ANNEXURE-3

(AMENDMENTS TO PARTICULAR CONDITIONS OF CONTRACT)

Except following changes , All clauses / clause number remain same of the Eligibility Criteria given in the Tender Document

For any discrepancy of any kind, Original Tender document of respective part will be considered

SUB-CLAUSE 4.2: PERFORMANCE SECURITY

Replace the second Para with the following:

The Contractor shall, for due performance of the Contract, within a period of 28 days from the date of issue of Letter of Acceptance, submit to the Employer Performance Security in a form of Fixed Deposit (FD) or Surety Bond from IRDAI approved Insurance company or demand guarantee in the form of an unconditional bank guarantee; from a) nationalized/scheduled bank in the country; b) a foreign bank with Class A (or above) banking license for amounts equal to five percent (5%) of the Contract Price in INR only valid beyond 60 days from the expiry of the defect liability period.

The Performance Security shall be denominated in the types and proportions of currencies in which the Contract Price is payable. The Performance Security of a JV/Consortium shall be in the name of individual partners of JV/Consortium in proportion of the value of Contract Price of the portion of work under their domain.

The bank guarantees in currencies other than INR shall be acceptable only if these are issued by an International Bank of repute situated outside India (to be confirmed by their corresponding bank in India or by any Scheduled Bank in India) or by an Authorised dealer in India as per guidelines issued by the RBI from time to time. The Insurance Surety Bond issued by an Insurance Company registered in India under Insurance Act 1938 or as amended from time to time and approved by the Insurance Regulatory Development Authority (IRDAI) in Indian currency (INR) shall only be acceptable.

In case, the Contractor is a Subsidiary Company, the parent/holding company will be required to furnish an additional performance bank guarantee of value equivalent to (1%) one percent of the Accepted Contract Price or portion of work (where the subsidiary company is JV/Consortium Partner) as the case may be, in the types and proportions of currencies in which the Contract Price is payable, in addition to normal performance bank guarantee to be submitted by the Contractor to the Employer's Representative besides entering into a separate Agreement.
The Contractor within 28 days of issue of Letter of Acceptance shall provide an additional security for Subcontractor's performance from his Subcontractor, if required, under the Contract.

The Performance Security shall be in the form of a bank guarantee or in the form of Surety Bond from IRDAI approved Insurance company or demand guarantee in the form of an unconditional bank guarantee or in the form of Fixed Deposit (FD);, amounting to 1% of the value of the sub-contracted works, in the currencies and proportions in which the Contract Price is payable.

The Performance Security provided by the Contractor shall be valid upto 60 (sixty) days beyond the Defect Liability Period. The additional Performance Security provided by Subcontractor shall be valid till completion of the part of the Works executed by the

Subcontractor. The additional Performance Secuirty provided by Parent Company shall be valid till the validity of Performance Security of Subsidiary Company.

All compensation or other sums of money payable by the Contractor to the Employer under the terms of this Contract or any other contract or on any other account whatsoever may be deducted from Performance Security. Also, in the event of the Performance Security being reduced by reasons of such deductions, as aforesaid, the Contractor shall, at his own cost, make good the deficit in Performance Security within 14 days of receipt of notice of demand from the Employer's Representative.

Should there arise any occasion under the Contract due to which the periods of validities of Performance Security as may have been furnished by the Contractor or sub-contractor or Holding Company from time to time, are required to be extended/renewed, the Contractor shall at his cost get the validity periods of such guarantees extended/renewed, and furnish these to the Employer's Representative at least one month before the expiry date of the aforesaid Performance Security originally furnished; failing which the existing Performance Security shall be invoked by the Employer's Representative. Also, in case of any deficit in Performance Security on any account as might occur or is noticed, the Contractor shall forthwith recoup/replace the same at his cost with acceptable Performance Security.

SUB CLAUSE 4.17: CONTRACTOR'S EQUIPMENT

The Contractor's Equipment proposed should be in working condition.

