



**HINDUSTAN COPPER LIMITED**  
(A Government of India Enterprise)

***TENDER DOCUMENT***

***FOR***

***PRODUCTION DRILLING OF 57MM AND 115 MM DIA HOLES IN NORTH DECLINE  
STOPE AND LOADING ANDHAULING OF BLASTED ORE FROM SAME STOPE & DUMP  
AT PRIMARY CRUSHER AT SURFACE VIA WEIGH BRIDGE***

***AT***

***UNDERGROUND MINE***

***MALANJKHAND COPPER PROJECT, MADHYA PRADESH, INDIA -481116.***

**Tender No.: HCL/M&C/MCP/UG/2021/1 DATED 23.09.2021**

**HINDUSTAN COPPER LIMITED  
(A Government of India Enterprise)**

**Tamra Bhawan  
1, Ashutosh Chowdhury Avenue  
KOLKATA 700019**

**NOTICE INVITING TENDER**

**Tender Notice No.: HCL/M&C/MCP/UG/2021/1 DATED 23.09.2021**

Hindustan Copper Limited (HCL), a Public Sector Undertaking under the administrative control of the Ministry of Mines, was incorporated on 9<sup>th</sup> November 1967. It is the only vertically integrated copper producing company in India with presence in mining, beneficiation, and smelting, refining and downstream saleable products. HCL holds all the operating mining leases of copper in India.

HCL invites e-Tenders under two bid systems from reputed and experienced contractors Production drilling of 57mm and 115 mm dia holes in North Decline stope and Loading and hauling of blasted ore from same stope & dump at primary crusher at surface via weigh bridge for Malanjkhand underground Mines at Malanjkhand Copper Project over a period of months 06 months excluding 45 Days of mobilization period.

The interested contractors are requested to note the following:

1. Under two-part bid system, the first part (the “Techno Commercial Bid”) of the process involves qualification of interested parties in accordance with the provisions of the pre-qualification criteria (PQC) stipulated in the tender and the second part is the “Price Bid”. **The offers are to be submitted on line at URL ‘<https://etenders.gov.in>’ of NIC, who are our service provider for E-Procurement.** The price bid at above e-procurement portal will be opened only of those bidders who qualify techno commercially. Please refer clause no. 2.5 for detailed procedure for submission of offers.
2. Tender document can be downloaded from the HCL website (<http://www.hindstancopper.com>) under heading “Tenders” and the CPP portal ‘<https://etenders.gov.in>’ of NIC.

HCL also reserves the right to issue any corrigendum(s) to this tender, if felt necessary, before the due date of opening of the tender. Also, HCL reserves the right to extend bid opening date due to administrative reasons.

Bidder has to check Corrigendum uploaded against the tender from time to time on HCL website / CPP portal and resubmit their bids in case of any change in their offer due to the corrigendum, before the final bid submission date/time.

**3. ADDRESSES FOR COMMUNICATION:**

The e bids (including the Part – II Price Bid) have to be submitted in the e-tendering portal. The Tenders shall be opened as per schedule mentioned in **clause 1.13**. However, in the eventuality of the day of opening of the tenders becomes a non-working day due to a force majeure event, the date of opening of the tenders will shift to the next working day at the same time.

Interested parties require any clarification regarding any of the terms & conditions stipulated in this tender document, the same can be clarified thro' e-mail communications before the due date of submission of bids at the following e-mail id:

Mr Ravindra Ghattuwar: [ravindra\\_g@hindustancopper.com](mailto:ravindra_g@hindustancopper.com)

(Sunil Parashar)  
GM (Commercial)  
For  
Hindustan Copper Limited

## DISCLAIMER

The information contained in this tender document or subsequently provided to bidder(s), whether verbally or in documentary or in any other form by or on behalf of Hindustan Copper Limited ("HCL") or any of its employees or advisors, is provided to bidder(s) on the terms and conditions set out in this tender and such other terms and conditions subject to which such information is provided.

This tender is not an agreement and is neither an offer nor invitation by HCL to the prospective bidders or any other person. The purpose of this tender is to provide interested parties with the information that may be useful to them in making their financial offers pursuant to this tender (the "Bid"). This tender includes statements, which reflect various assumptions and assessments arrived at by HCL in relation to the Work (as defined in the tender). Such assumptions, assessments and statements do not purport to contain all the information that each bidder may require. This tender may not be appropriate for all persons, and it is not possible for HCL, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this tender. The assumptions, assessments, statements and information contained in this tender may not be complete, accurate, adequate or correct. Each bidder should, therefore, conduct its own investigations if any required with respect to the tender and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this tender and obtains independent advice from appropriate sources.

Information provided in this tender to the bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. HCL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

HCL, its employees and advisors make no representation or warranty and shall have no liability to any person, including any bidder or bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this tender or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the tender and any assessment, assumption, statement or information contained therein or deemed to form part of this tender or arising in any way in the bid stage.

HCL also does not accept liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any bidder upon the statements contained in this tender.

HCL may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this tender. The issue of this tender does not imply that HCL is bound to select a Bidder or to appoint the selected bidder for the work and HCL reserves the right to reject all or any of the bidders or bids without assigning any reason whatsoever.

The bidder shall bear all its costs associated with or relating to the preparation and submission of its bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by HCL or any other costs incurred in connection with or relating to its bid. All such costs and expenses will remain with the bidder and HCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a bidder in preparation or submission of the bid, regardless of the conduct or outcome of the bidding process.

The bidders are prohibited from any form of collusion or arrangement by a bidder (or its advisers or consultants) in an attempt to influence the selection and award process. Giving or offering of any gift, bribe or inducement or any attempt to do any such act on behalf of the bidder towards any officer/employee of HCL or to any other person in a position to influence the decision of HCL for showing any favour in relation to this tender or any other contract, shall render the bidder liable to such penalty as applicable under applicable law and as HCL may deem proper, including but not limited to rejection of the bid

This tender shall be governed by the laws of India.

Each bidders acceptance of delivery of this tender constitutes its agreement to, and acceptance of, the terms set forth in this disclaimer. By acceptance of this tender, each bidder agrees that this tender and any information herewith supersede document(s) or earlier information, if any, in relation to the subject matter thereof.

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**HINDUSTAN COPPER LIMITED**  
**(A Govt of India Enterprise)**

**TENDER DOCUMENT**  
**SECTION I –TENDER INVITATION**

**1 INTRODUCTION**

- 1.1** HCL, a public sector undertaking under the administrative control of the Ministry of Mines, Govt. of India, was incorporated on November 09, 1967. It is the only vertically integrated copper producing company in India with presence in mining, beneficiation, and smelting, refining and downstream saleable products.

**1.1.1. BRIEF DESCRIPTION OF MALANJKHAND UNDERGROUND MINE**

Malanjkhand Copper Project was established in 1982 and comprises an open pit mine, concentrator plant infrastructure facilities such as tailings disposal and water reclamation system, repair shops, maintenance garage, water treatment plant, warehouses, fuelling stations, 132 KV power sub-station, waste treatment facilities and township.

It is the single largest copper deposit of India with nearly 70% of the country's reserve and contributing around 80% of HCL's total copper production.

Malanjkhand Copper Project (MCP) is located 90 km north-east of Balaghat of Madhya Pradesh in Central India. It is about 22 km south-west of Baihar and 300 km north-east of Nagpur. Malanjkhand open pit is at the fag-end of its life.

The project for expansion of Malanjkhand Copper Project (MCP) Mine from 2.0 MTPA open cast mine to 5.0 MTPA underground mine is undertaken, project execution commenced in the year 2015.

Ore in the opencast mine is nearing exhaustion and the opencast operations will cease in the next 7 to 9 months. The opencast mine will be worked up to 340 mRL. The development of the underground mine is under progress and in advanced stage.

The method of mining adopted for underground mine is large dia blast hole stoping. The dimension of the stope would be 20 m (W) x 60 m (H) x 50 to 60 m (L).



**1.2 Scope of work for Production drilling of 57mm & 115mm dia holes in the stope of North Decline, loading and hauling of blasted ore from same stope and dump in primary crusher at surface via weigh bridge**

<b>Tentative execution schedule</b>							
<b>Month wise target is tabulated below:</b>							
<b>Particulars</b>	<b>Months</b>						<b>Total</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	
Drilling of 115 mm dia hole (in m)	1200	1800	2000	2200	2200	600	<b>10,000</b>
Drilling of 57 mm dia hole (in m)	500	750	1200	1200	1200	150	<b>5,000</b>
Ore production (in tonne)	-	25000	25000	25000	25000	25000	<b>1,25,000</b>

Total of 10,000 m drilling of 115 mm dia hole and 5,000 m of drilling of 57 mm dia holes are to be done within the contract period of 6 (six) months.

Final schedule will be prepared and provided by Engineer-in-Charge / HCL based on the date of commencement and requirement of HCL.

Drilling shall be always in advance so that sufficient scope for ring blasting is available for generation of ore.

Drilling schedule shall be followed as per approved time line to match the loading and hauling schedule.

**Specification and number of equipment to be deployed:**

<b>Sl</b>	<b>Equipment</b>	<b>Capacity</b>	<b>Nos</b>	<b>Quantum of job</b>
1	Stope ring drilling machine	115 mm dia, capable of drilling holes up to 54 m in length, including drilling for slot raise and slot	1	10,000 m
2	Trough Drilling machine	57 mm dia, capable of drilling upwards holes up to 15 m in length	1	5,000 m
3	LHD	10 t capacity	1	1,25,000 tonne
4	LPDT	20/30 t capacity	3	

However, the successful contractor can deploy adequate number of equipment of suitable capacity for successful execution of the work.

### **1.3 Special conditions of the contract:**

- Bidder has to submit copy of PAN, TIN, GSTN No, PF Regn. & ESI Regn. No. along with the techno commercial bid (Part- I) .
- The successful bidder shall ensure safe working of men & machinery and HCL/MCP shall in no way be held responsible for any damage/loss/accident etc. of any type and/or reason including blasting operations.
- The successful bidder will be liable for any damage caused to the HCL's equipment/property etc. due to negligence of his employees. HCL reserves the right to deduct amount of such damages caused by the Successful Bidder or his employees to HCL's equipment from Security Deposit lying with HCL at that time.
- The Successful Bidder at his own cost should arrange all the essential inputs required for operation/maintenance of equipment except mention in free supply by HCL.
- The successful bidder shall not be entitled to any additional cost on account of shifting of equipment from one place to another place.
- The successful bidder shall ensure reliability/availability of all equipment during the contract period. In case of any break down of the equipment, the same should be intimated to the Engineer- in-Charge or his representative immediately and also immediate action is to be taken to rectify/replace the equipment to achieve the target without any financial obligation to HCL.
- The Successful Bidder should employ only skilled, qualified, experienced and authorized manpower for operation and maintenance of Equipment. In case of newly appointed manpower, they should undergo Vocational Training, as per statute for working in mines and must undergo Initial Medical Examination and PME.
- For carrying out work on Sundays/holidays, the successful bidder will approach the Engineer- in-Charge or his representatives at least two days in advance and obtain permission in writing.
- Procurement of all machineries, transportation of the machineries at site, materials, tools and tackles etc. required for maintenance of equipment will be

arranged by the Successful Bidder at his own cost. Also any other or additional equipment, tools or facilities required for execution of the work under contract will have to be arranged by the Successful Bidder at his own cost.

- Successful Bidder has to fulfill the entire statutory requirement and has to carry out the as stipulated under various rules framed by DGMS and any special conditions imposed by DGMS for safety of the work persons, work place and equipment used and maintain records under the said regulation.
- Operational Features: The Successful Bidder's Scope of Work shall also include all the obligations covered in various parts of "Instructions to Bidders", "General Conditions", "Special Conditions" and will inter alia include the following:
- Design, construction, fabrication, supply, transportation to site, receipt at site including handling & storage of all mining, civil, structural, mechanical, electrical, pollution control, equipment, water supply, sewage disposal, drainage etc. including other items will be responsibility of the selected bidder. The Scope of Work shall also include bringing in and/ or procurement and/ or deployment of new equipment and/or machinery as well as replacement of existing equipment/ fixtures as required. Financing of the replacement equipment/ fixtures shall also be the responsibility of the Successful Bidder.
- Installation, commissioning, maintenance and operation of all equipment and/or machinery shall be the responsibility of the bidder notwithstanding whether deployed by the Bidder or by HCL. For all the immovable and movable equipment and/or machinery, the Successful Bidder shall arrange supply of spare parts for equipment.

**Special Terms:**

- 1 Power arrangement for drilling has to be made available by successful bidder.
- 2 Compressed air required for drilling has to be arranged by successful bidder.
- 3 Arrangement of drilling water will be the responsibility of successful bidder.
- 4 The drilling machines should be in good working condition.
- 5 Drilling quantity is approximate and may vary by ( $\pm$ )10% depending on site condition.
- 6 Compressed air for explosive charging upward holes (Trough holes) will be in the scope of successful bidder.

- 7 The loading and hauling equipment should be as per DGMS (S & T)/ (Tech)Circular no1 dtd 13.08.2018.
- 8 DGMS permission for equipment shall be obtained by successful bidder.
- 9 The loading and hauling equipment shall be in good health condition.
- 10 Arrangement of water for spraying in draw points will be arranged by successful bidder.
- 11 Dewatering arrangement from stope, X cut will be the responsibility of successful bidder.
- 12 Decline road maintenance will be the responsibility of successful bidder.
- 13 Dumping space at North Decline portal to be prepared & maintained by successful bidder.
- 14 Secondary blasting in draw point will be the responsibility of successful bidder, however explosive will be provided by HCL free of cost for secondary blasting
- 15 Production quantity is approximate and may vary by ( $\pm$ )15% depending on site condition.
- 16 Conveyance of manpower up to the working site will be in the scope of successful bidder.

### **HCL responsibility**

- (1) To provide drill plan of stope
- (2) To obtain all statutory permission from DGMS & IBM or any other govt agency pertaining to stoping of North decline block
- (3) Statutory supervision for stoping .
- (4) Ensure availability of enough blasted ore in the stope for un interrupted loading and hauling of ore by successful bidder.
- (5) Any condition imposed by statutory authority such as DGMS, IBM, state govt or any other authority will be the responsibility of HCL.

### **1.4 Pre-Qualification Criteria:**

- 1.4.1** Integrity Pact: Bidders shall execute an Integrity Pact Agreement with HCL in the format annexed as **Appendix-VA** as a pre-qualification to the submission of their bids in accordance with the tender. The duly executed Integrity Pact in original on non-judicial stamp paper of appropriate value (Rs. 50/-) shall have

to be submitted to HCL along with Techno-commercial bid.

**1.4.2 Eligibility of Bidders:** The bidder should have to fulfill the following qualification criterion:

**1.4.2.1 Financial Eligibility:**

- i. The average annual financial turnover during the last three audited consecutive financial years, ending 31<sup>st</sup> March of the previous financial year, not less than **Rs. 4.49 Crores**. Relevant documentary evidence including copies of Annual Report, containing Profit & Loss Statement and Balance Sheets for immediately preceding three (3) consecutive accounting years shall be furnished together with the Bid.
- ii. The prospective bidder shall have positive net worth as per their latest audited financial statement ending on the 31<sup>st</sup> March of the previous financial year. Relevant documentary evidence including copies of Annual Report, containing Profit & Loss Statement and Balance Sheets for immediately preceding three (3) consecutive accounting years as financial year shall be furnished together with the Bid. A Bidder not having positive net worth as per their latest audited financial statement is ineligible to participate in the tender. Further, the Net Worth on 31<sup>st</sup> March of the previous financial year, should not have eroded by more than 30% in the last three years, ending 31<sup>st</sup> March of the previous financial year . Definition of Net Worth shall be as per Company Law. The Bidder has to submit certification for the same from Chartered Accountant.

“Net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits, securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, writeback of depreciation and amalgamation.

iii. **Corporate Debt Restructuring(CDR):**

The bidders who have applied for / availed Corporate Debt Restructuring (CDR) in the last two (2) financial years ending 31.03.2021 are not eligible to participate in the bid.

In regards to the above clause, a certificate from Statutory Auditor by the Bidder shall be enclosed.

The bidders have to confirm that no Resolution Plan by whatever name called, has been formulated or implemented under the extent RBI Circulars / guidelines in this regard nor any insolvency proceedings has been initiated under Insolvency & Bankruptcy Code 2016. In regards to the above clause, a Certificate from Statutory Auditor by the bidder shall be enclosed.

- iv. Solvency certificate from any Nationalized Bank of India/ any scheduled commercial bank is mandatory. The bidder will be disqualified from participating in the tender process if the bidder fails to provide Solvency Certificate issued by any Nationalized Bank of India / any scheduled commercial bank.

The Bidder shall have to submit copies of relevant documents/evidences, duly certified by a Chartered Accountant as indicated above, in support of their financial eligibility along with their Techno-commercial bid.

#### **1.4.2.2 Technical Eligibility:**

The prospective bidder should fulfill the following technical eligibility criteria mentioned below:

Experience of having successfully completed similar works during last 7 years ending last day of month previous to the one in which applications are invited should be either of the following: -

- a. Three similar completed works each costing not less than the amount Rs. 5.99Cr.

Or

- b. Two similar completed works each costing not less than the amount Rs. 7.48Cr.

Or

- c. One similar completed works costing not less than the amount Rs. 11.98Cr.

Similar work with respect to this tender means the work of Loading and hauling of ore / waste from below ground workings such as development face / stope to surface OR Parties who have executed development work/ shaft sinking work in hard rock mining.

- 1.5** The bidders shall enclose the following in their offer as per the forms prescribed

in this tender:

- a. Certificate(s) from the statutory auditors of the bidder as per Appendix VI, specifying the turnover of the bidder as per the audited annual accounts of the consecutive preceding three financial years from the tender submission date, and also specifying that the methodology adopted for calculating such Turn over conforms to the provisions of tender.
- b. Certificate(s) from Company or client of the bidder ,based on the client certificate and as per Appendix VII to be submitted ,to showcase relevant experience in the specified period, to fulfill the technical eligibility.
- c. The bidders should submit a Power of Attorney in non-judicial stamp paper, strictly as per Appendix IV, duly notarized, authorizing the signatory of this tender to commit the bidder.
- d. The following conditions shall be adhered to while submitting the tender:

In responding to the tender submissions, bidders should submit the required documentary evidence demonstrating their capabilities in accordance with the relevant applicable clauses of the tender.

- e. If justified non-performance letter has been issued by the Units of HCL against any contractor, the bid submitted by the said bidder, may likely to be considered at sole discretion of HCL.

**1.5.1** Individual bidders only are eligible to participate in tender.

**1.5.2** Any entity which has been barred by HCL and the bar subsists as on the date of the tender by HCL, would not be eligible to submit an offer. The bidder should submit an Affidavit declaring that no such bar has been implied by HCL.

**1.5.3** A bidder should, in the last 3 (three) years, have neither failed to perform on any contract related to HCL, as evidenced by an arbitral or judicial authority, a judicial pronouncement or arbitration award against the bidder. The bidder should submit an Affidavit declaring that no arbitration case is filed against them in this respect.

**1.5.4** The following conditions shall be adhered to while submitting the Tender:

1.5.4.1 Bidders should attach clearly marked and referenced continuation sheets in

the event that the space provided in the prescribed forms is in sufficient. Alternatively, bidders may form at the prescribed forms making due provisions for incorporation of the requested information;

1.5.4.2 Information supplied by a Bidder;

1.5.4.3 In responding to the tender submissions, Bidders should demonstrate their capabilities in accordance with Clause below.

**1.6** Number of Tender/Offer and cost thereof

The bidders shall be responsible for all the costs associated with the preparation of their tenders and their participation in the bidding process. HCL will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the bidding process.

**1.7** The Contract sets forth the detailed terms and conditions for the work, including the scope of the selected bidder's services and obligations.

**1.8** The statements and explanations contained in this tender are intended to provide a better understanding to the bidders about the subject matter of this tender and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Contactor set forth in the Contract.

**1.9** Any omissions, conflicts or contradictions in the bidding documents including this tender are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by HCL.

**1.10** HCL shall receive bids pursuant to this tender in accordance with the terms set forth hereunder and other documents that may be provided by HCL pursuant to this tender, including any modification, alteration, amendment or clarification that may be issued by HCL from time to time (collectively the "Bidding Documents"), and all bids shall be prepared and submitted in accordance with the terms of the bidding documents within the due date of submission.

**1.11** Brief description of Bidding Process

**1.11.1** HCL has adopted a two-part process (collectively referred to as the "Bidding Process") for the selection of the bidder for award of the work. The first bid (the "Technical and Commercial Qualification Stage") of the process involves the qualification of interested parties in accordance with the provisions of the pre-qualification criteria and the second bid is the price bid. Both the bids have to be submitted on the date of tender submission.



