



Plant 1.0 MTPA ALUMINA REFINERY STREAM-5 DAMANJODI, ODISHA	Client NALCO	Contract Code NAL	Document ID 6695-PPM-0006	Contract No. 66-6695
thyssenkrupp Industrial Solutions (India)	<u>SPECIAL CONDITIONS (PART B) OF LSTK CONTRACT</u> Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag)			<div>नालको  NALCO</div> <div>नेशनल एल्युमिनियम कंपनी लिमिटेड</div> <div>National Aluminium Company Ltd.</div>
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ENCLOSED:

Annexure-I : List of Banks approved by NALCO

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1. PREAMBLE TO SCHEDULE OF RATE & PRICE

- a. The price quoted shall be Lump sum Price on Turnkey basis. Total payments to be made to the CONTRACTOR shall be limited to Lump sum price quoted in the Price Bid, irrespective of the progressive payments made during execution based on the split up of price. The Bid price is to be filled in the formats given in Price Schedule.
- b. Obligation of the CONTRACTOR is not limited to the quantities that the CONTRACTOR may either indicate in the Breakup of Lump sum Prices along with his bid or in further detailed breakup of lump sum prices to be furnished after award of Work. CONTRACTOR shall carry out and complete entire scope of work/supplies/services as detailed in various sections/volumes of the Bidding Document within the quoted Lump sum Price.
- c. Lump sum prices quoted by the CONTRACTOR shall include cost of any other supplies/work(s)/services not specifically mentioned in the Bidding Document but necessary for the efficient, trouble free operation of the Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag) and to make this package job complete.
- d. CONTRACTOR to note that breakup of Lump sum price is for interim payment purpose only and total price payable under the Contract shall be restricted to the Lump sum Price / Contract Price.
- e. The Total Lump sum Price quoted by the bidder shall be for the complete Scope of Work as defined in the Bidding Document. Any material / services required for completion of the work even though not identified or specified in the FORMS SP-1 and / or SP-2 shall be deemed to be included in the quoted Lump sum price.
- f. All Spares for start-up & all commissioning and mandatory spares required as per the Bidding Document are in CONTRACTOR's scope and deemed to be included in their quoted Lumpsum Prices.
- g. The CONTRACTOR shall furnish to the OWNER, in Form SP-6, a recommended list of Operation & Maintenance spares (other than commissioning & Mandatory spares required during the Defect Liability period) for the UNIT, as recommended by the manufacturers of various Systems, for a period of One (1) year operation beyond the Defect liability period. The list shall be supported by current Price Lists of the manufacturers of the recommended spares for information purposes only. These prices shall not be reckoned in the quoted lump sum price, nor shall be added in the evaluation of bids. These prices shall be valid for a period of 12 months from the date of Opening of Technical Unpriced Bid. Imported O&M spares will attract EPCG benefit.
- h. It shall be the duty of the CONTRACTOR to duly observe and perform all laws, rules, regulations, orders and formalities applicable to all laws including all taxation laws on the import, manufacture, sale and/or supply of any material to the OWNER and performance of the works under the Contract. The CONTRACTOR shall keep the OWNER indemnified from and against any and all claims, demands, prosecutions, actions, proceedings, penalties, damages, demurrages and/or other levies whatsoever made or levied by any Court, Tribunal or the Customs or other Authorities with respect to any alleged breach, evasion or infraction of such duties, taxes, charges or levies or any breach or infraction of any applicable laws, rules, regulations, orders or formalities concerning the same and from the consequence thereof.
- i. Counter trade proposals shall not be considered in the evaluation of Bids or otherwise.
- j. The Bidder shall furnish the Guaranteed Utilities Consumption figure in the enclosed Form SP-5.
- k. The quoted prices shall be inclusive of third party inspection charges of OWNER Approved TPI Agency (ies) and also charges for all inspection & all testing specified in the Bidding Document.

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- l. Bidder to note that this is not an item rate contract. All the Work which are deemed to be performed, executed and supplied by the CONTRACTOR as stipulated in the Bidding document and cost thereof must be covered suitably and appropriately assigned to various available heads and categories. Non-familiarity and/or non-identification of any supplies or works in the description of Lumpsum Price as included in Schedule of Lumpsum Prices will not be considered a reason either for extra claims or for not carrying out the work in strict conformity with drawings, specifications and instructions of Engineer-in-charge.
- m. The Bidder shall prepare his bid on the basis of design criteria and also considering the requirements given in Technical specifications and Drawings as minimum requirements. It must be clearly understood by the Bidders that job specifications and drawings are intended to give the bidders an idea about the order of magnitude of the work and are in no way exhaustive and guaranteed by the OWNER. It shall be the full responsibility of the CONTRACTOR to fully meet all the requirements of the design criteria and if during detailed engineering any upward revision of specifications, drawings and sizes given in the Bidding Documents are to be made to meet the design criteria, all such changes shall be carried out by the CONTRACTOR without any extra cost to OWNER.

Obligation of the CONTRACTOR is not limited to the quantities that the CONTRACTOR may either indicate in the Breakup of Lumpsum Prices along with his bid or in further detailed breakup of lumpsum prices furnished after award of Work. CONTRACTOR shall carry out and complete entire scope of work/supplies/Services as detailed in various sections/volumes of the Bidding Document within the quoted Lumpsum Price.

“Notwithstanding the division of the Contract into separate parts, the lumpsum price as quoted shall include the cost of supply of all materials and all items of work/services respectively as included in the scope of supplies/services and site work as stipulated in the Bidding document and to complete the subject Work on Turnkey basis irrespective of whether all the items for supply and erection/services are categorically listed out/brought out elsewhere or not”.

- n. The Lump sum Price shall be derived from the FORM SP- 0 of the Price Schedule comprising the total of the price of materials (supply portion) quoted in FORM SP-1, and the price of services (services & site work portion) quoted in FORM SP-2 of the Price Schedule.
- o. The maximum ceiling amounts of Non-Creditable GST mentioned in FORM SP – 3 shall be considered for evaluating the Price Bids.

2. **FIRM PRICE**


The prices quoted by the bidder shall remain firm and fixed and shall be valid until completion of the Contract and shall not be subject to variation/escalation on any account.

3. **TAXES AND DUTIES**

The taxes & duties shall as per the payment terms mentioned in this SCC. The following provisions of GST shall be applicable:


3.1 **Goods & Services Tax:**

- 3.1.1 Rate variation in Taxes and any new promulgated taxes after last date of the submission of price bid only on the goods and/or services applicable to invoices raised on NALCO within the contractual delivery

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date / contractual completion period (including extension approved if any) shall be on NALCO's Account against submission of documentary evidence.