If in the opinion of Employer, the Equipment deployed by the Contractor are old/inapt for carrying out the Works and the Works are likely to be delayed due to deployment of such Equipment, the Employer can ask the Contractor to replace such Equipment. Also, based on the nature and exigency of work, Employer can direct the Contractor to depute such additional Equipment as is deemed necessary for timely completion of Works.

SUB-CLAUSE 5.1: GENERAL DESIGN OBLIGATIONS

The following shall be added at the end of the first paragraph.

The Contractor shall be responsible for the safe design of the Works. For this purpose, the technical standards for the design, the Contractor's Documents, the execution and the completed Works shall be in accordance with those published by the Bureau of Indian Standards. Where such Standards are not published, equivalent best International Standards and Practices shall be applicable.

Notwithstanding anything contained in this contract, the Contractor shall comply to the changes incorporated in the Contract by the Employer within a reasonable time after signing of the Contract provided such requirements whether specifically described in the Contract or not but are necessary or required for proper completion and functioning of the Works in accordance with the Contract and are in conformity with the Technical Specifications.

SUB-CLAUSE 13.3: VARIATION PROCEDURE

The 1st Para of the sub-clause 13.3 is replaced with the following Para:

"If the Employer requests a proposal, prior to instructing a variation, the Contractor shall respond in writing within 14 days or in a period agreed by the Employer and shall submit:"

In the 2nd Para is replaced with the following para:

"The Employer shall, as soon as practicable after receiving such proposal, respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response."

Add the following after the 4th paragraph of Sub-Clause 13.3

The rate for any additional, altered or substituted items of work as are required to be executed due to variation arising during detailed design/ execution of Works due to Value Engineering/ Change in Employer's requirements, the Employer's Variation shall be determined in the manner as stated hereunder:

(i) If the rate for any additional, altered or substituted item of work is not specified in Schedule of items/BOQ, the rate for such item shall be derived from the rate of nearest similar item specified therein. The rate shall be derived from the nearest similar item in Schedule of Items of the particular part of the work in which the deviation is involved.

(ii) If the rate of any additional, altered or substituted item of work cannot be determined in the manner specified in (i) here-in above then the rate for such item of work shall be derived on the basis of Central Water Commission (CWC), Govt. of India, and latest "Guidelines for Preparation of Project Estimates for River Valley Projects". While deriving these rates, the prime cost shall include the cost of materials, direct labour charges and the indirect labour charges. The Contractor shall submit the analysis of rates on above basis with supporting vouchers/documents for Employer's review and acceptance.

(iii) If the rate of any additional, altered or substituted item of work that cannot be determined in the manner specified in (i) & (ii) hereinabove then the rate for such item of work shall be the prime cost plus 15% (fifteen per cent) towards overheads & profit.

(iv) The rate so decided by the Employer in (i), (ii), or (iii) shall be final and binding on Contractor.

(v) **Variations in underground works:**
This Clause applies exclusively to physical variations in subsurface conditions encountered during the execution of underground works, strictly compared against the Geological Baseline Report (GBR). Upon award of work, contractor shall submit the GBR and Geological Interpretative Report (GIR) in conformity with the information provided in bid docs for approval of the employer, which shall form the basis for treatment of variation arising out of geological reasons for the underground works. No payment in respect of any Variation Order issued under this clause shall become due or payable to the Contractor until the Contractor has achieved at least seventy-five percent (75%) of the total Financial Progress cumulatively, applicable to such Underground Works, as certified by the Engineer/Employer's Representative.

(vi) Variation of any nature except the one mentioned at (v) above and other than the works mentioned in relevant conditions of clauses GCC & PCC data provided in the bid documents is not admissible. Deviations, delays, or cost impacts resulting from other causes (including but not limited to design changes, equipment failure, or contractor inefficiencies) are excluded from this Clause.

(vii) Under no circumstances the Contractor shall at any stage suspend the work on account of non-settlement of rates of such item(s).

SUB-CLAUSE 13.8: ADJUSTMENTS FOR CHANGES

The Contract Price for component of Planning, Design & Engineering Works (Price Schedule 1), shall be firm during the currency of the Contract.

