

# GENERAL CONDITIONS OF CONTRACT (GCC)

## 1.0 Definitions

In this Contract, the following terms shall be interpreted as indicated:

- (a) **"The Contract"** means the Contract Agreement entered between the Owner and the Contractor, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) **"The Contract Price"** means the price payable to the Contractor under the Contract for the full and proper performance of its contractual obligations.
- (c) **"The Services"** means all those services necessary for the manufacturing of the materials, supply, testing and any other incidental services etc. and other such obligations of the Contractor covered under the Contract.
- (d) **"The Owner"** means the **SJVN Limited**.
- (e) **"The Contractor"** means the individual or firm supplying the material under this Contract.
- (f) **"Corrupt Practice"** means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
- (g) **"Fraudulent Practice"** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Owner 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 Owner of the benefits of free and open competition".

## 2.0 CONTRACT PERFORMANCE SECURITY

2.1 Within **twenty-eight (28) days** of receipt of the notification of Contract award i.e. from the date of issue of LOA, the successful Bidder shall furnish to the Owner, an unconditional performance security for **Ten percent (10 %)** of the Contract Price with validity up to **60 days after completion of guarantee period**.

2.2 The proceeds of the performance security shall be payable to the Owner as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract. **The GST as applicable shall be attributable to contractor.**

2.3 **FOR FOREIGN BIDDER:** The performance security shall be denominated in the currency of the Contract and shall be in the form of Bank Guarantee (As per format enclosed at Annexure-G) issued preferably by a nationalized Bank/ Scheduled bank (As per Reserve bank of India Guidelines) (As per list enclosed), acceptable to the Owner or in the form of FDR or TDR etc. The Bank Guarantee is to be issued by a reputed bank ( Bank located outside India in case of a foreign Bidder), acceptable to the Owner or by nationalized or public sector bank of owner or scheduled bank as per RBI

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guidelines (As per list enclosed at Annexure-H) , in the format enclosed. The BG issued by foreign bank should be routed through/confirmed from its Correspondent Bank in India. All banks except public sector bank of owner's country shall have with overall International Corporate Rating or rating of long term debit not less than A- (A minus) or equivalent by reputed rating agency.

OR

The Performance Security shall be denominated in the currency of the Contract and may also be submitted in wire transfer mode (electronic fund transfer) directly to SJVN account in the following bank details:

Beneficiary Name : SJVNL NJHPS  
Account No. : 5020-0033-9245-24  
Bank Name & Branch : HDFC BANK, RAMPUR  
Bank Code : 805  
Swift Code : HDFCINBB

**Remarks:**

- The bidder shall intimate to SJVN immediately after the remittance of contract performance security amount.
- The bank charges shall be borne by the respective parties. Any bank charges on Indian Banks have to be borne by SJVN and outside India bank will be borne by bidder (For deposit & refund).

2.4 **FOR INDIAN BIDDER (ABOVE CLUSE NO. 2.3):** The performance security shall be denominated in the currency of the Contract and shall be in the form of Bank Guarantee (As per format enclosed) issued preferably by a nationalized bank/scheduled bank as per RBI guidelines (As per the list enclosed), acceptable to the Owner or in the form of FDR or TDR (pledged in favour of SJVN Ltd.) etc.

2.5 The performance security will be discharged by the Owner and returned to the Contractor not later than sixty (60) days after expiry of guarantee period of all the material /works under the scope of the contract.

2.6 **The interest\* shall be charged on delay period for breach in timely submission of CPG/initial security deposit without prejudice to right of SJVN to other remedies available under the contract. The GST shall be levied & recovered extra on interest as per applicable rule of GST.**

*\*The interest shall be chargeable on per day basis on the amount of CPG/PSD @ SBI MCLR as on date of bid submission + 200 basis points.*

**Note: In case last day of submission of performance security happens to be a bank holiday, the last day of submission shall be the next working day.**

2.7 The MSE/ NSIC firms are not exempted from the submission of the Contract Performance Security.

### 3.0 PACKING:

3.1 The Contractor/Supplier shall provide such packing to the goods as is required to prevent damage or deterioration during transit to their final destination.

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## 4.0 INSURANCE

The goods to be supplied under the scope of this contract shall be insured for all risks **Transit/Marine Insurance** by the contractor till it is delivered at O&M Store, NJHPS,SJVN Ltd., Jhakri (H.P.) INDIA. No extra amount shall be paid by SJVN on this account.

The Insurance should be done strictly as per the contract and consignee/EICs should take up the matter with the Supplier /contractor by writing e-mail immediately after the award to take insurance cover as per tender and Insurance policy should be shared with consignee through e-mail ([mmg.njhps@sjvn.nic.in](mailto:mmg.njhps@sjvn.nic.in)) before the dispatch of the material and material shall be only permitted for dispatch if the Insurance Policy is as per contract requirements. SJVN shall give comments regarding acceptance of Insurance Policy within two (02) working days after the receipt of same through e-mail.