- 3.1.2 Further, in case of delay in delivery of goods and/or services, any upward rate variation in Taxes and any new promulgated taxes imposed after the contractual delivery date / contractual completion period shall be to the Contractor's Account.
- 3.1.3 It would be the responsibility of the contractor to get the registration with the respective Tax authorities under provision of GST. Any taxes being charged by the Contractors would be claimed by issuing proper TAX Invoice in a GSTN (Goods & Services Tax Network) acceptable format indicating details elements of all taxes charged and necessary requirements as prescribed under the respective tax laws and also to mention his correct and valid GSTN number (GSTIN) along with NALCO's GSTN number as applicable for particular supply on all invoices raised on NALCO under GST Regime.
- 3.1.4 The contractor would be liable to reimburse or make good of any loss/claim by NALCO towards tax credit rejected / disallowed by any tax authorities due to non deposit of taxes or non updation of the data in GSTIN network or non filling of returns or non compliance of tax laws by the Contractor by issuance of suitable credit note to NALCO. In case, contractor does not issues credit note to NALCO, NALCO would be constrained to recover the amount including interest payable along with Statutory levy/Tax, if any, payable on such recovery.
- 3.1.5 Tax element on any Debit Note / Supplementary invoice, raised by the contractor will be reimbursed by NALCO as long as the same is within the permissible time limit as per the respective taxation laws and also permissible under the Contract terms and conditions. Contractors to ensure that such debit Notes are uploaded while filing the Statutory returns as may be prescribed from time to time.
- 3.1.6 The contractor will be under obligation for quoting/charging correct rate of tax as prescribed under the respective Tax Laws. Further the Contractor shall avail and pass on benefits of all exemptions/concessions/benefits/waiver or any other benefits of similar nature or kind available under the Tax Laws. In no case, differential Tax Claims due to wrong classification of goods and/or services or understanding of law or rules or regulations or any other reasons of similar nature shall be entertained by NALCO.
- 3.1.7 In case, NALCO's Input Tax Credit (ITC) is rejected on account of wrong levy of tax i.e. payment of Integrated Tax in place of Central Tax+ State/Union Territory Tax or vice versa, the contractor is liable to make good the loss suffered by NALCO by issuance of suitable credit note to NALCO. In case, contractor does not issue credit note to NALCO, NALCO would be constrained to recover the amount including interest payable alongwith Statutory levy, if any, payable on such recovery.
- 3.1.8 NALCO shall reimburse GST levied as per invoice issued by the Contractor as prescribed under section 46 of the CGST Rules 2017 and respective states Act and Rules.
- 3.1.9 To enable NALCO to avail ITC, the contractor/supplier shall furnish/submit any and all certificates, documents and declarations as are required by NALCO to avail of the ITC with respect to GST reimbursed by NALCO on materials sold to NALCO.
- 3.1.10 The HSN / SAC Code under which the goods/service will fall should be clearly mentioned along with the Rate at the time of submission of invoice for releasing payment.
- 3.1.11 In case, NALCO is not able to take Input Tax Credit due to any noncompliance/default/negligence of the seller, the same shall be recovered from the pending bills/dues (including any security available with NALCO).

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3.1.12 Seller shall be responsible to indemnify NALCO for any loss, direct or implied, accrued to NALCO on account of supplier's failure to discharge his statutory liabilities like paying taxes on time, filling appropriate returns within the prescribed time etc.

3.1.13 Any benefit by way of reduction in rate of tax or increase in input tax credit arising due to introduction of GST shall be passed on to NALCO through reduction in supply value by way of commensurate reduction in Bill value.

3.1.14 Contractor to note that apart from the Non-Creditable portion of GST quoted by them in Form SP-3 if they charge GST, it shall be presumed that input credit of such GST is available to NALCO. The Contractor shall ensure that all the required documents as per the GST regulations are furnished to NALCO with their invoices failing which NALCO shall not make any reimbursement of such GST.

3.1.15 The applicable GST for site supervision services and training services by Foreign Service Provider shall be borne by NALCO on reverse charge basis.

3.2 DEDUCTION OF INCOME TAX AND TAX DEDUCTION AT SOURCE (TDS) UNDER GST

3.2.1 Income Tax as applicable at the prevailing rate on the gross amount billed shall be deducted from the contractor's bills.


3.2.2 As per section 51 of CGST Act 2017, to read with Notification No. 33/2017-Central Tax, dated 15.09.2017, NALCO shall deduct at source @ 1% CGST & @ 1% SGST for intra state transactions and @2% IGST in the case of interstate transactions from the payment made and credited to the supplier of taxable goods and/or services, provided if the contract value is more that Rs.2,50,000/-. This deduction is applicable from the date to be notified by the Government. The value of supply shall be taken as the amount excluding CGST, SGST, UGST and Cess indicated in the invoice.

3.3 CUSTOMS DUTY

3.3.1 The Owner's responsibility for payment of Customs Duty and IGST for imports for the purpose of permanent incorporation in the Works, shall be limited to the applicable rate of Customs Duty calculated on the amount of foreign currency quoted in FORM SP-1. NALCO shall avail the benefit of Zero Customs Duty under EPCG Scheme under the Foreign trade policy (FTP) of Government of India for this Tender. Contractor shall get the goods cleared under relevant EPCG License.

Customs Duty for the purpose of this clause shall mean Custom Duty including Integrated Goods & Service Tax (IGST) & GST Compensation Cess & Social Welfare Surcharge. The present rate of Customs Duty under the EPCG scheme is zero. Imported O&M spares mentioned in 'Form SP-6' will attract EPCG benefit.

3.3.2 The CONTRACTOR shall within 7 (seven) days of dispatch / shipment of any such materials forward to the OWNER the Supplier's / Vendor's invoice indicating item wise price of the materials for the purpose of assessing Customs and other import duties, Bill of Lading / Airway Bill, package wise packing list, Certificate of Origin and other relevant documents relating to the identification of the materials, the assessment of customs duties and the clearance of the goods through Customs. The CONTRACTOR shall be fully responsible for Port and Customs clearance including stevedoring, handling, unloading, loading and storage and for satisfying all Port and Customs formalities for the clearance of the goods, including preparation of the Bill(s) of Entry and other documents required for import and/or clearance of the goods. The CONTRACTOR shall also be fully responsible for any delays, penalties, demurrages, shortages and other charges and losses, if any, in this regard. The

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customs duty, import duties and IGST payable on the CFR value of materials imported for the purpose of permanent incorporation in the work shall be paid directly by the OWNER and are not included in price of supplies. However, for arriving at CIF value for the payment of Customs Duty insurance charges shall be considered @ 0.02% CFR value quoted by the Bidder.

The OWNER will not bear any liability towards payment of Safeguard Duty, Anti Dumping Duty, Protective Duty and applicable IGST on same Or Countervailing Duty on subsidized articles or any other such duties of Customs imposed by the Government under Customs Tariff Act, 1975 applicable on import of any materials to India for the subject work.

Therefore, the BIDDERS are expected to source such materials required for the execution of work only from domestic producers in India.

All costs towards Port and Customs clearance shall be to CONTRACTOR's account.


The OWNER's responsibility shall be limited to payment of Customs Duty and IGSTas described in Clause 3.3.1 above payable on the imported materials consigned to the OWNER and required for incorporation in the permanent works up to the aggregate of the CFR value thereof indicated in FORM SP-1 of the Price Schedule.

3.3.3 Customs Duty as described in clause 3.3.1 shall be paid by the OWNER within 5 (five) working days after the day on which the CONTRACTOR furnishes the complete necessary documents including duty requisition along with Bill of Entry to the OWNER's designated Port Office for release of requisite materials/equipment from Customs. However, any additional cost on account of delayed payment of Customs Duty due to OWNER's fault shall be paid by OWNER.

3.3.4 The CONTRACTOR shall provide the OWNER with all documents necessary for the OWNER to claim Input Tax credit (ITC) under GST paid by the Owner at the time of import of goods. Should the CONTRACTOR fail to provide any such document(s) resulting in a shortfall in the ITC to the Owner, such shortfall shall be made good by the CONTRACTOR, and shall be deductible without prejudice to any other mode of recovery from the Running Account or other bills or payments to the CONTRACTOR.

3.4 IMPORTS AGAINST EPCG


- The EPCG license qualifying the imports there against to a concessional rate of duty shall be issued to the CONTRACTOR for the CIF value of imported materials indicated in the Bill of Materials.
- The OWNER shall not provide the EPCG license for materials consigned to CONTRACTOR or any Supplier for use in fabrication and for materials imported by indigenous Sub-contractors.
- The CONTRACTOR shall appoint a Customs House Clearing Agent of good standing and ensure speedy customs clearance.
- The CONTRACTOR shall assist NALCO to register the EPCG License with Customs Authorities at the Port of Import, and to answer and sort out technical queries (if any) raised by Customs Authorities with regard to any import(s).
- On completion of the Works/Unit, the CONTRACTOR shall undertake a reconciliation of the materials imported for permanent incorporation in the Works with the EPCG License provided by the OWNER, if required. Such reconciliation shall be a pre-condition to the release of any payment against the Final Bill and/or release of any bank guarantee furnished by way of security deposit to the OWNER.

