

Section 6 - General Conditions of Contract

[Name of Employer]

[Name of Contract]

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General Conditions of Contract

A. General

1. Definitions

1.1 Boldface type is used to identify defined terms.

- (a) The **Accepted Contract Amount** means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
- (b) The **Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
- (c) The **Adjudicator** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.1 hereunder.
- (d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
- (e) **Compensation Events** are those defined in GCC 41.1 hereunder.
- (f) The **Completion Date** is the date of completion of the Works as certified by the Engineer, in accordance with GCC 52.1.
- (g) The **Contract** is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC 2.3 below.
- (h) The **Contractor** is the party whose Bid to carry out the Works has been accepted by the Employer.
- (i) The **Contractor's Bid** is the completed bidding document submitted by the Contractor to the Employer.
- (j) The **Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
- (k) **Days** are calendar days; months are calendar months.
- (l) **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- (m) A **Defect** is any part of the Works not completed in accordance with the Contract.
- (n) The **Defects Liability Certificate** is the certificate issued by Engineer upon correction of defects by the Contractor.
- (o) The **Defects Liability Period** is the period calculated from the Completion Date where the Contractor remains responsible for remedying defects.
- (p) **Drawings** include calculations and other information provided or approved by the Engineer for the execution of the Contract.

- (q) The **Employer** is the party who employs the Contractor to carry out the Works, as specified in the **PCC**.
- (r) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- (s) **Force Majeure** means an exceptional event or circumstance: which is beyond a Party's control; which such Party could not reasonably have provided against before entering into the Contract; which, having arisen, such Party could not reasonably have avoided or overcome; and, which is not substantially attributable to the other Party.
- (t) The **Initial Contract Price** is the Contract Price listed in the Employer's Letter of Acceptance.
- (u) The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the **PCC**. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time or an acceleration order.
- (v) **Letter of Acceptance** means the formal acceptance by the Employer of the Bid and denotes the formation of the Contract at the date of acceptance.
- (w) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (x) "**Party**" means the Employer or the Contractor, as the context requires.
- (y) **PCC** means Particular Conditions of Contract
- (z) **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (aa) The **Engineer** is the person named in the **PCC** (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Engineer) who is responsible for supervising the execution of the Works and administering the Contract.
- (bb) **Retention Money** means the aggregate of all monies retained by the Employer pursuant to GCC 45.1.
- (cc) The **Site** is the area defined as such in the **PCC**.
- (dd) **Site Investigation Reports** are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (ee) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Engineer.
- (ff) The **Start Date** is given in the **PCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- (gg) A **Subcontractor** is 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.

- (hh) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (ii) A **Variation** is an instruction given by the Engineer which varies the Works.
- (jj) The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the **PCC**.

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| 2. Interpretation | <p>2.1 In interpreting these GCC, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Engineer shall provide instructions clarifying queries about these GCC.</p> <p>2.2 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).</p> <p>2.3 The documents forming the Contract shall be interpreted in the following order of priority:</p> <ul style="list-style-type: none"> (a) Agreement, (b) Letter of Acceptance, (c) Contractor's Bid, (d) Particular Conditions of Contract, (e) General Conditions of Contract, (f) Specifications, (g) Drawings, (h) Bill of Quantities (or Schedules of Prices for lump sum contracts), and (i) any other document listed in the PCC as forming part of the Contract. |
| 3. Language and Law | 3.1 The language of the Contract and the law governing the Contract are stated in the PCC . |
| 4. Engineer's Decisions | 4.1 Except where otherwise specifically stated, the Engineer shall decide contractual matters between the Employer and the Contractor in the role representing the Employer. |
| 5. Delegation | 5.1 The Engineer may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor. |
| 6. Communications | 6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered. |

- 7. Subcontracting** 7.1 The Contractor may subcontract with the approval of the Engineer, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations. The subcontracting shall not exceed 50% of the total value of work. The Sub Contractors should have an experience in any one year with in the last 3 years of execution of similar item of construction to an extent of 50% of the quantity proposed to be executed as a subcontract.
- 8. Other Contractors** 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as **referred to in the PCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.
- 9. Personnel and Equipment** 9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid to carry out the Works, or other personnel and equipment approved by the Engineer. The Engineer shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.
- 9.2 If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.
- 10. Employer's and Contractor's Risks** 10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.
- 11. Employer's Risks** 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Employer'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 Employer 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 Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to
- (a) a Defect which existed on the Completion Date,