If the Supplier does not take the above insurance cover in part or full as per tender conditions, then penalty @ 1% of total contract price FOR Jhakri including taxes & duties shall be imposed for contracts in which the payment is to be made after the supply of the material, otherwise above insurance compliance is to be ensured in case advance payment in part or full is to be made.

In case any short value insurance, the penalty shall be imposed on pro-rate basis based on the insurance receipt submitted by the contractor.

## 5.0 GUARANTEE

The material under the scope of supply will be new and free from any manufacturing defects or deficiencies arising due to design, engineering and from defects in material for a period of 12 months from the date of supply. The firm will be liable to replace any defective powder/ material free of cost supplied under this contract, as necessary during the stipulated period in the contract or on the direction of Consignee.

## 6.0 FORCE MAJEURE

6.1 The firm shall not be liable for loss or damage to SJVN resulting from any delays or failure to make shipment to Jhakri site within schedule time for all or any part of the item due to the act of God, war declared or undeclared, acts of public enemy, riots, civil commotion, invasion, insurrection, sabotage, acts of restraint of Government, federal, state or municipal action or regulation, fire, flood, hurricanes, accidents, epidemic, quarantine, restrictions, or any failure on the part of the Owner or his representative to approve or comments on drawings or other causes, contingencies or circumstances not subject to their control, whether of a similar or dissimilar nature which prevents the Contractor from completion of work. Any such cause or delays even though not existing on the date of the contract on or the date of start of reclaiming shall extend the time of performance automatically by length of delays occasioned thereby, including delay reasonably incidental to the resumption of normal reclamation work even though such case may occur after performance of firm's obligation has been delayed for the other causes.

6.2 If a Force Majeure situation arises, the Contractor shall promptly notify the Owner in writing of such condition and the cause thereof. Unless otherwise directed by the Owner in writing, the Contractor shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

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## 7.0 PAYMENT TERMS

- 7.1 All the payments as under shall be made in the quoted currency of the tender.
- 7.2 Hundred percent (100%) payment of contract price shall be made within 30 days after the receipt of the material at O&M, Stores, NJHPS, SJVN, Jhakri and on submission of the following documents to the consignee:
- (i) Six copies of Supplier's commercial Invoice showing item description, quantity, Unit, rate, amount and other requisite details.
  - (ii) Copy of Airway Bill/ Bill of Lading
  - (iii) Six copies of packing list identifying contents of each package.
  - (iv) Three copies of Material Dispatch Clearance Certificate ( MDCC) issued by the Owner on a date prior to the date of dispatch .
  - (v) Three copies of Test/Compliance Certificate
  - (vi) Three copies of Insurance Certificate.
  - (vii) Copy of Certificate of origin.
  - (viii) Copy of Un-priced Bill of Entry along with receipt for deposit of custom duty.
  - (ix) Guarantee Certificate issue by the supplier. Copy/scanned copy of Guarantee Certificate issued on letter head of supplier to be sent by post/through authorized e-mail of supplier/contractor.
  - (x) Signed copy of Integrity pact.
  - (xi) Accepted copy of the LOA.
  - (xii) Copy of GST No.(as applicable).
  - (xiii) Copy of GR duly acknowledged at NJHPS, SJVN Ltd. Jhakri by EIC or his authorized representative or consignee, for receiving of material in good condition.
  - (xiv) E-way bills (as per applicable Rules).
  - (xv) Copy of Contract Performance Security as per Sr. No. 2.0 above.

7.3 **Bank Commission charges: For above Payment:** The bank charges shall be borne by the respective parties. For foreign bidder, any bank charges on Indian banks have to be borne by SJVN and outside India bank will be borne by supplier.

7.4 The payment shall be released through electronic fund transfer/direct remittance/swift transfer/wire transfer and hence bidder is requested to give their bank account detail. **The required detail is to be filled in "Schedule-3-General Information & Bank Account Detail"**. For Indian bidder, Bank charges if any, shall be borne by the bidder. The details to be submitted in the schedule as enclosed.

7.5 **As per SJVN LTD. policy, no advance payment can be given.**

## 8.0 DELIVERY SCHEDULE

The basic consideration and the essence of the Contract shall be the strict adherence to the Delivery Schedule. The material under the scope of this contract is to be delivered at O&M Stores, NJHPS, Jhakri, H.P, INDIA in two(02) lots as under:

1. First Lot of 3000 Kg Hard Coating Powder is to be delivered at O&M Stores, NJHPS, Jhakri, H.P, INDIA **within 60 days** from the date of issue of the LOA.
2. Second Lot of 3000 Kg Hard Coating Powder is to be delivered at O&M Stores, NJHPS, Jhakri, H.P, INDIA **within 75 days** from the date of issue of the LOA.