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- f. If for any cause the CONTRACTOR is unable to complete the reconciliation of imported materials at the Site with the EPCG with the Customs or other Authorities concerned before the payment to the CONTRACTOR of the Final Bill, the CONTRACTOR shall submit a suitable bank guarantee in a format and from a bank in India (including the Indian branch of a foreign bank) acceptable to the OWNER for an amount mutually agreed between the OWNER and CONTRACTOR to secure the OWNER against any claims by the Customs or other concerned Authority for duty or penalty on any un-reconciled material imported by the CONTRACTOR, and release of payment against the Final Bill shall be subject to the CONTRACTOR furnishing such bank guarantee. The said bank guarantee shall be valid for a period of one (1) year and shall be renewed thereafter until the CONTRACTOR furnishes satisfactory proof of reconciliation with the Customs Authority of the imports under the Contract and release of the Bond submitted in this behalf by the OWNER to the Customs Authorities. If the un-reconciled value of imported materials and penalties leviable thereon are greater than the amount payable on the Final Bill, then this Bank Guarantee shall be submitted to the OWNER prior to release of the Bank Guarantee(s) submitted by the CONTRACTOR towards security deposit.
- g. Notwithstanding the provisions set forth in Clauses above in undertaking a materials reconciliation and the provisions for surplus materials as set forth in the General Conditions of Contract, CONTRACTOR shall during the progress of the work, and with approval of the Engineer-in-Charge, properly store or dispose of any surplus materials and clear away and remove promptly from the site any wreckage, rubbish or scrap material no longer required and dispose of the same in designated area(s) and at no cost and expense to OWNER.

3.5 INCOME TAX

- 3.5.1 The CONTRACTOR shall be exclusively responsible and liable to pay taxes on income comprised in all or any payments arising out of the Contract, whether payable/paid in India or in any other jurisdiction and quoted prices shall be inclusive of Income Tax.
- 3.5.2 Income tax (if applicable) shall be deductible at source by NALCO on all payments to be made to the CONTRACTOR. However, for payments made to Foreign Bidders in Foreign Currency, the applicable Withholding Tax shall be borne by NALCO on grossing up basis. As per extant provisions of Income Tax Act and Rules made there under following documents are mandatory for this purpose (a) Tax Residency Certificate (TRC) issued by the competent authority of the country of residence of the Contractor (b) Form 10F as described in Income Tax Rules, 1962 and (c) Permanent Account Number (PAN) or a declaration in specified format in lieu of Permanent Account Number (PAN).
- 3.5.3 The Indian Income Tax Act and rules made there under contains provisions permitting deduction of tax at a lesser rate if the CONTRACTOR is able to justify to the Income Tax Authorities such lesser rate of deduction. However, a deduction once made has to be deposited by the OWNER with the Income Tax Authorities in India and will not be adjustable by the OWNER. It is therefore in the interest of the CONTRACTOR that prior to release of any payment due to the CONTRACTOR under the Contract that the CONTRACTOR obtains, from the relevant Income Tax Authorities in India, a certificate specifying the rate of deduction/withholding of Income tax at source, failing which, payment to the CONTRACTOR shall be made by the OWNER after Withholding/deduction at the highest rate as may be applicable to the non-resident contractors as per Provisions of Income Tax Act, 1961.

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3.6 RENT & ROYALTIES

- 3.6.1 Unless otherwise specified, the CONTRACTOR shall pay all tonnage and other royalties, rents and other payments or compensation (if any) for getting Stone, sand, grave, clay, bricks and other materials required for the works or any temporary works and it shall be deemed to have been included in the quoted prices.
- 3.6.2 Contractor to also note that as per Mines and Minerals Act of Govt. of Orissa the contractor is required to pay royalty for various types of construction materials (minor minerals) used in the work. The royalty charges shall have to be deposited in the office of Tahsildar from whose jurisdiction the minerals have been lifted. The party has to submit Mineral usage statement and Royalty Clearance certificate from above Authority along with all their RA Bills. No bills will be processed for payment without payment of all statutory dues by the Contractor.

3.7 NEW TAX AND STATUTORY VARIATION IN TAXES AND DUTIES


- 3.7.1 If any new taxes or duties (including any increase in rate of any existing taxes or duties) are levied in India after the date of submission of bids/ revised price bids (whichever is later) and within the contract period or any extension thereof by NALCO of the General Conditions of Contract on any payments due to the CONTRACTOR under the Contract other than tax on income, wealth or profits of the CONTRACTOR, the OWNER shall reimburse the CONTRACTOR the amount of such taxes or duties lawfully paid and borne by the CONTRACTOR against proof of payment.
- 3.7.2 If any existing taxes or duties are withdrawn or the rate is decreased after the date of submission of the bids/ revised bids (whichever is later) on any payments due to the CONTRACTOR under the Contract other than tax on income, wealth or profits of the CONTRACTOR, the OWNER shall be entitled to discount in the amount payable to the CONTRACTOR of amount equivalent to the amount of such taxes or duties withdrawn or decreased.

4. BUILDING AND OTHER CONSTRUCTION WORKER'S WELFARE CESS (BOCW)

BOCW, if applicable, shall be borne by the Contractor. The Owner shall not bear any liability in respect of the same.

5. PROVIDENT FUND

- The CONTRACTOR shall strictly comply with the provisions of Employees Provident Fund Act and register the establishment with the concerned Regional Provident Fund commissioner before commencing the work. The CONTRACTOR shall deposit "Employees" and "Employers" contributions in the designated account with the designated Authority every month. The CONTRACTOR shall furnish along with each running bill, the challan/receipt for the payment of provident fund made to the RPFC for the preceding month(s).
- In case the Provident Fund Authority's receipted challan referred to above is not furnished, the OWNER shall deduct 5% (five percent) of the payable amount from the CONTRACTOR'S running bill and retain the same as a security for the payment of the Provident Fund. Such retained amounts shall be refunded to the CONTRACTOR only on production of challan / receipt of the Provident Fund Authority for the period covered by the related deduction. The Contractor shall also be responsible for the Provident Fund and ESIC Coverage of its sub-contractor's workmen.

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6. **MOBILISATION ADVANCE & ON ACCOUNT PAYMENTS**

6.1 **MOBILISATION ADVANCE**

6.1.1 Interest bearing recoverable Mobilisation Advance, if insisted by Contractor, shall be paid to the Contractor up to 15% of the total order value i.e. 10% in 1st installment & 5% in 2nd installment. The rate of interest of such advance shall be 9.15% and same shall be valid during the tenure of the contract. The mobilisation advance shall be paid to the Contractor after the following conditions have been fulfilled:

6.1.1.1 The Formal Contract has been signed between the Owner and the Contractor. Contractor has submitted the Contract Performance Bank Guarantee as per Contractual Terms.

6.1.1.2 Contractor has submitted the Advance Bank Guarantee(s) for an amount equivalent to 110% of the advance amount valid up to the Contractual completion period plus one-month, from any bank as per the list provided by the Owner and in a format acceptable to the Owner. The amount of Advance Bank Guarantee submitted will be reduced to the extent of advance recovered from the bills submitted by the Contractor. For this purpose, the Contractor may submit multiple Bank Guarantees totalling to the Advance amount in one go to facilitate the release of Bank Guarantee to the extent of advance recovered provided that each Bank guarantee is submitted in multiples of 25% of the total Bank Guarantee provided. Advance payment shall be recovered pro rata from the payment to be released as per the contractual payment terms.

6.1.2 Second installment shall be paid only after submission of utilization certificate by the Contractor for the first installment paid for execution of this Contract and satisfactory site mobilisation by the Contractor, duly certified by the Engineer-In-Charge. If it is found that the said advance has been utilized by the Contractor in whole or part for any other purpose; the Owner may at its discretion forthwith recall the entire advance and without prejudice to any other right or remedy available to the Owner, recover the same by recourse to the Bank Guarantee(s).

6.1.3 The Contractor shall at the request of the Owner suitably extend the validity of the Bank Guarantee(s) for such period as may be required.