The second bid will be opened only for those bidders who have qualified techno- commercially in the first bid. In case it necessitates any change in the scope of work or change in the terms & conditions on the tender for some valid reasons, after opening of the tender, HCL at its sole discretion reserves the right to give an equal opportunity to the bidders to revise price bid (Part-II) of their offers, if they so desire, depending on the change in the scope of work/terms & conditions. At the bid stage, the aforesaid qualified bidders (hereinafter referred to as the "Bidders") are being called upon to witness price bid opening. The bid shall be valid for a period of not less than **180 (one hundred and eighty) days** from the bid due date and may be extended by another 30 (thirty) days, if required by HCL.

**1.11.2** The bidding documents include the Contract as well as all the other appendices as annexed to this tender and all the aforesaid documents and any addenda issued subsequent to the issue of this tender, but before the bid due date, will be deemed to form part of the bidding documents.

**1.11.3** The bidder is required to deposit, along with its bid, a bid security declaration as per Clause 5. The bid shall be summarily rejected if it is not accompanied by the Bid Security declaration.

**1.11.4 Site visit:** Site visit is mandatory before submission of bid. Bidders have to submit a certificate confirming to have visited the site, duly countersigned by HCL/MCP's Unit Head or his representative in the prescribed format as appendix IX C.

**1.12** Any query or request for additional information concerning this tender shall be submitted by e-mail to the officer designated.

**1.13 Schedule of Bidding Process**

HCL shall endeavor to adhere to the schedule provided for under this clause. However, in case HCL in its sole discretion undertakes any modification in the schedule specified below or the Bid submission / Bid Opening date is auto-extended as per Clause 2.5 of NIT, the same will be conveyed through CPP portal '<https://etenders.gov.in>' of NIC. Hence, bidders are requested to periodically visit the same for any notification.

Sl.	Event Description	Dates
1.	Issuance of tender	23.09.2021

2.	Issue of amendments (if any)	To be published in HCL website / cpp portal
3.	Starting date of Bid Submission	23.09.2021
4.	Closing date of bid submission	22.10.2021 3:00PM
5.	Opening of Part-I bid	23.10.2021 3:30PM
6.	Opening of Price Bid	To be intimated to the qualified bidders
7.	Issue of LOI/WO	To the successful bidder

## **2.0 INSTRUCTIONS TO BIDDERS**

### **2.1 Site visit and verification of information:**

2.1.1 The interested bidders must visit the work site and ascertain for themselves the site conditions, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them before submission of bid.

2.1.2 For this purpose, bidders shall communicate to HCL via e-mail indicating their intention to visit the site along with the intended date of visit and the details of their visiting representatives at least 3 (three) days before their intended visit.

HCL shall communicate its response to the interested bidders who are planning to visit the work site at the earliest approving the date of visit or may specify another date as it may consider suitable.

2.1.3 It shall be deemed that by submitting a bid, the bidder has complete understanding of the work and only after that the bidder has :

- a) Made a complete and careful examination of the bidding documents;
- b) Received all relevant information requested from HCL;
- c) Satisfied itself about all matters, things and information
- d) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the bidding documents or ignorance of any of the matters shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. by the bidders from HCL, or a ground for termination of the Contract;

- e) Acknowledged that it does not have a Conflict of Interest; and
- f) Agreed to be bound by the undertakings provided by it under and in terms hereof.
- g) HCL shall not be liable for any omission, mistake or error on the part of the bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to tender, or the bidding process, including any error or mistake therein or in any information or data given by HCL. All expenses towards site visit shall be borne by the bidder.

## **2.2 Verification and Disqualification:**

- 2.2.1 HCL reserves the right to verify all statements, information and documents submitted by the bidder in response to the tender or the other bidding documents and the bidder shall, when so required by HCL, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by HCL shall not relieve the bidder of its obligations or liabilities hereunder nor will it affect any rights of HCL there under.
- 2.2.2 HCL reserves the right to reject any bid if:
  - a. at any time, a material misrepresentation is made or uncovered, or
  - b. the bidder does not provide, within the time specified by HCL, the supplemental information sought by HCL for evaluation of the Bid; or
  - c. the bidder has mentioned deviations in the price bid or any part of the tender document. Such misrepresentation / improper response shall lead to the disqualification of the bidder.

## **2.3 Clarifications:**

- 2.3.1 HCL shall endeavor to respond to the questions raised or clarifications sought by the bidders. However, HCL reserves the right not to respond to any question or provide any clarification, and nothing in this clause shall be taken or read as compelling or requiring HCL to respond to any question or to provide any clarification.
- 2.3.2 HCL may, if deemed necessary, issue interpretations and clarifications to all bidders. All clarifications and interpretations issued by HCL shall be deemed to be part of the bidding documents. Verbal clarifications and information given by HCL or its employees or representatives shall not in

any way or manner be binding on HCL.

## **2.4 Amendment of Tender:**

- 2.4.1 Before bid due date, HCL may, for any reason, whether at its own initiative or in response to clarifications requested by a bidder, modify the tender by the issuance of addendum/ corrigendum.
- 2.4.2 Any addendum thus issued will be intimated to the bidders by uploading on HCL website / CPP portal '<https://etenders.gov.in>' of NIC only.
- 2.4.3 In order to afford the bidders a reasonable time for taking an addendum into account, or for any other reason, HCL may, extend the bid due date.

## **2.5 PREPARATION AND SUBMISSION OF BIDS**

The following may please be noted by the bidders:

- 1) Bidders already having DSC or already registered in CPP for e procurement for tendering in any other organization, can use the same for HCL.
- 2) No Techno-Commercial document is to be submitted offline. Shortfall documents may be taken from bidders over e mail before opening of Price bids.
- 3) Bid Security Declaration to be submitted as per format at Appendix III.
- 4) Bidder has to check Corrigendum uploaded against the TE from time to time on cpp portal and resubmit their bids in case of any change in their offer due to the corrigendum, before the final bid submission date/time.
- 5) For bidders registration or Bid submission Procedure is also available "Bidder Manual Kit" in <https://etenders.gov.in/eprocure/app>

### **A. Registration procedure:**

- 1. Please visit the Link <https://etenders.gov.in/eprocure/app>
- 2. Click on "Online Bidder Enrollment".
- 3. Put your Login ID (Enter email address for login id. eg: [abc@nic.com](mailto:abc@nic.com). Care may be taken to enter valid e-mail ID. This information will be kept confidential. The login ID cannot be modified once registered.)
- 4. Put your correspondence Id. (Correspondence Email ID can be same as your Login ID.)
- 5. Put your Mobile Number (Note: As Mobile and Email are the modes of correspondence, ensure that mobile no and email id provided is correct.)
- 6. Fill rest of the form containing firm's details like name, address, PAN etc. to

register as bidder. For enrolment, the bidders will be required to register their valid Digital Signature Certificate (Class II/ Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g.Sify / nCode / eMudhra etc.), with their profile.

#### B. Bid Submission Procedure:

(Only by bidders having valid Digital Signature Certificate –DSC)

1. Please visit the Link <https://etenders.gov.in/eprocure/app>
2. Enter your login ID & Captcha
3. Enter password & Captcha
4. Click to DSC Login & enter PIN.
5. Click at,, Search Active Tenders.
6. Enter Tender ID & other search criteria & then Click “Search” to search the Tender.
7. Upon finding the desired Tender, click the check box to mark the Tender as “favorite”.
8. Click on “My Tenders” on left hand side menu panel to find out the favorite Tender list.
9. View the desired Tender by clicking logo under “View” column. Tender details will appear.
10. Scroll down the page containing Tender details.
11. Download the NIT & Bid-of-Quotation (BOQ) from „Tender Documents” section.
12. Click “Proceed for Bid Submission” to proceed ahead.
13. Tick “I Agree” & “Next” to proceed further.
14. Update personal details & click “Next” to proceed ahead.
15. Click “Submit OID” then click “Submit Other Important Documents”.
16. Click “Encrypt & Upload” to upload cover documents.
17. Click folder logo in “Fee/PreQual/Technical” box to upload technical cover documents.
18. As new window opens, click “Browse” to select & attach the documents.
19. After selecting the documents, sign & upload them digitally by clicking “Sign &Upload”.
20. Click “Ok” in the message pop-up box to proceed ahead.
21. As window again goes back, click folder logo in “Finance” box to upload Financial docs.
22. As new window opens, click “Browse” to select & attach the documents (Bid-of-Quotation/BOQ)

23. After selecting the documents, sign & upload them digitally by clicking “Sign &Upload”.
24. Click “Ok” in the message pop-up box to proceed ahead.
25. Click “Next” in Bid Submission -> Packet Details window to proceed ahead.
26. View Bid details and scroll down to check the same.
27. If all correct, click “Freeze Bid” to lock/freeze your offer.
28. Click “Print Acknowledgement” & “Print Bid Details” to print the same & keep it for record.

NB: You do not require registering again for different tender enquiries of HCL. Registration on the website is free of cost.

GePNIC Contact Person:

Important 1: For Registration related issues, all tenderers are requested to contact: Mr. Sk Imran, Mobile Number: 91 8777791736

or Support e-mail :[support-eproc@nic.in](mailto:support-eproc@nic.in)

Important 2: For Bidding related issues, please call NIC Help Desk Number: 0120-4200 462, 4001 002, 4001 005, 6277 787 Sealing and Marking of Techno Commercial Bid (Part-I)

**Important 3:** The following auto-extension criteria shall be governed in NIC portal:

<b>Iteration No.</b>	<b>Bid Opening Date</b>	<b>If total numbers of Bids received is 02 or less</b>
1	On Bid Submission End Date	Due date extended by 03 days
2	On First Extended Due Date	Due date extended by another 05 days
3	On Second Extended Due Date	Tender will be opened

**Format and Signing of Techno Commercial Bid (Part – I):**

The bidder shall provide all the information sought under this tender. HCL will evaluate only those bids that are received in the prescribed formats and complete in all respects.

The bid shall be typed or written in indelible ink and signed by the authorized signatory of the bidder who shall also sign each page. All the alterations, omissions, additions or any other amendments made to the bid shall be initialed by the person(s) signing the bid.

## 2.6 Techno Commercial Bid (Part-I)

2.6.1 The bidder shall upload the bid in two parts (Part-I & Part-II) in CPP portal <https://etenders.gov.in>:

- a. Part-I of the bid, shall consist of:
  - i. Covering letter in the format specified under the schedule as **Appendix-I**
  - ii. Details of the bidder in the format prescribed at **Appendix-II**
  - iii. The Bid Security Declaration in the format prescribed at **Appendix-III**
  - iv. Power of Attorney for signing of bid in the prescribed format (**Appendix-IVA**).
  - v. Integrity Pact Agreement (**Appendix-V&VA**)
  - vi. Proof of eligibility criteria in the format prescribed at **Appendix-VI &VII**
  - vii. Minimum no of details of equipment including make and year of make in the format prescribed at **Appendix-VIII**
  - viii. Statement of Legal Capacity of the bidder in the format prescribed at Appendix-IX A
  - ix. Proposed Site Organization in the format prescribed at **Appendix-IXB**
  - x. Organization Structure to deploy for running the mines and beneficiation plant activities in the initial period of the Contract as well as for enhanced target under scope of work.
  - xi. Certificate of Site visit in the format prescribed at **Appendix-IXC**
  - xii. A copy of the tender document with each page initialed by the person signing the bid in pursuance of the power of attorney.
- b. Submission of Part I (Techno-Commercial Bid) and Part II (Price Bid consisting of the quotation of prices) shall only be done in the e tendering Portal and no packet consisting hard copy of the Price Bid may be sent to HCL office.

2.6.2 The pages of the documents of the bid shall be numbered serially. Each page thereof shall be initialized by the authorized signatory.

2.6.3 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

## 2.7 Bid Due Date

2.7.1 Due date of submission of Bid Documents shall be at the address mentioned above and in the manner and form as detailed in this TENDER.

**2.8** HCL may, in its sole discretion, extend the bid due date by issuing an addendum.

**2.9 Late Bids**

Bids received by HCL after the **Bid Due Date** shall not be eligible for consideration and shall be summarily rejected.

**2.10 Modifications/Substitution/Withdrawal of Bids**

2.10.1 Except where expressly permitted by these instructions, the bidder shall not make or cause to be made any alteration, erasure or obliteration to the text of the documents prepared by HCL and submitted by the bidder with or as part of this bid.

2.10.2 No bid shall be modified, substituted or withdrawn by the bidder on its submission on the bid due date.

2.10.3 Withdrawal of a bid during the interval between the deadline for submission of bids and expiration of the period of bid validity specified in the bid shall result in invoking of the Bid Security declaration.

**2.11 Rejection of Bids**

2.11.1 Notwithstanding anything contained in the tender, HCL reserves the right to reject any bid and to annul the bidding process and reject all the bids at any time without any liability or any obligation for such rejection or annulment. In the event that HCL rejects all the bids or annuls the bidding process, it may, in its discretion invite all eligible bidders to submit fresh bids hereunder.

2.11.2 HCL reserves the right not to proceed with the bidding process at any time, without notice or liability, and to reject any bid without assigning any reasons.

**2.12 Confidentiality:** Information relating to the examination, clarification, recommendation and evaluation of the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising HCL in relation to or matters arising out of, or concerning the bidding process. HCL will treat all information, submitted as part of the bid, in confidence and will require all those who have access to such material to treat the same in confidence. HCL may not divulge any such



information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or HCL or as may be required by law or in connection with any legal process.

**2.13 Correspondence with the Bidder:** Save and except as provided in this tender, HCL shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

**2.14 CANCELLATION/TERMINATION:** Hindustan Copper Limited reserves the right to cancel/terminate in full or part of the ordered quantity during the currency of the contract without assigning any reasons.

### **2.15 Bid Security**

2.15.1 The Bidder has to submit Bid Security Declaration as per format at Appendix III.

2.15.2 Any bid not accompanied by the Bid Security Declaration as mentioned above, shall be summarily rejected by HCL as non-responsive.

2.15.3 The bidder may be disqualified from bidding for any tender with you for a period of one year from the date of notification if the bidder is in a breach of any obligation under the bid conditions because they :

- a) have withdrawn/modified/amended, impaired or derogated from the tender, their bid during the period of bid validity specified in the form of bid or
- b) having been notified of the acceptance of their Bid by HCL during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the Instructions to bidders.

2.15.4 The Bid-Securing Declaration shall cease to be valid if the bidder is not the successful Bidder, upon the earlier of (i) the receipt of HCL's notification to bidder of the name of the successful Bidder or (ii) thirty days after the expiration of the validity of bidder's bid.

### **2.16 BID PRICES**

In the price bid, the bidder shall include all elements of cost strictly as per the scope of work specified in technical specification. The price shall be item wise in accordance with and as stated in the specification. The bidder will be responsible for complete execution of the job as specified in the scope of work. The rate quoted should be valid for 180 days, which may be extended by 30 days by the bidder, if required by HCL.

The bidder shall give the detail price schedule taking into consideration of all the element of work and services as covered under the scope of work. Quoted Price should be in figure.

The Contract Price is in accordance with commercial terms & conditions, stipulations, specifications, requirements and other conditions of the Contract for the estimated quantities of work and firm unit rates as given in Schedule of items.

Total Quoted Price of bidder shall include basic price, freight, Insurance etc. as per price bid format as on base date but excluding GST.

Bidders shall quote for the entire scope on a “single responsibility” basis such that the total bid price covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the tender documents in respect of the engineering, procurement, erection, testing, commissioning, construction, Insurance, mine development, ore production and execution of all the facilities in relation to the Project as defined in technical specification. This includes all requirements under the Contractor’s responsibilities for testing, pre- commissioning and commissioning of the equipment, insurance, training of Purchasers personnel, commissioning spares, initial fill and Lubricants, special tools and tackles, where so required by the tender documents, the acquisition of all permits, approvals and licenses, etc. up to commissioning and such other items and services as may be specified in the tender documents.

Items against which no price is entered by the bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other items. The bidder will execute/supply such item(s) without claiming any extra amount.

Bidder is required to quote the price for the commercial and technical obligations outlined in the bidding documents. Deviations shall not be allowed for this package.

Bidder must clearly mention their Income Tax Permanent Account Number (PAN) and Bank Account Number in the offer. Supplies & Services quoted in Indian Rupee shall be quoted on “HCL, ICC Site” basis. Base Date of the Contract Price shall be the date of opening of Part I (Techno Commercial Bid) of the tender.

Bidder to quote in the “Price Schedule” in Indian Rupees only.

### 3. EVALUATION OF BIDS

#### 3.1 Opening and Evaluation of Bids

3.1.1 HCL shall open the Techno Commercial Bid (Part – I) only on e-tendering portal only, as per schedule given in clause 1.13 in the presence of the bidders who choose to attend. However, in the eventuality that the day of opening of the bids becomes a non- working day due to a force majeure event, the date of opening of the bids will shift to the next working day at the same time.

Part II of the bid (“Price Bid”) shall be opened in the e tendering portal for those bidders who qualify techno-commercially as per qualifying criteria of the tender. The date and time of opening of Price Bid (Part – II) B shall be communicated in due course of time.

3.1.2 To facilitate evaluation of bids, HCL may, in its sole discretion, seek clarifications in writing from any / all Bidder(s) regarding its Bid.

3.1.3 If justified non-performance letter has been issued by the Units of HCL against any contractor, the bid submitted by the said bidder, individually / JV Company, may likely to be considered at sole discretion of HCL.

#### 3.2 Selection of Bidder

3.2.1 The bidder whose bid is adjudged as responsive and quoting the lowest Contract Price evaluated on the basis of quantities in Schedule of Quantity and rate, for implementation of the Work shall be declared as the selected bidder (the “**Selected Bidder**”).

3.2.2 Bids will be invited for the Project on the basis of the lowest total lump sum fee (“Contract Price”) required by a Bidder for executing the Project. Bidders shall be required to quote in the Price Bid the Contract Price that shall be charged by them for the execution of the Project. The Contract Price amount shall constitute the sole criteria for evaluation of Bids. The Project shall be awarded to the Bidder quoting the lowest Contract Price. In this tender document, the term “Lowest Bidder” shall mean the Bidder seeking the lowest Contract Price. Bidder shall quote for total/all items of price schedule. Bidder to quote in the “Price Schedule” in Indian Rupees only. Standing of L-1 bidder shall be decided based on overall L-1 value of combined work as per scope of work.

Evaluation shall be done on Total Quoted price of Price Schedule which includes Basic price, all taxes & duties, levies, freight, Insurance etc. but excluding GST.

Price for Open items shall not be considered for Evaluation of Price bids.

- 3.2.3 After selection, a Letter of Intent (the “**LoI**”) shall be issued, in duplicate, by HCL to the selected bidder and the selected bidder shall, within 7 (seven) days of the receipt of the LoI, sign and return the duplicate copy of the LoI in acknowledgement thereof. In the event the duplicate copy of the LoI duly signed by the selected bidder is not received within the stipulated time, HCL may, unless it consents to extension of time for submission thereof, invoke the Bid Security Declaration of such bidder as damages on account of failure of the selected bidder to acknowledge the LoI. No correspondence will be entertained by HCL from the unsuccessful bidders.
- 3.2.4 After acknowledgement of the LoI as aforesaid by the selected bidder, it shall cause the selected bidder to execute the Contract within the period of ten (10) days. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Contract.
- 3.2.5 Upon “Letter of Intent” being signed and returned by the successful Bidder, HCL will discharge other unsuccessful bidders of bid security declaration.
- 3.2.6 The selected bidder shall, for the due and proper performance and fulfillment of its obligations during the contract period of the Work, provide an irrevocable and unconditional bank guarantee from any scheduled commercial bank in India, in favour of HCL, for a sum equivalent to 3% of the total Contract Price in the form set forth in the Contract (the “**Performance Security Deposit**”). Performance Security Deposit in any other format is not acceptable. Payment shall not be released if PSD has not been deposited in totality. The Performance Security Deposit shall remain valid initially for a period of 12 months from the Appointed date and will be renewed subsequently as per Article 6 of NIT. The selected bidder shall further extend the validity of its Performance Security Deposit, if so required by HCL.

The said Performance Security Deposit shall be provided by the selected bidder within **30 (thirty) days** of the date of issue of LoI. In the event, the selected bidder fails to provide the said Performance Security within the time period stipulated herein, HCL may invoke the Bid Security Declaration submitted by the selected bidder along with their bid.

#### **4. FRAUD AND CORRUPT PRACTICES**

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOI and during the subsistence of the Contract. Notwithstanding anything to the

contrary contained herein, or in the LOI or the Contract, HCL shall reject a Bid, withdraw the LOI, or terminate the Contract, as the case may be, without being liable in any manner whatsoever to the Bidder or Selected Bidder, as the case may be, if it determines that the Bidder or Selected Bidder, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, HCL shall invoke the Bid Security Declaration or forfeit and appropriate Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to HCL under the Bidding Documents and/or the Contract, or otherwise.

