



**Bangladesh-India Friendship Power Company (Pvt.) Limited**

**Tender Document  
for  
EPC Township Package  
for  
2x660 MW Maitree Super Thermal Power Project  
at Rampal  
Dist.- Bagerhat, Division - Khulna, Bangladesh  
(on International Competitive Bidding basis)**

**TENDER DOCUMENT No.: BIFPCL/MSTPP/ EPC TOWNSHIP**

**DATE: 07.08.2018**

**Bangladesh-India Friendship Power Company (Pvt.) Limited**



**Tender Document  
for  
EPC Township Package  
for  
2x660 MW Maitree Super Thermal Power Project  
at Rampal  
Dist.- Bagerhat, Division - Khulna, Bangladesh  
(on International Competitive Bidding basis)**

**Invitation for Tender No: BIFPCL / MSTPP / EPC TOWNSHIP / 2018  
Issued to:  
Issued on:  
Tender Package No: BIFPCL / MSTPP / EPC TOWNSHIP**

# Table of Contents

<b>Particulars Detail</b>	<b>Page No.</b>
<b>PART- A</b>	
<b>Section 1. Instructions to Tenderers(ITT)</b>	
<b>A. General</b>	
1. Scope of Tender	1
2. Interpretation	1
3. Source of Funds	1
4. Corrupt, Fraudulent, Collusive or Coercive Practices	2
5. Eligible Tenderers	3
6. Eligible Materials, Equipment and Associated Services	4
7. Site Visit	4
<b>B. Tender Document</b>	
8.Tender Document: General	4
9. Clarification of Tender Document	5
10. Pre-Tender Meeting	5
11. Addendum to Tender Document	5
<b>C. Qualification Criteria</b>	
12. General Criteria	6
13. Litigation History	6
14. Experience Criteria	7
15. Financial Criteria	7
16. Personnel Capacity	7
17. Equipment Capacity	7
18. Joint Venture, Consortium or Association (JVCA)	7
19. Subcontractor (s)	8
<b>D. Tender Preparation</b>	
20. Only One Tender	9
21. Cost of Tendering	9
22. Issuance and Sale of Tender Document	9
23. Language of Tender	9
24. Contents of Tender	9
25. Tender Submission Letter and Bill of Quantities	11
26. Alternatives	11
27. Tender Prices, Discounts and Price Adjustment	11
28. Tender Currency and Payments	13
29. Documents Establishing Eligibility of the Tenderer	13
30. Documents Establishing the Eligibility and Conformity of Materials, Equipment and Services	13
31. Documents Establishing Technical Proposal	13
32. Documents Establishing the Tenderer's Qualification	13
33. Validity Period of Tender	14
34. Extension of Tender Validity and Tender Security	15
35. Tender Security	15
36. Form of Tender Security	15

## **Table of Contents**

<b>Particulars Detail</b>	<b>Page No.</b>
37. Authenticity of Tender Security	16
38. Return of Tender Security	16
39. Forfeiture of Tender Security	16
40. Format and Signing of Tender	17
<b>E. Tender Submission</b>	
41. Sealing, Marking and Submission of Tender	17
42. Deadline for Submission of Tender	19
43. Late Tender	19
44. Modification, Substitution or Withdrawal of Tender	19
45. Tender Modification	19
46. Tender Substitution	20
47. Withdrawal of Tender	20
<b>F. Tender Opening and Evaluation</b>	
48. Tender Opening	20
49. Evaluation of Tenders	22
50. Evaluation Process	23
51. Preliminary Examination	23
52. Technical Examination and Responsiveness	23
53. Clarification on Technical offer	25
54. Restrictions on Disclosure of Information Relating to Procurement Process	25
55. Approval of Technical Offer	25
56. Financial Offer Opening	25
57. Clarification on Financial Offer	26
58. Correction of Arithmetical Errors	27
59. Conversion to Single Currency	27
60. Financial Evaluation	27
61. Price Comparison	28
62. Negotiations	29
63. Post-qualification	29
64. Procuring Entity's Right to Accept any or to Reject Any or All Tenders	30
65. Rejection of All Tenders	30
66. Informing Reasons for Rejection	31
<b>G. Contract Award</b>	
67. Award Criteria	31
68. Notification of Award	31
69. Performance Security	32
70. Form and Time Limit for Furnishing of Performance Security	32
71. Validity of Performance Security	32
72. Authenticity of Performance Security	33
73. Contract Signing	33
74. Publication of Notification of Award of Contract	33
75. Debriefing of Tenderers	33
<b>Section 2. Tender Data Sheet(TDS)</b>	
A. General	34
B. Tender Document	36
C. Qualification Criteria	37

# Table of Contents

<b>Particulars Detail</b>	<b>Page No.</b>
D. Tender Preparation	43
E. Tender Submission	45
F. Tender Opening and Evaluation	46
G. Contract Award	47
<b>Section 3. General Conditions of Contract</b>	
<b>A. General</b>	
1. Definitions	52
2. Interpretations	56
3. Communications and Notices	57
4. Governing Law	57
5. Governing Language	57
6. Documents Forming the Contract and Priority of Documents	57
7. Contract Agreement	58
8. Assignment	58
9. Eligibility	58
10. Gratuities / Agency fees	58
11. Confidential Details	58
12. Joint Venture, Consortium or Association (JVCA)	59
13. Possession of the Site	59
14. Access to the Site	59
15. Employer's Responsibilities	60
16. Approval of the Contractor's Temporary Works	60
17. Contractor's Responsibilities	60
18. Taxes and Duties	60
19. Contractor's Personnel	60
20. Subcontracting	61
21. Nominated Subcontractor	61
22. Other Contractors	61
23. Engineer's Decisions	61
24. Delegation	61
25. Instructions	62
26. Queries about the Contract conditions	62
27. Safety, Security and Protection of the Environment	62
28. Working Hours	62
29. Welfare of Laborers	62
30. Child Labor	63
31. Fossils	63
32. Employer's and Contractor's Risks	63
33. Employer's Risks	63
34. Contractor's Risks	64
35. Copyright	64
36. Limitation of Liability	64
37. Insurance	65
38. Management and Progress Meetings	65
39. Corrupt, Fraudulent, Collusive or Coercive Practices	65

## Table of Contents

<b>Particulars Detail</b>	<b>Page No.</b>
<b>B. Time Control</b>	
40. Commencement of Works	67
41. Completion of Works	67
42. Programme of Works	67
43. Pro Rata Progress	68
44. Early Warning	68
45. Extension of Intended Completion Date	68
46. Delays Caused by Authorities	69
47. Acceleration	69
48. Delays Ordered by the Engineer	69
49. Suspension of Work	70
50. Consequences of Suspension	70
51. Payment for Plant and Materials in Event of Suspension	70
52. Prolonged Suspension	70
53. Resumption of Work	71
<b>C. Quality Control</b>	
54. Execution of Works	71
55. Examination of Works before covering up	71
56. Identifying Defects	71
57. Testing	71
58. Rejection of Works	72
59. Remedial Work	72
60. Correction of Defects	72
61. Uncorrected Defects	73
<b>D. Cost Control</b>	
62. Contract Price	73
63. Bill of Quantities	73
64. Changes in the Quantities and Unit Rate or Price	74
65. Variations	74
66. Costing of Variations or Extra Orders	76
67. Cash Flow Forecasts	77
68. Payment Certificates	77
69. Payments to the Contractor	78
70. Delayed Payment	78
71. Payments to Nominated Subcontractor(s)	79
72. Compensation Events	79
73. Adjustments for Changes in Legislation	80
74. Price Adjustment	81
75. Retention Money	81
76. Liquidated Damages	82
77. Bonus	82
78. Advance Payment	82
79. Performance Security	83
80. Provisional Sums	84
81. Dayworks	84
82. Cost of Repairs to Loss or Damages	85

## Table of Contents

<b>Particulars Detail</b>	<b>Page No.</b>
<b>E. Completion of the Contract</b>	
83. Completion	85
84. Completion Certificate and Taking Over	85
85. Amendment to Contract	86
86. Final Account	86
87. As-built Drawings and Manuals	86
88. Force Majeure	87
89. Notice of Force Majeure	87
90. Duty to Minimize Delay	87
91. Consequences of Force Majeure	88
92. Force Majeure Affecting Subcontractor	88
93. Optional Termination, and Release	88
94. Release from Performance	89
<b>F. Termination and Settlement of Disputes</b>	
95. Termination	89
96. Payment upon Termination	91
97. Property	92
98. Frustration	92
<b>G. Claims, Disputes and Arbitration</b>	
99. Contractor's Claims	92
100. Settlement of Disputes	93
<b>Section 4. Particular Conditions of Contract(PCC)</b>	94
<b>Section 5. Tender and Contract Forms</b>	103
Tender Submission Letter (Form 1a)	104
Tender Submission Letter (Form 1b)	109
Tenderer Information (Form 2)	111
JVCA Partner Information (Form 3)- Not applicable	145
Specialist Subcontractor Information (Form 4)	146
Personnel Information (Form 5)	147
Bank Guarantee for Tender Security (Form 6)	148
Notification of Award (Form 7)	149
Contract Agreement (Form 8)	150
Bank Guarantee for Performance Security (Form 9)	151
Bank Guarantee for Advance Payment (Form 10)	152
Bank Guarantee for Retention Money Security (Form 11)	153
Bank Guarantee to be Furnished by Executant of Deed Joint Undertaking other than Contractor (Form 13)	154
<b>Section 6. Bill of Quantity(BOQ)</b>	
<b>PART- B</b>	
<b>Section 7: General Technical Specification (ref. Section B0, Part C &amp; Part D)</b>	
<b>Section 8: Detailed Technical Specification(Ref. Section B1, Section B2, Section B3, Part C &amp; Part D)</b>	
<b>Section 9: Tender Drawings (Ref. Section B4)</b>	

# Section 1. Instructions to Tenderers

## A. General

- 1. Scope of Tender**
1. The Employer, as indicated in the Tender Data Sheet (**TDS**) issues this Tender Document for the procurement of Works and related goods & services incidental thereto as specified in the **TDS** and as detailed in **Section 6: Bill of Quantities**. The name of the Tender and the number and identification of its constituent lot(s) are stated in the TDS.
  2. The successful Tenderer shall be required to execute the works and physical services as specified in the General Conditions of Contract
- 2. Interpretation**
1. Throughout this Tender Document:
    - (a) the term **“in writing”** means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail;
    - (b) if the context so requires, **singular** means plural and vice versa;
    - (c) **“day”** means calendar days unless otherwise specified as working days;
    - (d) **“Person”** means and includes an individual, body of individuals, sole proprietorship, partnership, company, association or cooperative society that wishes to participate in Procurement proceedings;
    - (e) **“Tender Document/Bidding Document”** means the Document provided by a Employer to a Tenderer/Bidder as a basis for preparation of the Tender;
    - (f) **“Tender/Bid”** depending on the context, means a Tender submitted by a Tenderer/Bidder for execution of Works and Physical Services to the Employer in response to an Invitation for Tender;
    - (g) Techno-Commercial Offer and Technical Offer shall have the same meaning; and
    - (h) Financial Offer and Price Offer shall have the same meaning.
- 3. Source of Funds**
1. The Employer has been allocated **‘public funds’** as indicated in the **TDS** and intends to apply a portion of the funds to eligible payments under the Contract for which this Tender Document is issued.
  2. For the purpose of this provision, **“public funds”** means any funds allocated to the Employer under Government budget, or loan, grants and credits placed at the disposal of the Employer through the Government by the Development Partners or foreign states or organisations.

**4. Corrupt,  
Fraudulent,  
Collusive or  
Coercive Practices**

3. Payments by the Development Partner, if so indicated in the **TDS**, will be made only at the request of the Government and upon approval by the Development Partner or foreign state or organisation in accordance with the applicable Loan / Credit / Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.
1. The Employer requires that Tenderers including their personnel, agents and proposed Sub-contractors, observe the highest standard of ethics during the procurement and execution and performance of the contract (including all works thereunder). In pursuance of this policy, the Employer:
  - (a) defines, for the purposes of this provision, the terms set forth below as follows :
    - (i) **“corrupt practice”** means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of the Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by the Procuring Entity in connection with a Procurement proceeding or Contract execution;
    - (ii) **“fraudulent practice”** means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;
    - (iii) **“collusive practice”** means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying the Procuring Entity the benefits of competitive price arising from genuine and open competition;
    - (iv) **“coercive practice”** means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of a Contract, and this will include creating obstructions in the normal submission process used for Tenders.
  - (b) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
  - (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for or in executing a contract of the Employer.

## 5. Eligible Tenderers

1. This Invitation for Tenders is open to all potential Tenderers from all countries, except for any specified in the **TDS**. A tenderer will be eligible if it is a citizen, or is constituted, registered and operates in conformity with the provisions of the laws of that country.
2. Tenderers may be a physical or juridical individual or body of individuals, or company, association or any combination of them in the form of a Joint Venture (JV) invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders.
3. Government-owned enterprise in Bangladesh may also participate in the Tender if it is legally and financially autonomous, it operates under commercial law, and it is not a dependent agency of the Procuring Entity.
4. Tenderer shall have the legal capacity to enter into the Contract under the Applicable Law.
5. Tenderers in its own name or its other names or also in the case of its Persons in different names shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive or coercive practices as stated under ITT Sub Clause 4.4 (or obstructive practice, in case of Development Partner) in relation to the Development Partner's Guidelines in projects financed by Development Partner.
6. Tenderers shall not be insolvent, be in receivership, be bankrupt, be in the process of bankruptcy, be not temporarily barred from undertaking business and it shall not be the subject of legal proceedings for any of the foregoing.
7. Tenderers shall have fulfilled its obligations to pay taxes and social security contributions under the provisions of laws and regulations of the country of its origin.
8. Tenderers shall provide such evidence of their continued eligibility satisfactory to the Employer, as the Employer will reasonably request.
9. Tenderers should not be associated, or have been associated in the past, directly or indirectly, with a consultant or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the works to be performed under this Invitation for Tenders.
10. Tenderers are not restrained or barred from participating in Public Procurement on grounds of poor performance in the past under any Contract.
11. Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity will reasonably request.
12. These above requirements for eligibility will extend, as applicable, to each JV partner and Subcontractor proposed by the Tenderers.

## **6. Eligible Materials, Equipment and Associated Services**

1. All materials, equipment and associated services to be supplied under the Contract are from eligible sources, unless their origin is from a country specified in the **TDS**.
2. For the purposes of this Clause, “**origin**” means the place where the Materials and Equipments are mined, grown, cultivated, produced or manufactured or processed, or through manufacturing, processing, or assembly, another commercially recognized new product results that differs substantially in its basic characteristics from its components or the place from which the associated services are supplied.
3. The origin of materials and equipment and associated services is distinct from the nationality of the Tenderer.

## **7. Site Visit**

1. Tenderers are advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works.
2. Tenderers and any of its personnel or agents will be granted permission by the Employer to enter into its premises and lands for the purpose of such visit, but only upon the express condition that the Tenderer, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
3. The costs of visiting the Site shall be at the Tenderer’s own expense.

## **B. Tender Document**

### **8. Tender Document: General**

1. The Sections comprising the Tender Document are listed below, and should be read in conjunction with any Addendum issued under ITT Clause 11.
  - Section 1 Instructions to Tenderers (ITT)
  - Section 2 Tender Data Sheet (TDS)
  - Section 3 General Conditions of Contract (GCC)
  - Section 4 Particular Conditions of Contract (PCC)
  - Section 5 Tender and Contract Forms
  - Section 6 Bill of Quantities (BOQ)
  - Section 7 General Specifications
  - Section 8 Particular Specifications
  - Section 9 Drawings
2. The Employer will not take into consideration any Tender if the Tender Document was not directly purchased from or issued by, the Employer, or through its agent(s) as stated in the **TDS**.
3. Tenderers are expected to examine all instructions, forms, terms, and specifications in the Tender Document as well as in Addendum to Tender, if any.

**9. Clarification of Tender Document**

1. A prospective Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address and within time as specified in the **TDS**.
2. The Employer is not obliged to answer any clarification request received after that date as stated under ITT Sub Clause 9.1.
3. The Employer shall respond in writing within five (5) working days of receipt of any such request for clarification received under ITT Sub Clause 9.1.
4. The Employer shall forward copies of its response to all those who have purchased or have been issued with the Tender Document, including a description of the enquiry but without identifying its source.
5. Should the Employer deem it necessary to revise the Tender Document as a result of a clarification, it will do so following the procedure under ITT Clause 11.

**10. Pre-Tender Meeting**

1. To clarify issues and to answer questions on any matter arising in the Tender Document, the Procuring Entity may, if stated in the **TDS**, hold a pre-Tender Meeting at the place, date and time as specified in the **TDS**. All potential Tenderers are encouraged and invited to attend the meeting, if it is held.
2. Tenderers are requested to submit any questions in writing so as to reach the Procuring Entity not later than one day prior to the date of the meeting.
3. Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be transmitted within seven (7) days of holding the meeting to all those who purchased or obtained the Tender Document and, to even those who did not attend the meeting. Any revision to the Tender Document listed in ITT Sub-Clause 8.1 that may become necessary as a result of the pre-Tender meeting will be made by the Employer exclusively through the issue of an Addendum pursuant to ITT Sub Clause 11 and not through the minutes of the Pre-Tender meeting.
4. Non-attendance at the Pre-Tender meeting will not be a cause for disqualification of a Tenderer.

**11. Addendum to Tender Document**

1. At any time prior to the deadline for submission of Tenders, the Employer, on its own initiative or in response to an inquiry in writing from a Tenderer, having purchased the Tender Document, or as a result of a Pre-Tender meeting may revise the Tender Document by issuing an Addendum.
2. The Addendum issued under ITT Sub Clause 11.1 shall become an integral part of the Tender Document and shall have a date and an issue number and must be circulated by fax, mail or e-mail, to Tenderers who have purchased or been issued with the Tender Documents within five (5) working days of issuance of such Addendum, to enable Tenderers to take appropriate action.
3. Tenderers shall acknowledge receipt of an Addendum within three (3) working days.

4. The Employer shall also ensure posting of the relevant Addenda with the reference number and date on their websites including notice boards, where the Employer had originally posted the IFTs including the dgmarket or UNDB in case the requirement of donor conditionality.
5. Tenderers who have purchased or been issued with the Tender Documents and, have not received any Addenda issued under ITT Sub Clause 11.1 shall inform the Employer of the fact by fax, mail or e-mail, before **two- thirds** of the time allowed for the submission of Tender has elapsed.
6. If an Addendum is issued when time remaining is less than **one-third** of the time allowed for the preparation of Tenders, Employer shall extend the deadline by an appropriate number of days for the submission of Tenders, depending upon the nature of the Procurement requirement and the addendum. The minimum time for such extension shall not be less than three (3) days.

## C. Qualification Criteria

- 12. General Criteria**
1. Tender Tenderers shall possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, specific experience, reputation, and the personnel, to perform the contract, which entails setting pass/fail criteria, which if not met by the Tenderers, will result in consideration of its Tender as non-responsive.
  2. In addition to meeting the eligibility criteria, as stated in ITT Clause 5, Tenderers must satisfy the other criteria stated in ITT Clauses 13 to 18 inclusive.
  3. To qualify for multiple number of contracts/lots in a package made up of this and other individual contracts/lots for which Tenders are invited in the Invitation for Tenders, the Tenderers shall demonstrate having resources sufficient to meet the aggregate of the qualifying criteria for the individual contracts. The requirement of general experience as stated under ITT Sub Clause 14.1(a) and specific experience, unless otherwise of different nature, as stated under ITT Sub Clause 14.1(b) shall not be separately applicable for each individual lot.
- 13. Litigation History.**
1. Non-performance of a contract shall not occur within the last years as specified in the **TDS**, prior to the deadline for Tender submission based on all information on fully settled disputes or litigation.
  2. For the purpose, a fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract and where all appeal instances have been exhausted.
  3. All pending litigation shall in total not represent more than the percentage, as specified in the **TDS**, of the Tenderer's net worth and shall be treated as resolved against the Applicant.

- 14. Experience Criteria**
1. Tenderers shall have the following minimum level of construction experience to qualify for the performance of the Works under the Contract:
    - (a) a minimum number of years of general experience in the construction of works as Prime Contractor or Subcontractor or Management Contractor as specified in the **TDS**; and
    - (b) specific experience as a Prime Contractor or Subcontractor or Management Contractor in construction works of a nature, complexity and methods/construction technology similar to the proposed Works, in at least a number of contract(s) and, each with a minimum value over the period, as specified in the **TDS**.
- 15. Financial Criteria**
1. Tenderers shall have the following minimum level of financial capacity to qualify for the performance of the Works under the Contract.
    - (a) the average annual **construction** turnover as specified in the **TDS** during the period specified in the **TDS**;
    - (b) availability of minimum liquid assets i.e working capital or credit facilities from any scheduled Bank of Bangladesh, net of other contractual commitments, of the amount as specified in the **TDS**;
    - (c) satisfactory resolution of all claims under litigation cases and shall not have serious negative impact on the financial capacity of the Tenderers. All pending litigation shall be treated as resolved against the Tenderers; and
    - (d) The Minimum Tender Capacity as specified in the **TDS**.
- 16. Personnel Capacity**
1. Tenderers shall have the following minimum level of personnel capacity to qualify for the performance of the Works under the Contract consisting of a Construction Project Manager, Engineers, and other key staff with qualifications and experience as specified in the **TDS**.
- 17. Equipment Capacity**
1. Tenderers shall own suitable equipment and other physical facilities or have proven access through contractual arrangement to hire or lease such equipment or facilities for the desired period, where necessary or have assured access through lease, hire, or other such method, of the essential equipment, in full working order, as specified in the **TDS**.
- 18. Joint Venture, Consortium or Association (JVCA)**
1. Tenderers may participate in the procurement proceedings forming a Joint Venture(JV) by an agreement, executed case by case on a non judicial stamp of value as specified in the **TDS** or alternately with the intent to enter into such an agreement supported by a Letter of Intent along with the proposed agreement duly signed by all legally authorised partners of the intended JV and authenticated by a Notary Public, with the declaration that the partners will execute the JV agreement in the event the Tenderer is successful.

2. The figures for each of the partners of a JV shall be added together to determine the Tenderer's compliance with the minimum qualifying criteria; however, for a JV under ITT Sub Clause 18.1, with number of partners as specified in the **TDS** to qualify, Leading partner and other partners must meet the criteria as specified in the **TDS**. Failure to comply with these requirements will result in non-responsiveness of the JV Tender.
3. Each partner of the JV shall be jointly and severally liable for the execution of the Contract, all liabilities and ethical and legal obligations in accordance with the Contract terms.
4. JV shall nominate the **Leading Partner** as **REPRESENTATIVE** being entrusted with the Contract administration and management at Site who shall have the authority to conduct all business for and on behalf of any and all the partners of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution including the receipt of payments for and on behalf of the JV.
5. Alteration of partners to the composition or constitution at a date later than the signing of the Contract during execution shall be allowed by the Employer only when any of such partners is found to be incompetent or has serious difficulties e.g. bankruptcy which may impact the overall implementation of the proposed Works, where the incoming partner shall require to have qualifications higher than that of the outgoing partner.
6. Each partner of the JV shall complete the JV Partner Information (**Form-3**) for submission with the Tender.

**19. Subcontractor (s)**

1. Tenderers may intend to subcontract an activity or part of the Works to a Specialist Subcontractor, in which case such elements and the proposed Subcontractor shall be clearly identified and its qualifications supported by documents.
2. A Specialist Subcontractor may participate in more than one Tender, but only in that capacity.
3. The Employer may require Tenderers to provide more information about their subcontracting arrangements. If any Specialist Subcontractor is found ineligible or unsuitable to carry out the subcontracted tasks, the Employer may request the Tenderer to propose an acceptable substitute.
4. The Employer may also select in advance Nominated Subcontractor(s) to execute certain specific components of the Works and if so, those will be specified in the **TDS**.
5. The successful Tenderer shall under no circumstances assign the Works or any part of it to the Subcontractor(s) unless so mentioned in the submitted tender documents and subsequently incorporated in the contract clauses accordingly.
6. Each Specialist Subcontractor shall complete the Specialist Subcontractor Information (**Form-4**) for submission with the Tender.

## D. Tender Preparation

- 20. Only One Tender**
1. Tenderers shall submit only one (1) Tender for each lot, either individually or as a JV. The Tenderer who submits or participates in more than one (1) Tender in one (1) lot will cause all the Tenders of that particular Tenderer to be considered non-responsive.
- 21. Cost of Tendering**
1. Tenderers shall bear all costs associated with the preparation and submission of its Tender, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
- 22. Issuance and Sale of Tender Document**
1. The Procuring Entity shall make Tender Documents available immediately to the potential Tenderers, requesting and willing to purchase at the corresponding price by the date the advertisement has been published in the newspaper.
  2. Full contact details, with mailing address, telephone and facsimile numbers and electronic mail address, as applicable, of those to whom the Tender Documents have been issued shall be recorded with a reference number by the Employer or its agents.
  3. There shall not be any pre-conditions whatsoever, for sale or issuance of Tender Documents and, the sale or issuance of such Document shall be permitted up to the day prior to the day of deadline for the submission of Tender.
  4. Tender Document posted in the designated website may also be used by the Tenderer for submission of Tenders, if so permitted by the Employer and specified in the **TDS**.
- 23. Language of Tender**
1. The Tender shall be written in the English language. Correspondences and documents relating to the Tender may be written in English. Supporting documents and printed literature furnished by the Tenderer that are part of the Tender may be in another language, provided they are accompanied by an accurate translation of the relevant passages in English by an authorised translation agency/individual, in which case, for purposes of interpretation of the Tender, such translation shall govern.
  2. Tenderers shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
- 24. Contents of Tender**
1. The Tender prepared by the Tenderers shall comprise Two Envelope submitted simultaneously, one called the **Technical Offer (Envelope-01)** containing the documents listed in ITT 24.2 and other called the **Financial Offer (Envelope-02)** containing the documents listed in 24.3, both envelopes enclosed together in an outer Single envelope.

2. The Technical Offer (**Envelope-01**) prepared by the Tenderers will comprise the following:
  - (a) the Technical Offer Submission Letter (**Form-1a**) as stated under ITT Sub Clause 25.1 and **Appendix to Tender**;
  - (b) the Tenderer Information as stated under ITT Clauses 5, 29 and 32 (Form-2);
  - (c) Tender Security, as stated under ITT Clauses 35, 36 and 37.
  - (d) alternatives, if permissible, as stated under ITT Clause 26;
  - (e) written confirmation authorizing the signatory of the Tender to commit the Tenderer, as stated under ITT Sub Clause 40.4;
  - (f) documentary evidence, establishing the origin of all Materials, Equipment and services to be supplied under the Contract, as stated under ITT Clause 30;
  - (g) documentary evidence as stated under ITT Clause 29 and 32 establishing the Tenderer's eligibility and the minimum qualifications of the Tenderers required to be met for due performance of the Works and physical services under the Contract;
  - (h) documentary evidence, establishing the Tenderer's continued eligible and qualified status, as stated under ITT Sub Clause 5 and 12;
  - (i) Technical Proposal describing work plan & method, personnel, equipment and schedules, as stated under ITT Clause 31; Technical document must comply with specification and drawing provided by PE in the Tender document. and
  - (j) any other document as specified in the TDS.
3. The Financial Offer (**Envelope-02**) prepared by the Tenderers will comprise the following:
  - (a) the Financial Offer Submission Letter (**Form-1b**), as stated under ITT Sub Clause 25.2;
  - (b) the **priced BOQ** for each lot in accordance with ITT Clauses 27 and 28;
  - (c) the written confirmation authorizing the signatory of the Tender to commit the Tenderer, as stated under ITT Sub Clause 40.4;
  - (d) any other document as specified in the **TDS**.
4. In addition to the requirements stated under ITT Sub Clause 19.1, Tenders submitted by a JV or proposing a Specialised Subcontractor shall include **updates**, if any, on :
  - (a) Joint Venture Agreement legally entered into in the Tenderer's Leading Partner's country of origin, by all partners, as stated under ITT Sub Clause 18; or
  - (b) Letter of Intent along with the proposed agreement duly signed by all partners of the intended JV and authenticated by an authority of the Tenderer's Leading Partner's country of origin with the declaration that it will execute the Joint Venture Agreement in the event the Tenderer is successful, as stated under ITT Sub Clause 18.1;

- (c) the JV Partner Information (**Form-3**), as stated under ITT Sub Clause 18.2;
- (d) the Specialist Subcontractor Information (**Form-4**), as stated under ITT Sub Clause 19.3

**25. Tender Submission Letter and Bill of Quantities**

- 1. Tenderers shall submit the Technical Offer Submission Letter (**Form-1a**), which shall be completed without any alterations to its format, filling in all blank spaces with the information requested, failing which the Tender may be considered non-responsive as being incomplete.
- 2. Tenderers shall submit the Financial Offer submission letter (**Form-1b**) along with priced BOQ using the form(s) furnished in **Section 6: Bill of Quantities**.
- 3. If in preparing its Tender, the Tenderer has made errors in the unit rate or price or the total price, and wishes to correct such errors prior to submission of its Tender, it may do so, but shall ensure that each correction is initialled by the authorised representative of the Tenderer and that a statement shall be made as to the total number of initialled corrections made, at the end of the priced Bill of **Quantities in Section 6**.

**26. Alternatives**

- 1. Unless otherwise stated in the **TDS**, alternatives shall not be considered.
- 2. When alternative times for completion are explicitly invited, a statement to that effect will be included in the **TDS**, as will the method of evaluating different times for completion.
- 3. Except as provided under ITT Sub Clause 26.4, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents **must first price** the Employer's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, designs, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details.
- 4. When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**.
- 5. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements will be considered by the Employer.

**27. Tender Prices, Discounts and Price Adjustment**

- 1. The prices and discounts quoted by the Tenderers in the Financial Offer Submission Letter (**Form-1b**).
- 2. Tenderers shall fill in unit rates or prices for all items of the Works both in figures and in words as described in the BOQ **excluding any discount offered**.
- 3. The items quantified in the BOQ for which no unit rates or prices have been quoted by the Tenderer will not be paid for, by the Employer when executed and shall be deemed covered by the amounts of other rates or prices in the BOQ and, it shall not be a reason to change the Tender price.

4. The Employer may, if necessary, require the Tenderer to submit the detail breakdown of the unit rates or prices quoted by the Tenderer for the facilitation of the Tender proceedings.
5. The Tender price shall be calculated on the basis defined in the ITT which is the unit rates or prices applied to Works proposed in the priced BOQ of this Tender Document.
6. The price to be quoted in the Financial Offer Submission Letter (**Form-1b**), as stated under ITT Sub Clause 25.2, shall be the total price of the Tender, **excluding any discounts offered**.
7. Tenderers shall quote any unconditional discounts in the **Financial Offer Submission Letter** as stated under ITT Sub Clause 25.2.
8. Tenderers wishing to offer any unconditional discount to any package or lot as applicable shall mention discount in percentage (%) in the **Financial Offer Submission Letter (Form-1b)**. Discount shall be equally applicable on all the items of BOQ and shall be applied after arithmetic correction of the tender.
9. All kinds of applicable taxes ,customs duties, fees, levies, VAT and other charges payable by the Contractor under the Contract, or for any other causes, as of the date twenty-eight (**28**) days prior to the deadline for submission of Tenders, shall be included in the unit rates and prices and the total Tender price submitted by the Tenderer.
10. Unless otherwise provided in the **TDS** and the **PCC**, the price of a Contract shall be fixed in which case the unit rates or prices may not be modified in response to changes in economic or commercial conditions.
11. If so indicated under ITT Sub Clause 27.10, Tenders are being invited with a provision for price adjustments. The unit rates or prices quoted by the Tenderer are subject to adjustment during the performance of the Contract in accordance with the provisions of GCC Clause 74 and, in such case the Employer shall provide the indexes and weightings or coefficients in **Appendix to the Tender** for the price adjustment formulae specified in the **PCC**.
12. The Employer may require the Tenderer to justify its proposed indexes, if any of those as stated under ITT Sub Clause 27.11 are instructed to be quoted by the Tenderer in **Appendix to the Tender**.
13. The formulas, indexes, coefficients and procedures to be followed as referred to in the **PCC** shall be used to determine whether economic or commercial conditions have changed during performance of the Contract to significant degree to justify a price adjustment and to identify the amount of increase and the frequency with which price adjustments shall be implemented.
14. The price adjustment stated under ITT Sub Clause 27.12 shall be dealt with in accordance with the provisions set out in this Tender Document.