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## 9.0 LIQUIDATED DAMAGES

- 9.1 If the Supplier fails to complete the delivery of the material of any or all of the Goods within the period(s) specified in the Contract, the Owner shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as Liquidated Damages, as specified here in below,
- 9.2 The Liquidated Damage for delay in supply of goods for each lot of **Hard Coating Powder** beyond the maximum completion period as stipulated at **clause 8.0** above shall be @ 1/2% (Half percent) per week or part thereof of total contract price for each lot of **Hard Coating Powder**. The total amount of Liquidated Damages for delay under the Contract will be subject to a maximum of ten percent (10%) of the total contract price of **each lot** to be levied separately as per delivery period as above.
- 9.3 Amount of Liquidated Damage shall be payable by the Supplier whenever demanded by the Owner and / or Owner can recover the amount of liquidated Damages (to the extent leviable at any time) from the amount payable to the Supplier available with Owner under this Contract.
- 9.4 Supplier's obligations and the Owner's remedies in respect of delay are solely and exclusively as stated in this Liquidated Damages clause subject to provisions of Clause **10.0** and consequence thereof.

## 10.0 TERMINATION OF CONTRACT ON CONTRACTOR'S DEFAULT

- 10.1 The Owner, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor, may terminate this Contract in whole or in part:
- if the Contractor fails to complete any part of all the work or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Owner.
  - if the Contractor fails to perform any other obligation(s) under the Contract.
  - If the Contractor, in the judgment of the Owner has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 10.2 In the event the Owner terminates the Contract in whole or in part, the Owner may procure / get repaired, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered / un-repaired, and the Contractor shall be liable to the Owner for any excess costs for such similar Goods or Services. However, the Contractor shall continue performance of the Contract to the extent not terminated.

## 11.0 TERMINATION FOR INSOLVENCY

The Owner may at any time terminate the Contract by giving written notice to the Contractor if the Contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Contractor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Owner.

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## **12.0 TERMINATION OF CONTRACT ON OWNER'S INITIATIVE**

- 12.1 The Owner reserves the right to terminate the Contract either in part or in full due to reasons other than those mentioned under clause entitled "Contractor's Default" and "Outbreak of War". The Owner shall in such an event give seven (7) days notice in writing to the Contractor of his decision to do so.
- 12.2 The Contractor upon receipt of such notice shall discontinue the work on the date and to the extent specified in the notice, make all reasonable efforts to obtain cancellation of all orders and contracts to the Owner, stop all further sub-contracting or purchasing activity related to the work terminated, and assist the Owner in storage, maintenance, protection, and disposition of the works acquired under the contract by the Owner.
- 12.3 In the event of such a termination, the Contractor shall be paid equitable and reasonable compensation, as dictated by the circumstances prevalent at the time of termination.

## **13.0 SETTLEMENT OF DISPUTES**

- 13.1 Any dispute(s) or difference(s) arising out of or in connection with the Contract shall, to the extent possible in the first instance be resolved amicably between the Contractor and the Owner's Engineer.
- 13.2 If any dispute or difference of any kind whatsoever shall arise between the Owner and the Contractor, arising out of the Contract for the performance of the Works whether during the progress of the Works or after its completion or whether before or after the termination, abandonment or breach of the Contract, it shall, in the first place, be referred to and settled by the Engineer, who within a period of ten (10) days after being requested by either party to do so, shall give written notice of his decision to the Owner and the Contractor.
- 13.3 Save as hereinafter provided, such decision in respect of every matter so referred shall be final and binding upon the parties until the completion of the entire work under the Contract and shall forthwith be given effect to by the Contractor who shall comply with all such decisions, with all due diligence, whether he or the Owner requires arbitration as hereinafter provided or not.
- 13.4 If after the Engineer has given written notice of his decision to the parties, no claim to arbitration has been communicated to him by either party within ten (10) days from the receipt of such notice, the said decision shall become final and binding on the parties.
- 13.5 In the event of the Engineer failing to notify his decision within ten (10) days after being requested as aforesaid or in the event of either the Owner or the Contractor being dissatisfied with any such decision, or within ten (10) days after the expiry of the first mentioned period of ten (10) days, as the case may be, either party may require, by written notice to the other party, that the matters in dispute be referred to arbitration as hereinafter provided.

## **14.0 ARBITRATION (WITH PVT. PARTY)**

- 14.1 If at any time, any question, disputes or difference, whatsoever, shall arise between the purchaser and the supplier upon or in relation to or in connection with this contract, either party may forthwith give to the other, notice, in writing, of the existence of such question, dispute or differences. All disputes or differences in respect of which the decision, if any, of the Engineer has not become final or binding as aforesaid shall be settled by arbitration in the manner hereinafter provided.