**4.2** Without prejudice to the rights of HCL under clause 4.1 hereinabove and the rights and remedies which HCL may have under the LOI or the Contract, if a Bidder or Selected Bidder, as the case may be, is found by HCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOI or the execution of the Contract, such Bidder or Selected Bidder shall not be eligible to participate in any tender or request for proposal issued by HCL during a period of 2 (two) years from the date such Bidder or Selected Bidder, as the case may be, is found by HCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

**4.3** For the purposes of this clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

- a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of HCL who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOI or has dealt with matters concerning the Contract, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of HCL, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOI or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project or the LOI or the Contract, who at any time has been or is a legal, financial or technical adviser of HCL in relation to any matter concerning the Project;
- b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence

the Bidding Process ;

- c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by HCL with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among the Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

#### **5. Earnest Money Deposit (EMD)/Bid Security:**

Bidder has to submit Bid security declaration form duly sealed and signed by the authorized person as per Appendix-I. In case of non- submission of bid security declaration along with the offer, the offer will be out rightly rejected.

The followings are exempted from submission of bid security declaration against submission of valid documentary evidence:

- Public Sector Undertakings /Govt. Dept/Govt. Institutions
- Micro and Small Enterprises registered with MSME Udyog Aadhar Memorandum (UAM), Udyam registered, Districts Industries Centers (DICs) / Khadi & Village Industries Commissions (KVIC) / Khadi & Village Industries Board (KVIB) / Coir Board/ NSIC/ Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small & Medium Enterprises up to the extent of their monetary limit. For MSEs, the exemption from submission of Bid security declaration is to be granted only for the items for which they are registered with the concerned authorities.
- Original Equipment Manufacturers (OEMs)

#### **6. The Procuring Entity may cancel the process of procurement or reject all bids at any time before intimating acceptance of successful bid under following circumstances:**

- a. If the quantity and/or quality of requirements have changed substantially;
- b. When none of the tenders is substantially responsive to the requirements of the procuring documents;

- c. If none of the technical proposals meets the minimum technical qualifying criteria;
- d. If effective competition is lacking;
- e. If the Bid Prices are substantially higher than the updated cost estimate/budget;
- f. If the bidder, whose bid has been found to be the lowest evaluated bid, withdraws from the procurement process, or whose bid has been accepted, fails to accept / sign the procurement contract, or fails to provide the security as may be required for the performance of the contract.

## APPENDIX - I

### Covering Letter (To be placed in Part I of the Bid)

Date:

**General Manager (Materials & Contracts)**

**Hindustan Copper Limited**

**1, Ashutosh Chowdhury Avenue**

**Kolkata – 700019**

**Sub:** Bid for Production drilling of 57mm and 115 mm dia holes in North Decline stope and Loading and hauling of blasted ore from same stope & dump at primary crusher at surface via weigh bridge for Malanjkhand underground Mines at Malanjkhand Copper Project, Madhya Pradesh

Dear Sir,

With reference to your tender no. .... dated ....., I/We, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Work in prescribed format. The Bid is unconditional and unqualified.

1. I/We acknowledge that HCL will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Selected Bidder for the aforesaid Work, and we certify that all information provided therein is true and correct and nothing has been omitted which renders such information misleading and all documents accompanying the Bid are true copies of their respective originals.
2. This statement is made for the express purpose of qualifying as a Selected Bidder for the implementation of the aforesaid Work.
3. I/ We shall make available to HCL any additional information it may find necessary or require to supplement or authenticate the Bid.
4. I/ We acknowledge the right of HCL to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. I/ We declare that:
  - (a) I/ We have examined and have no reservations to the Bidding Documents, including any addendum issued by HCL; and
  - (b) I/ We do not have any Conflict of Interest and
  - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any



corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, in respect of any tender or request for proposal issued by or any agreement entered into with HCL or any other public sector enterprise or any government, Central or State; and I/ We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

- (d) the undertakings given by me/us along with the offer in response to the Tender for the Work were true and correct as on the date of making the Tender and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
6. I/ We understand that you may cancel/annul the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Work, without incurring any liability to the Bidders.
  7. I/ We certify that in regard to matters other than security and integrity of the country, have not been convicted or indicted by a court of law and no adverse orders have been passed by a regulatory authority which could cast a doubt on our ability to undertake the Work or which relates to a grave offence that outrages the moral sense of the community.
  8. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the government or convicted by a court of law for any offence committed by us or by any of our Associates.
  9. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/Employees.
  10. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process the provisions of disqualification in terms of the guidelines referred to above are attracted, we shall intimate HCL of the same immediately.
  11. We further agree and acknowledge that the aforesaid obligations shall be in addition to the obligations contained in the Contract.
  12. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by HCL in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Work and the terms and implementation thereof.
  13. In the event of my/our being declared as the Selected Bidder, I/We agree to enter into a Contract in accordance that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid Contract and agree to abide by the same.
  14. I/We have studied all the Bidding Documents carefully and have also surveyed the Work

site. We understand that except to the extent as expressly set forth in the tender and/or Contract, we shall have no claim, right or title arising out of any documents or information provided to us by HCL or in respect of any matter arising out of or concerning or relating to the Bidding Process including the award of the Contract.

15. The Contract Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the tender, Contract, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the work cost and implementation of the Work.
16. I/We offer a bid security declaration to HCL in accordance with the tender.
17. The Bid security Declaration in the format in NIT is attached.
18. In the event of I/We being declared as Selected Bidder, I/We hereby undertake and agree to provide an irrevocable and unconditional bank guarantee as Performance Security Deposit in favour of HCL within 30 (thirty) days of the issue of LoI as per the tender.
19. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Work is not awarded to me/us or our Bid is not opened or rejected.
20. I/We agree to keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the tender which may be extended for a maximum period of another 30 (Thirty) days, if required by HCL.
21. I/ We hereby submit our Bid for undertaking the aforesaid work in accordance with the Bidding Documents and the Contract. The prices of each item aggregating to the Contract Price are quoted by me/us as provided in the schedule annexed hereto. The said Contract Price shall be payable over the construction period and as set out in Contract. The monthly running bills can be payable only after receipt of security deposit i.e. 3% of the total contract amount.
22. I/We hereby confirm that no change has been made in any of the formats attached with tender.
23. I/We agree and undertake to abide by all the terms and conditions of the tender and confirm that there is no deviation in the terms and conditions.

In witness whereof, I/we submit this Bid under and in accordance with the terms of the tender.

Yours faithfully,

Date:

(Signature of the Authorized signatory)

Place:

(Name and designation of the of the Authorized signatory)  
Name and seal of Bidder

**APPENDIX - II**  
**DETAILS OF BIDDER**

**1. IN CASE OF INDIVIDUAL:**

- 1.1 Name
- 1.2 Registration details, if any
- 1.3 Date of commencement of business
- 1.4 Permanent Account Number(PAN)
- 1.5 GST registration number
- 1.6 Copies of Balance sheet
- 1.7 HCL's Website Vendor Registration Code

**2. IN CASE OF PARTNERSHIP:**

- 2.1 Name of Partners
- 2.2 Whether the Partnership is registered or not.
- 2.3 Date of establishment of firm
- 2.4 Permanent Account Number(PAN)
- 2.5 GST registration number
- 2.6 Copies of Balance sheet
- 2.7 HCL's Website Vendor Registration Code

**3. IN CASE OF LIMITED COMPANY:**

- 3.1 Amount of paid-up capital
- 3.2 Name of Directors
- 3.3 Date of Registration of Company
- 3.4 Permanent Account Number(PAN)
- 3.5 GST registration number
- 3.6 Copies of the Balance sheet
- 3.7 HCL's Website Vendor Registration Code

(Signature, name and designation of the Authorized Signatory)

Place:

Date: Name and Seal of the Bidder

**APPENDIX – III**

**Bid Security Declaration**

**(To be placed in Part I of the Bid)**

To,  
General Manager (Commercial),  
Hindustan Copper Limited  
1 Ashutosh Chowdhury Avenue,  
Kolkata-700019

I/We. The undersigned, declare that:

I/We understand that, according to your conditions, bids must be supported by a Bid Securing Declaration.

I/We accept that I/We may be disqualified from bidding for any Tender with you for a period of one year from the date of notification if I am/We are in a breach of any obligation under the bid conditions, because I/We

- a) have withdrawn/modified/amended, impairs or derogates from the tender, my/our Bid during the period of bid validity specified in the form of Bid; or
- b) having been notified of the acceptance of our Bid by the HCL during the period of bid validity (i) fail or refuse to execute the contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the Instructions to Bidders.

I/We understand this Bid Securing Declaration shall cease to be valid if I am/we are not the successful Bidder, upon the earlier of (i) the receipt of your notification of the name of the successful Bidder; or (ii) Ninety days after the expiration of the validity of my/our Bid.

Signed: (insert signature of person whose name and capacity are shown) in the capacity of  
(insert legal capacity of person signing the Bid Securing Declaration)

Name: (insert complete name of person signing the Bid Securing Declaration)  
Duly authorized to sign the bid for an on behalf of (insert complete name of Bidder)

Dated on \_\_\_\_\_ day of \_\_\_\_\_ (insert date of signing)

Corporate Seal (where appropriate)

**APPENDIX – IV A**

**Power of Attorney for signing of Bid  
(To be placed in Part I of the Bid)**

Know all men by these presents, We, \_\_\_\_\_ (name of the company and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms \_\_\_\_\_, son/daughter/wife of \_\_\_\_\_ and presently residing at \_\_\_\_\_, who is holding the position of \_\_\_\_\_], as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the “ [insert name of the work] ” proposed by the Hindustan Copper Limited (“HCL”) including but not limited to signing and submission of all Tenders, Bids and other documents and writings, participation in Bidders' and other conferences and providing information / responses to HCL, representing us in all matters before HCL, signing and execution of all contracts including the Contract and undertakings consequent to acceptance of our Bid, and generally dealing with HCL in all matters in connection with or relating to or arising out of our Bid for the said Work and/or upon award thereof to us and/or till the execution of the Contract with HCL.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this power of attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, \_\_\_\_\_, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF \_\_\_\_\_, 2021.

For \_\_\_\_\_ (Signature)

(Name, Title and Address) Witnesses:

- 1.
- 2.

Accepted

(Signature)

[Notarized]

(Name, Title and Address of the Attorney) Notes:

- *The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants (s) and when it is so required, the name should be under common seal affixed in accordance with the required procedure.*

- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this power of attorney for the delegation of power hereunder on behalf of the Bidder.*

## **APPENDIX – V**

### **INTEGRITY PACT**

**(To be placed in Part I of the Bid)**

The Integrity Pact (“**Pact**”) essentially envisages an agreement between the Bidder and the owner (“**HCL**”), committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the Contract. Only those Bidders who have entered into such a Pact with the HCL would be qualified to submit their bids. In other words, entering into this Pact would be a preliminary qualification. The Pact shall be effective from the stage of invitation of Bids till the execution of the Contract. Thereafter, the Selected Bidder shall be required to execute a separate Integrity Pact, which shall form part of, and be appended to the Contract.

The Pact envisages a panel of Independent External Monitors (“**IEM**”) approved for HCL. The IEM is to review independently and objectively, whether and to what extent the parties have complied with their obligations under the Pact. It has right of access to all Work documentation. The IEM may examine any complaint received by it and submit a report to the CMD of HCL, at the earliest. He may also submit a report directly to the Chief Vigilance Officer and the Central Vigilance Commission, in case of suspicion of serious irregularities attracting the provisions of the Prevention of Corruption Act. However, even though the Contract may be covered by the Pact, the Central Vigilance Commission may, at its discretion, have any complaint received by it relating to such a Contract, investigated.

The IEM on the advice of CVC has been appointed by HCL, who has been assigned by HCL to oversee implementation of the Pact relating to the Contract, in line with the terms and conditions of the Integrity Pact Agreement, to be signed between the Bidder and HCL.

## APPENDIX - VA

### **INTEGRITY PACT AGREEMENT**

Between Hindustan Copper Limited (HCL) hereinafter referred to as “the Principal” and  
.....hereinafter referred to as “The Bidder”

#### **Preamble**

The Principal intends to award, under laid down organizational procedures, Contract/s of “[insert name of the work]”. The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s).

In order to achieve these goals, the Principal has appointed Sri Debal Kumar Gayen and Sri Debashis Bandyopadhyay as Independent External Monitors (IEMs), who will monitor the tender Process and the execution of the Contract for compliance with the principles mentioned above.

#### **Section I – Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
  - a. No employee of the Principal, personally or through family members, will in connection with the bidding , or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b. The Principal will, during the Bidding Process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the Bidding Process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the Bidding Process or the Contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code / Prevention of Corruption Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

#### **Section 2 – Commitments of the Bidder(s)**

- (1) The Bidder(s) commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the Bidding Process and during the Contract execution.

The Bidder(s) will not, directly or through any other person or company, offer, promise or give to any of the Principal’s employees involved in the Bidding Process or the execution of the Contract or to any



third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the Bidding Process or during the execution of the Contract.

- a. The Bidder(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of Bids or any other actions to restrict competitiveness or to introduce cartelization in the Bidding Process.
  - b. The Bidder(s) will not commit any offence under the Indian Penal Code / Prevention of Corruption Act; further the Bidder(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - c. The Bidder(s) will, when presenting his Bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.
- (2) The Bidder(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 – Disqualification from Bidding Process and exclusion from future contracts**

If the Bidder(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s) from the Bidding Process or take action as per the procedure mentioned in the “Guidelines on Banning of Business Dealings”.

### **Section 4 – Compensation for damages**

- a. If the Principal has terminated the Contract according to Section 3, or if the Principal is entitled to terminate the Contract according to Section 3, the Principal shall be entitled to demand and recover from the Bidder, penalties of the Contract Price or the amount equivalent to Performance Security.

### **Section 5 – Previous transgression**

- a. The Bidder declares that no previous transgressions occurred in the last 3 (three) years with any other company in any country conforming to the anti corruption approach or with any other public sector enterprise in India that could justify his exclusion from the Bidding Process.
- b. If the Bidder makes incorrect statement on this subject, he can be disqualified from the Bidding Process or action can be taken against them as per the procedure mentioned in “Guidelines on Banning of Business Dealings”.

### **Section 6 - Equal treatment of all Bidders**

- a. The Bidder(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact Agreement, and to submit it to the Principal before execution of the Contract.
- b. The Principal will enter into agreements with identical conditions as this one with all Bidders,
- c. The Principal will disqualify from the Bidding Process all Bidders who do not sign this Integrity Pact Agreement or violate its provisions.

### **Section 7 – Criminal charges against violating Bidder(s)**

If the Principal obtains knowledge of conduct of a Bidder or of an employee or a representative or an Associate of a Bidder which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer of the same.

### **Section 8 - Independent External Monitor/Monitors**

- a. The Principal has appointed competent and credible Independent External Monitor (“IEM”) for this Integrity Pact Agreement. The task of the IEM is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- b. The IEM is not subject to instructions by the parties/ their representatives and performs its functions neutrally and independently. It reports to the Chairman- cum-Managing Director of HCL.
- c. The Bidder(s) accepts that the IEM has the right of access without restriction to all Work documentation of the Principal .The Bidder will also grant the IEM, upon its request and demonstration of a valid interest, unrestricted and unconditional access to his Work documentation. The same is applicable to Subcontractors. The IEM is under a contractual obligation to treat the information and documents of the Bidder(s) with confidentiality.
- d. The Principal will provide to the IEM sufficient information about all meetings among the parties related to the Work provided that such meetings could have an impact on the contractual relations between the Principal and the Bidders. The parties offer to the IEM the option to participate in such meetings.
- e. As soon as the IEM notices, or believes, that there is a violation of this Integrity Pact Agreement, it will so inform the management of the Principal and request the management to discontinue or take corrective action, or to take other relevant action. The IEM can, in this regard, submit non-binding recommendations. Beyond this, the IEM has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- f. The IEM will submit a written report to the Chairman-cum-Managing Director of HCL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- g. The IEM shall be entitled to compensation on the same terms as being extended to/provided to

Independent Directors of HCL.

- h. If the IEM has reported to the Chairman-cum-Managing Director of HCL, a substantiated suspicion of an offence under relevant Indian Penal Code/PCAct, and the Chairman-cum-Managing Director of HCL has not, within reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner.

**Section 9 - Pact Duration**

This Integrity Pact Agreement begins when both parties have legally signed it. It expires for the Selected Bidder 12 (twelve) months after the last payment under the Contract, and for all other Bidders 6 (six) months after the Contract has been awarded.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this Integrity Pact Agreement as specified above, unless it is discharged/determined by Chairman-cum-Managing Director of HCL.

**Section 10 - Other provisions**

- a. This agreement is subject to Indian laws. Place of performance and jurisdiction is the registered office of the Principal, i.e.Kolkata.
- b. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- c. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement as to their original intentions.

\_\_\_\_\_  
(For &On behalf of the Principal)

(Office Seal)

Witness1: \_\_\_\_\_

(Name &Address) \_\_\_\_\_

\_\_\_\_\_  
(For & On behalf of the Bidder)

(Office Seal)

\_\_\_\_\_  
Witness2: \_\_\_\_\_

(Name &Address) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS**

- 1.0 There shall be compulsory registration of agents for all Global (Open) Tender and Limited Tender. An agent who is not registered with HCL Plants/Units shall apply for registration in the prescribed Application–Form.
- 1.1 Registered agents will file an authenticated Photostat copy duly attested by a Notary Public/Original certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission/remuneration/salary/ retainer ship being paid by the principal to the agent before the placement of order by HCL Plants/Units.
- 1.2 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order
- 20 DISCLOSURE OF PARTICULARS OF AGENTS/ REPRESENTATIVES IN INDIA. IF ANY.**
- 21** Tenderers of Foreign nationality shall furnish the following details in their offer:
- 21.1 The name and address of the agents/representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent/representative be a foreign Company, it shall be confirmed whether it is real substantial Company and details of the same shall be furnished.
- 21.2 The amount of commission/remuneration included in the quoted price(s) for such agents/representatives in India.
- 21.3 Confirmation of the Tenderer that the commission/ remuneration if any, payable to his agents/representatives in India, may be paid by HCL in Indian Rupees only.
- 22** Tenderers of Indian Nationality shall furnish the following details in their offers:
- 22.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e, whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents/representatives.
- 22.2 The amount of commission/remuneration included in the price (s) quoted by the Tenderer for himself.

- 223 Confirmation of the foreign principals of the Tenderer that the commission/remuneration, if any, reserved for the Tenderer in the quoted price (s), may be paid by HCL in India in equivalent Indian Rupees on satisfactory completion of the Project or supplies of Stores and Spares in case of operation items.
- 23** In either case, in the event of contract materializing, the terms of payment will provide for payment of the commission /remuneration, if any payable to the agents/representatives in India in Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
- 24** Failure to furnish correct and detailed information as called for in paragraph-2.0 above will render the concerned tender liable to rejection or in the event of a contract materializing, the same liable to termination by HCL. Besides this there would be a penalty of banning business dealings with HCL or damage or payment of a namedsum.

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**GUIDELINES ON BANNING OF BUSINESS DEALINGS**

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6.	Ground on which Banning of Business Dealing can be initiated
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8.	Removal from List of Approved Agencies-Suppliers/ Contractors etc.
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12.	Circulation of the names of Agencies with whom Business Dealings have been banned

## 1. Introduction

- 1.1 Hindustan Copper Limited (HCL), being a Public Sector Enterprise and 'State', within the meaning of Article 12 of Constitution of India, has to ensure preservation of rights enshrined in Chapter III of the Constitution. HCL has also to safeguard its commercial interests. HCL deals with *Agencies*, who have a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of HCL to deal with Agencies who commit deception, fraud or other misconduct in the execution of contracts awarded / orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on HCL to observe principles of natural justice before banning the business dealings with any Agency.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

## 2. Scope

- 2.1 The General Conditions of Contract (GCC) of HCL generally provide that HCL reserves its rights to remove from list of approved suppliers / contractors or to ban business dealings if any Agency has been found to have committed misconduct and also to suspend business dealings pending investigation. If such provision does not exist in any GCC, the same may be incorporated.
- 2.2 Similarly, in case of sale of material there is a clause to deal with the Agencies / customers / buyers, who indulge in lifting of material in unauthorized manner. If such a stipulation does not exist in any Sale Order, the same may be incorporated.
- 2.3 However, absence of such a clause does not in any way restrict the right of Company (HCL) to take action / decision under these guidelines in appropriate cases.
- 2.4 The procedure of (i) Removal of Agency from the List of approved suppliers / contractors; (ii) Suspension and (iii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.5 These guidelines apply to all the Plants / Units and subsidiaries of HCL.
- 2.6 It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular Agency due to its poor / inadequate performance or for any other reason.
- 2.7 The banning shall be with prospective effect, i.e., future business dealings.

