



BANGLADESH POWER DEVELOPMENT BOARD

TENDER DOCUMENT

FOR

**Procurement of NLDC SCADA/ EMS Integration Works for
Bibiyana-III, 400MW CCPP, BPDB, Nabiganj, Habiganaj**

(Single Stage Single Envelope)

AGAINST TENDER INQUIRY NO.27.11.0000.304.24.425.23

DATED: 14 /12/2023

**DIRECTORATE OF PURCHASE
BANGLADESH POWER DEVELOPMENT BOARD
WAPDA BUILDING (9TH FLOOR), MOTIJHEEL, C/A.
DHAKA, BANGLADESH**

December, 2023

This Page will be replaced by Tender notice

REJECTION CLAUSES

(Tender must comply with the following criteria, otherwise tender shall be rejected)

1. Tenderer shall have to comply with Eligibility criteria (ITT 5) & (ITT 6), Litigation History (ITT 13), Experience Criteria (ITT 14), Financial Criteria (ITT 15);
2. Tenderer shall have to submit End user certificate/ supporting documents regarding Tenderer's specific experience as per mentioned in TDS[ITT14.1(b)] & [TDS(ITT24.1(l)1];
3. If the Tenderer is a Joint Venture, Consortium or Associations (JVCA), JVCA agreement or Letter of Intent along with the proposed agreement duly signed by all partners of the intended JVCA and authenticated by a Notary Public must be submitted (ITT 18.1);
4. For JVCA, lead partner and its other partners must meet minimum qualification criteria (ITT 18.2);
5. Tender Submission Letter (Form PW3-1) shall be properly filled up by the Tenderer (ITT 24.1 a);
6. Tenderer Information Letter (Form PW3-2) shall be properly filled up by the Tenderer (ITT 24.1b) otherwise tender will be rejected;
7. Tender must be accompanied by Letter of Authorization to sign the Tender on behalf of the Tenderer (ITT 24.1f, 51.2);
8. Bill of Quantities using the form(s) furnished in Section 6: Bill of Quantities shall be properly filled up by the Tenderer (ITT 25.2, 51.2). Tenderers are not allowed to change/ modify the format of Price Schedule;
9. Tenderer must submit Guarantee/ warranty certificate of the whole work and its satisfactory performance during warranty period 1 (One) month from the date of issuing Provisional Acceptance Certificate (PAC) [TDS(ITT24.1(l)3];
10. Tenderer must comply the completion period as per clause [TDS (ITT 26.2) & PCC {GCC 1.1(Y) & 2.5)];
11. Tender shall remain valid for the period specified in the TDS after the date of Tender submission deadline (ITT 33);
12. Tender must be accompanied by a valid Tender Security (ITT 35, 51.2);
13. Tender must comply the scope of work as stated under General Specification, Section 7, without any material deviation or reservation (ITT 52.2);
14. Tenderer shall have to submit Certificate confirming compliance to the terms and conditions of the Tender Document. [TDS(ITT24.1(l)5];
15. If Tenderer has any reservations, he has to mention it in deviation list (PW3-12). [TDS(ITT24.1(l)6];
16. Tenderer shall have to comply with the payment terms [PCC (GCC 66.1)];
17. Tenderer shall have to submit Sealed & signed (on every pages) original Tender Document which was issued by BPDB duly signed by authorised person on behalf of the Tenderer [TDS(ITT24.1(l)7].

Table of Contents

Section 1. Instructions to Tenderers.....	1
A. General	1
1. Scope of Tender	1
2. Interpretation	1
3. Source of Funds	1
4. Corrupt, Fraudulent, Collusive or Coercive Practices.....	2
5. Eligible Tenderers.....	3
6. Eligible Materials, Equipment and Associated Services	4
7. Site Visit	4
B. Tender Document	5
8. Tender Document: General	5
9. Clarification of Tender Document.....	5
10. Pre-Tender Meeting.....	5
11. Addendum to Tender Document	6
C. Qualification Criteria.....	7
12. General Criteria	7
13. Litigation History	7
14. Experience Criteria	7
15. Financial Criteria.....	7
16. Personnel Capacity.....	7
17. Equipment Capacity.....	7
18. Joint Venture, Consortium or Association (JVCA)	8
19. Subcontractor(s)	8
D. Tender Preparation	9
20. Only one Tender	9
21. Cost of Tendering	9
22. Issuance and Sale of Tender Document	9
23. Language of Tender	9
24. Contents of Tender	9
25. Tender Submission Letter and Bill of Quantities.....	10
26. Alternatives.....	10
27. Tender Prices, Discounts and Price Adjustment	11
28. Tender Currency.....	12
29. Documents Establishing Eligibility of the Tenderer.....	12
30. Documents Establishing the Eligibility and Conformity of Materials, Equipment and Services	12
31. Documents Establishing Technical Proposal	12
32. Documents Establishing the Tenderer's Qualification	12
33. Validity Period of Tender.....	13
34. Extension of Tender Validity and Tender Security.....	13
35. Tender Security	14
36. Form of Tender Security	14
37. Authenticity of Tender Security	14
38. Return of Tender Security	14
39. Forfeiture of Tender Security	15
40. Format and Signing of Tender	15
E. Tender Submission.....	16
41. Sealing, Marking and Submission of Tender	16
42. Deadline for Submission of Tender	16

43. Late Tender	16
44. Notice for Modification, Substitution or Withdrawal of Tender	16
45. Tender Modification	17
46. Tender Substitution.....	17
47. Tender Withdrawal.....	17
F. Tender Opening and Evaluation	17
48. Tender Opening	17
49. Evaluation of Tenders	18
50. Evaluation Process	18
51. Preliminary Examination	18
52. Technical Responsiveness and Technical Evaluation	19
53. Clarification on Tender	20
54. Restrictions on Disclosure of Information	20
55. Correction of Arithmetical Errors	20
56. Financial Evaluation.....	21
57. Price Comparison	22
58. Negotiations.....	22
59. Post-qualification	23
60. Procuring Entity's Right to Accept any or to Reject Any or All Tenders	23
61. Informing Reasons for Rejection	23
G. Contract Award	23
62. Award Criteria	23
63. Notification of Award	24
64. Performance Security	24
65. Form and Time Limit for Furnishing of Performance Security.....	24
66. Validity of Performance Security	24
67. Authenticity of Performance Security	24
68. Adjudicator.....	25
69. Contract Signing	25
70. Publication of Notification of Award of Contract.....	25
71. Debriefing of Tenderers	25
72. Right to Complain	25
Section 2. Tender Data Sheet.....	26
A. General	26
B. Tender Document	27
C. Qualification Criteria.....	27
D. Tender Preparation	28
E. Tender Submission.....	30
F. Tender Opening and Evaluation	30
G. Contract Award	31
Section 3. General Conditions of Contract.....	32
A. General	32
1. Definitions.....	32
2. Interpretation	36
3. Communications and Notices	36
4. Governing Law	37
5. Governing Language.....	37
6. Documents Forming the Contract and Priority of Documents.....	37
7. Scope of Works	37
8. Assignment.....	37
9. Eligibility	37
10. Gratuities / Agency fees.....	38

11.	Confidential Details	38
12.	JVCA.....	38
13.	Possession of the Site	38
14.	Access to the Site.....	38
15.	Procuring Entity’s Responsibilities	39
16.	Approval of the Contractor’s Temporary Works	39
17.	Contractor’s Responsibilities.....	39
18.	Taxes and Duties	39
19.	Contractor’s Personnel.....	39
20.	Subcontracting	39
21.	Nominated Subcontractor	40
22.	Other Contractors.....	40
23.	Project Manager’s Decisions.....	40
24.	Delegation	40
25.	Instructions,.....	40
26.	Queries about the Contract conditions	41
27.	Safety, Security and Protection of the Environment	41
28.	Working Hours.....	41
29.	Welfare of Labourers.....	41
30.	Child Labour	41
31.	Discoveries	42
32.	Procuring Entity’s and Contractor’s Risks	42
33.	Procuring Entity’s Risks	42
34.	Contractor’s Risks.....	42
35.	Copyright	42
36.	Limitation of Liability	43
37.	Insurance	43
38.	Management and Progress Meetings	44
39.	Corrupt, Fraudulent, Collusive or Coercive Practices	44
B.	Time Control.....	46
40.	Commencement of Works	46
41.	Completion of Works	46
42.	Programme of Works	46
43.	Pro Rata Progress	47
44.	Early Warning	47
45.	Extension of Intended Completion Date.....	47
46.	Delays Caused by Authorities.....	48
47.	Acceleration.....	48
48.	Delays Ordered by the Project Manager.....	48
49.	Suspension of Work.....	48
50.	Consequences of Suspension	48
C.	Quality Control.....	49
51.	Execution of Works	49
52.	Examination of Works before covering up.....	49
53.	Identifying Defects	49
54.	Testing.....	49
55.	Rejection of Works.....	49
56.	Remedial Work	50
57.	Correction of Defects	50
58.	Uncorrected Defects	50
D.	Cost Control	50
59.	Contract Price.....	50
60.	Bill of Quantities.....	50
61.	Changes in the Quantities and Unit Rate or Price.....	51
62.	Variations	51
63.	Costing of Variations or Extra Orders	51
64.	Cash Flow Forecasts.....	51
65.	Payment Certificates.....	52
66.	Payments to the Contractor	52
67.	Delayed Payment.....	52
68.	Payments to Nominated Subcontractor(s).....	53
69.	Compensation Events.....	53
70.	Adjustments for Changes in Legislation	54
71.	Price Adjustment.....	54
72.	Retention Money.....	55

73.	Liquidated Damages	55
74.	Bonus	55
75.	Advance Payment.....	56
76.	Performance Security	56
77.	Provisional Sums	57
78.	Dayworks	57
79.	Cost of Repairs to Loss or Damages.....	57
80.	Completion.....	57
81.	Taking Over.....	58
82.	Amendment to Contract.....	58
83.	Final Account.....	58
84.	As-built Drawings and Manuals	58
85.	Force Majeure.....	58
86.	Notice of Force Majeure.....	59
87.	Consequences of Force Majeure	59
88.	Release from Performance	59
89.	Termination	60
90.	Payment upon Termination	62
91.	Property.....	63
92.	Frustration	63
93.	Contractor's Claims	63
94.	Settlement of Disputes.....	64
Section 4. Particular Conditions of Contract.....		65
Section 5. Tender and Contract Forms		76
	Tender Submission Letter (Form PW3-1)	77
	Tenderer Information (Form PW3-2).....	80
	JVCA Partner Information (Form PW3-3).....	84
	Subcontractor Information (Form PW3-4)	88
	Personnel Information (Form PW3-5).....	90
	Manufacturer's Authorization & Warranty/Guarantee Letter (Form PW3 –	
	5a)- Not Applicable	92
	Bank Guarantee for Tender Security (Form PW3-6)	93
	Notification of Award (Form PW3-7).....	94
	Contract Agreement (Form PW3-8).....	95
	Bank Guarantee for Performance Security (Form PW3-9)	96
	Bank Guarantee for Advance Payment (Form PW3-10) - Not Applicable	97
	Bank Guarantee for Retention Money Security (Form PW3-11) – N/A	98
Deviation List (Form PW3-12).....		99
Section 6.....		101
Bill of Quantities (BoQ) and & Schedule of Requirements		101
Section 8. Particular Specifications		108
Section 9. Drawings		109

Section 1. Instructions to Tenderers

A. General

- 1. Scope of Tender**
- 1.1 The Procuring Entity, as indicated in the Tender Data Sheet (**TDS**) issues this Tender Document for the procurement of Works and associated Services incidental thereto as specified in the **TDS** and as detailed in **Section 6: Bill of Quantities**. The name of the Tender and the number and identification of its constituent lot(s) are stated in the **TDS**.
- 1.2 The successful Tenderer shall be required to execute the works and physical services as specified in the General Conditions of Contract
- 2. Interpretation**
- 2.1 Throughout this Tender Document:
- (a) the term “in writing” means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail;
 - (b) if the context so requires, singular means plural and vice versa;
 - (c) “day” means calendar days unless otherwise specified as working days;
 - (d) “Person” means and includes an individual, body of individuals, sole proprietorship, partnership, company, association or cooperative society that wishes to participate in Procurement proceedings;
 - (e) “Tenderer” means a Person who submits a Tender;
 - (f) “Tender Document” means the Document provided by a Procuring Entity to a Tenderer as a basis for preparation of the Tender; and
 - (g) “Tender” depending on the context, means a Tender submitted by a Tenderer for execution of Works and Physical Services to a Procuring Entity in response to an Invitation for Tender.
- 3. Source of Funds**
- 3.1 The Procuring Entity has been allocated public funds as indicated in the **TDS** and intends to apply a portion of the funds to eligible payments under the Contract for which this Tender Document is issued.
- 3.2 For the purpose of this provision, “public funds” means any monetary resources appropriated to Procuring Entities under Government budget, or loan, grants and credits placed at the disposal of Procuring Entities through the Government by the development partners or foreign states or organisations.
- 3.3 Payments by the development partner, if so indicated in the **TDS**, will be made only at the request of the Government and upon approval by the development partner or foreign state or Organisation in accordance with the applicable Loan / Credit / Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.

4. Corrupt, Fraudulent, Collusive or Coercive Practices

- 4.1 The Government requires that Procuring Entities, as well as Tenderers and Contractors shall observe the highest standard of ethics during implementation of procurement proceedings and the execution of Contracts under public funds.
- 4.2 For the purposes of ITT Sub Clause 4.3, the terms set forth below as follows:
- (a) “corrupt practice” means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a Procuring Entity in connection with a Procurement proceeding or Contract execution;
 - (b) “fraudulent practice” means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;
 - (c) “collusive practice” means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a Procuring Entity the benefits of competitive price arising from genuine and open competition; or
 - (d) “coercive practice” means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of a Contract, and this will include creating obstructions in the normal submission process used for Tenders.
 - (e) “obstructive practice” means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.
- 4.3 Should any corrupt, fraudulent, collusive, coercive or obstructive practice of any kind come to the knowledge of the Procuring Entity, it will, in the first place, allow the Tenderer to provide an explanation and shall, take actions only when a satisfactory explanation is not received. Such exclusion and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Tenderer concerned. Any communications between the Tenderer and the Procuring Entity related to matters of alleged corrupt, fraudulent, collusive, coercive, or obstructive practices shall be in writing.

- 4.4 If corrupt, fraudulent, collusive, coercive or obstructive practices of any kind is determined by the Procuring Entity against any Tenderer or Contractor in competing for, or in executing, a contract under public fund, the Procuring Entity shall :
- (a) exclude the concerned Tenderer from further participation in the concerned procurement proceedings;
 - (b) reject any recommendation for award that had been proposed for that concerned Tenderer; and
 - (c) declare, at its discretion, the concerned Tenderer to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.
- 4.5 The Tenderer shall be aware of the provisions on corruption, fraudulence, collusion, coercion and obstruction as stated in GCC Clause 39 and 89.1(b)(vii).

5. Eligible Tenderers

- 5.1 This Invitation for Tenders is open to all potential Tenderers from all countries, except for any specified in the **TDS**.
- 5.2 A Tenderer may be a physical or juridical individual or body of individuals, or company, association or any combination of them in the form of a Joint Venture, Consortium or Association (JVCA) invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders.
- 5.3 A Government-owned enterprise in Bangladesh may also participate in the Tender if it is legally and financially autonomous, it operates under commercial law, and it is not a dependent agency of the Procuring Entity.
- 5.4 The Tenderer shall have the legal capacity to enter into the Contract.
- 5.5 Tenderers should not be associated, or have been associated in the past, directly or indirectly, with a consultant or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the works to be performed under this Invitation for Tenders.
- 5.6 The Tenderer in its own name or its other names or also in the case of its Persons in different names, shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive, coercive, or obstructive practices as stated under ITT Sub Clause 4.4.
- 5.7 The Tenderer with a poor performance, consistent history of litigation or arbitration awards against it shall not be eligible to Tender.
- 5.8 The Tenderer shall not be insolvent, be in receivership, be bankrupt, be in the process of bankruptcy, be not temporarily

barred from undertaking business and it shall not be the subject of legal proceedings for any of the foregoing.

5.9 The Tenderer shall have fulfilled its obligations to pay taxes and social security contributions under the provisions of laws and regulations of the country of its origin.

5.10 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity will reasonably request.

5.11 These requirements for eligibility will extend, as applicable, to each JVCA partner and Subcontractor proposed by the Tenderer.

6. Eligible Materials, Equipment and Associated Services

6.1 All materials, equipment and associated services to be supplied under the Contract are from eligible sources, unless their origin is from a country specified in the **TDS**.

6.2 For the purposes of this Clause, "origin" means the place where the Materials and Equipments are mined, grown, cultivated, produced or manufactured or processed, or through manufacturing, processing, or assembly, another commercially recognized new product results that differs substantially in its basic characteristics from its components or the place from which the associated services are supplied.

6.3 The origin of materials and equipment and associated services is distinct from the nationality of the Tenderer.

7. Site Visit

7.1 The Tenderer is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works.

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

7.3 The Tenderer should ensure that the Procuring Entity is informed of the visit in adequate time to allow it to make appropriate arrangements.

7.4 The costs of visiting the Site shall be at the Tenderer's own expense.

B. Tender Document

8. Tender Document: General

- 8.1 The Sections comprising the Tender Document are listed below, and should be read in conjunction with any Addendum issued under ITT Clause 11.
- Section 1 Instructions to Tenderers (ITT)
 - Section 2 Tender Data Sheet (TDS)
 - Section 3 General Conditions of Contract (GCC)
 - Section 4 Particular Conditions of Contract (PCC)
 - Section 5 Tender and Contract Forms
 - Section 6 Bill of Quantities (BOQ)
 - Section 7 General Specifications
 - Section 8 Particular Specifications
 - Section 9 Drawings
- 8.2 The Procuring Entity is not responsible for the completeness of the Tender Document and their addenda, if these were not purchased directly from the Procuring Entity, or through its agent as stated in the **TDS**.
- 8.3 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document as well as in addendum to Tender, if any.

9. Clarification of Tender Document

- 9.1 A prospective Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address and within time as indicated in the **TDS**.
- 9.2 A Procuring Entity is not obliged to answer any clarification request received after that date as stated under ITT Sub Clause 9.1.
- 9.3 The Procuring Entity shall respond in writing within five (5) working days of receipt of any such request for clarification received under ITT Sub Clause 9.1.
- 9.4 The Procuring Entity shall forward copies of its response to all those who have purchased the Tender Document, including a description of the enquiry but without identifying its source.
- 9.5 Should the Procuring Entity deem it necessary to revise the Tender Document as a result of a clarification, it will do so following the procedure under ITT Clause 11 and ITT Sub Clause 42.2.

10. Pre-Tender Meeting

- 10.1 To clarify issues and to answer questions on any matter arising in the Tender Document, the Procuring Entity may, if stated in the **TDS**, hold a pre-Tender Meeting at the place, date and time as specified in the **TDS**. All potential Tenderers are encouraged and invited to attend the meeting, if it is held.
- 10.2 The Tenderer is requested to submit any questions in writing so as to reach the Procuring Entity no later than one day prior to the date of the meeting.
- 10.3 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given, together with any

responses prepared after the meeting, will be transmitted within five (5) working days after holding the meeting to all those who purchased the Tender document and to even those who did not attend the meeting. Any revision to the Tender document listed in ITT Sub-Clause 8.1 that may become necessary as a result of the pre-Tender meeting will be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT Sub Clause 11 and not through the minutes of the Pre-Tender meeting.

10.4 Non-attendance at the Pre-Tender meeting will not be a cause for disqualification of a Tenderer.

11. Addendum to Tender Document

11.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity, on its own initiative or in response to an inquiry in writing from a Tenderer, having purchased the Tender Document, or as a result of a Pre-Tender meeting may revise the Tender Document by issuing an Addendum.

11.2 The Addendum issued under ITT Sub Clause 11.1 shall become an integral part of the Tender Document and shall have a date and an issue number and must be circulated by fax, mail or e-mail, to Tenderers who have purchased the Tender Documents, within three (3) working days of issuance of such Addendum, to enable Tenderers to take appropriate action.

11.3 The Tenderers will acknowledge receipt of an Addendum within three (3) working days.

11.4 Procuring Entities shall also ensure posting of the relevant addenda with the reference number and date on their websites including notice boards, where the Procuring Entities had originally posted the IFTs.

11.5 To give a prospective Tenderer reasonable time in which to take an addendum into account in preparing its Tender, the Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT Sub Clause 42.2.

11.6 If an addendum is issued when time remaining is less than **one-third** of the time allowed for the preparation of Tenders, a Procuring Entity at its discretion shall extend the deadline by an appropriate number of days for the submission of Tenders, depending upon the nature of the Procurement requirement and the addendum. In any case, the minimum time for such extension shall not be less than three (3) working days.