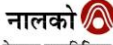
6.1.4 DELETED

6.1.5 A schedule of mobilisation shall be drawn after due discussion with Contractor. In the event of undue delay in mobilisation, the Engineer In-Charge may initiate necessary action for recovery through encashment of Bank Guarantee.

6.1.6 Recovery of mobilisation advance paid shall start when 15% of the work is executed or from 1st Running Account (RA) Bill whichever is later.

6.1.7 Depending upon the percentage of Mobilisation Advance opted by the vendor, the recovery shall be made in such a manner that the total Mobilisation Advance is recovered when 80% of the Total Order Value gets paid. The percentage of recovery from RA Bills for Mobilisation Advance shall be decided as per given formula:

$$\% \text{ Recovery} = (\% \text{ Advance}/80) \times 100$$

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6.2 ON ACCOUNT PAYMENTS

FOR LSTK PACKAGES (Foreign and Indigenous):

i) For Foreign Vendor (Supply):

- 75% payment on pro-rata basis against presentation of shipping documents along with Inspection Release Order certifying the clearance of goods for shipment.
- 5% against submission of final technical documents / drawings in the required number of copies (on DDP Basis – INCOTERMS 2010) as per vendor data requirement specified in MR.
- 10% shall be paid after completion of successful Erection of the Above Package Unit at Site, duly certified by the Engineer-In-Charge.
- Balance 10% shall be paid within 30 days of Final Handing over of the above entire Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag) Unit to the Owner at Site and on fulfilment of all Contractual obligations.

ii) For Indigenous Vendor (Supply):

100% payment along with GST shall be payable as per following break up:-


- 75% payment on pro-rata basis on supply order value shall be made against dispatch documents (along with Inspection Release Order certifying the clearance of goods for shipment) received through bank, along with 100% GST.
- 5% against submission of final technical documents / drawings in the required number of copies, as per vendor data requirement specified in MR.
- 10% shall be paid after completion of successful Erection of the Above Package Unit at Site, duly certified by the Engineer-In-Charge.
- Balance 10% shall be paid within 30 days of Final Handing over of the above entire Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag) Unit to the Owner at Site and on fulfilment of all Contractual obligations.

iii) Inland Transportation

100% payment for inland transportation shall be made after the Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag) has been received at site, against invoices duly certified by Engineer-In-Charge. The applicable GST shall be paid by Owner under reverse charge.

iv) Indigenous Services (Port clearance, Port handling etc.)

100% pro-rata payment along with applicable GST will be made for services related to port

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clearance, port handling etc. within 30 days from presentation of documents as per approved billing schedule.

v) Site Work (Erection & Commissioning, PG Tests)

- a) 90% pro-rata along with applicable GST against monthly progressive bills duly certified by Site In-Charge.
- b) 10% along with applicable GST after final handing over of the Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag) Unit to Owner at site, and on fulfilment of all Contractual obligations.

vi) Supervision of Erection, Testing & Commissioning:

a) Supervision by foreign service provider:


100% in 04 (Four) stages against defined milestone and submission of invoice, duly certified by Owner.

b) Supervision by Indian service provider:

100% along with applicable GST in 04 (Four) stages against defined milestone and submission of invoice duly certified by Owner.

Notes:

1. Payments for all imported supplies shall be through irrevocable letter of credit / documents through bank. Following documents are to be submitted by the bidder along with their invoice:
 - I. Packing list
 - II. LR/Bill of lading/Airway bill
 - III. Warranty/guarantee certificate
 - IV. Test Certificate
 - V. Freight Certificate
 - VI. Consignment Note (in case of Courier) &
 - VII. Inspection Release Order
 - VIII. Any other document as per the Purchase Order.
2. The Contract Performance Bank Guarantee (CPBG) for 10% of order value shall have to be furnished by the Contractor before the Letter of Credit is opened. Further stipulations regarding the CPBG are mentioned in Sl. No. 4 below.
3. Goods & Services Tax (GST) as applicable shall be payable extra. The vendor will have to raise invoice for the applicable GST amount as per approved format for claiming the GST paid.
4. Contract Performance Bank Guarantee (CPBG): The Contractor shall furnish a Contract Performance Bank Guarantee, for 10% of the total order value plus applicable GST ie. If

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the total order value is USD/INR 100 and the applicable GST is 18%, then the CPBG amount shall be 10% on order value i.e. USD/INR10 plus 18% GST ie. USD/INR 1.80, total amounting to USD/INR 11.80, as per NALCO's format, executed by any of the banks listed in the Appendix enclosed with the Special Conditions of Contract. The Vendor shall submit the CPBG within 21 days of issue of LOA / FOA / BOA by NALCO. This CPBG shall be valid for a period of three months beyond the expiry of the Contractual Guarantee Period including acceptance of Performance Guarantee Tests for the above Alumina Storage & wagon loading at Refinery (Damanjodi) and Alumina storage & handling at Port (Vizag) Unit. Each page of the Bank Guarantee must be stamped & signed by the authorized signatory(ies) of the Bank. Corrections, if any, must also be initialled by the authorized signatory(ies) of the Bank. The Bank is required to send the original Bank Guarantee(s) in confirmation directly to the beneficiary. For reasons of non-fulfilment of any contractual obligation, if CPBG is invoked, the same shall be inclusive of applicable GST, at the time of settlement.


5. Final Handing Over shall mean commissioning including acceptance of performance guarantee tests. However, in case Performance Guarantee Tests could not be conducted within 6 months from commissioning, for reasons not attributable to Contractor, last 10% will be released against a bank guarantee of equal amount along with applicable GST valid for one year initially and extendable thereafter.
6. **For Indian Vendors:** All reimbursement / payment of GST shall be subject to availability of taxes paying document / invoice against which the Owner shall be eligible to take ITC (Input tax credit) in terms of GST provision. **E-way Bill shall be the responsibility of the Contractor.**
7. The above payment terms are the broader payment terms . The actual payments shall be made as per the billing break-up, to be approved by Complex Head. Contractor shall submit Billing Break-up to Consultant / Owner, for approval, within two months from the date of NALCO's LOA.

7. MARINE COVER AND ERECTION ALL RISK COVER INSURANCE

7.1.1 OWNER shall take MCE policy on ware-house to ware-house basis including erection at site to cover the following:

- a) Risks in transit by ship /air between contractor's port of shipment / air port and Indian port of entry.
- b) Risks in transit by rail/ road during inland transportation upto project site.
- c) Risks during storage and erection at the Project Site till, the plant is fully commissioned under an open general policy.

Any loss or damage to the materials or any of them during ocean / air transportation, port / custom clearance, during inland and port handling, inland transportation, storage, erection, final test and commissioning, shall be to the account of CONTRACTOR, and the CONTRACTOR shall be exclusively responsible within the scope of supplies in respect of materials and within the scope of services in respect of works to make good any damage or loss to the materials and works by way of repairs and/or replacement, as the case may be, pending insurance claim, and no delay shall be made by

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the CONTRACTOR in repair/replacement pending such claim. OWNER shall raise the insurance claim in case of damage to the materials and/or works, and all supporting documents for such claims shall be handed over by the CONTRACTOR to the OWNER immediately. CONTRACTOR shall provide all assistance for such a claim.

7.1.2 The CONTRACTOR shall bear the entire cost of arranging all documents/ information, facilitating inspection/ discussions by the officials/surveyors deputed by the Insurer. The CONTRACTOR shall make all efforts to get settlement of claim at the earliest, and no time extension for completion of work will be given for delay on this account.

7.1.3 Contractor shall intimate M/s. NALCO the despatch details of each shipment within maximum seven days from the date of despatch enabling NALCO to cover the required insurance. Contractor shall be fully responsible in the event of any delay in furnishing the required despatch details to NALCO.

7.1.4 CONTRACTOR shall be solely liable to adhere to the requirements of the insurer for settlement of claims without prejudice to the rights of OWNER/ Insured. During claim, following steps which are not exhaustive are required to be taken care by CONTRACTOR:

- Timely information of occurrence of risk event i.e. Within 24 hours, for conducting survey.
- Protecting the rights of Insured while issuing acknowledgements.
- Lodging of monetary claims in time and furnishing of requisite documents to surveyors/Insurer.
- Taking necessary precautions so that the loss/damage is not aggravated further.
- Damaged goods to be protected fully.
- Clear the site by dismantling & removing the damaged material to designated location after verification & survey by Insurer.