### 3. — **Definitions**

In these Guidelines, unless the context otherwise requires:

*'Party / Contractor / Supplier / Purchaser / Customer/Bidder/Tenderer'* shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. *'Party / Contractor / Supplier / Purchaser /Customer/ Bidder / Tenderer'* in the context of these guidelines is indicated as *'Agency'*.

*'Inter-connected Agency'* shall mean two or more companies having any of the following features: If one is a subsidiary of the other.

If the Director(s), Partner(s), Manager(s) or Representative(s) are common;

If management is common;

If one owns or controls the other in any manner;

*'Competent Authority'* and *'Appellate Authority'* shall mean the following:

For Company (entire HCL) Wide Banning

The Director (Technical) shall be the „Competent Authority“ for the purpose of these guidelines. Chairman, HCL shall be the „Appellate Authority“ in respect of such cases except banning of business dealings with Foreign Suppliers of imported coal/coke.

For banning of business dealings with Foreign Suppliers of imported coal/coke, HCL Directors“ Committee (SDC) shall be the „Competent Authority“. The Appeal against the Order passed by SDC, shall lie with Chairman, as First Appellate Authority.

In case the foreign supplier is not satisfied by the decision of the First Appellate Authority, it may approach HCL Board as Second Appellate Authority.

For Plants / Units only

Any officer not below the rank of General Manager / Addl Director appointed or nominated by the Unit Head of concerned Plant / Unit shall be the *'Competent Authority'* for the purpose of these guidelines. The Unit Heads of the concerned Plants / Unit shall be the *'Appellate Authority'* in all such cases.

For Corporate Office only

For procurement of items / award of contracts, to meet the requirement of Corporate Office only, Head of M&C shall be the “Competent Authority” and Director (Technical) shall be the “Appellate Authority”.



Chairman, HCL shall have overall power to take suo-moto action on any information available or received by him and pass such order(s) as he may think appropriate, including modifying the order(s) passed by any authority under these guidelines.

- 0 *'Investigating Department'* shall mean any Department or Unit investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.
- 1 *'List of approved Agencies - Parties / Contractors / Suppliers / Purchasers / Customers / Bidders / Tenderers'* shall mean and include list of approved / registered Agencies - *Parties/ Contractors / Suppliers /Purchasers / Customers / **Bidders / Tenderers***, etc.

#### 4. **Initiation of Banning /Suspension**

Action for banning / suspension business dealings with any Agency should be initiated by the department having business dealings with them after noticing the irregularities or misconduct on their part. Besides the concerned department, Vigilance Department of each Plant / Unit /Corporate Vigilance may also be competent to initiate such action.

#### 5. **Suspension of Business Dealings**

- 5.1 If the conduct of any Agency dealing with HCL is under investigation by any department (except Foreign Suppliers of imported coal/coke), the Competent Authority may consider whether the allegations under investigation are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order to this effect may indicate a brief of the charges under investigation. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Department. The Investigating Department may ensure that their investigation is completed and whole process of final order is over within such period.
- 5.2 The order of suspension shall be communicated to all Departmental Heads within the Plants / Units. During the period of suspension, no business dealing may be held with the Agency.
- 5.3 As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.

- 5.4 If the gravity of the misconduct under investigation is very serious and it would not be in the interest of HCL, as a whole, to deal with such an Agency pending investigation, the Competent Authority may send his recommendation to Chief Vigilance Officer (CVO), HCL Corporate Office alongwith the material available. If Corporate Office considers that depending upon the gravity of the misconduct, it would not be desirable for all the Plants / Units and Subsidiaries of HCL to have any dealings with the Agency concerned, an order suspending business dealings may be issued to all the Plants / Units by the Competent Authority of the Corporate Office, copy of which may be endorsed to the Agency concerned. Such an order would operate for a period of six months from the date of issue.
- 5.6 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.
- 5.7 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.

6. **Ground on which Banning of Business Dealings can be initiated**

- 6.1 If the security consideration, including questions of loyalty of the Agency to the State, so warrants;
- 6.2 If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or HCL, during the last five years;
- 6.3 If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc;
- 6.4 If the Agency continuously refuses to return / refund the dues of HCL without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or Court of Law;
- 6.5 If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence;
- 6.6 If business dealings with the Agency have been banned by the Govt. or any other public sector enterprise;
- 6.7 If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts **and / or fudging /forging /tampering of documents;**
- 6.8 If the Agency uses intimidation / threatening or brings undue outside pressure on the Company (HCL) or its official in acceptance / performances of the job under the contract;

- 6.9 If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations;
- 6.10 Willful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-despatch inspection was carried out by Company (HCL) or not;
- 6.11 Based on the findings of the investigation report of CBI / Police against the Agency for malafide / unlawful acts or improper conduct on his part in matters relating to the Company (HCL) or even otherwise;
- 6.12 Established litigant nature of the Agency to derive un due benefit;
- 6.13 Continued poor performance of the Agency in several contracts;
- 6.14 If the Agency misuses the premises or facilities of the Company (HCL), forcefully occupies, tampers or damages the Company's properties including land, water resources, forests / trees, etc.

(Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

## 7. **Banning of Business Dealings**

- 7.1 Normally, a decision to ban business dealings with any Agency should apply throughout the Company including Subsidiaries. However, the Competent Authority of the Plant / Unit except Corporate Office can impose such ban unit-wise only if in the particular case banning of business dealings by respective Plant / Unit will serve the purpose and achieve its objective and banning throughout the Company is not required in view of the local conditions and impact of the misconduct / default to beyond the Plant / Unit. Any ban imposed by Corporate Office shall be applicable across all Plants / Units of the Company including Subsidiaries.
- 7.2 For Company-wide banning, the proposal should be sent by the Plant / Unit to the CVO through the Head of the Plant / Unit setting out the facts of the case and the justification of the action proposed alongwith all the relevant papers and documents except for banning of business dealings with Foreign Suppliers of imported coal/coke.

The Corporate Vigilance shall process the proposal of the Plant / Unit for a prima-facie view in the matter by the Competent Authority nominated for Company-wide banning.

The CVO shall get feedback about that agency from all other Plants / Units. Based on this feedback, a prima-facie decision for banning / or otherwise shall be taken by the Competent Authority.

If the prima-facie decision for Company-wide banning has been taken, the Corporate Vigilance shall issue a show-cause notice to the agency conveying why it should not be banned throughout HCL.

After considering the reply of the Agency and other circumstances and facts of the case, a final decision for Company-wide banning shall be taken by the Competent Authority.

- 7.3 There will be a Standing Committee in each Plant / Unit to be appointed by Unit Head for processing the cases of “Banning of Business Dealings” except for banning of business dealings with foreign suppliers of coal/coke. However, for procurement of items / award of contracts, to meet the requirement of Corporate Office only, the committee shall be consisting of General Manager / Dy. General Manager each from Operations, Finance, Law & M&C. Member from M&C shall be the convener of the committee. The functions of the committee shall, inter-alia include:
1. To study the report of the Investigating Agency and decide if a prima-facie case for Company-wide / Local unit wise banning exists, if not, send back the case to the Competent Authority.
  2. To recommend for issue of show-cause notice to the Agency by the concerned department.
  3. To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
  4. To submit final recommendation to the Competent Authority for banning or otherwise.
- 7.4 If the Competent Authority is prima-facie of view that action for banning business dealings with the Agency is called for, a show-cause notice may be issued to the Agency as per paragraph 9.1 and an enquiry held accordingly.

8. **Removal from List of Approved Agencies - Suppliers / Contractors, etc.**

- 8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should not be removed from the list of approved Agencies / Suppliers / Contractors, etc.
- 8.2 The effect of such an order would be that the Agency would not be disqualified from competing in Open Tender Enquiries but LTE may not be given to the Agency concerned.
- 8.3 Past performance of the Agency may be taken into account while processing for approval of the Competent Authority for awarding the contract.

9. **Show-cause Notice**

- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency. Statement containing the imputation of misconduct or mis-behaviour may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defence.
- 9.2 If the Agency requests for inspection of any relevant document in possession of HCL, necessary facility for inspection of documents may be provided.
- 9.3 The Competent Authority may consider and pass an appropriate speaking order:
  1. For exonerating the Agency if the charges are not established;

2. For removing the Agency from the list of approved Suppliers /Contactors, etc.
    3. For banning the business dealing with the Agency.
  - 9.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned. The order may also mention that the ban would extend to the interconnected Agencies of the Agency.
10. **Appeal against the Decision of the Competent Authority**
  - 10.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing, etc. The appeal shall lie to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing,etc.
  - 10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.
11. **Review of the Decision by the Competent Authority**

Any petition / application filed by the Agency concerning the review of the banning order passed originally by Unit Head / Competent Authority under the existing guidelines either before or after filing of appeal before the Appellate Authority or after disposal of appeal by the Appellate Authority, the review petition can be decided by the Unit Head / Competent Authority upon disclosure of new facts / circumstances or subsequent development necessitating such review. The Competent Authority may refer the same petition to the Standing Committee for examination and recommendation.
12. **Circulation of the names of Agencies with whom Business Dealings have been banned**
  - 12.1 Depending upon the gravity of misconduct established, the Competent Authority of the Corporate Office may circulate the names of Agency with whom business dealings have been banned, to the Government Departments, other Public Sector Enterprises, etc. for such action as they deem appropriate.
  - 12.2 If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Inquiring Authority together with a copy of the order of the Competent Authority / Appellate Authority may be supplied.
  - 12.3 If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, HCL may, without any further enquiry or investigation, issue an order banning business dealing with the Agency and its inter-connected Agencies.
  - 12.4 Based on the above, Plants / Units may formulate their own procedure for implementation of the Guidelines **and same be made a part of the tender documents.**

**APPENDIX – VI**

**(To be placed in Part I of the Bid)**

**Information for Financial Qualification**

Name of the Bidder:.....

S. No.	Head	Year ended on		
		31.03.2019	31.03.2020	31.03.2021
1.	Gross Turnover Less Excise Duty / GST/Sales Tax Less Service Tax (as applicable) OR Net Sales (as per INDAS). <b>(Rs.)</b>			

Name of Statutory Auditor's firm: \_\_\_\_\_

Seal of the Statutory Auditor's firm: (Signature, name and designation of the Authorized Signatory along with Registration Number)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2021

(Name & Signature of Authorized Signatory) \_\_\_\_\_

In the capacity of \_\_\_\_\_ (position) duly authorized to sign this Tender for and behalf of \_\_\_\_\_ (name of the Bidder).

\_\_\_\_\_ (Address)

**Instructions:**

1. The Bidder shall attach copies of Audited Annual Reports for the last 3 consecutive audited financial years ending 31.03.2021 for Indian Bidder. The Audited Annual Reports shall:
  - a. be audited by Statutory Auditor;
  - b. be complete, including all notes to the financial statements ; and
  - c. correspond to accounting periods already completed and audited (no statements for partial period shall be requested or accepted).

**APPENDIX – VII**  
**(To be placed in Part I of the Bid)**

1. **Information for Technical Qualification (Refer Pre-Qualification Criterion of the tender)**
2. **Name of the Bidder:**

S No	Particulars	Details	Remarks(If any)
1.	Name of the Organization	:	
2.	Officer- in-Charge	:	
3.	Description of Work & Quantity	:	
4.	Time Period (time period must be any 12 consecutive month period during the preceding seven (7) year period ending on the last day of the month previous to the one in which Notice Inviting Tender (NIT) is issued)	:	
5.	Period for execution of work as per work order/contract	:	
6	Actual time taken for satisfactory execution	:	
7	Actual work completed in a year	:	
8	Work Order proof	:	<b>Attached Yes/no</b>

**3. Certificate:**

We declare that all information stated in the table above is correct and complete in all respect. Any error or omission in mentioning the information shall entitle HCL, at its sole discretion, to reject our Tender.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2021

(Name & Signature of Authorized Signatory)\_\_\_\_\_

In the capacity of \_\_\_\_\_(position) duly authorized to sign this Tender for and behalf of  
\_\_\_\_\_ (name of the Bidder).

\_\_\_\_\_ (Address)

The bidders are advised to use separate sheets in case there are using the experience of more than one work for satisfying Technical Eligibility Criterion.

**APPENDIX – VIIA**  
**(To be placed in Part I of the Bid)**

**Ref. :**

**Date :**

**Completion Certificate**

(To whomsoever it may concern)

This is to certify that M/s. .... (Contractor) of .....(Please mention Registered office address) was engaged by ..... (Employer) for ..... (Title of Work) vide Work Order No. .... dated .....

The broad terms of engagement of M/s. .... For the above stated job vis-à-vis achievement is as stated below :

1. Name of Work and value :
2. Schedule date of commencement & completion :
3. Actual date of completion with escalation or without escalation
4. Year-wise target vis-à-vis achievement:
5. Performance & Remarks, if any:

(Signature)

Name :  
Designation :  
Date :  
Seal :



**APPENDIX – VIII**

**Details of Equipment to be deployed**

NAME OF WORK: (To be placed in Part-I of the Bid)

NAME OF THE BIDDER:

The Bidder shall submit herein details of equipment required to perform the work.

(Signature of the Authorized signatory)

(Name and designation of the of the Authorized signatory)

Name and seal of Bidder

**NOTE:**

1. The Bidder should specify the technical details of equipment and capacity of equipment and delivery schedule, if arrangement has been made to possess the same, in remarks column.
2. The Bidder should enclose catalogue of equipment proposed to be deployed for this work.
3. The spare equipment required if any shall be decided and procured by the successful bidder.

**APPENDIX – IX A**

**(To be placed in Part I of the Bid)**

**STATEMENT OF LEGAL CAPACITY**

[To be printed on the authorized Letterhead of the Bidder including full postal address, telephone no., fax no. and e-mail address]

Date:

To

[Insert the name and address]

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the Tender document.

We have agreed that \_\_\_\_\_ (insert individual's name) will act as our representative and has been duly authorized to submit the Tender. Further, the authorized signatory is vested with requisites power to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signatory, name and designation of the authorized signatory)

For and on behalf of \_\_\_\_\_

**APPENDIX – IX B**  
**HINDUSTAN COPPER LIMITED**  
**CORPORATE OFFICE**  
**KOLKATA**

**Name of work:**      **Bid for Production drilling of 57mm and 115 mm dia holes in North Decline stope and Loading and hauling of blasted ore from same stope & dump at primary crusher at surface via weigh bridge for Malanjkhand underground Mines at Malanjkhand Copper Project**

Name of tenderer: \_\_\_\_\_

PROPOSED SITE ORGANISATION

The tenderer is to indicate herewith proposed site organization to be set up for execution of the work which should include qualified Engineers & Mine foremen for supervision of the work as per statute. It is understood that this will be augmented from time to time depending on the requirements for timely completion of work as indicated by Engineer –in Charge.

Bio-data of Site-in-Charge and key personnel including the statutory Foremen/Mate/ Blaster etc.

**NAME, ADDRESS & SIGNATURE OF THE TENDERER**

**APPENDIX – IX C**  
**HINDUSTAN COPPER LIMITED**  
**CORPORATE OFFICE KOLKATA**  
**CERTIFICATE OF SITE VISIT**

Name of work: Bid for Production drilling of 57mm and 115 mm dia holes in North  
Decline stope and Loading and hauling of blasted ore from same stope & dump at  
primary crusher at surface via weigh bridge for Malanjkhand underground Mines  
at Malanjkhand Copper Project

Name of tenderer: \_\_\_\_\_

This is to certify that I, Shri. .... as authorized representative of M/s.  
..... have visited the site on ..... and understood the total scope of  
work of NIT complying Clause No. 1.11.4 and 2.1 of NIT.

(Signature of the Authorized signatory)  
(Name and designation of the of the Authorized signatory)  
Name and seal of Bidder

This is to certify that the authorised representatives of M/s..... have visited the site on / from  
..... to understand the work for the purpose of participating the above tendering process.

Date : (Signature of the Authorized signatory)  
(Name and designation of the of the Authorized signatory)  
Hindustan Copper Limited

**APPENDIX - X**  
**(PART II OF THE BID)**  
**(To be submitted in e tendering portal only) Appendix – X**

NAME OF WORK: NAME OF

THE BIDDER:

Sl	Description	unit	Quantity	Rate (INR)	Amount (INR)
1	Production drilling of 57mm dia holes North Decline stope	mtrs	5000	Not to be filled in hard copy	Not to be filled in hard copy
2	Production drilling 115mm dia holes North Decline stope	mtrs	10000	Not to be filled in hard copy	Not to be filled in hard copy
3	Loading and hauling of blasted ore from stope and unloading at primary crusher at surface via weigh bridge	MT	125000	Not to be filled in hard copy	Not to be filled in hard copy
	<b>Grand Total (1 to 3)</b>				Not to be filled in hard copy

L1 Party shall be decided based on the overall lowest Contract Price, evaluated on the basis of Grand Total value of combined work as per scope of work.

**Note:**

**The above rate will be exclusive of Goods and Services Tax (GST), Royalty, DMF and NMET.** Applicable GST shall be payable by the successful bidder as per clause 8.9 a) and 8.9 b).

(Signature of the Authorized signatory)

(Name and designation of the of the Authorized signatory)

Name and seal of Bidder

**APPENDIX - XI  
CHECKLIST**

<b>Requirement</b>		<b>Complied with (Yes / No)</b>		
All the pages numbered serially				
Each page initialed in indelible ink by the authorised signatory				
All corrections/interlineations initialed in indelible ink by the authorised signatory				
<b>Sl. No.</b>	<b>Document / enclosure for submission</b>	<b>Submitted (Yes / No / Not Applicable)</b>		
1	Bid Security Declaration in the Format at Appendix III, as per Clause 2.14 of NIT.			
<b>Sl. No.</b>	<b>Document / enclosure for submission</b>	<b>Submitted (Yes / No / Not Applicable)</b>	<b>Page No (_to_)</b>	<b>Total No of Pages</b>
1	Covering Letter <i>as prescribed</i> in Appendix I i. Signed by authorized signatory ii. On the letterhead of the Applicant			
2	Details of Applicant <i>as prescribed</i> in Appendix II i. Signed by authorized signatory ii. Attached copy of Memorandum of Association & Article of Association			
3	a) Power of Attorney for signing of Bid executed on non-judicial stamp paper of appropriate value and duly notarised <i>as prescribed</i> in Appendix IV A; b) Extracts of the charter documents such as board or shareholders' resolution/ power of attorney in favour of the person executing the Power of Attorney			
4	Integrity Pact Agreement <i>as prescribed</i> in Appendix-V&VA			
5	Information for Financial qualification – Turnover <i>as prescribed</i> in Appendix VI and Net Worth positive as per Clause 1.5.3 (1) (ii) of NIT i. Signed by Authorized Signatory ii. Signed and sealed by Statutory Auditor of Applicant iii. Attached copies of Audited Annual Reports for 3 (three) preceding consecutive audited financial years ending 31.3.21 for Applicant			

8	Information for Technical qualification as prescribed in Appendix VII i. Signed by Authorized Signatory ii. Copies of all relevant documents/evidences in support of their technical eligibility including Certified copy of proof of production from the employer and copy of the Work Order			
9	Details of Minimum number of equipment including make, year of make, bucket capacity, capacity of equipment etc in the format prescribed at Appendix-VIII i. Signed by Authorized Signatory ii. Delivery schedule in case equipment is to be purchased iii. Catalogue of equipment proposed to be deployed for this work.			
10	Statement of legal capacity <i>as prescribed</i> in Appendix IX A i. Signed by Authorized Signatory ii. On the letterhead of the Applicant			
11	Proposed Site Organization <i>as prescribed</i> in Appendix-IX B i. Signed by Authorized Signatory ii. Bio-data of Site-in-Charge and key personnel			
12	Certificate of Site visit in the format <i>as prescribed</i> in Appendix-IX C i. Signed by Authorized Signatory ii. Counter signed by Unit Head or his representative			
14	Affidavit declaring that no bar has been implied or subsists as on date of the tender, by HCL on the bidder, as per Clause 1.5.2 of NIT.			
15	Affidavit declaring that the bidder has neither failed to perform on any contract related to HCL, as evidenced by an arbitral or judicial authority, a judicial pronouncement or arbitration award against the bidder and no arbitration case is filed against them in this respect, as per Clause 1.5.3 of NIT.			
16	A copy of the tender document with each page initialed by the person signing the bid in pursuance of the power of attorney, as a token of acceptance.			
<b>Sl. No.</b>	<b>Declaration regarding submission of Price Bid in e-procurement portal <a href="https://etenders.gov.in">https://etenders.gov.in</a> only</b>	<b>Submitted (Yes / No / Not Applicable)</b>		
1	Price Bid has been submitted in e tendering portal only and no Price is mentioned in hard copy document i.e. BG submitted at HCL or Techno Commercial Bid submitted.			