C. Qualification Criteria

- 12. General Criteria**
- 12.1 The Tenderer shall possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, specific experience, reputation, and the personnel, to perform the contract.
- 12.2 To qualify for multiple number of contracts/lots in a package made up of this and other individual contracts/lots for which tenders are invited in the Invitation for Tenders, the Tenderer shall demonstrate having resources and experience sufficient to meet the aggregate of the qualifying criteria for the individual contracts.
- 13. Litigation History**
- 13.1 Litigation history shall comply with the requirement as specified in ITT 15.1(c).
- 14. Experience Criteria**
- 14.1 The Tenderer shall have the following minimum level of construction experience to qualify for the performance of the Works under the Contract:
- (a) a minimum number of years of general experience in the construction of works as Prime Contractor or Subcontractor or Management Contractor as specified in the **TDS**; and
 - (b) Specific experience as a Prime Contractor or Subcontractor or Management Contractor in construction works of a nature, complexity and methods/construction technology similar to the proposed Works in at least a number of contract(s) and of a minimum value over the period, as specified in the **TDS**.
- 15. Financial Criteria**
- 15.1 The Tenderer shall have the following minimum level of financial capacity to qualify for the performance of the Works under the Contract.
- (a) the average annual **construction** turnover as specified in the **TDS** during the period specified in the **TDS**;
 - (b) availability of minimum liquid assets or working capital or credit facilities, as specified in the **TDS**; and
 - (c) satisfactory resolution of all claims, arbitrations or other litigation cases and shall not have serious negative impact on the financial capacity of the Tenderer.
- 16. Personnel Capacity**
- 16.1 The Tenderer shall have the following minimum level of personnel capacity to qualify for the performance of the Works under the Contract:
- (a) a Construction Project Manager, Engineers, and other key staff with qualifications and experience as specified in the **TDS**;
- 17. Equipment Capacity**
- 17.1 The Tenderer shall own suitable equipment and other physical

facilities or have proven access through contractual arrangement to hire or lease such equipment or facilities for the desired period, where necessary or have assured access through lease, hire, or other such method, of the essential equipment, in full working order, as specified in the **TDS**.

18. Joint Venture, Consortium or Association (JVCA)

- 18.1 The Tenderer may participate in the procurement proceedings forming a Joint Venture, Consortium or Associations (JVCA) by an agreement, executed case by case on a non judicial stamp of value as stated in **TDS** or alternately with the intent to enter into such an agreement supported by a Letter of Intent along with the proposed agreement duly signed by all partners of the intended JVCA and authenticated by a Notary Public .
- 18.2 The figures for each of the partners of a JVCA shall be added together to determine the Tenderer's compliance with the minimum qualifying criteria; however, for a JVCA to qualify, lead partner and its other partners must meet the criteria stated in the **TDS**. Failure to comply with these requirements will result in rejection of the JVCA Tender. Subcontractors' experience and resources will not be taken into account in determining the Tenderer's compliance with the qualifying criteria.
- 18.3 Each partner of the JVCA shall be jointly and severally liable for the execution of the Contract, all liabilities and ethical and legal obligations in accordance with the Contract terms.
- 18.4 The JVCA shall nominate a Representative (partner-in-charge) who shall have the authority to conduct all business for and on behalf of any and all the partners of the JVCA during the tendering process and, in the event the JVCA is awarded the Contract, during contract execution including the receipt of payments for and on behalf of the JVCA.
- 18.5 Each partner of the JVCA shall complete the JVCA Partner Information (**Form PW3-3**) for submission with the Tender.

19. Subcontractor(s)

- 19.1 A Tenderer may intend to subcontract an activity or part of the Works, in which case such elements and the proposed Subcontractor shall be clearly identified.
- 19.2 The Procuring Entity may require Tenderers to provide more information about their subcontracting arrangements. If any Subcontractor is found ineligible or unsuitable to carry out the subcontracted tasks, the Procuring Entity may request the Tenderer to propose an acceptable substitute.
- 19.3 The Procuring Entity may also select nominated Subcontractor(s) to execute certain specific components of the Works and if so, those will be specified in the **TDS**.
- 19.4 The successful Tenderer shall under no circumstances assign the Works or any part of it to a Subcontractor.
- 19.5 Each Subcontractor shall complete the Subcontractor Information (**Form PW3-4**) for submission with the Tender.

D. Tender Preparation

- 20. Only one Tender** 20.1 A Tenderer shall submit only one (1) Tender for each lot, either individually or as a JVCA. The Tenderer who submits or participates in more than one (1) Tender in one (1) lot will cause all the Tenders of that particular Tenderer to be rejected.
- 21. Cost of Tendering** 21.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
- 22. Issuance and Sale of Tender Document** 22.1 A Procuring Entity shall make Tender Documents available immediately to the potential Tenderers, requesting and willing to purchase at the corresponding price if the advertisement has been published in the newspaper.
- 22.2 There shall not be any pre-conditions whatsoever, for sale of Tender Documents and the sale of such Document shall be permitted up to the day prior to the day of deadline for the submission of Tender.
- 23. Language of Tender** 23.1 The Tender shall be written in the English language. Correspondences and documents relating to the Tender may be written in English or *Bangla*. Supporting documents and printed literature furnished by the Tenderer that are part of the Tender may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the English or *Bangla* language, in which case, for purposes of interpretation of the Tender, such translation shall govern.
- 23.2 The Tenderer shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
- 24. Contents of Tender** 24.1 The Tender prepared by the Tenderer will comprise the following:
- (a) the Tender Submission Letter in accordance with ITT Clause 25 (**Form PW3-1**);
 - (b) Tenderer Information in accordance with ITT Clauses 5,29 and 32 (**Form PW3-2**);
 - (c) the priced Bill of Quantities for each lot in accordance with ITT Clauses 25,27 and 28;
 - (d) Tender Security as stated under ITT Clauses 35, 36 and 37.
 - (e) alternatives, if permissible, as stated under ITT Clause 26;
 - (f) written confirmation authorizing the signatory of the Tender to commit the Tenderer, as stated under ITT Sub Clause 40.3;
 - (g) Valid Trade license ;
 - (h) documentary evidence of Tax Identification Number (TIN) and Value Added Tax (VAT) as a proof of taxation obligations as stated under ITT Sub Clause 5.9;
 - (i) documentary evidence as stated under ITT Clause 29 establishing the Tenderer's qualifications to perform the Contract if its tender is accepted;
 - (j) Technical Proposal describing work plan & method,

personnel, equipment and schedules as stated under ITT Clause 31;

- (k) documentary evidence as stated under ITT Clause 32 establishing the minimum qualifications of the Tenderer required to be met for due performance of the Works and physical services under the Contract; and
- (l) any other document as specified in the **TDS**.

24.2 In addition to the requirements stated under ITT Sub Clause 24.1, Tenders submitted by a JVCA or proposing a Subcontractor shall include:

- (a) a Joint Venture Agreement entered into by all partners, executed on a non-judicial stamp of value or equivalent as stated under ITT Sub Clause 18.1; or
- (b) a Letter of Intent along with the proposed agreement duly signed by all partners of the intended JVCA with the declaration that it will execute the Joint Venture agreement in the event the Tenderer is successful;
- (c) the JVCA Partner Information (**Form PW3-3**);
- (d) the Subcontractor Information (**Form PW3-4**).

25. Tender Submission Letter and Bill of Quantities

25.1 The Tenderer shall submit the Tender Submission Letter (**Form PW3-1**), which shall be completed without any alterations to its format, filling in all blank spaces with the information requested, failing which the Tender may be rejected as being incomplete.

25.2 The Tenderer shall submit the priced Bill of Quantities using the form(s) furnished in **Section 6: Bill of Quantities**.

25.3 If in preparing its Tender, the Tenderer has made errors in the unit rate or price or the total price, and wishes to correct such errors prior to submission of its Tender, it may do so, but shall ensure that each correction is initialled by the authorised person of the Tenderer.

26. Alternatives

26.1 Unless otherwise stated in the **TDS**, alternatives shall not be considered.

26.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **TDS**, as will the method of evaluating different times for completion.

26.3 Except as provided under ITT Sub Clause 26.4, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents **must first price** the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, designs, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details.

26.4 When specified in ITT clause 26.1, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**.

27. Tender Prices, Discounts and Price Adjustment

- 26.5 Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements will be considered by the Procuring Entity.
- 27.1 The prices and discounts quoted by the Tenderer in the Tender Submission Letter (**Form PW3-1**) and in the Bill of Quantities (BOQ) shall conform to the requirements specified below.
- 27.2 The Tenderer shall fill in unit rates or prices for all items of the Works both in figures and in words as described in the BOQ.
- 27.3 The items quantified in the BOQ for which no unit rates or prices have been quoted by the Tenderer will not be paid for, by the Procuring Entity when executed and shall be deemed covered by the amounts of other rates or prices in the BOQ and, it shall not be a reason to change the Tender price.
- 27.4 The Procuring Entity may, if necessary, require the Tenderer to submit the detail breakdown of the unit rates or prices quoted by the Tenderer for the facilitation of the Tender proceedings.
- 27.5 The price to be quoted in the Tender Submission Letter, as stated under ITT Sub Clause 25.1, shall be the total price of the Tender, excluding any discounts offered.
- 27.6 The Tenderer shall quote any unconditional discounts and the methodology for application of discount in the Tender Submission Letter as stated under ITT Sub Clause 25.1.
- 27.7 Tenderers wishing to offer any price reduction for the award of more than one lot shall specify in their Tender the price reductions applicable to each lot, or alternatively, to any combination of lots within the package. Price reductions or discounts will be submitted as stated under ITT Sub Clause 27.1, provided the Tenders for all lots are submitted and opened together.
- 27.8 All applicable taxes, custom duties, VAT and other levies payable by the Contractor under the Contract, or for any other causes, as of the date twenty-eight (28) days prior to the deadline for submission of Tenders, shall be included in the unit rates and prices and the total Tender price submitted by the Tenderer.
- 27.9 Unless otherwise provided in the **TDS** and the Contract, the price of a Contract shall be fixed in which case the unit rates or prices may not be modified in response to changes in economic or commercial conditions.
- 27.10 If so indicated under ITT Sub Clause 27.9, Tenders are being invited with a provision for price adjustments. The unit rates or prices quoted by the Tenderer are subject to adjustment during the performance of the Contract in accordance with the provisions of GCC Clause 71 and, in such case the Procuring Entity shall provide the indexes and weightings or coefficients in **Appendix to the Tender** for the price adjustment formulae specified in the PCC.

- 27.11 The Procuring Entity may require the Tenderer to justify its proposed indexes, if any of those as stated under ITT Sub Clause 27.10, are instructed to be quoted by the Tenderer in **Appendix to the Tender**.
- 28. Tender Currency**
- 28.1 The Tenderer shall quote all prices in the Tender Submission Letter and in the Bill of Quantities in Bangladesh Taka currency unless otherwise specified in the **TDS**.
- 29. Documents Establishing Eligibility of the Tenderer**
- 29.1 A Tenderer, if applying as a sole Tenderer, shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, it shall:
- (a) complete the eligibility declarations in the Tender Submission Letter (**Form PW3-1**);
 - (b) complete the Tenderer Information (**Form PW3-2**);
 - (c) provide completed Subcontractor Information (**Form PW3-4**), if it intends to engage any Subcontractor(s).
- 29.2 A Tenderer, if applying as a partner of an existing or intended JVCA shall submit documentary evidence to establish its eligibility as stated under ITT Clause 5 and, in particular, in addition to as specified in ITT Sub Clause 29.1, it shall:
- (a) provide for each JVCA partner, completed JVCA Partner Information (**Form PW3-3**);
 - (b) provide the JVCA agreement or Letter of Intent along with the proposed agreement of the intended JVCA as stated in ITT Sub Clause 18.1.
- 30. Documents Establishing the Eligibility and Conformity of Materials, Equipment and Services**
- 30.1 The Tenderer shall submit documentary evidence to establish the origin of all Materials, Equipment and services to be supplied under the Contract as stated under ITT Clause 6.
- 30.2 To establish the conformity of the Materials, Equipment and services to be supplied under the Contract, the Tenderer shall furnish, as part of its Tender, the documentary evidence (which may be in the form of literature, specifications and brochures, drawings or data) that these conform to the technical specifications and standards specified in **Section 7, General Specifications** and **Section 8, Particular Specifications**.
- 31. Documents Establishing Technical Proposal**
- 31.1 The Tenderer shall furnish a Technical Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in **TDS**, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work requirements and the completion time.
- 32. Documents Establishing the**
- 32.1 Tenderers shall complete and submit the Tenderer Information

Tenderer's Qualification

(Form PW3-2) and shall include documentary evidence, as applicable to satisfy the following:

- (a) general experience of construction works as stated under ITT Sub Clause 14.1(a) ;
- (b) specific experience in construction works of similar nature and size as stated under ITT Sub Clauses 14.1(b)
- (c) average annual **construction** turnover for a period as stated under ITT Sub Clause 15.1(a);
- (d) adequacy of working capital for this Contract i.e. access to line(s) of credit and availability of other financial resources as stated under ITT Sub Clause 15.1(b);
- (e) technical and administrative personnel along with their qualification and experience proposed for the Contract as stated under ITT Clause 16;
- (f) major items of construction equipment proposed to carry out the Contract as stated under ITT Clause 17;
- (g) authority to seek references from the Tenderer's bankers or any other sources.
- (h) information regarding any litigation, current or during the last five years, in which the Tenderer is involved, the parties concerned, and disputed amount;
- (i) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the past five years.

32.2 An Procuring Entity shall disqualify a Tenderer who submits a document containing false information for purposes of qualification or mislead or makes false representations in proof of qualification requirements. An Procuring Entity may declare such a Tenderer ineligible, either indefinitely or for a stated period of time, from participation in future procurement proceedings

32.3 An Procuring Entity may disqualify a Tenderer if it finds at any time that the information submitted concerning the qualifications of the Tenderer was materially inaccurate or materially incomplete. Also, an Procuring Entity may disqualify a Tenderer who has record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays, litigation history or financial failures.

33. Validity Period of Tender

33.1 Tenders shall remain valid for the period specified in the **TDS** after the date of Tender submission deadline prescribed by the Procuring Entity.. A Tender valid for a period shorter than that specified will be rejected by the Procuring Entity as non- responsive.

34. Extension of Tender Validity and Tender Security

34.1 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may solicit the Tenderers' consent to an extension of the period of validity of their Tenders.

34.2 The request and the responses shall be made in writing. Validity of the tender security provided under ITT Clause 35 shall also be

suitably extended for twenty eight (28) days beyond the new date for the expiry of the Tender Validity. If a Tenderer does not respond or refuses the request it shall not forfeit its tender security, but its tender shall no longer be considered in the evaluation proceedings. A Tenderer agreeing to the request will not be required or permitted to modify its tender.

35. Tender Security

- 35.1 The Tenderer shall furnish as part of its Tender, in favour of the Procuring Entity or as otherwise directed on account of the Tenderer, a Tender Security in original form and in the amount, **as specified in the TDS.**
- 35.2 If the Tender is a Joint Venture, the Tenderer shall furnish as part of its Tender, in favour of the Procuring Entity or as otherwise directed on account of the title of the existing or intended JVCA or any of the partners of that JVCA or in the names of all future partners as named in the Letter of Intent of the JVCA, a Tender Security in original form and in the amount as stated under ITT Sub Clause 35.1.

36. Form of Tender Security

- 36.1 The Tender Security shall:
- (a) at the Tenderer's option, be either;
 - i. in the form of a bank draft or pay order, or
 - ii. in the form of an irrevocable bank guarantee issued by a scheduled Bank of Bangladesh, in the format (**Form PW3-6**) furnished in **Section 5: Tender and Contract Forms**;
 - (b) be payable promptly upon written demand by the Procuring Entity in the case of the conditions listed in ITT Sub Clause 39.1 being invoked; and
 - (c) remain valid for at least twenty eight (28) days beyond the expiry date of the Tender Validity in order to make a claim in due course against a Tenderer in the circumstances as stated under ITT Sub Clause 39.1.

37. Authenticity of Tender Security

- 37.1 The authenticity of the Tender Security submitted by a Tenderer may be examined and verified by the Procuring Entity at its discretion in writing from the Bank issuing the security.
- 37.2 If a Tender Security is found to be not authentic, the Procuring Entity may proceed to take measures against that Tenderer as stated under ITT Sub Clause 4.4.
- 37.3 A Tender not accompanied by a valid Tender Security will be rejected by the Procuring Entity.

38. Return of Tender Security

- 38.1 No Tender Securities shall be returned by the Tender Opening Committee (TOC) during and after the opening of the Tenders.
- 38.2 No Tender Security shall be returned to the Tenderers before contract signing, except to those who are found unsuccessful.
- 38.3 Unsuccessful Tenderer's tender security will be discharged or returned as soon as possible but within 28 days of the end of the tender validity period specified in ITT Sub-Clauses 33.1.

38.4 The tender security of the Successful Tenderer will be discharged upon the Tenderer's furnishing of the performance security pursuant to ITT Clause 33 and signing the Agreement.

39. Forfeiture of Tender Security

- 39.1 The Tender Security may be forfeited, if a Tenderer:
- (a) withdraws its Tender after opening of Tenders but within the validity of the Tender as stated under ITT Clause 33 and 34; or
 - (b) refuses to accept a Notification of Award as stated under ITT Sub Clause 63.1; or
 - (c) fails to furnish Performance Security as stated under ITT Sub Clause 64.1 and 64.2; or
 - (d) refuses to sign the Contract as stated under ITT Sub Clause 69.2 ; or
 - (e) does not accept the correction of the Tender price following the correction of the arithmetic errors as stated under ITT Clause 55.

40. Format and Signing of Tender

- 40.1 The Tenderer shall prepare one (1) original of the documents comprising the Tender as described in ITT Clause 24 and clearly mark it "ORIGINAL." In addition, the Tenderer shall prepare the number of copies of the Tender, as specified in the **TDS** and clearly mark each of them "COPY." In the event of any discrepancy between the original and the copies, the ORIGINAL shall prevail.
- 40.2 Alternatives, if permitted in accordance with ITT Clause 26, shall be clearly marked "Alternative".
- 40.3 The original and each copy of the Tender shall be typed or written in indelible ink and shall be signed by the Person duly authorized to sign on behalf of the Tenderer. This authorization shall be attached to the Tender Submission Letter (**Form PW3-1**). The name and position held by each Person(s) signing the authorization must be typed or printed below the signature. All pages of the original and of each copy of the Tender, except for un-amended printed literature, shall be numbered sequentially and signed or initialled by the person signing the Tender.
- 40.4 Any interlineations, erasures, or overwriting will be valid only if they are signed or initialled by the Person(s) signing the Tender.

E. Tender Submission

- 41. Sealing, Marking and Submission of Tender**
- 41.1 The Tenderer shall enclose the original in one (1) envelope and all the copies of the Tender, including the alternatives, if permitted under ITT Clause 26, in another envelope, duly marking the envelopes as "ORIGINAL" "ALTERNATIVE" (if permitted) and "COPY." These sealed envelopes will then be enclosed and sealed in one (1) single outer envelope.
- 41.2 The inner and outer envelopes shall:
- (a) be addressed to the Procuring Entity at the address as stated under ITT Sub Clause 42.1;
 - (b) bear the name of the Tender and the Tender Number as stated under ITT Sub Clause 1.1;
 - (c) bear the name and address of the Tenderer;
 - (d) bear a statement "DO NOT OPEN BEFORE -----" the time and date for Tender opening as stated under ITT Sub Clause 48.1;
 - (e) bear any additional identification marks as specified in the **TDS**.
- 41.3 The Tenderer is solely and entirely responsible for pre-disclosure of Tender information if the envelope(s) are not properly sealed and marked.
- 41.4 Tenders shall be delivered by hand or by mail, including courier services at the address(s) as stated under ITT Sub Clause 42.1.
- 41.5 The Procuring Entity will, on request, provide the Tenderer with acknowledgement of receipt showing the date and time when it's Tender was received.
- 42. Deadline for Submission of Tender**
- 42.1 Tenders shall be delivered to the Procuring Entity at the address specified in the **TDS** and no later than the date and time specified in the **TDS**.
- 42.2 The Procuring Entity may, at its discretion, extend the deadline for submission of Tender as stated under ITT Sub Clause 42.1, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline will thereafter be subject to the new deadline as extended.
- 42.3 In general, the submission of Tenders will not be allowed in more than one place. If, in exceptional cases, for procurement using government's own fund, submission of Tenders is allowed in more than one location/place, name of such primary and secondary location/place(s) shall be as specified in the **TDS**.
- 43. Late Tender**
- 43.1 Any Tender received by the Procuring Entity after the deadline for submission of Tenders as stated under ITT Sub Clause 42.1 shall be declared LATE, rejected, and returned unopened to the Tenderer.
- 44. Notice for Modification, Substitution or Withdrawal of Tender**
- 44.1 A Tenderer may modify, substitute or withdraw its Tender after it has been submitted by sending a written notice duly signed by the authorized signatory and properly sealed, and shall include a copy of

the authorization ; provided that such written notice including the affidavit is received by the Procuring Entity prior to the deadline for submission of Tenders as stated under ITT Clause 42.

- 45. Tender Modification** 45.1 The Tenderer shall not be allowed to retrieve its original Tender, but shall be allowed to submit corresponding modification to its original Tender marked as **“MODIFICATION”**.
- 46. Tender Substitution** 46.1 The Tenderer shall not be allowed to retrieve its original Tender, but shall be allowed to submit another Tender marked as **“SUBSTITUTION”**.
- 47. Tender Withdrawal** 47.1 The Tenderer shall be allowed to withdraw its Tender by a Letter of Withdrawal marked as **“WITHDRAWAL”**.