- (b) an event occurring before the Completion Date, which was not itself an Employer's risk, or
 - (c) the activities of the Contractor on the Site after the Completion Date.
- 12. Contractor's Risks**
 - 12.1 From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.
- 13. Insurance**
 - 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated 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.
 - 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
 - 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
 - 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Engineer.
 - 13.5 Both parties shall comply with any conditions of the insurance policies.
- 14. Site Investigation Reports**
 - 14.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the **PCC**, supplemented by any information available to the Bidder.
- 15. Contractor to Construct the Works**
 - 15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 16. The Works to Be Completed by the Intended Completion Date**
 - 16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion Date.
- 17. Designs by**
 - 17.1 The Contractor shall carry out design to the extent specified in the **PCC**.

Contractor and Approval by the Engineer	<p>The Contractor shall promptly submit to the Employer all designs prepared by him. Within 14 days of receipt, the Employer shall notify any comments. The Contractor shall not construct any element of the permanent work designed by him within 14 days after the design has been submitted to the Employer or where the design for that element has been rejected. Design that has been rejected shall be promptly amended and resubmitted. The Contractor shall resubmit all designs commented on taking these comments into account as necessary.</p> <p>17.2 The Contractor shall be responsible for design of Temporary Works.</p> <p>17.3 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Engineer, who is to approve them if they comply with the Specifications and Drawings.</p> <p>17.4 The Engineer's approval shall not alter the Contractor's responsibility for design of the Temporary Works.</p> <p>17.5 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.</p> <p>17.6 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Engineer before this use.</p>
18. Safety	<p>18.1 The Contractor shall be responsible for the safety of all activities on the Site as specified in the PCC.</p>
19. Discoveries	<p>19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these discoveries. The Contractor shall notify the Engineer of such discoveries and carry out the Engineer's instructions for dealing with them.</p>
20. Possession of the Site	<p>20.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the PCC, the Employer shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.</p>
21. Access to the Site	<p>21.1 The Contractor shall allow the Engineer and any person authorized by the Engineer access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.</p>
22. Instructions, Inspections and Audits	<p>22.1 The Contractor shall carry out all instructions of the Engineer which comply with the applicable laws where the Site is located.</p> <p>22.2 The Contractor shall permit the Employer to inspect the Contractor's accounts, records and other documents relating to the submission of bids and contract performance and to have them audited by auditors appointed by the Employer. The Contractor shall maintain all documents and records related to the Contract for a period of three (3) years after completion of the Works. The Contractor shall provide any documents necessary for the investigation of allegations of fraud,</p>

collusion, coercion, or corruption and require its employees or agents with knowledge of the Contract to respond to questions from the Employer.

23. Appointment of the Adjudicator

23.1 The Adjudicator shall be appointed jointly by the Employer and the Contractor, at the time of the Employer's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Employer does not agree on the appointment of the Adjudicator, the Employer will request the Appointing Authority **designated in the PCC**, to appoint the Adjudicator within 14 days of receipt of such request.

23.2 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority at the request of either party, within 14 days of receipt of such request.

24. Procedure for Disputes

24.1 If the Contractor believes that a decision taken by the Engineer was either outside the authority given to the Engineer by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Engineer's decision.

24.2 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute. If the adjudicator fails to give its decision within the period of 28 days of the receipt of a notification of a dispute, either party may within 28 days of the expiration of the above mentioned period, give notice to the other party of its dissatisfaction and intention to commence arbitration.

24.3 The Adjudicator shall be paid the daily allowance at the rate specified in the **PCC**, together with reimbursable expenses of the types specified in the **PCC**, and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. Neither party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been served in accordance with the GCC 24.2 above. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision shall be final and binding. In the event that a party fails to comply with the decision of the adjudicator which has become final and binding, then the other party may without prejudice to any other rights it may have, refer the failure itself to arbitration.

24.4 The arbitration shall be conducted in accordance with the arbitration procedures published by the institution named and in the place specified in the **PCC**.

B. Time Control

25. Program

25.1 Within the time stated in the **PCC**, after the date of the Letter of Acceptance, the Contractor shall submit to the Engineer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in

the Activity Schedule.