**28. Tender  
Currency and  
Payments**

1. The currency of the Tender shall be either in USD or GBP or EUR or JPY and/or Bangladesh Taka as specified in the **TDS**.
2. The currency of Tender for the portion of local inputs shall be expressed in Bangladesh Taka.
3. The national Tenderers including Joint Venture of national partners shall be able to express their Tenders in combination of local and foreign currency (ies) similar to foreign Tenderer; whereby a price breakdown be provided in support of demand for foreign currency.
4. The currency of payments, as stated under ITT Sub Clauses 28.1 and 28.2 shall be as specified in the **TDS**.

**29. Documents  
Establishing  
Eligibility of the  
Tenderer**

1. Tenderers, if applying as a sole Tenderer, shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, it shall:
  - (a) complete the eligibility declarations in the Technical Offer Submission Letter (**Form-1a**);
  - (b) complete the Tenderer Information (**Form-2**);
  - (c) complete Subcontractor Information (Form-4), if it intends to engage any Subcontractor(s).
2. Tenderers, if applying as a partner of an existing or intended JV shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, in addition to as stated under ITT Sub Clause 30.1, it shall:
  - (a) provide for each JV partner, completed JV Partner Information (**Form-3**);
  - (b) provide the JV agreement or Letter of Intent along with the proposed agreement of the intended JV as stated under ITT Sub Clause 18.1

**30. Documents  
Establishing the  
Eligibility and  
Conformity of  
Materials,  
Equipment and  
Services**

1. Tenderers shall submit documentary evidence to establish the origin of all Materials, Equipment and services to be supplied under the Contract as stated under ITT Clause 6.
2. To establish the conformity of the Materials, Equipment and services to be supplied under the Contract, the Tenderer shall furnish, as part of its Tender, the documentary evidence (which may be in the form of literature, specifications and brochures, drawings or data) that these conform to the technical specifications and standards specified in **Section 7, General Specifications** and **Section 8, Particular Specifications**.

**31. Documents  
Establishing  
Technical Proposal**

1. Tenderers shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in **TDS**, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work requirements and the completion time.

**32. Documents  
Establishing the  
Tenderer's  
Qualification**

1. Tenderers shall complete and submit the Tenderer Information (**Form-2/Form-3**) and shall include documentary evidence, as applicable to satisfy the following:
  - (a) general experience, of the entity(s) participating in the Tender, in construction works as stated under ITT Sub Clause 14.1(a), substantiated by the year of registration/constitution/licensing in its country of origin;

- (b) specific experience, of the entity(s) participating in the Tender, in construction works under public sector of similar nature and size as stated under ITT Sub Clause 14.1(b), substantiated by Completion Certificate (s) issued by the relevant Procuring Entity(s);
- (c) average annual **construction** turnover i.e total certified payments received for contracts in progress or completed under public sector for a period as stated under ITT Sub Clause 15.1(a), substantiated by Statement(s) of Receipts, from any scheduled Bank of Bangladesh, issued not earlier than twenty-eight (28) days prior to the day of the original deadline for submission of Tenders;
- (d) adequacy of minimum liquid assets i.e working capital substantiated by Audit Reports mentioned in (i) below or credit line(s) substantiated by any scheduled Bank of Bangladesh in the format as specified (**Form-7**), without alteration, issued not earlier than twenty-eight (28) days prior to the day of the original deadline for submission of Tenders for this Contract as stated under ITT Sub Clause 15.1(b);
- (e) information regarding claims under litigation, current or during the last years as specified in the **TDS**, in which the Tenderer is involved, the parties concerned, and value of claim as stated under ITT Sub Clause 15.1(c), substantiated by statement(s) of the entity(s) participating in the Tender in its letter-head pad;
- (f) technical and administrative personnel along with their qualification and experience proposed for the Contract as stated under ITT Clause 16;
- (g) major items of construction equipment proposed to carry out the Contract as stated under ITT Clause 17, substantiated by statement(s) of the entity(s) participating in the Tender in its letter-head pad declaring source of its availability;
- (h) authority(s), to seek references from the Tenderer's Bankers or any other sources, of the entity(s) participating in the Tender in its letter-head pad;
- (i) reports on the financial standing of the Tenderer, such as profit and loss statements and audited balance sheet for the past years as specified in the **TDS**, of the entity(s) participating in the Tender, substantiated by Audit Reports.

### **33. Validity Period of Tender**

1. Tender Validities shall be determined on the basis of the complexity of the Tender and the time needed for its examination, evaluation, approval of the Tender and issuance of the Notification of Award.
2. Tenders shall remain valid for the period specified in the **TDS** after the date of Tender submission deadline prescribed by the Employer, as stated under ITT Sub Clause 42.1. A Tender valid for a period shorter than that specified will be considered non-responsive by the Employer.

**34. Extension of Tender Validity and Tender Security**

1. In justified exceptional circumstances, prior to the expiration of the Tender validity period, the Employer may solicit not later than ten (10) days before the expiry date of the Tender Validity, compulsorily all the Tenderers' consent to an extension of the period of validity of their Tenders.
2. The request for extension of Tender Validity period shall state the new date of the validity of the Tender.
3. The request from the Employer and the responses from the Tenderers will be made in writing.
4. Tenderers consenting in writing to the request made by the Employer under ITT Sub Clause 34.3 shall also correspondingly extend the validity of its Tender Security for twenty eight (28) days beyond the new date for the expiry of the Tender Validity.
5. Tenderers consenting in writing to the request as stated under ITT Sub Clause 34.3 shall not be required or permitted to modify its Tender in any circumstances.
6. If the Tenderers are not consenting in writing to the request made by the Employer as stated under ITT Sub Clause 34.2, its Tender shall not be considered in the subsequent evaluation.

**35. Tender Security**

1. **Tenderers shall furnish as part of its Technical offer**, in favour of the Employer or as otherwise directed on account of the Tenderer, a Tender Security in original form and, in currency of the Tender, as stated under ITT Sub Clause 28.1, of the amount as specified in the **TDS**.
2. If the Tender is a Joint Venture, the Tenderer shall furnish as part of its Tender, in favour of the Procuring Entity or as otherwise directed on account of the title of the existing or intended JV or any of the partners of that JV or in the names of all future partners as named in the Letter of Intent of the JV, a Tender Security in original form and in the amount as stated under ITT Sub Clause 35.1.
3. In case of substitution of the Tender as stated under ITT Clause 46 a new Tender Security shall be required in the substituted Tender.

**36. Form of Tender Security**

1. The Tender Security shall:
  - (a) be in the form of an irrevocable Bank Guarantee issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh, in the format **(Form-6)** furnished in **Section 5: Tender and Contract Forms**;
  - (b) be payable promptly upon written demand by the Employer in the case of the conditions listed in ITT Sub Clause 35 being invoked; and
  - (c) remain valid for at least twenty eight **(28)** days beyond the expiry date of the Tender Validity in order to make a claim in due course against a Tenderer in the circumstances as stated under ITT Sub Clause 39.

**37. Authenticity of Tender Security**

1. The authenticity of the Tender Security submitted by a Tenderer shall be examined and verified by the Employer in writing from the Bank issuing the security, prior to finalization of the Evaluation Report.
2. If a Tender Security is found to be not authentic, the Tender which it covers shall not be considered for subsequent evaluation and in such case the Employer shall proceed to take punitive measures against that Tenderer as stated under ITT Sub Clause 4.4.
3. A Tender not accompanied by a valid Tender Security as stated under ITT Clause 35, 36 and 37 will be considered non-responsive by the Employer.

**38. Return of Tender Security**

1. No Tender Securities shall be returned by the Tender Opening Committee (TOC) during and after the opening of the Tenders.
2. No Tender Security shall be returned to the Tenderers before contract signing, except to those who are considered non-responsive.
3. Tender Securities of the non-responsive Tenders shall be returned immediately after the Evaluation Report has been approved by the Employer.
4. Tender Securities of the responsive Tenders shall be returned only after the lowest evaluated Tenderer has submitted the Performance Security and signed the Contract; that being even before the expiration of the Tender Validity period as stated under ITT Clause 33.
5. Tender Securities of the Tenderers not consenting within the specified date in writing to the request made by the Employer under ITT Sub Clause 34.2 in regard to extension of its Tender Validity shall be discharged or returned forthwith.

**39. Forfeiture of Tender Security**

1. Tender Security may be forfeited, if a Tenderer:
  - (a) withdraws its Tender after opening of Tenders but within the validity of the Tender as stated under ITT Clause 33 and 34; or
  - (b) refuses to accept a Notification of Award as stated under ITT Sub Clause 68.3 ;  
or
  - (c) fails to furnish Performance Security as stated under ITT Sub Clause 69.2 and 69.3 ;  
or
  - (d) refuses to sign the Contract as stated under ITT Sub Clause 73.2;  
or
  - (e) does not accept the correction of the Tender price following the correction of the arithmetic errors as stated under ITT Clause 58.

#### 40. Format and Signing of Tender

1. Tenderers shall prepare one (1) original of the documents comprising the **Technical Offer** as described in ITT Clause 24.2 and clearly mark it "**ORIGINAL OF TECHNICAL OFFER**" In addition, the Tenderers shall prepare the number of copies of the Technical Offer, as specified in the **TDS** and clearly mark each of them "**COPY OF THE TECHNICAL OFFER.**" In the event of any discrepancy between the original and the copies, the **ORIGINAL** shall prevail.
2. Tenderers shall prepare one (1) original of the documents comprising the Financial Offer as described in ITT Clause 24.3 and clearly mark it "**ORIGINAL OF FINANCIAL OFFER**" In addition, the Tenderers shall prepare the number of copies of the Technical Tender, as specified in the **TDS** and clearly mark each of them "**COPY OF THE FINANCIAL OFFER**" In the event of any discrepancy between the original and the copies, the **ORIGINAL** shall prevail.
3. Alternatives, if permitted in accordance with ITT Clause 26, shall be clearly marked "Alternative".
4. The original and each copy of the Tender shall be typed or written in indelible ink and shall be signed by the Person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written authorization and shall be attached to Technical Offer Submission Letter (**Form-1a**) and Financial Offer Submission Letter (**Form-1b**). The name and position held by each Person(s) signing the authorization must be typed or printed below the signature. All pages of the original and of each copy of the Tender, except for un-amended printed literature, shall be numbered sequentially and signed or initialed by the person signing the Tender i.e. authorised representative.
5. Any interlineations, erasures, or overwriting will be valid only if they are signed or initialed by the Person(s) signing the Tender.
6. Person(s) signing the Tender shall describe his or her name, address, position along with his or her national Identification Number, if any.

### E. Tender Submission

#### 41. Sealing, Marking and Submission of Tender

1. Tenderers shall enclose the original of **Technical Offer** in one (1) envelope and all the copies of the **Technical Offer**, including the alternatives, if permitted under ITT Clause 26, in another envelope, duly marking the envelopes as "**ORIGINAL OF TECHNICAL OFFER**" "**ALTERNATIVES**" (if permitted), "**COPY OF TECHNICAL OFFER**," "**ALTERNATIVES**" (if permitted) These sealed envelopes for the original and copies of the technical Tender shall then be enclosed and sealed in one single envelope and clearly mark it "**Envelope-01: TECHNICAL OFFER**".

2. The inner and outer envelopes of Technical Offer shall:
  - (a) be addressed to the Procuring Entity at the address as stated under ITT Sub Clause 42.1;
  - (b) bear the name of the Tender and the Tender Number as stated under ITT Sub Clause 1.1;
  - (c) bear the name and address of the Tenderer;
  - (d) bear a statement “DO NOT OPEN BEFORE -----” the time and date for Tender opening as stated under ITT Sub Clause 48.1;
  - (e) bear any additional identification marks as specified in the **TDS**.
3. Tenderers shall enclose the original of **Financial Offer** in one (1) envelope and all the copies of the **Financial Offer** in another envelope, duly marking the envelopes as “**ORIGINAL OF FINANCIAL OFFER**” & “**COPY OF FINANCIAL OFFER**”. These sealed envelopes for the original and copies of the Financial Tender shall then be enclosed and sealed in one single envelope and clearly mark it “**ENVELOPE-02: FINANCIAL OFFER**”.
4. The inner and outer envelopes of Financial Offer shall:
  - (a) be addressed to the Procuring Entity at the address as stated under ITT Sub Clause 42.1;
  - (b) bear the name of the Tender and the Tender Number as stated under ITT Sub Clause 1.1;
  - (c) bear the name and address of the Tenderer;
  - (d) bear a statement “DO NOT OPEN BEFORE THE TECHNICAL OFFER EVALUATION AND APPROVAL”.
  - (e) bear any additional identification marks as specified in the **TDS**.
5. **The Envelope-01** as stated in ITT Clause 41.1 and **Envelope-02** as in ITT Clause 41.3 shall then be enclosed and sealed in one single outer envelope which shall contain the information as stated under ITT Clause 41.2 (a) to (e) & ITT Clause 41.4 (a) to (d)
6. Tenderers are solely and entirely responsible for pre-disclosure of Tender information if the envelope(s) are not properly sealed and marked.
7. Tenders shall be delivered by hand or by mail, including courier services at the address(s), as stated under ITT Sub Clause 42.1.
8. Tenders shall be submitted on the basis of this Tender Document issued by the Employer.
9. The Procuring Entity will, on request, provide the Tenderer with acknowledgement of receipt showing the date and time when it's Tender was received.

**42. Deadline for Submission of Tender**

1. Tenders shall be delivered to the Employer at the address specified in the **TDS** and no later than the date and time specified in the **TDS**.
2. The Procuring Entity may, at its discretion on justifiably acceptable grounds duly recorded, extend the deadline for submission of Tender as stated under ITT Sub Clause 42.1, in which case all rights and obligations of the Employer and Tenderers previously subject to the deadline will thereafter be subject to the new deadline as extended.
3. If submission of Tenders for this procurement is allowed in more than one location, the date and time for submission of Tender at the primary and secondary place(s) shall be as specified in the **TDS**.
4. The Employer shall ensure that the Tenders received at the secondary place(s) are hand-delivered at the primary place as stated under ITT Sub Clause 38.1 before the time specified in the TDS; but in no case later than **THREE (3) HOURS** after the deadline for submission of Tenders at the secondary place(s) in case of **MULTIPLE DROPPING** as stated under ITT Sub Clause 42.3, as specified in the **TDS**.

**43. Late Tender**

1. Any Tender received by the Employer after the deadline for submission of Tenders as stated under ITT Sub Clause 42.1 shall be declared LATE, excluded, and returned unopened to the Tenderer.

**44. Modification, Substitution or Withdrawal of Tender**

1. Tenderers may modify, substitute or withdraw its Tender after it has been submitted by sending a written notice duly signed by the authorized signatory and properly sealed, and shall include a copy of the authorization confirmed by an affidavit authenticated by an authority of the Tenderer's Leading Partner's country of origin; provided that such written notice including the affidavit is received by the Employer prior to the deadline for submission of Tenders as stated under ITT Clause 42.
2. If submission of Tenders for this procurement is allowed in more than one location, the Tenderer may modify, substitute or withdraw its Tender as stated under ITT Sub Clause 47.1 after it has been submitted, prior to the deadline prescribed for submission of Tenders at the primary place.

**45. Tender Modification**

1. Tenderers shall not be allowed to retrieve its original Tender, but shall be allowed to submit corresponding modification either to its original **Technical Offer** or **Financial Offer** or both, marked as "**MODIFICATION FOR TECHNICAL OFFER (MTO)**" or "**MODIFICATION FOR FINANCIAL OFFER (MFO)**" with two separate envelopes. The envelope/envelopes marked as MTO and/or MFO then be enclosed and sealed in one single outer envelope with a written notice duly as stated under ITT Sub Clause 44.1. The outer envelope shall contain the information as stated under ITT Sub Clause 41.2(a) to (d) and clearly marked as "**MODIFICATION (M)**"

**46. Tender Substitution**

1. Tenderers shall not be allowed to retrieve its original Tender, but shall be allowed to submit another **Technical Offer** or **Financial Offer** or both, marked as “**SUBSTITUTIONFOR TECHNICAL OFFER(STO)**” or “**SUBSTITUTION FOR FINANCIAL OFFER (SFO)**”with two separate envelopes. The envelope/envelopes marked as STO and/or SFO then be enclosed and sealed in one single outer envelope with a written notice duly as stated under ITT Sub Clause 44.1. The outer envelope shall contain the information as stated under ITT Sub Clause 41.2(a) to (d) and clearly marked as “**SUBSTITUTION (S)**”.

**47. Withdrawal of Tender**

1. Tenderers shall be allowed to withdraw its Tender by a Letter of Withdrawal marked as “**WITHDRAWAL**”.

## **F. Tender Opening and Evaluation**

**48. Tender Opening**

1. Tenders shall be opened as mentioned here below.
2. Only the **Technical Offer (Envelope-01)** shall be opened immediately after the deadline for submission of Tenders at the primary place as specified in the **TDS** but not later than **ONE HOUR**, after expiry of the submission deadline at the same primary place unless otherwise stated under ITT Sub Clause 48.2. Tender opening shall not be delayed on the plea of absences of Tenderers or his or her representatives. Financial offer (**Envelop-02**) shall not open with Technical offer (**Envelop-01**) and shall be kept unopened at the Custody of the Head of the Procuring Entity or his **Authorised Officer (AO)**.
3. Persons not associated with the Tender may not be allowed to attend the public opening of Tenders.
4. Tenderers’ representatives shall be duly authorised by the Tenderer. Tenderers or their authorised representatives will be allowed to attend and witness the opening of Tenders, and will sign a register evidencing their attendance.
5. The authenticity of withdrawal or substitution of, or modifications to original Tender, if any made by a Tenderer in specified manner, shall be examined and verified by the Tender Opening Committee (TOC) based on documents submitted as stated under ITT Sub Clause 44.1. any envelope related to financial modification, substitute shall be recorded but not open with technical offer.

6. Verify **(M), (S), (W), (A), (O)**
- (a) **Firstly**, envelopes marked **“Withdrawal (W)”** shall be opened and “Withdrawal” notice read aloud & recorded in the opening sheet. After verify the withdrawal letter is genuine, corresponding tender shall not be opened, but returned unopened to the Tenderer by Procuring Entity (PE) at a late time. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice shall be as stated in 44.1& 47.1 and in such case the Tender shall be opened and recorded.
  - (b) Secondly, the remaining Tenders will be sorted out and those marked “SUBSTITUTION (S)” or “MODIFICATION (M)” of Tender will be linked with their corresponding Original Tender.
  - (c) Next, outer envelopes marked “SUBSTITUTION(S)” shall be opened. The inner envelopes containing the “Substitution of Technical Offer (STO)” and/or “Substitution of Financial Offer (SFO)” shall be exchanged for the corresponding envelopes being substituted, which are to be returned to the Tenderer unopened by the Procuring Entity at a later time immediately after opening of Technical Offers. Only the Substitution of Technical Offer, if any, shall be opened, read out, and recorded. Substitution of Financial Offer will remain unopened in accordance with ITT Sub Clause 48.2. No envelope shall be substituted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out and recorded at Technical Offer opening.
  - (d) Next, outer envelopes marked “MODIFICATION(M)” shall be opened. No Technical Offer and/or Financial Offer shall be modified unless the corresponding modification notice contains a valid authorization to request the modification and is read out and recorded at the opening of Technical Offers. Only the Technical Offers, both Original as well as Modification, are to be opened, read out, and recorded at the opening. Financial Offers, both Original as well as Modification, will remain unopened in accordance with ITT Sub Clause 48.2
  - (e) Thirdly, if so specified in this Tender Document, the envelopes marked “Alternative of Technical Offer (ATO)” shall be opened and read aloud with the corresponding Technical Offer and recorded.

7. Ensuring that only the correct Modification for Technical Offer (**MTO**), Substitution for Technical Offer (**STO**), Alternative of Technical Offer (**ATO**), Original Technical offer (**OTO**) envelopes are opened, details of each Technical Offer will be dealt with as follows:
  - (a) the Chairperson of the TOC will read aloud each Technical Offer and record in the Technical Offer Opening Sheet (TOOS):
    - (i) the name and address of the Tenderer;
    - (ii) state if it is a withdrawn, modified, substituted or original Technical Offer;
    - (iii) any alternatives;
    - (iv) record the rejection of the Tender which submitted Technical Offer and Financial Offer together in one envelope.
    - (v) the presence or absence of any requisite Tender Security; and
    - (vi) such other details as the Procuring Entity, at its discretion, may consider appropriate.
  - (b) Only Technical Offer and alternatives read aloud at the Technical Offer Opening will be considered in evaluation.
  - (c) all pages of the original version of the Technical Offer, except for un-amended printed literature, will be initialled by members of the TOC. **Remember, No financial Offer shall be open with Technical Offer**
8. Upon completion of Technical Offer opening, all members of the TOC and the Tenderers or Tenderer's duly authorised representatives attending the Technical Offer opening shall sign by name, address, designation, the TOS, copies of which shall be issued to the Head of the Procuring Entity or an officer authorised by him or her and also to the members of the TOC and any authorised Consultants and, to the Tenderers immediately.
9. The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record under ITT Sub Clause 48.8.
10. No Tender will be considered non-responsive at the Tender opening stage except the LATE Tenders.
11. Any financial modification, rate(s) or tender price found in the technical modification envelope may result rejection of that tender.

#### **49. Evaluation of Tenders**

1. Technical Offers shall be examined and evaluated only on the basis of the criteria specified in the Tender Document.
2. **Tender Evaluation Committee (TEC)** shall examine, evaluate and compare Tenders that are responsive to the requirements of Tender Documents in order to identify the successful Tenderer.

**50. Evaluation Process**

1. TEC may consider a Tender Offer as responsive in the Evaluation, only if it is submitted in compliance with the mandatory requirements set out in the Tender Document. The evaluation process should begin immediately after Technical Offer opening following Two steps:
  - (a) Preliminary examination
  - (b) Technical examination and responsiveness

**51. Preliminary Examination**

1. TEC shall examine the Technical Offers to confirm that all documentation as stated under ITT Clause 24 has been provided, to determine the completeness of each document submitted.
2. TEC shall confirm that the following documents and information have been provided in the Technical Offer. If any of these documents or information is missing, the Tender shall be considered rejected.
  - (a) Tender Submission Letter;
  - (b) Written confirmation authorizing the signatory of the Tender to commit the Tenderer; and
  - (c) Valid Tender Security.

**52. Technical Examination and Responsiveness**

1. TEC's determination of a Tender's responsiveness is to be based on the contents of the Technical offer itself without recourse to extrinsic evidence.
2. A responsive Tender is one that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
  - (a) affects in any substantial way the scope, quality, or performance of the Works and physical services specified in the Contract; or
  - (b) limits in any substantial way, or is inconsistent with the Tender Documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
  - (c) if rectified would unfairly affect the competitive position of other Tenderers presenting responsive Tenders.

During the evaluation of Technical Offer, the following definitions shall apply:

**"Deviation"** is a departure from the requirements specified in the Tender Document;

**"Reservation"** is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Tender Document; and

**"Omission"** is the failure to submit part or all of the information or documentation required in the Tender Document.

3. If a Tender is not responsive to the mandatory requirements set out in the Tender Document, shall not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.
4. There shall be no requirement as to the minimum number of responsive Tenders.

5. The TEC will further examine the terms and conditions specified in **Section 7: General Specifications** and **Section 8: Particular Specifications** of the Tender Document have been met without any material deviation or reservation.
6. Provided that a Tender is responsive, TEC may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Technical Offer related to documentation requirements. Such omission shall not be related to any aspect of the rates of the Tender reflected in the Priced BOQ or any mandatory criteria. Failure of the Tenderer to comply with the request may result in the consideration of its Tender as non-responsive.
7. The TEC's determination of a Tender's responsiveness is to be based on the documentary evidence as stated under ITT Clause 24 without recourse to extrinsic evidence.
8. Information contained in a Tender submission that was not requested in the Tender Document shall not be considered in evaluation of the Tender.
9. A Tender shall be considered responsive in the evaluation, only when it is submitted in compliance with the mandatory requirements set out in the Tender Document without material deviation or reservation.
10. If, after the examination of the terms and conditions and the technical aspects of the Tender, the TEC determines that the Tender is not responsive in accordance with ITT Clause 24, it shall consider the Tender non-responsive.
11. If a Tender is not responsive to the mandatory requirements set out in the Tender Document, it shall be considered non-responsive by the TEC and will not subsequently be made responsive by correction of the material deviation or reservation.
12. The TEC may regard a Tender as responsive even if it contains;
  - (a) minor or insignificant deviations which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and, conditions or other mandatory requirements set out in the Tender Document; or
  - (b) errors or oversights that if corrected, would not alter the key aspects of the Tender.

- 53. Clarification on Technical offer**
1. TEC may ask Tenderers for clarification of their Technical Offers, including breakdowns of unit rates, in order to facilitate the examination and evaluation of Technical Offers. The request for clarification by the TEC and the response from the Tenderer shall be in writing, and Technical Offers clarifications which may lead to a change in the substance of the Technical Offers or in any of the key elements of the Technical Offers as stated under ITT Sub Clause 52.2, will neither be sought nor be permitted.
  2. Any request for clarifications by the TEC shall not be directed towards making an apparently non-responsive Tender responsive and reciprocally the response from the concerned Tenderer shall not be articulated towards any addition, alteration or modification to its Technical Offer.
  3. If a Tenderer does not provide clarifications of its Technical Offer by the date and time, its Tender shall not be considered in the evaluation
- 54. Restrictions on Disclosure of Information Relating to Procurement Process**
1. Following the opening of Technical Offers until issuance of Notification of Award no Tenderer shall, unless requested to provide clarification to its Tender or unless necessary for submission of a complaint, communicate with the concerned Employer.
  2. Tenderers shall not seek to influence in anyway, the examination and evaluation of the Tenders.
  3. Any effort by a Tenderer to influence an Employer in its decision concerning the evaluation of Tenders, Contract awards may result in the consideration of its Tender being non-responsive.
  4. All clarification requests shall remind Tenderers of the need for confidentiality and that any breach of confidentiality on the part of the Tenderer may result in their Tender being disqualified.
- 55. Approval of Technical Offer**
1. TEC shall prepare the Technical Offer Evaluation Report and shall directly submit the Evaluation Report to the Head of the Procuring Entity (**HOPE**) or **Authorized Officer for approval**.
- 56. Financial Offer Opening**
1. After getting approval of the Technical Offer Evaluation Report, Financial Offer (**Envelope-02**) of only the Responsive Tenderers who have been determined as qualified to the requirements of the Technical Offer, shall be opened publicly, The Date, time and place of Financial Offer Opening shall be communicated to the Responsive Tenderers in writing by issuing a Financial Offer Opening notice not less than seven days before the opening.

2. Ensuring that only the correct (MFO), (SFO), (OFO) envelopes of the Responsive Tenderers shall be opened, in the presence of the Responsive Tenderer's representatives who choose to attend, on the date, time and at the place as notified by the Procuring Entity in accordance with ITT Clause 56.1. Details of each Technical Offer will be dealt with as follows:
  - (a) the Chairperson of the Tender Evaluation Committee will read aloud each Financial Offer and record in the Financial Offer Opening Sheet (FOOS):
    - (i) the name and address of the Tenderer;
    - (ii) state if it is a modified, substituted or original Financial Offer;
    - (iii) the Tender Price;
    - (iv) the number of initialed corrections;
    - (v) the official cost estimate;
    - (vi) any discounts; and
    - (vii) any other details as the Procuring Entity, at its discretion, may consider appropriate
  - (b) only the discounts and alternatives read aloud and recorded at the Financial Offer Opening will be considered in Financial Offer Evaluation. No Tenders shall be rejected at the opening of the Financial Offer.
  - (c) all pages of the original version of the Financial Offer, except for un-amended printed literature, will be initialled by members of the Tender Evaluation Committee.
  - (d) The Procuring Entity shall, in writing, notify the Non-responsive Tenderers who have not been determined as qualified to the requirements of the Technical Offer and shall return their Financial Offers (Envelope-02) unopened after signing the Contract Award with the evaluated lowest responsive Tenderer.

**57. Clarification on Financial Offer**

1. TEC may ask Tenderers for clarification of their Financial Offers, about the breakdowns of unit rates, in order to facilitate the examination and evaluation of Financial Offers. The request for clarification by the TEC and the response from the Tenderer shall be in writing.
2. Changes in the Tender price shall not be sought or permitted, except to confirm the correction of arithmetical errors discovered by the TEC in the evaluation of the Tenders, as stated under ITT Sub Clause 58.1.
3. If a Tenderer does not provide clarifications of its Financial Offer by the date and time, its Tender shall not be considered in the evaluation.

4. Requests for clarifications on Financial Offers shall be duly signed only by the TEC Chairperson.
- 58. Correction of Arithmetical Errors**
1. During the evaluation of Financial Offers, the TEC shall correct arithmetical errors on the following basis:
    - (a) if there is a discrepancy between the unit price and the line item total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the line item total price shall be corrected, unless in the opinion of the TEC there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted will govern and the unit price will be corrected; and
    - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
    - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
  2. Any arithmetical error or other discrepancies as stated in ITT Sub Clause 58.1 will be immediately notified by the TEC to the concerned Tenderer for acceptance.
- 59. Conversion to Single Currency**
1. For evaluation and comparison purposes, the currency of the Tender shall be converted into Bangladesh Taka currency.
  2. The exchange rate for conversion, as stated under ITT Sub Clause 59.1, to be used in arriving at the Bangladesh Taka currency equivalent shall be the **selling rate** quoted by the source being Bangladesh Bank **on the date of opening of the Technical Offers**.
- 60. Financial Evaluation**
1. TEC will evaluate each Financial Offer that has been opened duly.
  2. To evaluate a Financial Offer, the TEC will consider the following:
    - (a) the Tender price, excluding Provisional Sums and the provision, if any, for contingencies in the priced Bill of Quantities, but including Day work items, where priced competitively;
    - (b) adjustments for correction of arithmetical errors pursuant to ITT Sub Clause 58.1;
    - (c) adjustments in order to take into consideration the unconditional discounts or methodology for application of the discount offered pursuant to ITT Sub Clause 27.7 & 27.8;
    - (d) adjustments by converting the amount resulting from (a), (b), and (c) above, if relevant, to Bangladesh Taka currency, as stated under ITT Sub Clause 59;
    - (e) adjustments for any other acceptable variations or deviations pursuant to ITT Sub Clause 58.

3. Variations, deviations, alternatives and other factors which are in excess of the requirements of the Tender Document or otherwise result in unsolicited benefits for the Employer will not be taken into account in Financial Offers evaluation.
4. The estimated effect of any **price adjustment** provisions under GCC Clause 74, applied over the period of execution of the Contract, will not be taken into account in **Financial Offers evaluation**.
5. If so indicated in the ITT Sub Clause 1.1 the Employer may award one or multiple lots to one Tenderer following the methodology specified in ITT Sub Clause 60.6.
6. To determine the lowest-evaluated lot or combination of lots, the TEC will take into account:
  - (a) the experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual lot;
  - (b) the lowest-evaluated Tender for each lot calculated in accordance with all the requirements of Evaluation Criteria;
  - (c) the price reduction on account of discount per lot or combination of lots and the methodology for application of the discount as offered by the Tenderer in its Tender; and
  - (d) the Contract-award sequence that provides the optimum economic combination on the basis of least overall cost of the total Contract package taking into account any limitations due to constraints in Works or execution capacity determined in accordance with the post-qualification criteria stated under ITT Clause 63.
7. TEC may recommend increasing the amount of the Performance Security above the amounts as stated under ITT Sub Clause 69.1 but not exceeding twenty-five (25) percent of the Contract Price, if in the opinion of TEC, it is found that the Tender is significantly unbalanced as a result of front loading.

## **61. Price Comparison**

1. The TEC will compare all responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 60.
2. In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance .
3. In the event that there is a tie for the lowest price and none of the Tenderers has the record of past performance with the Procuring Entity, then the Tenderer shall be selected, subject to firm confirmation through the Post-qualification process, after consideration as to whether the Tenderer has demonstrated in its Tender superior past performance with the other Procuring Entities or a more efficient work programme and work methodology.
4. The ranking set forth after having adjusted arithmetical errors or other discrepancies and having excluded '**provisional sums**' and provision, if any, for contingencies within the Tender price, but including Day Work.