F. Tender Opening and Evaluation

- 48. Tender Opening**
- 48.1 Tenders shall be opened in one location, immediately, but no later than one hour, after the deadline for submission of Tenders at the place as specified in the **TDS**. In case of submission of tender for procurement using Government’s own fund, tenders shall be opened at the primary place of submission within three hours of the deadline for submission of tenders.
- 48.2 Persons not associated with the Tender may not be allowed to attend the public opening of Tenders.
- 48.3 The Tenderers’ representatives shall be duly authorised by the Tenderer. Tenderers or their authorised representatives will be allowed to attend and witness the opening of Tenders, and will sign a register evidencing their attendance.
- 48.4 The authenticity of withdrawal or substitution of, or modifications to original Tender, if any made by a Tenderer in specified manner, shall be examined and verified by the Tender Opening Committee (TOC) based on documents submitted as stated under ITT Sub Clause 44.1.
- 48.5 Ensuring that only the correct (M), (S), (A), (O) envelopes are opened, details of each Tender will be dealt with as follows:
- (a) the Chairperson of the Tender Opening Committee will read aloud each Tender and record in the Tender Opening Sheet (TOS) :
 - (i) the name and address of the Tenderer;
 - (ii) state if it is a withdrawn, modified, substituted or original Tender;
 - (iii) the Tender price;
 - (iv) any discounts;
 - (v) any alternatives;
 - (vi) the presence or absence of any requisite Tender Security; and

- (vii) such other details as the Procuring Entity, at its discretion, may consider appropriate
 - (b) only discounts and alternatives read aloud at the Tender opening will be considered in evaluation.
 - (c) all pages of the original version of the Tender, except for un-amended printed literature, will be initialled by members of the Tender Opening Committee.
- 48.6 Upon completion of Tender opening, all members of the Tender Opening Committee and the Tenderers or Tenderer's duly authorised representatives attending the Tender opening shall sign by name, address, designation, the Tender Opening Sheet, copies of which shall be issued to the Head of the Procuring Entity or an officer authorised by him or her and also to the members of the Tender Opening Committee and any authorised Consultants and, to the Tenderers immediately.
- 48.7 The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record under ITT Sub Clause 48.6.
- 48.8 No Tender will be rejected at the Tender opening stage except the LATE Tenders as stated in the ITT Clause 43.
- 49. Evaluation of Tenders**
- 49.1 Tenders shall be examined and evaluated only on the basis of the criteria specified in the Tender Document.
- 49.2 The Procuring Entity's **Tender Evaluation Committee (TEC)** shall examine, evaluate and compare Tenders that are substantially responsive to the requirements of Tender Documents in order to identify the successful Tenderer.
- 50. Evaluation Process**
- 50.1 The TEC will consider a Tender responsive that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. The evaluation process should begin immediately after tender opening, following four broad steps:
- (a) Preliminary examination
 - (b) Technical examination and responsiveness
 - (c) Financial evaluation and price comparison
 - (d) Post-qualification of the Tender.
- 51. Preliminary Examination**
- 51.1 The Procuring Entity shall examine the tenders to confirm that all documentation requested in ITT Clause 24 has been provided, to determine the completeness of each document submitted .
- 51.2 The Procuring Entity shall confirm that the following documents and information have been provided in the tender. If any of these documents or information is missing, the offer shall be rejected.
- (a) Tender Submission Letter;
 - (b) Priced Bill of Quantities;

**52. Technical
Responsiveness and
Technical Evaluation**

- (c) Written confirmation of authorization to commit the Tenderer; and
- (d) Tender Security.

- 52.1 The Procuring Entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 52.2 A substantially responsive tender is one that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
 - (a) affects in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
 - (b) limits in any substantial way, or is inconsistent with the Tender Documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
 - (c) if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive tenders.
- 52.3 If a tender is not substantially responsive to the Tender Document, it shall be rejected by the Procuring Entity and shall not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.
- 52.4 There shall be no requirement as to the minimum number of responsive tenders.
- 52.5 There shall be no automatic exclusion of tenders which are above or below the official estimate.
- 52.6 The Procuring Entity shall now examine the tender to confirm that all terms and conditions specified in the GCC and the PCC have been accepted by the Tenderer without any material deviation or reservation.
- 52.7 The Procuring Entity shall evaluate the technical aspects of the tender submitted in accordance with ITT Clauses 30,31 and 32, to confirm that all requirements specified in Section 7: General Specifications and Section 8: Particular Specifications of the Tender Document have been met without any material deviation or reservation.
- 52.8 If, after the examination of the terms and conditions and the technical aspects of the tender, the Procuring Entity determines that the tender is not substantially responsive in accordance with ITT Sub-Clauses 52.6 and 52.7 , it shall reject the tender.
- 52.9 Provided that a tender is substantially responsive, the Procuring Entity may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the tender related to documentation requirements. Such omission shall not be related to any aspect of the rates of the tender reflected in the Priced Bill of Quantities. Failure of the Tenderer to comply with the request may

result in the rejection of its tender.

52.10 The TEC may regard a Tender as responsive even if it contains;

- (a) minor or insignificant deviations which do not meaningfully alter or depart from the technical specifications, characteristics and commercial terms and, conditions or other mandatory requirements set out in the Tender Document; or
- (b) errors or oversights, that if corrected, would not alter the key aspects of the Tender.

53. Clarification on Tender

53.1 The TEC may ask Tenderers for clarification of their Tenders, including breakdowns of unit rates or prices, in order to facilitate the examination and evaluation of Tenders. The request for clarification by the TEC and the response from the Tenderer shall be in writing, and Tender clarifications which may lead to a change in the substance of the Tender or in any of the key elements of the Tender pursuant to ITT Sub Clause 52.2, will neither be sought nor be permitted.

53.2 Changes in the Tender price shall also not be sought or permitted, except to confirm the correction of arithmetical errors discovered by the TEC in the evaluation of the Tenders, as stated under ITT Sub Clause 55.1.

54. Restrictions on Disclosure of Information

54.1 After the opening of tenders, information relating to the examination, clarification, and evaluation of tenders and recommendations for award shall not be disclosed to tenderers or other persons not officially concerned with the evaluation process until the award of the contract is announced.

54.2 Any effort by a Tenderer to influence a Procuring Entity in its decision concerning the evaluation of Tenders, Contract awards may result in the rejection of its Tender as well as further action in accordance with Section 64 (5) of the Public Procurement Act, 2006.

55. Correction of Arithmetical Errors

55.1 Provided that the Tender is substantially responsive, the TEC shall correct arithmetical errors on the following basis:

- (a) if there is a discrepancy between the unit price and the line item total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the line item total price shall be corrected, unless in the opinion of the TEC there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted will govern and the unit price will be corrected; and
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the unit price in words will prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

55.2 If the Tenderer determined to be the lowest evaluated tenderer does not accept the correction of errors, its tender shall be disqualified and its tender security may be forfeited.

56. Financial Evaluation

56.1 The TEC will evaluate each Tender that has been determined, up to this stage of the evaluation, to be substantially responsive to the requirements set out in the Tender Document.

56.2 To evaluate a Tender, the TEC will consider the following:

- (a) the Tender price, excluding Provisional Sums and the provision, if any, for contingencies in the priced Bill of Quantities, but including Daywork items, where priced competitively;
- (b) adjustments for correction of arithmetical errors pursuant to ITT Sub Clause 55.1;
- (c) adjustments in order to take into consideration the unconditional discounts or methodology for application of the discount offered pursuant to ITT Sub Clause 27.7;
- (d) adjustments for any other acceptable variations or deviations pursuant to ITT Sub Clause 52.10.

56.3 Variations, deviations, alternatives and other factors which are in excess of the requirements of the Tender Document or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.

56.4 The estimated effect of any price adjustment provisions under GCC Clause 71, applied over the period of execution of the Contract, will not be taken into account in Tender evaluation.

56.5 If so indicated in the ITT Sub Clause 1.1 the Procuring Entity may award one or multiple lots to one Tenderer following the methodology specified in ITT Sub Clause 56.6.

56.6 To determine the lowest-evaluated lot or combination of lots, the TEC will take into account:

- (a) the experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual lot;
- (b) the lowest-evaluated Tender for each lot calculated in accordance with all the requirements of Evaluation Criteria;
- (c) the price reduction on account of discount per lot or combination of lots and the methodology for application of the discount as offered by the Tenderer in its Tender; and
- (d) the Contract-award sequence that provides the optimum economic combination on the basis of least overall cost of the total Contract package taking into account any limitations due to constraints in Works or execution capacity determined in accordance with the post-qualification criteria stated under ITT Clause 59.

56.7 If the tender, which results in the lowest Evaluation Tender Price, is Substantially below the updated official estimate or seriously unbalanced as a result of front loading in the opinion of the Procuring Entity, the Procuring Entity may require the Tenderer to produce details price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Procuring Entity may require that the amount of the performance security set forth in ITT Clause 64 be increased at the expenses of the Tenderer to a level sufficient to protect the Procuring Entity against financial loss in the event of default of the successful Tenderer under the Contract.

57. Price Comparison

57.1 The TEC will compare all substantially responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 56.

57.2 In the extremely unlikely event that there is a tie for the lowest evaluated price, the Tenderer with the superior past performance with the Procuring Entity shall be selected, whereby factors such as delivery period, quality of Works delivered, complaints history and performance indicators could be taken into consideration.

57.3 In the event that there is a tie for the lowest price and none of the Tenderers has the record of past performance with the Procuring Entity as stated under ITT Sub Clause 57.2, then the Tenderer shall be selected, subject to firm confirmation through the Post-qualification process, after consideration as to whether the Tenderer has demonstrated in its Tender superior past performance with the other Procuring Entities or a more efficient work programme and work methodology.

57.4 The successful Tenderer as stated under ITT Sub Clauses 57.1, 57.2 and 57.3 shall not be selected through lottery under any circumstances.

58. Negotiations

58.1 No negotiations shall be held during the Tender evaluation or award with the lowest or any other Tenderer.

58.2 The Procuring Entity through the TEC may, however, negotiate with the lowest evaluated Tenderer with the objective to reduce the Contract price by reducing the scope of works or a reallocation of risks and responsibilities, only when it is found that the lowest evaluated Tender is significantly higher than the official estimate; the reasons for such higher price being duly analyzed.

58.3 If the Procuring Entity decides to negotiate for reducing the scope of the requirements under ITT Sub Clause 58.2, it will be required to guarantee that the lowest Tenderer remains the lowest Tenderer even after the scope of work has been revised and shall further be ensured that the objective of the Procurement will not be seriously affected through this reduction.

58.4 In the event that the Procuring Entity decides because of a high Tender price to reduce the scope of the requirements to meet the available budget, the Tenderer is not obliged to accept the award

and shall not be penalised in any way for rejecting the proposed award.

59. Post-qualification

- 59.1 The Procuring Entity shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive tender is qualified to perform the Contract satisfactorily.
- 59.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT Clause 32, clarifications in accordance with ITT Clause 53 and the qualification criteria indicated in ITT Clauses 12 to 17. Factors not included therein shall not be used in the evaluation of the Tenderer's qualification.
- 59.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in rejection of the tenderer's tender, in which event the Procuring Entity shall proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily
- 59.4 The TEC may verify information contained in the Tender by visiting the premises of the Tenderer as a part of the post qualification process, if practical and appropriate.

60. Procuring Entity's Right to Accept any or to Reject Any or All Tenders

- 60.1 The Procuring Entity reserves the right to accept any tender, to annul the tender proceedings, or to reject any or all tenders at any time prior to contract award, without thereby incurring any liability to Tenderers, or any obligations to inform the Tenderers of the grounds for the Procuring Entity's action.

61. Informing Reasons for Rejection

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

G. Contract Award

62. Award Criteria

- 62.1 The Procuring Entity shall award the Contract to the Tenderer whose offer is responsive to all the requirements of the Tender Document and that has been determined to be the lowest evaluated Tender, provided further that the Tenderer is determined to be Post-qualified in accordance with ITT Clause 59.
- 62.2 A Tenderer will not be required, as a condition for award, to undertake responsibilities not stipulated in the Tender documents, to change its price, or otherwise to modify its Tender.

- 63. Notification of Award**
- 63.1 Prior to the expiry of the Tender Validity period and within seven (7) working days of receipt of the approval of the award by the Approving Authority, the Procuring Entity shall issue the Notification of Award (NOA) to the successful Tenderer.
- 63.2 The Notification of Award, attaching the contract as per the sample (**Form PW3-7**) to be signed, shall state :
- (a) the acceptance of the Tender by the Procuring Entity;
 - (b) the price at which the contract is awarded;
 - (c) the amount of the Performance Security and its format;
 - (d) the date and time within which the Performance Security shall be submitted; and
 - (e) the date and time within which the Contract shall be signed.
- 63.3 Until a formal contract is signed, the Notification of Award will constitute a Contract, which shall become binding upon the furnishing of a Performance Security and the signing of the Contract by both parties.
- 64. Performance Security**
- 64.1 The Performance Security shall be provided by the successful Tenderer in the amount as specified in the **TDS** and denominated in the currencies in which the Contract Price is payable.
- 64.2 The Procuring Entity may increase the amount of the Performance Security above the amounts as stated under ITT Sub Clause 64.1 but not exceeding twenty five (25) percent of the Contract price, if it is found that the Tender is Substantially below the updated official estimated or unbalanced as a result of front loading as stated under ITT Sub Clause 56.7.
- 64.3 The proceeds of the Performance Security shall be payable to the Procuring Entity unconditionally upon first written demand as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 65. Form and Time Limit for Furnishing of Performance Security**
- 65.1 The Performance Security, as stated under ITT Clause 64, may be in the form of a Bank Draft, Pay Order or an irrevocable Bank Guarantee in the format (**Form PW3-9**), issued by any scheduled Bank of Bangladesh acceptable to the Procuring Entity.
- 65.2 Within fourteen (14) days from the date of acceptance of the Notification of Award (NOA) but not later than the date specified therein, the successful Tenderer shall furnish the Performance Security for the due performance of the Contract in the amount as stated under ITT Sub Clauses 64.1 or 64.2.
- 66. Validity of Performance Security**
- 66.1 The Performance Security shall be required to be valid until a date twenty eight (28) days beyond the Intended Completion Date as specified in Tender Document.
- 67. Authenticity of Performance Security**
- 67.1 The Procuring Entity may verify the authenticity of the Performance Security submitted by the successful Tenderer by sending a written request to the branch of the bank issuing the

Pay Order, Bank Draft or irrevocable Bank Guarantee in specified format.

68. Adjudicator

68.1 The Procuring Entity proposes the person named in the **TDS** to be appointed as Adjudicator under the Contract, at an hourly fee and for those reimbursable expenses specified in the **TDS**.

69. Contract Signing

69.1 At the same time as the Procuring Entity issues the Notification of Award (NOA), the Procuring Entity will send the draft Contract Agreement and all documents forming the Contract to the successful Tenderer.

69.2 Within twenty-one (21) days of receipt of the Agreement, but not later than twenty-eight (28) days of issuance of the NOA, the successful Tenderer shall sign, date, and return it to the Procuring Entity.

69.3 Failure of the successful Tenderer to submit the Performance Security, pursuant to ITT Sub-Clause 64.1, or sign the Contract, pursuant to ITT Sub-Clause 69.2, shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the next lowest evaluated Tenderer, whose offer is substantially responsive and is determined by the Procuring Entity to be qualified to perform the Contract satisfactorily.

70. Publication of Notification of Award of Contract

70.1 Notification of Awards for Contracts of Taka ten (10) million and above shall be notified by the Procuring Entity to the Central Procurement Technical Unit within seven (7) days of issuance of the NOA for publication in their website, and that notice shall be kept posted for not less than a month.

70.2 Notification of Award for Contracts below Taka ten (10) million, shall be published by the Procuring Entity on its Notice Board and where applicable on the website of the Procuring Entity and that notice shall be kept posted for not less than a month.

71. Debriefing of Tenderers

71.1 Debriefing of Tenderers by Procuring Entity shall outline the relative status and weakness only of his or her Tender requesting to be informed of the grounds for not accepting the Tender submitted by him or her, without disclosing information about any other Tenderer.

71.2 In the case of debriefing, confidentiality of the evaluation process shall be maintained.

72. Right to Complain

72.1 Any Tenderer has the right to complain in accordance with Section 29 of the Public Procurement Act 2006 and Part 12 of Chapter Three of the Public Procurement Rules, 2008.

Section 2. Tender Data Sheet

<i>Instructions for completing Tender Data Sheet are provided in italics in parenthesis for the relevant ITT clauses</i>	
ITT Clause	Amendments of, and Supplements to, Clauses in the Instructions to Tenderers
A. General	
ITT 1.1	<p>The Procuring Entity is: Bangladesh Power Development Board</p> <p>The authorized representative is: Director Directorate of Purchase Bangladesh Power Development Board WAPDA Bhaban (9th Floor), Motijheel C/A, Dhaka -1000, Bangladesh. Consignee: Manager (Maintenance), Bibiyana-III, 400MW CCPP, BPDB, Nabiganj, Habiganaj.</p> <p>The Name of the Tender is: Procurement of NLDC SCADA/ EMS Integration Works for Bibiyana-III, 400MW CCPP, BPDB, Nabiganj, Habiganaj.</p>
ITT 3.1	The source of public funds is Revenue Budget (Cash Foreign Exchange Allocation) of BPDB
ITT 3.3	The name of the Development Partner is – None
ITT 5.1	Tenderers from the following countries are not eligible: <i>Israel and countries having no diplomatic relation with Bangladesh</i>
ITT 6.1	Materials, Equipments and associated services from the following countries are not eligible: <i>Israel and countries having no diplomatic relation with Bangladesh</i>
ITT 7.1	<p>Tenderer will carefully examine the tender requirements and will visit the site at their own cost to determine the existing conditions, facilities, detail specification, dimension of the tendered spares/ equipment of the existing system. Any neglect or failure on the part of the Tenderer to obtain reliable information upon the foregoing or any matter affecting the supply and completion period shall not relieve the successful Tenderer from his contractual obligation, if the Contract is awarded.</p> <p>It must be understood and agreed that such factors have been properly investigated and considered in the preparation of the Proposal submitted. No claims for financial and time adjustment to the Contract awarded for the Work under these Specifications and Documents will be permitted by the Board/Engineer which are based on the lack of such prior information or its affect on the cost of the work and its completion time.</p>

B. Tender Document	
ITT 8.2	<p>The following are authorised agents of the Procuring Entity for the purpose of issuing the Tender Document:</p> <p>Director, Directorate of Purchase Bangladesh Power Development Board WAPDA Bhaban (9th Floor) Motijheel C/A, Dhaka -1000, Bangladesh Telephone: 02223383081; E-mail:dir.purchase@bpd.gov.bd</p>
ITT 9.1	<p>For clarification of Tender Document purposes only, the Procuring Entity's address is:</p> <p>Director, Directorate of Purchase Bangladesh Power Development Board WAPDA Bhaban (9th Floor) Motijheel C/A, Dhaka -1000, Bangladesh Telephone: 02223383081; E-mail:dir.purchase@bpd.gov.bd</p> <p>A prospective tenderer requiring any clarification of the tender document shall contact in writing at the procuring entity's address on or before 14 (fourteen) days from the date of Tender Submission.</p>
ITT 10.1	A Pre-Tender meeting shall not be held
C. Qualification Criteria	
ITT 14.1(a)	The minimum number of years of general experience of the Tenderer as Prime Contractor or Subcontractor or Management Contractor shall be <i>Three (03)</i> years
ITT 14.1(b)	<p>The minimum specific experience as a Contractor or Subcontractor or Management Contractor in similar to the proposed plant and services in at least one (1) number of contract of similar nature, complexity and methods/ technology successfully completed within the last 10 (ten) years, with a value of at least USD 0.04 (Zero Point Zero Four) Million or Equivalent.</p> <p>In addition, if the tenderer is other than NLDC (PGCB) software system's vendor (i.e., GE), the tenderer has to submit a confirmation letter from NLDC (PGCB) software system's vendor (i.e. GE) that they will allow such SCADA integration to their system in favor of tenderer as per Section 7 of Tender Document.</p> <p>Similar nature, complexity and methods/ technology means: NLDC SCADA/ EMS system Integration Works/ Execution and Tests.</p> <p>As documentary evidence against specific experience, Tenderer shall have to submit at least 01 (one) End user certificate stating that NLDC SCADA/ EMS system Integration Works/ Execution of a power plant has the satisfactory performance for one (1) year within last 10 years.</p>