- 25.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 25.3 The Contractor shall submit to the Engineer for approval an updated Program at intervals no longer than the period stated in the **PCC**. If the Contractor does not submit an updated Program within this period, the Engineer may withhold the amount stated in the **PCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Engineer.
- 25.4 The Engineer's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Engineer again at any time. A revised Program shall show the effect of Variations and Compensation Events.

26. Extension of the Intended Completion Date

- 26.1 The Engineer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 26.2 The Engineer shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Engineer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

27. Acceleration

- 27.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Engineer shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 27.2 If the Contractor's priced proposals for an acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.

28. Delays Ordered by the Engineer

- 28.1 The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works.

29. Management Meetings

- 29.1 Either the Engineer or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 29.2 The Engineer shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall

be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

- 30. Early Warning**
- 30.1 The Contractor shall warn the Engineer at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Engineer may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 30.2 The Contractor shall cooperate with the Engineer in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Engineer.

C. Quality Control

- 31. Identifying Defects**
- 31.1 The Engineer shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Engineer may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect.
- 32. Tests**
- 32.1 If the Engineer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.
- 33. Correction of Defects**
- 33.1 The Engineer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the **PCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 33.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Engineer's notice.
- 34. Uncorrected Defects**
- 34.1 If the Contractor has not corrected a Defect within the time specified in the Engineer's notice, the Engineer shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

- 35. Contract Price**
- 35.1 In the case of an admeasurement contract, the Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.
- 35.2 In the case of a lump sum contract, the Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance

of activities on which basis the Contractor will be paid. If payment for Materials on Site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

36. Changes in the Contract Price

36.1 In the case of an admeasurement contract:

- (a) If the final quantity of the work done is in excess of the quantity in the Bill of Quantities for the particular item by more than 20%, the Engineer shall adjust the rate to be applied for the varied quantities with the prior approval of the Employer.
- (b) The Engineer shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded, except with the prior approval of the Employer.
- (c) If requested by the Engineer, the Contractor shall provide the Engineer with a detailed cost breakdown of any rate in the Bill of Quantities.

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

37. Variations

37.1 All Variations shall be included in updated Programs, and, in the case of a lump sum contract, also in the Activity Schedule, produced by the Contractor.

37.2 In the case of an admeasurement contract, if the work in variation requires an adjustment of rate to be applied to varied quantities in accordance with GCC 36, the Engineer shall apply the least of the following rates for the varied quantities, (i) prevalent market rates, (ii) the rates as per the Uttarakhand Public Works Department Schedule of Rates and (iii) rates in the Bill of Quantities for the item under consideration.

37.3 In the case of an admeasurement contract, if the work in the Variation requires addition of particular extra items in the Bill of Quantities, the rates for such extra items shall be in the form of new rates for the relevant items of work decided from the Uttarakhand Public Works Department Schedule of Rates.

38. Cash Flow Forecasts

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

39. Payment Certificates

39.1 The Contractor shall submit to the Engineer monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

39.2 The Engineer shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

39.3 The value of work executed shall be determined by the Engineer.

39.4 The value of work executed shall comprise:

- (a) In the case of an admeasurement contract, the value of the quantities of work in the Bill of Quantities that have been completed; or
- (b) In the case of a lump sum contract, the value of work executed shall comprise the value of completed activities in the Activity Schedule.

39.5 The value of work executed shall include the valuation of Variations and Compensation Events.

39.6 The Engineer may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

40. Payments

40.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Engineer within 30 days of the date of each certificate. If the Employer 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 rate of interest for commercial borrowing as specified in the **PCC**.

40.2 If an amount certified is increased in a later certificate or 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.

40.3 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.

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

40.5 With respect to materials brought by the Contractor to the Site for incorporation in the Permanent Works, the Contractor shall (i) receive a credit in the month in which these materials are brought to the Site and (ii) be charged a debit in the month in which they are incorporated in to the Permanent Works, both such credit and debit to be determined by the Engineer in accordance with the following provisions;

- a) no credit shall be given unless the following conditions shall have been met to the Engineer's satisfaction;
 - i) the materials is in accordance with the specifications for the Works.
 - ii) the materials have been delivered to the Site and are properly stored (bulk materials are to be stored in measurable stocks) and protected against loss, damage or deterioration.
 - iii) the Contractor's records of the requirements, orders receipts and