Any money received by the OWNER under any policy or policies of insurance shall be held by the OWNER for proportionate payment to the CONTRACTOR in respect of any appropriate repairs undertaken and/or replacement(s) made by the CONTRACTOR. Should the CONTRACTOR fail to undertake in whole or in part such repairs and/or replacement(s) and other works necessary consequent upon the occurrence of any contingency covered by such insurance, OWNER shall be entitled to get the work done in whole or in part for such repair/replacement through any other agency (ies), without prejudice to any other rights or remedies available to the OWNER, at the sole risk & cost of the CONTRACTOR.

7.1.5 Separate insurance policy to the extent of deductibles on account of excess may be arranged by Contractor at his own cost.


7.1.6 CONTRACTOR shall at his own cost and expense cover all insurance required under the prevailing statutes for his personnel and his sub-contractors. This shall include but not be limited to individual personal accident insurance / coverage under Workmen Compensation Act etc.

7.1.7 CONTRACTOR shall at his own cost and expense also obtain suitable insurance policies to cover all third party liabilities, vehicles, and all his tools, tackles, construction equipment etc.

7.1.8 CONTRACTOR shall also comply with all other indemnity and insurance as stipulated in the General Conditions of Contract.

7.1.9 CONTRACTOR shall at his own cost and expense cover all insurance required for all items, equipment / spares kept under their custody.

8. ROUNDING OFF


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All payments to and recoveries from the bill of CONTRACTOR shall be rounded off to the nearest Rupee. Wherever the amount to be paid/ recovered consists of a fraction of a Rupee (Paise), the amount shall be rounded off to the next higher rupee if the fraction consists of 50 (fifty) paise or more and if the fraction of a Rupee is less than 50 (fifty) paise, the same shall be ignored.

9. CONSTRUCTION WATER & POWER SUPPLY AND LICENSE FEE ON LAND

9.1 CONSTRUCTION POWER SUPPLY


- 9.1.1 Subject to availability, Owner will supply power at 400/440 V at only one point at the nearest substation, from where the contractor will make his own arrangement for temporary distribution. The point of supply will not be more than 500 Metres away from the Contractor's premises. All the works will be done as per IEA regulations and passed by the Engineer-in-Charge. The temporary line will be removed forthwith after the completion of work or if there is any hindrance caused to the other works due to the alignment of these lines, the contractor will re-route or remove the temporary lines at his own cost. The Contractor at his cost will also provide suitable electric metres, fuses, switches, etc. for purposes of payment to the Owner which should be in the custody and control of the Owner. The cost of power supply shall be payable to the owner every month @ Rs.4.30P per kWh for power, which will be deducted from the running bills. The owner shall not, however, guarantee the supply of electricity and no compensation for any failure or short supply of electricity will be entertained and this does not relieve the contractor of his responsibility for timely completion of this works as stipulated in the contract.
- 9.1.2 It shall be the responsibility of the contractor to provide and maintain the complete installation of the load side of the supply with due regard to safety requirement at site. All cabling, equipment, installations etc. shall comply in all respects with the latest statutory requirements and safety provisions i.e. as per and the Central/ State Electricity Acts and Rules etc. The Contractor will ensure that his equipment and Electrical wiring etc. are installed modified, maintained by a licensed Electrician / Supervisor. A test certificate is to be produced to the Engineer-in-Charge for his approval, before power is made available.
- 9.1.3 At all times, IEA regulations shall be followed failing which the Owner has a right to disconnect the power supply without any reference to the contractor. No claim shall be entertained for such disconnection by the Engineer-in-Charge. Power supply will be reconnected only after production of fresh certificate from authorised electrical supervisors.
- 9.1.4 The Owner is not liable for any loss or damage to the Contractor's equipment as a result of variation in voltage or frequency or interruption in power supply or other loss to the Contractor arising there from.
- 9.1.5 The Contractor shall ensure that the Electrical equipment installed by him are such that average power factor does not fall below 0.90 at his premises. In case power factor falls below 0.90 in any month, he will reimburse to the Owner at the penal rate determined by the Owner for all units consumed during the month.
- 9.1.6 The Power supply required for Contractor's colony near the plant site will be determined by the Owner and shall as per state Electricity Board's Rules and other Statutory provisions applicable for such installations from time to time. In case of power supply to Contractor's colony, the power will be made available at a single point on chargeable basis (as per Clause No 9.1.1) and the Contractor shall make his own arrangement at his own cost for distribution to the occupants of the colony as per Electricity Rules & Acts. The site area and colony shall be sufficiently illuminated to avoid accidents.

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- 9.1.7 The Contractor will have to provide and install his own light and power meters, which will be governed as per Central/ State Government Electricity Rules. The meters shall be sealed by the Owner.
- 9.1.8 In case of damage to any of the Owner's equipment on account of fault, intentional or unintentional on the part of the Contractor the Owner reserves the right to recover the cost of such damage from the contractor's bill. Cost of HRC Fuses replaced at the Owner's terminals due to any fault in the Contractor's installation shall be to contractor's account at the rates decided by the Engineer-in-Charge.
- 9.1.9 Only motors upto 3 HP will be allowed to be started direct on line. For motors above 3 HP and up to 100 HP a suitable starting devices approved by the Engineer-in-Charge shall be provided by the Contractor For Motors above 100 HP slipping induction motors will suitable starting devices as approved by the Engineer-in-Charge shall be provided by the Contractor.
- 9.1.10 The Contractor shall ensure at his cost that all electric lines and equipment and all installations are approved by the State Electricity Inspector before power can be supplied by the Owner.
- 9.1.11 The total requirement of power shall be indicated by the Bidder in his Bid.

9.2 CONSTRUCTION WATER SUPPLY

- 9.2.1. Unless other wise provided in the Contract, the Contractor shall be responsible for the arrangements to obtain supply of water necessary for the works, his labour colony, his workshops, his offices etc. All pumping installations, pipe network, storage and distribution system will have to be carried out by the Contractor at his own cost.
- 9.2.2. The Owner may agree to supply water to the Contractor for use in the Owner's works on specified terms and conditions as shall be determined by the Owner, which shall be binding on the Contractors. The tenderer is however required to exercise his option to receive such water supply from Owner's main at the time of submission of his tender.
- 9.2.3. When the water is supplied by the Owner, the Owner's main will be within 500 metres form the site of work. The Contractor shall provide at his own cost, all necessary ferrules, pipes, fitting, couplings and tanks and temporary works required and he shall maintain all such works in satisfactory condition. The Contractor shall remove all such works and shall re-instate and make good any work disturbed, to the satisfaction of the Engineer-in-Charge.
- 9.2.4. Bore well water will be made available at labour colony at one point within a lead of 500 m from side of allocated land. All pipe network, storage, pumping installations, and distribution system will have to be carried out by the Contractor at his own cost. The Contractor shall provide at his own cost, all necessary ferrules, pipes, fitting, couplings, tanks, water purifiers and temporary works required and he shall maintain all such works in satisfactory condition. The Contractor shall remove all such works and shall re-instate and make good any work disturbed, to the satisfaction of the Engineer-in-Charge.
- 9.2.5. In the event of the Contractor's drawing water from the Owner's main/source, he shall not claim any compensation for interruption or failure of Owner's water supply caused due to any reasons beyond the control of the owner.
- 9.2.6. The water so supplied by the Owner shall be free of cost for the Constructional work only.

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9.3 **LAND USE FOR CONSTRUCTION SITE OFFICES AND RESIDENTIAL ACCOMMODATION**

9.3.1 **Land for Contractor's Field Office, Godown and Workshop :**

9.3.1.1 The Owner may at his discretion and convenience and for the duration of the execution of the work provide the land for construction of Contractor's field office, godown, workshops and assembly yard required for the execution of the contract nearer to the site. The Contractor shall at his cost construct all these temporary buildings structures and provide suitable water supply and sanitary arrangement as approved by the Engineer-in-Charge and other inspectorates.