	<p>The certificate(s) on Letterhead pad of the user duly signed by the proper authority mentioning designation must contain the following information:</p> <ul style="list-style-type: none"> • Power Plant Name, Type & Unit Capacity. • Nature of the Work. • Contract Value. • Dates of Work Completion & Issuance of Certificate. • Name and address (telephone/e-mail) of the end user duly signed in the official pad of end user. • End user's detail Contact Information • BPDB may communicate during evaluation stage at the mentioned addresses/ addresses of End User's own domain website for confirmation of the End User Certificate. If there is no response received from the End User's Representative, the Bid will be subjected to rejection. 																												
ITT 15.1(a)	The required average annual turnover shall be greater than USD 0.30 (Zero Point Three Zero) Million or Equivalent over the best three (03) years in the last five (05) years; years counting backward from the date of publication of IFT in the newspaper.																												
ITT 15.1(b)	The minimum amount of liquid assets or working capital or credit facilities of the Tenderer shall be USD 0.05 (Zero Point Zero Five) Million or Equivalent.																												
ITT 16.1(a)	A Construction Project Manager, Engineer, and other key staff shall have the following qualifications and experience: Qualified Project Manager & Engineers having experience of similar/related work as mentioned in Section-7, General Specification.																												
ITT 17.1	The Tenderer shall own or have proven access to hire or lease of the major construction equipments, in full working order as follows : As required to perform the work as mentioned in Section-7, General Specification.																												
ITT 18.1	The value of non-judicial stamp for execution of the Joint Venture agreement shall be Tk 300 (Three Hundred).																												
ITT 18.2	<p>The minimum qualification requirements of Leading Partner and other Partner(s) of a JVCA shall be as follows :</p> <table border="1"> <thead> <tr> <th>TDS Clauses References</th> <th>Requirements by summation</th> <th>Requirements for Leading Partner</th> <th>Requirements for other Partner(s)</th> </tr> </thead> <tbody> <tr> <td>ITT-14.1(a)</td> <td>Summation not applicable</td> <td>Same as stated in TDS</td> <td>Same as for Lead Partner</td> </tr> <tr> <td>ITT-14.1(b)</td> <td>100%</td> <td>As mentioned in [TDS: ITT 14.1(b)]</td> <td>Not applicable</td> </tr> <tr> <td>ITT-15.1(a)</td> <td>100%</td> <td>40%</td> <td>25%</td> </tr> <tr> <td>ITT-15.1(b)</td> <td>100%</td> <td>40%</td> <td>25%</td> </tr> <tr> <td>ITT-16.1(a)</td> <td>100%</td> <td>Not applicable</td> <td>Not applicable</td> </tr> <tr> <td>ITT-17.1</td> <td>100%</td> <td>Not applicable</td> <td>Not applicable</td> </tr> </tbody> </table>	TDS Clauses References	Requirements by summation	Requirements for Leading Partner	Requirements for other Partner(s)	ITT-14.1(a)	Summation not applicable	Same as stated in TDS	Same as for Lead Partner	ITT-14.1(b)	100%	As mentioned in [TDS: ITT 14.1(b)]	Not applicable	ITT-15.1(a)	100%	40%	25%	ITT-15.1(b)	100%	40%	25%	ITT-16.1(a)	100%	Not applicable	Not applicable	ITT-17.1	100%	Not applicable	Not applicable
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ITT-16.1(a)	100%	Not applicable	Not applicable																										
ITT-17.1	100%	Not applicable	Not applicable																										
ITT 19.3	The Nominated Subcontractor(s) named [None] shall execute the following specific components of the proposed Works: None																												
D. Tender Preparation																													

<p>ITT 24.1 (I)</p>	<p>The Tenderer shall submit with its Tender the following additional documents:</p> <ol style="list-style-type: none"> 1. End User Certificate/ R&I Report as Documentary Evidence to satisfy Experience Criteria as stated in ITT 14.1 (b). 2. Confirmation letter from NLDC (PGCB) software system's vendor (i.e. GE) for the tenderer other than system's vendor as stated in ITT 14.1 (b). 2. NLDC SCADA/ EMS system Integration Works/ Execution record for last 10 years with details contract reference for verification the authenticity. 3. Guarantee/ warranty certificate of the whole work and its satisfactory performance during warranty period 1 (One) month from the date of issuing Provisional Acceptance Certificate (PAC). 4. Audited Financial reports/balance sheet for last 3-5 years as documentary evidence to satisfy financial criteria as stated in ITT 15.1(a) and Audited Financial reports/balance sheet or bank statement or credit line(s) substantiated by any schedule Bank as documentary evidence to satisfy financial criteria as stated in ITT 15.1(b). 5. Tenderer shall have to submit Certificate confirming compliance to the terms and conditions of the Tender Document 6. If Tenderer has any reservations, he has to mention it in deviation list [Form-PW3-12] 7. Sealed & signed (on every pages) original Tender Document which was issued by BPDB duly signed by authorised person on behalf of the Tenderer.
<p>ITT 26.1</p>	<p>Alternatives will not be permitted.</p>
<p>ITT 26.2</p>	<p>There shall not be alternative times for completion of the Works.</p>
<p>ITT 26.4</p>	<p>Alternative technical solutions for any parts of works will not be permitted.</p>
<p>ITT 27.9</p>	<p>The prices quoted by the Tenderer shall be fixed for the duration of the Contract.</p>
<p>ITT 28.1</p>	<p>The currency of the Tender shall be: US Dollar/ Freely convertible international currency and Bangladesh Taka.</p>
<p>ITT 31.1</p>	<p>The required Proposal shall include the following additional information:</p> <ol style="list-style-type: none"> a) In case of a Joint venture, consortium or association (JVCA), documentary evidence such as agreement/memorandum between JVCA is to be submitted with the tender. The following minimum information's/ requirements should be included within this agreement /memorandum: <ol style="list-style-type: none"> i. All partners shall be jointly and severally liable for the execution of the contract in accordance with the Contract terms; ii. One of the members will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and iii. The execution of the entire Contract, including payment, shall be done exclusively with the partner in charge. b) Common approach or methodology for carrying out the work including detailed relevant information and work program.
<p>ITT 33.1</p>	<p>The Tender Validity period shall be 150 days from the date of Opening the</p>

	tender.
ITT 35.1	The amount of the Tender Security shall be BDT 1,38,750.00 (One Lac Thirty-Eight Thousand Seven Hundred Fifty) or USD 1,250.00 (One Thousand Two Hundred Fifty) in the form of an irrevocable and unconditional Bank Guarantee on 300 Taka Non-judicial stamp issued by a scheduled bank of Bangladesh or by a foreign bank duly confirmed by a scheduled bank in Bangladesh on 300 Taka Non-judicial stamp (“confirmed” means Bank Guarantee shall be payable/encashable from the confirming bank in Bangladesh) in favour of Director, Directorate of Purchase, Bangladesh Power Development Board. Dhaka.
ITT 40.1	The <u>original and Three copies of the complete Proposal</u> shall be submitted within the date and time as mentioned in the tender notice.
E. Tender Submission	
ITT 41.1	This Tender is invited in <u>Open Tendering Method (Single Stage Single Envelope)</u> Tenderers shall have to submit the Complete Proposal containing in one box in accordance with the requirements of the Tender document including addenda (if any) All documents/ information, Priced Bill of Quantities and filled up Tender submission letter with price as per tender requirement shall be included in the Proposal.
ITT 41.2(e)	The inner and outer envelopes shall bear the following additional identification marks: <ol style="list-style-type: none"> 1. Tender Enquiry No. & Date 2. Brief Description of work 3. Name & Address of the Employer 4. Name & Address of the Tenderer.
ITT 42.1	For <u>Tender submission purposes</u> only, the Procuring Entity’s address is: Attention: Director, Purchase Address: Directorate of Purchase, Bangladesh Power Development Board WAPDA Building, (9th Floor), 12, Motijheel C/A, Dhaka-1000. The deadline for the submission of Tenders is: As specified in the Tender Notice
ITT 42.3	For <u>Tender submission purposes</u> only, the Procuring Entity’s address is: Address (PRIMARY PLACE): Directorate of Purchase, Bangladesh Power Development Board WAPDA Building, (9th Floor), 12, Motijheel C/A, Dhaka-1000. Address (SECONDARY PLACES): Submission of Tenders will not be allowed in more than one place.
F. Tender Opening and Evaluation	
ITT 48.1	The Tender opening shall take place at (<i>always the PRIMARY PLACE</i>): Address:

	<p>Directorate of Purchase, Bangladesh Power Development Board WAPDA Building, (9th Floor), 12, Motijheel C/A, Dhaka-1000. Time & Date: As specified in the Tender Notice</p>
ITT 49.1 & 56.1	<p>Evaluation of the Tenders shall be carried out based on the following:</p> <p>1.0 Exchange Rate</p> <p>For Comparison of Tenders, BPDB shall convert all currencies excepting Bangladesh Currency quoted by the Tenderers into Bangladesh Taka. Such conversions shall be made on the basis of Bangladesh Bank rate on the date of Tender opening and applicable to similar transactions.</p> <p>2.0 Method of Tender Evaluation</p> <p>The Technical conformance shall be evaluated considering all the aspects (in connection with specified work) offered by each Tenderer as well as the data and information submitted and on proper judgment of the capability of individual Tenderer. The technical qualifications and overall capabilities of the Tenderers for carrying out the work as specified as well as the specifications of the system, equipments, spares and consumables offered and fulfillment of the key dates shall be the essence for selection of technically responsive Tenderers.</p> <p>The evaluation will take into account the initial costs of the Tenders, which shall be determined by bringing the scope of work of all the Tenders to a common basis for complete fulfillment of the work. BPDB reserves the right to judge the reasonableness of the cost components quoted by the Tenderers. For the purpose of evaluation all costs shall be based on current prices as of the date of the tender closing.</p> <p>The Tender quoting completion period more than 70 days from opening of L/C shall not be accepted. The Tender of which total evaluated cost is the lowest shall be adjudged the lowest Tender.</p>
G. Contract Award	
ITT 64.1	<p>The amount of Performance Security shall be <i>ten (10)</i> percent of the Contract Price.</p> <p>The Performance Security shall be in the form of an irrevocable and unconditional Bank Guarantee issued by a scheduled bank of Bangladesh or by a foreign bank duly endorsed/authenticated by a scheduled bank of Bangladesh.</p>
ITT 65.2	<p>Within twenty eight (28) days from the date of issuance of the Notification of Award (NOA) but not later than the date specified therein, the successful Tenderer shall furnish the Performance Security for the due performance of the Contract in the amount as stated under ITT Sub Clauses 64.1 or 64.2.</p>
ITT 68.1	<p>The Adjudicator proposed by the Procuring Entity is [Will be selected as and when necessary. Adjudicator Appointing Authority: President of the Institution of Engineers, Bangladesh]. The hourly fee shall be Tk [Will be informed later] and the reimbursable expenses shall be limited to [will be informed later].</p>

Section 3. General Conditions of Contract

A. General

1. **Definitions** 1.1 In the Conditions of Contract, which include Particular Conditions and these General Conditions, the following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined terms:
- (a) **Act means** The Public Procurement Act, 2006 (Act 24 of 2006).
 - (b) **Adjudicator** is the expert appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in GCC Sub Clause 94.2.
 - (c) **Bill of Quantities (BOQ)** means the priced and completed Bill of Quantities forming part of the Contract defined in GCC Clause 60.
 - (d) **Compensation Events** are those defined in GCC Clause 69.
 - (e) **Competent Authority** means the authority that gives decision on specific issues as per delegation of administrative and/or financial powers.
 - (f) **Completion Certificate** means the Certificate issued by the Project Manager as evidence that the Contractor has executed the Works and Physical services in all respects as per design, drawing, specifications and Conditions of Contract.
 - (g) **Completion Date** is the actual date of completion of the Works and Physical services certified by the Project Manager, in accordance with GCC Clause 80.
 - (h) **Contract Agreement** means the Agreement entered into between the Procuring Entity and the Contractor, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein to execute, complete, and maintain the Works.
 - (i) **Contract Documents** means the documents listed in GCC Clause 6, including any amendments thereto.
 - (j) **Contractor** means the Person under contract with the Procuring Entity for the execution of Works under the Rules and the Act as stated in the **PCC**.
 - (k) **Contract Price** means the price payable to the Contractor as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, for the execution, completion and maintenance of the Works in accordance with the provisions of the Contract.

- (l) **Contractor's Tender** is the completed Tender Document including the priced Bill of Quantities and the Schedules submitted by the Contractor to the Procuring Entity.
- (m) **Cost** means all expenditures reasonably incurred or to be incurred by the Contractor, whether on or off the Site, including overhead ,profit, taxes, duties, fees, and such other similar levies
- (n) **Day** means calendar day unless otherwise specified as working days.
- (o) **Dayworks** means work carried out following the instructions of the Procuring Entity or the authorised Project Manager and is paid for on the basis of time spent by the Contractor's workers and equipment at the rates specified in the Schedules, in addition to payments for associated Materials and Plant.
- (p) **Defect** is any part of the Works not completed in accordance with the Contract.
- (q) **Defects Correction Certificate** is the certificate issued by the Project Manager upon correction of defects by the Contractor.
- (r) **Drawings** include calculations and other information provided in Section 9 or as approved by the Project Manager for the execution and completion of the Contract.
- (s) **Goods** mean the Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.
- (t) **Equipment** is the Contractor's apparatus, machinery, vehicles and other things required for the execution and completion of the Works and remedying any defects excluding Temporary Works and the Procuring Entity's Equipment (if any), Plant, Materials and any other things to form or forming part of the Permanent Works.
- (u) **Force Majeure** means an event or situation beyond the control of the Contractor that is not foreseeable, is unavoidable, and its origins not due to negligence or lack of care on the part of the Contractor; such events may include, but not be limited to, acts of the Government in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes or more as included in GCC Clause 85.;
- (v) **GCC** means the General Conditions of Contract.
- (w) **Government** means the Government of the People's Republic of Bangladesh.
- (x) **"Head of the Procuring Entity"** means the Secretary of a Ministry or a Division, the Head of a Government

Department or Directorate; or the Chief Executive, by whatever designation called, of a local Government agency, an autonomous or semi-autonomous body or a corporation, or a corporate body established under the Companies Act;

- (y) **Intended Completion Date** is the date calculated from the Commencement Date as specified in the **PCC**, on which it is intended that the Contractor shall complete the Works and Physical services as specified in the Contract and may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (z) **Materials** means things of all kinds other than Plant intended to form or forming part of the Permanent Works, including the supply-only materials, if any, to be supplied by the Contractor under the Contract.
- (aa) **Month** means calendar month.
- (bb) **Original Contract Price** is the Contract Price stated in the Procuring Entity's Notification of Award (Form PW3-7) and further clearly determined in the **PCC**.
- (cc) **Permanent works** means the permanent works to be executed by the Contractor under the Contract.
- (dd) **PCC** means the Particular Conditions of Contract.
- (ee) **Plant** means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Procuring Entity and relating to the construction of the Works and Physical services.
- (ff) **Procuring Entity** means a Procuring Entity having administrative and financial powers to undertake procurement of Works and Physical services using public funds and is as named in the **PCC** who employs the Contractor to carry out the Works.
- (gg) **Project Manager** is the person named in the **PCC** or any other competent person appointed by the Procuring Entity and notified to the Contractor who is responsible for supervising the execution and completion of the Works and Physical services and administering the Contract.
- (hh) **Provisional Sums means** amounts of money specified by the Procuring Entity in the Bill of Quantities which shall be used, at its discretion, for payments to Nominated Subcontractor(s) and for meeting other essential expenditures under the Contract pursuant to GCC Sub Clause 77.
- (ii) **Retention Money** means the accumulated retention moneys which the Procuring Entity retains under GCC Clause 72.

- (jj) **Schedules** means the document(s) entitled schedules, completed by the Contractor and submitted with the Tender Submission Letter, as included in the Contract. Such document may include the data, lists and schedules of rates and/or prices.
- (kk) **Site** means the places where the Permanent Works are to be executed including storage and working areas and to which Plant and Materials are to be delivered, and any other places as may be specified in the **PCC** as forming part of the Site.
- (ll) **Site Investigation Reports** are those that were included in the Tender Document and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (mm) **Specification** means the Specification of the Works included in the Contract and any modifications or additions to the specifications made or approved by the Project Manager in accordance with the Contract.
- (nn) **Start Date** is the date defined in the **PCC** and it is the last date when the Contractor shall commence execution of the Works under the Contract.
- (oo) **Subcontractor** means a person or corporate body, who has a contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (pp) **Temporary Works** means all temporary works of every kind other than Contractor's Equipment required on the Site for the execution and completion of the Permanent Works and remedying of any defects.
- (qq) **Variation** means any change to the Works directly procured from the original Contractor to cover increases or decreases in quantities, including the introduction of new work items that are either due to change of plans, design or alignment to suit actual field conditions, within the general scope and physical boundaries of the contract.
- (rr) **Works** means all works associated with the construction, reconstruction, site preparation, demolition, repair, maintenance or renovation of railways, roads, highways, or a building, an infrastructure or structure or an installation or any construction work relating to excavation, installation of equipment and materials, decoration, as well as physical services ancillary to works as detailed in the **PCC**, if the value of those services does not exceed that of the Works themselves.
- (ss) **Writing** means communication written by hand or machine duly signed and includes properly authenticated messages by facsimile or electronic mail.

- 2. Interpretation**
- 2.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construance of the Contract. Words have their normal meaning under the language of the Contract unless specifically defined.
- 2.2 Entire Agreement
- The Contract constitutes the entire agreement between the Procuring Entity and the Contractor and supersedes all communications, negotiations and agreements (whether written or verbal) of parties with respect thereto made prior to the date of Contract Agreement; except those stated under GCC Sub Clause 6.1(j).
- 2.3 Non waiver
- (a) Subject to GCC Sub Clause 2.3(b), no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.
- 2.4 Severability
- If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.
- 2.5 Sectional completion
- If sectional completion is specified in the **PCC**, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 3. Communications and Notices**
- 3.1 Communications between Parties such as notice, request or consent required or permitted to be given or made by one party to the other pursuant to the Contract shall be in writing to the addresses specified in the **PCC**.
- 3.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

- 3.3 A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.
- 4. Governing Law** 4.1 The Contract shall be governed by and interpreted in accordance with the laws of the People’s Republic of Bangladesh.
- 5. Governing Language** 5.1 The Contract shall be written in English. All correspondences and documents relating to the Contract may be written in English or *Bangla*. Supporting documents and printed literature that are part of the Contract may be in another language, provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, such translation shall govern.
- 5.2 The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
- 6. Documents Forming the Contract and Priority of Documents** 6.1 The following documents forming the Contract shall be interpreted in the following order of priority:
- (a) the signed Contract Agreement (**Form PW3-8**);
 - (b) the Notification of Award (**PW3-7**);
 - (c) the completed Tender and the appendix to the Tender;
 - (d) the Particular Conditions of Contract;
 - (e) the General Conditions of Contract;
 - (f) the Technical Specifications;
 - (g) the General Specifications;
 - (h) the Drawings;
 - (i) the priced Bill of Quantities and the Schedules; and
 - (j) any other document listed in the **PCC** forming part of the Contract.
- 7. Scope of Works** 7.1 The Works to be executed, completed and maintained shall be as specified in the Bill of Quantities, the General and Particular Specifications and Drawings.
- 7.2 Unless otherwise stipulated in the Contract, the Works shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for completion of the Works as if such items were expressly mentioned in the Contract.
- 8. Assignment** 8.1 Neither the Contractor nor the Procuring Entity shall assign, in whole or in part, its obligations under the Contract
- 9. Eligibility** 9.1 The Contractor and its Subcontractor(s) shall have the nationality of a country other than that specified in the **PCC**.