The adjustment for the changes in costs for Civil Works (Price Schedule 2), Hydro Mechanical Works (Price Schedule 3) and Electro Mechanical Works (Price Schedule 4) shall be made and the amounts payable to the Contractor pursuant to Sub-Clause 14.3 shall be adjusted in respect of the rise or fall in the cost of labour, cement, steel, fuel and lubricants and other materials as per the procedure specified below:

I. Procedure for determining amounts of Adjustment for the Contract Price for Civil Works.

i) The adjustment shall be made for each item according to the following formulae:

a) Labour Cost

$V_L=0.85xP_L/100xR_I\ (i-i_O)/i_O$

Where,

V_L : Increase or decrease in the cost of work during the quarter under consideration due to changes in rates for labour.

i_O : The average price index number as per Annex-II 28 days prior to latest date of submission of bids.

i : The average price index number as per Annex-II for the quarter under consideration.

P_L : Percentage of labour component as per Annex-II.

R_I : Total value of the work done during the quarter under consideration.

b) Cement

$V_c=0.85xP_c/100xR_I\ (c-c_O)/c_O$

Where,

V_C : Increase or decrease in the cost of works during the quarter under consideration due to changes in rates for cement.

c_O : The average price index number as per Annex-II 28 days prior to latest date of submission of bids..

c : The average price index number as per Annex-II for the quarter under consideration.

P_c : Percentage of cement component as per Annex-II.

R_I : Total value of the work done during the quarter under consideration.

c) <u>Steel</u>

V_S=0.85xP_S/100xR_I (s-s_O)/s_O

Where,

V_S : Increase or decrease in the cost of works during the quarter under consideration due to changes in rates for steel.

s_O : The average price index number as per Annex-II 28 days prior to latest date of submission of bids.

s : The average price index number as per Annex-II for the quarter under consideration.

P_S : Percentage of steel component as per Annex-II.

R_I : Total value of the work done during the quarter under consideration.

d) <u>Fuel and Lubricants</u>

V_f=0.85xP_f/100xR_I (f-f_O)/f_O

Where,

V_f : Increase or decrease in the cost of works during the quarter under consideration due to changes in rates for fuel and lubricants.

f_O : The average official retail price of High Speed Diesel Oil (HSD) as per list prices of the source specified in **Annex-II** twenty eight days prior to the latest date for submission of bids.

f : The average official retail price of High Speed Diesel Oil (HSD) as per list prices of the source specified in **Annex-II** for the 15th day of the middle calendar month of the quarter under consideration.

P_f : Percentage of fuel and lubricants component shall be specified by the bidder and accepted by the Employer in **Annex-II**.

R_I : Total value of the work done during the quarter under consideration.

e) <u>Materials other than cement, steel, fuel and lubricants</u>

V_m=0.85xP_m/100xR_I (m-m_O)/m_O

Where,

V_m : Increase or decrease in the cost of works during the quarter under consideration due to changes in rates for materials other than labour, cement, steel, fuel and lubricants.

m_O : The average price index number as per Annex-II 28 days prior to latest date of submission of bids.

m : The average price index number as per Annex-II for the quarter under consideration.

P_m : Percentage of Materials (other than cement, steel, fuel and lubricants) as per Annex-II

R_l : Total value of the work done during the quarter under consideration.

ii) Until such time as each current cost index is not available, the Employer shall determine a provisional index for the issue of interim Payments. When a current cost index is available, the adjustment shall be recalculated accordingly.

iii) The weightage (coefficients) for each of the factors of cost stated herein above shall only be adjusted if they have been rendered unreasonable, unbalanced or inapplicable, as a result of variations.

iv) Additional, altered or substituted items of work, derived from the agreed Schedule of Rates will also attract price adjustment as per this Clause. No variation/adjustment is payable for the rate/amount of the additional, altered or substituted items of work when derived as per Sub-Clause 13.3 (ii) based on actual/current market price. However, if the execution is prolonged beyond 6 (six) months; variation/adjustment will be allowed with the base date effective from the date of carrying out such analysis.