- use of materials is kept in a form approved by the Engineer, and such records are available for inspection by the Engineer.
- iv) only the materials for which payment has been made by the Contractor shall be considered for advance. Where the materials are supplied from the Contractor's captive source, the reasonableness of the valuation of such materials shall be furnished by the Contractor. The materials brought on credit to the Site shall not be considered for advance.
 - v) the Contractor has submitted a statement of his cost of acquiring and delivering the materials to the Site together with paid vouchers and other such documents as may be required for the purpose of evidencing such cost.
 - vi) the material shall be incorporated or used within 90 days period.
- b) the amount to be credited to the Contractor shall be the equivalent of 75 percent of the Contractor's reasonable cost of the materials delivered to the Site, after review of the documents listed in sub paragraph (a) (v) above, as determined by the Engineer. Provided further, the advance shall not exceed 75 percent of the corresponding value of materials determined on the basis of the BOQ rates.
- c) the amount to be debited to the Contractor for any materials incorporated into the Permanent Works shall be equivalent to the credit previously granted to the Contractor for such materials pursuant to sub-para (b) above, as determined by the Engineer.

41. Compensation Events

41.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date pursuant to GCC 20.1.
- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Engineer orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time beyond 21 days from the date of request.
- (d) The Engineer instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Engineer unreasonably does not approve a subcontract to be let beyond 28 days from request alongwith requisite details of sub-contractor
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does 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 beyond 42 days from the request along with furnishing of requisite details and documentation.
- (j) The effects on the Contractor of any of the Employer's Risks.
- (k) The Engineer unreasonably delays issuing a Certificate of Completion beyond 14 days from the date of request along with necessary information / clarifications.

41.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Engineer shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

41.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Engineer, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Engineer shall adjust the Contract Price based on the Engineer's own forecast. The Engineer shall assume that the Contractor shall react competently and promptly to the event.

41.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Engineer.

42. Tax

42.1 The Engineer shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC 44.1.

43. Currencies

43.1 Where payments are made in currencies other than the currency of the Employer's country specified in the **PCC**, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

44. Price Adjustment

44.1 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the **PCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due.

44.2 To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the contract, the unit rates and prices included in the contract shall be deemed to include amount to cover the contingency of such other rise or fall in costs.

45. Retention

- 45.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the **PCC** until Completion of the whole of the Works.
- 45.2 The total amount retained shall be repaid to the Contractor when the Defects Liability Period has passed and the Engineer has certified that all Defects notified by the Engineer to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an "on demand" bank guarantee.

46. Liquidated Damages

- 46.1 The Contractor shall pay liquidated damages to the Employer 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 Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.
- 46.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

47. Bonus

- 47.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day stated in the **PCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Engineer shall certify that the Works are complete, although they may not be due to be complete.

48. Advance Payment

- 48.1 The Employer will make the interest bearing advance payment to the Contractor within 60 days of contract signing as follows:
- (A) Mobilization advance payment up to a maximum of 5% of initial contract price shall be paid to the contractor after submission of an unconditional bank guarantee in a form and by a reputable local banks including scheduled banks or nationalized banks acceptable to the Employer for an amount equal to the advance payment (to be drawn before the end of 20% of the contract period).
The guarantees shall remain effective until the advance payments have been fully repaid.
 - (B) Equipment advance shall be paid as 90% for new and 50% of depreciated value for old equipment. Total amount will be subject to maximum of 5% of the contract value. The advance is not applicable for equipment already owned by the contractor. The advance shall be paid after equipments brought to site (Provided the Executive Engineer is satisfied that the equipment is required for performance of the contract) and a submission of unconditional bank guarantee for amount of advance.
 - (C) The advance payment shall be repaid with interest @ State Bank of India Prime Lending Rate applicable on the date of release of mobilization advance by deducting from payments otherwise due to the Contractor.
- 48.2 The Contractor is to 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 in this way by supplying copies of invoices or other documents to the Engineer.