- 9.2 All materials, equipment, plant, and supplies used by the Contractor in both permanent and temporary works and services supplied under the Contract shall have their origin in the countries except any specified in the **PCC**.
- 10. Gratuities / Agency fees** 10.1 No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the tender or in the Contract, have been given or received in connection with the procurement process or in the Contract execution.
- 11. Confidential Details** 11.1 The Contractor's and the Procuring Entity's personnel shall disclose all such confidential and other information as may be reasonably required in order to verify the Contractor's compliance with the Contract and allow its proper implementation.
- 11.2 Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.
- 12. JVCA** 12.1 If the Contractor is a JVCA ,
- (a) each partner of the JVCA shall be jointly and severally liable for all liabilities and ethical or legal obligations to the Procuring Entity for the fulfilment of the promises of the Contract;
 - (b) the JVCA partners shall nominate a representative who shall have the authority to conduct all business including the receipt of payments for and on behalf of all partners of the JVCA;
 - (c) the JVCA shall notify the Procuring Entity of its composition and legal status which shall not be altered without the prior approval of the Procuring Entity.
 - (d) alteration of partners shall only be allowed if any of the partners is found to be incompetent or has any serious difficulties which may impact the overall implementation of the works.
- 13. Possession of the Site** 13.1 The Procuring Entity shall give possession of the Site or part(s) of the Site, to the Contractor on the date(s) stated in the **PCC**. If possession of a part of the Site is not given by the date stated in the **PCC**, the Procuring Entity will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event as stated under GCC Sub Clause 69.1(a).
- 14. Access to** 14.1 The Contractor shall allow the Project Manager and any person

the Site	authorised 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.
15. Procuring Entity's Responsibilities	<p>15.1 The Procuring Entity shall pay the Contractor, in consideration of the satisfactory progress of execution and completion of the Works and Physical services, and the remedying of defects therein, the Contract price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract Agreement.</p> <p>15.2 The Procuring Entity shall make its best effort to guide and assist the Contractor in obtaining, if required, any permit, licence, and approvals from local public authorities for the purpose of execution of the Works and Physical services under the Contract.</p>
16. Approval of the Contractor's Temporary Works	<p>16.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them, if they comply with the Specifications and Drawings.</p> <p>16.2 The Contractor shall be responsible for design of Temporary Works.</p> <p>16.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.</p> <p>16.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.</p>
17. Contractor's Responsibilities	17.1 The Contractor shall execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract Agreement.
18. Taxes and Duties	18.1 The Contractor shall be entirely responsible for all taxes, duties, fees, and other such levies imposed inside and outside Bangladesh.
19. Contractor's Personnel	<p>19.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the PCC, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager.</p> <p>19.2 The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are equal to or higher than those of the personnel named in the Schedule.</p> <p>19.3 If the Project Manager asks the Contractor to remove a particular person who is a member of the Contractor's staff or work force from the Site, he or she shall state the reasons, and the Contractor shall ensure that the person leaves the Site within three (3) days and has no further connection with the work in the Contract.</p>
20. Subcontracti	20.1 Subcontracting the whole of the Works by the Contractor shall

ng	not be permissible. The Contractor shall be responsible for the acts or defaults of any Subcontractor, his or her agents or employees, as if they were the acts or defaults of the Contractor.
20.2	The prior consent, in writing, of the Project Manager shall however be obtained for other proposed Subcontractor(s).
20.3	Subcontractors shall comply with the provisions of GCC Clause 39.
21. Nominated Subcontractor	<p>21.1 Nominated Subcontractor named in the Contract shall be entitled to execute the specific components of the Works stated in the PCC.</p> <p>21.2 The Contractor shall not be under obligations to employ a Nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Project manager as soon as practicable, with supporting particulars while there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength, or does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor.</p> <p>21.3 Subcontracting shall in no event relieve the Contractor from any of its obligations, duties, responsibilities, or liability under the Contract and all Subcontractors shall comply with the provisions of GCC Clause 39.</p>
22. Other Contractors	<p>22.1 The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, the Project Manager and the Procuring Entity between the dates given in the Schedule of other Contractors. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of other Contractors, and shall notify the Contractor of any such modification.</p>
23. Project Manager's Decisions	<p>23.1 Except where otherwise specifically stated in the PCC, the Project Manager will decide Contractual matters between the Procuring Entity and the Contractor in its role as representative of the Procuring Entity.</p>
24. Delegation	<p>24.1 The Project Manager may delegate any of his duties and responsibilities to his representative except to the Adjudicator, after notifying the Contractor, and may cancel any delegation, without retroactivity, after notifying the Contractor.</p> <p>24.2 Any communications to the Contractor in accordance with such delegation shall have the same effect as if it was given by the Project Manager.</p>
25. Instructions,	<p>25.1 The Contractor shall carry out all instructions of the Project Manager that comply with the applicable law.</p>

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| 26. Queries about the Contract conditions | 26.1 | The Project Manager, on behalf of the Procuring Entity, will clarify queries on the Conditions of Contract. |
| 27. Safety, Security and Protection of the Environment | 27.1 | <p>The Contractor shall throughout the execution and completion of the Works and the remedying of any defects therein:</p> <ul style="list-style-type: none"> (a) take all reasonable steps to safeguard the health and safety of all workers working on the Site and other persons entitled to be on it, and to keep the Site in an orderly state; (b) provide and maintain at the Contractor's own cost all lights, guards, fencing, warning signs and watching for the protection of the Works or for the safety on-site; and (c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of the Contractors methods of operation. |
| 28. Working Hours | 28.1 | The Contractor shall not perform any work on the Site on the weekly holidays, or during the night or outside the normal working hours, or on any religious or public holiday, without the prior written approval of the Project Manager. |
| 29. Welfare of Labourers | 29.1 | The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's personnel relating to their employment, health, safety, welfare, immigration and shall allow them all their legal rights. |
| | 29.2 | The Contractor, in particular, shall provide proper accommodation to his or her labourers and arrange proper water supply, conservancy and sanitation arrangements at the site for all necessary hygienic requirements and for the prevention of epidemics in accordance with relevant regulations, rules and orders of the government. |
| | 29.3 | The Contractor, further in particular, shall pay reasonable wages to his or her labourers, and pay them in time. In the event of delay in payment the Procuring Entity may effect payments to the labourers and recover the cost from the Contractor. |
| 30. Child Labour | 30.1 | The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development in compliance with the applicable labor laws and other relevant treaties ratified by the government. |

- 31. Discoveries** 31.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
- 32. Procuring Entity's and Contractor's Risks** 32.1 The Procuring Entity carries the risks that the Contract states are Procuring Entity's risks and the Contractor carries the risks that the Contract states are Contractor's risks.
- 33. Procuring Entity's Risks** 33.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Procuring Entity'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 Procuring Entity or by any person employed by or Contracted to him except the Contractor.
 - (b) the risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 33.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is Procuring Entity'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 Procuring Entity's risk; or
 - (c) the activities of the Contractor on the Site after the Completion Date.
- 34. Contractor's Risks** 34.1 From the Start Date until the Defects Correction Certificate has been issued the risks of personal injury, death, and loss of or damage to property including without limitation, the Works, Plant, Materials, and Equipment, which are not Procuring Entity's risks are Contractor's risks.
- 35. Copyright** 35.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Procuring Entity by the Contractor herein shall remain vested

in the Contractor, or, if they are furnished to the Procuring Entity directly or through the Contractor by any third party, including Suppliers of materials, the copyright in such materials shall remain vested in such third party.

35.2 The Contractor shall not, except for the purposes of performing the obligations under the Contract, without the written permission of the Procuring Entity disclose or make use of any specification, plan, design and drawing, pattern, sample or information furnished by or on behalf of the Procuring Entity.

36. Limitation of Liability

36.1 Except in cases of criminal negligence or wilful misconduct:

- (a) the Contractor shall not be liable to the Procuring Entity, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Procuring Entity; and
- (b) the aggregate liability of the Contractor to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective Works, or to any obligation of the Contractor to indemnify the Procuring Entity with respect to patent infringement.

37. Insurance

37.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles specified in the **PCC** for the following events which are due to the Contractor's risks:

- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.

37.2 The Contractor shall deliver policies and certificates of insurance to the Project Manager, for the Project Manager's approval, before the Start Date. All such insurances shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

37.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment

is due, the payment of the premiums shall be a debt due.

- 37.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 37.5 Both parties shall comply with conditions of the insurance policies.
- 38. Management and Progress Meetings**
- 38.1 Either the Project Manager or the Contractor may require the other to attend a management and progress meeting. The business of such meeting shall be to review the progress and plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 38.2 The Project Manager shall record the business of the meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management and progress meeting or after the meeting, and stated in writing to all concerned.
- 39. Corrupt, Fraudulent, Collusive or Coercive Practices**
- 39.1 The Government requires that Procuring Entity, as well as the Contractor shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of the Contract under public fund.
- 39.2 For the purposes of GCC Sub Clause 39.4, the terms set forth below as follows:
- (a) "corrupt practice" means offering, giving or promising to give, receiving, or soliciting either directly or indirectly, to any officer or employee of a Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by a Procuring Entity in connection with a Procurement proceeding or Contract execution;
 - (b) "fraudulent practice" means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution;

- (c) “collusive practice” means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, non-competitive levels, thereby denying a Procuring Entity the benefits of competitive price arising from genuine and open competition; or
- (d) “coercive practice” means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in the Procurement proceeding or the execution of the Contract, and this will include creating obstructions in the normal submission process used for Tenders.
- (e) “obstructive practice” means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

39.3 Should any corrupt, fraudulent, collusive, coercive or obstructive practice of any kind come to the knowledge of the Procuring Entity, it will, in the first place, allow the Contractor to provide an explanation and shall, take actions only when a satisfactory explanation is not received. Such exclusion and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Contractor. Any communications between the Contractor and the Procuring Entity related to matters of alleged corrupt, fraudulent, collusive, coercive or obstructive practices shall be in writing.

39.4 If corrupt, fraudulent, collusive, coercive or obstructive practices of any kind determined by the Procuring Entity against the Contractor alleged to have carried out such practices, the Procuring Entity will :

- (a) exclude the Contractor from further participation in the particular Procurement proceeding; or
- (b) declare, at its discretion, the Contractor to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.

- 39.5 The Contractor shall be aware of the provisions on corruption, fraudulence, collusion and coercion in Section 64 of the Public Procurement Act, 2006 and Rule 127 of the Public Procurement Rules, 2008.
- 39.6 The Contractor shall permit the Procuring Entity and/or the Development Partner to inspect the Contractor's accounts and records and other documents relating to the submission of tender and contract performance, and to have them audited by auditors appointed by the Procuring Entity and/or the Development Partner, if so required.

B. Time Control

- 40. Commencement of Works**
- 40.1 Except otherwise specified in the **PCC**, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Project Manager's instruction recording the agreement of both Parties on such fulfilment and instructing to commence the Works is received by the Contractor:
- (a) signing of the Contract Agreement by both parties upon approval of the by relevant authorities;
 - (b) possession of the Site given to the Contractor as required for the commencement of the Works; and
 - (c) receipt by the Contractor of the Advance Payment under GCC Clause 75 provided that the corresponding Bank Guarantee has been delivered by the Contractor, if any.
- 40.2 The Contractor shall commence the execution of the Works as soon as is reasonably practicable by the **Start Date** as specified in the GCC Sub Clause **1.1(nn)** after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.
- 41. Completion of Works**
- 41.1 The Contractor shall carry out the Works in accordance with the Programme of Works submitted by the Contractor and as updated with the approval of the Project Manager as stated under GCC Clause 42 to complete them in all respects by the Intended Completion Date.
- 42. Programme of Works**
- 42.1 Within the time stated in the **PCC**, the Contractor shall submit to the Project Manager for approval a Programme of Works showing the general methods, arrangements, order, and timing for all the activities in the Works. The programme may be in the form of an Implementation Schedule prepared in any software or other form acceptable to the Project Manager.
- 42.2 The Contractor shall submit to the Project Manager for approval of an updated Programme at intervals no longer than the period stated in the **PCC**. An update of the Programme shall be a Programme showing the actual progress achieved on each activity and the effect of the

progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.

- 42.3 If the Contractor does not submit an updated Programme of Works at the intervals as stated under GCC Sub Clause 42.2, the Project Manager may withhold an amount as stated in the **PCC** from the next payment certificate and continue to withhold this amount until the next due payment after the date on which the overdue Programme of Works has been submitted.
- 42.4 The Project Manager's approval of the Programme of Works shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time for approval. A revised Programme shall show the effect of Variations and Compensation Events.
- 43. Pro Rata Progress**
- 43.1 The Contractor shall maintain Pro Rata progress of the Works. Progress to be achieved shall be pursuant to GCC Clause 42 and shall be determined in terms of the value of the works done.
- 44. Early Warning**
- 44.1 If at any time during performance of the Contract, the Contractor or its Subcontractors should encounter events, circumstances, conditions that may adversely affect the quality of the work, increase the original Contract Price or delay the execution of the Works, the Contractor shall promptly notify the Project Manager in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Contractor's notice, the Project Manager shall evaluate the situation, and the Contractor 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.
- 44.2 The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the original Contract price and Completion Date. The Contractor shall provide the estimate and the Project Manager shall further proceed as soon as reasonably possible.
- 45. Extension of Intended Completion Date**
- 45.1 The Contractor shall be entitled to an extension of the Intended Completion Date, if and to the extent that completion of the Works or any part thereof is or will be delayed by Compensation Events or a Variation or Extra Work Order.
- 45.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within twenty-one (21) days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has

failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the extension of Intended Completion Date.

45.3 Except in case of Force Majeure, as provided under GCC Clause 85, a delay by the Contractor in the performance of its Completion obligations shall render the Contractor liable to the imposition of Liquidated Damages pursuant to GCC Clause 73, unless an extension of Intended Completion Date is agreed upon, pursuant to GCC Clause 45.

**46. Delays
Caused by
Authorities**

46.1 If the following conditions apply, namely:

- (a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities,
- (b) these public authorities delay or disrupt the Contractor's work, and
- (c) the delay or disruption was unforeseeable;

then this delay or disruption will be considered as a cause of delay under GCC Sub Clause 45.1.

46.2 The Project Manager shall notify the Contractor accordingly keeping the Procuring Entity posted.

47. Acceleration

47.1 When the Procuring Entity wants the Contractor to finish the Works before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be advanced accordingly and confirmed by both the Procuring Entity and the Contractor.

47.2 If the Procuring Entity accepts the Contractor's priced proposals for acceleration, they will be incorporated in the Contract Price and treated as a **Variation** under GCC Clause 62.

**48. Delays
Ordered by
the Project
Manager**

48.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

**49. Suspension
of Work**

49.1 The Project Manager may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

**50. Consequenc
es of
Suspension**

50.1 If the Contractor suffers delay and/or incurs Cost from complying with the Project Manager's instructions under GCC Clause 49 and/or from resuming the work, the Contractor shall give notice to the Project Manager and shall be entitled subject to GCC Clause 93 to:

- (a) an extension of time for any such delay, if Completion is or will be delayed and

(b) payment of any such cost, which shall be included in the Contract Price.

50.2 After receiving this notice, the Project Manager shall proceed to agree or determine these matters.

50.3 The Contractor shall not be entitled to any extension of time for, or to any payment of the cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with GCC Clause 49.

C. Quality Control

51. Execution of Works 51.1 The Contractor shall construct, install and carry out the Works and Physical services in accordance with the Specifications and Drawings as scheduled in GCC Clause 6.

52. Examination of Works before covering up 52.1 All works under the Contract shall at all times be open to examination, inspection, measurements, testing and supervision of the Project Manager, and the Contractor shall ensure presence of its representatives at such actions provided proper advance notice is given by the Project Manager.

52.2 No part of the Works shall be covered up or put out of sight without the approval of the Project Manager. The Contractor shall give notice in writing to the Project Manager whenever any such part of the Works is ready for examination and the Project Manager shall attend to such examination without unreasonable delay.

53. Identifying Defects 53.1 The Project Manager shall check the works executed by the Contractor and notify the Contractor of any Defects found. Such checking shall not relieve the Contractor from his or her obligations. The Project Manager may also instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

54. Testing 54.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

55. Rejection of Works 55.1 If, as a result of an examination, inspection, measurement or testing, of Works it is found to be defective or otherwise not in accordance with the Contract, the Project Manager may reject the Works by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected Works

subsequently complies with the Contract.

- 56. Remedial Work**
- 56.1 Notwithstanding any test or certification, the Project Manager may instruct the Contractor to:
- (a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
 - (b) remove and re-execute any other work which is not in accordance with the Contract, and
 - (c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.
- 56.2 The Contractor shall comply with the instruction issued under GCC Sub Clause 56.1 within a reasonable time, which shall be specified in the instruction, or immediately if urgency is specified under GCC Sub Clause 56.1(c).
- 56.3 If the Contractor fails to comply with the instruction issued under GCC Sub Clause 56.2, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall be liable to pay all such costs arising from this failure.
- 57. Correction of Defects**
- 57.1 The Project Manager shall give notice to the Contractor, with a copy to the Procuring Entity and others concerned, of any Defects before the end of the Defects Liability Period, which begins at Completion Date, and is defined in the **PCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 57.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
- 58. Uncorrected Defects**
- 58.1 If the Contractor 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 by it, and the Contractor shall remain liable to pay the expenditures incurred on account of correction of such Defect.

D. Cost Control

- 59. Contract Price**
- 59.1 The Contract Price shall be as specified in the Contract Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to Contract
- 60. Bill of Quantities**
- 60.1 The Bill of Quantities shall contain priced items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 60.2 The Bill of Quantities is used to calculate the Contract

Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

- 61. Changes in the Quantities and Unit Rate or Price**
- 61.1 If the final quantity of the work done for any particular item increases from the quantity in the Bill of Quantities by more than twenty-five percent (25%), provided the change in case exceeds one percent (1%) of the original Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 61.2 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.
- 62. Variations**
- 62.1 All Variations and Extra Work Orders under the Contract shall be included in the updated Programme of Works produced by the Contractor.
- 63. Costing of Variations or Extra Orders**
- 63.1 The Contractor 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.
- 63.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work not above the limit stated in GCC Sub-Clause 61.1 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 Contractor shall be in the form of new rates for the relevant items of work.
- 63.3 If the Contractor's quotation is found to be 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 Contractor's costs.
- 63.4 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 under GCC Sub Clause 69.
- 63.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning under GCC Sub Clause 44.1.
- 64. Cash Flow Forecasts**
- 64.1 When the Programme of Works is updated under GCC Sub Clause 42.2, the Contractor shall provide the Project

Manager with an updated cash flow forecast.

65. Payment Certificates

- 65.1 The basis for payment certificates shall be Bill of Quantities used to determine the Contract price.
- 65.2 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the works executed less the cumulative amount certified previously.
- 65.3 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 65.4 The value of work executed shall be determined by the Project Manager.
- 65.5 The value of work executed shall include the valuation of Variations or Extra Work Orders, Certified Dayworks and Compensation Events.
- 65.6 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.

66. Payments to the Contractor

- 66.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within twenty eight (28) days of the date of each certificate after due adjustments for deductions for advance payments, retention and any other additions or deductions which may have become due under the Contract or otherwise, including those under GCC Clause 93.
- 66.2 Items of works quantified in the Bill of Quantities for which no rates or prices have been quoted shall be deemed covered by the amounts at rates and prices of other items in the Contract.
- 66.3 Payments due to the Contractor in each certificate shall be made into the Bank Account in any scheduled Bank of Bangladesh of the title of the Contract specified in the **PCC**, nominated by the Contractor in the currency specified in the Contract.

67. Delayed Payment

- 67.1 If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.
- 67.2 If an amount certified is increased in a subsequent certificate as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the

delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

- 68. Payments to Nominated Subcontractor(s)**
- 68.1 The Contractor shall pay to the Nominated Subcontractor(s) the amounts shown on the Nominated Subcontractor's invoices approved by the Contractor which the Project Manager certifies to be due in accordance with the subcontract included under the Contract.
- 69. Compensation Events**
- 69.1 The following shall be Compensation Events:
- (a) The Procuring Entity does not give access to or possession of the Site or part of the Site by the Site Possession Date stated in the GCC Sub Clause 13.1;
 - (b) The Procuring Entity modifies the Schedule of other Contractors in a way that affects the works of the Contractor 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 Contractor 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, if applicable;
 - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Notification of Award from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site;
 - (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons;
 - (h) Other Contractors, public authorities, utilities, or the Procuring Entity do not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor;
 - (i) The advance payment is delayed;
 - (j) The effects on the Contractor of any of the Procuring Entity's Risks;
 - (k) The Project Manager unreasonably delays issuing a Completion Certificate;
 - (l) A situation of Force Majeure has occurred, as defined in GCC Clause 85; and
 - (m) Other Compensation Events described in the Contract or determined by the Project Manager in the **PCC** shall apply.

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

70. Adjustments for Changes in Legislation

- 70.1 Unless otherwise specified in the Contract, if between the date twenty-eight (28) days before the submission of Tenders for the Contract and the date of the last Completion Certificate, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Bangladesh (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract price, then such Completion Date and/or Contract price shall be correspondingly increased or decreased, to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract.
- 70.2 The Project Manager shall adjust the Contract Price on the basis of the change in the amount of taxes, duties, and other levies payable by the Contractor, provided such changes have not already been accounted for in the price adjustment as defined in GCC Clause 69 and/or reflected in the Contract price.

71. Price Adjustment

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

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

where:

P is the adjustment factor

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

Im is the Index during the month the work has been executed and **Io** is the Index prevailing twenty eight (28) days prior to the deadline for submission of Tender.

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

72. Retention Money

- 72.1 The Procuring Entity may retain from each progressive payment due to the Contractor at the percentage specified in the **PCC** until completion of the whole of the Works under the Contract.
- 72.2 On completion of the whole of the Works, the first half the total amount retained under GCC Sub Clause 72.1 shall be repaid to the Contractor and the remaining second half after the Defects Liability Period has passed and the Project Manager has certified in the form of **Defects Corrections Certificate..**
- 72.3 On completion of the whole of the Works, the Contractor may substitute an unconditional Bank Guarantee in the format as specified (**Form PW3-11**) acceptable to the Procuring Entity for the second half of the retention money as stated under GCC Sub Clause 72.2.

73. Liquidated Damages

- 73.1 The Contractor shall pay liquidated damages¹⁶ to the Procuring Entity at the rate per day stated in the **PCC** 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 **PCC**. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.
- 73.2 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 Contractor by adjusting the next payment certificate.

74. Bonus

- 74.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **if stated in the PCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion of the whole of the Works is earlier than the Intended Completion Date. The Project Manager shall require certifying that the Works are complete,

¹⁶ Usually liquidated damages are set between 0.05 percent and 0.10 percent per day, and the total amount is not to exceed between 5 percent and 10 percent of the Contract Price.

although they may not have fallen due to being complete as per approved updated Programme of Works.