5. The successful Tenderer as stated under ITT Sub Clauses 61.1, 61.2 and 61.3 shall not be selected through lottery under any circumstances.

## **62. Negotiations**

1. No negotiations shall be held during the Tender evaluation or award with the lowest or any other Tenderer.
2. The Employer through the TEC may, however, negotiate with the lowest evaluated Tenderer with the objective to reduce the Contract price by reducing the scope of works or a reallocation of risks and responsibilities, only when it is found that the lowest evaluated Tender is significantly higher than the official estimated cost; the reasons for such higher price being duly investigated.
3. If the Employer decides to negotiate for reducing the scope of the requirements under ITT Sub Clause 62.2, it will be required to guarantee that the lowest Tenderer remains the lowest Tenderer even after the scope of work has been revised and shall further be ensured that the objective of the Procurement will not be seriously affected through this reduction.
4. In the event that the Employer decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award and shall not be penalised in any way for un-accepting the proposed award.

## **63. Post-qualification**

1. After determining the lowest evaluated responsive Tender in accordance with ITT Clause 52 & 60, the Employer's TEC shall carry out the Post-qualification of the Tenderer, using only the requirements specified in **Sub-section C: Qualification Criteria**.
2. The TEC shall contact the references given by Tenderers about their previous working experience to verify, if necessary, statements made by them in their Tender and to obtain the most up-to-date information available concerning the Tenderers.
3. The TEC may visit the premises of the Tenderer as a part of the qualification process, if practical and appropriate, to verify information contained in its Tender particularly when evaluating Tenders in respect of high value or complex Works projects.
4. The objective of any visit under ITT Sub Clause 63.3 shall be limited to a general and visual inspection of the Tenderer's facilities and its plant and equipment, and there shall be no discussion concerning the Tender or its evaluation with the Tenderer during such visit(s).

5. In the event that the Tenderer with lowest evaluated Tender price fails the post-qualification, the TEC shall make a similar determination for the Tenderer offering the next lowest evaluated Tender price and so on from the remaining responsive Tenders, provided that,
  - (a) such action shall only be taken if the evaluated costs of the Tenders under consideration are acceptable to the Employer;
  - (b) when the point is reached whereby the evaluated costs of the remaining responsive Tenders are significantly higher than that of the official estimate, or the market price, the Employer proceed for re-Tendering, using a revised Tender Document, where necessary, designed to achieve a more successful result.

**64. Procuring Entity's Right to accept any or to reject Any or All Tenders**

1. The Procuring Entity reserves the right to accept any Tender or to reject any or all the Tenders any time prior to contract award and , to annul the Procurement proceedings with prior approval of the Head of the Procuring Entity, any time prior to the deadline for submission of Tenders following specified procedures, without thereby incurring any liability to Tenderers, or any obligations to inform the Tenderers of the grounds for the Procuring Entity's action.

**65. Rejection of All Tenders**

1. The Employer may, in the circumstances as stated under ITT Sub Clause 65.2, reject all Tenders following recommendations from the Tender Evaluation Committee (TEC) only after the approval of such recommendations by the Head of the Procuring Entity.
2. All Tenders can be rejected, if -
  - (a) the price of the lowest evaluated Tender substantially exceeds the official estimate, provided the estimate is realistic;
  - or
  - (b) there is evidence of lack of effective competition; such as non-participation by a number of potential Tenderers;
  - or
  - (c) the Tenderers are unable to offer the required completion time, provided the stipulated completion time is reasonable and realistic;
  - or
  - (d) Tenders are not responsive;
  - or
  - (e) evidence of professional misconduct affecting seriously the Procurement process is established.
3. Notwithstanding anything contained in ITT Sub Clause 66.2(a), Tenders may not be rejected if the lowest evaluated price is in conformity with the market price.

4. The Employer, on justifiable grounds, may annul the Procurement proceedings with prior approval of the Head of the Procuring Entity, any time prior to the deadline for submission of Tenders following specified procedures.
5. All Tenders received by the Employer shall be returned unopened to the Tenderers in the event Procurement proceedings are annulled under ITT Sub Clause 66.4.
6. The Employer, on justifiable grounds, may further annul the Procurement proceedings, any time prior to the issuance of NOA following specified procedures.

**66. Informing Reasons for Rejection**

1. Notice of the rejection will be given promptly within seven (7) days of decision taken by the Employer to all Tenderers and, the Employer will, upon receipt of a written request, communicate to any Tenderer the reason(s) for its rejection but is not required to justify those reason(s).

**G. Contract Award**

**67. Award Criteria**

1. The Employer shall award the Contract to the Tenderer whose offer is responsive to all the requirements of the Tender Document and that has been determined to be the lowest evaluated Tender, provided further that the Tenderer is determined to be Post-qualified in accordance with ITT Clause 63.
2. The Tenderer will not be required, as a condition for award, to undertake responsibilities not stipulated in the Tender documents, to change its price, or otherwise to modify its Tender.

**68. Notification of Award**

1. Prior to the expiry of the Tender Validity period and within seven (7) working days of receipt of the approval of the award by the Approving Authority, the Employer shall issue the Notification of Award (NOA) to the successful Tenderer.
2. The Notification of Award, attaching the contract as per the sample (**Form-7**) to be signed, shall state :
  - (a) the acceptance of the Tender by the Employer;
  - (b) the price at which the contract is awarded;
  - (c) the amount of the Performance Security and its format;
  - (d) the date and time within which the Performance Security shall be submitted; and
  - (e) the date and time within which the Contract shall be signed.
3. The Notification of Award shall be accepted in writing by the successful Tenderer within seven (7) working days from date of issuance of the Notification of Award.
4. Until a formal contract is signed, the Notification of Award will constitute a Contract, which shall become binding upon the furnishing of a Performance Security and the signing of the Contract by both parties.

5. The Notification of Award establishes a Contract between the Employer and the successful Tenderer and the existence of a Contract is confirmed through the signature of the Contract Document that includes all agreements between the Employer and the successful Tenderer.
- 69. Performance Security**
1. The Performance Security shall be determined sufficient to protect the performance of the Contract.
  2. The Performance Security shall be provided by the successful Tenderer in the currency of USD or GBP or EUR or JPY and/or Bangladesh Taka, as stated under ITT Sub Clauses 28.1 and 28.2, at the percentage as specified in the **TDS**.
  3. The Employer may increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 61.2 but not exceeding twenty five (25) percent of the Contract price, if it is found that the Tender is significantly below the official estimated cost or unbalanced as a result of front loading as stated under ITT Sub Clause 60.7.
  4. The proceeds of the Performance Security shall be payable to the Employer unconditionally upon first written demand as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 70. Form and Time Limit for Furnishing of Performance Security**
1. The Performance Security, as stated under ITT Clause 69, shall be in the form of an irrevocable Bank Guarantee issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh, in the format (**Form-9**), acceptable to the Employer.
  2. Within twenty eight (**28**) days of issuance of the Notification of Award (NOA) but not later than the date specified therein, the successful Tenderer shall furnish the Performance Security for the due performance of the Contract in the amount as stated under ITT Sub Clauses 69.2 or 69.3.
- 71. Validity of Performance Security**
1. The Performance Security shall be required to be valid until a date twenty eight (**28**) days beyond the Intended Completion Date as specified in Tender Document.
  2. If under any circumstances the Intended Completion Date is to be extended, the Performance Security shall correspondingly be extended for the same period until twenty eight (**28**) days from the new Intended Completion Date.
  3. The amount of the Performance Security as stated under ITT Sub Clauses 69.2 and 69.3 and further its validity as stated under ITT Sub Clauses 71.1 and 71.2 shall be reset to cover the Defects Liability Period in accordance with the provisions laid down in GCC Clause 79.

- 72. Authenticity of Performance Security**
1. The Employer shall verify the authenticity of the Performance Security submitted by the successful Tenderer by sending a written request to the branch of the Bank issuing the irrevocable Bank Guarantee in specified format and/or, to its correspondent Bank located in Bangladesh, as and where applicable.
  2. If the Performance Security submitted under ITT Sub Clause 71.1 is not found to be authentic, the Employer shall forfeit the Tender Security of the Tenderer.
- 73. Contract Signing**
1. At the same time as the Employer issues the Notification of Award (NOA), the Employer will send the draft Contract Agreement and all documents forming the Contract to the successful Tenderer.
  2. Within twenty-eight (28) days of issuance of the NOA, the successful Tenderer and the Employer shall sign the contract provided that the Performance Security submitted by the Tenderer is found to be genuine.
  3. If the successful Tenderer fails to provide the required Performance Security, pursuant to ITT Clause 71 or to sign the Contract, pursuant to ITT Sub Clause 73.2, Employer shall proceed to award the Contract to the next lowest evaluated Tenderer, and so on, by order of ranking.
- 74. Publication of Notification of Award of Contract**
1. Notification of Award for Contract shall be notified by the Employer to the Central Procurement Technical Unit within seven (7) days of issuance of the NOA for publication in their website, and that notice shall be kept posted for not less than a month.
- 75. Debriefing of Tenderers**
1. Debriefing of Tenderers by Employer shall outline the relative status and weakness only of his or her Tender requesting to be informed of the grounds for not accepting the Tender submitted by him or her without disclosing information about any other Tenderer.
  2. In the case of debriefing, confidentiality of the evaluation process shall be maintained.

## Section 2. Tender Data Sheet

The provisions stated in this Section-2 (Tender Data Sheet) shall prevail over the provisions under corresponding clause of Section-1 (Instructions to Tenderers).

ITT Clause Amendments of and Supplements to Clauses in the Instructions to Tenderers

### A. General

ITT 1.1 The Employer or the Procuring Entity is **Bangladesh-India Friendship Power Company (Pvt.) Limited** represented by **Managing Director**.

**The Name of the Tender is:** EPC Township Package for 2x660 MW Maitree Super Thermal Power Project at Rampal.

#### **Brief Scope of works:**

Design, Engineering, Manufacturing, Shop Testing, Procurement, Supply, Transportation to Site (location of use), Handling, Storage, Insurance, taking any permit/approval required, construction, erection, testing, commissioning, performance testing, Training employer's personnel and completion of entire Township works including associated works, all civil, mechanical, electrical, instrumentation works for the entire Township and associated facilities like Electrical Sub-station as described in the bidding documents and complete in all respects for successful use of Township.

**Tender Ref:** BIFPCL/MSTPP/EPC TOWNSHIP

ITT 3.1, 3.2, & 3.3 ITT Sub-Clauses 3.1, 3.2, & 3.3 stand replaced by the following:

Source of Funds for payments under the Contract for which this Tender Document is issued is Employer's Own Resource.

ITT5.1 Tenderers from the following countries are not eligible: **Israel**

ITT 5.2 ITT Sub-Clause 5.2 stands replaced by the following:

Tenderers may be a physical or juridical individual or body of individuals, or company invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders.

ITT 5.5 ITT Sub-Clause 5.5 stands replaced by the following:

Tenderers in its own name or its other names or also in the case of its Persons in different names shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive or coercive practices as stated under ITT Clause 4.1.

ITT 5.10 ITT Sub-Clause 5.10 stands replaced by the following:

Tenderers are not restrained or barred from participating on grounds of poor performance in the past under any Contract.

ITT 6.1 Materials, Equipments and associated services from the following countries are not eligible: **Israel**

ITT 7.1, 7.2, & 7.3 ITT Clause 7.1, 7.2, & 7.2 stand replaced by the following:

- 7.1 Tenderers are advised to visit and examine the project site, before submitting tenders to acquaint themselves with, and determine the existing conditions and limitations. Tenderers shall thoroughly inform themselves of all conditions and factors which would affect the execution and completion of the Work, including, but not be limited to, soil condition, soil improvement requirement, river water quality, underground water level/ quality, air quality, the availability and cost of labour, applicable laws and regulations and facilities for transportation, handling and storage of materials and equipment and limitation of working days due to monsoon etc.
- 7.2 It must be understood and agreed that such factors are properly investigated and considered in the preparation of the Tender submitted. No claims for financial and time adjustment to the Contract awarded for the Work under these Specifications and Documents will be permitted by the Employer which are based on the lack of such prior information or its effect on the cost of the work and its completion time. The costs of such visits and examination to the site shall be borne fully by the Bidder.

**Visit to project site by Tenderer or its authorized representative is mandatory.**

Tenderer or its authorized representative after prior permission from Employer shall visit project site during office hours prior to the last date for submission of tenders indicated in **Invitation for Tenders (IFT)**. Employer' representatives shall be available at site. Tenderer shall include with his Envelope-I bid a signed visit report (duly countersigned by Employer's representative at Project site) as per the proforma at **Attachment 2A-8 to Form-2. Non-visit of site will be a case for rejection of Bid.**

Site Representative: Dy. Project Director  
Address of Project Site: **2x660 MW Maitree Super Thermal Power Project,**  
P.O:- Kalekkharber; Union:- Rajnagar,  
Upajila- Rampal, Thana- Rampal,  
Dist:-Bagerhat-9343  
Bangladesh

Telephone. No.: +8801678582882

- 7.3 Tenderer or its authorized representative, shall be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Tenderer, its personnel and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of the inspection.

## B. Tender Document

**ITT 8.1** ITT Sub-Clause 8.1 stands replaced by the following:

The Sections comprising the Tender Document are listed below, and should be read in conjunction with any Addendum issued under ITT Clause 11.

- Section 1 Instructions to Tenderers (ITT)
- Section 2 Tender Data Sheet (TDS)
- Section 3 General Conditions of Contract (GCC)
- Section 4 Particular Conditions of Contract (PCC)
- Section 5 Tender and Contract Forms
- Section 6 Bill of Quantities (BOQ)
- Section 7 General Technical Specifications
- Section 8 Detailed Technical Specifications
- Section 9 Tender Drawings

**ITT 8.2** The following are authorised agents of the Employer for the purpose of issuing the Tender Document: **Not Applicable**

**ITT 9.1** For clarification of Tender Document purposes only, the Employer's address is:

Attention: **Chief Procurement Officer**

Address: Bangladesh-India Friendship Power Company (Pvt.) Limited, Borak Unique Heights (Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh.

Telephone:

E-mail address: township@bifpcl.com

and contact the Procuring Entity in writing **latest one day** before the date of Pre-Tender Meeting.

**ITT 9.3** ITT Sub-Clause 9.3 stands replaced by the following:

The Employer shall respond in writing within **five (05)** working days of receipt of any such request for clarification received under ITT Sub Clause 9.1.

**ITT 10.1** A Pre- Tender meeting shall be held at

**Bangladesh-India Friendship Power Company (Pvt.) Limited**

Address: **Borak Unique Heights (Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh.**

Time & Date: **1100 Hrs, 30.08.2018.**

**ITT 11.4** ITT Sub-Clause 11.4 stands replaced by the following:

The Employer shall also ensure posting of the relevant Addenda with the reference number and date on their websites where the Employer has uploaded Tender Documents.

**ITT 11.6** Not Applicable.

**ITT 13.1** Non-performance of a contract should not have occurred within the last three (3) years.

**ITT 13.2** ITT Sub-Clause 13.2 stands replaced by the following:

For the purpose, a fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism and/or Judicial Process/Procedure under the respective contract and where all appeal instances have been exhausted.

**ITT 13.3** All pending litigation shall in total not represent more than fifteen percent (15%) of the Applicant's net worth.

## **C. Qualification Criteria**

**ITT 14.1(a)** The minimum number of years of general experience of the Tenderer in the construction works as Prime Contractor or Subcontractor or Management Contractor shall be **seven (7)** years.

**ITT 14.1(b)** ITT Sub-Clause 14.1(b) stands replaced by the following:

### **1. Technical Criteria for Qualification:**

The bidder should have executed works within the preceding 7 (seven) years reckoned as on the date of Techno-commercial Bid Opening, works comprising RCC framed Residential / Non-residential building of five (5) storeys or more including civil and finishing, Internal electrification, Plumbing and Sanitary meeting the following criteria

- a) At least one work having minimum total built-up area of 36,000 sqm.

or

- b) At least two works, each having minimum total built-up area of 22,500 sqm.

or

- c) At least three works, each having minimum total built-up area of 15,000 sqm with cumulative built up area of all the three references together shall be at least 54,000 sqm.

**NOTES for clause 1. above:**

- 1) The word “**executed**” means;  
The bidder should have successfully completed the work(s) and submit the completion certificate for the same  

Or

The bidder should have achieved completion of at least 75% of the contract value in support of which the bidder shall submit the copy of last bill passed.
- 2) The work completed in the preceding seven (7) years reckoned as on the date of techno-commercial bid opening even if it has been started earlier, will also be considered as meeting the qualifying requirements.
- 3) In case the reference work(s) contains multiple buildings of different storeys, then the area of all the buildings shall be considered for total built up area, provided
  - a) At least one reference work contains buildings of five (5) storeys or more meeting the technical criteria in clause 1. above.

And
  - b) Cumulative built-up area of all buildings of five (5) storeys or more in single or multiple reference works is at least 6000 sqm.
- 4) Reference work means work executed in single premises, i.e. a building complex with constructions in contiguous land parcels at particular location in one or more contracts.
  - a) The reference works executed by the bidder’s group company / subsidiary company shall not be considered for meeting the qualifying requirements by the bidder.
  - b) Reference work executed by a Bidder as a sub-contractor may also be considered provided the certificate issued by main contractor is duly certified by Project Authority specifying the Scope of Work executed by the sub-contractor in support of qualifying requirements.

## 2. Architect & Engineering Experience

Bidder should have done architecture, design and engineering of at least one RCC framed Residential / Non-residential building having five (5) or more storeys including piling, civil and finishing, Internal electrification, Plumbing and Sanitary works within the preceding 7 (seven) years reckoned as on the date of Techno-commercial Bid Opening.

In case the bidder has not carried out the above engineering activities by himself either in reference works or in any other works, then the architect & engineering of the township shall be carried out by an Architect & Engineering firm meeting the above requirement. In such a case, the Bidder shall furnish an undertaking jointly executed by him and the Architect & Engineering firm, meeting the requirement above in which all the executants of the Deed of Joint Undertaking (DJU) shall be jointly and severally liable to the Employer to perform successfully all the architect and engineering activity included in the scope of the Architect & Engineering Firm as per the format enclosed with the bidding documents. The DJU shall be submitted along with techno-commercial bid, failing which the bidder shall be disqualified and its bid shall be rejected. In case of award, the Architect and Engineering Firm will be required to furnish an on demand bank guarantee for BDT 1.5 million in addition to the contract performance security to be furnished by the Bidder.

In support of the above experience under sub-clauses 1. and 2. the bidder shall submit necessary documents and information in **Attachment – 2A-1 & 2A-2 along with Appendix (if applicable) respectively** to bid forms (Techno commercial bids).

ITT ITT Sub-Clauses 15.1(a) & (b) stand replaced by the following:

**15.1(a)  
& 15.1  
(b)**

15.1(a) The average annual turnover of the Bidder, in the preceding three (3) financial years as on the date of Techno-Commercial bid opening, should not be less than **930 million Bangladeshi Taka (BDT)** or in equivalent foreign currency.

In case a Bidder does not satisfy the average annual turnover criteria, stipulated above on its own, its Holding Company would be required to meet the stipulated turnover requirements as above, provided that the Net Worth of such Holding Company as on the last day of the preceding financial year is at least equal to or more than the paid-up share capital of the Holding Company. In such an event, the Bidder would be required to furnish along with its Techno-Commercial bid, a Letter of Undertaking from the Holding Company, supported by the Holding Company's Board Resolution, as per the format enclosed in the bid documents, pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidder in case of award.

15.1(b) (i) Net worth of the bidder should not be less than 100% (hundred percent) of its paid up share capital as on the last day of the preceding financial year on the date of Techno-commercial bid opening. In case the Bidder does not meet the Net worth criteria on its own, it can meet the requirement of Net worth based on the strength of its Subsidiary(ies) and/or Holding Company and/or Subsidiaries of its Holding company wherever applicable. In such a case, however the Net worth of the Bidder and its Subsidiary(ies) and/or Holding Company and/or Subsidiary(ies) of the Holding Company, in combined manner should not be less than 100% (hundred percent) of their total paid up share capital. However individually, their Net worth should not be less than 75% (seventy-five percent) of their respective paid up share capitals.

Net worth in combined manner shall be calculated as follows:

$$\text{Net worth (combined)} = \{(X1+X2+X3) / (Y1+Y2+Y3)\} \times 100$$

Where X1, X2, X3 are individual Net worth which should not be less than 75% of the respective paid up share capitals and Y1,Y2,Y3 are individual paid up share capitals.

15.1(b)(ii) In case the Bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Bidder can be considered acceptable provided the Bidder further furnishes the following documents for substantiation of its qualification:

(a) Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of its Holding Company.

(b) A Certificate from the CEO/CFO of the Holding Company, as per the format enclosed with the bidding documents, stating that the unaudited unconsolidated financial statements form part of the consolidated financial statements of the Holding Company.

In cases where audited results for the last financial year as on the date of Techno-Commercial bid opening are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. In case, Bidder is not able to submit the Certificate from a practicing Chartered Accountant certifying its financial parameters, the audited results of three consecutive financial years preceding the last financial year shall be considered for evaluating the financial parameters. Further, a Certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the financial results of the Company are under audit as on the date of Techno-commercial bid opening and the Certificate from the practicing Chartered Accountant certifying the financial parameters is not available.

**Notes for ITT Clause 15.1(a) & (b)**

- (i) Net worth means the sum total of the paid up share capital and free reserves. Free reserve means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provision and amalgamation. Further any debit balance of Profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.
- (ii) Other income shall not be considered for arriving at annual turnover.
- (iii) "Holding Company" and "Subsidiary Company" shall have the meaning ascribed to them as per Companies Act 1994 of Bangladesh.
- (iv) For turnover / Liquid asset / working capital / credit facilities / Net Worth indicated in foreign currency, the exchange rate of Bangladesh Bank selling rate as on 7 days prior to the Techno-Commercial Bid Opening Date shall be used.

**General Note for ITT 14.1(b) and 15.1 (a) & (b)**

1. All relevant Certificates/ authenticated documents in support of the qualifying requirement shall have to be submitted by the Bidder along with its Bid. The authentication of the certificates must be certified by the authorized representatives of the Bidders. Without such certificate/ authenticated document or where the certificate/ authenticated document are unsatisfactory to BIFPCL, the Bid shall be considered non-responsive.

In case the end user(s) does not issue certificate to the Bidder, but issue the certificate directly only to BIFPCL (Employer), based on a request by the Bidder, then such certificate shall also be considered as Bidder's submission provided the Bidder submits copy of such request letter (duly authenticated as above) along with his Techno-Commercial Bid.

The Employer reserves the right to reject the Bid of the Bidder(s) and forfeit the Bid Security, where any certificate or document submitted in support of the Qualifying Requirement is found to be false or fake.

**ITT** The minimum capacity shall be: **BDT 2110 million**

**15.1(d).** The following formulae shall be used to calculate the Tender Capacity

Assessed Tender Capacity =  $(A*N*1.5-B)$

Where

A=Maximum value of Works performed in any one year during last five years

N= Completion time of the proposed work in 2.5 years.

B= Value of Existing commitments and works to be completed during the next N Years

**The Tenderer shall submit all the information in Form-2A-6 for computing tender Capacity in the following format.**

Tender shall provide authentic evidence i.e., copy of completion certificate for Table 1 and and copy of contract agreement for Table 2.

**ITT 16.1** ITT Sub-Clause 16.1 stands replaced by the following:

Tenderer shall furnish in Form-5 details including qualification and experience of Construction Project Manager, Engineer, and other key staffs to be deputed for execution of works under the Contract in case of award. These details shall be discussed and finalised post-bid. The finalised details shall form part of the Contract Agreement and Work Programme.

**ITT 17.1** ITT Sub-Clause 17.1 stands replaced by the following:

Tenderers shall own or have proven access to hire or lease the major erection tools & plants and construction equipments, in full working order. A list of suggested major erection tools & plants and construction equipments required to be deployed at construction site is placed at **Annexure-I** to the TDS. However, Tenderer shall be required to furnish at **Attachment – 3** to Form-1a its own proposed list of major erection tools & plants and construction equipments, it intends to deploy during the execution of Works in case of Award.

**ITT 18 Not Applicable**

However, if the Tendered does not fulfil the criteria stipulated under ITT Sub-Clause 14.1(b2) related to Architect & Engineering Experience on its own, the Tender may, in accordance with the provisions under ITT Sub-Clause 14.1(b2), associate with a firm fulfilling the criteria of Architect & Engineering Experience.

**ITT 19.4** The Nominated Sub-contractor(s) selected by Employer and specific components of the Works to be executed by them: **None**

**ITT 19.5** Add the following in continuation of ITT Sub-Clause 19.5:

However, in exceptional circumstances, the Employer may allow the successful Tenderer to assign the Works or any part thereof to a Sub-Contractor, not mentioned in the Tenderer's proposal, provided the Sub-Contractor's performance is found satisfactory after assessment by the Employer.

## **D. Tender Preparation**

**ITT 22.4** ITT Sub-Clause 22.4 stands replaced by the following:

Tender document shall be uploaded on [www.bifpcl.com](http://www.bifpcl.com). Tender document for reference purpose only may be downloaded free of cost from [www.bifpcl.com](http://www.bifpcl.com). **However, prospective Tenderers are required to purchase one set of Tender Document for tendering purpose prior to the Tender Document sale close date.**

**ITT 24.2(c)** ITT Sub-Clause 24.2(c) stands replaced by the following:

Tender Security shall be submitted in a separately sealed envelope as stated in ITT Sub-Clause 41.5.

**ITT 24.2(j)** The Tenderer shall submit with its Tender the following additional documents:

Tender Document issued by the Employer with each and every page of it signed and stamped by the Tenderer's authorised signatory.

**ITT 24.3(d)** The Tenderer shall submit with its Tender the following additional documents:  
**None**

**New Sub-Clause ITT 24.5** Add a new ITT Sub-Clause 24.5 after ITT Sub-Clause 24.4 as per the following:

**24.5 No Deviation Certificate**

No deviation or reservation, whatsoever, is permitted by the Employer to any provisions of the Tender Documents. Tenderers are advised that while making their tender and quoting prices in Financial offer, all the provisions of the Tender documents may appropriately be taken into consideration.

Tenderers are required to furnish a "No Deviation Certificate", indicating their full compliance with all the provisions of the Tender Documents in **Attachment-2 to Form-1a**, duly signed and stamped on each page by the Tenderer or its authorised representative. The proforma for No Deviation Certificate is enclosed at **Attachment-2 to Form-1a**. Tender(s) not accompanied by "No Deviation Certificate" shall be rejected by the Employer and returned to the Tenderer without being opened.

- New Sub-Clause ITT 24.6** Add a new ITT Sub-Clause 24.6 after ITT Sub-Clause 24.5 as per the following:  
**Deed of Joint Undertaking (DJU)**  
The Tenderer shall furnish Deed of Joint Undertaking (DJU) executed on a non-judicial stamp paper of applicable value jointly signed by the Tenderer and the Architect and Engineering Firm, if applicable. The proforma for the DJU is placed at **Appendix-I to Attachment-2A-2 to Form PA7A-2.**
- ITT 26.1** Alternatives are **not** permitted.
- ITT 27.10** The prices quoted by the Tenderer shall be **fixed** for the duration of the Contract.
- ITT 28.1** The currency of the Tender shall be **United States Dollars** and/or **Bangladeshi Taka**.
- ITT 28.4** The currency of the payments shall be same as the currency of the Tender.
- ITT 31.1** The required Technical Proposal shall include the following additional information:  
**None**
- 32.1(b), (c), & (d)** ITT Sub-Clauses 32.1 (b), (c), & (d) stand replaced by the following:
- (a) specific experience of the entity participating in the Tender, in construction works of similar nature and size as stated under ITT Sub-Clause 14.1(b), substantiated by Completion Certificate(s) issued by relevant Procuring Entity(s);
  - (b) average annual turnover of the Tenderer as stated in ITT Sub-Clause 15.1(a), in the preceding three (3) financial years as on the date of Techno-Commercial bid opening, substantiated by audited annual financial statements on standalone entity basis;
  - (c) ratio of Net worth of the Tenderer to its paid up share capital as on the last day of the preceding financial year on the date of Techno-commercial bid opening, as stated in ITT Sub-Clause 15.1(b).
- ITT 32.1(e)** The required information regarding claims under litigation shall be current or during the last **three (3)** years.
- ITT 32.1(i)** The required reports on the financial standing, such as profit and loss statements and audited balance sheet shall be for the last **five (5)** years.
- ITT 33.2** The tender validity period shall be **180** days.
- ITT 35.1** The amount of the Tender Security shall be **BDT 46.6 Million** or **USD 554,800.00** in favour of Bangladesh-India Friendship Power Company (Pvt.) Limited.
- ITT 39.1** Add a new Sub-Clause 39.1(f) after ITT Sub-Clause 39.1(e) as per the following:  
or  
(f) refuses to withdraw, without any cost implication to the Employer, the deviations found anywhere in the Tender by the Employer during evaluation.

ITT 40.1 In addition to the original of the Technical offer, **four (04)** copies shall be submitted.

ITT 40.2 In addition to the original of the Financial offer, **four (04)** copies shall be submitted.

## E. Tender Submission

ITT 41.4(e) The inner and outer envelopes shall bear the following additional identification marks:

For Technical offer:

**Technical Offer (Envelope-01)**

For Financial offer:

**Financial Offer (Envelope-02)**

Outer Envelope:

**Tender for EPC Township Package for 2x660 MW Maitree Super Thermal Power Project at Rampal, Bagerhat.**

On the top of the outer envelope, following shall be written in bold letters  
**“DO NOT OPEN BEFORE 11.09.2018, 1130 Hrs (BST)”**

41.5 ITT Sub-Clause 41.5 stands replaced by the following:

The “No Deviation Certificate” furnished as per the provisions of ITT Sub-Clause 24.5 shall be kept in a separate sealed envelope marked “No Deviation Certificate”.

Tender Security furnished as per ITT Clauses 35, 36, and 37 shall be kept in a separate sealed envelope marked “Tender Security”.

The Deed of Joint Undertaking (DJU), if applicable, executed as per ITT Sub-Clause 24.6 shall be kept in a separate sealed envelope marked “Deed of Joint Undertaking”.

**The Envelope-01** as stated in ITT Clause 41.1, **Envelope-02** as in ITT Clause 41.3, containing the information as stated under ITT Clause 41.2 (a) to (e) and ITT Clause 41.4 (a) to (d) respectively, the **No Deviation Certificate**, the **Tender Security**, and the **Deed of Joint Undertaking** as stated above shall then be enclosed and sealed in one single outer envelope also called as the Tender Envelope.

ITT 42.1 For **Tender submission purposes** only, the Employer’s address is:

Attention: **Chief Procurement Officer**

Address: Bangladesh-India Friendship Power Company (Pvt.) Limited, Borak Unique Heights (Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh.

The deadline for the submission of Tenders is:

Time & Date: **1100 Hrs (BST); 11.09.2018.**

ITT 42.3 Not Applicable

ITT 42.4 Not Applicable

## F. Tender Opening and Evaluation

ITT 48.2 ITT Sub-Clause 48.2 stands replaced by the following:

Tenders shall be opened immediately after the deadline for submission of Tenders at the primary place as specified herein but not later than **ONE HOUR**, after expiry of the submission deadline at the same primary place unless otherwise stated under ITT Sub Clause 48.2. Tender opening shall not be delayed on the plea of absences of Tenderers or his or her representatives. While opening the tender of any Tenderer, envelope containing "No Deviation Certificate" shall be opened first. If the No Deviation Certificate is found acceptable, the envelope containing Tender Security furnished by the Tenderer shall be opened by the TOC. The details of Tender Security shall be checked in respect of format, value, and validity, and if these details are found correct and the Tender Security acceptable, then the envelope containing "Deed of Joint Undertaking", if applicable, shall be opened by the TOC. If the Deed of Joint Undertaking is found properly signed and executed, then only the **Technical Offer (Envelope-01)** submitted by that Tenderer shall be opened. In case either "No Deviation Certificate" or "Tender Security" or "Deed of Joint Undertaking" furnished by a Tenderer is found not acceptable by the TOC, Tender submitted by that Tenderer shall be summarily rejected and shall be returned unopened.