9.3.1.2 On completion of the works undertaken by the Contractor, he shall remove all temporary works erected by him and have the site cleared as directed by Engineer-in-Charge. If the Contractor fails to comply with these requirements, the Engineer-in-Charge has the right to remove any structure, such surplus, rubbish materials and depose off the same as he deems fit and get the site cleared and the contractor shall forthwith pay the amount of all expenses so incurred and shall have no claim in respect of any such surplus materials disposed as aforesaid. The Owner reserves the right to ask the Contractor at any time during the pendency of the contract, to vacate the land by giving 7 (seven) days notice on security reasons or on national interest or otherwise. A token rent of Rs. 100/- (Rupees One hundred only) per hectare or part thereof per annum or part thereof shall be charged for the land so made available. Land provided shall be solely on licence basis which is terminable by at any time without notice or without assigning any reasons. In the event of any such termination or the termination of the contract/completion thereof, the contractor shall forthwith vacate the premises.

9.3.2 **Land for Residential Accommodation:**

Land for residential accommodation for labour may be made available at the discretion of the Engineer-in-Charge and rent for the same will be as decided by the Engineer-in-Charge according to location and the area occupied by the Contractor.

10. **CONTRACTOR'S COMPUTERISED BILLING SYSTEM**

10.1 Without prejudice to stipulation in General Conditions of Contract, CONTRACTOR should follow following billing system:


The bills will be prepared by the CONTRACTOR on their PCs as per the standard formats and codification scheme proposed by OWNER / CONSULTANT. The CONTRACTOR will arrange for necessary software (if the Consultant / Owner does not provide any specific software) for data entry to capture the relevant billing data for subsequent processing.

The CONTRACTOR will submit these data to OWNER/CONSULTANT in an electronic media along with the hard copy of the bill, necessary enclosures and documents. The CONTRACTOR will also ensure the correctness and consistency of data so entered with the hard copy of the bill submitted for payment.

OWNER / CONSULTANT will utilise these data for processing and verification of bill of the CONTRACTOR.

11. **PENALTIES FOR NON-OBSERVATION OF SAFETY NORMS**

In addition to the penalties, if any, specified in the HSE enclosed with the Bidding Document, the following penalties shall also be applicable with a view to improve the safety aspects of execution of the job based on the job requirements:

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(i) **Penalties**

a) Violation of applicable Safety, Health and Environment related norm a penalty of Rs.5000/ per occasion.

b) Violation as above resulting in -

Any reportable physical injury, as per Indian Factory Act 1948, a penalty of 0.5% of the contract value (maximum of Rs.2,00,000) per injury in addition to Rs.5000/per occasion as in item (a).

Fatal accident, a penalty of 1% of the contract value (maximum of Rs.10,00,000/-) per injury in addition to Rs.5000/per occasion as in item (a).

(ii) The contractor should be advised to take appropriate insurance policy for the effective implementation of the above penalty provision

(iii) In case of accidents depending on the seriousness of injury etc. in addition to the hospitalization/ Treatment charges and Group insurance amount, compensation shall be paid by the Contractor to the affected person/ his family members in presence of Engineer-in-charge as per Workmen Compensation Act.

In case of any conflict between the penalties mentioned in the HSE section enclosed with the Bidding Document, and this clause, the more stringent clause shall be followed.

Levy of Penalty shall be with GST at applicable rate.

12. PRICE REDUCTION SCHEDULE (PRS):

Time is the essence of the contract.

a. Price Reduction Schedule (PRS) for delay in completion:


Price Reduction Schedule for delayed completion shall be ½% (half percent) of the total order value, per week of delay or part thereof, subject to maximum 5% (Five percent) of the total order value. For the purpose of Price Reduction Schedule (PRS) for delay in completion, the date of successful commissioning shall be reckoned as the date of completion.

b. PRS for non-fulfilment of PG Parameters:

PRS for non-fulfillment of Performance Guarantee Parameters within tolerance limits, shall be levied as indicated against each item. All the price reduction for different items of PG parameters, shall be applicable independently, subject to a maximum ceiling of 10% (Ten Percent) of the total order value.

c. Limitation of Liability:

The total maximum liability for both delayed completion of the execution with respect to contractual schedule or any extension thereof and non-fulfillment of performance guarantee parameters within the tolerance limits, shall be limited to 10% of the total order value. However, if

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any one or more or all performance guarantee parameter exceeds the maximum tolerance limit, penalty up to 100% of the total order value, shall be considered. The total maximum liability shall be exclusive of patent infringement & indemnity.

Note:- The PRS, liabilities or any penalty will be recovered along with applicable GST.

13. SHIPPING WEIGHT FOR PACKAGES:

Actual weight / volume shall not exceed the estimated weight/ volume quoted by the Bidder in the offer. In case actual weight/ volume exceeds the quoted figures, the additional cost of shipping on this account shall be borne by the Bidder. Freight quoted by Bidder shall be firm without any escalation.

14. GUARANTEE–WARRANTY PERIOD (DEFECT LIABILITY PERIOD) FOR THE ABOVE PACKAGE UNIT:

The Contractor shall guarantee that all equipment shall be new and in accordance with the Contract stipulations and be free from defects in material and workmanship for a period of 12 (twelve) calendar months commencing immediately upon the successful completion of commissioning or 24 (twenty four) months from the date of completion of erection, whichever is earlier.


15. CONTRACTOR TO COVER INSURANCE:

Contractor shall at his own expense carry and maintain insurance with reputed insurance companies to the satisfaction of the Owner as follows:

15.1 Employees State Insurance Act:

The contractor agrees to and does hereby accept full and exclusive liability for compliance with all obligations imposed by the Employees State Insurance Act., 1948, and the contractor further agrees to defend, indemnify and hold Owner harmless from any liability of penalty which may be imposed by the Central, State or Local authority by the reason of any asserted violation by contractor or Sub-contractor of the Employee's State Insurance Act, 1948 and also from all claims, suits or proceeding that may be brought against the Owner arising under, growing out of or by reasons of the work provided for by this contract whether brought by employees of the contractor, by third parties or by Central or State Government authority or any political sub-division thereof.

The contractor agrees to fill in with the Employees State Insurance Corporation, the Declaration Forms and all forms which may be required in respect of the contractor's or sub-contractor's employees, whose aggregate remuneration is Rs. 560.00 per month or less and who are employed in the work provided for or those covered by ESI from time to time under the Agreement. The contractor shall deduct and secure the agreement of the subcontractor to deduct the employee's contribution as per the first schedule of the Employee's State Insurance Act from wages and affix the employee's contribution cards at wages payments intervals. The contractor shall remit and secure the agreement of the sub-contractor to remit to the State Bank of India, Employees State Insurance Corporation Account, the employee's contribution as required by the Act. The contractor agrees to maintain all cards and records as required under the Act in respect of employees and payments and the contractor shall secure the agreement of the sub-contractor to maintain such records. Any expenses incurred for the contributions, making contributions or maintaining records shall be to the contractor's or sub-contractor's account.

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The Owner shall retain such sum as may be necessary from the total contract value until the contractor shall furnish satisfactory proof that all contribution as required by the Employees State Insurance Act, 1984, have been paid. This will be pending on the contractor when the Employees State Insurance Act is extended to the place of work.

15.2 **Workmen Compensation and Employees Liability Insurance:**

Insurance shall be affected for all the contractor's employees engaged in the performance of this contract. If any of the work is subject, the contractor shall require the sub-contractor to provide workmen's compensation and employer's liability insurance for the latter's employees if such employees are not covered under the contractor insurance.

15.3 **Any other insurance required under Law or Regulations or by Owner:**

Contractor shall also carry and maintain any and all other insurance, which he may be required under any law or regulation from time to time. He shall also carry and maintain any other insurance, which may be required by the Owner.