Date:

Company Seal of the Applicant

Place:

(Signature of the Authorised Signatory)

(Name and designation)

**SECTION II**  
**CONTRACT**  
**BETWEEN**  
**HINDUSTAN COPPER LIMITED**  
**AND**

**[Please Insert the name of the Contractor]**

**(CONTRACTOR)**

**FOR**

*Production drilling of 57mm and 115 mm dia holes in North Decline stope and Loading and hauling of blasted ore from stope and dump at Primary crusher at surface via weigh bridge*  
*Contract For Production drilling of 57mm and 115 mm dia holes in North Decline stope and Loading and hauling of blasted ore from stope and dump at Primary crusher at surface via weigh bridge is entered into on this the [●] day of [●] 2021 at [●] (hereinafter referred to as the "Contract")*

**BETWEEN:**

**HINDUSTAN COPPER LIMITED**, a company incorporated under the Indian Companies Act 2013 (hereinafter referred to either as the "**Employer** or **HCL**" which expression shall include its successors and permitted assigns) having its registered office at 1, Ashutosh Chowdhury Avenue, Kolkata – 700019 India of the **FIRST PART**;

**AND**

*[Please Insert the Name of the Contractor]*, a company incorporated under the provisions of the Indian Companies Act, 2013, having its registered office at *[Please Insert the Address of the Contractor]*, a company incorporated under the provisions of the Indian Companies Act, 2013, having its registered office at *[Please Insert the Address of the Contractor]*, to execute this Contract for and on their behalf collectively, hereinafter referred to as the "**Selected Bidder** or **Contractor**" (which expression shall unless repugnant to the subject or the context include its successors and permitted assigns) of the **OTHER PART**.

**WHEREAS:**

(A) HCL is a public sector undertaking under the administrative control of the Ministry of Mines.

(B) For undertaking the Work (as defined hereinafter), the Employer has conducted a competitive bidding process for inviting tenders from eligible parties. HCL, after evaluating the tender submitted by the parties, selected *[Please Insert the details of the Selected Bidder]*



(“**Contractor**”) and issued a Letter of Intent (“**LoI**”) for the Work which was duly accepted by the Selected Bidder.

(C) The Contractor has represented that it has the experience, expertise, capability and know-how to ensure that the Works are executed and completed in accordance with the terms of the Contract in a safe and environmentally responsible manner and that the Works will be capable of seamless integration with Related Works and be carried out on, under and over the Work Site (as defined hereinafter).

(D) Relying upon the representations in Recital C, the Employer appoints the Contractor for execution of the Work, and the Contractor agrees to carry out and complete the Works and remedy any defects therein, on the terms and conditions of the Contract.

(E) The Contractor acknowledges that the Employer has entered into or will enter into other contracts with other contractors and/or parties for elements of the Work (as defined hereinafter) (and not comprised in the Works) and that the Employer will have Related Works performed and that it is of paramount importance that the Works are fully and completely co-ordinated with the Related Works in view of their concurrent and sequential nature.

(F) This Contract has been executed and delivered in accordance with the laws of India.

(G) The terms and conditions of this Contract have been fully negotiated between the Employer and the Contractor as parties of competent capacity and equal standing.

NOW THEREFORE in reliance of the mutual covenants and agreements, HCL is desirous of regulating its relationship with the Contractor in accordance with and subject to the terms hereof and in the manner set forth herein.

NOW THIS CONTRACT WITNESSETH AS FOLLOWS:

## ARTICLE - 1

### DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Contract or any documents either issued or that may be issued in connection with this Contract, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

**"Applicable Laws"** means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India including any revisions, amendments or re-enactments including without limitation, Minimum Wages Act, and Workmen Compensation Act, PF Act including any rules, regulations and notifications made there under and judgments, decrees, injunctions, writs, orders and notifications issued by any court of record or any appropriate authorities, as may be in force and effect during the subsistence of the Contract.

**"Applicable Permits"** means any clearance, permit, authorization, consent, license, lease, ruling, exemption, filing, agreements, or approval, required to be obtained and maintained by the Employer and/or the Contractor from time to time, in order to implement the Work and/or to design and execute the Works in accordance with this Contract.

**"Appointed Date"** means the date of issue of Letter of Intent (LoI).

**"Approved"** shall mean approved in writing including subsequent written confirmation of previous verbal approval.

**"Bid"** means the Proposal along with supporting documents submitted against the Tender Document by the Bidder for consideration by the Owner

**"Bidder"** means shall mean the person, firm, association of firms, company or corporation who is eligible for the work as per terms and conditions stipulated in tender document and shall include his / their executors, administrators, successors and permitted assignees.

**"Bid Security"** shall mean the bid security as furnished by the Contractor in response to the tender in the format attached at Appendix I.

**"Business Day"** means a day other than a Sunday or a public holiday on which scheduled commercial banks are open for business in Madhya Pradesh, India.

**"Change in Law"** means (i) any enactment or issuance of any new Applicable Law; (ii) any change in the interpretation or Tender of an existing Applicable Law by any Government Agency having direct authority for such interpretation or Tender; (iii) any amendment, alteration or modification of an existing Applicable Law by any Government Agency having direct authority for the enactment, enforcement or interpretation, thereof; or (iv) the repeal and re-enactment of any existing Applicable Law.

**“Commencement Date”** shall mean the date falling within/ on the expiry of the mobilisation period of 45 days from the date of issue of LoI.

**“Completion”** means the completion of the entire scope of Work herein specified to the required standards accordance with this Contract to the satisfaction of the Engineer-in-Charge, and the terms "Complete" "Completed" "Completion" and "Completing" shall be construed accordingly.

**“Completion Certificate”** means the certificate to be issued by the Engineer-in-Charge after satisfactory installation, testing and commissioning of the awarded work.

**"Confidential Information"** means the Contract and everything contained therein, all documentation, data, particulars of the Works and technical and/ or commercial information made by (or on behalf of) the Employer or obtained directly or indirectly from the Employer or the Employer's Representative by the Contractor or which is generated by the Contractor or any information or data that the Contractor receives or has access to as a result of the Contract, other than information which is generally available in the public domain other than by any unauthorized actions or fault of the Contractor; or which is in the possession of the Contractor with a right to disclose.

**“Contract”** shall mean the Agreement between the Owner and the Contractor for the execution of the works including therein all contract documents.

**“Contractor” or “Successful Bidder”** means the person or persons, Firm/Company or Corporation whose Tender has been accepted by the Client and includes the Contractor’s legal representatives/heirs.

**"Contractor's Documents"** means those documents to be prepared by the Contractor under the Contract including without limitation, such data, Drawings, designs, design information, descriptions, calculations, schedules, specifications, plans, samples, patterns, models, mock-ups, computer software drawings, inspection and test plans, manuals, programs, erection and test data and all other information and documents including all eye readable or computer/other machine readable data relating to the design (to the extent required under the Contract) for execution of the Works or otherwise for the performance of the Contract.

**“Contract Period”** means the period of Contract 06 Months excluding 45 days of mobilization period.

**“Contractual Quantity”** means the quantity for which contract has been entered into.

**“Contract Price”** shall have the meaning ascribed in the applicable clauses in the tender.

**“Contract Payment Due Date”** means 30 days after the submission of bill by the Contractor before which, the Contractor is required to submit the invoice for the actual work done during a particular month, for payments to be released by HCL.

**“Contract Payment Period”** means the period within which, payment is to be made by HCL to the Contractor for the actual work done by the Contractor during the month for which payment is sought.

**“Day”** means the twenty four hours period ending at 24.00 midnight (Indian Standard Time).

**“Dispute”** shall have the meaning ascribed thereto in applicable clauses in the tender.

**“Emergency”** means a condition or situation that is likely to endanger the Mine safety as per Good Industry Practice on or about the Work Site/Work Facilities including safety of users thereof or which poses an immediate threat of material damage to any of the Work Site/Work Facilities.

**“Emergency Works”** shall mean and include all such works necessary to be undertaken to prevent the occurrence/ happening/ further deterioration/ damage/ disaster/ accident/ incident anticipated by the Engineer-in-Charge that could seriously affect the safety of persons/production of Mine or part thereof.

**“Encumbrance”** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Work, physical encumbrances and encroachments on the Work Site/Work Facilities.

**“Engineer-in-Charge/HCL’s Representative”** shall mean such officer or officers having such rights and obligations set out in **Schedule I**, to be designated, deputed or authorized, by HCL for the purpose of this Contract and shall include Engineer-in-Charge’s authorized representatives.

**“Event of Default”** shall have the meaning ascribed thereto in applicable clauses in the tender.

**“Force Majeure Event”** shall have the meaning ascribed thereto in Article 9.

**“Force Majeure Period”** means, as determined by the Engineer-in-Charge, the period commencing from the date of occurrence of a Force Majeure Event and ending on (i) the date on which the Affected Party acting in accordance with the Good Industry Practice, resumes or should have resumed such of its obligations the performance of which was excused as per terms mentioned elsewhere in the tender or (ii) the Termination Date, as applicable.

**“Good Industry Practice”** means those practices, methods, techniques, standards, skills, diligence and prudence which are generally and reasonably expected of and accepted internationally from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Contract and acting generally in accordance with the provisions of all Applicable laws, and would mean good engineering and mining practices in the design, engineering, expansion, construction and work management and which would be expected to result in the performance of its obligations by the Contractor and in the operation and maintenance of the Mining Facilities, in accordance with this Contract, Applicable Laws,

Applicable Permits, reliability, safety, environment protection, economy and efficiency. For avoidance of doubt, it is clarified that in the event of a conflict between any Good Industry Practice and any requirement and/or standard prescribed by the DGMS, the latter shall prevail and the Contractor shall have to oblige with the provisions of the latter.

**"GoI"** means the Government of India and includes any agency, authority (including any regulatory authority) department, inspectorate, ministry or statutory person (whether autonomous or not) under the control and direction of the Government of India.

**"GoMP"** means the Government of Madhya Pradesh and any agency, authority (including any regulatory authority) department, inspectorate, ministry or statutory person (whether autonomous or not) (including any successor there for) under the control and direction of the Government of Madhya Pradesh.

**"Government Agency"** means GoI, GoMP, HCL or any state government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Contractor, the Work Site/ Work Facilities or any portion thereof, or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Contract.

**"HCL's Requirements"** means the document or documents identified as such and included in the Contract and any modifications thereof or addition thereto as may from time to time be issued by (or on behalf of) the Engineer-in-Charge in accordance with the Contract.

**"Joint Inspection Certificate"** shall have the meaning that completion will be inspected jointly.

**"Material Adverse Effect"** means material adverse effect on (a) the ability of the Contractor to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Contract and/or (b) the legality, validity, binding nature or enforceability of this Contract.

**"Material Breach"** means a breach by either Party of any of its obligations under this Contract which has or is likely to have a Material Adverse Effect on the Work and which such Party shall have failed to cure.

**"MCP"** means Malanjkhand Copper Project at Malanjkhand, Baihar, Balaghat, Madhya Pradesh - 481116.

**"Mobilization Period"** means 45 days from the date of issue of Letter of Intent, during which, the Contractor is required to mobilize his resources and commence the Works at the Site.

**"Month"** means a period beginning at 00-00 hours (Indian Standard Time) on the first day of a given English calendar month and ending at 00-00 hours (Indian Standard Time) on the first day of the next succeeding English calendar month.

**"Owner"** or **"Client"** means the Hindustan Copper Limited.

**“Parties”** means the parties to this Contract collectively and **“Party”** means either of the Parties to this Contract individually.

**“Security Deposit”** means the deposit for security of performance of its obligations during the Contract Period to be provided by the Contractor in accordance relevant applicable clause/clauses mentioned in the tender.

**“Period of Liability”** in relation to a Work means a period of **6 months** from the date of Completion, during which the Contractor stands responsible for rectifying all defects that may appear in the Work.

**“Person”** means (unless otherwise specified or required by the context), any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or Government Agency or any other legal entity.

**“Preliminary Notice”** means the notice of intended Termination by the Party entitled to terminate this Contract to the other Party setting out, inter alia, the underlying Event of Default.

**“Shift”** means the eight hours period consisting three shifts in a day (Indian Standard Time).

**“Work”** means engineering, procurement, construction and designing of the Works and all Related Works in relation to the Work, in accordance with the provisions of this Contract.

**“Work Agreements”** means collectively this Contract and any other material contract entered into or may hereafter be entered into by the Contractor in connection with the Work.

**“Project Manager”** means any person appointed and authorized by the Contractor, who will take decision at Work Site independently and on behalf of the Contractor during the implementation of the Contract.

**“Work Site / Site”** means Malanjkhanda Copper Project, Balaghat, Madhya Pradesh, India where the Work is to be implemented by the Contractor in accordance with the Work Requirements or provision of any Temporary Work or for any other purpose for execution of Work.

**“Related Works”** means works other than the Works, performed or undertaken by the Employer or other contractors or suppliers of the Employer or any contractor employed in connection with the Work and/or services related thereto or by public or private utilities or by any Government Agency or other authorities or by any relevant authority, either prior to, concurrently or sequentially with the Works at, on, over or adjacent to the Work Site in connection with or related to the Work and which may be connected to, associated with, ancillary to or otherwise related to or relevant to the Works.

**“Representative”** means either the HCL’s representative or the Contractors representative.

**“Retention money”** means the money which is hold by HCL for successful performance of the contract.

"**Specifications**" shall mean all directions, various technical specification, provisions and requirements attached to the contract, which pertain to the method and manner of performing the work or works to the quantities and qualities of the work or works and the materials to be furnished under the contract.

"**Site**" shall mean the lands and other places on, under, in or through which the permanent works are to be carried out and any other lands or places provided by HCL for the purpose of the contract.

"**Tender**" means collectively the tender issued to bidders including any supplements/amendments thereto and other documents, drawings, specifications, agreed variations, if any.

"**Rs.**" or "**Rupees**" refers to the lawful currency of the Republic of India

"**Tax**" means and includes all taxes, fees, cess, levies that may be payable by the Contractor under any Applicable Law.

Tax shall not include any penalty, interest or other penal sum levied on or payable by the Contractor on account of non-payment, short payment or delayed payment of Tax or on account of any other default.

"**Temporary Works**" shall mean every work which is of a temporary nature, and which the Contractor shall remove, or at the option of HCL, hand over to HCL, upon such temporary works having fulfilled the reason for which they were required by the Contractor.

"**Termination**" means early termination of this Contract pursuant to Termination Notice or otherwise in accordance with the provisions of this Contract but shall not, unless the context otherwise requires, include the expiry of this Contract due to efflux of time in the normal course.

"**Termination Date**" means the date specified in the Termination Notice as the date on which Termination occurs.

"**Termination Notice**" means the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Contract

"**Tests**" means the tests to be carried out by Contractor to ascertain the safety and reliability of the Works carried out by the Contractor for the Work.

"**Tonnes**" or "**tonne**" or "**te**" or "**Te**" or "**t**" means a metric tonne of 1,000 (One thousand) kilograms.

"**Work/ Works/ Job**" shall mean all or any portion of the entire activities to be performed in relation to the Work of hauling of rock in accordance with the scope of the work, whether supplemented or not by HCL or the Engineer-in-Charge during the progress of execution of the activities by the Contractor by explanatory instructions.

## **1.2 Interpretation**

In this Contract, unless the context otherwise requires,

- a. any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- b. references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or byelaws which have the force of law in any State or Union Territory forming part of the Union of India;
- c. the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- d. The headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Contract;
- e. The words "include" and "including" are to be construed without limitation;
- f. References to "construction" include investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- g. Any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- h. The Schedules to this Contract form an integral part of this Contract and will be in full force and effect as though they were expressly set out in the body of this Contract;
- i. any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
- j. References to recitals, Articles, sub-articles, Clauses, or Schedules in this Contract shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, Clauses and Schedules of or to this Contract;
- k. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Contract from or by any Party or the Engineer-in-Charge shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the Engineer-in-Charge, as the case may be, in this behalf and not otherwise;



- l. Unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days and dates.

### **1.3 Measurements and Arithmetic Conventions**

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

### **1.4 Ambiguities and Discrepancies**

In case of ambiguities or discrepancies within this Contract, the following shall apply:

- a. Between two Articles of this Contract, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
- b. Between the written description on the Drawings and the Specifications, the latter shall prevail;
- c. Between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail;
- d. Between any value written in numerals and that in words, the latter shall prevail.

### **1.5 Resolution of Inconsistencies in Contract Documents**

The provisions of the various Articles of this Contract shall prevail over those of any other documents forming part of the Contract. Should there be any discrepancy, inconsistency, error and omission or any of them arises in the Contract, the matter may be referred to the Engineer-in-Charge, who shall give his decision and issue instructions to the Contractor, directing the manner in which the work is to be carried out. The decision of the Engineer-in-Charge shall be conclusive and final and the Contractor shall carry out the work in accordance with the decision of the Engineer-in-Charge.

### **1.6 Background Information and the manner in which discrepancies are resolved**

**1.6.1** The Employer gives no warranty or undertaking as to the completeness, accuracy or fitness for purpose of any of the Background Information or the various documents that together comprise the Contract. Subject to the express provisions of the Contract, neither the Employer nor any of its agents or servants shall be liable to the Contractor in contract, tort (including negligence or breach of statutory duty), statute or otherwise as a result of:

- a. Any inaccuracy, omission, unfitness for purpose or inadequacy of any kind whatsoever in the Background Information;
- b. Any failure to make available to the Contractor any materials, documents, drawings, plans or other information relating to the Works or the Work;

- c. Any ambiguities, discrepancies, inconsistencies, divergences, design or construction impracticalities or omissions from, within, or between the documents which comprise the Contract.

**1.6.2** The Contractor warrants and represents to the Employer that:

- a. it has conducted its own analysis and review of the Background Information and that it has satisfied itself as to the accuracy, fitness for purpose and completeness of all such Background Information; and
- b. the Contractor has thoroughly examined the documents comprising the Contract and is satisfied that there are no ambiguities, discrepancies, inconsistencies, divergence, design or construction impracticalities or omissions from, within and between such documents and that such documents are accurate, complete and sufficient in all respects for the purposes of the design and execution of the Works; and
- c. after a complete and careful examination, it has made an independent evaluation of the scope of the Works required and has determined the nature and extent of the difficulties, risks and hazards that are likely to arise or may be faced by it in or about of the performance of all its obligations in the Contract. The Contractor hereby acknowledges its responsibility in respect of all such risks and hazards and agrees that the Employer shall not be liable in respect of the same in any manner whatsoever to the Contractor whether in contract, tort, statute or otherwise.

**1.6.3** Without prejudice if, notwithstanding the Contractor's analysis and examination of the documents comprising the Contract, any ambiguities, discrepancies, inconsistencies, divergence, design or construction impracticalities or omissions from, within or between any of the documents comprising the Contract, come to the attention of either Party, that Party shall immediately notify the other Party and HCL's Representative, specifying the ambiguity, discrepancy, inconsistency, divergence, design or construction impracticality or omission (as the case may be) and HCL's Representative shall issue instructions in regard thereto.

**1.6.4** The Parties agree that any ambiguity, discrepancy, inconsistency, divergence, design or construction impracticality or omission as aforesaid shall not vitiate the Contract. No instruction given by HCL's Representative, shall amount to a change and the Contractor shall not be entitled to any extension of time or additional payment in respect thereof.

**1.6.5** HCL's Requirements shall remain in the sole custody of HCL's Representative but two copies thereof shall be furnished to the Contractor free of charge. The Contractor shall provide and make at its own expense any further copies required by it.

## **ARTICLE - 2**

### **CONTRACT**

#### **2.1 Grant of Contract**

Subject to and in accordance with the terms and conditions set forth in this Contract, HCL hereby grants and authorizes the Contractor to investigate, study, design, engineer, procure, finance and carry out office/camp construction and any other work related to the awarded work in accordance with the provisions of the Contract and Good Industry Practices and to exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Contract.

#### **2.2 Contract Period**

Duration of contract is 06 Months from the date of issue of LoI /Work Order whichever is earlier, excluding 45 days for mobilization.

The Contract Period may be extended further for reasons as stipulated under Article 8.7 hereunder, provided that the period of any such extension shall be decided by HCL in its sole and absolute discretion.

#### **2.3 Contractual Quantity**

- A. The total of 10,000 m of drilling of 115 mm dia holes and 5,000 m of drilling of 57 mm dia holes to be done within the contract period of 6 months.
- B. 1,25,000 tonnes of blasted ore to be loaded and hauled up to primary crusher at surface via weigh bridge within the contract period of 6 months.

#### **2.4 Acceptance of Contract**

In consideration of the Contract Price agreed to be paid by HCL and other good and valuable consideration expressed herein, the Contractor hereby accepts the Contract and agrees and undertakes to implement the Work/provide and operate Work Facilities, and to perform/discharge all of its obligations as per Good Industry Practices and in accordance with Applicable Laws and the provisions hereof.