Financial offer (**Envelop-02**) shall not open with Technical offer (**Envelop-01**) and shall be kept unopened at the Custody of the Head of the Procuring Entity or his **Authorised Officer (AO)**.

### Address for opening of Tenders:

Bangladesh-India Friendship Power Company (Pvt.) Limited (Level-17), Borak Unique Heights, 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh.

Time & Date: **1130 Hrs; 11.09.2018**.

ITT 51.2 Add the following in ITT Sub-Clause 51.2(d) & 51.2(e) after ITT Sub-Clause 51.2(c):

(d) No Deviation Certificate

(e) Deed of Joint Undertaking, if applicable.

ITT 61.2 ITT Sub-Clause 61.2 stands replaced by the following:

In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance with the Procuring Entity shall be selected.

ITT  
62.1,  
62.2,  
62.3, &  
62.4

## **G. Contract Award**

**ITT 69.2** The amount of Performance Security shall be **ten percent (10%)** of the Contract Price in the currency of the Contract.

**New Sub-Clause** Add a new ITT Sub-Clause 69.2(a) after ITT Sub-Clause 69.2 as per the following:

**ITT**

**69.2(a)** In case Deed of Joint Undertaking by the Contractor along with his Associate – the Architect Engineering Firm, form part of the Contract, then an unconditional and irrevocable Bank Guarantee towards faithful performance of the Deed(s) of Joint Undertaking for the amount specified in ITT Sub-Clause 14.1(b)(2) shall be furnished by such Architect Engineering Firm.

**New Sub-Clause** Add a new ITT Sub-Clause 70.3 after ITT Sub-Clause 70.2 as per the following:

**ITT 70.3** The unconditional and irrevocable Bank Guarantee towards faithful performance of the Deed(s) of Joint Undertaking furnished by the Architect and Engineering Firm shall be issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh, in the format (**Form-13**), acceptable to the Employer. The Bank Guarantee shall be furnished as per ITT Sub-Clause 69.2(a) to the Employer within twenty eight (28) days of issuance of Notification of Award.

**ITT 71** ITT Sub-Clause 71 stands replaced by the following:

1. The Performance Security shall be required to be valid until a date ninety (90) days beyond the date of Defects Liability Period in accordance with the provisions laid down in GCC Clause 60.2.
2. If under any circumstance the Defects Liability Period is to be extended, the Performance Security shall correspondingly be extended for the same period until ninety (90) days beyond the new date of Defects Liability Period.
3. The value of Performance Security as stated under ITT Sub-clauses 69.2 and 69.2 may be reduced to five percent (5%) of the final Contract Price in the currency of the Contract upon successful Completion of Facilities and approval of Engineer.
4. The Bank Guarantee towards faithful performance of the Deed(s) of Joint Undertaking shall be required to be valid until a date ninety (90) days beyond the date of Defects Liability Period in accordance with the provisions laid down in GCC Clause 60.2. If under any circumstance the Defects Liability Period is to be extended, the Bank Guarantee towards faithful performance of the Deed(s) of Joint Undertaking shall also be extended correspondingly for the same period until ninety (90) days beyond the new date of Defects Liability Period.

**ITT 74.1** Not Applicable.

**ITT 75.1 & 75.2** Not Applicable.

**ITT 76.1, Not Applicable.  
76.2,  
76.3,  
76.4,  
76.5, &  
76.6**

**ANNEXURE-I to TENDER DATA SHEET**

**List of Suggested Special Plant, Equipment and Machinery Required to be Deployed by Contractor at Site**

<b>S.NO.</b>	<b>Description</b>	<b>Nos.</b>
1	Total workstation for surveying including digital theodolite and digital level	02
2	Geotechnical Study test Equipment	01 Set
3	Test Pile Equipment	As Required
4	Lab equipment	As per requirement mentioned in Quality Section
5	Batching plant - 30Cum/Hr.	02 (See Note no 6)
6	Mini batching plant (Movable)- 8 Cum/Hr	03
7	Concrete mixers 10/7Cum/Hr. capacity (Electrically operated)	04
8	Concrete mixers 10/7Cum/Hr. capacity (Diesel operated)	02
9	Transit mixer - minimum 5.0Cum capacity.	06
10	Concrete pump -25Cum / Hr.	03
11	Boom Placer	02
12	Stirrup Bending Machine 4-12mm	02
13	Vibrators - Needle type 40mm (Electrically operated)	10
14	Vibrators - Needle type 25mm (Electrically operated)	10
15	Vibrators - Needle type 40/25mm (Petrol operated)	02+02
16	Vibrators - Float (Diesel Operated)	As Required
17	Piling Rig	03
18	Vibro Hammer	As Required
19	Bentonite/ Admixture mixing plant	As Required
20	Mobile Crane-20 MT/8 MT	As Required
21	Trailers - 10 to 15 MT capacity	01
22	Diesel Power generator 125KVA capacity	01
23	Diesel Power generator 75KVA capacity	02
24	Welding generator / rectifiers - 400A to 600A	As Required

25	Gas Cutting torches (complete set)	As Required
26	Excavator (Poclain and J.C.B.)	As Required
27	Walk behind roller-4 MT	As Required
28	De-watering pumps 5 H.P (Electrically operated)	02
29	De-watering pumps 10 H.P (Electrically operated)	02
30	Bull Dozer (Heavy Duty)	As Required
31	Dumpers	As Required
32	Trucks	As Required
33	Scaffolding units	As Required
34	Service compressor with hose (Electrically operated)	02
35	Service compressor with hose (Diesel operated)	02
36	Floor polishing machine	10
37	Builder's Hoist (for concrete and other building material)	07
38	Portable Marble / Tile cutting machine	10
39	Stone Cutting / Polishing Workshop fixed with heavy duty machines	01 Set up
40	Steel Plates Shuttering	Minimum 30000sqm (to be augmented as per site requirement)
41	Hand roller	02
42	Sheep foot roller	As Required
43	Road roller 10T	01
44	Road Paver	01
45	Water tankers with tractors	02
46	Electrical power winches for varying capacities	As Required
47	Tower Crane	4
48	Sheet Piles	As Required
49	Any other major equipment proposed to be used for the satisfactory completion of work	

**Notes:**

1. These requirements and capacity of the Equipment are indicative only and not exhaustive and deployment of the equipment, machinery and labour shall be suitably augmented to achieve the timely completion of the work as per the program and directions of the engineer, without any additional cost to the owner.

2. Other materials like cables, sling, gloves, safety belts, safety helmets, heating oven, pre-heating/ post-weld heat treatment arrangements, materials for making platforms and platform support etc. shall be mobilized as per requirement.
3. Other equipment though required for the timely completion of the job and not listed above shall be deployed by the contractor as per the job requirements and as directed by the Engineer.
4. The contractor shall make suitable provisions for repairs and maintenance of the equipment mobilized and always keep them in good working condition, as the repair facilities for such equipment are not available at the project site.
5. All concreting shall be carried out using centralized batching plant, transit mixers, concrete pumps and boom placers. However individual mixers for localized concreting can be done for PCC work and small quantity of RCC work after the approval of Engineer in charge, if required.
6. Minimum 2 numbers of batching plant of capacity 30 Cum/hr to be maintained till completion and handing over of priority area as listed in time schedule. The same may be reduced to 1 later as per the job requirements and as approved by the Engineer in Charge.

## Section 3. General Conditions of Contract

### A. General

#### 1. Definitions

1. In the Conditions of Contract, which include Particular Conditions and these General Conditions, the following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined terms:
  - (a) **Approving Authority** means the authority which, in accordance with the Delegation of Financial powers, approves the award of Contract for the Procurement of Goods, Works and Services.
  - (b) **Adjudicator** is the expert appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in GCC Sub Clause 100.2.
  - (c) **Bill of Quantities (BOQ)** means the priced and completed Bill of Quantities forming part of the Contract defined in GCC Clause 63.
  - (d) **Compensation Events** are those defined in GCC Clause 72.
  - (e) **Competent Authority** means the authority that gives decision on specific issues as per delegation of administrative and/or financial powers.
  - (f) **Completion Certificate** means the Certificate issued by the Engineer as evidence that the Contractor has executed the Works and Physical services in all respects as per design, drawing, specifications and Conditions of Contract.
  - (g) **Completion Date** is the actual date of completion of the Works and Physical services certified by the Engineer, in accordance with GCC Clause 83.
  - (h) **Contract** means the Contract Agreement, the Notification of Award, Tender Submission Letter, these Conditions, the Specification, the Drawings, the Schedules, the Priced Bill of Quantities, and the further Documents (if any ) which are listed in the Contract Agreement or in the Notification of Award.
  - (i) **Contract Agreement** means the Agreement entered into between the Employer and the Contractor, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein to execute, complete, and maintain the Works.
  - (j) **Contract Documents** means the documents listed in GCC Clause 6, including any amendments thereto.

- (l) **Contractor** means the Person under contract with the Employer for the execution of Works under the Rules and the Act as stated in the PCC.
- (m) **Contract Price** is the price stated in the Notification of Award (**Form-7**) and as specified in the GCC Sub Clause 62.1 and, thereafter as adjusted in accordance with the provisions of the Contract.
- (n) **Contractor's Tender** is the completed Tender Document including the priced Bill of Quantities and the Schedules submitted by the Contractor to the Employer.
- (o) **Cost** means all expenditures reasonably incurred or to be incurred by the Contractor, whether on or off the Site, including overhead ,profit, taxes, duties, fees, and such other similar levies.
- (p) **Day** means calendar day unless otherwise specified as working days.
- (q) **Dayworks** means work carried out following the instructions of the Employer or the authorised Engineer and is paid for on the basis of time spent by the Contractor's workers and equipment at the rates specified in the Schedules, in addition to payments for associated Materials and Plant.
- (r) **Defect** is any part of the Works not completed in accordance with the Contract.
- (s) **Defects Correction Certificate** is the certificate issued by the Engineer upon correction of defects by the Contractor.
- (t) **Defects Liability Period** is the period specified in the PCC and calculated from the Completion Date.
- (u) **Drawings** include calculations and other information provided in Section 9 or as approved by the Engineer for the execution and completion of the Contract.
- (v) **Employer (Procuring Entity)** means a Employer having administrative and financial powers to undertake procurement of Works and Physical services using public funds and is as named in the PCC who employs the Contractor to carry out the Works.
- (w) **Engineer** is the person named in the PCC or any other competent person appointed by the Employer and notified to the Contractor who is responsible for supervising the execution and completion of the Works and Physical services and administering the Contract.
- (x) **Equipment** is the Contractor's apparatus, machinery, vehicles and other things required for the execution and completion of the Works and remedying any defects excluding Temporary Works and the Employer's Equipment (if any ), Plant, Materials and any other things to form or forming part of the Permanent Works.

- (y) **Force Majeure** means an event or situation beyond the control of the Contractor that is not foreseeable, is unavoidable, and its origins not due to negligence or lack of care on the part of the Contractor; such events may include, but not be limited to, acts of the Government in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes or more as included in GCC Clause 88.;
- (z) **GCC** means the General Conditions of Contract.
- (aa) **Government** means the Government of the People's Republic of Bangladesh.
- (bb) **Goods** mean the Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.
- (cc) **"Head of the Procuring Entity"** means the Secretary of a Ministry or a Division, the Head of a Government Department or Directorate; or the Chief Executive, by whatever designation called, of a local Government agency, an autonomous or semi-autonomous body or a corporation, or a corporate body established under the Companies Act;
- (dd) **Intended Completion Date** is the date calculated from the Commencement Date as specified in the PCC, on which it is intended that the Contractor shall complete the Works and Physical services as specified in the Contract and may be revised only by the Engineer by issuing an extension of time or an acceleration order.
- (ee) **Materials** means things of all kinds other than Plant intended to form or forming part of the Permanent Works, including the supply-only materials, if any, to be supplied by the Contractor under the Contract.
- (ff) **Month** means calendar month.
- (gg) **Original Contract Price** is the Contract Price stated in the Employer's Notification of Award and further clearly determined in the PCC.
- (hh) **Permanent works** means the permanent works to be executed by the Contractor under the Contract.
- (ii) **PCC** means the Particular Conditions of Contract.
- (jj) **Plant** means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Employer and relating to the construction of the Works and Physical services.

- (kk) **Provisional Sums means** amounts of money specified by the Employer in the Bill of Quantities which shall be used, at its discretion, for payments to Nominated Subcontractor(s) and for meeting other essential expenditures under the Contract pursuant to GCC Sub Clause 80.
- (ll) **Retention Money means** the accumulated retention moneys which the Employer retains under GCC Clause 75.
- (mm) **Schedules means** the document(s) entitled schedules, completed by the Contractor and submitted with the Tender Submission Letter, as included in the Contract. Such document may include the data, lists and schedules of rates and/or prices.
- (nn) **Site means** the places where the Permanent Works are to be executed including storage and working areas and to which Plant and Materials are to be delivered, and any other places as may be specified in the PCC as forming part of the Site.
- (oo) **Site Investigation Reports** are those that were included in the Tender Document and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (pp) **Specification means** the Specification of the Works included in the Contract and any modifications or additions to the specifications made or approved by the Engineer in accordance with the Contract.
- (qq) **Start Date** is the date defined in the PCC and it is the last date when the Contractor shall commence execution of the Works under the Contract.
- (rr) **Subcontractor means** a person or corporate body, who has a contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (ss) **Taking-Over means** a certificate issued by the Employer under GCC Clause 84.
- (tt) **Temporary Works means** all temporary works of every kind other than Contractor's Equipment required on the Site for the execution and completion of the Permanent Works and remedying of any defects.
- (uu) **Variation means** any change to the Works directly procured from the original Contractor under some specific conditions and circumstances following approved procedures, which is instructed as a Variation under GCC Clause 65 by the Engineer that varies the Works.

- (vv) **Works** means all works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance or renovation of railways, roads, highways, or a building, an infrastructure or structure or an installation or any construction work relating to excavation, installation of equipment and materials, decoration, as well as physical services ancillary to works as detailed in the PCC, if the value of those services does not exceed that of the Works themselves.
- (ww) **Writing** means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail.

## **2. Interpretation**

1. In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construance of the Contract. Words have their normal meaning under the language of the Contract unless specifically defined.
2. Entire Agreement  
The Contract constitutes the entire agreement between the Employer and the Contractor and supersedes all communications, negotiations and agreements (whether written or verbal) of parties with respect thereto made prior to the date of Contract Agreement; except those stated under GCC Sub Clause 6.1(j).
3. Non waiver
  - (a) Subject to GCC Sub Clause 2.3(b), no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
  - (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.
4. Severability  
If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

5. Sectional completion
 

If sectional completion is specified in the PCC, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
3. **Communications and Notices**
    1. Communications between Parties such as notice, request or consent required or permitted to be given or made by one party to the other pursuant to the Contract shall be in writing to the addresses specified in the PCC.
    2. A notice shall be effective when delivered or on the notice's effective date, whichever is later.
    3. A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.
  4. **Governing Law**
    1. The Contract shall be governed by and interpreted in accordance with the laws of the People's Republic of Bangladesh.
  5. **Governing Language**
    1. The Contract shall be written in English. All correspondences and documents relating to the Contract may be written in English. Supporting documents and printed literature that are part of the Contract may be in another language, provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, such translation shall govern.
    2. The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
  6. **Documents Forming the Contract and Priority of Documents**
    1. The following documents forming the Contract shall be interpreted in the following order of priority:
      - (a) the signed Contract Agreement (**Form-8**);
      - (b) the Notification of Award (**Form-7**);
      - (c) the completed Tender and the **Appendix to the Tender**;
      - (d) the Particular Conditions of Contract;
      - (e) the General Conditions of Contract;
      - (f) the Technical Specifications;
      - (g) the General Specifications;
      - (h) the Drawings;
      - (i) the priced Bill of Quantities and the Schedules; and
      - (j) any other document listed in the PCC forming part of the Contract.

- 7. Contract Agreement**
1. The parties shall enter into a Contract Agreement within twenty eight (28) days from the date of issuance of the Notification of Award (NOA). The costs of stamp duties and similar charges, if any, designated by the applicable law in connection with entry into the Contract Agreement, shall be borne by the Employer.
- 8. Assignment**
1. Neither the Contractor nor the Employer shall assign, in whole or in part, its obligations under the Contract; except with the Employer's prior written approval.
- 9. Eligibility**
1. The Contractor and its Subcontractor(s) shall not have the nationality of a country other than that specified in the PCC.
  2. All materials, equipment, plant, and supplies used by the Contractor in both permanent and temporary works and services supplied under the Contract shall have their origin in the countries except any specified in the PCC.
- 10. Gratuities / Agency fees**
1. No fees, gratuities, rebates, gifts, commissions or other payments, other than those included in the Contract, shall be given or received in connection with the procurement process or in the Contract execution.
- 11. Confidential Details**
1. The Employer and the Contractor shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Contractor may furnish to its Subcontractor such documents, data, and other information it receives from the Employer to the extent required for the Subcontractor to perform its work under the Contract, in which event the Contractor shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Contractor under GCC Clause 11.
  2. The Employer shall not use such documents, data, and other information received from the Contractor for any purposes unrelated to the Contract. Similarly, the Contractor shall not use such documents, data, and other information received from the Employer for any purpose other than the design, construction, or other work and services required for the performance of the Contract.
  3. The obligations of a party under GCC Sub Clauses 11.1 and 11.2 above, however, shall not apply to information that: the Employer or Contractor needs to share with institutions participating in the financing of the Contract; now or hereafter enters the public domain through no fault of that party; can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

4. The above provisions of GCC Clause 11 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Works or any part thereof.
  5. The provisions of GCC Clause 11 shall survive completion or termination, for whatever reason.
- 12. Joint Venture, Consortium or Association (JVCA)**
1. If the Contractor is a Joint Venture, Consortium, or Association (JVCA ),
    - (a) each partner of the JV shall be jointly and severally liable for all liabilities and ethical or legal obligations to the Employer for the performance of the Contract;
    - (b) the JV partners shall nominate a representative who shall have the authority to conduct all business including the receipt of payments for and on behalf of all partners of the JV;
    - (c) in the event of a dispute that results in legal action against all partners of the JV, if they are available and if only one partner is available, then that partner alone shall answer on behalf of all partners and, if the complaint lodged is proven, the penalty shall be applicable on that lone partner as whatever penalty all the partners would have received.
    - (d) the JV shall notify the Employer of its composition and legal status which shall not be altered without the prior approval of the Employer.
    - (e) alteration of partners shall only be allowed if any of the partners is found to be incompetent or has any serious difficulties which may impact the overall implementation of the Works, whereby the incoming partner shall require to possess qualifications equal to or higher than that of the outgoing partner.
    - (f) if any of the partners of JV has been debarred from participating in any procurement activity due to corrupt, fraudulent, collusive or coercive practices, that JV partner shall be altered following provisions under GCC Sub Clause 12.1 (d) and (e), while in case the Leading Partner has been debarred due to the same reasons stated herein the Contract shall be terminated as stated under GCC Sub Clause 95.1(b).
- 13. Possession of the Site**
1. The Employer shall give possession of the Site or part(s) of the Site, to the Contractor on the date(s) stated in the PCC. If possession of a part of the Site is not given by the date stated in the PCC, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event as stated under GCC Sub Clause 72.1(a).
- 14. Access to the Site**
1. The Contractor shall allow the Engineer and any person authorised by the Engineer access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

- 15. Employer's Responsibilities**
1. The Employer shall pay the Contractor, in consideration of the satisfactory progress of execution and completion of the Works and Physical services, and the remedying of defects therein, the Contract price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract Agreement.
  2. The Employer shall make its best effort to guide and assist the Contractor in obtaining, if required, any permit, licence, and approvals from local public authorities for the purpose of execution of the Works and Physical services under the Contract.
- 16. Approval of the Contractor's Temporary Works**
1. The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Engineer, who is to approve them, if they comply with the Specifications and Drawings.
  2. The Contractor shall be responsible for design of Temporary Works.
  3. All Drawings prepared by the Contractor for the execution of the Temporary or Permanent Works, are subject to prior approval by the Engineer before their use.
  4. The Engineer's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
  5. The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 17. Contractor's Responsibilities**
1. The Contractor shall execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract Agreement.
- 18. Taxes and Duties**
1. The Contractor shall be entirely responsible for all kinds of taxes, duties, fees, levies, and such other charges to be paid under the Applicable Law imposed inside and outside Bangladesh.
- 19. Contractor's Personnel**
1. The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the PCC, to carry out the functions stated in the Schedule or other personnel approved by the Engineer.
  2. The Engineer will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or higher than those of the personnel named in the Schedule.
  3. If the Engineer asks the Contractor to remove a particular person who is a member of the Contractor's staff or work force from the Site, he or she shall state the reasons, and the Contractor shall ensure that the person leaves the Site within three (3) days and has no further connection with the work in the Contract.

- 20. Subcontracting**
1. Subcontracting the whole of the Works by the Contractor shall not be permissible. The Contractor shall be responsible for the acts or defaults of any Subcontractor, his or her agents or employees, as if they were the acts or defaults of the Contractor.
  2. The Contractor shall not be required to obtain consent from the Engineer, for suppliers solely of Materials or to a subcontract for which the Specialist Subcontractor(s) is already named in the Contract.
  3. The prior consent, in writing, of the Engineer shall however be obtained for other proposed Subcontractor(s).
- 21. Nominated Subcontractor**
1. Nominated Subcontractor named in the Contract shall be entitled to execute the specific components of the Works stated in the PCC.
  2. The Contractor shall not be under obligations to employ a Nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Engineer as soon as practicable, with supporting particulars while there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength, or does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor, or does not accept to enter into a subcontract which specifies that, for the subcontracted work including design, if any, the Nominated Subcontractor shall undertake to the Contractor such obligations and liabilities as will enable the contractor to discharge his or her liabilities under the Contract.
  3. Subcontracting shall in no event relieve the Contractor from any of its obligations, duties, responsibilities, or liability under the Contract and all Subcontractors shall comply with the provisions of GCC Clause 38.
- 22. Other Contractors**
1. The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, the Engineer and the Employer between the dates given in the Schedule of other Contractors. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of other Contractors, and shall notify the Contractor of any such modification.
- 23. Engineer's Decisions**
1. Except where otherwise specifically stated in the PCC, the Engineer will decide Contractual matters between the Employer and the Contractor in its role as representative of the Employer.
- 24. Delegation**
1. The Engineer may delegate any of his duties and responsibilities to his representative, after notifying the Contractor, and may cancel any delegation, without retroactivity, after notifying the Contractor.
  2. Any communications to the Contractor in accordance with such delegation shall have the same effect as if it was given by the Engineer.

- 25. Instructions** 1. The Contractor shall carry out all instructions of the Engineer that comply with the applicable law.
- 26. Queries about the Contract conditions** 1. The Engineer, on behalf of the Employer, will clarify queries on the Conditions of Contract.
- 27. Safety, Security and Protection of the Environment** 1. The Contractor shall throughout the execution and completion of the Works and the remedying of any defects therein:
- (a) take all reasonable steps to safeguard the health and safety of all workers working on the Site and other persons entitled to be on it, and to keep the Site in an orderly state;
  - (b) provide and maintain at the Contractor's own cost all lights, guards, fencing, warning signs and watching for the protection of the Works or for the safety on-site; and
  - (c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of the Contractor's methods of operation.
- 28. Working Hours** 1. The Contractor shall not perform any work on the Site on the weekly holidays, or during the night or outside the normal working hours, or on any religious or public holiday, without the prior written approval of the Engineer.
- 29. Welfare of Laborers** 1. The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's personnel relating to their employment, health, safety, welfare, immigration and shall allow them all their legal rights.
2. The Contractor, in particular, shall provide proper accommodation to his or her labourers and arrange proper water supply, conservancy and sanitation arrangements at the site for all necessary hygienic requirements and for the prevention of epidemics in accordance with relevant regulations, rules and orders of the government.
3. The Contractor, further in particular, shall pay reasonable wages to his or her labourers, and pay them in time. In the event of delay in payment the Employer may effect payments to the labourers and recover the cost from the Contractor.
4. The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take appropriate protective measures to prevent accidents that could result in injury. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

- 30. Child Labor**
1. The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development in compliance with the applicable laws and other relevant treaties ratified by the government.
- 31. Fossils**
1. All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Employer. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.
  2. The Contractor shall, upon discovery of any such finding, promptly give notice to the Engineer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs cost from complying with the instructions, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Claims under GCC Clause 99 to:
    - (a) an extension of time for any such delay, if completion is or will be delayed, under GCC Clause 45, and
    - (b) payment of any such cost, which shall be included in the Contract Price.
- 32. Employer's and Contractor's Risks**
1. The Employer carries the risks that the Contract states are Employer's risks and the Contractor carries the risks that the Contract states are Contractor's risks.
- 33. Employer's Risks**
1. From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks:
 

the risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to

    - i. use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
    - ii. negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or Contracted to him except the Contractor.

the risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

2. From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is Employer's risk, except loss or damage due to:
    - (a) a Defect which existed on the Completion Date;
    - (b) an event occurring before the Completion Date, which was not itself Employer's risk; or
    - (c) the activities of the Contractor on the Site after the Completion Date.
- 34. Contractor's Risks**
1. From the Start Date until the Defects Correction Certificate has been issued the risks of personal injury, death, and loss of or damage to property including without limitation, the Works, Plant, Materials, and Equipment, which are not Employer's risks are Contractor's risks.
- 35. Copyright**
1. The copyright/IPR in all drawings, documents, and other materials containing data and information furnished to the Employer by the Contractor herein shall remain vested in the Contractor, or, if they are furnished to the Employer directly or through the Contractor by any third party, including Suppliers of materials, the copyright in such materials shall remain vested in such third party.
  2. The Contractor shall not, except for the purposes of performing the obligations under the Contract, without the written permission of the Employer disclose or make use of any specification, plan, design and drawing, pattern, sample or information furnished by or on behalf of the Employer.
- 36. Limitation of Liability**
1. Except in cases of criminal negligence or wilful misconduct:
    - (a) the Contractor shall not be liable to the Employer, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Employer; and
    - (b) the aggregate liability of the Contractor to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective Works, or to any obligation of the Contractor to indemnify the Employer with respect to patent infringement.

- 37. Insurance**
1. The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles specified in the PCC for the following events which are due to the Contractor's risks:
    - (a) loss of or damage to the Works, Plant, and Materials;
    - (b) loss of or damage to Equipment;
    - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
    - (d) personal injury or death.
  2. The Contractor shall deliver policies and certificates of insurance to the Engineer, for the Engineer's approval, before the Start Date. All such insurances shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
  3. If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
  4. Alterations to the terms of insurance shall not be made without the approval of the Engineer.
  5. Both parties shall comply with conditions of the insurance policies.
- 38. Management and Progress Meetings**
1. Either the Engineer or the Contractor may require the other to attend a management and progress meeting. The business of such meeting shall be to review the progress and plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
  2. The Engineer shall record the business of the meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management and progress meeting or after the meeting, and stated in writing to all concerned.
- 39. Corrupt, Fraudulent, Collusive or Coercive Practices**
1. The Employer requires that Contractor including their personnel, agents, Sub-contractors, and Associate observe the highest standard of ethics during the execution and performance of the Contract (including all works thereunder). In pursuance of this policy, the Employer:

- (a) defines, for the purposes of this provision, the terms set forth below as follows :
- (i) **“corrupt practice”** means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a Employer or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a Employer in connection with a Procurement proceeding or Contract execution;
  - (ii) **“fraudulent practice”** means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;
  - (iii) **“collusive practice”** means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Employer, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a Employer the benefits of competitive price arising from genuine and open competition; or
  - (iv) **“coercive practice”** means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of the Contract, and this will include creating obstructions in the normal submission process used for Tenders.
2. Should any corrupt, fraudulent, collusive or coercive practice of any kind come to the knowledge of the Employer, it will, in the first place, allow the Contractor to provide an explanation and shall, take actions only when a satisfactory explanation is not received. Such decision and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Contractor. Any communications between the Contractor and the Employer related to matters of alleged fraud or corruption shall be in writing.
3. If corrupt, fraudulent, collusive or coercive practices of any kind determined by the Employer against the Contractor alleged to have carried out such practices, the Employer will :
- (a) exclude the Contractor from further participation in the particular Procurement proceeding; or
  - (b) declare, at its discretion, the Contractor to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.

## **B. Time Control**

- 40. Commencement of Works**
1. Except otherwise specified in the PCC , the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Engineer's instruction recording the agreement of both Parties on such fulfilment and instructing to commence the Works is received by the Contractor:
    - (a) signing of the Contract Agreement by both parties upon approval of the by relevant authorities;
    - (b) except if otherwise specified in the PCC , possession of the Site given to the Contractor as required for the commencement of the Works; and
    - (c) receipt by the Contractor of the Advance Payment under GCC Clause 78 provided that the correspondent Bank Guarantee has been delivered by the Contractor.
  2. If the Engineer's instruction is not received by the Contractor within one hundred eighty (180) days from the date of signing of the Contract Agreement, the Contractor shall be entitled to terminate the Contract under GCC Sub Clause 93.1.
  3. The Contractor shall commence the execution of the Works as soon as is reasonably practicable by the Start Date as specified in the GCC Sub Clause 1.1(qq) after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.
- 41. Completion of Works**
1. The Contractor shall carry out the Works in accordance with the Programme of Works submitted by the Contractor and as updated with the approval of the Engineer as stated under GCC Clause 42 to complete them in all respects by the Intended Completion Date.
- 42. Programme of Works**
1. Within the time stated in the PCC, the Contractor shall submit to the Engineer for approval a Programme of Works showing the general methods, arrangements, order, and timing for all the activities in the Works. The programme may be in the form of an Implementation Schedule prepared in any software or other form acceptable to the Engineer.
  2. The Contractor shall submit to the Engineer for approval of an updated Programme at intervals no longer than the period stated in the PCC. An update of the Programme shall be a Programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
  3. If the Contractor does not submit an updated Programme of Works at the intervals stated in the PCC, the Engineer may withhold an amount as stated in the PCC from the next payment certificate and continue to withhold this amount until the next due payment after the date on which the overdue Programme of Works has been submitted.

4. The Engineer's approval of the Programme of Works shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Engineer again at any time for approval. A revised Programme shall show the effect of Variations and Compensation Events.
- 43. Pro Rata Progress**
1. The Contractor shall maintain Pro Rata progress of the Works. Progress to be achieved shall be pursuant to GCC Clause 42 and shall be determined in terms of the value of the works done.
  2. Failure to achieve the progress in accordance with the updated Programme of Works stated under GCC sub Clause 42.1 and 42.2 by the Contractor may be treated as the fundamental breach of the Contract under GCC Clause 95.1.
- 44. Early Warning**
1. If at any time during performance of the Contract, the Contractor or its Subcontractors should encounter events, circumstances, conditions that may adversely affect the quality of the work, increase the original Contract Price or delay the execution of the Works, the Contractor shall promptly notify the Engineer in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Engineer shall evaluate the situation, and the Contractor shall cooperate with the Engineer in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced.
  2. The Engineer may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the original Contract price and Completion Date. The Contractor shall provide the estimate and the Engineer shall further proceed as soon as reasonably possible.
- 45. Extension of Intended Completion Date**
1. The Contractor shall be entitled to an extension of the Intended Completion Date, if and to the extent that completion of the Works or any part thereof is or will be delayed by Compensation Events or a Variation or Extra Work Order.
  2. If the Contractor considers itself to be entitled to an extension of the Intended Completion Date as stated under GCC Sub Clause 45.1, the Contractor shall give notice, not later than twenty eight (28) days after the Contractor became aware or should have become aware of the event or circumstance, to the Engineer pursuant to GCC Sub Clause 99.1.
  3. The Employer shall decide whether and by how much to extend the Intended Completion Date within twenty-one (21) days of the Contractor asking the Engineer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the extension of Intended Completion Date.