II. Procedure for determining amounts of Adjustment for the Contract Price for HM & EM Works

The adjustment in cost shall be determined from the following formula:

$p_n = p_0(A + b \times L_n/L_o + c \times C_n/C_o + d \times S_n/S_o + e \times M_n/M_o) - p_0$

Where:

p_n = Price adjustment amount payable to the Contractor

p_0 = Amount of Contract Price payable in the relevant Interim payments+.

'A' is a constant having a numerical value of 0.15, representing the non-adjustable portion in contractual payments, while b, c, d, and e are weightings or coefficients representing the estimated proportion of each cost element in the Works, to be specified by the Bidder in Annex-III and IV, the sum total not exceeding 0.85.

L = All India Consumer Price Index for wages of Industrial Workers, General Index Base * as published in the Indian Labour Journal of "Labour Bureau" by Ministry of Labour, Government of India.

C = Wholesale price index for Manufacture of Electrical Equipment (Base)* as issued by Economic Advisor, Ministry of Industry, Government of India, New Delhi.

S = Wholesale Price Index for Manufacture of Basic Metals (Base)* as issued by Economic Advisor, Ministry of Industry, Government of India, New Delhi.

M = Wholesale Price Index of All Commodities (Base)* as issued by Economic Advisor, Ministry of Industry, Government of India, New Delhi.

(* The applicable series of Base Indices shall be those published 28 days prior to last date for submission of Price bids).

SUB-CLAUSE 14.2: ADVANCE PAYMENT

Initial Mobilisation Advance

The amount of the interest bearing initial mobilisation advance payment shall be limited to Ten (10) per cent of the Contract Price against Surety Bond from IRDAI approved Insurance company or demand guarantee in the form of an unconditional bank guarantee; from a) nationalized/scheduled bank in the country; b) a foreign bank with Class A (or above) banking license with an amount equivalent to 1.1 times (110%) of advance amount and after the contract agreement has been signed, contract Performance Security has been submitted (as per clause no 4.2 of NIT, GCC, PCC, ITB etc.) and Construction program has been submitted and approved by the Employer.

The advance payment shall be released in two stages with the first instalment not exceeding Five (5) percent of the contract price The rest of the advance will be released commensurate with the progress of the mobilisation to be certified by the employer or the Employer's representative. The advance payment shall be used by the contractor exclusively for mobilisation and design expenditures towards site enabling facilities. Should the contractor misappropriate any portion of the advance payment, it shall become due and recoverable immediately and no further advance payment shall be made to the contractor.

The advance Payment shall be recovered through percentage deductions from the interim payments in accordance with this Clause. Deductions shall commence with the next Interim Payment certified following which the total of all interim payments certified to the Contractor has reached 10 (ten) per cent of the Contract Price and shall be made at the rate of 12.5% (twelve point five per cent) of the amount of all interim payments until such time as the advance payment alongwith interest there upon has been repaid; always provided that the advance payment shall be completely recovered prior to the time when 90%(ninety per cent) of the Contract Price has been certified for payment. The BG amount thereof shall be progressively reduced based on recovery of advance with interest or by the amount repaid by the contractor.

A secured advance shall be payable in respect of cement, reinforcement steel and structural steel up to Eighty Percent (80%) of the verified purchase value thereof, subject to the prior written approval of the Employer and upon submission of satisfactory documentary evidence of procurement, payment, and delivery to site by the Contractor.

In the case of perishable materials, specifically cement, should such material remain unutilised beyond its certified shelf life, the Employer shall be entitled to recover the value of the unused material from any interim payment certificates due or to become due to the Contractor.

Advance Payment against T&P

An interest free advance for plant, equipment and machinery required for the work and brought to site by the Contractor shall be given, if requested by the Contractor. The maximum of such advance shall be 10 (Ten per cent) of the Contract Price. In case of new plant, equipment and machinery, the advance shall be limited to ninety per cent of the price of such new plant, equipment and machinery paid by the Contractor for which the Contractor shall produce satisfactory evidence. In the case of used plant, equipment and machinery, the amount of such advance shall be limited to seventy five per cent of the straight-line depreciated value of plant, equipment and machinery as may be determined by the Employer taking into consideration:

1. the year of manufacture;
2. its general condition;
3. hours it has worked and
4. Its life as indicated by the equipment supplier.

