

VOLUME III

THE CONTRACT

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CONTRACT FOR PROVISION OF SERVICES
[Insert: Furnishing of Interior, Wood & Civil Works at Jambagh, Hyderabad]

Between

Aarogyasri Health Care Trust

And

[insert: name of the Supplier(s)]

Dated: _____

CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT is made
the *[insert: ordinal]* day of *[insert: month], [insert: year]*.

BETWEEN

- (1) *[insert: Name of Purchaser]*, a *[insert: name of Purchaser]* of the Government of *Andhra Pradesh*, and having its principal place of business at *[insert: address of Purchaser]* (hereinafter called “the Purchaser”), and
- (2) *[insert: name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at *[insert: address of Supplier]* (hereinafter called “the Supplier”).

WHEREAS

(A)The Trust vide its Bid Notification No. _____ invited Competitive Bids for providing services of Interior, Wood & Civil Works of Aarogyasri Health Care Trust Office at Jambagh, Hyderabad through competitive bidding in Andhra Pradesh;

(B)The Supplier submitted their Competitive Bid for the aforesaid work, whereby the Supplier represented to the Trust that they had the required professional skills, and in the said Bid the Supplier also agreed to implement and provide the Services to the Trust on the terms and conditions as set forth in the Bidding Document and this Agreement(“the Scheme”); and

NOW IT IS HEREBY AGREED as follows:

Article 1. Contract Documents

1.1 Contract Documents (Reference GCC Clause 1.1 (a) (iii))

The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:

The documents forming the Contract shall be interpreted in the following order of priority:

- (a) Agreement,
- (b) Letter of Acceptance,
- (c) Supplier's Bid,
- (d) General Conditions of Contract,
- (e) Special Conditions of Contract,
- (f) Specifications,
- (g) Drawings,
- (h) Bill of Quantities and
- (i) any other document **listed in the SCC** as forming part of the Contract.

1.2 Order of Precedence

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents).

1.3 Definitions (Reference GCC Clause 1)

Capitalized words and phrases used in this Contract Agreement shall have the same meanings as are ascribed to them in the General Conditions of Contract.

Article 2. Contract Price and Payment Terms

2.1 Contract Price (Reference GCC Clause 1.1(a)(xiv) and GCC Clause "Price")

The Purchaser hereby agrees to pay to the Supplier the Contract Price in consideration of the performance by the Supplier of its obligations under the Contract. The Contract Price shall be *[insert: amount in words],[insert: amount in figures]*, as specified in the Price Schedule.

The Contract Price shall be understood to reflect the terms and conditions used in the specification of prices in the detailed price schedules, including the taxes, duties and related levies if and as identified.

Article 3. Effective Date

3.1 Effective Date (Reference GCC Clause 1.1 (e) (vi))

The time allowed for delivery of the Service shall be determined from the date when all of the following conditions have been fulfilled:

- (a) This Contract Agreement has been duly executed for and on behalf of the Purchaser and the Supplier;
- (b) The Supplier has submitted to the Purchaser the performance security, in accordance with GCC Clause 18.1;
- (c) The Purchaser has paid the Supplier the advance payment, in accordance with GCC Clause 16.4;
- (d) *[specify here: any other conditions, for example, opening/confirmation of letter of credit].*

Each party shall use its best efforts to fulfil the above conditions for which it is responsible as soon as practicable.

- 3.2** If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract Agreement because of reasons not attributable to the Supplier, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time and/or other relevant conditions of the Contract.

Article 4. Appendixes

- 4.1** The Appendixes listed below shall be deemed to form an integral part of this Contract Agreement.
- 4.2** Reference in the Contract to any Appendix shall mean the Appendixes listed below and attached to this Contract Agreement, and the Contract shall be read and construed accordingly.

APPENDIXES

Appendix 1 Specifications, Drawings & Bill of Quantities

Appendix 2 Performance Security Form (Bank Guarantee)

Appendix 3 Suppliers Bid

IN WITNESS WHEREOF the Purchaser and the Supplier have caused this Agreement to be duly executed by their authorized representatives the day and year first above written.
For and on behalf of the Purchaser

Signed:
in the capacity of [*insert: title or other appropriate designation*]

in the presence of

For and on behalf of the Supplier

Signed:
in the capacity of [*insert: title or other appropriate designation*]

in the presence of

CONTRACT AGREEMENT

dated the [*insert: number*] day of [*insert: month*], [*insert: year*]

BETWEEN

[*insert: name of Purchaser*], “the Purchaser”

and

[*insert: name of Supplier*], “the Supplier”

GENERAL CONDITIONS OF CONTRACT

A. GENERAL PROVISIONS AND INTERPRETATION

Clause No. 1

Clause Heading Definitions

Sub Clause No.

.1 In this Contract, the following terms shall be interpreted as indicated below.

(a) General Definitions

(i) “Applicable Law” means the laws and other instruments having the force of law in India.

(ii) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.

(iii) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.

(iv) “Contract Agreement” means the agreement entered into between the Purchaser and the Supplier using the form of Contract Agreement contained in the Sample Forms Section of the Bidding Documents and any modifications to this form agreed to by the Purchaser and the Supplier. The date of the Contract Agreement shall be recorded in the signed form.

(v) “GCC” means the General Conditions of Contract.

(vi) “SCC” means the Special Conditions of Contract.

(vii) The Completion Date is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 23.5

(viii) The Contract is the Contract between the Purchaser and the Supplier to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.1 below.

(i) (ix) The Supplier is the party whose Bid to carry out the Works has been accepted by the Purchaser.

(x) “Bidding Documents” refers to the collection of documents issued by the Purchaser to instruct and inform potential Suppliers of the processes for bidding, selection of the winning bid, and Contract formation, as well as the contractual conditions governing the relationship between the Purchaser and the Supplier. The General and

Special Conditions of Contract, the Requirements, and all other documents included in the Bidding Documents reflecting the Procurement Guidelines that the Purchaser is obligated to follow during procurement and administration of this Contract.

(xi) “Government” means the Government of Andhra Pradesh or the Government of India.

(xii) The Accepted Contract Amount means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.

(xiii) The Supplier’s Bid is the completed bidding document submitted by the Supplier to the Purchaser.

(xiv) The Contract Price is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.

(xv) “In writing” or written” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; (xvi) The Initial Contract Price is the Contract Price listed in the Purchaser’s Letter of Acceptance.

(xvi) “Implementation Schedule” means the Implementation Schedule Sub-section of the Requirements Section.

(b) Entities

(i) The Purchaser is the party who employs the Supplier to carry out the Works, **as specified in the SCC.**

(ii) The Project Manager is the person **named in the SCC** (or any other competent person appointed by the Purchaser and notified to the Supplier, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.