4. The Employer may **extend the Intended Completion Date** by twenty (20) percent of the original Contract time as stated under GCC Sub Clause 45.1, if a Compensation Event occurs or a Variation Order is issued which does not make it possible to complete the Works by the Intended Completion Date without incurring additional cost.
  5. In the case an extension of the Intended Completion Date required under GCC Sub Clause 45.3 is or will be more than twenty (20) percent of the original Contract time, approval of the Head of the Procuring Entity for the same shall be required to be obtained.
- 46. Delays Caused by Authorities**
1. If the following conditions apply, namely:
    - (a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities,
    - (b) these public authorities delay or disrupt the Contractor's work, and
    - (c) the delay or disruption was unforeseeable;
 then this delay or disruption will be considered as a cause of delay under GCC Sub Clause 46.1.
  2. The Engineer shall notify the Contractor accordingly keeping the Employer posted.
  3. Except in case of Force Majeure, as provided under GCC Clause 88, a delay by the Contractor in the performance of its Completion obligations shall render the Contractor liable to the imposition of Liquidated Damages pursuant to GCC Clause 76, unless an extension of Intended Completion Date is agreed upon, pursuant to GCC Clause 45.
  4. If the Contractor fails to complete the Works by the Intended Completion Date or as extended by the Employer or Head of the Procuring Entity, as the case may be under GCC Sub Clause 45.4 or 45.5, the Contractor shall be liable to pay Liquidated Damages to the Employer pursuant to GCC Clause 76.
- 47. Acceleration**
1. When the Employer wants the Contractor to finish the Works before the Intended Completion Date, the Engineer will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be advanced accordingly and confirmed by both the Employer and the Contractor.
  2. If the Employer accepts the Contractor's priced proposals for acceleration, they will be incorporated in the Contract Price and treated as a **Variation** under GCC Clause 65.
- 48. Delays Ordered by the Engineer**
1. The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works.

- 49. Suspension of Work**
1. The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.
  2. The Engineer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following GCC Clauses 50, 51 and 52 shall not apply.
- 50. Consequences of Suspension**
1. If the Contractor suffers delay and/or incurs Cost from complying with the Engineer's instructions under GCC Clause 48 and/or from resuming the work, the Contractor shall give notice to the Engineer and shall be entitled subject to GCC Clause 99 to:
    - (a) an extension of time for any such delay, if Completion is or will be delayed, under GCC Clause 44, and
    - (b) payment of any such cost, which shall be included in the Contract Price.
  2. After receiving this notice, the Engineer shall proceed to agree or determine these matters.
  3. The Contractor shall not be entitled to any extension of time for, or to any payment of the cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with GCC Clause 49.
- 51. Payment for Plant and Materials in Event of Suspension**
1. The Contractor shall be entitled to payment of the value, as at the date of suspension, of Plant and/or Materials which have not been delivered to Site, if:
    - (a) the work on Plant or delivery of Plant and/or Materials has been suspended for more than twenty (28) days, and
    - (b) the Contractor has marked the Plant and/or Materials as the Employer's property in accordance with the Engineer's instructions.
- 52. Prolonged Suspension**
1. If the suspension under GCC Clause 49 has continued for more than eighty four (84) days, the Contractor may request the Engineer's permission to proceed. If the Engineer does not give permission within twenty eight (28) days after being requested to do so, the Contractor may, by giving notice to the Project Manger, treat the suspension as an omission under GCC Clause 65 of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination pursuant to GCC Clause 93.

- 53. Resumption of Work**
1. After the permission or instruction to proceed is given, the Contractor and the Engineer shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension after receiving from the Engineer an instruction to this effect under GCC Clause 65.

## **C. Quality Control**

- 54. Execution of Works**
1. The Contractor shall construct, install and carry out the Works and Physical services in accordance with the Specifications and Drawings as scheduled in GCC Clause 6.

- 55. Examination of Works before covering up**
1. All works under the Contract shall at all times be open to examination, inspection, measurements, testing and supervision of the Engineer, and the Contractor shall ensure presence of its representatives at such actions provided proper advance notice is given by the Engineer.
  2. No part of the Works shall be covered up or put out of sight without the approval of the Engineer. The Contractor shall give notice in writing to the Engineer whenever any such part of the Works is ready for examination and the Engineer shall attend to such examination without unreasonable delay.

- 56. Identifying Defects**
1. The Engineer shall check the works executed by the Contractor and notify the Contractor of any Defects found. Such checking shall not relieve the Contractor from his or her obligations. The Engineer may also instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect.

- 57. Testing**
1. The Contractor shall carry out the Testing of works in accordance with this Clause after providing the relevant documents.
  2. The Contractor shall give to the Engineer not less than twenty one (21) days' notice of the date after which the Contractor will be ready to carry out each of the Testing. Unless otherwise agreed, Testing shall be carried out within fourteen (14) days after this date, on such day or days as the Engineer shall instruct.
  3. In considering the results of the Testing, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works have passed any Testing, the Contractor shall submit a certified report of the results of these Tests to the Engineer.

4. If the Engineer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.
- 58. Rejection of Works**
1. If, as a result of an examination, inspection, measurement or testing, of Works it is found to be defective or otherwise not in accordance with the Contract, the Engineer may reject the Works by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected Works subsequently complies with the Contract.
- 59. Remedial Work**
1. Notwithstanding any test or certification, the Engineer may instruct the Contractor to:
    - (a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
    - (b) remove and re-execute any other work which is not in accordance with the Contract, and
    - (c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.
  2. The Contractor shall comply with the instruction issued under GCC Sub Clause 59.1 within a reasonable time, which shall be specified in the instruction, or immediately if urgency is specified under GCC Sub Clause 59.1(c).
  3. If the Contractor fails to comply with the instruction issued under GCC Sub Clause 59.2, the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall be liable to pay all such costs arising from this failure.
- 60. Correction of Defects**
1. The Engineer shall issue a **Defects Liability Schedule** for correction of Defects within fifty six (56) days from the Contractor's request for **Final Payment** stating the scope of corrections or additions that are necessary.
  2. The Engineer shall give notice to the Contractor, with a copy to the Employer and others concerned, of any Defects before the end of the Defects Liability Period, which begins at Completion Date, and is defined in the PCC.
  3. Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Engineer's notice.
  4. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

5. If the corrections or additions scheduled or notified by the Engineer have been completed by the Contractor, the Engineer shall issue a **Defects Correction Certificate**.

**61. Uncorrected Defects**

1. If the Contractor has not corrected a Defect within the time specified in the Engineer's notice, the Engineer shall assess the cost of having the Defect corrected by it, and the Contractor shall remain liable to pay the expenditures incurred on account of correction of such Defect.

**D. Cost Control**

**62. Contract Price**

1. The Contract price shall be agreed or determined under GCC Sub Clause 62.2 and as specified in the PCC.
2. The Contractor shall pay all of taxes, duties, fees, levies, and other charges required to be paid under the Applicable Law under the Contract pursuant to GCC Clause 18 and the Contract Price shall not be adjusted for any of these costs except as provided under the Conditions of the Contract.

**63. Bill of Quantities**

1. The priced Bill of Quantities shall be used to calculate the Contract Price. The Bill of Quantities shall provide estimated quantities for the individual items of Works and Dayworks. The Employer may include in the Bill of Quantities the Provisional Sums for payments to Nominated Subcontractor(s) and for meeting other expenditures under the Contract pursuant to GCC Sub Clause 80.
2. Except as otherwise stated in the Contract and notwithstanding any other practice:
  - (a) measurement shall be made of the net actual quantity of each item of the Permanent Works , and
  - (b) the method of measurement shall be in accordance with the Bill of Quantities.
3. Items of works quantified in the Bill of Quantities for which no rates or prices have been quoted shall be deemed covered by the amounts at rates and prices of other items in the Contract and shall not be separately paid for.

- 64. Changes in the Quantities and Unit Rate or Price**
1. A new rate or price for items included in the Bill of Quantities shall, however, be appropriate for an item of work if:
    - (a) the final measured quantity of the work done for any particular item in the Bill of Quantities is increased or decreased by more than twenty five (25) percent from the quantity of this item in the Bill of Quantities;
    - (b) the cost resulting from such increase or decrease in quantity of this particular item in the Bill of Quantities multiplied by its specified rate or price is exceeded by one (1) percent of the original Contract price;
    - (c) this particular item is not specified in the Contract as a “fixed rate item”;
    - (d) this particular item is not specified in the Contract as for which no rates or prices have been quoted and deemed covered by the amounts at rates and prices of other items in the Bill of Quantities stated under GCC Sub Clause 63.3; and
  2. The new rate or price for the particular item of work included in the Bill of Quantities described under GCC Sub Clause 64.1 shall be adjusted by the Engineer from any relevant rates or prices within the Contract by taking into consideration the context and threshold of the Variation Order as stated under GCC Clause 65.
- 65. Variations**
1. The Employer may issue a Variation Order for Procurement of Works and Physical services from the original Contractor to cover any increase or decrease in quantities, including the introduction of new work items that are either due to change of plans, design or alignment to suit actual field conditions, within the **general scope** and **physical boundaries** of this Contract .
  2. The Employer may also issue an Extra Work Order to cover the introduction of such new works necessary for the completion, improvement or protection of the original works which were not included in the original contract, on the grounds where there are subsurface or latent physical conditions at the site differing materially from those indicated in the contract, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those usually encountered and generally recognized as inherent in the work or character provided for in the Contract.
  3. Variations as defined under GCC Sub Clause 1.1(uu) may be initiated by the Engineer at any time prior to issuing the Taking-Over certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.

4. Variations may include;
  - (a) changes to the quantities of any item of work included in the Bill of Quantities as stated under GCC Sub Clause 64.1; not necessarily however, shall always constitute a Variation until the algebraic summation of costs resulting from such increases or decreases in quantities of changing items included in the Bill of Quantities under the Contract exceeds one (1) percent of the original Contract price;
  - (b) changes to the quality and other characteristics of any item of work;
  - (c) changes to the levels, positions and/or dimensions of any part of the Works;
  - (d) omission of any work unless it is to be carried out by others;
  - (e) any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated testing, boreholes and other testing and exploratory work; or
  - (f) changes to the sequence or timing of the execution of the Works.
5. The Contractor, for any Variation or Extra Work Order, shall deliver a written notice within seven (7) calendar days of being aware of the need for the Variation, giving full and detailed particulars of any extra cost in order that it may be investigated at that time, and failure to provide such notice shall constitute a waiver by the Contractor for any subsequent claim.
6. The Contractor shall, under no circumstances, proceed to commence the works under any Variation or Extra Work Order unless it has been approved by the **Approving Authority**.

7. The Head of the Procuring Entity may, in exceptions to the GCC Sub Clause 65.6, and subject to the availability of funds and to his or her satisfaction, authorize the immediate start of work under any Variation or Extra Work Order under any or all of the following conditions -
    - (a) in the event of an extreme emergency where the carrying out of the work is required urgently to avoid causing damage to public services, or damage to life or property or to both or to the Works itself; or
    - (b) when time is of the essence provided that,
      - i. the cumulative increase in value of works under the Contract not yet duly approved does not exceed ten (10) percent of the adjusted original Contract price.
      - ii immediately after the start of work, the corresponding Variation Order or Extra Work Order shall be prepared and submitted for approval following due procedures, and adhering to the time-line stated under GCC Sub Clause 65.11.
  8. Any cumulative Variation Orders or Extra Work Orders beyond fifteen (15) percent of the original Contract price shall be the subject of another separate contract to be tendered out provided that the Works are separable from this Contract.
  9. For a Variation or Extra Work Order for works justifiably inseparable from this Contract involving a cumulative amount beyond fifteen (15) percent of the original Contract price, no work thereon shall be commenced unless the said Variation or Extra Work Order has been approved by the **Approving Authority**.
  10. The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or communicates such approvals of a Variation or Extra work Order.
  11. The time for processing of a Variation and an Extra Work Order from its preparation to approval may not exceed thirty (30) days.
  12. All Variations and Extra Work Orders under the Contract shall be included in the updated Programme of Works produced by the Contractor.
- 66. Costing of Variations or Extra Orders**
1. The Contractor shall provide the Engineer with a quotation for carrying out the Variation when requested to do so by the Engineer. The Engineer shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Engineer and before the Variation or Extra Work Order is ordered.

2. Items of works under Variation or Extra work Order are if exactly the same or similar to those in the Bill of Quantities of the original Contract, the applicable unit rates or prices of those work items in the Bill of Quantities of the original Contract shall be used for costing of those additional work items.
3. For new items of works that are not included in the Bill of Quantities of the original Contract as stated under GCC Sub Clause 65.1, the unit rates or prices of those new work items shall be based on ;
  - (i) the direct unit costs used in the Bill of Quantities of original Contract for other items (e.g. unit cost of cement, steel rebar, formwork, labor rate, equipment rental, etc) as indicated in the Contractor's price breakdown of the cost estimate, if available; or
  - (ii) fixed prices acceptable to both the Employer and the Contractor based on market prices; or
  - (iii) the direct cost of the new work items based on (i) and (ii) above shall then be combined with the mark-up factor (i.e. taxes, overheads and profit) used by the Contractor in his or her Tender to determine the unit rate or price of the new work item.
4. If the Contractor's quotation is found to be unreasonable, the Engineer may order the Variation and make a change to the Contract price, which shall be based on the Engineer's own forecast of the effects of the Variation on the Contractor's costs.
5. If the Engineer decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event under GCC Sub Clause 72.
6. The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning under GCC Sub Clause 44.1.

**67. Cash Flow Forecasts**

1. When the Programme of Works is updated under GCC Sub Clause 42.2, the Contractor shall provide the Engineer with an updated cash flow forecast.

**68. Payment Certificates**

1. The basis for payment certificates shall be Bill of Quantities used to determine the Contract price.
2. The Contractor shall submit to the Engineer monthly statements of the estimated value of the works executed less the cumulative amount certified previously.
3. The Engineer shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
4. The value of work executed shall be determined by the Engineer and shall comprise the value of the items of works completed as per the unit rates or prices in the Bill of Quantities including the priced Schedules, if any.

5. The value of work executed shall include the valuation of Variations or Extra Work Orders, Certified Dayworks and Compensation Events.
6. The Engineer may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
7. The Engineer may in any payment certificate make any correction or modification that should properly be made to any previous payment certificate.
8. The Engineer may withhold any payment certificates under the Contract until the Programme of Works has been submitted by the Contractor as stated under GCC Sub Clause 42.2.
9. The Engineer may also withhold the cost of rectification or replacement until such rectification or replacement has been completed, if any thing supplied or work done by the Contractor is not in accordance with the Contract. Further, if the Contractor is or was failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer earlier, the value of this work or obligation may be withheld until the work or obligation has been performed.

**69. Payments to the Contractor**

1. The Employer shall pay the Contractor the amounts certified by the Engineer within twenty eight (28) days of the date of each certificate after due adjustments for deductions for advance payments, retention and any other additions or deductions which may have become due under the Contract or otherwise, including those under GCC Clause 99.
2. Items of works quantified in the Bill of Quantities for which no rates or prices have been quoted shall be deemed covered by the amounts at rates and prices of other items in the Contract as stated under GCC Sub Clause 63.3 and shall under no circumstances be paid for, by the Employer.
3. Payments due to the Contractor in each certificate shall be made into the Bank Account of the title of the Contract specified in the PCC and nominated by the Contractor in the currency specified in the Contract.

**70. Delayed Payment**

1. If the Contractor does not receive payments as stated under GCC Sub Clause 69.1, the Contractor shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date due for payment specified in GCC Sub Clause 69.1.
2. These financing charges shall be calculated at the annual rate of interest as specified in the PCC.

3. If an amount certified is increased in a subsequent certificate as a result of an award by an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 71. Payments to Nominated Subcontractor(s)**
1. The Contractor shall pay to the Nominated Subcontractor(s) the amounts shown on the Nominated Subcontractor's invoices approved by the Contractor which the Engineer certifies to be due in accordance with the subcontract included under the Contract.
- 72. Compensation Events**
1. The following shall be Compensation Events:
    - (a) The Employer does not give access to or possession of the Site or part of the Site by the Site Possession Date stated in the GCC Sub Clause 13.1;
    - (b) The Employer modifies the Schedule of other Contractors in a way that affects the works of the Contractor under the Contract;
    - (c) The Engineer orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time;
    - (d) The Engineer instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects;
    - (e) The Engineer unreasonably does not approve a subcontract to be let, if applicable;
    - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Notification of Award from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site;
    - (g) The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons;
    - (h) Other Contractors, public authorities, utilities, or the Employer do not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor;
    - (i) The advance payment is delayed;
    - (j) The effects on the Contractor of any of the Employer's Risks;
    - (k) The Engineer unreasonably delays issuing a Completion Certificate;
    - (l) A situation of Force Majeure has occurred, as defined in GCC Clause 88; and
    - (m) Other Compensation Events described in the Contract or determined by the Engineer in the PCC shall apply.

2. If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract price shall be increased and/or the Intended Completion Date shall be extended. The Engineer shall decide whether and by how much the Contract price shall be increased and whether and by how much the Intended Completion Date shall be extended, only on justifiably acceptable grounds duly recorded.
3. As soon as the Contractor has provided information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost, the Engineer shall assess it, and the Contract price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Engineer shall adjust the Contract price based on the Engineer's own forecast. The Engineer will assume that the Contractor will react competently and promptly to the event.
4. The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Engineer.

**73. Adjustments  
for Changes  
in Legislation**

1. Unless otherwise specified in the Contract, if between the date twenty-eight (28) days before the submission of Tenders for the Contract and the date of the last Completion Certificate, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Bangladesh (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract price, then such Completion Date and/or Contract price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract.
2. The Engineer shall adjust the Contract Price on the basis of the change in the amount of taxes, duties, and other levies payable by the Contractor, provided such changes have not already been accounted for in the price adjustment as defined in GCC Clause 74 and/or reflected in the Contract price.

#### 74. Price Adjustment

1. Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the PCC. If so provided, the amounts as certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amount. The generic formula indicated below in the form as specified in the PCC applies:

$$P = A + B (I_m/I_o)$$

where:

**P** is the adjustment factor

**A** and **B** are Coefficients specified in the PCC, representing the nonadjustable and adjustable portions, respectively, of the Contract; and

**I<sub>m</sub>** is the Index during the month the work has been executed and **I<sub>o</sub>** is the Index prevailing twenty eight (28) days prior to the deadline for submission of Tender.

The Indexes to be used is as published by the Bangladesh Bureau of Statistics (BBS) on a monthly basis. In case not available, then other countries or authorities of the sources mentioned in **Appendix to the Tender** may be used.

2. If the value of the Index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next or in the final payment certificate. The Index value shall be deemed to take account of all changes in price due to fluctuations.

#### 75. Retention Money

1. The Employer shall retain from each progressive payment due to the Contractor at the percentage specified in the PCC until completion of the whole of the Works under the Contract.
2. On completion of the whole of the Works, the first half the total amount retained under GCC Sub Clause 75.1 shall be repaid to the Contractor and the remaining second half after the Defects Liability Period has passed and the Engineer has certified in the form of **Defects Corrections Certificate** as stated under GCC Sub Clause 60.5 that all Defects notified by the Engineer to the Contractor before the end of this period have been corrected.
3. On completion of the whole of the Works, the Contractor may substitute an unconditional Bank Guarantee from an internationally reputable Bank which has a correspondent Bank located in Bangladesh in the format as specified (**Form-11**) acceptable to the Employer for the second half of the retention money as stated under GCC Sub Clause 75.2.
4. Deductions of Retention Money shall be applicable in this Contract, if no advance payment has been made to the Contractor and in such case, the provisions under GCC Sub Clauses 79.1 and 79.2 shall be applied.

5. If the provision of Retention Money is not included in this Contract these Sub Clauses shall not apply except the relevant ones.
- 76. Liquidated Damages**
1. The Contractor shall be liable to pay Liquidated Damages or in other words the Delay Damages to the Employer at the rate per day as specified in the PCC for each day of delay from the Intended Completion Date, for the uncompleted Works or for any part thereof.
  2. The total amount of Liquidated Damages shall not exceed the amount defined in the PCC.
  3. Once the cumulative amount of Liquidated Damages reaches ten (**10**) percent of the Contract price, the Employer may rescind the Contract, without prejudice to other courses of action and remedies open to it.
  4. The amount of Liquidated Damages may be deducted from any money due or which may become due to the Contractor under the Contract and/or collect such amount of Liquidated Damages from the Retention Money (if any) or other securities posted by the Contractor whichever is convenient to the Employer.
  5. Payment of Liquidated Damages by the Contractor shall not relieve the Contractor from its obligations.
  6. If the Intended Completion Date is extended after Liquidated Damages have been paid, the Engineer shall correct any overpayment of Liquidated Damages by the Contractor by adjusting the next payment certificate.
- 77. Bonus**
1. The Contractor shall be paid a Bonus calculated at the rate per calendar day if stated in the PCC for each day (less any days for which the Contractor is paid for acceleration) that the Completion of the whole of the Works is earlier than the Intended Completion Date. The Engineer shall require certifying that the Works are complete, although they may not have fallen due to being complete as per approved updated Programme of Works.
- 78. Advance Payment**
1. The Employer shall make advance payment, if so specified in the PCC, to the Contractor in the amounts and by the dates specified in the PCC against an Unconditional Bank Guarantee issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh in the format as specified (**Form-10**) and acceptable to the Employer, of an amount equal to the advance payment.
  2. The Guarantee stated under GCC Sub Clause 78.1 shall remain effective until the advance payment has been repaid by the Contractor, but the amount of the Guarantee shall be progressively reduced by the amounts repaid. No interest will be charged on the advance payment made.

3. The Contractor shall use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used for such specific purposes by supplying copies of invoices or other documents to the Engineer.
4. The advance payment shall be repaid by deducting at proportionate rate from payments otherwise due to the Contractor, based on percentages of actually completed Works as specified in the PCC.
5. Advance payment or its repayment shall not be taken into account in assessing Valuation of work done, Variations or Extra Work Order, Price Adjustments, Compensation Events, Bonuses or Liquidated Damages.
6. If the repayment of advance payment by the Contractor has not been completed by twenty eight (28) days prior to the expiry date of the Guarantee stated under GCC Sub Clause 78.2, the Contractor shall correspondingly extend the validity of the Guarantee for a period so long the advance payment has been fully repaid.
7. If the provision of advance payment is not included in this Contract these Sub Clauses shall not apply.

**79. Performance Security**

1. Without limitation to provisions of any of these Sub Clauses, whenever the Engineer determines an addition or a reduction to the Contract price as a result of change in cost and/or legislation or a result of Variation or Extra Work Order amounting to more than fifteen (15) percent of the original Contract price, the Contractor shall at the Engineer's request promptly increase, or may decrease, as the case may be, the amount of the Performance Security furnished at the time of signing of the Contract Agreement by an equal percentage.
2. The Performance Security furnished after successful Completion of Facilities at the time of signing of the Contract Agreement or as determined under GCC Sub Clause 79.1, shall be substituted by a new Security covering fifty (50) percent of the amount of the Performance Security to cover the Defects Liability Period.
3. The amount of the new Security under GCC Sub Clause 79.1 to be provided by the Contractor shall be calculated based on the final Contract Price and shall cover twenty eight (28) days beyond the Defects Liability Period.
4. The Employer shall notify the Contractor of any claim made against the Bank issuing the Performance Security.

5. The Employer may claim against the security if any of the following events occurs for fourteen (14) days or more.
  - (a) The Contractor is in breach of the Contract and the Employer has duly notified him or her ; and
  - (b) The Contractor has not paid an amount due to the Employer and the Employer has duly notified him or her.
6. In the event the Contractor is liable to pay compensation under the Contract amounting to the full value of the Performance Security or more, the Employer may call the full amount of the Performance Security.
7. The Employer shall not make any claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract.
8. If there is no reason to call the Performance Security, the Performance Security shall be discharged by the Employer and returned to the Contractor not later than twenty-eight (28) days following the date of issuance of **Defects Correction Certificate** of Works by the Engineer as stated under GCC Sub Clause 60.5 or as otherwise specified in the Contract.

#### **80. Provisional Sums**

1. Provisional Sums shall only be used, in whole or in part, in accordance with the Engineer's instructions and the Contract price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Engineer shall have instructed.
2. Plants, Materials or Services to be purchased by the Contractor under the provisions of GCC Sub Clause 80.1 from Nominated Subcontractor(s) or for meeting the other expenditures under the Contract, and for which there shall be included in the Contract price, the actual amounts paid or due to be paid by the Contractor, and a sum for VAT, profit and overhead charges, as applicable, calculated as a percentage of these actual amounts by applying the relevant percentage rate as specified in the PCC.
3. The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation of purchases under GCC Sub Clause 80.2.

#### **81. Dayworks**

1. If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Engineer has given written instructions in advance for additional work to be paid for in that way.

2. All works to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Engineer. Each completed form shall be certified and signed by the Engineer within seven (7) days of the works being done.
  3. The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.
  4. If Dayworks is not included in this Contract these Sub Clauses shall not apply.
- 82. Cost of Repairs to Loss or Damages**
1. Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Period shall be remedied by the Contractor at the Contractor's own cost, if the loss or damage arises from the Contractor's acts or omissions.

## **E. Completion of the Contract**

- 83. Completion**
1. The Contractor shall apply by notice to the Engineer for issuing a Completion Certificate of the Works, and the Engineer shall do so upon deciding that the work is completed.
- 84. Completion Certificate and Taking Over**
1. The Engineer shall, within twenty eight(28) days after receiving the Contractor's application stated under GCC Sub Clause 83.1:
    - (a) issue the Completion Certificate to the Contractor, stating the date on which the Works or part thereof were completed in accordance with the Contract, except for any minor outstanding work and defects which may not substantially affect the use of the Works or part thereof for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
    - (b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Completion Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub Clause.
  2. If the Engineer fails either to issue the Completion Certificate or to reject the Contractor's application within the period of twenty eight (28) days, and if the Works or parts thereof, as the case may be, are substantially in accordance with the Contract, the Completion Certificate shall be deemed to have been issued on the last day of that period.
  3. The Employer shall Take-Over the Site and the Works within seven (7) days of the Engineer issuing a Completion Certificate under GCC Sub Clause 84.1.

- 85. Amendment to Contract**
1. The amendment to Contract shall generally include extension of time to the Intended Completion Date, increase or decrease in original Contract price and any other changes duly approved under the conditions of the Contract.
  2. The Employer contracting, shall amend the Contract incorporating the required approved changes subsequently introduced to the original terms and conditions of the Contract in line with the Rules, including prior review, where necessary.
- 86. Final Account**
1. The Contractor shall submit with a detailed account of the total amount that the Contractor considers payable under the Contract to the Engineer before the end of the Defects Liability Period.
  2. The Engineer shall certify the **Final Payment** within fifty six (56) days of receiving the Contractor's account if the payable amount claimed by the Contractor is correct and the corresponding works are completed.
  3. If it is not, the Engineer shall issue within fifty six (56) days a **Defects Liability Schedule** under GCC Sub Clause 60.1 that states the scope of the corrections or additions that are necessary.
  4. If the **Final Account of Works** submitted under GCC Sub Clause 86.1 is unsatisfactory even after it has been resubmitted, the Engineer shall decide on the amount payable to the Contractor and issue a payment certificate.
- 87. As-built Drawings and Manuals**
1. If "As Built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the PCC.
  2. If the Contractor does not supply the Drawings and/or Manuals by the dates specified in GCC Sub Clause 87.1, or they do not receive the Engineer's approval, the Engineer shall withhold a nominal amount specified in the PCC from payments due to the Contractor.

**88. Force Majeure**

1. Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind stated below;
  - (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies ;
  - (b) rebellion, terrorism, sabotage by persons other than the Contractor's personnel, revolution, insurrection, military or usurped power, or civil war ;
  - (c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's personnel ;
  - (d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity ;
  - (e) acts of the Government in its sovereign capacity and
  - (f) natural catastrophes such as fires, floods, epidemics, quarantine restrictions, freight embargoes, cyclone, hurricane, typhoon, tsunami, storm surge, earthquake, hill slides, landslides, and volcanic activities.

**89. Notice of Force Majeure**

1. If a party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented.
2. The notice under GCC Sub Clause 89.1 shall be given within fourteen (14) days after the party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.
3. The party shall, having given notice, be relieved from performance of its obligations for so long as such Force Majeure prevents it from performing the works.
4. Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either party to make payments to the other party under the Contract.

**90. Duty to Minimize Delay**

1. Each party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure.
2. A party shall give notice to the other party when it ceases to be affected by the Force Majeure.

- 91. Consequences of Force Majeure**
1. If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under GCC Sub Clause 89, and suffers delay and/or incurs cost by reason of such Force Majeure, the Contractor shall be entitled subject to GCC Sub Clause 99 to:
    - (a) an extension of time for any such delay, if completion is or will be delayed, under GCC Clause 45, and
    - (b) if the event or circumstance is of the kind described sub-paragraphs (a) to (e) of GCC Sub Clause 88.1 and, in the case of sub-paragraphs (b) to (e), occurs in the Country, payment of any such cost, including the costs of rectifying or replacing the Works and Physical services damaged or destructed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in GCC Clause 37.
  2. After receiving notice under GCC Sub Clause 89.2, the Engineer shall proceed to determine these matters under the provisions of the Contract.
- 92. Force Majeure Affecting Subcontractor**
1. If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from Force Majeure on terms additional to or broader than those specified in this Clause, such additional or broader Force Majeure events or circumstances shall not be relieved of the Contractor's non-performance or entitle him or her to relief under this Clause.
- 93. Optional Termination, and Release**
1. If the execution of substantially all the Works in progress is prevented for a continuous period of eighty four (84) days by reason of Force Majeure of which notice has been given under GCC Sub Clause 89, or for multiple periods which total more than one hundred forty (140) days due to the same notified Force Majeure, then either party may give to the other party a notice of termination of the Contract. In this event, the termination shall take effect seven (7) days after the notice is given, and the Contractor shall proceed to cessation of Works and removal of Contractor's Equipment from Site.

**94. Release from Performance**

1. Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the parties to be released from further performance of the Contract, then upon notice by either party to the other party of such event or circumstance:
  - (a) the parties shall be discharged from further performance, without prejudice to the rights of either party in respect of any previous breach of the Contract, and
  - (b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under GCC Sub Clause 96.3 if the Contract had been terminated under GCC Sub Clause 95.3.

**F. Termination and Settlement of Disputes**

**95. Termination**

**1. Termination for Default**

- (a) The Employer or the Contractor, without prejudice to any other remedy for breach of Contract, by giving twenty eight (28) days written notice of default to the other party, may terminate the Contract in whole or in part if the other party causes a fundamental breach of Contract.
- (b) Fundamental breaches of the Contract shall include, but shall not be limited to, the following:
  - (i) the Contractor stops work for twenty-eight (28) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Engineer;
  - (ii) the Engineer instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within twenty-eight (28) days;
  - (iii) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;
  - (iv) the Engineer gives Notice that the failure to achieve the progress in accordance with the updated Programme of Works by the Contractor is a non-fulfilment of contractual obligations and the Contractor fails to restore it within a reasonable period of time instructed by the Engineer;

- (v) the Contractor does not maintain a Security, which is required;
  - (vi) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of Liquidated Damages can be paid, as specified in GCC Sub Clause 76;
  - (vii) the Contractor has subcontracted the whole of the Works or has assigned the Contract without the required agreement and without the approval of the Engineer;
  - (viii) the Contractor, in the judgment of the Employer has engaged in practices, as defined in GCC Sub Clause 39, in competing for or in executing the Contract.
- (c) A payment certified by the Engineer is not paid by the Employer to the Contractor within twenty eight (28) days of the date of the Engineer's certificate.
  - (d) The contractor may be debarred by the Procuring entity for one or two years with the approval of HOPE, if the contract is terminated due to breach of contract.

## **2. Termination for Insolvency**

The Employer and the Contractor may at any time terminate the Contract by giving twenty eight (28) days written notice to the other party if either of the party becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to any party, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the other party.

## **3. Termination for Convenience**

- (a) The Employer, by giving twenty eight (28) days written notice sent to the Contractor, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Employer's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective. The termination shall take effect twenty eight (28) days after the later dates on which the Contractor receives this notice or the Employer returns the Performance Security.
- (b) The Employer shall not terminate the contract under GCC Sub Clause 95.3 (a) in order to execute the Works itself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor as stated under GCC Sub Clause 95.1(a).