This advance shall be further subject to the condition that such plant, equipment and machinery are:

- Considered by the Employer to be necessary for the Works and should be brought to the site as per schedule of induction of construction plant and machinery as earlier approved by the Employer.
- in working order, and
- Hypothecated to the Employer.

No advance shall be granted on any piece of plant, equipment and machinery with original or depreciated value of less than Rs. 10,00,000/- (Rupees Ten Lakhs).

Imported Machinery: The Machinery Advance required for imported machinery shall be paid on the basis of firm purchase order for imported equipment in the following manner:

1. 35% on ordering the equipment; against a bank guarantee/surety bond for an equivalent amount to be released on receipt of the machinery at site.
2. 55% on the delivery of the equipment pledged to the Employer (against proof of dispatch documents) and the balance;
3. 10% on commissioning and hypothecation of the entire imported machinery to the Employer.

As regards indigenous equipment, machinery advance is to be released within 28 days after delivery of equipment at site.

Deductions on pro-rata basis against the advance shall commence with the next Interim Payment certified following that in which the total of all interim payments certified to the Contractor has reached 10 (ten) per cent of the Contract Price and the advance shall stand fully recovered with 100% completion of the Works.

SUB-CLAUSE 14.4: SCHEDULE OF PAYMENTS

The payment for works under the Schedule**,** shall be made on milestone basis as provided in Vol III Part 2- Schedule of Payment.

Notwithstanding anything contained elsewhere in the Contract, after the Letter of Acceptance, the Contractor shall submit a Bill of Quantities (BOQ) corresponding to each identified payment milestone (for Price Schedule 1, 2 & 3) , based on the information provided in the Bid Documents for interim monthly payments. Upon approval by the Employer, interim monthly payments may be made in proportion to the actual progress achieved towards the relevant payment milestone, calculated by applying the percentage of physical progress to the corresponding payment milestone value specified in the **Price Schedule**, provided that the total payments made against such milestone shall not exceed the milestone value stated therein.

The BOQ may again undergo revision with the progress of detailed engineering as approved by the Employer. In the revised BOQ, if the quantity is more than the quantity reflected in the initially submitted BOQ, the unit price will be reduced to match the overall total price against the respective payment milestone. In case, where the quantity is reduced, the unit price will not be increased and the difference due to this reduction in the total price of that payment milestone shall be paid on achievement of the respective payment milestone.

THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE ACCURACY AND COMPLETENESS OF THE BOQ SUBMITTED FOR THIS PURPOSE

Schedule of payment of Electro-mechanical Plant and Services shall be guided by the following Sub-Clauses:

14.4.1 Supply Portion

In accordance with the provisions of GCC Sub-Clause 14.4, the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the Price Break down given in the Price Schedules. Application for payment in respect of part deliveries may be made by the Contractor as work proceeds.

14.4.1.1In respect of Plant and Services supplied from abroad and within India (as applicable), the following payments shall be made:

<u>Plant and Services including spares to be supplied from Abroad and from within Employers' country</u>

A) 10% (ten percent) of the Lump Sum Price for supply shall be paid as non-recoverable down payment on submission of Bank Guarantee/Surety Bond for an amount equivalent to 110% of the down payment with validity period up to 90 (ninety) days after the scheduled date of completion of supply portion.