(iii) A Sub-Contractor is a person or corporate body who has a Contract with the Supplier to carry out a part of the work in the Contract, which includes work on the Site.

(iv) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.

(v) “Supplier’s Representative” means any person nominated by the Supplier and named as such in the **SCC** or otherwise approved by the Purchaser in the manner provided in GCC Clause 3.3 (Supplier’s Representative) to perform the duties delegated by the Supplier.

(vi) “Sub-Contractor” means any natural person, private or government entity, or a combination of the above, to which any part of the Goods to be supplied or execution of any part of the Related Services is

subcontracted by the Supplier.

(vii)“Third Party” means any person or entity other than the Government, the Trust, the Suppliers or a Sub-Contractor.

(viii)“Trust” means Aarogyasri Health Care Trust of Government of Andhra Pradesh.

(c) Scope

(i)“Confidential Information” means all information (whether in written, oral, electronic or other format) that have been identified or marked confidential at the time of disclosure including Project Data which relates to the technical, financial and business affairs, customers, Suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party whether a Party to this Agreement or to the Project Agreement in the course of or in connection with this Agreement (including without limitation such information received during negotiations, location visits and meetings in connection with this Agreement or to the Project Agreement).

(ii)“Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.

(iii)“Proprietary Information” means processes, methodologies and technical, financial and business information, including drawings, design prototypes, designs, formulae, flow charts, data, computer database and computer programs already owned by, or granted by third Parties to a Party hereto prior to its being made available under this Agreement, Project Agreement or a Project Engagement Definition

(iv)“Services” means all technical, logistical, management, and any other Services to be provided by the Supplier under the Contract. Such Services may include, but are not restricted to, activity management and quality assurance, design, development, study, documentation, transportation, insurance, testing, validation, expediting, site preparation, installation, integration, training, data migration, maintenance, operations and technical support.

(v)“Software” is a collection of [computer programs](#) and related [data](#) that provide the instructions for telling a [computer](#) what to do and how to do it.

(vi)“Intellectual Property Rights” means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in

any form, directly or indirectly, or to authorize or assign others to do so.

(vii) "Supplier's Equipment" means all equipment, tools, apparatus, or things of every kind required in or for the services that are to be provided by the Supplier.

(viii) The Activity Schedule is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.

(ix) Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.

(x) Compensation Events are those defined in GCC Clause 17.3 hereunder

(xi) Dayworks are varied work inputs subject to payment on a time basis for the Supplier's employees and Equipment, in addition to payments for associated Materials and Plant.

(xii) A Defect is any part of the Works not completed in accordance with the Contract.

(xiii) The Defects Liability Certificate is the certificate issued by Project Manager upon correction of defects by the Supplier.

(xiv) The Defects Liability Period is the period **named in the SCC** and calculated from the Completion Date.

(xv) Drawings means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Purchaser in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

(xvi) Equipment is the Supplier's machinery and vehicles brought temporarily to the Site to construct the Works.

(xvii) Materials are all supplies, including consumables, used by the Supplier for incorporation in the Works.

(xviii) Plant is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.

(xix) The Site is the area **defined as such in the SCC**.

(xx) Site Investigation Reports are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

(xxi) Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.

(xxii) Temporary Works are works designed, constructed, installed, and

removed by the Supplier that are needed for construction or installation of the Works.

(xxiii) A Variation is an instruction given by the Project Manager which varies the Works.

(xxiv) The Works are what the Contract requires the Supplier to construct, install, and turn over to the Purchaser.

(xxv) "The Project Plan" means the program submitted to the Project Manager by the Supplier and approved by the Purchaser, pursuant to GCC Clause 22, based on the requirements of the Contract.

(d) Activities

(i) "Delivery" means the transfer of the Goods or Services from the Supplier to the Purchaser specified in the Contract.

(ii) "Personnel" means persons hired by the Supplier or by any Sub-Contractor as employees and assigned to the performance of the Services or any part thereof;

(e) Place and Time

(i) "Day" means calendar day of the English Calendar.

(ii) "Week" means seven (7) consecutive Days, beginning Monday.

(iii) "Month" means calendar month of the English Calendar.

(iv) "Year" means twelve (12) consecutive Months.

(v) "Effective Date" means the date on which this Contract comes into force and effect.

(vi) "Contract Period" is the time period during which this Contract governs the relations and obligations of the Purchaser and Supplier in relation to the Work, as **specified in the SCC**.

(vii) "The Coverage Period" means the Days of the Week and the hours of those Days during which maintenance, operational, and/or technical support services (if any) must be available.

(viii) The Start Date is **given in the SCC**. It is the latest date when the Supplier shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

(ix) The Intended Completion Date is the date on which it is intended that the Supplier shall complete the Works. The Intended Completion Date is specified in the **SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

Clause No.	2
Clause Heading	Interpretation
Sub-Clause No.	
.1	<p>Contract Documents: Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts of these documents) are intended to be correlative, complementary, and mutually explanatory. The Contract shall be read as a whole.</p>
.2	<p>Governing Law: The Contract shall be governed by and interpreted in accordance with the laws specified in 1.1 (a) (i).</p>
.3	<p>Governing Language:The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the SCC. 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 the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.</p> <p>The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.</p>
.4	<p>Relation between the parties: Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Purchaser and the Supplier. The Supplier, subject to this contract, has complete charge of personnel and Sub-Contractors, if any performing the services and shall be fully responsible for the Service performed by them or on their behalf hereunder.</p>
.5	<p>Singular and Plural: The singular shall include the plural and the plural the singular, except where the context otherwise requires.</p>
.6	<p>Headings: The headings and marginal notes in the GCC are included for ease of reference and shall neither constitute a part of the Contract nor affect its interpretation.</p>
.7	<p>Persons: Words importing persons or parties shall include firms, corporations, and government entities.</p>
.8	<p>Entire Agreement:The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.</p>

- .9 Amendment:** In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- .10 Independent Supplier:** The Supplier shall be an independent Supplier performing the Contract. The Contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the Contract. Subject to the provisions of the Contract, the Supplier shall be solely responsible for the manner in which the Contract is performed. All employees, representatives, or Sub-Contractors engaged by the Supplier in connection with the performance of the Contract shall be under the complete control of the Supplier and shall not be deemed to be employees of the Purchaser, and nothing contained in the Contract or in any subcontract awarded by the Supplier shall be construed to create any contractual relationship between any such employees, representatives, or Sub-Contractors and the Purchaser.
- .11 Joint Venture:** The Supplier may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Purchaser in writing. Subcontracting shall not alter the Supplier's obligations.
- .12 Location:** The service shall be performed at such locations as are specified in this contract and, where the location of a particular task is not so specified, at such locations, as the Purchaser may approve.
- .13 Non waiver:**
- (a) Subject to GCC Sub-Clause 4.4(b) below, 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.