## ARTICLE – 3

### CONDITIONS PRECEDENT

#### 3.1 Conditions Precedent

The rights and obligations of the Contractor under this Contract are subject to the satisfaction in full of the following conditions precedent to be fulfilled on or before Commencement Date unless any such condition has been waived as provided in this Article:

- a. the Contractor shall have applied for or obtained necessary Applicable Permits unconditionally or if subject to conditions then all such conditions have been satisfied in full and such Applicable Permits are and shall be kept in full force and effect for the relevant period during the subsistence of this Contract;
- b. certified true copies of all Work Agreements have been delivered by the Contractor to HCL;
- c. the Performance Security has been provided by the Contractor to HCL and the same is in full force and effect;
- d. all of the representations and warranties of the Contractor set forth in this Contract are true and correct as on date of this Contract and as on the Commencement Date;
- e. HCL shall have received from the Contractor copies (certified as true copies by an authorized officer of the Contractor) of the constitutional documents of the Contractor;
- f. HCL shall have received copies (certified as true copies by a director of the Contractor) of all resolutions adopted by the Board of Directors of the Contractor authorizing the execution, delivery and performance by the Contractor of this Contract and each of the Work Agreements;
- g. HCL shall have received from the Indian legal counsel of the Contractor a legal opinion with respect to the authority of the Contractor to enter into this Contract and the Work Agreements and the enforceability of the provisions thereof;
- h. The Contractor having executed the Integrity Pact as given in **Appendix VA.****
- i. The Contractor ensuring that its personnel have adequate insurance coverage and are medically fit (as per legal requirements for working in mines), and have adequate vocational training.

Any of the conditions precedents as set forth above may be waived fully or partially by HCL at any time in its sole discretion.

### **3.2 Obligation to Satisfy the Conditions Precedent**

The Contractor shall make all reasonable endeavors to satisfy the conditions precedent set out in Article 3.1 above and shall bear its respective cost and expense of satisfying such condition precedent unless otherwise expressly provided.

### **3.3 Termination upon failure to satisfy the Conditions Precedent**

If the conditions precedent are neither fulfilled on or before the Commencement Date or any other later date as may have been stipulated by HCL, nor waived, then HCL shall have the right to terminate this Contract without any liability to any Party by giving thirty (30) days' notice and Performance Security, as the case may be, by the Contractor shall stand forfeited.

## **ARTICLE - 4**

### **WORK SITE**

#### **4.1 Handover of Work Site**

- a. HCL shall assign work to the Contractor at the designated Work Site free from encumbrance together with the necessary right of access for the purpose of implementing the Work within 45 days from the date of issuance of LoI.
- b. Upon the Work Site or any part thereof being handed over pursuant to the Article 4.1 (a), the Contractor shall, subject to the provisions of Article 3, have the right to enter upon, occupy and use the Work Site or part thereof delivered to it by HCL and to make at its costs, charges and expenses, such investigation, expansion, excavation and improvements in the Work Site as may be necessary or appropriate to implement the Work in accordance with the provisions of this Contract.

#### **4.2 Rights, Title and Use of the Work Site**

- a. The Contractor shall have the right to the use of the Work Site in accordance with the provisions of this Contract and for this purpose it may regulate the entry and use of the same by other parties with HCL's permission. Provided that such access or use by the Contractor and/or any other party shall not result in a Material Adverse Effect and that the Contractor shall, in the event of any physical damage to the Work Site/Work Facilities on account thereof, ensure that the Work Site/Work Facilities are promptly restored at its cost and expenses.
- b. Provided further, that to the extent such access and use allowed to the Contractor affects the performance of any of its obligations hereunder, the Contractor shall not be deemed or construed to be in breach of its obligations nor shall it incur/suffer any liability on account thereof.
- c. The Contractor shall not part with or create any Encumbrance on the whole or any part of the Work Site save and except as set forth and permitted under this Contract.
- d. The Contractor shall not without the prior written consent or approval of HCL use the Work Site for any purpose other than for the purpose of the Work/the Work Facilities and purposes incidental or necessary thereto.

#### **4.3 Peaceful Possession**

HCL hereby warrants that:

- a. The Work Site together with the necessary access to the Work Site having been acquired through the due process of law belongs to and is vested in HCL, and that HCL has full powers to hold and deal with the same consistent, inter alia, with the provisions of this

Contract and that the Contractor shall, in respect of the Work Site, have no liability regarding any compensation payment on account of land acquisition or rehabilitation/resettlement of any Persons affected thereby.

- b. The Contractor shall, subject to complying with the terms and conditions of this Contract, execute work at the designated work site during the contract period. In the event the Contractor is obstructed by any Person claiming any right, title or interest in or over the Work Site or any part thereof or in the event of any enforcement action including any attachment, distain, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/ charge on the Work Site or any part thereof, HCL shall, if called upon by the Contractor, defend such claims and proceedings and also keep the Contractor indemnified against any consequential loss or damages which the Contractor may suffer, on account of any such right, title, interest or charge.

**ARTICLE - 5**  
**ENGINEER-IN-CHARGE**

**5.1 Nomination of Engineer-in-Charge**

HCL shall immediately and in any case not later than one (1) week of the Appointed Date (date of issue of LoI), nominate an officer to carry out roles and responsibilities of Engineer-in-Charge for the Work and communicate the details of the same to the Contractor.

Further, the Engineer-in-Charge shall nominate another officer who could act in his position on instances of the said officer (*i.e.* the Engineer-in-Charge) being away from the Work Site.

**5.2 Rights and Obligations of Engineer-in-Charge**

Engineer-in-Charge shall be the representative of HCL to review, monitor, co-ordinate activities and issue directions related to the Work.

Acts of Engineer-in-Charge as far as it is within the rights and obligations set out in **Schedule I** shall be deemed to be acts of HCL.

**5.3 Notifications of change in Office of Engineer-in-Charge**

In the event of change in the office of Engineer-in-Charge due to retirement/ replacement / vacation of the nominated officer, HCL shall promptly notify the details of such change to the Contractor.



## ARTICLE - 6

### CONTRACTOR'S OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Contract, the Contractor shall have the following obligations:

**6.1 Performance Security Deposit:** Security Deposit appearing in Schedule VI shall consist of Performance Security @ 3% to be submitted at the award of work.

- a. The Contractor shall, for due and punctual performance of its obligations during the Contract Period, deposit a Performance Security (PSD) which shall be equal to three (3) per cent of the Contract Price with HCL, within thirty (30) days from the issuance of LoI.
- b. The Performance Security Deposit (PSD) for the complete amount, as stated in (a) above, shall be payable by the Contractor by way of RTGS/Demand Draft/ Pay Order/Banker's Cheque/Bank Guarantee from a schedule commercial bank in the format prescribed under **Schedule VI**. Performance Security Deposit in any other format is not acceptable. Payment shall not be released if PSD has not been deposited in totality.
- c. The Bank Guarantee (BG) shall be valid initially for a period of 12 months from the date of issue of LoI and shall be renewed for same period on or before at least 30 (thirty) days prior to the date of expiry and the same procedure to be continued till the end of the Contract period and / or till six months after the issue of completion certificate, whichever is later. In case of failure of the contractor to extend the BG before the expiry date, HCL will have the right to en-cash the BG. HCL will intimate the bank one month prior to expiry date of BG for encashment of the same if BG is not extended beyond expiry date.
- d. HCL is at liberty, after having given fourteen (14) days written notice to the Contractor and without any further reference to the Contractor, to realize and / or forfeit the Performance Security deposit for non-fulfillment and or for unsatisfactory performance of the Contract or any clauses thereof.
- e. Performance Security Deposit in the form of Bank Guarantee shall remain binding notwithstanding such variations, alterations or extensions in time as may be made, given, conceded or agreed to between the Contractor and HCL, and the Contractor agrees to extend the Bank Guarantee suitably if the Work is not completed as per the Contract Period or it is extended by the written consent of HCL.
- f. HCL shall not be liable for payment of interest under Performance Security Deposit.
- g. The Performance Security Deposit shall be released, on application by the Contractor within one (1) month of issue of final work completion certificate by HCL.

- h. The Bank Guarantee shall not in any way be construed as a limitation of the Contractor's responsibility or liability pertaining to its obligation and guarantees under the Contract and shall be without prejudice to any other remedies available to HCL as expressly set out in the Contract.
- i. The method of submission of Bank Guarantee is as below:
- i. The bank guarantees issued by the issuing bank on behalf of the successful bidder in favour of Hindustan Copper Limited (HCL) shall be in paper form as well as Structured Financial Messaging System (SFMS).
  - ii. HCL has chosen State Bank of India to act advising bank of HCL. The bank issuing the guarantee can chose the bank to send confirmation through SFMS.
  - iii. The details of beneficiary (i.e. HCL) for issue of bank guarantee in SFMS platform is as furnished as below.

State Bank of India as advising bank of HCL

Name and Details of Beneficiary	I	Name	Hindustan Copper Limited
	II	Address	Tamra Bhavan, 1, Ashutosh Chowdhury Avenue, Kolkata 700019
	III	Area	Kolkata 700019
	IV	Name of Bank	State Bank of India
	V	Bank A/C No	00000030503862540
Beneficiary's Advising Bank, Branch and Address for Confirmation of BGs through SFMS	I	Name of the Bank	State Bank of India
	II	Name of the Branch of the Bank	CCG Branch Kolkata
	III	MICR Code	700002199
	IV	IFSC Code	SBIN009998
	V	Address of the Branch of the Bank	34- J L Nehru Road. Sri Briddhi Bhavan, Kolkata700071

- iv. The Successful bidder is required to take note of it that above particulars are to be incorporated by the issuing bank properly while issuing the Bank Guarantee under SFMS mode to avoid any future problem in accepting the BGs.
- v. The Guarantor (BG issuing bank) shall send information about issuance of this Guarantee through SFMS gateway to the State Bank of India, CAG Branch Kolkata (IFSC-SBIN0009998), to aid in the process of confirmation of Bank Guarantee.
- vi. The Original Bank Guarantee issued by the outstation bank shall be sent by the Issuing Bank to the Hindustan Copper Limited at Kolkata by Speed Post /Registered Post (AD).

## **6.2 Contract Execution Plan**

### **6.2.1 Work Plan**

- a) The Contractor shall, within fifteen (15) days of date of issue of LoI, in consultation with the Engineer-in-Charge finalize and submit to the Engineer-in-Charge, a Work Plan. The plan will contain resource mobilization plan giving details of manpower (statutory, supervisory, skilled, semi-skilled and unskilled), machinery, equipment tools and tackles and other major materials/ consumables as required for completion of the work as per schedule.

The Engineer-in-Charge shall review the Plan submitted by the Contractor within five (5) days of the receipt thereof and convey its comments/observations to the Contractor including the need, if any, to modify the same. If the comments/ observations of the Engineer-in-Charge require, the Plan to be modified, the Contractor shall suitably modify the same and resubmit it to the Engineer-in-Charge for further review within five (5) days. The Engineer-in-Charge shall give its observations and comments, if any, within three (3) days of receipt of such revised Plan, which shall be incorporated by the Contractor into the final Plan.

In the event that the Engineer-in-Charge is not able to review the Plan in full within the prescribed time, the Engineer-in-Charge may advise the Contractor to commence the Works. Notwithstanding any such review or failure to review by the Engineer-in-Charge, the Contractor shall be solely responsible for the adequacy of the Plan and the Contractor shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.

### **6.2.2 Other submissions**

The Contractor shall before the Commencement Date i.e. within forty five days (45 days) from the date of issuance of LoI, will submit to HCL / Engineer-in-Charge, the following information, for the records of HCL:

- i. Provident Fund Account Details

- ii. Organization Structure
- iii. Details of Work Manager, Key supervisory staff
- iv. Contract Labour License
- v. Medical Examination Records of the Employees as per Mines Act
- vi. Permanent account number of Income tax (PAN)
- vii. TIN
- viii. GST Registration number
- ix. Other information as per requirement of contract, if any

### **6.3 Works**

- i.** The Contractor is required to commence the Works on the Commencement Date i.e. within 45 days or earlier from the date of issuance of LoI.
- ii.** The Contractor shall in accordance with Good Industry Practices adhere to the Plan and complete the Works on or before the expiry of the Contract Period or as per agreed schedule.
- iii.** The Contractor shall, before commencement of the Works;
  - a) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Work, to deal with the Engineer-in-Charge /HCL and to be responsible for all necessary exchange of information required pursuant to this Contract;
  - b) Construct, provide and maintain a reasonably furnished site office accommodation for its Project Manager and key supervisors at the Work Site.
  - c) Have achieved Completion of Mobilization.
 

Failure to achieve the Completion of Mobilization before the commencement of Works shall not constitute a ground for extension of Contract Period.
- iv.** For the purposes of determining that the Works are being undertaken in accordance with the Work Requirements, the Contractor shall on its own and/or whenever directed by Engineer-in-Charge, with due diligence, carry out all necessary and periodical Tests in accordance with the instructions and under the supervision of the Engineer-in-Charge. The Contractor shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- v.** On completion of the Works as per the Plan, the Contractor will notify the same to Engineer-in-Charge and ascertain the completeness and acceptability of the work.
- vi.** The Engineer-in-Charge may, by written notice, require the Contractor to suspend forthwith

the whole or any part of the Works if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Work Requirements and/or Plan.

- vii.** Contracts must comply with the provisions of the contract and each and every clause of scope of work will be binding upon them.

#### **6.4 Material Breach of Work Requirements**

- (i) The Contractor shall be deemed to be in Material Breach of Work Requirements if the Engineer-in-Charge acting reasonably and in accordance with the provisions of this Contract, has determined that due to breach of its obligations by the Contractor:
- a) There has been failure/undue delay in implementation of the Works and the Works have not been carried out in accordance with the Work Requirement/ Plan;
  - b) There has been a serious or persistent default in adhering to safety requirements and standards as prescribed by DGMS and thereby the Mining Facilities or any part thereof is not safe for operations;
  - c) There has been persistent breach of Work Requirements/ Plan.

For avoidance of doubt, persistent breach shall mean:

- i. Any breach of Work Requirements by the Contractor which has not been remedied by the Contractor despite a notice to remedy in respect thereof issued by the Engineer-in-Charge/HCL; or
- ii. Recurrence of a breach by the Contractor, during the pendency of notice to remedy by the Engineer-in-Charge/HCL requiring the Contractor to remedy a breach; or
- iii. Repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to notice to remedy or otherwise.

#### **(ii) HCL's Rights**

Upon occurrence of a Material Breach of Work Requirements, HCL shall, without prejudice to and notwithstanding any other consequences provided therefore under this Contract, be entitled to terminate this Contract.

#### **6.5 Insurance**

- a) The Contractor shall at its cost and expense, purchase and maintain, during the Contract Period such insurance as are necessary including but not limited to the following:
- i. Comprehensive third party liability insurance including injury or death of personnel / representatives of Persons who may enter the Work Site;
  - ii. Workmen's compensation insurance;
  - iii. Any other insurance that may be necessary to protect the Contractor, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

**b) Evidence of Insurance**

The Contractor shall, from time to time, provide to HCL copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Contractor in accordance with this Contract.

**c) Validity of Insurance**

The Contractor shall from time to time promptly pay insurance premium, keep the insurance policies in force and valid throughout the Contract Period and furnish copies thereof to HCL.

**d) Application of Insurance Proceeds**

Unless otherwise provided herein, the proceeds of all insurance policies received shall be promptly applied by the Contractor towards repair, renovation, restoration or re-instatement of the Work Facilities or any part thereof which may have been damaged or destroyed. The Contractor may designate the Lenders as the loss payees under the insurance policies or assign the insurance policies in their favour as security for the financial assistance provided by them to the Work. The Contractor shall carry out such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Work Facilities after such repair, renovation, restoration or re-instatement be as far as possible in the same condition as it were prior to such damage or destruction, normal wear and tear excepted.

**6.6 Employment of Labour**

The Contractor shall, at its cost employ all necessary workmen and personnel for due and punctual performance of its obligations during the Contract Period in accordance with all Applicable Laws and the conditions specified in **Schedule II** and Good Industry Practices.

**6.7 Health & Safety, Training, and Environment**

**6.7.1** The Contractor shall ensure, at its own cost, that its workers, employees and personnel are suited for undertaking the Works. Additionally, all personnel of the Contractor will have to undergo an Initial Medical Examination (“IME”) before they can commence work on the Work Site. For persons above forty five (45) years of age Periodical Medical Examination (“PME”) has to be conducted at the end of the third (3<sup>rd</sup>) year. IME and PME shall be carried out at Malanjkhanda copper project hospital. The Charge for IME is Rs 460.00 (Rupees four hundred and sixty only) per person and charge for “O” Form for PME is Rs740 (Rupee seven hundred forty only). Contractor shall also maintain complete first aid facilities for all his employees and personnel. Industrial injuries shall be reported promptly to the Engineer-in-Charge / HCL, and a copy of Contractor’s report covering each personal

injury requiring the attention of a physician shall be furnished to the Engineer-in-Charge. Prior to the employment, each worker likely to be engaged by the Successful Bidder should be medically examined and only medically fit persons will be allowed to work.

**6.7.2** First Aid facilities and provisions as required under Mines Rules, 1955 with latest amendments shall be kept at the work site by the Successful Bidder.

**6.7.3** The Successful Bidder shall be responsible for and shall pay compensation to his workmen which would be payable for injuries due to accidents and/or notified and compensable disease under the Workmen's Compensation Act 1923, hereinafter called the said Act. If such compensation is paid by HCL as principal employer under sub-section (1) of the section (12) of the said Act, such compensation shall be recovered by HCL from his Security Deposit or from any sum which may be due or may become due to the Successful Bidder on any account whatsoever, the Successful Bidder should adequately insure the workers, and HCL shall not permit the Successful Bidder to start the work unless such insurance certificate is produced.

**6.7.4** All personnel of the Contractor will be given vocational training including initial training & special training for operators etc. free of cost at the Vocational Training Centre of Malanjkhanda Copper project by HCL.

**6.7.5** Additionally, the Contractor shall, at its cost, comply with all necessary environment, health and safety measures for due and punctual performance of its obligations during the Contract Period in accordance with all Applicable Laws and the conditions specified in **Schedule III** and Good Industry Practices.

## **6.8 Special Conditions**

- a) All rock obtained from excavation at the Work Site shall remain the property of HCL and shall be disposed of at the site/location allocated by Engineer-in-Charge.
- b) All fossils, gold, coins and articles of antique value and interest found at the Work Site shall be the absolute property of HCL and the Contractor shall take reasonable precautions to prevent its workmen or any other person from removing or damaging any such articles and shall inform immediately upon finding thereof and before removal inform the Engineer-in-charge and carry out the Engineer-in-Charge's directions as to the manner of treatment of the same.
- c) Immediately, on request of HCL, carry out diligently all Emergency Works.

## **6.9 General Obligations**

The Contractor shall at its own cost and expense:

- a) File all necessary and statutory application, returns and reports and obtains all Applicable Permits in conformity with the Applicable Laws and be in compliance thereof at all times

- during the Contract Period;
- b) Procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Work;
  - c) Endeavour to incorporate in each Work Agreement specific provisions that would entitle HCL or a nominee of HCL to step into the same at HCL's discretion, in place and substitution of the Contractor;
  - d) Provide all necessary assistance to the Engineer-in-Charge as it may reasonably require for the performance of its duties and services;
  - e) Appoint, supervise, monitor and control as necessary, the activities of Contractors, if any, under the respective Work Agreements;
  - f) Make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Contract;
  - g) Make its own arrangements for construction materials and observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits;
  - h) Be responsible for quality, soundness, durability, safety and the overall Work Requirements to implement and/or operate and maintain the Work/Work Facilities;
  - i) Ensure that the Work Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;
  - j) Afford access to the Work Site to the authorized representatives of HCL, the Engineer-in-Charge and any Government Agency having jurisdiction over the Work Site, including those concerned with safety, security or environmental protection to inspect the Work and to investigate any matter within their authority and upon reasonable notice, the Contractor shall provide to such persons assistance reasonably required to carry out their respective duties and functions;
  - k) Obtain at its costs and charges, special or temporary right of access, occupation or user of any property that may be required by it in connection with implementation of the Work. The Contractor shall also obtain at its cost such facilities as may be required by it for the purposes of the Work and the performance of its obligations under this Contract.
  - l) Contractor shall be responsible to establish and maintain Time Office at site as required under the statute.
  - m) Fencing and barricades:**
    - 1. Successful Bidder shall erect and maintain fencing and barricades required in connection with his operation to guard or protect-



- i) Excavations,
  - ii) Hoisting areas,
  - iii) Areas adjudged, hazardous by Successful Bidder's or Owner's representatives,
  - iv) Owner's existing property likely to be damaged by Successful Bidder's operations,
  - v) Unloading spots, and
  - vi) Any other place as directed by the Engineer-in-charge.
2. Successful Bidder's employees shall become acquainted with Owner's barricading practice and shall respect the provisions thereof.
- n) **Safety provisions to be displayed on notice board:** The safety provisions should be displayed on the notice board at a permanent place at the work spot. The person responsible for compliance of the safety code shall be named therein by the Successful Bidder.
  - o) **Support:** Wherever necessary, temporary support shall be provided/ erected and maintained so as to keep the area in safe condition till the permanent support is provided/erected. If in the opinion of the Engineer-in-charge any other type of support is necessary, Successful Bidder shall comply with the instructions.
  - p) **Alignment:** It shall be Successful Bidder's responsibility to excavate all drives, cross-cuts, and other excavations to correct alignment, gradient and dimensions. However, HCL may perform check survey as per requirement and the Successful Bidder shall render all the necessary facilities to perform the task.