1. Letter of Acceptance
2. Submission of Contract Performance Security & additional Performance Security and acceptance thereof
3. Submission of Bar Chart, indicating therein various key phases of work, such as but no limited to, Design / Drawing Approval, Manufacture, Testing, Transportation, Delivery at Site.
4. Submission of Billing Break-up and its approval.
5. Submission of Drawing Submission Schedule for EM Plant,
6. Signing of Contract Agreement

B) Sixty Five percent (65%) of Item Price as per Billing Break-up along with all applicable taxes and duties shall be paid on achievements of following :

1. Proof of Dispatch (Lorry Receipt / Railway Receipt)
2. Contractor's Detailed Invoice
3. Detailed Packing List
4. Test Certificates and / or duly approved Inspection Certificates, or proof of waiver of Inspection / Tests
5. Dispatch Clearance Certificate.

C) Fifteen percent (15%) of Item Price as per Billing Break-up along with all applicable taxes and duties shall be paid on achievements of following :

1.Receipt of item as per Billing Break-up in full and good condition, duly certified by the Engineer in Charge

2.Documentary Evidence of payment of taxes and duties, including Customs and Port Clearance and other such charges in case of Off-shore Plant.

D) 10% (ten percent) of the Lump Sum Price for supply shall be paid on achievements of following :

1. Commissioning and Handing over of the Works including spares etc. in full and good condition to the Employer.

14.4.2 Services Portion

In accordance with the provisions of GCC Clause 14.4, the Employer shall pay the Contractor in the following manner and at the following times.

14.4.2.1 Local Transportation and Insurance including Port Clearance & Port Charges

In respect of Plant and Services supplied from abroad and from within Employer's country the following payments shall be made:

a) 100% (Hundred Percent) F&I Charges as per Item-wise Billing Break-up, including all applicable taxes and duties, including Ocean Freight, Marine Insurance, Customs and Port Clearance, Inland transportation and other such charges in case of Off-shore and On-shore equipment's.

14.4.2.2 Installation Services

In respect of Plant and Services supplied from aboard and within India, the following payments shall be made:

A) 75% (Seventy-Five Percent) of Erection & Commissioning (E&C) Charges as per Item-wise Billing Break-up incl. all applicable taxes and duties as per the Invoice on completion of following:

1. Completion of Erection of Item as per Billing Break-up

B) 15% (Fifteen Percent) of E&C Charges as per Item-wise Billing Break-up incl. all applicable taxes and duties as per the Invoice on completion of following:

1. Completion of Site Testing and Pre-Commissioning Checks of items as per Billing Break-up

C) 10% (Ten Percent) of E&C Charges as per Item-wise Billing Break-up incl. all applicable axes and duties as per the Invoice on completion of following:

1. Commissioning and handing over of the Works including spares etc. in full and good condition to the Employer

SUB-CLAUSE 14.7: TIMING OF PAYMENTS

Sub- paragraph (a) & (b) of Sub-Clause 14.7 are deleted and replaced as under:

a) the timings of advance payments shall be in accordance with the provision of Sub-Clause 14.2 (Advance Payment).

b) the Employer shall release 80% of the value of Interim Payment Running Account Bill within 7days form the date of submission and balance 20% shall be released after verification of the documents, within 56 days from the date of submission.

For Payment of LS unit items / HM Works/ EM Works, payment mechanism will be submitted to the Employer by Contractor, after award of work for progressive release of payment on measurable quantity.

SUB-CLAUSE 14.9: PAYMENT OF RETENTION MONEY

Payment pursuant to approved progress referred to hereinabove shall be made by the Employer to the Contractor after deduction therefrom of the retention money which shall be @5% (five per cent) of the gross amount of each progress payment of works Total amount of Retention money will be 5 % of Contract Price. The Contractor may substitute the Retention Money in multiples of Rs. 1.0 crore (Rupees One Crores) with a bank guarantee in the form, and from a source, acceptable to the Employer valid till the end of Defects Notification period. The guarantee, subject to the provisions of the contract will be released to the Contractor after the issue of the Financial Acceptance Certificate by the Employer or on expiry of the defect liability period, whichever is later.

The Contractor shall ensure that the bank guarantee is valid and enforceable until the

Contractor has executed and completed the Works and remedied any defects and the defect liability period has expired after remedying the defects, as specified for the Performance

Security in Sub-Clause 4.2 and shall be returned to the Contractor accordingly.