75. Advance Payment

- 75.1 If so specified in the **PCC**, the Procuring Entity shall make advance payment to the Contractor of the amounts and by the dates stated in the **PCC** against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in an amount 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 Contractor. Interest will not be charged on the advance payment.
- 75.2 The Contractor shall use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used for such specific purposes by supplying copies of invoices or other documents to the Project Manager.
- 75.3 The advance payment shall be repaid by deducting at proportionate rate from payments otherwise due to the Contractor, 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.

76. Performance Security

- 76.1 The Procuring Entity shall notify the Contractor of any claim made against the Bank issuing the Performance Security.
- 76.2 The Procuring Entity may claim against the security if any of the following events occurs for fourteen (14) days or more.
- (a) The Contractor is in breach of the Contract and the Procuring Entity has duly notified him or her ; and
 - (b) The Contractor has not paid an amount due to the Procuring Entity and the Procuring Entity has duly notified him or her.
- 76.3 In the event the Contractor is liable to pay compensation under the Contract amounting to the full value of the Performance Security or more, the Procuring Entity may call the full amount of the Performance Security.
- 76.4 The Performance Security furnished at the time of signing of the Contract Agreement shall be substituted, after the issuance of certificate of Completion of works by the Project Manager, by a new Security covering fifty (50) percent amount of the Performance Security to cover the Defects Liability Period.

- 76.5 If there is no reason to call the Performance Security, the Performance Security shall be discharged by the Procuring Entity and returned to the Contractor after the Defects Liability period has passed and the Project Manager has certified in the form of Defects Corrections Certificates.
- 77. Provisional Sums**
- 77.1 Provisional Sums shall only be used, in whole or in part, in accordance with the Project Manager's instructions and the Contract price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Project Manager shall have instructed.
- 77.2 Plants, Materials or Services to be purchased by the Contractor under the provisions of GCC Sub Clause 77.1 from Nominated Subcontractor(s) or for meeting the other expenditures under the Contract, and for which there shall be included in the Contract price, the actual amounts paid or due to be paid by the Contractor, and a sum for VAT, profit and overhead charges, as applicable, calculated as a percentage of these actual amounts by applying the relevant percentage rate stated in the **PCC**.
- 77.3 The Contractor shall, when required by the Project Manager, produce quotations, invoices, vouchers and accounts or receipts in substantiation of purchases under GCC Sub Clause 77.2.
- 78. Dayworks**
- 78.1 If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 78.2 All works to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be certified and signed by the Project Manager within seven (7) days of the works being done.
- 78.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.
- 79. Cost of Repairs to Loss or Damages**
- 79.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability Period shall be remedied by the Contractor at the Contractor's own cost, if the loss or damage arises from the Contractor's acts or omissions.

E. Completion of the Contract

- 80. Completion**
- 80.1 The Contractor shall apply by notice to the Project Manager for issuing a Completion Certificate of the Works, and the Project Manager shall do so upon deciding that the work is completed.

- 81. Taking Over** 81.1 The Procuring Entity shall take over the Site and the Works within seven (7) days of the Project Manager’s issuing a certificate of Completion.
- 82. Amendment to Contract** 82.1 The amendment to Contract shall generally include extension of time to the Intended Completion Date, increase or decrease in original Contract price and any other changes acceptable under the conditions of the Contract.
- 82.2 The Procuring Entity, in accordance with the Delegation of Financial Power or sub-delegation thereof, shall amend the Contract incorporating the changes introduced to the original terms and conditions of the Contract in line with the Rules.
- 83. Final Account** 83.1 The Contractor shall submit with a detailed account of the total amount that the Contractor considers payable under the Contract to the Project Manager before the end of the **Defects Liability Period**.
- 83.2 The Project Manager shall certify the **Final Payment** within fifty six (56) days of receiving the Contractor’s account if the payable amount claimed by the Contractor is correct and the corresponding works are completed.
- 83.3 If it is not, the Project Manager shall issue within fifty six (56) days a **Defects Liability Schedule** that states the scope of the corrections or additions that are necessary.
- 83.4 If the **Final Account of Works** submitted under GCC Sub Clause 83.1 is unsatisfactory even after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.
- 84. As-built Drawings and Manuals** 84.1 If “As Built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **PCC**.
- 84.2 If the Contractor does not supply the Drawings and/or Manuals by the dates specified in GCC Sub Clause 84.1, or they do not receive the Project Manager’s approval, the Project Manager shall withhold a nominal amount specified in the **PCC** from payments due to the Contractor.
- 85. Force Majeure** 85.1 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind stated below;
- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies ;
- (b) rebellion, terrorism, sabotage by persons other than the Contractor’s personnel, revolution, insurrection,

law governing the Contract, entitles the parties to be released from further performance of the Contract, then upon notice by either party to the other party of such event or circumstance:

- (a) the parties shall be discharged from further performance, without prejudice to the rights of either party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Procuring Entity to the Contractor shall be the same as would have been payable under GCC Sub Clause 90.3 if the Contract had been terminated under GCC Sub Clause 89.3.

F. Termination and Settlement of Disputes

89. Termination

89.1 Termination for Default

- (a) The Procuring Entity or the Contractor, without prejudice to any other remedy for breach of Contract, by giving twenty eight (28) days written notice of default to the other party, may terminate the Contract in whole or in part if the other party causes a fundamental breach of Contract.
- (b) Fundamental breaches of the Contract shall include, but shall not be limited to, the following:
 - (i) the Contractor stops work for twenty-eight (28) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;
 - (ii) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within eighty four (84) days;
 - (iii) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (iv) the Contractor does not maintain a Security, which is required;
 - (v) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of Liquidated Damages can be paid, as specified in GCC Sub Clause 73;
 - (vi) the Contractor has subcontracted the whole of the Works or has assigned the Contract without the required agreement and without the approval of the Project Manager;

- (vii) the Contractor, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices, as defined in GCC Sub Clause 39, in competing for or in executing the Contract.
- (viii) A payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within eighty-four (84) days of the date of the Project Manager's certificate.

89.2 Termination for Insolvency

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

89.3 Termination for Convenience

- (a) The Procuring Entity, by giving twenty eight (28) days written notice sent to the Contractor, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Contractor under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Procuring Entity shall not terminate the contract under GCC Sub Clause 89.3 (a) in order to execute the Works itself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor as stated under GCC Sub Clause 89.1(a).

89.4 In the event the Procuring Entity terminates the Contract in whole or in part, the Procuring Entity shall accept the portion of the Works that are complete and ready for handing over after the Contractor's receipt of notice of termination of the Contract. For the remaining portion of the Works, the Procuring Entity may elect:

- (a) to have any portion completed by the Contractor at the Contract terms and prices; and /or
- (b) to cancel the remainder and pay to the Contractor an agreed amount for partially completed Works and for materials and parts previously procured by the Contractor, or
- (c) except in the case of termination for convenience as stated under GCC Sub Clause 89.3., engage

another Contractor to complete the Works, and in that case the Contractor shall be liable to the Procuring Entity for any cost that may be incurred in excess of the sum that would have been paid to the Contractor, if the work would have been executed and completed by him or her.

89.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as is reasonably possible

90. Payment upon Termination

90.1 If the Contract is terminated because of a fundamental breach of Contract under GCC Sub Clause 89.1 by the Contractor, the Project Manager shall issue a certificate for the value of the Works done and Plant and Materials ordered less advance payments received up to the date of the issue of the certificate and less the amount from percentage to apply to the contract value of the works not completed, as indicated in the **PCC**. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.

90.2 If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a payment certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's foreign personnel employed solely on the Works and recruited specifically for the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

90.3 If the Contract is terminated for reasons of Force Majeure, the Project Manager shall determine the value of the work done and issue a Payment Certificate which shall include:

- (a) the amounts payable for any work carried out for which unit rates or prices are stated in the Contract;
- (b) the cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;
- (c) other costs or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the

Works;

- (d) the cost of removal of Temporary Works and Contractor's Equipment from the Site; and
- (e) the cost of repatriation of the Contractor's staff and labour employed wholly in connection with the Works at the date of termination.

- 91. Property** 91.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor's default stated under GCC Sub Clause 89.1.
- 92. Frustration** 92.1 If the Contract is frustrated by the occurrence of a situation of Force Majeure as defined in GCC Sub Clause 85, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all works carried out before receiving it and for any work carried out afterwards to which a commitment was made.

G. Claims, Disputes and Arbitration

- 93. Contractor's Claims** 93.1 If the Contractor considers himself to be entitled to any extension of the Completion Time and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Procuring Entity, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than twenty eight (28) days after the Contractor became aware, or should have become aware, of the event or circumstance.
- 93.2 If the Contractor fails to give notice of a claim within such period of twenty eight (28) days, the Intended Completion Date shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim.
- 93.3 Within forty two (42) days after the Contractor became aware or should have become aware of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed, for settlement.

94. Settlement of Disputes

94.1 Amicable settlement

The procuring Entity and the Contractor shall use their best efforts to settle amicably all possible disputes arising out of or in connection with this Contract or its interpretation.

94.2 Adjudication

- (a) If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within fourteen (14) days of notification of the Project Manager's decision in writing.
- (b) The Adjudicator named in the **PCC** is jointly appointed by the parties. In case of disagreement between the parties, the Appointing Authority designated in the **PCC** shall appoint the Adjudicator within fourteen (14) days of receipt of a request from either party.
- (c) The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it.
- (d) The Contractor shall make all payments (fees and reimbursable expenses) to the Adjudicator, and the Procuring Entity shall reimburse half of these fees through the regular progress payments.
- (e) Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract; a new Adjudicator will be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor the Adjudicator shall be designated by the Appointing Authority within fourteen (14) days of receipt of a request from either party as stated under GCC Sub Clause 94.2 (b)

94.3 Arbitration

- (a) If the parties are unable to reach a settlement as per GCC Clauses 94.1 and 94.2 within twenty-eight (28) days of the first written correspondence on the matter of disagreement, then either party may give notice to the other party of its intention to commence arbitration in accordance with GCC Sub Clause 94.3(b).
- (b) The arbitration shall be conducted in accordance with the Arbitration Act (**Act No 1 of 2001**) of Bangladesh as at present in force and in the place shown in the **PCC**.

Section 4. Particular Conditions of Contract

<i>In the case of any discrepancy between the Sections 3 and 4, the Section 4 shall prevail.</i>	
GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 1.1(j)	The Contractor is <i>[Name, address, and name of authorized representative]</i>
GCC 1.1(ff)	The Procuring Entity is Bangladesh Power Development Board (BPDB) "BOARD" means Bangladesh Power Development Board (BPDB) "Engineer" means Director, Design & Inspection 1, BPDB Name & Address of authorized representative: The Director, Directorate of Purchase Bangladesh Power Development Board WAPDA Bhaban (9th Floor), Motijheel C/A, Dhaka -1000 Telephone: 02223383081; E-mail:dir.purchase@bpdb.gov.bd The Consignee: Manager (Maintenance), Bibiyana-III 400MW CCPP, BPDB, Nabiganj, Habiganaj.
GCC 1.1(gg)	The Project Manager is Manager (Maintenance), Bibiyana-III 400MW CCPP, BPDB, Nabiganj, Habiganaj.
GCC 1.1 (bb)	The original Contract price is <i>[insert the amount in the NOA]</i>
GCC 1.1(y)	The Intended Completion Date of Whole works shall be: Total 70 Days from the date of opening of L/C.
GCC 1.1(kk)	The Site is located at NLDC, PGCB, Dhaka and/or Bibiyana-III 400MW CCPP, BPDB, Nabiganj, Habiganaj.
GCC 1.1(nn)	The Start Date shall be: Immediately after opening of L/C
GCC 1.1(rr)	The Works consist of As mentioned in Section 7, General Specification
GCC 2.5	The Sectional Completion Dates are: As mentioned in the offer.
GCC 3.1	The Procuring Entity's address for the purpose of communications under this contract is : The Director Directorate of Purchase Bangladesh Power Development Board WAPDA Bhaban (9th Floor), Motijheel C/A, Dhaka -1000 Telephone: 02223383081; E-mail:dir.purchase@bpdb.gov.bd The Contractor's address for the purpose of communications under this contract is : Contact person:

	Address: Tel: Fax: e-mail address:
GCC 6.1 (j)	Other documents forming part of the Contract are: NOA Acceptance Letter, Letter of Authorization for Signing the contract on behalf of Contractor, All correspondences between Procuring Entity and Contractor prior to signing of the Contract Agreement.
GCC 9.1	A Contractor or a Subcontractor that is a national of, or registered in, the following countries are not eligible: <i>Israel and countries having no diplomatic relation with Bangladesh</i>
GCC 9.2	Materials, Equipments Plants and supplies shall not have their origin in the following countries: <i>Israel and countries having no diplomatic relation with Bangladesh</i>
GCC 13.1	Possession of the Site or part(s) of the Site, to the Contractor shall be given on the following date(s): From the commencement date/After signing of Contract Agreement
GCC 18	<p>Taxes and Duties</p> <p>a) Bangladesh Income tax and VAT for Income Earned in Bangladesh</p> <p>i) The Contractor shall be entirely liable to pay Income Tax & VAT on Contract price for both foreign & local currency (Except CIF i.e. FOB, Insurance & Freight up to port) according to the Income Tax Act 2023 and Value Added Tax & Supplementary Duty Act 2012 at prevailing rate (Seven (07) days before the last date of tender submission) of the Govt., which shall be deducted at source at the time of payment of bills/ invoices for onward deposition of the same into Govt. Treasury. In case of any change of tax & VAT rate on the date of payment that will be on account of employer i.e. BPDB.</p> <p>ii) The Board shall pay all Tax & VAT on CIF portion at the payment stage (If applicable).</p> <p>b) For Contractor's equipment, materials imported on re-exportable basis</p> <p>The Contractor shall be entirely responsible for all Bangladesh Custom and Import duties, VAT, taxes and all other levies imposed under applicable law of Bangladesh for Importation of Contractor's Construction equipment, tools and materials required for implementation of the contract in Bangladesh which shall be imported on the condition to be exported after completion of the work, if the same are not exempted from such taxes, VAT & levies. The Board shall assist to the contractor to obtain exemption from NBR [National Board of Revenue] for import of the contractor's equipment and materials on the basis of re-export.</p> <p>c) Foreign Country Taxes and Permits</p> <p>The Contractor shall pay all sales, income and other taxes and duties, tariffs and imports that can be lawfully assessed against the contractor by the Government or any lawful authority of any country other than the people's Republic of Bangladesh which has jurisdiction over the contractor in</p>

	<p>connection with this contract and shall pay for all licenses permits and inspection required for the work including the cost or securing all export licenses and permits for materials, equipment, supplies and personnel exported from that country to Bangladesh.</p> <p>d) Import related DUTY, VAT, LEVIES and other Taxes for permanent materials of the work</p> <p>The Contractor shall obtain all import permits or licenses required for any part of the work within the terms stated in the program or if not so stated, in reasonable time having regard to the time for delivery of the work and the time for completion. The Board shall be responsible for the payment of import related duties, VAT, taxes and all sort of charges etc. to be imposed by the port as well as other Gov. agencies inside Bangladesh for the goods as well as spares/ consumables to be imported in accordance with the specification. The Board shall provide its extreme effort to pay such taxes in a timely manner to avoid any extra cost thereon. The contractor shall submit to the owner 5 (five) copies of non-negotiable shipping document ahead of shipment for arranging payment of such taxes and clearing the materials in time.</p> <p>The Board shall not bear any expenditure on account of import of cement, if any, by the Contractor.</p> <p>Normally, equipment and materials that will be incorporated in the permanent works shall be transported by vessel. If the Contractor decides to air freight any items, the excess freight beyond freight of vessel or excess inland transportation or any other additional cost on account of air freight shall be borne by the Contractor.</p> <p>e) Contractor's Responsibility to get acquainted with Bangladesh Laws, Import policy, etc.</p> <p>The Contractor shall get himself acquainted with the relevant Bangladesh Laws as well as the Import Policy of the Government of People's Republic of Bangladesh remaining in force regarding import of banned items, if any, during the execution of the Contract. In case of import of any banned items and/or contraband item, the consequential effect shall rest with the Contractor. Similarly the Contractor shall be responsible for any non-conformance of Bangladesh Laws either by his own employees or any of the employees of his Subcontractors during execution of the Contract.</p>
GCC 19.1	Following Key Personnel to carry out the functions stated in the Schedule shall be employed by the Contractor: None.
GCC 21.1	Nominated Subcontractor(s) named below: Not Applicable
GCC 23.1	The Contractual matters between the Procuring Entity and the Contractor shall be decided by Director, Directorate of Purchase, BPDB, Dhaka.

GCC 37.1

1.INSURANCE -Not Applicable

~~The Contractor shall arrange the following insurance except “Workmen’s compensation Insurance for the Contractor’s expatriate personnel” from M/S Bangladesh Sadharan Bima Corporation in the joint name of the BOARD and Contractor and Policies to be taken in foreign currency and local currency wherever necessary and the payment of premium shall be made by the Contractor.~~

2.MARINE INSURANCE -Not Applicable

~~Insurance of equipment/Spare parts/materials/ Vehicles and other goods covering all risks including war, strike, riots, civil commotion from the port of shipment to the port of discharge transit after discharge to the Site, and warehouses to warehouse anywhere in Bangladesh.~~

~~The Contractor shall promptly furnish one set of shipping documents, a copy of Bill of lading, invoice, packing list etc, of each consignment direct to the Deputy Director, Insurance. Finance Directorate, BPDB, Dhaka well in time of the shipment of goods indicating the contract number and name of the insurer. If they fail to comply with this instruction they will be held responsible to compensate the losses if any arising out of the non compliance of this conditions.~~

~~3.ERECTION INSURANCE~~

~~“Builder’s risk Insurance” and “Erection Insurance” and or “Structural Insurance” including third party liabilities wherever considered necessary by the Contractor and approved by the Board.~~

4.TRANSPORT LIABILITY INSURANCE

Comprehensive water crafts if necessary automobile insurance on motor vehicles to be used by the Contractor during the working period in Bangladesh.

5.WORKMEN’S COMPENSATION INSURANCE

The Contractor shall procure and maintain Workman’s Compensation Insurance for all expatriate personnel employed by the Contractor for services in Bangladesh and shall provide for such employees other insurance benefits such as it customarily provides for overseas assignments Of its other employees.