- 48.3 The recovery of mobilization advance shall start from bill after the work done exceeds 10% of the initial contract price or **three** months from the date of payment of advance which ever period concludes earlier and shall be made at the rate of 15% of the work done in each IPC. The recovery of advance shall be completed when 90% of the work has been completed or prior to the expiry of original time for completion which ever is earlier. 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.
- 49. Securities** 49.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount specified in the **PCC**, from reputable local banks including scheduled banks or nationalized banks acceptable to the Employer. The Performance Security shall be valid until 28 days from the date of issuance of the Certificate of Completion.
- 50. Dayworks** 50.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used for small additional amounts of work only when the Engineer has given written instructions in advance for additional work to be paid for in that way.
- 50.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Engineer. Each completed form shall be verified and signed by the Engineer within two days of the work being done.
- 50.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.
- 51. Cost of Repairs** 51.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

- 52. Completion** 52.1 The Contractor shall request the Engineer to issue a certificate of Completion of the Works, and the Engineer shall do so upon deciding that the work is completed.
- 53. Taking Over** 53.1 The Employer shall take over the Site and the Works within seven days of the Engineer's issuing a certificate of Completion.
- 54. Final Account** 54.1 The Contractor shall supply the Engineer with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Engineer shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Engineer shall issue within 56

days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Engineer shall decide on the amount payable to the Contractor and issue a payment certificate.

55. Operating and Maintenance Manuals

55.1 If “as built” Drawings and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **PCC**.

55.2 If the Contractor does not supply the Drawings and manuals by the dates **stated in the PCC** pursuant to GCC 55.1, or they do not receive the Engineer’s approval, the Engineer shall withhold the amount **stated in the PCC** from payments due to the Contractor.

56. Termination

56.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

56.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Engineer;
- (b) the Engineer instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Engineer is not paid by the Employer to the Contractor within 84 days of the date of the Engineer’s certificate;
- (e) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;
- (f) the Contractor does not maintain a Security, which is required; and
- (g) 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 defined in the **PCC**.
- (h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, pursuant to GCC 57.1.

56.3 When either party to the Contract gives notice of a breach of Contract to the Engineer for a cause other than those listed under GCC 56.2 above, the Engineer shall decide whether the breach is fundamental or not.

56.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

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

57. Fraud and Corruption

57.1 Government of Uttarakhand requires the Employer, as well as Contractors, Subcontractors, manufacturers, and Consultants; observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Employer:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
 - (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party; and
- (b) will sanction a firm or an individual, at any time, in accordance with Government of Uttarakhand’s Anticorruption Policy and Integrity Principles and Guidelines, including declaring ineligible, either indefinitely or for a stated period of time, to participate in Government of Uttarakhand-financed or Government of Uttarakhand-administered activities or to benefit from an Government of Uttarakhand-financed or Government of Uttarakhand-administered contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive or other prohibited practices.

58. Payment upon Termination

58.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done and Materials brought to site, less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the **PCC**. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.

58.2 If the Contract is terminated for the Employer’s convenience or because of a fundamental breach of Contract by the Employer, the Engineer shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on 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.

59. Property

- 59.1 Consequent to termination of the contract because of a fundamental breach of Contract by the Contractor, the Employer shall give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if the Contractor fails to make a payment due to the Employer, all Materials on the Site, Plant, Equipment, Temporary Works, and Works may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

60. Release from Performance

- 60.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Engineer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

61. Eligibility

- 61.1 The Contractor, subcontractors or suppliers for any part of the contract including related services shall have the nationality of India.
- 61.2 The materials, equipment and services to be supplied under the Contract shall have their origin in source countries not under sanction by the Government of India. All expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, the Contractor may be required to provide evidence of the origin of materials, equipment and services.
- 61.3 For purposes of GCC 61.2, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components.

62. Labor Laws and Regulations

- 62.1 The Contractor shall comply with all relevant labor laws and regulations applicable to the Contractor's personnel.
- 62.2 The Contractor shall provide equal wages and benefits to men and women for work of equal value or type.
- 62.3 The Contractor shall not employ any child to perform work, including 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. "Child" means a child below the statutory minimum age of 18 Years.
- 62.4 The Contractor shall not employ "forced and compulsory labor" in any form. "Forced or compulsory labor consists of all works or service, not voluntary performed that is extracted from an individual under threat

or force or penalty.

62.5 Contractor shall comply with the specific labor regulations as stated in the **PCC**.

62.6 Breach by the Contractor of any of the provisions stated in Sub-Clause GCC 18.1, GCC 62.2, GCC 62.3, GCC 62.5 and GCC 62.5, stated above, will be a ground for the Employer to terminate the Contract.

**63. Environmental
Laws and
Regulations**

The Contractor shall comply with all applicable national, provincial, and local environmental laws and regulations. The Contractor shall comply with the specific environment monitoring requirements as stated in the PCC.