4. In the event the Employer terminates the Contract in whole or in part, the Employer shall accept the portion of the Works that are complete and ready for handing over after the Contractor's receipt of notice of termination of the Contract. For the remaining portion of the Works, the Employer may elect:
  - (a) to have any portion completed by the Contractor at the Contract terms and prices; and /or
  - (b) to cancel the remainder and pay to the Contractor an agreed amount for partially completed Works and for materials and parts previously procured by the Contractor, or
  - (c) except in the case of termination for convenience as stated under GCC Sub Clause 95.3 (b), engage another Contractor to complete the Works, and in that case the Contractor shall be liable to the Employer for any cost that may be incurred in excess of the sum that would have been paid to the Contractor, if the work would have been executed and completed by him or her.
5. If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as is reasonably possible

**96. Payment upon Termination**

1. If the Contract is terminated because of a fundamental breach of Contract under GCC Sub Clause 95.1 by the Contractor, the Engineer shall issue a certificate for the value of the Works done and Plant and Materials ordered less advance payments received up to the date of the issue of the certificate and less the amount from percentage to apply to the contract value of the works not completed, as indicated in the PCC. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.
2. If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Engineer shall issue a payment certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's foreign personnel employed solely on the Works and recruited specifically for the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

3. If the Contract is terminated for reasons of Force Majeure, the Engineer shall determine the value of the work done and issue a Payment Certificate which shall include:
  - (a) the amounts payable for any work carried out for which unit rates or prices are stated in the Contract;
  - (b) the cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, and the Contractor shall place the same at the Employer's disposal;
  - (c) other costs or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;
  - (d) the cost of removal of Temporary Works and Contractor's Equipment from the Site; and
  - (e) the cost of repatriation of the Contractor's staff and labor employed wholly in connection with the Works at the date of termination.

**97. Property** 1. All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default stated under GCC Sub Clause 93.1.

**98. Frustration** 1. If the Contract is frustrated by the occurrence of a situation of Force Majeure as defined in GCC Sub Clause 88, the Engineer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any work carried out afterwards to which a commitment was made.

## **G. Claims, Disputes and Arbitration**

**99. Contractor's Claims** 1. If the Contractor considers himself to be entitled to any extension of the Completion Time and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Employer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than twenty eight (28) days after the Contractor became aware, or should have become aware, of the event or circumstance.

2. If the Contractor fails to give notice of a claim within such period of twenty eight (28) days, the Intended Completion Date shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim.
3. Within forty two (42) days after the Contractor became aware or should have become aware of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed, for settlement.

## **100. Settlement of Disputes**

### **Amicable settlement**

1. The Employer and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

### **Arbitration**

2. If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation as stated under GCC Clause 100.1, then either the Employer or the Contractor may give notice to the other party of its intention to commence arbitration in accordance with GCC Sub Clause 100.3, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration.
3. Arbitration shall be commenced prior to or after execution of the Works under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the PCC.
4. Notwithstanding any reference to arbitration hereinabove the parties shall continue to perform their respective responsibilities under the Contract unless agreed otherwise and, the Employer shall pay any monies due to the Contractor.

## Section 4. Particular Conditions of Contract

The provisions stated in this Section-4 (Particular Conditions of Contract) shall prevail over the provisions under corresponding clause of Section-3 (General Conditions of Contract).

**GCC Clause** Amendments of, and Supplements to, Clauses in the General Conditions of Contract

**GCC 1.1(l)** The Contractor is

**As per the Notification of Award**

**GCC 1.1(t)** The Defects Liability Period is **two (2) years from the date of handing over of each building/facility to the Employer.**

**GCC 1.1(v)** The Employer or the Owner is

**Bangladesh-India Friendship Power Company (Pvt.) Limited (“BIFPCL”)**

**GCC 1.1(w)** GCC Sub-Clause 1.1(w) stands replaced by the following:

**Engineer** shall mean M/s. FICHTNER GmbH & Co. KG, Stuttgart, Germany or such other engineer or consultant, as may be appointed from time to time by Employer and whose authority shall be notified in writing to the Contractor by Employer and who is acting on behalf of Employer as Engineer for supervising the execution and completion of the Works and Physical Services and administering the Contract and includes such other person (if any) to whom the Engineer's authority may have been lawfully delegated pursuant to the Contract.

**GCC 1.1(cc)** GCC Sub-Clause 1.1(cc) stands replaced by the following:

**“Head of Procuring Entity” means Managing Director, Bangladesh-India Friendship Power Company (Pvt.) Limited.**

**GCC 1.1(dd)** The Intended Completion Date for the whole of the Works shall be **30 months from the Commencement Date.**

**GCC 1.1 (gg)** The Original Contract price is: **As mentioned in the Notification of Award**

**GCC 1.1(nn)** The Site is **2x660 MW Maitree Super Thermal Power Project** located at **Rampal Upazila, Khulna District, Bagerhat Division.**

**GCC 1.1(qq)** The Start Date shall be **not later than 30 days from the Commencement Date.**

**GCC 1.1(vv)** The Works consist of:

**Design, Engineering, Manufacturing, Shop Testing, Procurement, Supply, Transportation to Site (location of use), Handling, Storage, Insurance, taking any permit/approval required, construction, erection, testing, commissioning, performance testing, Training employer's personnel and completion of entire Township works including associated works, all civil, mechanical, electrical, instrumentation works for the entire Township and associated facilities like Electrical Sub-station as described in the section - Technical Specifications of the Tender Documents and complete in all respects for successful use of Township.**

**GCC 2.5** The Sectional Completion Dates are:

<b>S.No.</b>	<b>Milestone</b>	<b>Completion months from NOA</b>
1.	Site Mobilization	1 Month
2.	Preliminary Site Studies and Test Pile Completion	3 Months
3.	Design Engineering - Priority Area	4 Months
4.	Design Engineering - Balance Area	8 Months
5.	Priority Residential Facilities (A Type, B Type and Studio Apartments) readiness	16 to 20 Months (progressively)
6.	Balance Residential Facilities Readiness	27 Months
7.	Priority Non-Residential Facilities (Guest House, Hospital, Shopping Complex, Executive Club) Readiness	21 Months
8.	Balance Non-Residential Facilities Readiness	28 Months
9.	Priority Township Infrastructure Works (Roads, Drainage Network, Storm water retention Pond, Boundary wall) Boundary Wall – Others –	6 Months 16 to 24 Months (progressively)
10.	Balance Township Infrastructure Works completion	28 Months
11.	Mechanical and Electrical Services for priority residential & priority non-residential facilities (Matching with item no. 5 & 7)	16 to 21 month (progressively)
12.	Balance Mechanical and Electrical Services	28 Months
13.	Handing Over of Township including Testing and Commissioning of Utilities	28-30 Months (progressively)

- GCC 3.1** The Employer's address for the purpose of communications under this contract is :  
 Contact person: **Chief Procurement Officer**  
 Address: Bangladesh-India friendship Power Company (Pvt.) Ltd. (BIFPCL), Borak Unique Heights (Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh.  
 Tel: +8801678582805/31  
 e-mail address: [cpo@bifpcl.com](mailto:cpo@bifpcl.com); [township@bifpcl.com](mailto:township@bifpcl.com)
- The Contractor's address for the purpose of communications under this contract is: **to be specified in the Notification of Award.**
- GCC 6.1** GCC Sub-Clause 6.1 stands replaced by the following:  
 The following documents forming the Contract shall be interpreted in the following order of priority:
- (a) the signed Contract Agreement (**Form-8**);
  - (b) Contract Performance Security
  - (c) the Notification of Award (**Form-7**) along with Minutes of Meeting signed between both the parties after concluding Post-tender discussion before placement of Notification of Award
  - (d) the Particular Conditions of Contract;
  - (e) the General Conditions of Contract;
  - (f) the Detailed Technical Specifications;
  - (g) the General Technical Specifications
  - (h) the Tender Drawings;
  - (i) the priced Bill of Quantities and the Schedules; and
  - (j) the completed Tender and Attachments, Annexures, and Appendices thereto
- GCC 9.1** A Contractor or a Subcontractor that is a national of, or registered in, the following countries are not eligible: **Israel**
- GCC 9.2** Materials, Equipments Plants and supplies shall not have their origin in the following countries: **Israel**
- GCC 12** Not Applicable
- GCC 13.1** Possession of the Site or part(s) of the Site, to the Contractor shall be given on the following date(s): **not later than 28 days from the date of Notification of Award.**
- GCC 19.1** Following Key Personnel to carry out the functions stated in the Schedule shall be employed by the Contractor: **to be notified subsequent to the Notification of Award.**
- GCC 21.1** Nominated Subcontractor(s) named below:  
  
**As per the list enclosed with the Notification of Award, the Sub-Contractors/Sub-Vendors shall be entitled to execute the specific components of the Works.**
- GCC 37.1** The minimum insurance cover shall be:

- (a) The maximum deductible for insurance of the Works and of Plant and Materials shall be provided by the Contractor before the signing of Contract Agreement.
- (b) The minimum cover for insurance of the Works and of Plant and Materials in respect of the Contractor's faulty design shall *be 110% of the Contract Price.*
- (c) Not Applicable
- (d) Not Applicable
- (e) The maximum deductible for insurance of other property shall be provided by the Contractor before the signing of Contract Agreement.
- (f) The minimum cover for insurance of other property shall be ten percent (10%) of the Contract Price.
- (g) The minimum cover for personal injury or death insurance:
  - (i) for the Contractor's employees is as per the law and common practice in Bangladesh.
  - (ii) and for third parties is as per the law and common practice in Bangladesh.

**New Clause GCC 37.2(a)** Add a new GCC Sub-Clause 37.2(a) after GCC Sub-Clause 37.2 as per the following:

All the insurer's rights of subrogation against the Employer as co-insured, as contemplated in Sub-Clause 37.1 above, for losses or claims arising out of the performance of the Contract shall be waived under such policies, and further each such insurance shall also contain appropriate cross liability clauses.

Further, the insurances maintained by the insurance shall be in excess of and not contributory with any insurances otherwise obtained by the the co-insured.

**New Clause GCC 37.4(a)** Add a new GCC Sub-Clause 37.4(a) after GCC Sub-Clause 37.4 as per the following:

In case claim amount received from the Insurer is less that the cost of reconstruction or the cost of making good the damage, the balance shall be borne by the Contractor.

**GCC 38.1** GCC Sub-Clause 38.1 stands replaced by the following:

Management and Progress Meetings of the Engineer/Employer and the Contractor shall be held on a monthly basis. The business of such meeting shall be to review the progress and plans for remaining work and to deal with matters raised in accordance with the early warning procedure.

**GCC 40.1** The Commencement Date shall be the date of issuance of Notification of Award.

**GCC 40.2** Not Applicable.

- GCC 42.1** The Contractor shall submit a Programme for the Works within **7 days** of signing the Contract.
- GCC 42.2** The period between Programme updates is **a month**.
- GCC 42.3** The amount to be withheld for late submission of an updated Programme is **0.05% of the Contract Price per such event**.
- GCC 60.2** The Defects Liability Period is 2 years. Start date of liability for each building / facility shall be the date of its handing over to Employer.
- GCC 62.1** The Contract Price shall be **as indicated in the Notification of Award**.
- GCC 64** **Not Applicable.**
- GCC 65.1, 65.3 & 65.4** **Not Applicable**
- GCC 65.5** GCC Sub-Clause 65.5 stands replaced by the following:  
 The Contractor, on Employer's request for any Extra Work Order, shall within reasonable time furnish the details of work & supplies and quantity thereof along with the estimated cost break-up. The estimated cost given by the Contractor should have been reasonably derived on the basis of rates available in PWD Rate Schedule or LGED Rate Schedule. Notwithstanding the aforesaid, the rate quoted by the Contractor shall be open for justification and negotiation. It shall not be binding on the Employer to accept the rates, if the Employer finds the rates unreasonable.
- GCC 68.1** GCC Sub-Clause 68.1 stands replaced by the following:  
 The basis of payment certificates shall be the Billing Break-up (BBU), which shall be approved by the Employer during the work execution.
- GCC 68.4** GCC Sub-Clause 68.4 stands replaced by the following:  
 The value of work executed shall be determined by Engineer and shall comprise the value of the items of works completed as per the approved BBU.

**GCC 69.1** GCC Sub-Clause 69.1 stands replaced by the following:

Payment shall be made to the Contract as per the following Terms of Payment:

- (a) Initial Advance Payment: **Ten percent (10%)** of the original Contract Price shall be paid to the Contractor as interest free Initial Advance payment as specified at GCC Clause 78.1 subject to the fulfilment of the following conditions:
  - (i) Submission and verification of Contract Performance Security
  - (ii) Signing of Contract Agreement
  - (iii) Submission and verification of Advance Security in the form of Bank Guarantee
  - (iv) Submission of Programme of Works as specified at GCC Sub-Clause 42.1
- (b) Progressive Payment: **Seventy Eight and a half percent (78.5%)** of the Contract Price shall be paid to the Contractor progressively on delivery of services under the Contract. Progressive Payment of amount certified by the Engineer within twenty eight (28) days of the date of each certificate after due adjustment for any retention, addition, or deduction, which may have become due under the Contract otherwise, including those under GCC Clause 99. Billing Break-up of services finalised between the Employer and the Contractor during the execution of the Contract shall form the basis for Progressive Payment.
- (c) In case the Contractor chooses not to take Initial Advance, the same shall get accumulated with the Progressive Payment, and the Progressive Payment will become eighty eight and a half percent (88.5%).
- (d) Payment on Successful Completion of Facilities: **Five percent (5%)** of the Contract Price shall be paid to the Contractor on successful completion and handing over the Township complete in all respects, and issuance of Completion Certificate by Engineer.
- (e) Payment for 1st year of Maintenance: **Three-fourths of One percent (0.75%)** shall be paid to the Contractor after the completion of 1st year of maintenance to be reckoned from the date of handing over of the complete Township on the basis of certificate issued by Engineer in this regard.
- (f) Payment for 2nd year of Maintenance: **Three-fourths of One percent (0.75%)** shall be paid to the Contractor after the completion of 2nd year of maintenance to be reckoned from the date of handing over of the complete Township on the basis of certificate issued by Engineer in this regard.
- (g) Final Payment on completion of Defects Liability Period: **Five percent (5%)** of the Contract Price shall be paid to the Contractor on successful completion of the Defects Liability Period, and issuance of Defects Correction Certificate by Engineer in this regard.

**GCC 69.2** GCC Sub-Clause 69.2 stands replaced by the following:

**Billing Break-up**

During the Design and Engineering activity in the Contract, the Contractor shall furnish a break-up of the complete works into facilities/services/activities and prices/unit prices therefor as may be mutually agreed and submit to Engineer for approval. The Engineer upon review of the BBU may suggest changes, which the Contractor shall be bound to incorporate. With the progress of Engineering, Contractor shall furnish further details in terms of services/activities, quantities, and unit prices for approval of Employer. The BBU or any amendment thereto proposed by the Contractor shall be approved by the Employer in twenty eight (28) working days from the submission date of the latest revision. The BBU approved by the Employer shall be the basis for making Progressive Payment.

**GCC 69.3** The particulars of the Bank Account nominated are as follows: **Payment shall be made to the Contractor in its bank account electronically. The Bank Account details shall be furnished by the Contractor in the form of EFT form duly filled-in by the Contractor and certified by the concerned Bank within 15 days of the date of issuance of Award.**

**GCC 70.1, 70.2, & 70.3** Not Applicable

**GCC 72.1(g)** Not Applicable

**GCC 72.1(m)** The following additional events shall also be the Compensation Events: **None**

**GCC 74** The Contract is **not** subject to price adjustment.

**GCC 75** Not Applicable

**GCC 76.1** The amount of Liquidated Damages or in other words Delay Damages for the uncompleted Works or any part thereof is **0.10** percent of its Contract price per day of delay.

**Guide to application of GCC Sub Clause 76.1 above**

*[ Liquidated damages is equivalent to an amount to be determined in accordance with the following formula*

$$T_{LD} = V_{UW} \times P \times n$$

**Where;**

**$T_{LD}$  = Total amount of Liquidated Damages**

**$V_{UW}$  = Value of Uncompleted Works (i.e. works not having been completed as of the expiry of the Intended Completion Date plus the works completed after the expiry of the Intended Completion Date).  $V_{UW}$  shall be calculated by deducting the value of the completed works under the Contract from the total Contract price**

**$P$  = Percent-rate at which the Liquidated Damages shall be imposed for every day of delay**

**$n$  = No of days of delay for completion of works under the Contract]**

**GCC 76.2** The maximum amount of Liquidated Damages for the uncompleted Works or any part thereof is **ten percent (10%)** of the final Contract price of the whole of the Works.

**GCC 77.1** The Bonus for the whole of the Works is **Nil** percent of the final Contract price per day.

The maximum amount of Bonus for the whole of the Works is **Nil** percent of the final Contract price.

**GCC 78.1** The Advance Payment shall be **ten percent (10%) of the original Contract Price in the currency of the Contract Price, against an unconditional Bank Guarantee of an equal amount**, and shall be paid to the Contractor not later than **15 days from the date of submission of the Advance Bank Guarantee**.

**GCC 78.2** GCC Sub-Clause 78.2 stands replaced by the following:

The Bank Guarantee stated under GCC Sub-Clause 78.1 shall initially be kept valid upto ninety (90) days beyond the Intended Completion Date. In case the Intended Completion Date gets extended, the validity of the Bank Guarantee shall also be extended correspondingly.

The Contractor may choose to reduce the value of the Bank Guarantee with gradual recovery of Advance Payment during Progressive Payment; however, the Contractor will be able to exercise this option only once in a six month period. The quantum of reduction of the value of bank guarantee at any point of time shall be proportional to the quantum of work completed as certified by Engineer. The Bank Guarantee value shall stand reduced to zero on completion of total work by the Contractor under the Contract as certified by Engineer. It should be clearly understood that reduction in the value of Bank Guarantee towards advance shall not in any way dilute the Contractor's responsibility and liabilities under the Contract including in respect of the Works for which the reduction in the value of bank guarantee is allowed.

**GCC 78.4** **Not Applicable**

**GCC 79.2** GCC Sub-Clause 79.2 stands replaced by the following:

The Performance Security furnished at the time of signing of the Contract Agreement or subsequently as determined under GCC Sub-Clause 79.1 shall be kept valid until a date ninety (90) days beyond the date of Defects Liability Period.

**GCC 79.3** GCC Sub-Clause 79.3 stands replaced by the following:

The value of Performance Security at the time of signing of the Contract Agreement or as determined subsequently under GCC Sub-Clause 79.1 may be reduced by the Contractor to five percent (5%) of the final Contract Price in the currency of the Contract upon successful Completion of Facilities and approval of Engineer.

**GCC 80.1, 80.2, & 80.3** Not Applicable.

**GCC 87.1** The date by which “**as-built**” drawings are required is **along with the Final Completion Report on Completion of Facilities of the Township to the Employer**.

The date by which operating and maintenance manuals are required is **at the time of handing over of the particular facility / unit of the Township to the Employer**.

**GCC 87.2** The amount to be withheld for failing to produce “**as-built**” drawings and/or operating and maintenance manuals by the date required is **0.01% of the original Contract Price**. The amount so retained shall be paid to the Contractor after submission of the aforesaid “**as-built**” drawings and/or operating and maintenance manuals in the next payment due to the Contractor, on the basis of certification of the Engineer.

**GCC 96.1** The percentage to apply to the contract value of the works not completed, representing the Employer's additional cost for completing the uncompleted Works, is **twenty percent (20%) of the original Contract Price**.

**GCC 100.3** The rules of procedure for arbitration proceedings shall be as follows:

(i) In the case of a dispute between the Employer and the **foreign Contractor**, the following shall apply:

Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("**SIAC**") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("**SIAC Rules**") for the time being in force, which rules are deemed to be incorporated by reference this clause.

The seat of the arbitration shall be **Singapore**

The Tribunal shall consist of **three** arbitrators

The language of the arbitration shall be **English**.

(ii) In the case of a dispute between the Employer and the **national Contractor**, in particular, the arbitration shall be conducted in accordance with the **Arbitration Act (Act No 1 of 2001) of Bangladesh** as at present in force and in **Dhaka**.

## Section 5. Tender and Contract Forms

Form	Title
<b>Tender Forms</b>	
1a	Technical Offer Submission Letter
1b	Financial Offer Submission Letter
2	Tenderer Information
3	JV Partner Information ( <i>if applicable</i> )
4	Subcontractor Information ( <i>if applicable</i> )
5	Personnel Information
6	Bank Guarantee for Tender Security
<b>Contract Forms</b>	
7	Notification of Award
8	Contract Agreement
9	Bank Guarantee for Performance Security
10	Bank Guarantee for Advance Payment ( <i>if applicable</i> )
11	Bank Guarantee for Retention Money Security ( <i>when this option is chosen</i> )
13	Proforma for Bank Guarantee to be furnished by the executant of deed Joint undertaking other than contractor

**Forms 1 to 6** and its **Attachments & Appendices** comprises part of the Tender Format and should be completed as stated in ITT Clause 20.

**Forms 7 to 11** comprises part of the Contract as stated in GCC Clause 6.

## Technical offer Submission Letter (Form 1a)

*[This letter should be completed and signed by the Authorised Signatory preferably on the Letter-Head Pad of the Tenderer]*

To:

*[Contact Person]*

*[Name of Procuring Entity]*

*[Address of Procuring Entity]*

Date:

Invitation for Tender No:

*[indicate IFT No]*

Tender Package No:

*[indicate Package No]*

This Package is divided into the following Number of Lots

*[indicate number of Lot(s)]*

We, the undersigned, offer to execute in conformity with the Conditions of Contract and associated Contract documents, the following Works and Physical services, viz:

In signing this letter, and in submitting our Tender, we also confirm that:

- (a) our Tender shall be valid for the period stated in the Tender Data Sheet (ITT Sub Clause 33.2) and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) a Tender Security is attached in the form of a **Bank Guarantee** in the amount stated in the Tender Data Sheet (ITT Sub Clause 35.2) and valid for a period of twenty-eight (**28**) days beyond the Tender validity date.
- (c) if our Tender is accepted, we commit to furnishing a Performance Security within the time stated under ITT Sub Clause 70.2 in the amount stated in the Tender Data Sheet (ITT Sub Clauses 69.2 and 69.3) and in the form specified in the Tender Data Sheet (ITT Sub Clause 70.1) valid for a period of ninety (90) days beyond the date of successful completion of defect liability period.
- (d) We have examined all the provisions of the Tender Documents including its subsequent Amendment(s)/Clarification(s)/Addenda/Errata issued and confirm that notwithstanding anything stated elsewhere in our bid to the contrary, the provisions of the Tender Documents are acceptable to us and we further confirm that we have not taken any deviation to the provisions of the Tender Documents anywhere in our bid.

We have furnished our compliance to the provisions of the Tender Documents and its subsequent Amendment(s)/Clarification(s)/Addenda/Errata. We have furnished in a separate sealed envelope a 'No Deviation Certificate' duly signed and stamped by the authorised signatory as per the format provided in the Tender Document along with our tender in compliance to the ITT sub Clause 24.5.

- (e) we are submitting this Tender as a sole Tenderer in accordance with ITT Sub Clause 40.3.
- (f) \*we are not a Government owned entity as defined in ITT Clause 5.  
or  
\*we are a Government owned entity, and we meet the requirements of ITT Clause 5.;  
(\* ***Tenderer to strike off whichever is not applicable to them.***)
- (g) we, declare that we are not associated, nor have been associated in the past, directly or indirectly, with a consultant or any other entity that has prepared the design, specifications and other documents  
in accordance with ITT Clause 5;
- (h) we including our Associate as the Architect and Engineering Firm or Specialist Subcontractor for any part of the contract resulting from this Tender process, have not been declared ineligible by the Government of Bangladesh on charges of engaging in corrupt, fraudulent, collusive or coercive practices in accordance with ITT Clause 5;
- (i) furthermore, we are aware of ITT Clause 4 concerning such practices and pledge not to indulge in such practices in competing for or in executing the Contract;
- (j) we intend to subcontract an activity or part of the Works, in accordance with ITT Clause 14, to the following Specialist Subcontractor(s); the details of which are placed at **Attachment No. 3** to this Technical Offer Submission Letter.
- (k) we, confirm that we do not have a record of poor performance, such as abandoning the works, not properly completing contracts, inordinate delays, or financial failure as stated in ITT Clause 5, and that we do not have, or have had, any litigation against us, other than that stated in the Tenderer Information (**Form 2**);
- (l) we are not participating as Tenderers in more than one Tender in this Tendering process. We understand that your written Notification of Award shall constitute the acceptance of our Tender and shall become a binding Contract between us, until a formal Contract is prepared and executed;
- (m) we, confirm that we do not have a record of insolvency, receivership, bankrupt or being wound up, our business activities were not been suspended, and it was not been the subject of legal proceedings in accordance with ITT Clause 5;
- (n) we, confirm that we have fulfilled our obligations to pay taxes and social security contributions applicable under the relevant national laws and regulations of Bangladesh in accordance with ITT Clause 5;
- (o) We have furnished all the Tender Forms and Attachments, relevant Documents as required and mentioned in the Tender Documents.

- (p) we understand that you reserve the right to reject all the Tenders or annul the Tender proceedings, without incurring any liability to Tenderers, in accordance with ITT Clause 64.

Signature:

*[insert signature of authorised representative of the Tenderer]*

Name:

*[insert full name of signatory with National ID Number]*

In the capacity of:

*[insert capacity of signatory]*

Duly authorised to sign the Tender for and on behalf of the Tenderer

*[If there is more than one (1) signatory, add other boxes and sign accordingly].*

**Attachment 1:**

[ITT Clause 40]

Written confirmation authorising the above signatory(ies) to commit the Tenderer

*[and, if applicable]*

**Attachment 2:**

[ITT Clause .....]

**No Deviation Certificate** duly signed and stamped by tenderer's Authorised signatory(ies) of the.

**Attachment 3:**

[ITT Clause .....]

**List of** subcontract/ for supplies/ activity or part of the Works, in accordance with ITT Clause 14.

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL-MSTPP-TOWNSHIP**

**NO DEVIATION CERTIFICATE**

Tenderer's Name and Address:

.....

To  
Managing Director,  
BIFPCL  
Level-17, Borak Unique Height,  
117, Kazi Nazrul Islam Avenue,  
Eskaton Garden, Dhaka, Pin 1217,  
Bangladesh

Dear Sir,

1. With reference to our Tender No..... dated.....for **EPC Township Package for 2x660 MW Maitree Super Thermal Power Project** pursuant to Tender Document No. BIFPCL/MSTPP/EPC-TOWNSHIP dated ..... and its subsequent Amendment(s)/Clarification(s)/Addenda/Errata, we hereby confirm that all the provisions of Tender Documents are acceptable to us and we have not taken any deviation in this regard in our base Techno-Commercial and Financial Tenders/Offeres.
2. We further confirm that any deviation to Tender Documents and its subsequent Amendment(s)/Clarification(s)/Addenda/Errata, are found anywhere in our Offers, the same shall stand unconditionally withdrawn, without any cost implication whatsoever to Employer, failing which the bid security provided by us, shall be liable to be forfeited.
3. We further confirm that we have furnished the Financial Bid in line with the requirement of Instruction to Tenderer (ITT). We further confirm that if our statement is found to be incorrect, our Offers shall be liable to be rejected.

SIGNATURE OF TENDERER \_\_\_\_\_

NAME \_\_\_\_\_

DESIGNATION \_\_\_\_\_

DATE \_\_\_\_\_

COMPANY SEAL

*Note : The above certificate is to be submitted in a separate sealed envelope. In the absence of this certificate the bid shall be rejected and shall be returned unopened.*

**ATTACHMENT NO-3**

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**LIST OF SUB-VENDORS LIST**

<b>Sl. No.</b>	<b>Equipment / Items</b>	<b>Sub Vendor</b>	<b>Place of Manufacturing/ Origin</b>	<b>Contact Details with Contact Persons Name /Contact No. /email etc.</b>	<b>Experience Details</b>

**LIST OF SPECIALIST SUB CONTRACTOR**

<b>Sl. No.</b>	<b>Name of the work</b>	<b>Name of the Specialist Sub Contractor</b>	<b>Contact Details with Contact Person Name No. email etc.</b>	<b>Experience Details</b>

Note: \* *Additional sheet shall be used with the above format for the purpose declaration of the above details and referred as its Annexure-.....*

\*\* *Form 4 of Bid form should be completed by each Sub vendor/ Subcontractor, preferably on its Letter-Head Pad*

**SIGNATURE OF TENDERER**

\_\_\_\_\_

**NAME**

\_\_\_\_\_

**DESIGNATION**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

**COMPANY SEAL**

## Financial offer Submission Letter (Form 1b)

*[This letter should be completed and signed by the Authorised Signatory preferably on the Letter-Head Pad of the Tenderer]*

To:

*[Contact Person]*

*[Name of Procuring Entity]*

*[Address of Procuring Entity]*

Date:

Invitation for Tender N-o:

*[indicate IFT No]*

Tender Package No:

*[indicate Package No]*

This Package is divided into the following Number of Lots

*[indicate number of Lot(s)]*

We, the undersigned, offer to execute in conformity with the Conditions of Contract and associated Contract documents, the following Works and Physical services, viz:

In accordance with ITT Clauses 27 and 28, the following prices and discounts apply to our Tender:

The Tender Price is: (ITT Sub Clause 27.1)	[insert above amount in words] (in USD)	[insert above amount in words] (in BDT)
In accordance with ITT Clause 27.6, the following discounts shall apply to our Tender		
The unconditional discount proposed in this package/Lot is: (ITT Sub Clause 27.7)	[insert %] [insert percent in words]	

and we shall accordingly submit an Advance Payment Guarantee in the format shown in Form –10.

In signing this letter, and in submitting our Tender, we also confirm that:

- (a) our Tender shall be valid for the period stated in the Tender Data Sheet (ITT Sub Clause 33.2) and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) if our Tender is accepted, we commit to furnishing a Performance Security and the Bank Guarantee from Associate (as applicable) as per DJU, within the time stated under ITT Sub Clause 70.2 in the amount stated in the Tender Data Sheet (ITT Sub Clauses 69.2 and 69.3) and in the form specified in the Tender Data Sheet (ITT Sub

Clause 70.1) valid for a period of ninety (90) days beyond the date of issue of the Completion Certificate of the Works;

- (c) we are submitting this Tender as a sole Tenderer in accordance with ITT Sub Clause 40.3
- (d) we, confirm that we have fulfilled our obligations to pay taxes and social security contributions applicable under the relevant national laws and regulations of Bangladesh in accordance with ITT Clause 5;
- (e) we, confirm that our quoted prices are inclusive of all taxes and duties(including VAT, Custom Duties, AVT), surcharges, levies, royalties, Insurance, fees etc.. The employer has no liability what so ever for the subject work during currency of the contract.
- (f) we understand that you reserve the right to reject all the Tenders or annul the Tender proceedings, without incurring any liability to Tenderers, in accordance with ITT Clause 64.

