** obligations and responsibilities under Clause 29.2.1 to 29.2.3, insure, in the joint names of the Agency/firm and the **Employer**, against liabilities for death of or injury to any person (other than as provided in Clause 29.4.1 to 29.4.2 or loss of or damage to any property (other than the Works) arising out of the performance of the Contract other than the exceptions defined in paragraphs (a), (b) and (c) of Sub-Clause 29.2.2.
- 29.3.2 Minimum Amount of Insurance**  
Such insurance shall be for at least the amount stated in Clause 29.1.2 above.
- 29.3.3 Cross Liabilities**  
The insurance policy shall include a cross liability clause such that the insurance shall apply to the Agency/firm and to the **Employer** as separate insured.
- 29.4.1 Accident or Injury to Workmen**  
The **Employer** shall not be liable for or in respect of any damages or compensation payable to any workman other than for death or injury resulting from any act or default of the **Employer**, his agents or servants. The Agency/firm shall indemnify and keep indemnified the **Employer** against all such damages and compensation, other than those for which the **Employer** is liable as aforesaid, and against all claims, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.
- 29.4.2 Insurance Against Accident to Workmen**  
The Agency/firm shall insure against such liability and shall continue such insurance during the whole of the time that any persons are employed by him on the Works. Provided that, in respect of any persons employed by any Sub agency/firm, the Agency/firm's obligations to insure as aforesaid under this Sub-Clause shall be satisfied if the Sub agency/firm shall have insured against the liability in respect of such persons in such manner that the **Employer** is indemnified under the policy, but the Agency/firm shall require such Sub agency/firm to produce to the Consultant, when required, such policy of insurance and the receipt for the payment for current premium.
- 29.5.1 Evidence and Terms of Insurance**  
The Agency/firm shall provide evidence to the Consultant as soon as practicable after the respective insurance have been taken out but in any case prior to the start of work at the Site that insurance required under the Contract have been effected and shall, within 84 days of the Commencement Date, provide the insurance policies to the **Employer**. When providing such evidence and such policies to the **Employer**, the Agency/firm shall notify the **Engineer** of so doing. Such insurance policies shall be consistent with the general terms agreed prior to the issue of the Letter of Acceptance. The Agency/firm shall effect all insurance for which he is responsible with insurers and in terms approved by the Consultant.
- 29.5.2 Adequacy of Insurance**  
The Agency/firm shall notify the insurers of changes in the nature, extent or programme for the execution of the Works and ensure the adequacy of the insurance at all times in accordance with the terms of the Contract and shall,

when required, produce to the Consultant the insurance policies in force and the receipts for payment of the current premiums.

**29.5.3 Remedy on Agency/firm's Failure to Insure**

If the Agency/firm fails to effect and keep in force any of the insurance required under the Contract, or fails to provide the policies to Consultant within the period required by Sub-Clause 29.5.1, then and in any such case the **Employer** may effect and keep in force any such insurance and pay any premium as may be necessary for that purpose and from time to time deduct the amount so paid from any monies due or to become due to the Agency/firm, or recover the same as a debt due from the Agency/firm.

**29.5.4 Compliance with Policy Conditions**

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

The Agency/firm shall be entitled to place all insurance relating to the Contract (including, but not limited to, the insurance referred to in Clauses 29.1.2 to 29.1.5, 29.3.1 to 29.3.3 and 29.4.1 to 29.4.2) with insurers from India.

**30. Reports by Agency/firm**

- (a) The Agency/firm shall prepare Weekly Reports of planned and actual progress of work and subsequent week's scheduled work. These will also include items procurement status. These reports shall be submitted to the Consultant & shall be reviewed in Weekly Co-ordination Meetings.
- (b) The Agency/firm shall submit Monthly Progress Report as per format approved by Engineer-in-charge/Consultant.
- (c) The Agency/firm as directed by the Engineer-in-charge/Consultant shall prepare further Progress Charts and Schedules.

**31.** Every care has been made to include all the aspects/ terms and condition in these documents. However, during execution, any issue arises, which has not been included in these documents, norms/ rules & regulations/ terms & conditions.