.14 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.

.15 Fairness And Good Faith

(a) Good Faith

The parties undertake to act in good faith with respect to each other's rights under this contract and to adopt all reasonable measures to ensure the realization of the objectives of this contract.

(a) Operation of the Contract

The parties recognize that it is impractical in this contract to provide for every contingency which may arise during the life of the contract, and the parties hereby agree that it is their intention that this contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this contract either party believes that this contract is operating unfairly, the parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this clause shall give rise to a dispute subject to arbitration in accordance with "Dispute Settlement" clause GCC hereof.

.16 If sectional completion **is specified in the SCC**, 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).

.17 Other Suppliers:

The Supplier shall cooperate and share the Site with other Suppliers, public authorities, utilities, and the Purchaser between the dates given in the Schedule of Other Suppliers, as **referred to in the SCC**. The Supplier shall also provide facilities and services for them as described in the Schedule. The Purchaser may modify the Schedule of Other Suppliers, and shall notify the Supplier of any such modification.

Clause No. 3

Clause Heading **Representatives**

Sub-Clause No.

.1 **(a)Authorized Representatives:** Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Purchaser or the Supplier may be taken or executed by the persons specified at 1.1(b)(iv) and 1.1(b)(vi) Clauses **SCC** to **GCC**.

.2 **Project Manager**

If the Project Manager is not named in the Contract, then within fourteen (14) days from the Effective Date, the Purchaser shall appoint and notify the Supplier in writing of the name of the Project Manager. The Purchaser may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the Supplier without delay. Subject to the extensions and/or limitations **specified in the SCC** (if any), the Project Manager shall have the authority to represent the Purchaser on all day-to-day matters relating to the Contract, and shall normally be the person giving or receiving notices on behalf of the Purchaser pursuant to “Notices” Clause **GCC**.

.3 **Supplier’s Personnel & Equipment:**

The Supplier shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.

.4 **Objections and Removals:**

(a) If the Project Manager asks the Supplier to remove a person who is a member of the Supplier’s staff or work force, stating the reasons, the Supplier shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

(b) If any representative or person employed by the Supplier is removed in accordance with sub-clause .4 (a) of this clause **GCC**, the Supplier shall, where required, promptly appoint a replacement.

Clause No. **4**

Clause Heading **Notices**

Sub-Clause No.

- .1** Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing and shall be sent, pursuant to Sub-Clause .3 of this Clause **GCC** below, by personal delivery, registered post, special courier, cable, telegraph, telex, facsimile, electronic mail, or Electronic Data Interchange (EDI), with the following provisions.
- a) Any notice sent by cable, telegraph, telex, facsimile, electronic mail, or EDI shall be confirmed within two (2) days after dispatch by notice sent by registered post or special courier, except as otherwise specified in the Contract.
 - b) Any notice sent by registered post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped, and conveyed to the postal authorities or courier service for transmission by mail or special courier.
 - c) Any notice delivered personally or sent by cable, telegraph, telex, facsimile, electronic mail, or EDI shall be deemed to have been delivered on the date of its dispatch.
 - d) Either party may change its postal, cable, telex, facsimile, electronic mail, or EDI addresses for receipt of such notices by ten (10) days' notice to the other party in writing.
- .2** Notices shall be deemed to include any approvals, consents, instructions, orders, certificates, information and other communication to be given under the Contract.
- .3** Pursuant to "Representatives" Clause **GCC**, notices from/to the Purchaser are normally given by, or addressed to, the Project Manager, while notices from/to the Supplier are normally given by, or addressed to, the Supplier's Representative, or in its absence its deputy if any. If there is no appointed Project Manager or Supplier's Representative (or deputy), or if their related authority is limited by the sub-clause 3.2 or 3.3 of "Representatives" Clause of **SCC** for **GCC**, or for any other reason, the Purchaser or Supplier may give and receive notices at their fallback addresses. The address of the Project Manager and the fallback address of the Purchaser are as **specified in the SCC** or as subsequently established/amended. The address of the Supplier's Representative and the fallback address of the Supplier are as specified in **SCC** of the Contract Agreement or as subsequently established/amended.
- .4** The term "in writing" means communicated in written form with proof of receipt.

A notice shall be effective when delivered or on the notice's effective date, whichever is later.

Clause No 5

Clause Heading **Dispute Settlement**

Sub-Clause No.

.1 **Dispute and Mutual Consultation:** If any dispute of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the contract (whether during the progress of implementation or after its completion and whether before or after the termination, abandonment, or breach of the Contract), the parties shall seek to resolve any such dispute by mutual consultation. If the parties fail to resolve such a dispute by mutual consultation within twenty-eight (28) days after one party has notified the other in writing of the dispute, then upon expiry of notice, either party may proceed to the notification of arbitration pursuant to Sub-Clause .1 of this Clause **GCC**.

.2 **Arbitration:**

(b) The Purchaser and the Supplier 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.

If the mutual consultation pursuant to Sub-clause .1 of this clause **GCC** expires without resolution of the dispute and the Purchaser or the Supplier acts within the following twenty eight (28) days, then either the Purchaser or the Supplier aggrieved by the outcome of such dispute may act to give notice to the other party, of its intention to commence arbitration, as provided below, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. The notice must be precise and unambiguous and shall apprise the opposite party determinatively the case he has to meet.

(b)Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with Sub-clause .2(a) of this clause **GCC**, shall be finally settled by arbitration. Arbitration may be commenced prior to or after the termination of contract.

(c) Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.

.3 Notwithstanding any reference to arbitration in this clause,
(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree;
(b) the Purchaser shall pay the Supplier any monies due to the Supplier.

Clause No

6

Clause Heading

Copyright, Confidential Information and Ownership

Sub-Clause No.

.1

Copyright: As applicable, the Purchaser's and Supplier's rights and obligations with respect to the designs, methodologies, algorithms, surveys, data, analysis, results and reports among other things in the deliverables, are specified in the **SCC**. **Subject to the SCC**, the Intellectual Property Rights in all the designs, methodologies, data, analysis, results and reports among other things in the deliverables of the Contract Agreement shall, at the date of this Contract or on creation of the rights (if later than the date of this Contract), vest in the Purchaser. The Supplier shall do and execute or arrange for the doing and executing of each necessary act, document, and thing that the Purchaser may consider necessary or desirable to perfect the right, title, and interest of the Purchaser in and to those rights. In respect of such deliverable, the Supplier shall ensure that the holder of a moral right in such an item does not assert it, and the Supplier shall, if requested to do so by the Purchaser and where permitted by applicable law, ensure that the holder of such a moral right waives it.