15.4 **Accident or Injury to workmen:**

The owner shall not be liable for or in respect of any damages or compensation payable at law in respect or in consequence of any accident or injury to any workman or other person in the Employment of the contractor or any sub-contractor save and except and accident or injury resulting from any act or default of the Owner, his agents or servants and the contractor shall indemnify and keep indemnified the Owner against all such damages and compensation (save and except as aforesaid) and against all claims, demands, proceeding, costs, charges and expenses, whatsoever in respect or in relation thereto.

16. **LABOUR LAWS:**


Contractor shall comply with any and all laws, ordinances, regulations and decision of courts (which shall be deemed to be a part of this Agreement) concerning the health, sanitary arrangements, wages, welfare, safety and employment of any and all of his workers upon the Project or any portion thereof and shall exclusively bear the consequences of failure to comply therewith Contractor shall Indemnify and hold Engineer and Owner harmless from any claims, fines or penalties which may be made against Engineer or Owner as result of Contractor's failure to fulfil these obligations. Without limiting the generality of the foregoing, Contractor shall fully comply with. The contractor shall obtain clearance from the Labour Department regarding the compliance of the labour laws on 6 monthly basis and submit to the owner for record.

- (i) No labour below the age of 18 (eighteen) years shall be employed on the work.
- (ii) The contractor shall not pay less than what is provided under law to labourers engaged by him on the work.
- (iii) The contractor shall at his expense comply with all labour laws and keep the Owner indemnified in respect thereof.
- (iv) The contractor shall pay equal wages for men and women in accordance with applicable labour laws.

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- (v) If the contractor is covered under the contractor labour (Regulation and Abolition) Act, he shall obtain a licence from licensing authority (i.e. office of the labour commissioner) by payment of necessary prescribed fee and the deposit, if any, before starting the work under the contract.
- (vi) The Contractor shall employ labour in sufficient numbers either directly or through sub-contractors to maintain the required rate of progress and of quality to ensure workmanship of the degree specified in the Contract and to satisfaction of the Engineer-in-Charge. The contractor shall not employ in connection with the works any person who has not completed his 18 (eighteen) years of age.
- (vii) The Contractor shall furnish to the Engineer-in-Charge the distribution return of the number and description, by trades of the work 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 (1) the accidents that occurred during the said fortnight showing the circumstance-under which they happened and the extent of damage and injury caused by them and (2) the number of female workers who have been allowed Maternity benefit as provided in the Maternity Benefit Act 1961 or Rules made thereunder and the amount paid to them.
- (viii) The contractor shall comply with the provisions of the payment of Wages Act 1936, Minimum Wages Act 1938, Employees Liability Act 1928. Workmen's Compensation Act, 1923, Industrial Dispute Act 1947, the Maternity Benefit Act 1961, Employees Provident Fund Act, 1952 and Contract Labour regulation and abolition Act 1937, Employment of Children Act 1938 or any modifications thereof or any other law relating thereto and rules made thereunder from time to time.
- (ix) The Engineer-in-Charge shall on a report having been made by an Inspecting Officer as defined in Contract Labour (Regulation and Abolition) Act 1970 have the power to deduct from the moneys due to the Contractor any sum required or estimated to be required for making good the loss suffered by a worker or Workers by reason of nonfulfillment of the Conditions of the Contractor for the benefit of workers, non-payment of wages or of deductions made from his or their wages which are not justified by the terms of the Contract or nonobservance of the said regulations.
- (x) The Contractor shall indemnify the Owner against any payments to be made under and for the observance of the provisions of the aforesaid Acts without prejudice to his right to obtain indemnity from his subcontractors. In the event of the contractor committing a default or breach of any of the provisions of the aforesaid Acts as amended from time to time, of furnishing any information or submitting or filling any Form/Register/Slip under the provisions of these Acts which is materially incorrect then on the report of the inspecting Officers the Contractor shall without prejudice to any other liability pay to the owner a sum not exceeding Rs. 50.00 as liquidated damages for every default, breach of furnishing, making submitting, filling materially incorrect statement as may be fixed by the Engineer-in-Charge and in the event of the contractor's default continuing in this respect the liquidated damages may be enhanced to Rs. 50.00 per day of default subject to a maximum of one percent of the estimated cost of the works put to tender. The Engineer-in-Charge shall deduct such amount from bills or security deposit of the Contractor and credit the same to the welfare fund constituted under these acts. The decision of the Engineer-in-Charge in this respect shall be final and binding on the Contractor.

17. ARBITRATION:

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17.1 SETTLEMENT OF DISPUTES & ARBITRATION

- 17.1.1 In the event of any question, dispute and/or difference whatsoever arising under this assignment in connection therewith including any question relating to existence, meaning and interpretation of this assignment or any alleged breach thereof, the same will be settled as far as possible by mutual discussions of the parties.
- 17.1.2 Notwithstanding any such claim under arbitration, the CONTRACTOR shall continue to perform the services unless it is the subject matter of the dispute of referred to arbitration.
- 17.1.3 All disputes or differences whatsoever which shall at any time arise between the parties hereto touching or concerning this contract or the execution or maintenance thereof of the contract or the rights touching or concerning the works or the execution or maintenance thereof of this contract or the construction meaning operation or effect thereof or to the rights or liabilities of the parties or arising out of or in relation thereto whether during or after completion of the contract or whether before or after determination, before closure or breach of the contract (other than those in respect of which the decision of any person is by the contract expressed to be final and binding) shall after written notice by either party to the contract to the other of them and to the Appointing Authority hereinafter mentioned be referred for adjudication to a sole Arbitrator to be appointed as hereinafter provided.

For the purpose of appointing the sole Arbitrator referred to above, the Appointing Authority i.e. Chairman cum Managing Director, NALCO, will send within thirty days of receipt of the notice, to the seller a panel of three names of persons.

The seller shall on receipt of the names as referred select any one of the person names to be appointed as a sole Arbitrator and communicate his name to the Appointing Authority within thirty days of receipt of the names. The appointing Authority shall there upon without any delay appoint the said person as the sole Arbitrator. If the seller fails to communicate such selection as provided above within the period specified, the Appointing Authority shall make the selection and appoint the selected person as the sole Arbitrator.


If the Arbitrator so appointed is unable or unwilling to act or resigns his appointment or vacate his office due to any reason whatsoever sole Arbitrators shall be appointed as aforesaid. The work under the contract shall, however continue during the arbitration proceedings.

The Arbitrator shall be deemed to have entered on the reference on the date he issues notices to both the parties fixing the date of the first hearing.

The Arbitrator shall give a separate award in respect of each dispute or difference and shall give a reasoned and speaking award/ awards.

The seat of arbitration shall be at Bhubaneswar. However, if the situation so warrants venue of arbitration may be at as and where required basis, and may be held at the place where the site of work is situated.

The fees, if any, of the Arbitrator shall, if required to be paid before the award is made and published be paid half and half by each of the parties. The costs of the reference and of the award including the fees, if any of the Arbitrator shall be in the discretion of the Arbitrator who may direct to and by whom and in what manner, such costs or any part thereof shall be paid may fix or settle the amount of costs to be so paid.

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The award of the arbitrator shall be final and binding on both the parties.

Subject to aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act, 2015 or any statutory modification or re-enactment thereof and the rules made there under, and for the time being in force shall apply to the arbitration proceeding under this clause.

In the event of disputes or differences arising between one public sector enterprise and a Govt. Department or between two public sector enterprises the above stipulations shall not apply, the provisions DPE office memorandum No.4(1)/2013-DPE(PMA)/FTS-1835 dated 11th April, 2017 or its amendments for arbitration shall be applicable.

18. **JURISDICTION / GOVERNING LAWS:**

(a) Jurisdiction:

For all disputes arising of this contract, the jurisdiction shall be lie under the jurisdiction of direct courts in the respective areas in the State of ODISHA (India) only.

(b) Governing Laws:

The contract shall be governed by and construed according to the laws in force in INDIA.