Signature:

<i>[insert signature of authorised representative of the Tenderer]</i>
--

Name:

<i>[insert full name of signatory with National ID Number]</i>
--

In the capacity of:

<i>[insert capacity of signatory]</i>
---------------------------------------

Duly authorised to sign the Tender for and on behalf of the Tenderer

*[If there is more than one (1) signatory, add other boxes and sign accordingly].*

**Attachment 1:**

[ITT Clause 40]

Written confirmation authorising the above signatory(ies) to commit the Tenderer

## Tenderer Information (Form 2)

*[This Form should be completed only by the Tenderer, preferably on its Letter-Head Pad]*

Invitation for Tender No: *[indicate IFT No]*  
 Tender Package No: *[indicate Package No]*  
 This Package is divided into the following Number of Lots: *[indicate number of Lot(s)]*

1. Eligibility Information of the Tenderer [ITT Clauses 5 & 25]	
1.1	Nationality of individual or country of registration
1.2	Tenderer's legal title
1.3	Tenderer's registered address
1.4	Tenderer's legal status <i>[complete the relevant box]</i>
	Proprietorship
	Partnership
	Limited Liability Concern
	Government-owned Enterprise
	Others <i>[please describe, if applicable]</i>
1.5	Tenderer's year of registration
1.6	Tenderer's authorised representative details
	Name
	National ID number, if any
	Address
	Telephone / Fax numbers
	e-mail address
1.7	Litigation [ITT Cause 13]
	Information on non-performance of contract and pending litigation furnished in <b>12</b>
1.8	Tenderer to attach photocopies of the original documents mentioned aside
	<i>[All documents required under ITT Clauses 5 and 24]</i>

The following two information are applicable for national Tenderers				
1.9	Tenderer's Value Added Tax Registration (VAT) Number			
1.10	Tenderer's Tax Identification Number(TIN)			
[The foreign Tenderers, in accordance with ITT Clause 5, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]				
2. Qualification Information of the Tenderer [ITT Clause 14]				
2.1	<p>General Experience in Construction Works of Tenderer</p> <p><b>Tenderer shall use additional sheets to furnish the detail as per the format mentioned below:</b></p>			
	Start Month Year	End Month Year	Years	Contract No and Name of Contract Name and Address of Employer Brief description of Works
				Role of Tenderer [Prime/Sub/Management]
2.2	<p>Specific Experience in Construction Works of Tenderer including its Associate for Architect and Engineering Firm as applicable as per <b>ITT Cl. No. 14.1(b) &amp; TDS.</b></p> <p>Completed Contracts of similar nature, complexity and methods/construction technology. Details to be furnished as per <b>Attachment-2A-1, Attachment-2A-2 and Appendix-1 Attachment-2A-2 (in case applicable) to this Form 2.</b></p>			
2.3	<p>Average annual turnover [ITT Sub Clause 15.1(a)as modified at TDS] and Ratio of Net worth to Paid up share capital [ITT Sub Clause 15.1(b) as modified at TDS]</p> <p>Details to be furnished as per <b>Attachment-2A-3, Attachment-2A-4 and Appendix-A, Appendix-B and Appendix- of Attachment-2A-3 to this Form 2.</b></p>			
2.4	<p>Existing commitments and works</p> <p>[targeted to be completed by the Intended Completion Date of the proposed works; ITT Sub Clause 12.2].</p> <p><b>Tenderer shall use additional sheets to furnish the detail as per the format mentioned below:</b></p>			
	Name of Contract Contract No [reference] of [year] Name of Employer Contact Address Tel/fax e-mail		Target Completion Date	Value of Existing Commitments and Works
				Amount & Currency      Equivalent in BDT
2.5	<p>Financial Resources available to meet the construction cash flow [ITT Sub Clause 15.1 (b)]</p> <p><b>Tenderer may use additional sheets to furnish the detail as per the format mentioned below:</b></p>			
	No	Source of Financing	Amount Available	
			Amount & Currency	Equivalent in BDT

In order to confirm the above statements the Tenderer shall submit , as applicable, the documents mentioned in ITT Clause 32.			
2.6	Contact Details [ITT Clause 32]		
	Name, address, and other contact details of Tenderer Bankers and other Employer(s) that may provide references, if contacted by this Employer		
2.7	Qualifications and experience of key technical and administrative personnel proposed for Contract administration and management [ITT Clause 32]		
	Position Name Years of General Experience	Years of Specific Experience	
[Tenderer to complete details of as many personnel as are applicable. Each personnel listed above should complete the Personnel Information (Form 5)]			
2.8	Major Construction Equipments proposed to carry out the Contract [ITT Clause 32] Details to be furnished as per <b>Attachment -2A-5 to this Form 2.</b>		
	Description of Equipment	Condition (new, good, average, poor)	Proposed Deployment Schedule  Owned, leased or to be purchased (state owner, lessor or seller)
[Tenderer to list details of each item of major construction equipment, as applicable]			
2.9	For computing of tender capacity [ITT 15.1(d)] A=Value of Works performed in last 7 [Seven] years from the date of Techno-commercial Bid Opening and B= Value of Existing commitments and works to be completed during the next 2.5 Years from the date of Techno-commercial Bid Opening As per details furnished at <b>Attachment No.2A-6 to this Form 2.</b>		
<b>2.10</b>	<b>Provenness Criteria for Sub Contractors</b> (a) For External Electrification Work are furnished as per the proforma Attachment No.2A-7(a) to this Form 2. (b) For Elevators Work are furnished as per the proforma Attachment No.2A-7(a) to this Form 2. (c) For Fire Fighting System Work are furnished as per the proforma Attachment No.2A-7(a) to this Form 2.		
<b>2.11</b>	We hereby declared that we have already visited the Site for the purposes of this bid, and enclosed confirmation of site visit as per your format Attachment 2A-8 to this Form 2.		
<b>2.12</b>	The Electronic Fund Transfer (EFT) form duly filled in and signed by our banker are furnished at Annexure-..... to this Form 2.		

Signature of Tenderer or Authorised representative

(Name of Tenderer or Authorised representative)

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/EPC TOWNSHIP**

**(Details pertaining to Technical Criteria of Qualification Requirement  
as per ITT clause 14.1(b)(1) as modified in TDS)**

**To satisfy the requirements specified in ITT clause 14.1(b)(1) as modified in TDS (Section-2) including its Notes and General Notes, we give below the following details:**

In order to satisfy the Qualifying Requirements stipulated at ITT clause 14.1(b)(1) as modified in TDS, Section-2, we declare that we have executed **\*at least one work having minimum total built up area of 36,000 Sqm. or \*at least two works, each having minimum total built up area of 22,500 Sqm., or \*at least three works, each having minimum total built up area of 15,000 Sqm.( with total 54,000 sqm. of cumulative built-up area of all the three reference works taken together)**, comprising RCC framed Residential / Non residential buildings of five (5) storeys or more including civil and finishing, Internal electrification, Plumbing and Sanitary within the preceding 7 (seven) years reckoned as on the date of Techno-commercial Bid Opening, as per the details given below:-

<b>Sl. No.</b>	<b>Item Description</b>	<b>Reference Work 1</b>	<b>Reference Work 2</b>	<b>Reference Work 3</b>
<b>1.0</b>	Description & Name of the work			
1.1	Name of the Client with full address, FAX No. and Tel No.			
1.2	Details of contact persons in client's organization responsible for aforesaid work alongwith Fax No., Tel. No. and e-mail id			
1.3	Purchase Order / Contract No. / LOA No. and date			
1.4	Actual Date of commencement of work			
1.5a	Percentage of work completed (in Value) as on the date of Techno-Commercial Bid Opening [Submit copy of last bill passed as proof against achieve bill]			
1.5b	If work completed then, actual Date of completion			
1.6	Type of Buildings (Residential / Non- Residential)			

Sl. No.	Item Description	Reference Work 1	Reference Work 2	Reference Work 3
1.7	Whether at least one Building is 5 storied or more	YES*/NO*	YES*/NO*	YES*/NO*
1.8	No. of Storeys in the Highest Building of the above ref.			
1.9	Whether the Buildings are RCC framed	YES*/NO*	YES*/NO*	YES*/NO*
1.10	Total Built-up area	Sq. m.	Sq. m.	Sq. m.
1.11	Total Built-up area of five or more storyes building	Sq. m.	Sq. m.	Sq. m.
1.12	Whether the scope of work included			
	a) Civil and finishing works	YES*/NO*	YES*/NO*	YES*/NO*
	b) Internal Electrification	YES*/NO*	YES*/NO*	YES*/NO*
	c) Plumbing	YES*/NO*	YES*/NO*	YES*/NO*
	d) Sanitary	YES*/NO*	YES*/NO*	YES*/NO*
1.13	Documentary evidence in support of Sl. No. 1.3 to 1.12 enclosed at Annexure No..... to this Attachment -2A-1			

**\* Mark whichever is applicable**

We further confirm that notwithstanding anything stated above, the Employer reserves the right to undertake a physical assessment of the capacity and capabilities including financial capacity and capability of the Tendered / his Collaborator(s) / Associate(s) / Subsidiary(ies) / Group Company(ies) to perform the Contract, should the circumstances warrant such assessment in the overall interest of the Employer.

Note: (1) Continuation Sheets of like size and format may be used as per Tenderer Requirement and shall be annexed to this attachment.

(2) The reference plants / installations whose details have been declared as per the specified format in this Attachment - 2A-1 above shall only be considered to ascertain the Tenderer's compliance to Qualifying Requirement (QR).

The Employer at its discretion may seek clarification and / or documentary evidence only for the reference works as mentioned above. However, **no change or substitution of the reference works by new / additional plant for conforming to the specified Qualifying Requirement shall be sought, offered or permitted.**

- (3) Tenderer to ensure that certificate / Authenticated Documents issued by the Project Authority of the client have been submitted, properly annexed and covers / includes all the parameters of QR. Further, the Tenderer is required to submit the copy of last paid bill.

	<b>SIGNATURE OF TENDERER</b>	_____
	<b>NAME</b>	_____
	<b>DESIGNATION</b>	_____
<b>COMPANY SEAL</b>	<b>DATE</b>	_____

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**(Details pertaining to Technical Criteria of Qualification Requirement  
as per ITT clause 14.1(b)(2) as modified in TDS – Architect and Engineering experience of the \*Tenderer /  
\*Architect and Engineering Firm Associated with the Tenderer)**

**A) To satisfy the Qualifying Requirements specified in ITT clause 14.1(b)(2) as modified in TDS (Section-2), we give below the following:**

(i) \*We, M/s.....(Tenderer), confirm that we have carried out Architecture, Design and Engineering of at least one (1) no. RCC framed Residential/Non-residential building having five (5) or more storeys including piling, civil and finishing, Internal electrification, Plumbing and Sanitary works within the preceding 7 (seven) years reckoned as on the date of Techno-Commercial bid opening, as per ITT clause 14.1(b)(2) as modified in TDS.

**Or**

(ii) \*We, M/s.....(Tenderer), do not meet the above mentioned requirement as per ITT clause 14.1(b)(2) as modified in TDS, hence, in accordance with ITT clause 14.1(b)(2) as modified in TDS, we have associated with M/s ....., an Architect and Engineering Firm, who meets the requirement indicated above, as per ITT clause 14.1(b)(2) as modified in TDS. We have also furnished a duly executed DJU (in original) as per the **Appendix-1** to this Attachment No-2A-2 in line with the clause 14.1(b)(2) as modified in TDS in appropriate value of Stamp Paper along with the Technical Offer Submission Letter (Form 1a).

(\* *strike off whichever is not applicable*)

The details are furnished as below :

Sl. No.	Item Description	Reference Work
1.0	Name of the Architect and Engineering Firm	
1.1	Address of the Architect and Engineering Firm including Telephone no., Fax, E-mail.	
1.2	Name and designation of the responsible person in the Architect and Engineering Firm	
1.3	Name of the Reference Work(s) and its location	
1.4	Name, Address and E-mail of the Owner of the Reference Work(s)	

Sl. No.	Item Description	Reference Work
1.2	Name and designation of the responsible person at the Reference Work(s)	
1.3	Purchase Order / Contract No. / LOA No. and date	
1.4	Actual Date of commencement of work	
1.5	Actual Date of Completion of Work	
1.6	Type of Buildings (Residential / Non- Residential)	
1.7	Whether the Buildings are RCC framed	YES*/NO*
1.8	No. of Storeys in Buildings	
1.9	Scope in Reference work a) Architecture b) Design c) Engineering	YES*/NO* YES*/NO* YES*/NO*
1.10	The Reference work also include a) Civil and finishing works b) Internal Electrification c) Plumbing d) Sanitary e) Pilling	YES*/NO* YES*/NO* YES*/NO* YES*/NO* YES*/NO*
1.10	Documentary evidence in support of Sl. No. 1.3 to 1.09 enclosed at Annexure No..... to this Attachment -2A-1	

**Note:** Tenderer to ensure that certificate / Authenticated Documents issued by the Project Authority of the client have been submitted, properly annexed and covers / includes all the parameters of QR.

**SIGNATURE OF TENDERER**

\_\_\_\_\_

**NAME**

\_\_\_\_\_

**DESIGNATION**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

**COMPANY SEAL**

FORM OF DEED OF JOINT UNDERTAKING  
AS PER ITT CLAUSE 14.1(b)(2) OF PROPOSAL DATA SHEETS  
(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE TENDERER/ CONTRACTOR MEETING THE REQUIREMENT OF ITT CLAUSE 14.1(b)(1) AS MODIFIED IN TDS AND ARCHITECT AND ENGINEERING FIRM (AEF) MEETING THE REQUIREMENT OF ITT CLAUSE 14.1(b)(2) AS MODIFIED IN TDS FOR SUCCESSFUL PERFORMANCE OF THE CONTRACT

The DEED OF UNDERTAKING executed this ..... day of ..... Two Thousand ..... by

A. M/s ..... a Company registered under the ..... having its Registered Office at ..... (hereinafter called the Tenderer, which expression shall include its successors, administrators and permitted assigns); and

B. M/s ..... a Company registered under the ..... having its Registered Office at ..... (hereinafter called the "Architect And Engineering Firm (AEF)", which expression shall include its successors, administrators and permitted assigns)

**In Favour Of**

Bangladesh-India Friendship Power Company (Pvt.) Limited (a joint venture of BPDB and NTPC Ltd.), incorporated under the laws of Bangladesh, having its registered office at BORAK UNIQUE HEIGHT (LEVEL-17), 117, KAZI NAZRUL ISLAM AVENUE, DHAKA, BANGLADESH (hereinafter called "BIFPCL" or "Employer" which expression shall include its successors, administrators and assigns)

WHEREAS,

- A. the Employer invited Tender for Design, Engineering, Manufacturing, Shop Testing, Procurement, Supply, Transportation to site (location of use), Handling, Storage, Insurance, taking any permit/ approval required, construction, erection, testing, commissioning, performance testing, Training employer's personnel and completion of entire Township works including associated works, all civil, mechanical, electrical, instrumentation works for the entire township and associated facilities like Electrical sub-station as described in the tender documents and complete in all respects for successful use of township (hereinafter referred to as "Township") located at 2X660 MW Maitree Super Thermal Power Project vide its Tender Document No. : BIFPCL/MSTPP/EPC TOWNSHIP.
- B. ITT Clause 14.1(b)(2) as modified in TDS of Tender Documents stipulates that the Tenderer should have done architecture, design and engineering of at least one RCC framed Residential / Non-residential building having five (5) or more storeys including piling, civil and finishing, Internal electrification, Plumbing and Sanitary works within the preceding 7 (seven) years reckoned as on the date of Techno-commercial Bid Opening and in case, the Tenderer has not carried out the above architect and engineering activities by himself either in reference works or in any other works, then the architect and engineering of the township shall be carried out by an Architect and Engineering firm meeting the above requirement and shall furnish a Deed of Joint Undertaking

jointly executed by Tenderer and the AEF for joint and several responsibility for performing successfully all the Architect and Engineering activity included in the scope of Architect and Engineering Firm.

**APPENDIX-1 to  
ATTACHMENT-2A-2  
(Page 2 of 4)**

- C. M/s ..... (Tenderer) is submitting its proposal in response to the aforesaid Invitation for Tender by the Employer bearing No. .... dated ..... for EPC Township Package for 2x660 MW Maitree Super Thermal Power Project at Rampal, Distt.-Bagerhat, Bangladesh, against the Employer's Tender Documents No.: BIFPCL/MSTPP/EPC TOWNSHIP
- D. the Tenderer and the Architect and Engineering Firm (AEF) are required to jointly execute and furnish along with the tender an irrevocable Deed of Joint Undertaking and be jointly and severally responsible and bound unto the Employer for performing successfully all the architect and engineering activity included in the scope of the Architect and Engineering Firm under the Contract for EPC Township Package for 2x660 MW Maitree Super Thermal Power Project at Rampal, Distt.-Bagerhat, Bangladesh, in the event, the Tender is accepted by the Employer resulting into a Contract/ Contracts.

**NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:**

1. That in consideration of the award of the Contract(s) by the Employer to the Tenderer (hereinafter referred to as Contractor), we the Contractor and Architect and Engineering Firm (AEF) do hereby declare and undertake that we shall be jointly and severally liable to the Employer to perform successfully all the architect and engineering activity included in the scope of the Architect and Engineering Firm under the Contract for EPC Township Package to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Architect and Engineering Firm (AEF) do hereby undertake, declare and confirm that we shall be fully responsible for performing successfully all the architect and engineering activity included in the scope of the Architect and Engineering Firm under the Contract to the extent of the scope of this Deed of Joint Undertaking. Further, if the Employer sustains any loss or damage on account of any breach of the Contract(s), we the Architect and Engineering Firm (AEF) and the Contractor jointly and severally undertake to promptly indemnify and pay such losses/ damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.
3. Without prejudice to the joint and several obligations of the Contractor and Architect and Engineering Firm (AEF) hereunder, the analysis/ investigations of the non-performance of the architect and engineering activity by the Contractor may initially be carried out by the Contractor within a period of 15 days from the date of reference of the problem by the Employer, before the Employer approaches the Architect and Engineering Firm (AEF) for any such analysis/ investigation. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Architect and Engineering Firm (AEF) (with respect to obligations and responsibilities of the Architect and Engineering Firm (AEF) covered under this deed of joint undertaking), nor any extension of time or any relaxation given by the Employer to the Contractor shall prejudice any right of Employer under this deed of joint undertaking to proceed against the Architect and Engineering Firm (AEF).
4. Without prejudice to the generality of the undertaking in Para '1' above, the manner of achieving the objectives set forth in Para '1' above shall be as follows:
  - a) We, the Architect and Engineering Firm (AEF) shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/drawings for all the architect and engineering activity included in the scope of the Architect and Engineering Firm as specified in contract.

- b) We the Architect and Engineering Firm (AEF), shall provide all additional necessary technical assistance to the Contractor for the portion of work to be performed by the Contractor.

Further, the Architect and Engineering Firm (AEF) shall depute its technical experts from time to time to the Employer's project site, as mutually agreed upon between the Employer and the Contractor in accordance with stipulations of the Contracts.

- c) In the event any problem is encountered during architect and engineering activity or if the Contractor fails to demonstrate architect and engineering as specified in the Contract, the Architect and Engineering Firm (AEF) shall promptly provide all technical assistance/ services/ support to analyse and suggest corrective measures/ modifications to the architect and engineering activity directly to the Employer and the Contractor and the Architect and Engineering Firm (AEF) shall promptly carry out all corrective measures and modifications (as agreed by the Employer) at its own expense. Thereafter, the Contractor and Architect and Engineering Firm (AEF) shall demonstrate architect and engineering activities as specified in the Contract.
- d) Implementation of the corrected design and all other necessary rectification or modifications to the architect and engineering activities and payment of financial liabilities and penalties and fulfilment of all other obligations as provided under the Contract, shall be the joint and several responsibility of the Tenderer and the Architect and Engineering Firm (AEF).

5. We, the Contractor and the Architect and Engineering Firm do hereby undertake and confirm that this Deed of Joint Undertaking shall be initially valid till ninety (90) days beyond the scheduled date of completion of the defect liability period of the EPC Township Package. In case of delay in completion of the defect liability period under the Contract, the validity of this Deed of Joint Undertaking shall be extended by such period of delay. We, the Contractor, and the Architect and Engineering Firm do further undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till its validity. We further agree that this Deed of Joint Undertaking shall be without any prejudice to the various liabilities of the Contractor including Contract Performance Security as well as other obligations of the Contractor in terms of the Contract.

6. In case of award, the Architect and Engineering Firm (AEF), shall be required to furnish "as Security" an On-demand bank guarantee in favour of the Employer as per the requisite format, for a value equal to BDT 1.5 Million, in addition to the contract Performance Security and it shall be guarantee towards the faithful performance / compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein.

The aforesaid bank guarantees shall be unconditional, irrevocable and initially valid till ninety (90) days beyond the scheduled date of Completion of defect liability period of EPC Township Package. In case of delay in completion of the defect liability period under the Contract, the validity of this Bank Guarantee shall be extended by such period of delay. The guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.

7. Any dispute that may arise between the Employer and the Contractor in connection with this Deed of Joint Undertaking shall be finally settled as per arbitration procedure/ rules mentioned in the Contract Documents.

This deed of undertaking shall be construed and interpreted in accordance with the Laws of England.

8. We, the Architect and Engineering Firm (AEF) and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.

9. That this Deed of joint undertaking shall be operative from the effective date of the Contract.

IN WITNESS WHEREOF, the Contractor and the Architect and Engineering Firm (AEF) through their authorised representatives, have executed these presents and affixed common seal of their respective companies on the day, month and year first mentioned above.

<p>WITNESS :</p> <p>1. ....</p> <p>.....</p> <p>(Official Address)</p>	<p>For M/s .....</p> <p>(TENDERER/ CONTRACTOR)</p> <p>.....</p> <p>(Signature of the Authorised Representative)</p> <p>Name.....</p> <p>Designation.....</p> <p>Common Seal of the Company .....</p>
--	--

<p>WITNESS :</p> <p>1. ....</p> <p>.....</p> <p>(Official Address)</p>	<p>For M/s.....</p> <p>(Architect and Engineering Firm)</p> <p>.....</p> <p>(Signature of the Authorised Representative)</p> <p>Name .....</p> <p>Designation.....</p> <p>Common Seal of the Company.....</p>
--	---

**Note: Power of Attorney of the persons signing on behalf of each of the executants is to be furnished by the Tenderer and attached along with the signed Deed of Joint Undertaking.**

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

(Details pertaining to Financial Criteria of Qualification Requirement as per ITT clause 15.1(a) as modified in TDS)

**B) To satisfy the requirements specified in ITT clause 15.1(a) as modified in TDS, Section-2, we give below the following details:**

- a) In terms of ITT clause 15.1(a) as modified in TDS, Section-2, we confirm that our average annual turnover during the preceding three financial years as on date of Techno-commercial bid opening is not less than **BDT 930 Million** (Bangladeshi Taka Nine Hundred Thirty Million only). In support of above, we are enclosing Audited Financial Statements.

Sl.No	Financial Year	Amount in BDT
	2015 – 2016	
	2016 – 2017	
	2017 – 2018	
	Average Annual Turnover for the preceding three (3) Financial Years as on date of Techno-Commercial Bid Opening.	
	We have enclosed Audited financial statements for the last 3 financial years at	Annexure-..... to Attachment-2A-3

Sl.No	Financial Year	Amount in BDT
	<p>Since we are not able to furnish our audited financial statements, on stand alone entity basis, we are submitting the following documents for substantiation of our Qualification :</p> <p>(a) Copies of unaudited unconsolidated financial statements of the Tenderer along with copies of the audited consolidated financial statements of our Holding Company for the last 3 years enclosed at Annexure___to this Attachment.</p> <p>(b) Certificate from the CEO/CFO of the Holding company stating that the unaudited unconsolidated financial statements form part of the consolidated Financial Statements of the Holding Company, is enclosed as per the format at <b>Appendix-A</b> to this Attachment.</p>	Enclosed at Annexure-..... to Attachment-2A-3.
	<p>Audited results for the last financial year as on the date of Techno-Commercial bid opening enclosed</p> <p>In case not enclosed, financial results certified by a practicing chartered accountant enclosed</p> <p>In case financial results certified by a practicing chartered accountant not enclosed, then Audited financial statements for FY 2014-2015 also enclosed.</p> <p>Further, a Certificate from the CEO/CFO of the Tenderer stating that the Financial results of company are under audit as on the date of Techno-Commercial Bid Opening and the certificate from the practicing chartered accountant certifying the financial parameters is not available, is enclosed Annexure_____as per the format at Appendix-A to this Attachment.</p>	<p>YES*/NO*</p> <p>YES*/NO* (Enclosed at Annexure-.....to Attachment-2A-3)</p> <p>YES*/NO* (Enclosed at Annexure-.....to Attachment-2A-3)</p>

b) Since we do not satisfy the Financial Criteria stipulated at ITT clause 15.1(a) as modified in TDS, Section-2, on our Own, as per ITT clause 15.1(b2) as modified in TDS, we give below the following details of our **Holding Company**:

1. Name and Address of the Holding Company:
2. Turnover of the Holding Company with following details:

Sl.No	Financial Year	Amount in BDT
	2015 – 2016	
	2016 - 2017	

Sl.No	Financial Year	Amount in BDT
	2017 - 2018	
	Average Annual Turnover for the preceding three (3) Financial Years as on date of Techno-Commercial Bid Opening.	
	We have enclosed audited Financial Statements for the preceding three (3) Financial years	Annexure_____to <b>Attachment-2A-3</b>

Sl. No	Description	As on last day of the preceding financial year
3.	Paid-up Share Capital of the Holding Company	
4.	Net Worth of the Holding Company	
5.	%age of Net worth to Paid-up Share Capital of the Holding Company	
6.	A Letter of Undertaking from the Holding Company, supported by Board Resolution of the Holding Company, pledging unconditional and irrevocable financial support for execution of the contract by the <b>Tenderer</b> in case of award is enclosed as per the format at <b>Appendix-B</b> to this Attachment. A power of attorney of the person signing on behalf of holding company is also enclosed at Annexure _____to this Attachment.	
7.	Documentary evidence like Annual Report/Audited financial statements together with relevant schedules for the preceding financial year/ certification of financial statements from a practicing Chartered Accountant etc. in respect of holding company in support of above is enclosed at Annexure ___ to this Attachment.	

SI. No	Description	As on last day of the preceding financial year
8.	<p>Audited results for the last financial year as on the date of Techno-Commercial bid opening enclosed</p> <p>In case not enclosed, financial results certified by a practicing chartered accountant enclosed</p> <p>In case financial results certified by a practicing chartered accountant not enclosed, then Audited financial statements for FY 2017-18 also enclosed.</p> <p>Further, a Certificate from the CEO/CFO of the Holding Company stating that the Financial results of company are under audit as on the date of Techno-Commercial Bid Opening and the certificate from the practicing chartered accountant certifying the financial parameters is not available, is enclosed Annexure _____ as per the format at <b>Appendix-C</b> to this Attachment.</p>	<p>YES*/NO*</p> <p>YES*/NO* Enclosed at Annexure</p> <p>YES*/NO* Enclosed at Annexure</p>

**SIGNATURE OF TENDERER**

\_\_\_\_\_

**NAME**

\_\_\_\_\_

**DESIGNATION**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

**COMPANY SEAL**

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**[Details pertaining to Financial Qualification of the Tenderer  
as per ITT clause 15.1(b) as modified in TDS as 15.1(b)(i) & (b)(ii)]**

Dear Sirs,

- A) To satisfy the requirements specified in ITT clause 15.1(b) as modified in TDS as 15.1(b)(i) & (b)(ii), Section-2, We give below the following details:**

We hereby confirm that net worth of our company as on the last day of the preceding financial year is not less than 100% of its paid-up share capital.

The Details are as under:

Sl. No	Description	As on last day of the preceding financial year
	Paid-up Share Capital	
	Net Worth	
	%age of Net worth to Paid-up Share Capital	
	Documentary evidence like Audited financial statements for the preceding financial year* in support of above is enclosed at <b>Annexure_____</b> to this <b>Attachment-2A-4</b> .	

SI. No	Description	As on last day of the preceding financial year
	<p>Since we are not able to furnish our audited financial statements, on stand alone entity basis, we are submitting the following documents for substantiation of our Qualification :</p> <p>(a) Copies of unaudited unconsolidated financial statements of the Tenderer alongwith copies of the audited consolidated financial statements of our Holding Company for the last 3 years enclosed at <b>Annexure _____</b> to this <b>Attachment-2A-4</b>.</p> <p>(b) Certificate from the CEO/CFO of the Holding company stating that the unaudited unconsolidated financial statements form part of the consolidated Financial Statements of the Holding Company, is enclosed as per the format at <b>Appendix-A</b> to this <b>Attachment-2A-3</b>.</p>	Enclosed at Annexure
	<p>Audited results for the last financial year as on the date of Techno-Commercial bid opening enclosed</p> <p>In case not enclosed, financial results certified by a practicing chartered accountant enclosed</p> <p>In case financial results certified by a practicing chartered accountant not enclosed, then Audited financial statements for FY 2014-15 also enclosed.</p> <p>Further, a Certificate from the CEO/CFO of the Tenderer stating that the Financial results of company are under audit as on the date of Techno-Commercial Bid Opening and the certificate from the practicing chartered accountant certifying the financial is not available, is enclosed <b>Annexure _____</b> as per the format at <b>Appendix-C</b> to this <b>Attachment-2A-3</b>.</p>	<p>YES*/NO*</p> <p>YES*/NO* Enclosed at Annexure</p> <p>YES*/NO* Enclosed at Annexure</p>

b) Since we do not satisfy the Financial Criteria stipulated at ITT clause 15.1(b) as modified in TDS as 15.1(b)(i) & (b)(ii), Section-2, on our Own, we give below the following details of our **Holding Company**:

1. Name and Address of the Holding Company:

SI. No	Description	As on last day of the preceding financial year
2.	Paid-up Share Capital of the Holding Company	
3.	Net Worth of the Holding Company	
4.	%age of Net worth to Paid-up Share Capital of the Holding Company	

SI. No	Description	As on last day of the preceding financial year
--------	-------------	--

5.	We have enclosed audited Financial Statements for the preceding three (3) Financial years	
----	---	--

6.	Audited results for the last financial year as on the date of Techno-Commercial bid opening enclosed	YES*/NO*
----	--	----------

	In case not enclosed, financial results certified by a practicing chartered accountant enclosed	YES*/NO* Enclosed at Annexure
--	---	----------------------------------

	In case financial results certified by a practicing chartered accountant not enclosed, then Audited financial statements for FY 2017-18 also enclosed.	YES*/NO* Enclosed at Annexure
--	--	----------------------------------

Further, a Certificate from the CEO/CFO of the Holding Company stating that the Financial results of company are under audit as on the date of Techno-Commercial Bid Opening and the certificate from the practicing chartered accountant certifying the financial is not available, is enclosed **Annexure** as per the format at **Appendix-C** to this **Attachment-2A-3**.

c) Since we do not satisfy the Financial Criteria stipulated at ITT clause 15.1(b) as modified in TDS as 15.1(b)(i) & (b)(ii) Section-2, on our Own, we give below the following details of our subsidiary or subsidiaries of **Holding Company** :

1. Name and Address of our subsidiary or subsidiary(ies) of Holding Company:

SI. No	Description	As on last day of the preceding financial year
--------	-------------	--

2.	Paid-up Share Capital	
----	-----------------------	--

3.	Net Worth	
----	-----------	--

4.	%age of Net worth to Paid-up Share Capital	
----	--	--

5.	We have enclosed audited Financial Statements for the preceding three (3) Financial years	
----	---	--

SI. No	Description	As on last day of the preceding financial year
6.	Audited results for the last financial year as on the date of Techno-Commercial bid opening enclosed	YES*/NO*
	In case not enclosed, financial results certified by a practicing chartered accountant enclosed	YES*/NO* Enclosed at Annexure
	In case financial results certified by a practicing chartered accountant not enclosed, then Audited financial statements for FY 2017-18 also enclosed.	YES*/NO* Enclosed at Annexure
	Further, a Certificate from the CEO/CFO of subsidiaries of the Holding Company stating that the Financial results of company are under audit as on the date of Techno-Commercial Bid Opening and the certificate from the practicing chartered accountant certifying the financial is not available, is enclosed <b>Annexure</b> as per the format at <b>Appendix-C</b> to this <b>Attachment-2A-3</b> .	

We further confirm that notwithstanding anything stated above, the Employer reserves the right to verify any information/documents furnished by the Tenderer and also to carry out assessment of the capabilities and capacity of the Tenderer/his collaborators / associates / subsidiaries / group companies to perform the contract, should the circumstances warrant such assessment in the overall interest of the Employer in line with Qualifying Requirement at ITT clause 14 and clause 15 and as modified at TDS, Section-2.

- (i) Net worth means the sum total of the paid up share capital and free reserve. Free reserve means all reserves credited out of the profits and share premium account but does not include reserves credited out of the revaluation of the assets, write back of depreciation provision and amalgamation. Further any debit balance of Profit and Loss account and miscellaneous expenses to the extent not adjusted or written off, if any, shall be reduced from reserves and surplus.
- (ii) Other income shall not be considered for arriving at annual turnover.
- (iii) "Holding Company" and "Subsidiary Company" shall have the meaning ascribed to them as per Companies Act of India.

	<b>SIGNATURE OF TENDERER</b>	_____
	<b>NAME</b>	_____
	<b>DESIGNATION</b>	_____
<b>COMPANY SEAL</b>	<b>DATE</b>	_____

**PROFORMA OF CERTIFICATE FROM THE CEO/CFO OF THE HOLDING  
COMPANY IN ACCORDANCE WITH CLAUSE 15.1(a) OF TDS**

**(To be submitted by Tenderer along with the Technical offer)**

Ref. :

Date :

To

**Dear Sirs,**

**1.0** I, Mr. .... (CEO of the Company / CFO of the Company)\* declare that M/s. .... (Name of the Holding Company) is the Holding Company of M/s. .... (Name of the Tenderer).