.2

Confidential Information

The Purchaser and the Supplier 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 Supplier may furnish to its Sub-Contractor such documents, data, and other information it receives from the Purchaser to the extent required for the Sub-Contractor to perform its work under the Contract, in which event the Supplier shall obtain from such Sub-Contractor an undertaking of confidentiality similar to that imposed on the Supplier

The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.

The obligation of a party above, however, shall not apply to information that:

- (a) The Purchaser or Supplier need to share with the Bank or other institutions participating in the financing of the Contract;
- (b) Now or hereafter enters the public domain through no fault of that party;
- (c) 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
- (d) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

The above provisions 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 Supply or any part thereof.

The provisions shall survive completion or termination, for whatever reason, of the Contract.

.3

For the purposes of sub-clause .2 of this clause **GCC**, the Supplier is also deemed to be the Receiving Party of Confidential Information generated by the Supplier itself in the course of the performance of its obligations under the Contract and relating to the businesses, services, finances, Suppliers, employees, or other contacts of the Purchaser or the Purchaser's use of the deliverables.

- .4** Notwithstanding sub-clauses .2 and .3 of this clause **GCC** the Supplier may furnish to its Sub-Contractor Confidential Information of the Purchaser to the extent reasonably required for the Sub-Contractor to perform its work under the Contract, in which event the Receiving Party shall ensure that the person to whom it furnishes Confidential Information of the Disclosing Party is aware of and abides by the Receiving Party's obligations under this **GCC** Clause as if that person were party to the Contract in place of the Receiving Party.
- .5** The Supplier shall not, without the Purchaser's prior written consent, use any Confidential Information received from the Purchaser for any purpose other than those that are required for the performance of the Contract.
- .6** The obligation of the Receiving Party under sub-clauses .2 through .5 of this clause **GCC**, however, shall not apply to that information which:
- (a) now or hereafter enters the public domain through no fault of the Receiving Party;
 - (b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;
 - (c) Otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality.
- .7** The above provisions of this **GCC** Clause shall not in any way modify any undertaking of confidentiality given by the Supplier prior to the date of the Contract in respect of the System or any part thereof.
- .8** The provisions of this **GCC** Clause shall survive the termination, for whatever reason, of the Contract for three (3) years or such longer period as may be specified in the **SCC**.

.9

Ownership: The ownership of the deliverables and other Services or Goods shall be transferred to the Purchaser at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract Agreement.

Ownership and the terms of usage of the deliverables supplied under the Contract shall be governed by sub-clause .1 of this clause **GCC** and any elaboration in the Requirements.

All plans, drawings, specifications, designs, reports, algorithms, source code of software, any similar thing prepared utilising the Purchaser's domain knowledge, and other documents and tools prepared by the Supplier for the Purchaser under this contract shall become and remain the property of the Purchaser, and the Supplier shall, not later than upon termination or expiration of this contract, deliver all such documents to the Purchaser together with a detailed inventory thereof. The Supplier may retain a copy of such documents, tools and software, if any. Restriction about the future use of these documents and software, if any, shall be specified in the **SCC**.

B. GUARANTEES, LIABILITIES, INDEMNITIES, INSURANCE AND RISKS

Clause

7

Clause Heading

Time Guarantee and Liquidated Damages Trigger

Clause No

.1 **Guarantee:** The Supplier guarantees that it shall complete the performance of various activities of the contract within the intended completion date or within such extended time to which the Supplier shall be entitled under **GCC** Clause 13.2 (Extension of Time).

2. **Triggering of Liquidated Damages:**

(a) The Supplier shall pay liquidated damages to the Purchaser at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Purchaser may deduct liquidated damages from payments due to the Supplier. Payment of liquidated damages shall not affect the Supplier's liabilities.

(b) If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Supplier by adjusting the next payment certificate. The Supplier shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in **GCC** Sub-Clause 17.1.

Clause No. **8**

Clause Heading **Defect Liability & Warranty**

Sub-Clause No.

- .1** **Goods & Raw Material Warranty:**The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- .2** Subject to **GCC** Sub-Clause 20, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- .3** Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

Clause No. **9**

Clause Heading **Limitation of Liability**

Sub-Clause No.

- .1** Except in cases of criminal negligence or wilful misconduct,
- (a) the Supplier shall not be liable to the Purchaser, 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 Supplier to pay liquidated damages to the Purchaser and
- (b) the aggregate liability of the Supplier to the Purchaser, 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 equipment, or to any obligation of the Supplier to indemnify the purchaser with respect to patent infringement

Clause No. 10

Clause Heading Indemnity

Sub-Clause No.

- .1** The Supplier and each and every Sub-Contractor shall abide by the job safety, insurance, other prevalent measures and the Applicable Law.
- .2** Subject to sub-clause .3 of this Clause **GCC**, the Supplier shall indemnify and hold harmless the Purchaser and its employees and officers from and against any and all losses, liabilities and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Purchaser or its employees or officers may suffer as a result of the death or injury of any person or loss of or damage to any property arising in connection with the service and by reason of the negligence of the Supplier or its Sub-Contractors, or their employees, officers or agents, except any injury, death, or property damage caused by the negligence of the Purchaser, its Suppliers, employees, officers, or agents.
- .3** If any proceedings are brought or any claim is made against the Purchaser that might subject the Supplier to liability under sub-clause .2 of this clause **GCC**, the Purchaser shall promptly give the Supplier the notice of such proceedings or claims, and the Supplier may at its own expense and in the Purchaser's name get conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf. Unless the Supplier has so failed to notify the Purchaser within the twenty-eight (28) day period, the Purchaser shall make no admission that may be prejudicial to the defence of any such proceedings or claim. The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- .4** The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Sub-Contractors from any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Supplier or its employees, officers, or Sub-Contractors may suffer as a result of the death or personal injury of any person or loss of or damage to property of the Purchaser, that is caused by fire, explosion, or any other perils, in excess of the amount recoverable from insurances procured under "Insurances" Clause 11 of **GCC**,

provided that such fire, explosion, or other perils were not caused by any negligent act or failure of the Supplier.