19. **ORDER OF PRECEDENCE:**

The several Contract documents forming the Contract are to read together as a whole and are to be taken as mutually explanatory.


Notwithstanding the sub-division of the Contract into these separate documents and/or volumes and/or heads, every part of each separate section/volume/head shall be deemed to be supplementary of every other part and shall be read with and into the Contract so far as it may be practicable to do so.

If conflicts between the documents comprising the Contract arise, the following shall prevail in the order stipulated below:

- i) Contract Agreement
- ii) Detailed Letter of Acceptance
- iii) Statement of Agreed Variations (Addenda / Corrigenda)
- iv) Job specifications / Scope of Work
- v) Technical Specifications
- vi) Applicable Codes & Standards
- vii) Quality Assurance Procedures
- viii) Special Conditions of LSTK Contract
- ix) Price Schedule Formats (SP Forms)
- x) Instructions to Bidders
- xi) General Conditions of Contract & General Terms & Conditions of Contract
- xii) Other documents

Wherever it is mentioned in the specifications that the Contractor shall perform certain work or provide certain facilities it is understood that the Contractor shall do so at his own cost.

Should there be any doubt or ambiguity in the interpretation of the Contract documents or contradiction therein or should there be any discernable error or omission in any Contract document, the CONTRACTOR shall, prior to commencing the relative work or supply, as the case may be, apply in

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writing to the Engineer-in-Charge for his decision for resolution of the doubt, ambiguity or contradiction or correction of the error or making good the omission, as the case may be. Should the CONTRACTOR fail to apply to the Engineer-in-Charge for his decision as aforesaid prior to commencing the relative work or supply, the CONTRACTOR shall perform the said work or make the said supply, as the case may be, at his own cost and risk.

20. DEDUCTION WITH APPLICABLE GST:

Any forfeiture / deduction / recovery / reduction from Contract Price under the Contract by invoking Contract-cum-Performance Bank Guarantee or otherwise shall be done with applicable GST at the time of such transaction.

21. REGISTRATION OF THE CONTRACTOR WITH STATUTORY AUTHORITIES:


Within 30 days of execution of the Contract Agreement, the CONTRACTOR shall, if required by the applicable statutes, register itself and the Contract at its own cost with the Reserve Bank of India, Income Tax, GST and other statutory authorities as required under the rules and regulations governing in India. A copy of all documents related to all such registrations shall be submitted to the OWNER for record.

Immediately after notification of the Letter of Acceptance / BOA, the CONTRACTOR shall, if required by the applicable statutes, obtain permission for opening of office(s) in India, from the Reserve Bank of India.

22. STATUTORY APPROVALS:

- 22.1 Unless otherwise specified, it shall be the CONTRACTOR's responsibility to obtain all approvals from any authority (except for environment clearance) required under any statute, rule or regulation of the Central or State Government concerned with the performance of the Contract and/or the contractual Work. The application on behalf of the OWNER for submission to relevant authorities alongwith copies of required certificates complete in all respects shall be prepared and submitted by the CONTRACTOR well ahead of time so that the actual construction/commissioning of the works is not delayed for want of the approval/inspection by the concerned authorities. The CONTRACTOR shall arrange for the inspection of the works by the authorities and will undertake necessary coordination and liaison required and shall not be entitled to any extension of time for any delay in obtaining such approvals.
- 22.2 Any deficiency(ies) as pointed out by any such authority shall be rectified by the CONTRACTOR within the scope of relative supply and/or Work at no extra cost to the OWNER. The inspection and acceptance of the Works by such authorities shall, however, not absolve the CONTRACTOR from any of its responsibilities under this Contract.
- 22.3 No extension of time shall be granted for meeting the requirement and/or obtaining approval of statutory authorities.

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ANNEXURE-I
LIST OF APPROVED BANKS

1. LIST OF PSU BANKS

Sl. No	Name of the Bank
1	Allahabad Bank
2	Andhra Bank
3	Bank of Baroda
4	Bank of India
5	Bank of Maharashtra
6	Canara Bank
7	Central Bank of India
8	Corporation Bank
9	Dena Bank
10	IOBI Bank
11	Indian Bank
12	Oriental Bank of Commerce
13	Punjab & Sind Bank
14	Punjab National Bank
15	State Bank of India
16	Syndicate Bank
17	UCO Bank
18	Union Bank of India
19	Vijaya Bank

2. LIST OF PRIVATE BANKS


Sl. No	Name of the Bank
1	HDFC Bank Ltd.
2	ICICI Bank Ltd.
3	Axis Bank Ltd.
4	Kotak Mahindra Bank Ltd.
5	YES Bank
6	IndusInd Bank Ltd.
7	The Federal Bank Ltd.
8	The Jammu & Kashmir Bank Ltd.
9	The South Indian Bank Ltd.
10	The Karur Vysya Bank Ltd.

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11	The Karnataka Bank Ltd.
12	IDFC Bank
13	RBL Bank
14	The Lakshmi Vilas Bank Ltd.
15	Tamilnad Mercantile Bank Ltd.
16	City Union Bank Ltd.

3. LIST OF FOREIGN BANKS

Sl.No.	Name of the Bank	BIC
1	Abu Dhabi Commercial Bank Limited	ADCB AE AA
2	Australia & New Zealand Banking Group Limited	ANZB AU 3M
3	Bank of America NA	SOFA US 3N
4	Bank of Bahrain and Kuwait B.S.C.	BBKU BH BM
5	Bank of Ceylon	BCEY LK LX
6	Barclays Bank PLC	BARC GB 22
7	BNP Paribas	BNPA FR PP
8	Citibank N.A.	CITI US 33
9	Commonwealth Bank of Australia	CTBA AU 2S
10	Credit Agricole Corporate & Investment Bank	BSUI FR PP
11	Credit Suisse AG	CRES CH ZZ
12	DBS Bank Ltd.	DBSS SG SG
13	Deutsche Bank AG	DEUT DE FF
14	Doha Bank	DOHB QA QA
15	FirstRand Bank Ltd.	FIRN ZA JJ
16	Industrial Bank of Korea	IBKO KR SE
17	Industrial & Commercial Bank of China Limited	ICBK CN BJ
18	JP Morgan Chase Bank	CHAS US 33
19	KEB Hana Bank	KOEX KR SE
20	Krung Thai Bank Public Company Ltd.	KRTH TH BK
21	Mashreqbank PSC	BOMLA EAD
22	Mizuho Bank Ltd.	MHCB JPJT
23	National Australia Bank Ltd.	NATA AU 33
24	Sberbank	SABR RU MM
25	Shinhan Bank	SHBK KR SE
26	Societe Generale	SOGF FR PP

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27	Sonali Bank Ltd.	BSON BD DH
28	Standard Chartered Bank	SCBL GB 2L
29	Sumitomo Mitsui Banking Corporation	SMBC JP JT
30	The Bank of Nova Scotia	NOSCCA IT
31	The Bank of Tokyo-Mitsubishi UFJ, Ltd.	BOTKJPJT
32	The Hongkong and Shanghai Banking Corp.Ltd.	HSBC HK HH
33	The Royal Bank of Scotland PLC	RBOS GB 2L
34	United Overseas Bank Ltd.	UOVB SG SG
35	Westpac Banking Corporation	WPACAU 2F
36	Woori Bank	HVBK KR SE

Note:

Further, any domestic Guarantee issued by PSU Bank (or) Private Bank (or) Foreign Bank operating in India must be operational and invocable in Bhubaneswar only. For Guarantee to be operational in Bhubaneswar, the issuing Bank must designate a specified Bank Branch in Bhubaneswar. Accordingly, the following clause has to be inserted in the existing BG Format for EMD/SD/Contract/Advance Payment in the following style :

" We _____ Bank further agree that this Guarantee shall be invocable at our place of business at _____ (Bank name), _____ (Branch Name and address of the Branch), Bhubaneswar, Odisha 751xxx "

In the case of Foreign currency BGs, the BG issuing Bank must have correspondent relationship with State Bank of India.