#### **6.10 No Breach of Obligations**

The Contractor shall not be considered to be in breach of its obligations under this Contract nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Contract is affected by or on account of any of the following:

- a) Force Majeure Event, subject to Article 9
- b) HCL Event of Default,
- c) Compliance with the instructions of the Engineer-in-Charge/HCL or the directions of any Government Agency other than instructions issued as a consequence of a breach by the Contractor of any of its obligations hereunder;
- d) Emergency decommissioning of the Work or part thereof;
- e) Contractor's inability to remove any accident debris due to non-completion of any police / insurance related inquiry/survey despite prompt steps having been taken by the Contractor in that regard.

#### **6.11 Related Works**

### **6.11.1 Contractor's acknowledgement**

The Contractor acknowledges that Related Works may be performed and that it is of paramount importance that the design and execution of the Works are fully and completely coordinated with the Related Works in view of their concurrent and sequential nature and that such coordination is of the utmost importance to the successful integration of the Works with the Related Works and to the timely completion of the Work.

### **6.11.2 Related Works' responsibilities**

Accordingly, the Contractor shall at its own cost and expense, at all times and otherwise in accordance with the requirements and directions of HCL's Representative:

- a) Plan, programme, and perform the design and execution of the Works so as to minimize any interference with or hindrance of the performance of the Related Works; and
- b) At all times take every necessary step to protect the Works from accidental damage caused by the Related Works; and
- c) At all times co-operate with the Employer, HCL's Representative and any Related Works contractors so as to promote and foster a coordinated and integrated approach to the Works and the Related Works. The Contractor shall co-ordinate its activities with Related Works contractors so as to prevent, as far as possible, the performance of work by such Related Works contractors from impeding the performance of the Contractor or unreasonably disturbing the free movement of traffic around, on or in the vicinity of the Work Site; and Comply with all obligations as to interfacing the Works with the Related Works as are detailed in HCL's Requirements; and
- d) Advise the Employer if any plans, designs, specifications and drawings of the Related Works contractors supplied by the Employer are in any way incompatible or inconsistent with or otherwise detrimental to the Works. In the case of such incompatibility or inconsistency the Contractor shall supply the Employer with full details of the same and make appropriate recommendations as to how the incompatibility or inconsistency may be remedied; and
- e) Monitor the coordination and integration of the Works with the Related Works and advise the Employer's Representative in writing as and when it becomes apparent that execution of the Works is likely to be the subject of delay and/or disruption and recommend reasonable proposals to reduce or prevent such delay and/or disruption.

### **6.11.3 Co-ordination meetings**

HCL's Representative shall convene regular co-ordination meetings with the Contractor and Related Works contractors in order to:

Resolve conflicts in the order and sequence of the Works and Related Works in order to effect

reasonable co-ordination and integration of the execution of the Works with the execution of the Related Works; and

#### **6.11.4 Failure to co-ordinate**

In the event that the design and execution of the Work and the design and execution of the Related Works are not being coordinated and integrated to the reasonable satisfaction of the Employer's Representative, the Employer's Representative may issue such instructions as is necessary including, but not limited to:

- (a) suspending the progress of the design (to the extent required by the Contract) or execution of the Works or any part thereof; and/or
- (b) Changing the Works including the omission of work from the Contract and its execution by others at the risk and cost of the contractor.

For the avoidance of doubt, where the Employer's Representative acting reasonably, determines that an instruction under the relevant clause of the contract is required as a result of a breach by the Contractor of its obligations. The Contractor shall not be entitled to any payment whatsoever in respect of any such instruction or to any extension of time in respect thereof and the costs to the Employer of such instruction including the cost of any such suspension, or removal and execution by others shall, without prejudice to the Employer's other rights under the Contract, be deducted from the Contract Price.

#### **6.11.5 The Employer's Representative's assistance**

In the event that the design and execution of the Works and the design (if any) and execution of any Related Works are unable to be coordinated and integrated in accordance with this Article 6.11 as a result of circumstances beyond the control of the Contractor, the Contractor may request the Employer's Representative:

- (a) to issue within ten (10) days of the Contractor's request, such instructions as the Employer's Representative may consider necessary to enable the Contractor to comply with its obligations under this Article 6.11; and/or
- (b) to use its reasonable endeavor to assist in procuring the removal of the hindrance or impedance preventing the Contractor from complying with its obligations under this Article 6.11.

#### **6.11.6 Contractor to bear costs**

The Contractor shall bear all costs and expenses associated with any change or remedied work rendered necessary to the design or execution of the Works or to the design or execution of work of any Related Works contractor as a result of any failure on the Contractor's part to comply with the provisions of this Article 6.11. Subject always to this Article 6.11 if in the opinion of HCL's Representative any cost is or is likely to be incurred partially as a result of a failure by the

Contractor and partially as a result of a failure by a Related Works Contractor, then in the event that the Contractor and the Related Works Contractor are unable to agree on the apportionment of such costs between them, HCL's Representative may instruct the Contractor to make a change or carry out any repair it deems necessary and, notwithstanding the provisions of Article 8 in valuing such change or repair, it shall be entitled to make what it in its absolute discretion the assessment of such costs allocable to the Contractor for such change or repair as a result of the Contractor's failure to comply with the requirements of this Article 6.11.

#### **6.11.7 Contractor's obligations**

Without limiting its obligations under this Article 6.11 the Contractor shall exercise due care and diligence in the design and execution of the Works where such design and execution of the Works affects or is likely to affect the Related Works and shall bear all costs, expenses, damages and losses suffered by any Related Works Contractor as a result of its failure to comply with such obligations.

#### **6.11.8 Contractor's Indemnities**

The Contractor shall indemnify and keep indemnified the Employer against all claims, proceedings, damages, costs, losses, charges and expenses of any nature whatsoever arising from the Contractor's failure to comply with its obligations under this Article 6.11.

#### **6.11.9 Temporary Works**

The Contractor shall be fully responsible for the cost of all delays to the Works or any part where such delays have been occasioned to or in connection with Temporary Works by the defaults or omissions of any Related Works Contractor and it shall not be entitled to any extension of time or additional payment in respect thereof. Such responsibility shall in no way be in derogation of the Contractor's other obligations under this Article 6.11.

### **6.12 Contractor's Documents**

**6.12.1** The Contractor shall prepare all Contractors' Documents. The Contractor shall submit to HCL's Representative and the Engineer-in-Charge

- a) within such time as may be directed by HCL's Representative, those Contractor's Documents called for in the Contract or as HCL's Representative may require and in the numbers and format required by the Contract or, if no such number and format is stated in the Contract, as required by HCL's Representative; and
- b) during the progress of the Works such additional Contractor's Documents within such times and in such numbers and format as HCL's Representative may reasonably require.

**6.12.2** HCL's Representative shall review and comment on any Contractor's Documents submitted in accordance with Article 6.12.1 within 21 (twenty-one) Business Days after receipt of the Contractor's Document ("the **Review Period**"). HCL's Representative shall

signify "no comment" or "comments made" or "resubmit" and return one copy of the Contractor's Document to the Contractor. If the Employer's Representative fails to so do within the Review Period, it shall be deemed that the Employer's Representative has signified "no comment".

- 6.12.3** The notes "no comment" or "comments made" will enable the Contractor to proceed on the basis of the Contractor's Documents provided that the Contractor fully addresses any comments made by the Employer Representative.
- 6.12.4** If, before reviewing and commenting on any design contained in any Contractor's Documents, the Engineer-in-Charge considers any change or modification is necessary to such Contractor's Documents, HCL's Representative may notify the Contractor accordingly whereupon the Contractor shall effect the same and re-submit the Contractor's Documents in accordance with this Article 6.12
- 6.12.5** Where any Contractor's Document is marked "resubmit" the same shall be amended, modified or prepared again, as the case may be, and resubmitted by the Contractor and the procedure set out in this Article 6.12 shall apply to the re-submitted Contractor's Document.
- 6.12.6** Notwithstanding any of the provisions of the Contract relating to the Contractor's Documents, the Contractor shall be fully responsible for:
- a) The adequacy of the Contractor's Documents in accordance with the Contract; and
  - b) any failures of any Contractor's Documents whether to comply with the Contract and/or to meet its obligations there under or otherwise and for any ambiguities, failures, discrepancies, insufficiencies, lack of fitness for purpose, errors, omissions, design or construction impracticalities in any such Contractor's Documents howsoever such ambiguities, failures, discrepancies, insufficiencies, lack of fitness for purpose, errors, omissions, design or construction impracticalities may have arisen.
- 6.12.7** The Contractor shall at its own expense carry out any alterations or remedial work necessitated by reason of any ambiguities, failures, discrepancies, insufficiencies, lack of fitness for purpose, errors, omissions, design or construction impracticalities in any Contractor's Documents and shall modify the Contractor's Documents accordingly, or if the same be done by or on behalf of the Employer, the Employer shall be entitled to recover from the Contractor all costs reasonably incurred therein and may, without prejudice to any method of recovery, deduct the same from any monies due or which may become due to the Contractor.
- 6.12.8** The Contractor is aware of the time required by HCL's Representative for the review of the Contractor's Documents and shall allow adequate time for such review. Furthermore, HCL's Representative shall not be obliged to comment upon any Contractor's Documents without first satisfying himself that to the extent required, such comment is issued with

the consent, non-objection or approval of the Engineer-in-Charge or a Government Agency.

- 6.12.9** No design or execution of any part of the Works shall commence during the Review Period for those Contractor's Documents which are relevant to its design and execution except as may be expressly agreed in writing by HCL's Representative.
- 6.12.10** If the Contractor wishes to modify any Contractor's Document (including any design contained in Contractor's Documents) which has previously been reviewed by HCL's Representative, the Contractor shall immediately give notice to the Employer's Representative. Thereafter, the Contractor shall submit revised documents to HCL's Representative and the provisions of this Article 6.12 shall apply.
- 6.12.11** Save as expressly provided in this Contract, the Contractor shall not seek to recover from the Employer any loss or claim which may arise from the adoption, use or application by or on behalf of the Contractor or any other Person for whom the Contractor is responsible of the design in any Contractor's Documents.
- 6.12.12** No review, comment, suggestion, approval on any other communication by HCL's Representative made in accordance with the review procedure specified in this Article 6.12 shall relieve the Contractor of any of its obligations under the Contract.

## ARTICLE - 7

### HCL's OBLIGATIONS

**7.0** In addition to and not in derogation or substitution of any of its other obligations under this Contract, HCL shall have the following obligations:

#### **7.1 Specific obligations**

HCL shall:

- a) Appoint/nominate the Engineer-in-Charge in accordance with Article 5.1 above.
- b) Instruct Engineer-in-Charge for carrying out all the obligations and exercise all the rights set out in **Schedule I**.
- c) Ensure that Engineer-in-Charge reviews and finalizes the Plan, Drawings and other documents within a reasonable time and in any case within the respective time specified elsewhere in this Contract.
- d) Provide to Contractor in accordance with the Plan, supply of specific items set out in **Schedule IV** upon exercise of the Contractor's option to obtain these utilities from HCL.
- e) Make payment of Contract Price in accordance with the provisions of this Contract.
- f) Grant in a timely manner, all such approvals, permissions and authorizations which the Contractor may require or is obliged to seek from HCL in connection with implementation of the Work and the performance of its obligations, under this Contract.
- g) Take all steps and make all applicable applications, filings, returns and reports for a license holder of a mine in accordance with the Applicable Laws to ensure compliance, expansion, operations and maintenance of the Work/Work Facilities.

#### **7.2 General obligations**

HCL shall:

- a) grant or where appropriate provide necessary assistance to the Contractor in securing all Applicable Permits;
- b) ensure peaceful use of the Work Site by the Contractor under and in accordance with the provisions of this Contract without any hindrance from HCL or any Governmental Agency or persons claiming through or under it/them;
- c) pay Dead Rent / Royalty, payment to District Mineral Fund (DMF), National Mineral Exploration Trust (NMET) and surface rent in respect of the Work Site to the government treasury in accordance with Applicable Laws;
- d) Observe and comply with all its obligations set forth in this Contract.

**ARTICLE – 8**  
**CONTRACT PRICE**

**8.0 Contract Price**

**8.1** Subject to the provisions of this Contract and in consideration of undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Contract, HCL agrees and undertakes to make to the Contractor, the following payments (“**Contract Price**”) as per the provisions of this Article. The quoted rates of each item shall remain firm irrespective of the quantity throughout the execution period including extension, if any.

**a) Payment for work done**

Payment for actual work done shall be for Scheduled Items and shall be at the rates against each respective item set out under **Schedule V** hereafter achieved and certified by Engineer-in-Charge during any Contract Payment Period.

**b) Price variations:**

Rates given in the contract are firm & fixed. No price escalation will be allowed for any reasons whatsoever during the execution of the work.

**8.2 Payment Mechanism**

**8.2.1 The contract price relating to each month shall be payable for actual work done by the contractor for the month through e-payment only as per format given in Schedule VIII (“contract payment period”). Contractor shall submit the bill for the actual work done during a contract payment period to the engineer-in-Charge.**

The bill shall be based on the Joint Measurement Certificate between authorized representatives of HCL & contractor and acceptance by HCL. Joint measurements of work completed during a month and cumulative shall be made on last day of each month and the results of such joint measurements should be recorded and jointly signed in a bound paged book with page numbers. Engineer-in-Charge shall certify the quantities and arrange for the payment of Contractor’s bill after allowing adjustments for the supplies rendered HCL and for other deductions.

**Payment of the work done shall be made by credit period of 30 days** from the receipt of clear bill in all respect for the month of completion of the job, after



deduction of LD, if any. The monthly running bills should be submitted to the Engineer-in-Charge within three weeks of completion of work.

The payment for each month's actual work done shall be made after recovery of statutory deductions if any. The Contractor will submit proof of depositing of provident fund i.e. ECR challans for his employees engaged at Malanjkhanda underground Mine of the month billed with the bills failing which payment shall not be released.

**8.2.2 Joint measurement: Successful Bidder shall submit the bill for the work done during the previous months in accordance with the joint measurement to the Engineer-in-Charge in the first week of every month. The results of such joint measurements should be recorded and jointly signed in a bound paged book with page numbers. Engineer-in-Charge shall certify the quantities and arrange for the payment of the Successful Bidder's bill after allowing adjustments for the supplies and services rendered by HCL/MCP and for other deductions.**

All measurements shall be in metric system. All the work in progress will be measured by the representative of the Engineer-in-Charge and the Successful Bidder's authorized agent progressively. For the purpose of taking joint measurement the Successful Bidder's representative shall be bound to be present whenever required by the Engineer-in-charge. If, however, he absents for any reason whatsoever the measurements will be taken by Engineer-in-charge or his representative and this will be deemed to be correct and binding on the Successful Bidder.

### **8.2.3 Payment methodology:**

#### **8.2.3.1 Adjustment in the rate payable for Ore production (i.e. Loading and hauling of blasted ore from stope and unloading at primary crusher at surface via weigh bridge) during the Contract Period on per tonne basis on account of Performance:**

- a) In case actual production achieved in the range of  $>95\%$  &  $\leq 105\%$ , the awarded rate will apply without any adjustment as shown in Table under clause f) below.
- b) In case the actual ore production achieved below 95% of the guaranteed production, the awarded rate per tonne shall be reduced at the same rate of such percentage shortfall reckoned from 95% of the guaranteed production as shown in Table under clause f) below.
- c) Where the actual ore production achieved exceeds 105% of the guaranteed production, the awarded rate per tonne shall be adjusted upward at the same rate of such percentage in excess of 105% of the guaranteed production as shown in Table under clause f) below.
- d) However, in no case, such payable amount in rate per tonne shall exceed 125% of the

awarded rate as shown in Table under clause f) below.

- e) The above adjustment will be applicable on monthly RA bills.
- f) The adjustment in the rate payable for Ore production (i.e. Loading and hauling of blasted ore from stope and unloading at primary crusher at surface via weigh bridge) will be applicable as per below table:

SI	% of the Guaranteed Production	Rate payable as of % of rate per tonne on account of Ore production (i.e. Loading and hauling of blasted ore from stope and unloading at primary crusher at surface via weigh bridge)
1	135%	125%
2	130%	125%
3	125%	120%
4	120%	115%
5	110%	105%
6	106%	101%
7	= >95% to < =105%	100%
8	90% <sup>U</sup> / <sub>o</sub>	95%
9	85%	90%
10	80%	85%
11	75%	80%
12	70%	75%

- g) The above adjustment in awarded rate will be applicable throughout the contract period.

For easy understanding, a sample calculation is given below”

“\*Assumption:

- i. Monthly target for ore production quantity = 20,000 tonne  
 iv. Monthly achieved ore production quantity = 15,000 tonne  
 v. Shortfall in quarterly target = 5,000 tonne (shortfall slab 75%)  
 vi. Awarded Rate of Ore Production = Rs 1000 / Tonne

Calculation:

**Final applicable payable monthly rate (80% = 75%+5%) = Rs 1000\*80% = Rs 800 per tonne.**

### **8.3 Withholding of payments to Contractor and HCL’s lien on money due to the Contractor**

Payments may at any time be withheld or reduced if, in the opinion of HCL, the Contractor is not diligently and efficiently endeavoring to comply with the terms of the Contract or if the Contractor should fail to pay wages to his labour or for material.

HCL shall have a lien on all amount that may become due and payable to the Contractor under this Contract or transaction of any nature whatsoever between HCL and the Contractor and the

Performance Security furnished by the Contractor under the Contract or any sum that may become due and payable to the Contractor till the Contractor pays and clears the claim immediately on demand.

#### **8.4 Final Payment and Release**

On Completion the Engineer-in-Charge will issue a Completion Certificate to the Contractor on the application of the Contractor after satisfying himself (Engineer-in-Charge) that the work has been completed in accordance with the contract documents and verifying from the following completion documents:

- (a) All surplus materials, rubbish, equipment etc are cleaned off the site completely.
- (b) The work has been measured,
- (c) All temporary works, labour and staff colonies/camp constructed are removed.
- (d) Performance Security, if any remaining after set-off by HCL of any amounts owed by the Contractor to HCL and which amounts not having been paid by the Contractor to HCL,
- (e) The Contractor will submit proof of depositing of provident fund i.e ECR challans for his employees engaged at Malanjhand Mine with the final bills failing which payment shall not be released

Material appropriation statement for the material, if issued by HCL for the Work and list of surplus material returned to HCL's stores duly supported by necessary documents. If the contractor fail to comply with the requirements of this clause on or before the date fixed for the completion of the work, the Engineer-in-Charge may at the expenses of the contractor remove such surplus materials and rubbish and dispose off the same as he thinks fit. The contractor shall forthwith pay the amount of all expenses so incurred and shall have no claim in respect of any such surplus materials as aforesaid except for any sum actually realized by the sale thereof. The Contractor, after obtaining the completion certificate, is eligible to present the final bill for the work executed by him under the terms of contract.

After the issue of Completion Certificate by the Engineer-in-Charge as aforesaid and on the particulars contained therein and after getting the final bill for the work executed by the contractor, HCL shall determine the total value of the Work done by the Contractor and after adjusting all sums paid to him already or due to HCL, and such further sums as HCL may require to reserve or retain under the terms of the Contract, release eighty percent (80%) of the final payment due to the Contractor subject to undertaking given by the contractor. The remaining twenty percent (20%) of the outstanding final payment shall be paid by the HCL within thirty (30) days after the expiry of the Period of Liability, provided that no set-offs are required to be made by HCL, during the Period of Liability, for remedying any work done by the Contractor under the Contract. Such final payment shall be made only when the Contractor furnishes to HCL an undertaking to the effect that Contractor has no further claim of whatever nature or description against HCL.

The Contractor should file no claim after final payment and HCL will not be liable to pay any

money to the Contractor except as specifically provided for in the Contract. Acceptance by the Contractor of the final payment as aforesaid shall release HCL from all acts of omission and commission by HCL or by the Engineer-in-Charge.