- .5** If any proceedings are brought or any claim is made against the Supplier that might subject the Purchaser to liability under sub-clause .4 of this clause **GCC**, the Supplier shall promptly give the Purchaser the notice of such proceedings or claims, and the Purchaser may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Purchaser fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Purchaser has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be prejudicial to the defence of any such proceedings or claim. The Supplier shall, at the Purchaser's request, afford all available assistance to the Purchaser in conducting such proceedings or claim and shall be reimbursed by the Purchaser for all reasonable expenses incurred in so doing.
- .6** The party entitled to the benefit of an indemnity under this **GCC** Clause shall take all reasonable measures to mitigate any loss or damage that has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

Clause No. 11
Clause Heading Insurances
Sub-Clause No.

.1

(i) The Supplier shall provide, in the joint names of the Purchaser and the Supplier, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the SCC** for the following events which are due to the Supplier'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.

(ii) Policies and certificates for insurance shall be delivered by the Supplier to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

(iii) If the Supplier does not provide any of the policies and certificates required, the Purchaser may effect the insurance which the Supplier should have provided and recover the premiums the Purchaser has paid from payments otherwise due to the Supplier or, if no payment is due, the payment of the premiums shall be a debt due.

(iv) Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.

(v) Both parties shall comply with any conditions of the insurance policies.

Other Insurance (if any), as specified in the SCC.

Clause No.	12
Clause Heading	Force majeure
Sub-Clause No.	
.1	<p>“Force Majeure” shall mean any event beyond the reasonable control of the Purchaser or of the Supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following:</p> <ul style="list-style-type: none"> (a) war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war; (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts; (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of government, or any other act or failure to act of any local, state or Central government authority; (d) strike, sabotage, lockout, embargo, import restriction, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;
.2	<p>If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.</p>
.3	<p>The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party’s performance is prevented, hindered, or delayed. The Time for execution of the contract items shall be extended in accordance with GCC Clause 13.3 (Extension of Time).</p>
.4	<p>The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to either party’s right to terminate the Contract under GCC Clause 12.6.</p>

- .5** No delay or non performance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:
- (a) constitute a default or breach of the Contract;
 - (b) (subject to **GCC** Clauses 12.3, and 12.4 give rise to any claim for damages or additional cost or expense occasioned by the delay or non performance,
- if, and to the extent that, such delay or non performance is caused by the occurrence of an event of Force Majeure.
- .6** If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the time period covered by the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.
- .7** In the event of termination pursuant to GCC Clause 12.6, the rights and obligations of the Purchaser and the Supplier shall be as specified in GCC Clause “Termination”.
- .8** Notwithstanding GCC Clause 12.5, Force Majeure shall not apply to any obligation of the Purchaser to make payments to the Supplier under this Contract.
- .9**
- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
 - 32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

C. TERM, TERMINATION AND MODIFICATION OF CONTRACT

Clause No. 13

Clause Heading Term

Sub-Clause No.

.1 Commencement of services:

The Supplier may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Supplier, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

.2 Extension of time:

(a) The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Supplier taking steps to accelerate the remaining work, which would cause the Supplier to incur additional cost.

(b) The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Supplier asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Supplier 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 new Intended Completion Date.

.3 Acceleration:

(a) When the Purchaser wants the Supplier to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Supplier. If the Purchaser accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Purchaser and the Supplier.

(b) If the Supplier's priced proposals for an acceleration are accepted by the Purchaser, they are incorporated in the Contract Price and treated as a Variation.

.4 The Supplier shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

Clause No.	14
Clause Heading	Termination
Sub-Clause No.	
.1	<p>Termination by fundamental breach of contract</p> <p>The Purchaser or the Supplier may terminate the Contract if the other party causes a fundamental breach of the Contract.</p> <p>Fundamental breaches of Contract shall include, but shall not be limited to, the following:</p> <ul style="list-style-type: none"> (a) The Supplier stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager; (b) The Project Manager instructs the Supplier to delay the progress of the Works, and the instruction is not withdrawn within 28 days; (c) The Purchaser or the Supplier is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation; (d) A payment certified by the Project Manager is not paid by the Purchaser to the Supplier within 84 days of the date of the Project Manager's certificate; (e) The Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Supplier fails to correct it within a reasonable period of time determined by the Project Manager; (f) The Supplier does not maintain a Security, which is required; (g) The Supplier has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the SCC; or (h) If the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, pursuant to fraud and corruption.
.2	When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 14.1 above, the Project Manager shall decide whether the breach is fundamental or not.
.3	Notwithstanding the above, the Purchaser may terminate the Contract for convenience.
.4	If the Contract is terminated, the Supplier shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.
.5	<p>Payment upon Termination</p> <ul style="list-style-type: none"> (c) If the Contract is terminated because of a fundamental breach of Contract by the Supplier, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work

not completed, as **indicated in the SCC**. Additional Liquidated Damages shall not apply. If the total amount due to the Purchaser exceeds any payment due to the Supplier, the difference shall be a debt payable to the Purchaser.

- (d) If the Contract is terminated for the Purchaser's convenience or because of a fundamental breach of Contract by the Purchaser, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Supplier's personnel employed solely on the Works, and the Supplier's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

Clause No. 15
Clause Heading Modification
Sub-Clause No.

- .1** **Modification:** Modification of the terms and conditions of this contract, including any modification of the scope of the service, may only be made by written agreement between the parties. Pursuant to sub-clause .9 of “Interpretation” Clause **GCC** hereof, however, each party shall give due consideration to any proposals for modification made by the other party.
- .2** **Introducing a Change:** Purchaser shall have the right to propose, and subsequently require, the Project Manager to order the Supplier from time to time during the performance of the Contract to make any change, modification, addition, or deletion to, in, or from the Service (interchangeably called “Change”), provided that such Change falls within the general scope of the work, does not constitute unrelated work, and is technically practicable, taking into account the capability of the Supplier
- .3** The Supplier may from time to time during its performance of the Contract propose to the Purchaser (with a copy to the Project Manager) any Change that the Supplier considers necessary or desirable to improve the quality or efficiency of the Service. The Purchaser may at its discretion approve or reject any Change proposed by the Supplier.
- .4** Notwithstanding sub-clauses .2 and .3 of this clause **GCC**, no change made necessary because of any default of the Supplier in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time.
- .5** **Assignment:** Neither the Purchaser nor the Supplier shall, without the express prior written consent of the other, assign to any third party the Contract or any part thereof, or any right, benefit, obligation, or interest therein or hereunder, except that the Supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

D. PAYMENT

Clause No. **16**

Clause Heading **Price**

Sub-Clause No.