6.REPLACEMENT AND REPAIR UNDER INSURANCE-Not Applicable

~~The Contractor shall follow customary insurance claim procedures in seeking to effect recovery under the applicable insurance coverage, of the costs of repair or replacement of any materials lost or damaged in shipment or handling, replacement shipments for materials being replaced or materials that has been returned to the country of origin for repair shall be shipped at no charge to the Board. However, any costs for custom duties, taxes, import licenses under an insurances claim will be borne by the Contractor. The contractor shall in no way withheld the project works/ supplies / services for finalization of the insurance claimed, if any.~~

- | | |
|-----|---|
| (a) | The maximum deductible for insurance of the Works and of Plant and Materials is: -Not Applicable |
| (b) | The minimum cover for insurance of the Works and service and of Plant & Materials /Spare parts in respect of the Contractor’s faulty design is Tk 110% of the value of the works, plant, service and materials/Spare parts. - Not Applicable |

	(c)	The maximum deductible for insurance of Equipment is Tk [state amount]. -Not Applicable
	(d)	The minimum cover for loss or damage to Equipment is Tk 110% of the replacement value of the equipment. -Not Applicable
	(e)	The maximum deductible for insurance of other property is: Not Applicable
	(f)	The minimum cover for insurance of other property is 10% of contract price. -Not Applicable
	(g)	The minimum cover for personal injury or death insurance: (i) for the Contractor's employees is as per the law and common practice in Bangladesh. (ii) and for third parties is as per the law and common practice in Bangladesh.
GCC 40.1	Commencement Date of Works shall be as follows: Date of opening of L/C	
GCC 42.1	The Contractor shall submit a Programme for the Works within fifteen (15) days of signing the Contract.	
GCC 42.2	The period between Programme updates is monthly	
GCC 42.3	The amount to be withheld for late submission of an updated Programme is : As decided by Project Manager (Consignee)	
GCC 57.1	<p>The Defects liability / warranty shall cover the following :</p> <p>The Contractor warrants that performed work under this Contract will be as specified and will be free from defects in design & its operation to the extent the Contractor is responsible for design and workmanship. The warranties contained in this Contract document are in lieu of any other warranties and are the only warranties made by Contractor with respect to the materials, equipment and work. If within the warranty period set forth below any part of the work fails to meet the warranty, BPDB will notify the Contractor and the Contractor shall promptly correct any defect including non-conformance with SCADA system, adjustments and re-works.</p> <p>Unless otherwise specified the Defects liability period/ warranty period hereunder shall begin from the effective date of Provisional Acceptance Certificate (PAC) issued by BPDB and shall end after 1 (One) month of operation until final acceptance.</p> <p>The Contractor shall pay all costs for correction of defects including shop and field labour and supervision, transportation, all tackles and special tools (if required).</p> <p>When it is necessary to dismantle or rese, any equipment or other work furnished or performed by the Contractor in order to obtain access to the work, the cost of all such dismantling and re-assembling will be paid by the Contractor.</p> <p>The Contractor will be given an opportunity to check the existence of the defect and he shall promptly do the correction within reasonable time. This</p>	

	<p>section states the limit of the Contractor's liability for defects for which he is responsible.</p> <p>The Contractor shall extend the provisions of this warranty to cover all repaired and replacement parts furnished under the Defects liability/ warranty provisions for a period of one (1) month of operation from the date of repair, re-work, commissioning thereof. However, the sunset time of defect liability/ warranty period will be 2 (two) months from the date of issuance of PAC.</p> <p>If within twenty (20) days after BPDB gives the Contractor notice of a defect, the Contractor neglects to make or undertake with due diligence to make the necessary corrections, BPDB is hereby authorized to make the corrections himself or order the work to be done by a third party and cost of the corrections shall be paid by the Contractor. BPDB will be permitted to make repairs or replacements on equipment without affecting the warranty or without prior notice to the Contractor so long as the repairs or replacements involve the correct installation of spares/ equipment. BPDB shall also be permitted to adjust or test equipment as outlined in instruction manuals provided by the manufacturer.</p> <p>In the case of an emergency where in the judgment of BPDB the delay resulting from giving formal notice would cause serious loss or damage which could be prevented by immediate action, defects may be corrected by BPDB or a third party chosen by BPDB without giving prior notice to the Contractor and cost of corrections shall be paid by the Contractor. In the event, such action is taken by BPDB, the Contractor will be notified promptly and the Contractor shall assist wherever possible in making the necessary corrections.</p> <p>The Contractor shall extend the provisions of the Defects Liability Period to cover all repaired works furnished under the Defects Liability Period.</p>
<p>GCC 66.1</p>	<p>Payments</p> <p>Payments under this Contract shall be effected in the currency of the Tender for Foreign Currency and in Taka for local currency. Foreign currency payments shall be made through Letter of credit (L/C) and local currency through transfer of fund to Contractor's account or through cheque. Local currency shall be made through accounts office of the Procurement Entity or through CP & AA cell of BPDB.</p> <p>Partial Shipment will be allowed. However, payment for that partial shipment will not be allowed.</p> <p>The charges within Bangladesh for establishment of the L/C shall be borne by BPDB but the L/C charges outside Bangladesh shall be borne by the Contractor. The Contractor shall have to bear all such charges both inside and outside Bangladesh in case of extension of L/C if done at the request of the contractor. An irrevocable L/C shall be opened by BPDB within 30 days upon signing of the Contract. BPDB shall pay to the Contractor in the following manner:</p> <p>a) Payment for Works (Foreign currency part and local currency part; Schedule 1.2)</p> <p>1) 100% (Hundred) upon issuance of the Provisional Acceptance Certificate after successful completion of SCADA Integration of the Plant and against</p>

	<p>submission of invoices/claim bill duly verified by Consignee, certified by Engineer and issuance of payment advice by the Director, Directorate of Purchase, BPDB, Dhaka.</p> <p>Note: The Supplier/Contractor shall pay any local and state taxes, fees or charges whatever imposed or to be imposed on the Maintenance Experts/Specialists and their personal effects during their stay in Bangladesh under the Contract & Appendixes as per the existing rules of Bangladesh. The Supplier shall furnish necessary statements in this regard.</p>
GCC 66.3	<p>The particulars of the Bank Account nominated are as follows :</p> <p>Title of the Account : [insert title to whom the Contract awarded]</p> <p>Name of the Bank : [insert name with code, if any]</p> <p>Name of the Branch : [insert branch name with code ,if any]</p> <p>Account Number : [insert number]</p> <p>Address : [insert location with district]</p> <p>Tel : _____</p> <p>Fax : _____</p> <p>e-mail address : _____</p> <p><i>[information furnished by the Contractor shall be substantiated by the concerned Bank and authenticated by the Procuring Entity]</i></p>
GCC 67	Contractor shall not be paid interest on the late/ delayed payment
GCC 69.1(m)	The following additional events shall also be the Compensation Events: None
GCC 71.1	The Contract is not subject to price adjustment.
GCC 72	The proportion of payments to be retained is : As mentioned in PCC (GCC 66.1)
GCC 73.1	<p>Liquidated Damage on Completion of Work:</p> <p>The amount of Liquidated Damages is 0.1 (Zero point one) percent of the contract value of the uncompleted works or any part thereof completed after expiry of the Intended Completion Date or extended Intended Completion Date, as applicable, per day of delay.</p> <p>The maximum amount of Liquidated Damages for the uncompleted Works or any part thereof is Ten (10) percent of the final Contract Price of the whole of the works.</p>
GCC 74.1	<p>The Bonus for the whole of the Works is <i>None</i></p> <p>The maximum amount of Bonus for the whole of the Works is <i>None</i></p>
GCC 75.1	The Advance Payment shall be None
GCC 77.2	The percentage for adjustment of Provisional Sums is None
GCC 80.1	After completion of the work, Provisional Acceptance Certificate (Completion Certificate) shall be issued as stated below:

	<p><u>Provisional Acceptance Certificate (PAC)</u></p> <p>The work shall not be considered as complete provisionally until a PAC has been issued for the work, signed and dated by the Consignee and the Engineer with the approval of competent authority and delivered to the Contractor. The PAC will be issued only after the final inspection and performance Test has been carried out by a team of representatives of the Contractor and witness and accepted by the PAC committee (maximum of four nos. Engineers from BPDB & PGCB) of BPDB formed by the competent authority and the work has been judged complete and in compliance with the Contract Documents. The test shall be performed as specified in the applicable Technical Requirements. The final inspection and the performance test of equipment's/performed works and the subsequent issuance of the PAC shall not be construed as a release to the Contractor from any Contractual liability or responsibility, such release being subject only to the provisions of the Release of Liability clause PCC [New clause GCC 98]. BPDB may take over completed portions of the work, prior to completion of the Contract, by written notice to the Contractor.</p> <p>The Provisional Acceptance Certificate shall not be unreasonably withheld nor shall BPDB delay the issuing of the PAC on account of minor omissions or defects, which do not affect the commercial operation without any serious risk to the plant and NLDC SCADA System, provided always that the Contractor undertakes to make good such omission and defects within a reasonable time. From the date of final inspection and test of completed works, at least three (3) day's time should be taken for observation to the outcome of the work (Monitored and certified by NLDC Engineer), after which Provisional Acceptance Certificate should be issued for the work, signed and dated by the Consignee and the Engineer and delivered to the Contractor, provided that no omissions or defects are found which may affect the commercial operation of the plant and NLDC SCADA System.</p> <p>The final inspection and test will commence upon a written notice from the Contractor stating that the said works has successfully completed.</p> <p><i>The Effective date of the Provisional Acceptance Certificate (PAC) will be the date of successful Performance Test.</i></p> <p>After completion of the Defects Liability Period/ Warranty period, Final Acceptance Certificate (FAC) shall be issued as mentioned below:</p> <p><u>Final Acceptance Certificate (FAC)</u></p> <p>The work shall not be considered as completed until a Final Acceptance Certificate (FAC) will be issued by the BOARD on the basis of the successful report of FAC committee (maximum of four nos. Engineers from BPDB & PGCB) formed by the competent authority stating that all work has been finally completed to their satisfaction. The Final Acceptance Certificate (FAC) will be given latest twenty-eight (28) days after the expiration of the Defects liability period or if different guarantee periods shall become applicable to different parts of the work, after the expiration of the latest of such periods and as soon as any and all work to be made good is completed to the satisfaction of the Consignee/ Project Manager, NLDC and the competent Authority.</p> <p>The contractor will facilitate such PAC/FAC Tests with full supports/logistics.</p>
GCC 90.1	<p>The percentage to apply to the contract value of the works not completed, representing the Procuring Entity's additional cost for completing the uncompleted Works, is <i>twenty (20)</i> percent.</p>

GCC 94.2 (b)	<p>The Adjudicator jointly appointed by the parties is: Will be appointed as and when necessary.</p> <p>Name:</p> <p>Address:</p> <p>Tel No:</p> <p>Fax No:</p> <p>e-mail address:</p>
GCC 94.2(b)	<p>In case of disagreement between the parties, the Appointing Authority for the Adjudicator is the President of the Institution of Engineers, Bangladesh.</p>
GCC 94.3 (b)	<p>The arbitration shall be conducted in the place mentioned below;</p> <p>Dhaka, Bangladesh</p>
New Clause GCC 98	<p>Release of Liability</p> <p>The acceptance by the Contractor of the last payment shall operate as, and shall be, a release to the BOARD and every officer, agent and employee thereof, from all claims and liability hereunder for anything done or furnished for or relating to the work, or for any act or neglect of the BOARD or of any person relating to or the affecting the work.</p> <p>The last payment by the BOARD to the Contractor shall constitute final acceptance of all work performed under this Contract and shall release the Contractor and his surety, from all Contractual liabilities and responsibilities to the BOARD except these liabilities assumed under the Warranty clause PCC [GCC 57.1] of these Special Conditions or arising out of hidden defects.</p> <p>In the event a suit were to be instituted in Bangladesh against the BOARD and the Contractor as defendants neither shall be released from his respective liabilities under this Contract.</p>

Appendix to the Tender – Not Applicable

[In Tables below, the Procuring Entity shall indicate the source and base values with dates of Indexes, unless otherwise instructed to be quoted by the Tenderer, for the different Cost Components and mention its Weightings or Coefficients]

Table 1.1: Price Adjustment Data – Not Applicable
[ITT Sub Clause 27.10: To be provided by the Procuring Entity]

Index Descriptions	Base Value	Sources of Index

Note:

1. The sources of Indexes and its values with dates shall be Bangladesh Bureau of Statistics (BBS) unless otherwise mentioned by the Procuring Entity or instructed to be quoted by the Tenderer.
2. The Procuring Entity may require the Tenderer to justify its proposed Indexes, if quoted by the Tenderer.
3. The Base Value of the Indexes shall be those prevailing twenty eight (28) days prior to the deadline for submission of the Tenders.

Table 1.2: Price Adjustment Data – Not Applicable
 [GCC Sub Clause 71.1: To be provided by the Procuring Entity]

Item Group	Bill No. if applicable	Index Descriptions	Coefficients or Weightings for non-adjustable Cost Component	Coefficients or Weightings for adjustable Cost Components										Total	
				a	b	c	d	e	f	g	h	i	j		
															1
															1
															1
															1
															1
															1

Note:
 The Weightings or Coefficients of the Cost Components shall be mentioned by the Procuring Entity based on the proportion of components involved in the work items caused to be impacted by rise and fall in its prices.

Section 5. Tender and Contract Forms

Form	Title
Tender Forms	
PW3 – 1	Tender Submission Letter
PW3 – 2	Tenderer Information
PW3 – 3	JV Partner Information (<i>if applicable</i>)
PW3 – 4	Subcontractor Information (<i>if applicable</i>)
PW3 – 5	Personnel Information
PW3 – 5a	Manufacturer’s Authorization & Warranty/Guarantee Letter
PW3 – 6	Bank Guarantee for Tender Security (<i>when this option is chosen</i>)
Contract Forms	
PW3 – 7	Notification of Award
PW3 – 8	Contract Agreement
PW3 – 9	Bank Guarantee for Performance Security (<i>when this option is chosen</i>)
PW3 – 10	Bank Guarantee for Advance Payment (<i>if applicable</i>)
PW3 – 11	Bank Guarantee for Retention Money Security (<i>when this option is chosen</i>)
PW3 – 12	Deviation List

Forms **PW3 -1 to PW3 -6, & PW3-12** comprises part of the Tender Format and should be completed as stated in ITT Clauses 24.

Forms **PW3 -7 to PW3 -11** comprises part of the Contract as stated in GCC Clause 6.

Tender Submission Letter (Form PW3-1)

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

To:

[Contact Person]

[Name of Procuring Entity]

[Address of Procuring Entity]

Date:

Invitation for Tender No:

[indicate IFT No]

Tender Package No:

[indicate Package No]

This Package is divided into the following Number of Lots

[indicate number of Lot(s)]

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

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

The Tender Price is:

[in figures]

(ITT Sub Clause 27.1)

[in words]

The unconditional discount for being awarded more than one lot in this package is:

Tk *[in figures]*

Taka *[in words]*

(ITT Sub Clause 27.6)

The methodology for application of the discount is:

[state the methodology].

The advance payment is:

[state the amount based on percentage of the Tender Price]

(GCC Sub Clause 75.1)

and we shall accordingly submit an Advance Payment Guarantee in the format shown in Form **PW3-10**.

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

- (a) our Tender shall be valid for the period stated in the Tender Data Sheet (ITT Sub Clause 33.1) and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (b) a Tender Security is attached in the form of a *[state pay order, bank draft, bank guarantee]* in the amount stated in the Tender Data Sheet (ITT Sub Clause 35.1) and valid for a period of twenty eight (28) days beyond the Tender validity date;

- (c) if our Tender is accepted, we commit to furnishing a Performance Security within the time stated under ITT Sub Clause 65.2 in the amount stated in the Tender Data Sheet (ITT Sub Clauses 64.1 and 64.1) and in the form specified in the Tender Data Sheet (ITT Sub Clause 65.1) valid for a period of twenty eight (28) days beyond the date of issue of the Completion Certificate of the Works;
- (d) we have examined and have no reservations to the Tender Document, issued by you on *[insert date]*; including Addendum to Tender Document No(s) *[state numbers]* , issued in accordance with the Instructions to Tenderers (ITT Clause 11). *[insert the number and issuing date of each addendum; or delete this sentence if no Addendum has been issued]*;
- (e) we, including as applicable, any JVCA partner or Subcontractor for any part of the contract resulting from this Tender process, have nationalities from eligible countries, in accordance with ITT Sub Clause 5.1;
- (f) we are submitting this Tender as a sole Tenderer in accordance with ITT Sub Clause 40.3
or
we are submitting this Tender as the partners of a JVCA, comprising the following other partners in accordance with ITT Sub Clause 40.3;

	Name of Partner	Location & District of Partner
1		
2		
3		
4		

- (g) *we are not a Government owned entity as defined in ITT Sub Clause 5.3*
or
we are a Government owned entity, and we meet the requirements of ITT Sub Clause 5.3;
- (h) we, including as applicable any JVCA partner, declare that we are not associated, nor have been associated in the past, directly or indirectly, with a consultant or any other entity that has prepared the design, specifications and other documents in accordance with ITT Sub Clause 5.5;
- (i) we, including as applicable any JVCA partner or Subcontractor for any part of the contract resulting from this Tender process, have not been declared ineligible by the Government of Bangladesh on charges of engaging in corrupt, fraudulent, collusive or coercive practices in accordance with ITT Sub Clause 5.6;
- (j) furthermore, we are aware of ITT Clause 4 concerning such practices and pledge not to indulge in such practices in competing for or in executing the Contract;
- (k) we intend to subcontract an activity or part of the Works, in accordance with ITT Sub Clause 19.1, to the following Subcontractor(s);

Activity or part of the Works	Name of Subcontractor with Location and District

- (l) we, including as applicable any JVCA partner, confirm that we do not have a record of poor performance, such as abandoning the works, not properly completing contracts, inordinate delays, or financial failure as stated in ITT Clause 5.7, and that we do not have, or have had, any litigation against us, other than that stated in the Tenderer Information (**Form PW3-2**);
- (m) we are not participating as Tenderers in more than one Tender in this Tendering process. We understand that your written Notification of Award shall constitute the acceptance of our Tender and shall become a binding Contract between us, until a formal Contract is prepared and executed;
- (n) we, including as applicable any JVCA partner, confirm that we do not have a record of insolvency, receivership, bankrupt or being wound up, our business activities were not been suspended, and it was not been the subject of legal proceedings in accordance with ITT Sub Clause 5.8;
- (o) we, including as applicable any JVCA partner, confirm that we have fulfilled our obligations to pay taxes and social security contributions applicable under the relevant national laws and regulations of Bangladesh in accordance with ITT Sub Clause 5.9;
- (p) we understand that you reserve the right to reject all the Tenders or annul the Tender proceedings, without incurring any liability to Tenderers, in accordance with ITT Clause 60.

Signature:	<i>[insert signature of authorised representative of the Tenderer]</i>
Name:	<i>[insert full name of signatory with National ID Number]</i>
In the capacity of:	<i>[insert capacity of signatory]</i>
Duly authorised to sign the Tender for and on behalf of the Tenderer	

[If there is more than one (1) signatory, or in the case of a JVCA, add other boxes and sign accordingly]. **Attachment 1:**

[ITT Sub Clause 40.3]

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

[and, if applicable]

Attachment 2:

[ITT Sub Clause 29.2(b)]

Copy of the JVCA Agreement / Letter of Intent to form JVCA with draft proposed Agreement

Tenderer Information (Form PW3-2)

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

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

1. Eligibility Information of the Tenderer [ITT –Clauses 5 & 29]	
1.1	Nationality of individual or country of registration
1.2	Tenderer's legal title
1.3	Tenderer's registered address
1.4	Tenderer's legal status <i>[complete the relevant box]</i>
	Proprietorship
	Partnership
	Limited Liability Concern
	Government-owned Enterprise
	Others <i>[please describe, if applicable]</i>
1.5	Tenderer's year of registration
1.6	Tenderer's authorised representative details
	Name
	National ID number
	Address
	Telephone / Fax numbers
	e-mail address
1.7	Litigation [ITT Cause 13]
	If there is no history of litigation or no pending litigation then state opposite "None". If there is a history of litigation, or a number of awards, against the Tenderer provide details below
	A. <u>Arbitration Awards made against</u>

	Year	Matter in dispute	Value of Award	Value of Claim
	B. <u>Arbitration Awards pending</u>			
	Year	Matter in dispute	Value of Claim	
1.8	Tenderer to attach photocopies of the original documents mentioned aside		[All documents required under ITT Clauses 5 and 29]	
The following two information are applicable for National Tenderers				
1.9	Tenderer's Value Added Tax Registration (VAT) Number			
1.10	Tenderer's Tax Identification Number(TIN)			
[The foreign Tenderers, in accordance with ITT Sub Clause 5.1, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]				
2. Qualification Information of the Tenderer [ITT Clause 32]				
2.1	General Experience in Construction Works of Tenderer			
	Start Month Year	End Month Year	Years	Contract No and Name of Contract Name and Address of Procuring Entity Brief description of Works
				Role of Tenderer [Prime/Sub /Management]
2.2	Specific Experience in Construction Works of Tenderer Completed Contracts of similar nature, complexity and methods/construction technology			
	Contract No		[insert reference no] of [insert year]	
	Name of Contract		[insert name]	
	Role in Contract [tick relevant box].		Prime Contractor	Subcontractor
	Award date		[insert date]	
	Completion date		[insert date]	

	Total Contract Value	[insert amount]	
	Procuring Entity's Name Address Tel / Fax <u>e-mail</u> Brief description with justifications of the similarity compared to the Procuring Entity's requirements	[state justification in support of its similarity compared to the proposed works]	
2.3	Average annual construction turnover [ITT Sub Clause 15.1(a)] <i>[amount invoiced to Procuring Entity(s) for each year of works in progress or completed, using rate of exchange at the end of the period reported]</i>		
	Year	Amount & Currency	Taka or Equivalent Taka
2.4	Financial Resources available to meet the construction cash flow [ITT Sub Clause 15.1(b)]		
	No	Source of Financing	Amount Available
In order to confirm the above statements the Tenderer shall submit , as applicable, the documents mentioned in ITT Sub Clause 32.1(a), (b), (c) & (d)			
2.5	Contact Details [ITT Sub Clause 32.1 (g) & (i)]		
	Name, address, and other contact details of Tenderer Bankers and other Procuring Entity(s) that may provide references, if contacted by this Procuring Entity		
2.6	Qualifications and experience of key technical and administrative personnel proposed for Contract administration and management [ITT Sub Clause 32.1(e)]		

	Position Name Years of General Experience	Years of Specific Experience	
<i>[Tenderer to complete details of as many personnel as are applicable. Each personnel listed above should complete the Personnel Information (Form PW3-5)]</i>			
2.7	Major Construction Equipments proposed to carry out the Contract [ITT Sub Clause 32.1(f)]		
	Item of Equipment	Condition (new, good, average, poor)	Owned, leased or to be purchased (state owner, lessor or seller)
<i>[Tenderer to list details of each item of major construction equipment, as applicable]</i>			

JVCA Partner Information (Form PW3-3)

[This Form should be completed by each JVCA partner].