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- 14.2 In the event of the Contractor, that is to say a citizen and/or a permanent resident of India, a firm or a company duly registered or incorporated in India, the arbitration shall be conducted by three arbitrators, one each to be nominated by the contractor and the Owner and the third to be named by the President of Institution of Engineers, India. If either of the parties fails to appoint its arbitrator within thirty (30) days after receipt of a notice from the other party invoking the arbitration clause, the President of the Institution of Engineers, India shall have the power at the request of either of the parties, to appoint the arbitrators. A certified copy of the said President making such an appointment shall be furnished to both the parties. The arbitration shall be conducted in accordance with the provisions of the Arbitration & Conciliation Act, 1996 or any statutory modification thereof.
- 14.3 In the event of the Contractor, that is to say a foreign supplier, the arbitration shall be conducted by three arbitrators, one each to be nominated by the contractor and the Owner and the third by the President of the International Chamber of Commerce. The Arbitration shall be conducted in accordance with the rule and procedure for arbitration of the International Chamber of Commerce, Paris.. If either of the parties fails to appoint its arbitrator within sixty (60) days after receipt of a notice from the other party invoking the arbitration clause, the President of the International Chamber of commerce shall have the power at the request of either of the parties, to appoint the arbitrators. A certified copy of the said President making such an appointment shall be furnished to both the parties.
- 14.4 Arbitration(s) shall give reasoned award.
- 14.5 The decision of the majority of the arbitrators shall be final and binding upon the parties. The expenses of the arbitration shall be paid as may be determined by the arbitrators. The arbitrators may, from time to time with the consent of all the parties enlarge the time for making the award. In the event of any of the aforesaid arbitrators dying, neglecting, resigning or being unable to act for any reason, it will be lawful for the party concerned to nominate another arbitrator in place of the outgoing arbitrator.
- 14.6 The arbitrator shall have full powers to review and/or revise any decision, opinion, directions certification or valuation of the Engineer in consonance with the contract.
- 14.7 The arbitration proceedings shall be held at such place and time in India as the Arbitrator(s) may determine. The decision of the Arbitrator(s) shall be final and binding upon the parties hereto and the expenses of the Arbitration shall be paid as may be determine by the Arbitrators.
- 14.8 Performance under the contract shall, reasonably possible , continue during the arbitration procedures and payment due to the supplier by the purchaser shall not be withheld unless they are subject matter of the Arbitration proceedings.

## 15.0 APPLICABLE LAW

- 15.1 The Contract shall be governed by and interpreted in accordance with the laws in force in India. The courts of Rampur Bushahar/Shimla/Delhi shall have exclusive jurisdiction in all matters arising under the Contract.

## 16.0 NOTICES

- ▶ Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or by cable telex, or facsimile and confirmed in writing to the other party's address specified in NIT/NIQ.
- ▶ A notice shall be effective when delivered or on the notice's effective date, whichever is later.

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**17.0 ENGINEER IN CHARGE (EIC): EIC shall be informed in LOA(As required).**

**18.0 TRANSPORTATION**

18.1 The order shall be placed on FOR O&M Store Jhakri, HP(India) basis. The transportation & insurance of the material from foreign port to Indian Port and further to Jhakri is to be arranged by the supplier.

18.2 The Supplier shall notify the Owner of the date of dispatch of every consignment from his works and the expected date of arrival at the Indian port for the information of the Owner at least three weeks in advance in case of sea consignment.

18.3 The Supplier shall also give all dispatch information concerning the weight, size and content of each package including any other information, the Owner may reasonably require within the period specified in Clause 18.2 above.

18.4 The Supplier shall prepare detailed packing list of all packages and containers, bundles, material forming each and every consignment dispatched to Indian Port.

18.5 The Supplier shall, at its own expense, handle all imported Goods and Supplier's Equipment at the point(s) of import and shall handle any formalities for customs clearance including liabilities for port charges if any, provided that if applicable laws or regulations require any application or act to be made by or in the name of the Purchaser, the Purchaser shall take all necessary steps to comply with such laws or regulations.

18.6 SJVN shall issue GATT form & related documents for custom clearance to allow them to import the material into INDIA as per government rules. GATT form shall be issued by SJVN as per Indian Custom regulation within 07 working days from the date of intimation of bidder.

**19.0 CONSIGNEE:** The Goods under this Contract shall be dispatched to the Consignee i.e. Addl. General Manager, (MMG Deptt.), Nathpa Jhakri Hydro Electric Project, SJVN LTD., Jhakri, Distt. Shimla, (HP) Pin-172201 (INDIA), Phone No. 0091-1782-275041; Fax No. 0091-1782-275827.

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