.1 Contract Price:

(a) In the case of an admeasurement contract, the Bill of Quantities shall contain priced items for the Works to be performed by the Supplier. The Bill of Quantities is used to calculate the Contract Price. The Supplier will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

(b) In the case of a lump sum contract, the Activity Schedule shall contain the priced activities for the Works to be performed by the Supplier. The Activity Schedule is used to monitor and control the performance of activities on which basis the Supplier will be paid. If payment for Materials on Site shall be made separately, the Supplier shall show delivery of Materials to the Site separately on the Activity Schedule. The nature of contract is specified in SCC

.2 Changes in Contract Price:

1. In the case of an admeasurement contract:

(a) If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.

(b) The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Purchaser.

(c) If requested by the Project Manager, the Supplier shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

2. In the case of a lump sum contract, the Activity Schedule shall be amended by the Supplier to accommodate changes of Program or method of working made at the Supplier's own discretion. Prices in the Activity Schedule shall not be altered when the Supplier makes such changes to the Activity Schedule.

.3 Variations:

(1) All Variations shall be included in updated Programs, and, in the case of a lump sum contract, also in the Activity Schedule, produced by the Supplier.

(2) The Supplier shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project

Manager and before the Variation is ordered.

- (3) If the Supplier's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Supplier's costs.
- (4) If the Project Manager 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.
- (5) The Supplier shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
- (6) In the case of an admeasurement contract, if the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 16.5 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Supplier shall be in the form of new rates for the relevant items of work.

.4

Advance Payment:

- (1) The Purchaser shall make advance payment to the Supplier of the amounts **stated in the SCC** by the date **stated in the SCC**, against provision by the Supplier of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Purchaser in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Supplier. Interest shall not be charged on the advance payment.
- (2) The Supplier is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Supplier shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- (3) The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Supplier, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

.5

Cash Flow Forecasts

When the Program, or, in the case of a lump sum contract, the Activity Schedule, is updated, the Supplier shall provide the Project Manager with an updated cash flow forecast.

.6

Price Adjustment

Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC.**

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 payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

Clause No.
Clause Heading
Sub-Clause No.

17

Payment Terms

.1

Payments:

(i) Payments shall be adjusted for deductions for advance payments and retention. The Purchaser shall pay the Supplier the amounts certified within the days given at **SCC** of the date of each certificate. If the Purchaser makes a late payment, the Supplier shall be paid interest on the late payment in the next payment.

(ii) If an amount certified is increased in a later certificate or as a result of an award by an Arbitrator, the Supplier shall be paid interest upon the delayed payment as set out in **SCC**. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

(iii) Items of the Works for which no rate or price has been entered in shall not be paid for by the Purchaser and shall be deemed covered by other rates and prices in the Contract.

.2

Payment Certificates:

(i) The Supplier shall submit to the Project Manager periodic statements of the estimated value of the work executed less the cumulative amount certified previously.

(ii) The Project Manager shall check the Supplier's periodic statement and certify the amount to be paid to the Supplier.

(iii) The value of work executed shall be determined by the Project Manager.

(iv) The value of work executed shall comprise:

(a) In the case of an admeasurement contract, the value of the quantities of work in the Bill of Quantities that have been completed; or

(b) In the case of a lump sum contract, the value of work executed shall comprise the value of completed activities in the Activity Schedule.

(v) The value of work executed shall include the valuation of Variations and Compensation Events.

(vi) The Project Manager 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.

Compensation Events

- (i) The following shall be Compensation Events:
 - (a) The Purchaser does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.4.
 - (b) The Purchaser modifies the Schedule of Other Suppliers in a way that affects the work of the Supplier under the Contract.
 - (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
 - (d) The Project Manager instructs the Supplier to uncover or to carry out additional tests upon work, which is then found to have no Defects.
 - (e) The Project Manager unreasonably does not approve a subcontract to be let.
 - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
 - (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Purchaser, or additional work required for safety or other reasons.
 - (h) Other Suppliers, public authorities, utilities, or the Purchaser does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Supplier.
 - (i) The advance payment is delayed.
 - (j) The effects on the Supplier of any of the Purchaser's Risks.
 - (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
- (ii) 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 Project Manager 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.
- (iii) As soon as information demonstrating the effect of each Compensation Event upon the Supplier's forecast cost has been provided by the Supplier, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Supplier's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Supplier shall react competently and promptly to the event.
- (iv) The Supplier shall not be entitled to compensation to the extent that the Purchaser's interests are adversely affected by the Supplier's not having given early warning or not having cooperated with the Project Manager.

Clause No. **18**

Clause Heading **Securities**

Sub-Clause No.

.1

The Performance Security shall be provided to the Purchaser no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the SCC**, by a bank or surety acceptable to the Purchaser. The Performance Security shall be valid until a date 365 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.

Clause No. **19**

Clause Heading **Taxes and Duties**

Sub-Clause No.

.1 For goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country.

For goods Manufactured within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

.2 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Supplier, provided such changes are not already reflected in the Contract Price.

E. RESPONSIBILITIES

Clause No. **20**

Clause Heading **Supplier's Responsibilities**

Sub-Clause No.

.1 From the Starting Date until the Defects Liability 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 Purchaser's risks are Supplier's risks.

.2 **Counter Personnel**

 If so provided in SCC hereto, the Purchaser shall make available to the Supplier, and free of charge, such counterpart personnel to be selected by the Purchaser, as shall be specified in SCC. Such Counterpart personnel shall work either in close coordination with the Supplier or directly under the Supplier as specified in SCC

.3 **Safety**

 The Supplier shall be responsible for the safety of all activities on the Site

.4 **Access to the Site:**

 The Supplier shall allow the Project Manager and any person authorized by the Project Manager 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.

Instructions, Inspections and Audits

.5 The Supplier shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.

 The Supplier shall permit, and shall cause its Sub-Contractors and sub-consultants to permit, the Purchaser and/or persons appointed by the Trust to inspect the Site and/or the accounts and records of the Supplier and its Sub-Contractors relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the Trust. The Supplier's and its Sub-Contractors' and sub-consultants' attention is drawn to fraud and corruption which provides, inter alia, that acts intended to materially impede the exercise of the Trust inspection and audit rights provided for under Sub-Clause .4 constitute a prohibited practice subject to contract termination.

.6 Other Purchaser responsibilities, if any, are **as stated in the SCC.**

Clause No. 21

Clause Heading **Purchaser's Responsibilities**

Sub-Clause No.

.1

(1) From the Start Date until the Defects Liability Certificate has been issued, the following are Purchaser's risks:

(a) 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 Purchaser or by any person employed by or contracted to him except the Supplier.

(b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Purchaser or in the Purchaser's design.

(2) From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Purchaser'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 a Purchaser's risk, or

(c) the activities of the Supplier on the Site after the Completion Date.