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

1. Eligibility Information of the JVCA Partner <i>[ITT –Clauses 5 & 29]</i>			
1.1	Nationality of Individual or country of Registration		
1.2	JVCA Partner's legal title		
1.3	JVCA Partner's registered address		
1.4	JVCA Partner's legal status <i>[complete the relevant box]</i>		
	Proprietorship		
	Partnership		
	Limited Liability Concern		
	Government-owned Enterprise		
	Other (please describe, if applicable)		
1.5	JVCA Partner's year of registration		
1.6	JVCA Partner's authorised representative details		
	Name		
	National ID number		
	Address		
	Telephone / Fax numbers		
	e-mail address		
1.7	Litigation <i>[ITT Sub Cause 13]</i>		
	If there is no history of litigation or no pending litigation then state "None". If there is a history of litigation, or a number of awards, against the JVCA Partner provide details below:		
	A. Arbitration Awards made against		
	Year	Matter in dispute	Value of
			Value of

			Award	Claim	
	B. Arbitration Awards pending				
	Year	Matter in dispute	Value of Claim		
1.8	JVCA Partner to attach copies of the original documents mentioned aside		[All documents required under ITT Clauses 5 and 29]		
The following two information are applicable for national JVCA Partners only					
1.9	JVCA Partner's Value Added Tax Registration (VAT) Number				
1.10	JVCA Partner's Tax Identification Number (TIN)				
[The foreign JVCA Partners, in accordance with ITT Sub Clause 5.1, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]					
2. Key Activity(ies) for which it is intended to be joint ventured [ITT Sub Clause 18.2 & 18.3]					
	Elements of Activity		Brief description of Activity		
3. Qualification Information of the JVCA Partner [ITT Clause 32]					
3.1	General Experience in Construction Works of JVCA Partner				
	Start Month Year	End Month Year	Years	Contract No and & Name of Contract Name and Address of Procuring Entity Brief description of Works	Role of JVCA Partner [Prime/Sub /Management]
3.2	Specific Experience in Construction Works of JVCA Partner				
	Completed Contracts of similar nature, complexity and methods/construction technology				
	Contract No		[insert reference no] of [insert year]		
	Name of Contract		[insert name]		

	Role in Contract [tick relevant box]	Prime Contractor	Subcontractor	Management Contractor
	Award date	[insert date]		
	Completion date	[insert date]		
	Total Contract Amount	[insert amount]		
	Procuring Entity's Name Address Tel / Fax <u>e-mail</u> Brief description with justifications of the similarity compared to the Procuring Entity's requirements	[state justification in support of its similarity compared to the proposed works]		
3.3	Average annual construction turnover [ITT Sub Clause 15.1 (a)] <i>[amount invoiced to Procuring Entity(s) for each year of work in progress or completed, using rate of exchange at the end of the period reported]</i>			
	Year	Amount & Currency	Taka or Equivalent Taka	
3.4	Financial Resources available to meet the construction cash flow [ITT Sub-Clause 15.1(b)]			
	No	Source of financing	Amount available	
	In order to confirm the above statements the JVCA Partner shall submit , as applicable, the documents mentioned in ITT Sub Clause 32.1 (a), (b), (c) & (d)			
3.5	Contact Details [ITT Sub Clause 32.1 (g) & (i)]			
	Name, address, and contact details of Tenderer's Bankers and other Procuring Entity(s) that may provide references if contacted by this Procuring Entity			

3.6	Qualifications and experience of key technical and administrative personnel proposed for Contract administration and management [ITT Sub Clause 32.1(e)]		
	Position Name Years of General Experience	Years of Specific Experience	
	<i>[Tenderer to complete details of as many personnel as are applicable. Each personnel listed above should complete the Personnel Information (Form PW3-5)]</i>		
3.7	Major items of Construction Equipment proposed for carrying out the works [ITT Sub-Clause 32.1(f)]		
	Item of Equipment	Condition (new, good, average, poor)	Owned, leased or to be purchased (state owner, leaser or seller)
	<i>[Tenderer to list details of each item of Major equipment, as applicable]</i>		

Subcontractor Information (Form PW3-4)

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

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

1. Eligibility Information of the Subcontractor [ITT –Clauses 5 & 29]		
1.1	Nationality of Individual or country of Registration	
1.2	Subcontractor's legal title	
1.3	Subcontractor's registered address	
1.4	Subcontractor's legal status <i>[complete the relevant box]</i>	
	Proprietorship	
	Partnership	
	Limited Liability Concern	
	Government-owned Enterprise	
	Other (please describe)	
1.5	Subcontractor's year of registration	
1.6	Subcontractor's authorised representative details	
	Name	
	Address	
	Telephone / Fax numbers	
	e-mail address	
1.7	Subcontractor to attach copies of the following original documents	All documents to the extent relevant to ITT Clause 5 and 29 in support of its qualifications
The following two information are applicable for national Subcontractors		
1.8	Subcontractor's Value Added Tax Registration (VAT) Number	
1.9	Subcontractor's Tax Identification Number(TIN)	

[The foreign Subcontractors , in accordance with ITT sub Clause 5.1, shall provide evidence by a written declaration to that effect to demonstrate that it meets the criterion]

2. Key Activity(ies) for which it is intended to be Subcontracted [ITT Sub Clause 19.1]

2.1	Elements of Activity	Brief description of Activity
2.2	List of Similar Contracts in which the proposed Subcontractor had been engaged	
	Name of Contract and Year of Execution Value of Contract Name of Procuring Entity Contact Person and contact details Type of Work performed	

Personnel Information (Form PW3-5)

[This Form should be completed for each person proposed by the Tenderer on Form PW3-2 & PW3-3, where applicable]

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

A. Proposed Position (tick the relevant box)		
<ul style="list-style-type: none"> ▪ Construction Project Manager 	<ul style="list-style-type: none"> ▪ Prime Candidate 	<ul style="list-style-type: none"> ▪ Alternative Candidate
<ul style="list-style-type: none"> ▪ Key Personnel 	<ul style="list-style-type: none"> ▪ Prime Candidate 	<ul style="list-style-type: none"> ▪ Alternative Candidate
B. Personal Data		
Name		
Date of Birth		
Years overall experience		
National ID Number		
Years of employment with the Tenderer		
Professional Qualifications:		
1.		
2.		
3.		
4.		
C. Present Employment <i>[to be completed only if not employed by the Tenderer]</i>		
Name of Procuring Entity:		
Address of Procuring Entity:		
Present Job Title:		
Years with present Procuring Entity:		
Tel No:	Fax No:	e-mail address:

Contact [manager/personnel officer]:

D. Professional Experience

Summarise professional experience over the last twenty years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

	From	To	Company / Project / Position / Relevant technical and management experience.
1			
2			
3			
4			
5			

Manufacturer's Authorization & Warranty/Guarantee Letter (Form PW3 – 5a)- Not Applicable

[The Tenderer shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Tenderer shall include it in its tender, if so indicated in the TDS as stated under ITT Sub-Clause ITT [24.1 (I) 1]

Invitation for Tender No:	Date:
Tender Package No:	
Tender Lot No:	
To: <i>[Name and address of Purchaser]</i>	

WHEREAS

We *[insert complete name of Manufacturer]*,

who are official manufacturers of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby

authorize *[insert complete name of Tenderer]* to supply the following Goods, manufactured by us *[insert name and or brief description of the Goods]*.

We hereby extend our full guarantee and warranty as stated under GCC (PCC) Clause 57.1 of the General Conditions of Contract, with respect to the Goods offered by the above Tenderer.

Signed: *[insert signature(s) of authorized representative(s) of the Manufacturer]*

Name: *[insert complete name(s) of authorized representative(s) of the Manufacturer]*

Address: *[insert full address including Fax and e-mail]*

Title: *[insert title]*

Date: *[insert date of signing]*

Bank Guarantee for Tender Security (Form PW3-6)

[This is the format for the Tender Security to be issued by a scheduled bank of Bangladesh or by a foreign bank duly endorsed/authenticated by a scheduled bank of Bangladesh in accordance with ITT Clause 35 & 36]

Invitation for Tender No:

Date:

Tender Package No:

To:

[Name and address of the Procuring Entity]

TENDER GUARANTEE No:

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

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

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

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

This guarantee will expire

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

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

Signature

Signature

Notification of Award (Form PW3-7)

Contract No:
To:

Date:

[Name of Contractor]

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

You are thus requested to take following actions:

- i. accept in writing the Notification of Award within seven (7) working days of its receiving pursuant to ITT Sub Clause 63.1
- ii. furnish a Performance Security in the form as specified and in the amount of Tk *[state amount in figures and words]*, within twenty-eight (28) days of issuance of this Notification of Award but not later than *(specify date)*, in accordance with ITT Clause 65.
- iii. sign the Contract within twenty eight (28) days of issuance of this Notification of Award but not later than *(specify date)*, in accordance with ITT Sub Clause 69.2.

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

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

Signed

Duly authorised to sign for and on behalf of
[name of Procuring Entity]

Date:

Contract Agreement (Form PW3-8)

THIS AGREEMENT made the *[day]* day of *[month]* *[year]* between *[name and address of Procuring Entity]* (hereinafter called "the Procuring Entity") of the one part and *[name and address of Contractor]* (hereinafter called "the Contractor") of the other part:

WHEREAS the Procuring Entity invited Tenders for certain works, viz, *[brief description of works]* and has accepted a Tender by the Contractor for the execution of those works in the sum of Taka *[Contract price in figures and in words]* (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

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

For the Procuring Entity

For the Contractor

Signature
Name

National ID No.
Title

In the presence
of
Name
Address

Bank Guarantee for Performance Security (Form PW3-9)

[This is the format for the Performance Security to be issued by a scheduled bank of Bangladesh or by a foreign bank duly endorsed/authenticated by a scheduled bank of Bangladesh in accordance with ITT Clause 64, 65, 66 & 67]

Contract No: [insert reference number]

Date: [insert date]

To:

[insert Name and address of Procuring Entity]

PERFORMANCE GUARANTEE No:

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

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

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

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

Signature

Signature

Bank Guarantee for Advance Payment (Form PW3-10) - Not Applicable

[This is the format for the Advance Payment Guarantee to be issued by a scheduled bank of Bangladesh or by a foreign bank duly endorsed/authenticated by a scheduled bank of Bangladesh in accordance with GCC Clause 75]

Contract No: [insert reference number]

Date: [insert date]

To:

[insert Name and address of the Procuring Entity]

ADVANCE PAYMENT GUARANTEE No:

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

Furthermore, we understand that, according to your Conditions of Contract under GCC Clause 75, the Advance Payment on Contract must be supported by a Bank Guarantee.

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

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

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

Signature

Signature

Bank Guarantee for Retention Money Security (Form PW3-11) – N/A

[This is the format for the Retention Money Guarantee to be issued by a scheduled bank of Bangladesh or by a foreign bank duly endorsed/authenticated by a scheduled bank of Bangladesh in accordance with GCC Sub Clause 72.3]

Demand Guarantee

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

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

Date: [insert date]

RETENTION MONEY GUARANTEE No.: [insert number]

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

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

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

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

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

Signature

Signature

Deviation List (Form PW3-12)

[If Tenderer has any reservations on terms and conditions, Tenderer has to mention his reservations in Deviation list]

Sl. No.	Reference No./ Clause No.	Proposed Deviation	Remarks

[Add rows if necessary]

Signature:

[insert signature of authorised representative of the Tenderer]

Name:

[insert full name of signatory]

In the capacity of:

[insert designation of signatory]

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

Specification Submission and Compliance Sheet (Form PW3-13)- Not Applicable

Invitation for Tender No:
Tender Package No.

Date:
Package Description: [enter description as specified in Section 6]

Tender Lot No:

Lot Description: [enter description as specified in Section 6]

Sl. No.	BPDB's Requirement			To be Filled by the Tenderer	
	Description	Technical Specification/ Manufacturer's Part no.	Name of the Manufacturer & country of origin	Name of the Manufacturer & country of origin	Detail Technical Specification

[The Tenderer should complete all the columns]

Signature:	[insert signature of authorized representative of the Tenderer]
Name:	[insert full name of signatory]
In the capacity of:	[insert designation of signatory]
Duly authorized to sign the tender for and on behalf of	

Section 6.
Bill of Quantities (BoQ) and & Schedule of
Requirements

Schedule-1.1: Procurement of NLDC SCADA/ EMS Integration Works for Bibiyana-III, 400MW CCPP, BPDB, Nabiganj, Habiganaj. – Not Applicable

SI No.	Description of equipment/ materials	Part No./ Technical Specification	Unit	Qty	Name of manufacturer & country of origin	Unit FOB	Total FOB	Freight	Marine insurance	Total CIF	Inland Transportation Port Handling Charges and others	Insurance for Local Transportation	Total cost	
						FC ()	FC ()	FC ()	FC ()	FC ()	LC (BDT)	LC (BDT)	FC ()	LC (BDT)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	TOTAL													
	Delivery point: Completion period:	.												

N.B: 1. Add rows as many as required if any optional / recommended spare parts to be included in the tender by the tenderer. Item wise price is to be mentioned.

Schedule-1.2: Procurement of NLDC SCADA/ EMS Integration Works for Bibiyana-III, 400MW CCPP, BPDB, Nabiganj, Habiganaj.

SI No.	Description of work	Quantity	Cost in foreign currency		Cost in Bangladeshi Taka		Insurance for works (In BDT)	
			Unit cost	Total cost	Unit cost	Total cost	Unit cost	Total
a.	NLDC SCADA/EMS integration works as per Scope of Works mentioned in Section 7	1 Lot						
	TOTAL							
	Working site:	Bibiyana III 400MW CCPP BPDB, Nabiganj, Habiganaj and NLDC/SCADA Main & Backup control centers						
	Completion period:	70 Days from the date of LC Opening						

N.B: 1. Required service fee & others for SCADA integration of the Plant in NLDC (PGCB) SCADA system has to be included in the quoted price.

Section 7. General Specification

7.1 Plant History

Bibiyana-III is a combined cycle power plant consisting of 01(one) set of MHPH-701F4 class Gas Turbine (284 MW) unit, 01(one) set of Heat Recovery Steam Generator (HRSG), 01(one) set of Steam Turbine. The heat energy from GT through HRSG would be used to operate the Steam Turbine. The net output of the Combined Cycle unit is 409 MW (GT 284MW+ST125 MW).

7.2 Plant Specifications:

The Specification of the Bibiyana-III 400MW CCPP Unit is given below:

Description	Specifications
GT Generating unit	
Model of Gas Turbine	M701F4
Name of Manufacturer	MHPS Japan
Total Net Power output at site conditions	Output 285.06 MW at 35°C, Humidity 98%, Heat rate 9728 Kj/Kwh, 4 stages, Cooling system air, Eff. 39%, Exhaust Temp. 610°C,
ST Generating unit	
Turbine Model Series	M-FK-H130/6.3-50-AX
Name of Manufacturer	Fuji Electric, Japan
Base Output	169 MVA, CW temp. 48°C, 13.8 KV, 7070 A, 3000 RPM, 3 Ph, 50 Hz, PF .8
Control System of CCPP	
Model	Symphony S Plus
Manufacturer	ABB

7.3 Scope of Works:

Scope of Works for Procurement of NLDC SCADA/ EMS Integration Works for Bibiyana-III, 400MW CCPP, BPDB, Nabiganj, Habiganaj are as follows but not limited to-

The scope of works for the said works are described as bellows but not limited to

- a. Database/display creation of RTU data (**following signal list as per Annexure-A**) at NLDC/SCADA Main & Backup control centers for Bibiyana III 400 MW CCPP, BPDB, Nabiganj, Hobiganj, Bangladesh.
- b. Joint efforts with concerned Telecom and RTU/Gateway teams for communication establishment between RTU/Gateway and NLDC SCADA/ B-NLDC/ EMS system.
- c. End to End testing.
- d. AGC signals shall be configured at SCADA level only and AGC tuning is out of scope.
- e. All works must meet the applicable guidelines & standard of BPDB & NLDC of PGCB.

Tenderer shall carry out following activities in the existing control Centre.

1) SCADA Database Modeling

The following activities will be carried out based on the data list & Single line diagram.

- Preparation & Updatation of COMTOP (Communication topology).
- Preparation & Updatation of RTUTOP (RTU topology).
- Preparation & Updatation of POWERTOP (Power Station topology).

2) Power Station Display

The following activities will be carried out to build single line diagram for stations configured in the SCADA database.

- Preparation & Updatation of SCADA general display.
- Preparation & Updatation of SCADA online station display.
- Preparation & Updatation of network application station online display.
- Preparation & Updatation of NETWORK_MAP display.

3) Network Database Modeling

The following activities will be carried out.

- Preparation & Updatation of NETTOP (Network topology).
- Preparation & Updatation of GENTOP (Generation topology).
- Preparation & Updatation of DTSTOP (Dispatcher training simulator topology).

4) Alarm Database Modeling

The following activities will be carried out.

- Modeling into Alarm database for the Station modeled in SCADA database.
- Modeling of Alarm category, priority, exception (if any).
- IP configuration on the front end server.
- Integration & on-lining of all Data bases.
- Compilation & on-lining of all the displays on the web servers.

5) Updatation of OAG Database for inter control center data exchange

The following activities will be carried out.

- Extraction of OAG database from the SCADA database.
- Verification of OAG database.
- Integration & on-lining of OAG database on OAG servers.

6) End to End Test

The following applications will be tuned

- Verification of all Analog Measurement.
- Verification of Digital Signals & Controls.
- Verification of displays including single line, pop up, alarms etc.
- Verification of communication line for redundancy.

7) Tuning of Power System Application

The following activities will be carried out

- RTNET (State estimator)
- RTCA (Real time contingency analysis)
- Tuning of dispatched training simulator

7.4 Signal List:-

Attached in Annexure-A.

7.5 Employer's (BPDB) Scope of Supply: -Not Applicable.

7.6 Facility to be provided by BPDB:

- a. BPDB personnel shall assist the expert/engineer/ technician (s) for their works/ services. But any lack of assistance shall not release the contractor to discharge his duties properly.
- b. Tools, equipment and facilities available at Bibiyana III 400 MW CCPP, BPDB, Nabigonj, Hobigonj, Bangladesh will be provided free of charges.
- c. Electricity, Fuel gas and Water required for the works will be provided by BPDB, required arrangement to be done by the contractor.
- d. Accommodation of experts may be provided in the rest house (**one full furnished**) without furniture and A/C by the Manager (Maintenance), Bibiyana III 400 MW CCPP, BPDB, Hobigonj, Bangladesh.
- e. Available technical data, clearance, measurements taken by BPDB before starting the works of the unit may be provided to the Bidder if requested.
- f. BPDB will assist the Contractor to obtain all export / import permit etc (if required).
- g. BPDB will allow the Tenderer's Site visit before submission the tender at his own cost.

7.7 Facilities to be provided by the Contractor:

A. General:

- a) The contractor shall be entirely responsible for necessary facilities like additional residential accommodation, transport, distribution of water, medical, Fire Safety etc. as required but to follow the various labor laws and other statutory rules and regulations as applicable at site for their Experts, staff & labor.
- b) The contractor will make own arrangement for communication & transport needs at site office.
- c) Contractor shall deploy labor at site strictly in accordance with the approval of Authority.

B. Safety:

- a) Contractor shall strictly follow all safety conditions. Non-conformity of safety rules and safety appliances will be taken seriously.
- b) The contractor will arrange any other permits required for carrying out his work from the respective agencies at his own cost. He will also comply with regulations of security within the plant & NLDC premises.
- c) The contractor shall ensure the safety of all the workmen, materials, and equipment either belonging to him or to others working at site.
- d) Where it is necessary to provide and/ or store petroleum products or petroleum mixtures or any other, the contractor shall be responsible for safe keeping.

C. Responsibilities of the Contractor:

- a) For timely completion of the job, the Contractor may have to work in one or more shifts. He/ She will not be eligible for any extra charges on this account.
- b) All equipment shall be handled very carefully to prevent any damage or loss.
- c) All the necessary certificates and licenses required to carry out this scope of works are to be arranged by the Contractor then and there at no extra cost.
- d) The Contractor shall take all reasonable care to protect the materials and work till such time the installed equipment has been taken over by BPDB.

- e) The Contractor shall be responsible for taking all safety precautions during the works and leaving the site safe at all items. When the work is temporarily suspended, Tenderer shall protect all materials, equipment and facilities from causing damage to existing property interfering with the operation of the station when it goes into service. The Contractor shall comply with all applicable provisions of the safety regulations clean-up program and other precautionary measures.
- f) Tools (with Special tools), tackles those will be needed to complete works should be arranged by the contractor.
- g) The Contractor shall take all reasonable care to protect the materials and work till such time the installed equipment has been taken over by BPDB.
- h) The contractor shall be responsible for taking all safety precautions during the working period and while leaving keep all items in save zone. The contractor shall comply with all applicable provisions of the safety regulations clean-up program and other precautionary measures.
- i) Contractor shall have to responsible to BPDB's engineers for showing the progress of the work.
- j) Environment pollution level must be maintained as per Bangladesh Environment Protection Act, 1995.

D. Contractor's Liability: The contractor /supplier shall be liable for

- a) any death or injury to a person resulting from the contractor's or its employee or subcontractors or agents' negligence or recklessness.
- b) any infringement or alleged infringement by the Contractor/Supplier or its employee, subcontractors or agents of any patent, copyright, registered design, trade mark right, trade secrets or any other intellectual property rights of any third party (an "Intellectual Property Infringement").
- c) any failure of the Contractor/Supplier or its employees, subcontractors or agents to comply with any applicable law, rule or regulation.

7.8 Confidential information and unauthorized commitment

Both parties agree to respect each other's interest in maintaining the confidentiality of information. "Confidential Information" means: any information identified as confidential or proprietary by either party, or that ought reasonably under the circumstances to be treated as confidential or proprietary. Except with the prior written consent of BPDB, the Contractor/Supplier shall refrain from using such above information for the contractor's employees, agents, and sub-contractor's own purposes.

Section 8. Particular Specifications

NONE

Section 9. Drawings

[To be provided by tenderer, (if any)]