**2.0** I hereby confirm and undertake that the unaudited unconsolidated financial statements submitted in respect of the tenderer as part of the bid reference no. .... dated ..... have been considered for the purposes of the finalisation of Consolidated Financial Statements of the Holding Company as part of the Annual Reports.

**3.0** I further, certify that the figures in the unaudited unconsolidated financial statements are true and correct and same have been duly reflected in the audited consolidated financial statements and / or Annual Report of the Holding Company.

Yours faithfully

Date : (Name & Designation).....

Place : (Name of the Holding Company) .....

(Seal of Holding Company) .....

**Note :** \*Strike off whichever is not applicable.

**PROFORMA OF LETTER OF UNDERTAKING**

**(TO BE FURNISHED ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

**(To be executed by the Holding Company Supported by  
Board Resolution and submitted by the Tenderer along with the Technical offer,  
Applicable to the Tenderer for meeting the stipulated Financial Qualifying  
Requirement as per ITT clause 15.1(a) as modified in TDS)**

Ref. :

Date :

To

**Dear Sirs,**

1.0 We, M/s..... declare that we are the holding company of M/s ..... (Name of the Tenderer) and have controlling interest therein.

M/s. .... (Name of the Tenderer) proposes to submit the bid for the package ..... (Name of the package) for ..... (Name of the Project) under bid reference no. .... dated ..... and have sought financial strength and support from us for meeting the stipulated Financial Qualifying Requirement as per ITT clause 15.1(a) as modified in TDS.

2.0 We hereby undertake that we hereby pledge our unconditional & irrevocable financial support for the execution of the said package to M/s. .... (Name of the Tenderer), in case they are awarded the Contract for the said package, at the end of the bidding process. We further agree that this undertaking shall be without prejudice to the various liabilities that M/s ..... (Name of Tenderer) would be required to undertake in terms of the Contract including the Performance Security as well as other obligations of the Tenderer/Contractor.

- 3.0 This undertaking is irrevocable and unconditional, and shall remain in force till the successful execution and performance of the entire contract and/or till it is discharged by Employer.
- 4.0 We are herewith enclosing a copy of the Board Resolution in support of this undertaking.

Yours faithfully

(Signature of Authorised Signatory)

**Witness :**

- (1) ..... (Name & Designation).....  
(Name of the Treasury Centre).....
- (2) ..... (Seal of the Treasury Centre).....

**Date:**

**Place:**

PROFORMA OF CERTIFICATE FROM THE CEO/CFO OF THE  
COMPANY IN ACCORDANCE WITH ITT CLAUSE 15.1(a) &(b) AS MODIFIED IN TDS

(To be submitted by Tenderer along with the Technical offer)

Ref. : \_\_\_\_\_ Date :

To

Dear Sirs,

1.0 I, Mr. .... (CEO of the Company / CFO of the Company)\* confirm and undertake that the Financial results of the company for the preceding financial year to be submitted in respect of the Tenderer as part of the bid reference no. .... dated ..... are under audit as on the date of **Technical offer** Opening for "EPC Township Package for 2x660 MW Maitree STPP" and the certificate from the practicing chartered accountant certifying the financial parameters for the preceding financial year is not available.

Yours faithfully

Date : \_\_\_\_\_ (Name & Designation).....

Place : \_\_\_\_\_ (Name of the Company) .....

(Seal of Company) .....

**Note :** \*Strike off whichever is not applicable.

**EPC TOWNSHIP PACKAGE  
FOR  
2X660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**CONTRACTOR’S RESOURCE DEPLOYMENT SCHEDULE**

**A) Major Construction Equipments**

The Tenderer shall indicate the schedule of complete Site Erection equipment he proposes to deploy at the site for executing the works.

S. No	Site Erection Equipment	Condition (new, good, average, poor)	Proposed Deployment Schedule	Owned, leased or to be purchased (state owner, lessor or seller)

**B) Resource Deployment Schedule**

The Tenderer shall indicate the schedule of manpower resources he proposes to deploy at the site for executing the works.

S.No	Type of Resources	Months					
		1	2	3	4	5	6

SIGNATURE OF TENDERER \_\_\_\_\_  
 NAME \_\_\_\_\_  
 DESIGNATION \_\_\_\_\_  
 DATE \_\_\_\_\_

COMPANY SEAL

**EPC TOWNSHIP PACKAGE  
FOR  
2x660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**(Declaration of Assesses Tender Capacity)**

Dear Sirs,

1.0 We understand that Assessed Tender Capacity shall be calculated as per formula stipulated hereunder:

**Assessed Tender Capacity (BDT Million) = (A \* N \* 1.5 - B)**

A = *Maximum value of works performed in any one year during last seven years (Tk Million)*

N = *Completion time of the subject Work in years = 2.5*

B = *Value of existing commitments and works to be completed during the next N Years (2.5 Years) (Tk. Million)*

2.0 In this regard, details of (i) Value of works performed during the last 7 (Seven) years as on the date of opening of Techno-Commercial bids and (ii) details of existing commitments and works to be completed during the next 2.5 years as on the date of opening of Techno-Commercial bids, duly certified by a practicing Chartered Accountant have been enclosed as per details placed at **Annexure-I to this Attachment-2A-6**.

**Based on details as per Annexure-I to this Attachment**

**A** = Maximum value of works performed during the last 7 years as on the date of bid opening of Techno-Commercial bids = (Tk Million)

**B** = Maximum value of existing commitments and works to be completed\* during the next **30 Months**# as on the date of bid opening of Techno-Commercial bids = (Tk. Million)

\* *The same shall be based on firm Order/ Commitments in hand.*

# *Value of existing commitments and works to be completed for 30 months shall be taken from the details in Annexure-I to this Attachment.*

**3.0 Tender Capacity**

Tender Capacity as per the Formula at Para 1.0 above and details at Para 2.0 above (duly certified by a practicing Chartered Accountant as per details placed at Annexure-I to this Attachment-2A-6) works out to **(Tk. .... Million)**

We hereby confirm that:

(a)\* Assessed Tender Capacity' at the expected time of Bidding is equal to or more than BDT2110 million.

OR

(b)\* if the present commitments and works to be completed during the next 30 months are such that the Assessed Tender Capacity is less than BDT2110 million, the details of alternative arrangements to be organised by us for this purpose are also furnished and are attached as **Annexure-II to this Attachment-2A-6**. The same shall be subject to Employer's acceptance.

[\*Strike out (a) or (b) whichever is not applicable]

	<b>SIGNATURE OF TENDERER</b>	_____
	<b>NAME</b>	_____
	<b>DESIGNATION</b>	_____
<b>COMPANY SEAL</b>	<b>DATE</b>	_____

**EPC TOWNSHIP PACKAGE  
FOR  
2x660 MW MAITREE SUPER THERMAL POWER PROJECT  
BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**(Certificate by a practicing Chartered Accountant)**

To

**Dear Sirs,**

Name of the Tenderer and address: .....

We hereby certified the following details of Tenderer:

- (i) value of works performed during the last 7 (Seven) years as on the date of bid opening of Techno-Commercial bids and
- (ii) details of existing commitments and works to be completed during the next 2.5 years as on the date of bid opening of Techno-Commercial bids as under.

\* Maximum value of works performed during the last 7 years as on the date of bid opening of Techno-Commercial bids.

Sl. No.	Financial Year	Value of works performed in (Tk. Million)
	2017 - 2018	
	2016 - 2017	
	2015 - 2016	
	2014 - 2015	
	2013 - 2014	
	2012 - 2013	
	2011 - 2012	

A \* Maximum value of works performed in a Year (out of above last preceding 7 years is ..... (Tk. Million)

\* Value of existing commitments and works to be completed\* during the next 2.5 years as on the date of opening of Techno-Commercial bids.

Sl. No.	Financial Year	Value of existing commitments and works (Tk. Million)
	2018 – 2019 (from the date of Techno-Commercial Bid opening to June 2019)	
	2019 – 2020	
	2020 – 2021	
	2021 – 2022 (1st Quarter)	
	2021 – 2022 (2nd Quarter)	

\* The same shall be based on firm Order/ Commitments in hand.

**SIGNATURE OF TENDERER** \_\_\_\_\_  
**NAME** \_\_\_\_\_  
**DESIGNATION** \_\_\_\_\_  
**DATE** \_\_\_\_\_

**COMPANY SEAL**

**EPC TOWNSHIP PACKAGE**  
**FOR**  
**2X660MW MAITREE SUPER THERMAL POWER PROJECT**  
**BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**  
**PROVENNESS CRITERIA FOR TENDERER / SUB-VENDOR**  
**FOR**  
**EXTERNAL ELECTRISATION WORK**

\*We, M/s.....(Tenderer), confirm that we / our sub-vendor M/s.....have/has supplied, installed, and commissioned 11KV or above cables, 11KV or above transformers and 415V switchgears and that these equipments are in successful operation for at least two (2) years as on the date of consideration of approval, but not later than 6 (six) months after award of contract for the main package.

The details are furnished as below:

Sl. No.	Item Description	For 11KV or above Cables	For 11KV or above Transformers	For 415V Switchgears
1.0	Address, Name, position, and contact details including e-mail id of the responsible person in case of Sub-vendor			
1.1	Name of the Reference Work(s) and its location			
1.2	Name, Address and E-mail of the Owner of the Reference Work(s)			
1.3	Name and designation of the responsible person at the Reference Work(s)			
1.4	Purchase Order / Contract No. / LOA No. and date			
1.5	Actual Date of commencement of work			
1.6	Scheduled date of Completion of Work			
1.7	No. of year of successful operation reckoned as on the date of Techno-commercial bid opening			

Sl. No.	Item Description	For 11KV or above Cables	For 11KV or above Transformers	For 415V Switchgears
1.8	Whether the scope of work included a) Supplied b) Installed c) Commissioned	YES*/NO* YES*/NO* YES*/NO*	YES*/NO* YES*/NO* YES*/NO*	YES*/NO* YES*/NO* YES*/NO*
1.9	Documentary evidence in support of Sl. No. 1.4 to 1.8 enclosed	YES*/NO*	YES*/NO*	YES*/NO*

**SIGNATURE OF TENDERER**

\_\_\_\_\_

**NAME**

\_\_\_\_\_

**DESIGNATION**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

**COMPANY SEAL**

**EPC TOWNSHIP PACKAGE**  
**FOR**  
**2X660MW MAITREE SUPER THERMAL POWER PROJECT**  
**BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**PROVENNESS CRITERIA FOR TENDERER / SUB-VENDOR**  
**FOR**  
**ELEVATORS**

\*We, M/s.....(Tenderer), confirm that we / our sub-vendor M/s.....have/has supplied, erected, and commissioned lifts in at least one (1) no. "high rise building(s)" (15.0 m or above in height), and lifts are in successful operation for minimum period of one (1) year as on the date of consideration of approval, but not later than 6 (six) months after award of contract for the main package.

The details are furnished as below:

<b>Sl. No.</b>	<b>Item Description</b>	<b>Details</b>
<b>1.0</b>	Address, Name, position, and contact details including e-mail id of the responsible person in case of Sub-vendor	
1.1	Name of the Reference Work(s) and its location	
1.2	Name, Address and E-mail of the Owner of the Reference Work(s)	
1.3	Name and designation of the responsible person at the Reference Work(s)	
1.4	Purchase Order / Contract No. / LOA No. and date	
1.5	Actual Date of commencement of work	
1.6	Scheduled date of Completion of Work	
1.7	No. of year of successful operation reckoned as on the date of Techno-commercial bid opening	

<b>Sl. No.</b>	<b>Item Description</b>	<b>Details</b>
1.8	Whether the scope of work included a) Supplied b) Erected c) Commissioned	YES*/NO* YES*/NO* YES*/NO*
1.9	Documentary evidence in support of Sl. No. 1.4 to 1.8 enclosed	YES*/NO*

**SIGNATURE OF TENDERER**

\_\_\_\_\_

**NAME**

\_\_\_\_\_

**DESIGNATION**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

**COMPANY SEAL**

**EPC TOWNSHIP PACKAGE**  
**FOR**  
**2X660MW MAITREE SUPER THERMAL POWER PROJECT**  
**BIDDING DOCUMENT NO. BIFPCL/MSTPP/ EPC TOWNSHIP**

**PROVENNESS CRITERIA FOR TENDERER / SUB-VENDOR**  
**FOR**  
**FIRE FIGHTING SYSTEM**

\*We, M/s.....(Tenderer), confirm that we / our sub-vendor M/s.....have/has supplied, erected, and commissioned Fire Fighting System for at least one (1) number "high rise building(s)" (15.0 m or above in height), and that such System are successful operation for minimum period of one (1) year as on the date of consideration of approval, but not later than 6 (six) months after award of contract for the main package.

The details are furnished as below:

Sl. No.	Item Description	Details
1.0	Address, Name, position, and contact details including e-mail id of the responsible person in case of Sub-vendor	
1.1	Name of the Reference Work(s) and its location	
1.2	Name, Address and E-mail of the Owner of the Reference Work(s)	
1.3	Name and designation of the responsible person at the Reference Work(s)	
1.4	Purchase Order / Contract No. / LOA No. and date	
1.5	Actual Date of commencement of work	
1.6	Scheduled date of Completion of Work	
1.7	No. of year of successful operation reckoned as on the date of Techno-commercial bid opening	

<b>Sl. No.</b>	<b>Item Description</b>	<b>Details</b>
1.8	Whether the scope of work included  a) Supplied  b) Erected  c) Commissioned	YES*/NO*  YES*/NO*  YES*/NO*
1.9	Documentary evidence in support of Sl. No. 1.4 to 1.8 enclosed	YES*/NO*

**SIGNATURE OF TENDERER**

\_\_\_\_\_

**NAME**

\_\_\_\_\_

**DESIGNATION**

\_\_\_\_\_

**DATE**

\_\_\_\_\_

**COMPANY SEAL**

## JVCA Partner Information (Form 3)

(NOT APPLICABLE)

## Specialist Subcontractor Information (Form 4)

*[This Form should be completed by each Subcontractor, preferably on its Letter-Head Pad]*

Invitation for Tender No:

*[indicate IFT No]*

Tender Package No

*[indicate Package No]*

This Package is divided into the following Number of Lots

*[indicate number of Lot(s)]*

<b>1. Eligibility Information of the Subcontractor [ITT –Clauses 5 &amp; 19]</b>	
1.1	Nationality of Individual or country of Registration
1.2	Subcontractor's legal title
1.3	Subcontractor's registered address
1.4	Subcontractor's legal status <i>[complete the relevant box]</i>
	Proprietorship
	Partnership
	Limited Liability Concern
	Government-owned Enterprise
	Other (please describe)
1.5	Subcontractor's year of registration
1.6	Subcontractor's authorised representative details
	Name
	Address
	Telephone / Fax numbers
	e-mail address
1.7	Attach copies of the following original documents
	All documents to the extent relevant to ITT Clause 5 and 19 in support of its qualifications
The following two information are applicable for national Subcontractors	
1.8	Subcontractor's Value Added Tax Registration (VAT) Number
1.9	Subcontractor's Tax Identification Number(TIN)
<i>[The foreign Subcontractors , in accordance with ITT Clause 5, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]</i>	
<b>2. Key Activity(ies) for which it is intended to be Subcontracted [ITT Clause 19]</b>	
2.1	Elements of Activity
	Brief description of Activity
2.2	List of Similar Contracts in which the proposed Subcontractor had been engaged
	Name of Contract and Year of Execution
	Value of Contract
	Name of Employer
	Contact Person and Contact details
	Type of Work Performed

\_\_\_\_\_  
Signature and Name of Authorized Signatory of the Proposed Sub-Contractor

## Personnel Information (Form 5)

*[This Form should be completed for each person proposed by the Tenderer on Form 2 , where applicable]*

Name of the Tenderer:	<i>[insert Title]</i>
Invitation for Tender No:	<i>[indicate IFT No]</i>
Tender Package No	<i>[indicate Package No]</i>
This Package is divided into the following Number of Lots	<i>[indicate number of Lot(s)]</i>

<b>A. Proposed Position (tick the relevant box)</b>			
<input type="checkbox"/> Construction Engineer	<input type="checkbox"/> Prime Candidate	<input type="checkbox"/> Alternative Candidate	
<input type="checkbox"/> Key Personnel	<input type="checkbox"/> Prime Candidate	<input type="checkbox"/> Alternative Candidate	
<b>B. Personal Data</b>			
Name:			
Date of Birth:			
Years overall experience:			
National ID Number:			
Years of employment with the Tenderer:			
<b>Professional Qualifications:</b>			
1.			
<b>C. Present Employment <i>[to be completed only if not employed by the Tenderer]</i></b>			
Name of the Employer:			
Address of the Employer:			
Present Job Title:			
Years with the present Employer:			
Tel No:	Fax No:	e-mail address:	
Contact <i>[manager/personnel officer]</i> :			
<b>D. Professional Experience</b>			
Summarise professional experience over the last twenty (20) years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.			
	From	To	Company / Project / Position / Relevant technical and management experience.
1			

\_\_\_\_\_  
(Name and Signature of the Proposed Personnel)

## Bank Guarantee for Tender Security (Form 6)

*[This is the format for the Tender Security to be issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh in accordance with ITT Clause 35 & 36]*

Invitation for Tender No:

Date:

Tender Package No:

To:

[Name and address of the Employer]

### TENDER GUARANTEE No:

We have been informed that *[name of Tenderer]* (hereinafter called “the Tenderer”) intends to submit to you its Tender dated *[date of Tender]* (hereinafter called “the Tender”) for the execution of the Works of *[description of works]* under the above Invitation for Tenders (hereinafter called “the IFT”).

Furthermore, we understand that, according to your conditions, the Tender must be supported by a Bank Guarantee for Tender Security.

At the request of the Tenderer, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of *BDT/ USD..... [insert amount in figures and words]* and/or *BDT/ USD..... [insert amount in figures and words]* upon receipt by us of your first written demand accompanied by a written statement that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

- a. has withdrawn its Tender after opening of Tenders but within the validity of the Tender Security; or
- b. refused to accept the Notification of Award (NOA) within the period as stated under ITT; or
- c. failed to furnish Performance Security within the period stipulated in the NOA; or
- d. refused to sign the Contract Agreement by the time specified in the NOA; or
- e. did not accept the correction of the Tender price following the correction of the arithmetic errors as stated under ITT.

This guarantee will expire

- (a) if the Tenderer is the successful Tenderer, upon our receipt of a copy of the Contract Agreement signed by the Tenderer or a copy of the Performance Security issued to you in accordance with the ITT;  
or
- (b) if the Tenderer is not the successful Tenderer, twenty eight (28) days after the expiration of the Tenderer’s Tender validity period, being *[date of expiration of the Tender validity plus twenty eight (28) days]*.

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Name and Signature

Name and Signature

## Notification of Award (Form 7)

Contract No:  
To:

Date:

*[Name of Contractor]*

This is to notify you that your Tender dated *[insert date]* for the execution of the Works for *[name of project/Contract]* for the Contract Price of *BDT/ USD..... [insert amount in figures and words]* and *BDT/ USD ..... [insert amount in figures and in words]*, as corrected and modified in accordance with the Instructions to Tenderers, has been approved by *[name of Employer]*.

You are thus requested to take following actions:

- i. accept in writing the Notification of Award within seven (7) working days of its issuance pursuant to ITT Sub Clause 68.3
- ii. furnish a Performance Security in the form of a Bank Guarantee as specified and in the amount of *BDT/ USD..... [insert amount in figures and words]* and *BDT/ USD..... [insert amount in figures and words]*, within twenty eight (28) days of issuance of this Notification of Award but not later than *(specify date)*, in accordance with ITT Clause 69.2.
- iii. sign the Contract within twenty eight (28) days of issuance of this Notification of Award but not later than *(specify date)*, in accordance with ITT Sub Clause 73.2.

You may proceed with the execution of the Works only upon completion of the above tasks. You may also please note that this Notification of Award shall constitute the formation of this Contract which shall become binding upon you.

We attach the draft Contract and all other documents for your perusal and signature.

Signed

Duly authorised to sign for and on behalf of  
*[name of Employer]*

Date:

## Contract Agreement (Form 8)

THIS AGREEMENT made on this *[day]* day of *[month]* *[year]* between *[name and address of Employer]* (hereinafter called “the Employer”) of the one part and *[name and address of Contractor]* (hereinafter called “the Contractor”) of the other part:

WHEREAS the Procuring Entity invited Tenders for certain works named *[brief description of works]* and has accepted the Tender submitted by the Tenderer for the execution of those works in the sum of *BDT/ USD..... [insert amount]* **and/or** *BDT/ USD..... [insert amount]* *[Contract price in figures and in words]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions of Contract hereafter referred to.
2. The documents forming the Contract shall be interpreted in the following order of priority:
  - (a) the signed Contract Agreement
  - (b) the Notification of Award
  - (c) the completed Tender and the appendices to the Tender
  - (d) the Particular Conditions of Contract
  - (e) the General Conditions of Contract
  - (f) the Technical Specifications
  - (g) the General Specifications
  - (h) the Drawings
  - (i) the priced Bill of Quantities and the Schedules
  - (j) any other document listed in the PCC forming part of the Contract.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the works and to remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Bangladesh on the day, month and year first written above.

For the Procuring Entity

For the Contractor

Signature

Name

National ID No.

Title

In the presence

of

Name

Address

## Bank Guarantee for Performance Security (Form 9)

*[This is the format for the Performance Security to be issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh in accordance with ITT Clause 69, 70 & 71]*

Contract No: [insert reference number]

Date: [insert date]

To:

[ insert Name and address of Procuring Entity]

### PERFORMANCE GUARANTEE No:

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[insert reference number of Contract]* dated *[insert date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your conditions, the Contract must be supported by a Bank Guarantee for Performance Security.

At the request of the Contractor, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of *BDT/ USD.....* and/or *BDT/ USD.....* *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Name and Signature

Name and Signature

## Bank Guarantee for Advance Payment (Form 10)

*[This is the format for the Advance Payment Guarantee to be issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh in accordance with GCC Clause 78]*

Contract No: [insert reference number]

Date: [insert date]

To:

[insert Name and address of the Procuring Entity ]

### ADVANCE PAYMENT GUARANTEE No:

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[insert reference number of Contract]* dated *[insert date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your Conditions of Contract under GCC Clause 78, the Advance Payment on Contract must be supported by a Bank Guarantee.

At the request of the Contractor, we *[insert name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of *BDT/ USD..... and/or BDT/ USD..... [insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

We further agree that no change, addition or other modification of the terms of the Contract to be performed, or of any of the Contract documents which may be made between the Employer and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee is valid until *[insert date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Name and Signature

Name and Signature

## Bank Guarantee for Retention Money Security (Form 11)

*[This is the format for the Retention Money Guarantee to be issued by an internationally reputable Bank which has a correspondent Bank located in Bangladesh in accordance with GCC Sub Clause 75.3]*

### Demand Guarantee

[Bank's Name, and Address of Issuing Branch or Office]

**Beneficiary:** [insert Name and Address of the Procuring Entity]

**Date:** [insert date]

**RETENTION MONEY GUARANTEE No.:** [insert number]

We have been informed that [insert name of Contractor] (hereinafter called "the Contractor") has entered into Contract Number [insert reference number of the Contract] dated [insert date] with you, for the execution of [insert name of Contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment, payment of [insert the amount of the second half of the Retention Money] which becomes due after the Defects Liability Period has passed and certified in the form of Defects Correction Certificate, is to be made against a Retention Money Guarantee.

At the request of the Contractor, we [insert name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *BDT/ USD.....* and/or *BDT/ USD.....* [insert amount in figures and words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor failed to properly correct the defects duly notified in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the payment of the second half of the Retention Money referred to above must have been received by the Contractor on its account number [insert A/C no] at [name and address of Bank].

This guarantee is valid until [insert the date of validity of Guarantee that being twenty eight (28) days beyond the Defects Liability Period]. Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Name and Signature

Name and Signature

**PROFORMA FOR BANK GUARANTEE  
TO BE FURNISHED BY THE EXECUTANT OF DEED  
JOINT UNDERTAKING OTHER THAN CONTRACTOR**

(To be stamped in accordance with the Stamp Act,  
if any, of the Country of the issuing Bank)

Bank Guarantee No.....

Date .....

In consideration of ....., (hereinafter referred to as “Employer” which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to ..... with its Registered Head Office at..... (herein-after referred to as “Contractor”) a Contract for ..... Package for its ..... (Name of Project) ..... vide Contract No. .... dated ..... and the same having been unequivocally accepted by the Contractor resulting in a “Contract”, which award is on the strength of Deed of Joint Undertaking dated ..... (hereinafter referred to as “Undertaking”) given by M/s..... \* ..... (Contractor) and by ..... [Associate or Architect And Engineering Firm (AEF)] having its registered office at ..... [hereinafter called Associate or Architect And Engineering Firm (AEF)], and ..... [Associate or Architect And Engineering Firm (AEF)] having agreed to provide a Performance Guarantee amounting to..... to the Employer on the terms and conditions specified in the “Undertaking”.

We..... Bank, having its Head Office at..... (hereinafter referred to as the “Bank”, which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay to the Employer on demand any and all monies to the extent of .....(Specify currency and amount in words and figures) only as aforesaid at any time upto.....@.....without any demur, reservation, context, recourse or protest and/or without any references to “Contractor”. Any such demand made by the Employer on the Bank shall be conclusive and binding, notwithstanding any difference between the Employer and Contractor and/or between the Employer and Contractor. The Bank undertakes not to revoke this Guarantee during its currency without previous consent of the Employer and further agrees that the Guarantee herein contained shall be enforceable till ninety (90) days after expiry of its validity.

\* Brief name of the Contractor.

The Employer shall have the fullest liberty, without affecting in any way the liability of the Bank under this Guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty, without affecting this Guarantee, to postpone from time to time the exercise of any powers

vested in them or of any right which they might have against the Contractor and to exercise the same at any time, in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract or Undertaking or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision have the effect of relieving the Bank from its obligations. The Bank also agrees that the Employer at is option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against Contractor or "Architect And Engineering Firm (AEF)" and notwithstanding any security or other guarantee that the Employer may have in relation to Contractor's or "Architect And Engineering Firm (AEF)" liabilities.

Notwithstanding anything contained hereinabove our liability under this Guarantee is restricted

to ..... and, it shall remain in force upto and including .....  
 @ ..... and shall be extended from time to time for such period  
 (not exceeding one year), as may be desired by M/s ..... (Associate or  
 Architect And Engineering Firm (AEF)) on whose behalf this guarantee has been given.

Date ..... this.....day  
 of.....20.....at.....

**WITNESS**

(Signature)..... (Signature).....  
 (Name)..... (Name & Designation).....  
 (Official Address)..... (Bank's Seal).....  
 Authorised vide Power of  
 Attorney No.....  
 Date.....

**Notes :**

- 1.@ The date shall be as specified in the corresponding format for the Deed of Joint Undertaking enclosed as Appendix-1 to Attachment-2A-2 of Form 2 under Section-5.
2. The Bank Guarantee shall be from a Bank as per provisions of Section-4 (PCC) of the Bidding Documents.
3. The stamp papers of appropriate value shall be purchased in the name of the Guarantee issuing Bank.

## **Section 6. Bill of Quantities**

The tenderer, in Financial Offer (Form 1b), shall quote the lumpsum price inclusive of all; considering the detailed Scope of work and the Terms & Condition mentioned in the Tender Documents.



**BANGLADESH-INDIA FRIENDSHIP POWER COMPANY (PVT.) LIMITED**  
**(A JOINT VENTURE OF BPDB & NTPC LTD.)**  
**Registered Office: Borak Unique Heights(Level-17), 117, Kazi Nazrul Islam Avenue,**  
**Dhaka-1217, Bangladesh**

<b>INVITATION FOR TENDERS (DETAILED)</b>		
1	Agency	Bangladesh-India Friendship Power Company (Pvt.) Limited (BIFPCL)
2	Procuring Entity Name	Managing Director, BIFPCL, Dhaka
3	Procuring Entity Code	Not Applicable.
4	Procuring Entity District	Dhaka
5	Invitation for	EPC Township Package for 2x660 MW Maitree Super Thermal Power Project at Rampal, District- Bagerhat, Bangladesh
6	Invitation Ref No	BIFPCL/MSTPP/EPC TOWNSHIP/2018
7	Date	07.08.2018
<b>KEY INFORMATION</b>		
8	Procurement Method	International Competitive Bidding
<b>FUNDING INFORMATION</b>		
9	Source of Funds	Own resources
10	Development Partners (if applicable)	Not Applicable.
<b>PARTICULAR INFORMATION</b>		
11	Project Code (if applicable)	Not Applicable.
12	Project Name	2x660 MW Maitree Super Thermal Power Project at Rampal, District- Bagerhat, Bangladesh
13	Tender Package No.	BIFPCL/MSTPP/EPC TOWNSHIP
14	Tender Package Name	EPC Township Package for 2x660 MW Maitree Super Thermal Power Project at Rampal, District- Bagerhat, Bangladesh
15	Tender Publication Date	07.08.2018
16	Tender Document Last Selling Date & Time	10.09.2018 till 1300Hrs(BST)
17	Tender Closing Date and Time	11.09.2018 at 1100 Hrs(BST)
18	Tender Opening Date and Time	11.09.2018 at 1130 Hrs(BST)
19	Name & Address of the office(s)	
	- <i>Selling Tender Document (Principal)</i>	Office of the Chief Procurement Officer, BIFPCL, Borak Unique Heights (Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh
	- <i>Selling Tender Document (Others)</i>	Not applicable
	- <i>Tender Document uploaded at</i>	www.bifpcl.com  For reference purpose, the Tender Document may be downloaded from the above mentioned website free of cost. However, the prospective tenderers are required to purchase one set of Tender Document for tendering purpose prior to Tender Document Last Selling date & Time.
<b>NO CONDITIONS APPLY FOR SALE , PURCHASE OR DISTRIBUTION OF TENDER DOCUMENTS</b>		
	- <i>Receiving Tender Document</i>	Office of the Chief Procurement Officer, BIFPCL, Borak Unique Heights(Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh

	- Opening Tender Document			Office of the Chief Procurement Officer, BIFPCL, Borak Unique Heights(Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh	
20	Place / Date / Time of Pre-Tender Meeting			Place: BIFPCL Borak Unique Heights(Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh Date: 30.08.2018, Time: 1100Hrs(BST)	
21	<b>Eligibility of Tenderer</b>			<b>As per the Tender Document</b>	
22	<b>Brief Description of Works</b>			Design, Engineering, Manufacturing, Shop Testing, Procurement, Supply, Transportation to Site (location of use), Handling, Storage, Insurance, taking any permit/approval required, construction, erection, testing, commissioning, performance testing, Training employer's personnel and completion of entire Township works including associated works, all civil, mechanical, electrical, instrumentation works for the entire Township and associated facilities like Electrical Sub-station as described in the Tender Document and complete in all respects for successful use of Township.	
23	<b>Brief Description of Physical Services</b>			Not applicable	
24	<b>Price of Tender Document</b>			BDT 20000 (BDT Twenty Thousand only) or USD 240(US Dollar two hundred forty only) in the form of Pay-Order (Non Refundable from any Scheduled Bank in Favour of Bangladesh-India Friendship Power Company (Pvt.) Limited.	
	Lot No	Identification of Lot	Location	Tender Security Amount	Completion Time in Months
25	Not Applicable	Not Applicable	2x660 MW Maitree Super Thermal Power Project at Rampal, District-Bagerhat, Bangladesh	BDT 46.6 million (BDT forty six million six hundred thousand only) or USD 554,800(US Dollar five hundred fifty four thousand and eight hundred only)	30 (Thirty) Months from the date of Notification of Award.
<b>EMPLOYER DETAILS</b>					
26	Validity of Tender			180 days from the date of Tender opening.	
27	Designation of Official Inviting Tender			Chief Procurement Officer, BIFPCL	
28	Address of Official Inviting Tender			Borak Unique Heights (Level-17), 117, Kazi Nazrul Islam Avenue, Dhaka-1217, Bangladesh	
29	Contact details of Official Inviting Tender			Tel: +8802-58314264, +88-01678582805, E mail: cpo@bifpcl.com/ township@bifpcl.com	
30	The Procuring Entity reserves the right to reject all the Tenders or annul the Tender proceedings				

Md. Mofijul Islam  
Chief Procurement Officer(CPO),  
BIFPCL