.2

Possession of the site:

The Purchaser shall give possession of all parts of the Site to the Supplier. If possession of a part is not given by the date stated in the SCC, the Purchaser shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

.3

Inspections:

The Purchaser or its representative shall have the right to inspect any of the ongoing works/activities, at any location.

F. Subject of Contract

Clause No. **22**

Clause Heading **Program**

Sub-Clause No.

- .1 Supplier to Construct the Works**
The Supplier shall construct and install the Works in accordance with the Specifications and Drawings.
- .2 Approval by the Project Manager**
The Supplier shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval
- .3 Delays Ordered by the Project Manager**
The Project Manager may instruct the Supplier to delay the start or progress of any activity within the Works.
- .4 Management Meetings**
(a) Either the Project Manager or the Supplier may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
(b) The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Purchaser. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.
- .5 Early Warning**
(a) The Supplier shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Supplier to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Supplier as soon as reasonably possible.
(b) The Supplier shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

.6

Program:

- (a) Within the time **stated in the SCC**, after the date of the Letter of Acceptance, the Supplier shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.
- (b) An update of the Program shall be a program 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.
- (c) The Supplier shall submit to the Project Manager for approval an updated Program at intervals no longer than the period **stated in the SCC**. If the Supplier does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the SCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Supplier shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.
- (d) The Project Manager's approval of the Program shall not alter the Supplier's obligations. The Supplier may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

Clause No. 23

Clause Heading Documents Approval

Sub-Clause No.

.1 Quality Control:

Identifying Defects:

The Project Manager shall check the Supplier's work and notify the Supplier of any Defects that are found. Such checking shall not affect the Supplier's responsibilities. The Project Manager may instruct the Supplier to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

.2 Tests:

If the Project Manager instructs the Supplier 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 Supplier shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

.3 Correction of Defects:

(i) The Project Manager shall give notice to the Supplier of any Defects before the end of the Defects Liability Period, which begins at Completion, and is **defined in the 8.1 GCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

(ii) Every time notice of a Defect is given, the Supplier shall correct the notified Defect within the length of time specified by the Project Manager's notice.

.4 Uncorrected Defects:

If the Supplier has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Supplier shall pay this amount.

.5 Completion:

The Supplier shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

.6 Taking Over:

The Purchaser shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

.7 Final Account:

The Supplier shall supply the Project Manager with a detailed account of the total amount that the Supplier considers payable

under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Supplier within 56 days of receiving the Supplier's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Supplier and issue a payment certificate.

.8 Operating and Maintenance Manuals:
If as built Drawings and/or operating and maintenance manuals are required, the Supplier shall supply them by the dates **stated in the SCC.**

.9 Property:
All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Purchaser if the Contract is terminated because of the Supplier's default.

SPECIAL CONDITIONS OF CONTRACT

A. GENERAL PROVISIONS AND INTERPRETATION

Clause No. 1

Clause Heading Definitions

Sub Clause No.

.1 (b) (i) The Purchaser is: **CEO, AHCT**

The Project Manager is:

.1 (b) (ii)

The Supplier's Representative is:

.1 (b) (v) Name: *[insert: name and provide title and address further below, or state "to be nominated within fourteen (14) days of the Effective Date"]*

Title: *[if appropriate, insert: title]*

.1 (c) (xix) *The Site is located at [insert address of Site]*

.1 (e) (vi) *The Contract shall continue in force until all the Services have been provided unless the Contract is terminated earlier in accordance with the terms set out in the Contract.*

.1 (e) (vii) *The Start Date shall be 10 days after issue of LOA.*

.1 (e) (viii) *The intended completion date shall be*

Clause No. 2

Clause Heading Interpretation

Sub Clause No.

.3 The language of the contract is English

.16 Sectional Completions are: Not Applicable

.17 Schedule of other Suppliers: Will be provided during the course of work.

Clause No. 3
Clause Heading **Representatives**
Sub-Clause No.
.2 **Project Manager Extensions and /or Limitations: Nothing additional**

Clause No. 4
Clause Heading **Notices**
Sub-Clause No.

.3 Address of the Project Manager :
Fallback address of the Purchaser:

Aarogyasri HealthCare Trust
DR Y.S.R Bhavan,
Opp DrBR Ambedkar Open University,
Road no 46, Jubilee Hills,
Hyderabad-500 033

Address of the Supplier's Representative _____

Fallback address of the Supplier_____.

[as appropriate, insert: personal delivery, postal, cable, telegraph, telex, facsimile, electronic mail, and/or EDI protocol]

Clause No 5
Clause Heading **Dispute Settlement**
Sub-Clause No.

.2 **Arbitration:**

(c) Any dispute between the Purchaser and a Supplier arising in connection with the present Contract shall be referred to arbitration in accordance with the Applicable law. The arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi, or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act,1996.

Disputes shall be settled in accordance with the following provisions:

(i) If any dispute arises between the parties hereto during the subsistence of this Contract Agreement or thereafter, in connection with the validity, interpretation, implementation or alleged breach of any provision of this Agreement, then the parties shall refer such dispute to their respective higher authorities the Chief Executive Officer, Trust and the Chief Executive Officer of the Supplier Organization/Company or a substitute thereof for amicable settlement.

In the event that both the Chief Executive Officers or a substitute thereof are unable to resolve the dispute within {60} days of it being referred to them, then either Party may refer the dispute for resolution to a sole arbitrator who shall be jointly appointed by both parties, or, in the event that the parties are unable to agree on the person to act as the sole arbitrator within (30) days after any party has claimed for an arbitration in written form, by three arbitrators, one to be appointed by each party with power to the two arbitrators so appointed, to appoint a third arbitrator. The matter shall be referred to arbitration in accordance with the provisions of Arbitration and Conciliation Act.

(ii) Arbitration

Any Dispute which is not resolved amicably by conciliation, as provided above, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed as stated above. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi, or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Hyderabad and the language of arbitration proceedings shall be English.

The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to the settlement of disputes shall be final and binding on the Parties as from the date it is made, and the Supplier and the Purchaser agree and undertake to carry out such Award without delay.

The Supplier and the Purchaser agree that an Award may be forced against the supplier and/or the Purchaser, as the case may be, and their respective assets wherever situated.

This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the

Award in any arbitration proceedings here under.