**32. Miscellaneous**

1. Monthly Progress Photographs

The Agency/firm shall arrange at his own cost to maintain a progress record of the works by taking 5x7 inch. size colour photographs (preferably digitized photographs) minimum 20 Nos. or more per month or fortnight as directed by the Consultant during the constructions stages and after completion and shall supply one set to the Client and one set to the Consultant at no extra cost. These photographs shall also be submitted as part of the Agency/firms R.A. Bills. The Agency/firm will be required to submit monthly reports on the progress of his work as per the format approved by the Engineer-in-charge/Consultant.

2. Safety Regulations

Agency/firm shall be fully responsible for the safety of his Employees/Visitors/Contract Labour/Sub-Agency/firms Labour.

3. Tax Deduction at Source

Taxes and surcharge as applicable, shall be deducted from the amount paid to the Agency/firm towards the value of the work done. The amount so deducted at source, shall be deposited into Government Treasury and a certificate thereof shall be issued to the Agency/firm.

4. Definition of “and”, “or”, “and/or”

The terms “and”, “or”, “and/or” used in the context with the description or enumeration of two or more items or components of work or documentation or anything similar shall mean as is relevant and applicable to the text.

5. Delay in starting the work

No compensation shall be allowed for any delay caused in the starting of the work on account of acquisition of land, encroachment or in the case of clearance of works, on account of any delay in according sanction to estimates in issue of drawings, decisions etc. However, the extension of time shall be granted as per relevant conditions of Contract.

6. Technical Examination

The Client shall have the right to cause Audit and Technical Examination of the works and the final bills of the agency/firm including all supporting vouchers, abstracts, etc. to be made as per payments of the final bill and if as a result of such Audit and Technical Examination the sum is found to have been overpaid in respect of any work done by the agency/firm under the contract and found not to have been executed, the agency/firm shall be liable to refund the amount of over payment and it shall be lawful for the Client/ Engineer-in-charge/Consultant to recover the same from the Performance Security of the agency/firm or from any dues payable to the agency/firm. If it is found that the agency/firm was paid less than what was due to him under the agency/firm in respect of any work executed by him under it, the amount of such under payment shall be duly paid.

In the case of any audit examination and recovery consequent on the same the agency/firm shall be given an opportunity to explain his case and the decision of the Client shall be final. Payment on this account will be recovered from the agency/firm.

In the case of Technical Audit, consequent on which there is a recovery from the agency/firm, recovery should be made with orders of the Client whose decision shall be final. All action under this clause should be initiated and intimated to the agency/firm within the period of twelve months from the date of completion.

7. Miscellaneous

- (i) Any dispute arising due to typing mistakes/ omissions in the document the decision of the Client will be final
- (ii) Unless otherwise mentioned in the bill of quantities the measurements of works shall be done as per given specifications (as specified in Technical Specification of the Tender) and if the same is not given in the

specification, the same shall be measured as per latest relevant BIS codes in force.

- (iii) Agency/firm shall mobilize and employ sufficient resources for completion of all the works as indicated in the agreed Bar Chart/ Network. No additional payment will be made to the agency/firm for any multiple shift work or other incentive methods contemplated by him in his work schedule even though the time schedule is approved by Engineer-in-charge/Consultant.
33. The Agency/firm shall be required to attend co-ordination meetings with the Engineer, the Consultant and the other Agency/firms during the period of Contract as instructed by the Engineer. All costs incidental to such interaction shall be to the agency/firm's account and no claim will be entertained by the Employer/Engineer on this account.
34. Any change in specifications and approved makes/vendors may be changed by consultant with approval of Client. The agency/firm has to execute the work accordingly.
35. The Agency/Firm shall make their own arrangement of facility for their staff i.e accommodations, conveyance, mineral water, refreshments and meals.
36. **Rates/Prices**  
The quoted rates/prices for the items shall be complete in all respect including all labour, material, tools and tackles, all taxes, duties, levies, octroi, statutory levies applicable from time to time and others as specified in SCC etc. The Contractor should quote his rates/prices accordingly for the complete items in all respects.
37. **Operation & Maintenance work during DLP**  
The contractor shall carry operation & maintenance of the entire system for one (01) year after satisfactory completion of entire work.
38. **Arbitration**  
The venue/ seat of Arbitration shall be at Delhi.  
During the arbitration the agency/IT firm shall not stop the work & shall continue to work in terms of the contract.
39. On satisfactory completion of works by the agency/IT firm as per the scope of work, as detailed out in a Contract, the works will be taken by the Client/ HSCC after one year defect liability period/ operation period, as owner after submission of certification by HSCC.