(iii)Miscellaneous

In any arbitration proceeding hereunder:

- (a) Proceedings shall, unless otherwise agreed by the Parties, be held in Hyderabad;
- (b) English language shall be the official language for all purposes; and
- (c) The decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

Clause No	6
Clause Heading	Copyright, Confidential Information, and Ownership
Sub-Clause No.	
.1	Copyright conditions: Not Applicable
.2	The Government of Andhra Pradesh shall have complete access to all types of technical and / or financial information it obtains or develops with respect to the Supplier.
.8	Three (3) years
.9	Ownership: Restriction about the future use, if any: Nothing shall be used for any purpose what so ever without the prior written consent of the Purchaser.

B. GUARANTEES, LIABILITIES, INDEMNITIES, INSURANCE AND RISKS

Clause No 7

Clause Heading Time Guarantee and Liquidated Damages Trigger

Sub Clause No

.2(a) **Triggering of Liquidated Damages:**

The liquidated damages for the whole of the Works on *Contract Value* per day are given below. The maximum amount of liquidated damages for the whole of the Works is **10%** of the final Contract Price.

Delayed Week number	% of Contract Value
1	1%
2	2%
3	2%
4	5%

Clause No 8

Clause Heading Defect Liability & Warranty

Sub-Clause No

.3 Those items procured from Original Equipment Manufacturers (OEM) will carry additional 3 (three) months warranty apart from OEM warranty.

Clause No. 11

Clause Heading Insurances

Sub-Clause No.

.1 (i) The Supplier shall obtain insurance coverage in respect of workmen towards compensation as admissible under Workmen's Compensation Act, 1923 upon disablement of workmen.

C. TERM, TERMINATION AND MODIFICATION OF CONTRACT

Clause No. 14

Clause Heading Termination

Sub-Clause No.

.1 **Expiration of Contract and extension**
The maximum number of days is: *30 days*.

.5 The percentage to apply to the value of the work not completed, representing the Purchaser's additional cost for completing the Works, is *10%*.

D. PAYMENT

Clause No. **16**

Clause Heading **Price**

Sub-Clause No.

- .1 This contract is an admeasurement contract
- .4 The Advance Payments shall be:
 - a. Full advance payment for godrej products.
- .6 Price adjustment is not applicable

Clause No. **17**

Clause Heading **Payment**

Sub-Clause No.

- .1 (i) Balance amount shall be made after the commencement of work as approved by Project Manager.
- .1 (ii) Interest is zero percent (0%)
- .2 (i) Weekly statements
- .3 Compensation doesnot apply

Clause No. **18**

Clause Heading **Securities**

Sub-Clause No.

- .1 The Performance Security shall be for an amount of **1.5% of contract value.**
A **Bank Guarantee** shall be unconditional (on demand).
A **Performance Bond** is not applicable

E. RESPONSIBILITIES

Clause No.	20
Clause Heading	Supplier's Responsibilities
Sub-Clause No.	
.2	Not applicable
	Other Supplier responsibilities:
.6	Nil

Clause No.	21
Clause Heading	Purchaser's Responsibilities
Sub-Clause No.	

Details of Access to Facilities:

.1 The Site Possession Date(s) shall be: *[insert location(s) and date(s)]*

F.SUBJECT OF CONTRACT

Clause No. **22**

Clause Heading **Program**

Sub-Clause No.

- .6 (a)** The Supplier shall submit for approval a Program for the Works within *Seven (7)* days from the date of the Letter of Acceptance.

- .6 (c)** The period between Program updates is *Oneday*.
The amount to be withheld for late submission of an updated Program is *[insert amount]*.

Clause No. **23**

Clause Heading **Documents Approval**

Sub-Clause No.

.8 Not Applicable

APPENDIX 1

Specifications

Drawings

Bill of Quantities

APPENDIX 2
Performance Security Form (Bank Guarantee)

[insert: Purchaser's Name, and Address of Office]

Date:*[insert: date]*

PERFORMANCE GUARANTEE No.:*[insert: Performance Guarantee Number]*

We have been informed that on *[insert: date of award]* you awarded Contract No. *[insert: Contract number]* for *[insert: title and/or brief description of the Contract]* (hereinafter called "the Contract") to *[insert: complete name of Supplier]* (hereinafter called "the Supplier"). Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert: amount(s)¹ in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

On the date of your issuing, to the Supplier, the Operational Acceptance Certificate for the System, the value of this guarantee will be reduced to any sum(s) not exceeding *[insert: amount(s)Error! Bookmark not defined.in figures and words]*. This remaining guarantee shall expire no later than *[insert: number and select: of months/of years (of the Warranty Period that needs to be covered by the remaining guarantee)]* from the date of the Operational Acceptance Certificate for the System,² and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Applicable Law.

[Signature(s)]

¹ *The Purchaser shall insert the amount(s) specified and denominated in the SCC for GCC Clauses 18.3(a).*

² *In this sample form, the formulation of this paragraph reflects the usual SCC provisions for GCC Clause 18.3(a). However, if the SCC for GCC Clauses 18.3(a) from the usual provisions, the paragraph, and possibly the previous paragraph, need to be adjusted to precisely reflect the provisions specified in the SCC.*

Advance Payment Security Form (Bank Guarantee)

[insert: Purchaser's Name, and Address of or Office]

Date:*[insert: date]*

ADVANCE PAYMENT GUARANTEE No.:*[insert: Advance Payment Guarantee Number]*

We have been informed that on *[insert: date of award]* you awarded Contract No. *[insert: Contract number]* for *[insert: title and/or brief description of the Contract]* (hereinafter called "the Contract") to *[insert: complete name of Supplier]* (hereinafter called "the Supplier"). Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of *[insert: amount in numbers and words, for each currency of the advance payment]* is to be made to the Supplier against an advance payment guarantee.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum or sums not exceeding in total the amount of the advance payment referred to above, upon receipt by us of your first demand in writing declaring that the Supplier is in breach of its obligations under the Contract because the Supplier used the advance payment for purposes other than toward the proper execution of the Contract.

It is a condition for any claim and payment to be made under this guarantee that the advance payment referred to above must have been received by the Supplier on its account *[insert: number and domicile of the account]*.

For each payment after the advance payment, which you will make to the Supplier under this Contract, the maximum amount of this guarantee shall be reduced by the *[insert: ninth or appropriate figure/proportion]* part of such payment.³ At the time at which the amount guaranteed becomes nil, this guarantee shall become null and void, whether the original is returned to us or not.

³ *This sample formulation assumes an Advance Payment of 10% of the Contract Price excluding Recurrent Costs, and implementation of the main option proposed by this SBD in the SCC for GCC Clause 18.2(a) for gradually reducing the value of the Advance Payment Security. If the Advance Payment is other than 10%, or if the reduction in amount of the security follows a different approach, this paragraph would need to be adjusted and edited accordingly.*

APPENDIX-3
SUPPLIERS BID