### **8.5 Variation in Schedule Items**

The Itemized quantities indicated in Schedule V are indicative and at this stage it is envisaged that variation may be within plus or minus ( $\pm$ ) 5% for items mentioned in the Contract and the duration of the contract may be extended based on the variation on pro rata basis target during the period of the contract. However the total variation shall not exceed ( $\pm$ ) 5% of the Contract Price of the contract.

### **8.6 Penalty**

**8.6.1** Time is the essence of the contract. If the Successful Bidder fails to achieve at least 90% of the monthly target for drilling (57 mm dia and 115 mm dia both), loading and hauling of ore, Penalty will be levied on the value of the monthly shortfall quantity in the manner specified in this Article 8.6.2.

If the monthly target achieved for drilling, loading and hauling is less than 90% then 10% L.D will be levied on the value of the monthly shortfall quantity

**8.6.2** Penalty will be levied on the Contractor, and calculated in the following manner:

1. For target of drilling (57 mm dia and 115 mm dia both), loading and hauling of ore each shortfall will be calculated on monthly basis.

Penalty will be calculated based on the overall quantity executed on monthly basis. Failure to achieve the said target by the Successful Bidder shall make him liable to pay a penalty from their running bills at the following rates:

<b>Shortfall in Monthly target</b>	<b>Rate of penalty</b>
<i>Up to 10%</i>	<i>NIL</i>
<i>Above 10% but less than or equal to 20%</i>	<i>10 % of the shortfall value in monthly target</i>
<i>Above 20% but less than or equal to 40%</i>	<i>15 % of the shortfall value in monthly target</i>
<i>Above 40%</i>	<i>20 % of the shortfall value in monthly target</i>

Note : Shortfall value in monthly target will be calculated on the Applicable payable Rate in the month throughout the contract period. However, Penalty clause 8.6 will be applicable as given in NIT.

2. Penalty for delay in start of work/mobilization/training etc. beyond 45 days from the date of issue of LoI or Work order whichever is earlier, @ 10% of total monthly rate of the shortfall shall be levied on Successful Bidder on pro-rata basis. The Successful Bidder can start the work during mobilization period and claim their bills for payment. There will be no target in the mobilization period. The achievement of mobilization period will not be carried over to

the achievement of subsequent months.

- 3. Salary & Wages of Successful Bidder Labour:** Successful Bidder shall regularly pay the wages of its laborers. If the bidder fails to clear the dues (wages of its laborers), and the Company, HCL/MCP is forced by statute to pay them, a penalty of 24% of dues paid to his laborers will be charged from the Successful Bidder's pending amount with HCL/MCP. If the default continues for 3 months consecutively, the Contract will be terminated and Wages & Statutory Payments to the labour of the Successful Bidder will be paid by Principal Employer i.e. HCL/MCP, forfeiting Successful Bidder's any pending amount with HCL/MCP including Security Deposit.

However, if there is shortfall in the achievement due to such circumstances, which are under the control of HCL/MCP, penalty will not be applicable & in that case, proportionate reduction in the monthly target will be allowed.

A delay by the Successful Bidder in the performance of its obligations under the contract shall render the Successful Bidder liable to any or all of the following consequences: damage claim by HCL, invoking of Security Deposit and/ or termination of the Contract making the Successful Bidder liable for all consequential damages suffered or sustained by HCL apart from the penalty.

The Penalty will be maximum of 10% of the total awarded value (excluding GST), however if the successful bidder achieves 100% target in contract time then the deducted L.D will be refunded

However, if there is shortfall in the achievement due to such circumstances, which are under the control of HCL/MCP, liquidated damages will not be applicable & in that case, proportionate reduction in the monthly target will be allowed.

HCL shall have the right to adjust the Liquidated Damage which HCL may become entitled to from any amount payable by HCL to the contractor under the contract and in case no payment is due from HCL to the contractor, the contractor shall promptly and without demur or protest arrange remittance to HCL on demand.

#### **8.7 Situation when Reduction not leviable:**

The Contractor is not liable to Reduction, if such Reduction is triggered on account of following events:

- (i) Delay in delivery of the Work Site or any part thereof by HCL,
- (ii) Suspension of Works or part thereof by HCL or the Engineer-in-Charge, for reasons not attributable to the Contractor,
- (iii) Change of Scope Order
- (iv) HCL Event of Default, and

- (v) Any other event as may be expressly notified by HCL during the Contract Period.

### **8.8 Payments for Emergency Works**

In the event the Contractor, having executed Emergency Works beyond the Works for which rate have been indicated against Scheduled Item, and such Works are not part of the work and due to the nature of work being an Emergency, a Change of Scope Order has not been issued, payments for such works shall be arrived based on mutual discussions between the Parties subject to recording of such jobs to be done in a specified time which is to be indicated.

### **8.9 Taxes and Duties**

- (a) The Contractor agrees to and does hereby accepts full and exclusive liability for the payment of any and all taxes including Goods and Services Tax (GST) now or hereafter imposed, increased or modified, insurance and old age pensions or annuities now or hereafter imposed by any Central or State Government which are imposed with respect to or covered by the wages/salaries or other compensations paid to the persons employed by the Contractor. The Contractor shall be responsible for the compliance with all obligations and restrictions imposed by any applicable labour law or any other law affecting employer-employee relationship and the Contractor further agrees to comply, and to secure the compliance of all Contractor(s) if any, with all applicable Central, Municipal laws and regulations and requirements of any Central, State or local Government Agency or authority.

The statutory variation in taxes and duties shall be reimbursed / adjusted at actual on submission of proof of documentary evidence

- (b) **Taxes as applicable from time to time.**

The rates at which Contract Price is arrived under **Schedule V** are excluding Goods and Services Tax (GST) which shall be reimbursed on production of Bill against which Input Credit can be taken.

The statutory variation in taxes and duties shall be reimbursed at actual on submission of proof of documentary evidence.

**8.10** Tax deduction at source: Income Tax, Works Contract Tax or any other statutory tax will be deducted at the time of payment at the prevailing rate as applicable from time to time.

**8.11** Currency for payment: All payments shall be made in Indian Rupee. Payment will not be made in any other currency.

**8.12** Preamble to schedule of rates

- 8.12.1 Schedule of rates is to be read in conjunction with all the sections / sub-sections of this document.
- 8.12.2 The rates shall be applicable for all floors, heights & depths.
- 8.12.3 Owner reserves the right to interpolate or extrapolate the rate for any item from the rates available for similar work in the Schedule of rates.
- 8.12.4 Unit rates shall include the cost of labour, transportation, supervision, consumables, cost towards providing necessary tools & tackles towards testing & overhauling/servicing & calibration.
- 8.12.5 The work shall be carried out as per drawings, Specifications, and the description of the items in this schedule and / or as per instructions of the Engineer-in-Charge.
- 8.12.6 Items of work provided in this schedule but not covered in the Specifications shall be executed strictly as per instructions of the Engineer-in-Charge.
- 8.12.7 The decision of the Engineer-in-Charge shall be final and binding on the Contractor regarding clarification of items in this Schedule with respect to other sections of the Contract / Specifications.
- 8.12.8 The quantities of the various items mentioned in the schedule are approximate and may vary up to any extent or be deleted altogether. The quoted rates of each item shall remain firm irrespective of the quantity throughout the execution period including extension, if any.

**8.13 Price variations:**

Rates given in the contract are firm & fixed. No price escalation will be allowed for any reasons whatsoever during the execution of the work.

**8.14 Losses & damages:**

Losses & damages caused to the company's assets & goods due to contractor's negligence shall be recoverable from the contractor's accounts bills or any other amount lying with the company, HCL.

**8.15 Idle labour:**

No claim for idle labour under any circumstances shall be entertained by HCL.

**8.16 Recovery of sum due:**

Whenever any claim arises against the contractor for payment of any sum of money out of or under the order, HCL shall be entitled to recover such sums any time from the contractor under this or any other order of the contractor with HCL.

In case the amount of existing bill is not sufficient for recovery of pending dues, the contractor shall pay to HCL the balance remaining dues immediately.

**8.17 Demurrage/Detention Charge:**

Demurrage / detention charges or any other claims paid by the company for reasons attributed to the contractor shall be recoverable from the contractor's account. The decision of the Engineer-in-Charge in this regards shall be final and legally binding on the contractor.

**8.18** The company does not accept any responsibility for delay in work, for any loss to the contractor due to non-supply of water and electricity or any other material/service provided by HCL/MCP.

**8.19 Insurance:**

The Contractor shall cover under insurance for compensation as per statutes. The Workmen/Employee Compensation General Policy as per Employees Compensation Act, 1923 shall be accepted as a valid insurance policy. However, in case of any claim(s) due to any untoward incidence which does not come under EC Act. 1923, the expenses will be borne by the contractor.

Valid Group Personal Accident Insurance of requisite Nos. of workmen (Gate pass will be issued to that number of persons only) of Contractor is required to be submitted by the Contractor to the Nodal Officer and a copy to Engineer- in – charge before starting the Job. Engineer-in-Charge must ensure the same.

Gate Pass will be issued to that number of workmen only for which insurance has been made by the contractor. Without Valid Insurance no “Gate Pass” will be issued by Engineer-in-charge in the name of any workman of the Contractor. Once the gate pass is signed by Engineer-in-charge, and then only it will be signed by security department for allowing entry into the establishment.

Note: - Insurance of Contractor is also necessary, for the purpose of issuing him “Gate Pass” and the cost of his insurance premium will be borne by the contractor himself.

**8.20 Other Terms of Contract**

**a) Parallel Contract:**



The company reserves the right to award parallel contracts in case similar work is to be carried out beyond the bill of quantity awarded.

**b) Risk & cost:**

- a. In case the contractor fails to execute the work as per the terms & conditions of the awarded work order after start of work, the Company reserves the right to award the contract for balance work at the Risk & Cost of the Contractor.
- b. In case the bidder backs out after the bid opening after the opening of Techno-Commercial bid/Price bid in two bid system, action as deemed fit shall be taken
- c. In case the contractor fails to start the work after award of work order within time frame stipulated in the work order, administrative measures as may be decided by the company including debarment etc. will be taken

**c) Sub-contracts:**

No sub-contract is allowed either in part or in whole.

**d) Defects liability period (D.L.P.):**

The defect liability period would be 6 months from the certified date of satisfactory completion of work. During the D.L.P., the contractor has to carry out repairs if any, free of charge.

**e) Inspection:**

Inspection will be carried out by Engineer-in-Charge or his authorized representative who shall act as Engineer-in-Charge who shall reserve the right to inspect the work of the contractor and check the quality & workmanship during the execution of the work and shall have the right to stop the work, in case of defective process or poor workmanship is noticed & his decision will be final and binding on the contractor.

**f) Drawings:**

Drawings if any supplied to the contractor, are the property of HCL/MCP and shall be returned to the company after completion of the contract.

**ARTICLE - 9**  
**FORCE MAJEURE**

**9.1 Force Majeure Events**

If at any time during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract shall be prevented or delayed by reasons of war, act of hostility of public enemy, civil disruption or sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lock-outs or acts of God (here-in-after referred to as events), provided notice of the happening of any such eventuality is given by the either party to the other within 21 days from the date of occurrence thereof, neither party shall by reasons of such event be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non – performance or delay in performance / execution under this contract. Provided also that such performance/execution under the contract should commence as soon as practicable, after such event has come to an end or ceased to exist, and the decision of HCL as to whether the performance has been so resumed or not shall be final and conclusive. Provided further that if the performance in whole or in part or any execution under this contract is prevented or delayed by reasons of any such event for a period exceeding 60 days, either party may opt to terminate the contract. If the contract is terminated under this clause, HCL shall have liberty to take over from the contractor at a reasonable price, all unused, undamaged and acceptable materials, machinery, equipments, etc. at the site being used for the performance of the contract and in the possession of the contractor at the time of such termination of such portion thereof as HCL may deem it fit, except such materials, equipments, etc that the contractor may with the concurrence of HCL elect to retain. It is also understood in addition that this force Majeure clause will cover parties' inability to perform on account of change in law or imposition of rules or restrictions by the Government.

**9.2 Foreclosure of Contract Full or in Part**

If at any time after acceptance of the TENDER, HCL shall decide to foreclose or reduce the scope of the Works and hence not require the whole or any part of the Work to be carried out, the Engineer-in-Charge shall give 10 days notice in writing to that effect to the Contractor, provided that:

In the event, any such action is taken by HCL, the Contractor shall be paid full amount for the up to date quantum of Work executed at Work Site as per billing schedule under the relevant items of Work under this Contract and in addition, a reasonable amount as certified by the Engineer-in-Charge or any other agency appointed by HCL for those supplied items which could not be utilized for execution of the Work to the full extent because of the foreclosure.

## **ARTICLE - 10**

### **MATERIAL BREACH AND SUSPENSION**

#### **10 MATERIAL BREACH AND SUSPENSION**

- 10.1** If the Contractor shall be in Material Breach of this Contract, HCL shall be entitled in its sole discretion and without prejudice to its other rights and remedies under this Contract including its right of Termination hereunder, to (i) suspend all or any of the rights of the Contractor under this Contract including payment of Contract Price by HCL and (ii) exercise the rights of the Contractor under this Contract itself or authorize any other person to exercise the same during such suspension. Such suspension by HCL shall be by a communication in writing to the Contractor and shall be effective forthwith upon the issue thereof to the Contractor. Provided, however, that the period of such suspension under this Article shall not exceed one hundred and twenty (120) days.
- 10.2** Subject to Article 10.1 above, HCL shall have the right to utilize the proceeds of Contract Price and Performance Security for meeting the costs incurred by HCL to remedy and rectify the cause of such suspension and for defraying the maintenance expenses during such suspension period. Provided, however, that if the Contractor is making diligent efforts to remedy and rectify such cause, then HCL shall allow the Contractor reasonable time and opportunity for such remedy or rectification.
- 10.3** The suspension of the rights of the Contractor by HCL pursuant to Article 10.1 above shall be revoked by HCL forthwith upon the Contractor having remedied the Material Breach during such suspension period to the satisfaction of HCL unless in the meantime this Contract has been terminated by HCL in accordance with Article 12.
- 10.4** At any time during the period of suspension under this Article, the Contractor may in writing notify to HCL that it does not intend to cure the breach or default that had caused such suspension. Within seven (7) days of receipt of such notice, HCL shall terminate this Contract as if a Material Breach of this Contract had occurred on account of a Contractor Event of Default.

## ARTICLE - 11

### EVENTS OF DEFAULT AND TERMINATION

#### 11.1 Events of default

The following events shall be termed as Events of Default:

If the Contractor shall not execute the contract in the manner as stipulated in the Contract or if the Contractor or of it, in the opinion of the HCL:

- (a) Does not execute the contract in conformity with the provisions of the Contract, or
- (b) Substantially suspends any part of its execution for a period of fourteen (14) days without authority from HCL, or
- (c) Fails to carry on and execute the Contract to the satisfaction of HCL or
- (d) Commits or permits any other breach of any of the provisions of the Contract (on the part of the Contractor to be performed or observed) or persists in any of the above mentioned breach of the Contract for fourteen (14) days, after notice in writing shall have been given to the Contractor by the HCL requiring such breach to be remedied, or
- (e) Abandon the Work(s),or
- (f) During the continuance of the Contract, becomes bankrupt, makes any arrangement or composition with its creditors, or permits any execution to be levied or goes into liquidation other than for the purpose of amalgamation or reconstruction; or
- (g) Does not perform as per the agreed programme submitted by the Contractor.

#### 11.2 Termination due to events of default

- a. If HCL decides to terminate the Contract, it shall in the first instance issue Preliminary Notice to the contractor. Within 15 days of receipt of the Preliminary Notice, the Contractor shall submit to HCL in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the **“Contractor’s Proposal to Rectify”**). In case of non-submission of the Contractor's Proposal to Rectify within the said period of fifteen (15) days, HCL shall be entitled to terminate this Contract by issuing Termination Notice, and to appropriate any Security, if subsisting.
- b. If the Contractor's Proposal to Rectify is submitted within the period stipulated thereof, the Contractor shall have to its disposal a further period of fifteen (15) days to remedy / cure the underlying Event of Default. If, however the contractor fails to remedy/cure the underlying Event of default within the stated period, HCL shall be entitled to terminate this Contract, and to

appropriate the Security, if subsisting.

### **11.3 Termination of Contract for Insolvency**

If the supplier/contractor becomes bankrupt or becomes otherwise insolvent or undergoes liquidation or loses substantially the technical or financial capability (based on which he was selected for award of contract), at any time, the contract may be terminated, by giving a written notice to the supplier, without compensation to the supplier/contractor, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to Procuring Entity.

### **11.4 Rights of HCL on Termination**

- (a) HCL shall have the power to terminate the Contract and enter upon the Work(s) and take possession thereof and of the material, Temporary Works, Construction Plant, and stock thereon, and to revoke the Contractor's license to use the same, and to complete the Work(s) by its agents, other contractor or workmen, or to re-let the same upon any terms and to such other Persons as HCL in its absolute discretion may think proper to employ and for this purpose use or authorize the use of any material, Temporary Works, Construction Plant, equipment, stock etc. as aforesaid without making payment or allowance to the Contractor for the said material, other than such as may be certified in writing by the Engineer-in-Charge to be reasonable, and if HCL shall by reason of its taking possession of the Work(s) or of the Work(s) being completed by other contractor (due account being taken on any such extra work or Works which may be omitted) incur any extra cost then the amount of such excess as certified by the Engineer-in-Charge shall be deducted from any money which may be due for Work done by the Contractor under the Contract and not paid for and/or Performance Security . Any deficiency shall forthwith be made good and paid to HCL by the Contractor and HCL shall have power to sell in such manner and for such price as it may think fit, all or any of the Construction Plant, material etc. constructed by or belonging to and to recoup and retain the said deficiency or any part thereof out of the proceeds of the sale.
- (b) The money that may have been due to the Contractor on account of Work executed by it shall not be payable to the Contractor before the expiry of six (6) calendar months reckoned from the date of Termination of the Contract or from the taking over the Work or part thereof by HCL as the case may be, during which period the responsibility for faulty materials or workmanship in respect of such Work under the Contract will be exclusively with the Contractor and such money shall be subject to deduction of all amount due from the Contractor to HCL, whether under the terms of the Contract or otherwise, or required to be retained by HCL.
- (c) The rights and remedies of HCL as per this Article shall not constitute as limitation of Contractor's liabilities but shall be exclusive and in addition to any other rights and remedies provided under the Contract or by law for the time being in force.

- (d) Any waiver by HCL of any breach of the terms or conditions of the Contract shall not constitute a waiver of any subsequent breach of the same.
- (e) Any failure by HCL at any time or from time to time to enforce or require strict performance by the Contractor of any of the terms and conditions of the Contract, shall not constitute a waiver by HCL of a breach of any such terms or conditions and shall not affect or impair such terms or conditions in any way or the right at any time to avail himself of such remedies as it may have for any such breach or breaches of such terms or conditions.
- (f) Failure to enforce any condition herein contained shall not operate as a waiver of the condition itself or any subsequent breaches thereof.

### **11.1 Rights of Parties**

Notwithstanding anything to the contrary contained in this Contract, Termination pursuant to any of the provisions of this Contract shall be without prejudice to accrued rights of either Party including its right to claim and recover money, damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under this Contract, including without limitation those relating to Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

### **11.2 Termination Payments**

- 11.2.1** In the event, any such action is taken by HCL, the Contractor shall be paid full amount after deduction of dues (if any) for the up to date quantum of Work executed at Work Site as per billing schedule under the relevant items of Work under this Contract.

## ARTICLE - 12

### DIVESTMENT OF RIGHTS AND INTERESTS

#### 12 DIVESTMENT OF RIGHTS AND INTERESTS

**12.1** Upon Termination of this Contract, the Contractor shall comply with the following:

- a) notify to HCL forthwith the location and particulars of all Work Facilities;
- b) deliver forthwith actual or constructive possession of the Work Site and Work Facilities free and clear of all Encumbrances and execute such deeds, writings and documents as may be required by HCL for fully and effectively divesting the Contractor of all of the rights, title and interest of the Contractor in the Work Facilities free of any charge or cost to HCL; and
- c) comply with the divestment requirements set out in Article 12.2 below.

**12.2** Upon Termination of this Contract, the Contractor shall comply and conform to the following Divestment Requirements in respect of the Work Facilities:

- (a) all Work Facilities including the equipment, roads, pavements, shall have been renewed and cured of all defects and deficiencies as necessary so that the Facilities are compliant with the Work Requirements set forth in this Contract;
- (b) the Contractor delivers relevant records and reports pertaining to the Work;
- (c) the Contractor executes such deeds of conveyance, documents and other writings as HCL may reasonably require to convey, divest and assign all the rights, title and interest of the Contractor in the Work Facilities free from all Encumbrances absolutely and free of any charge or tax unto HCL or its nominee; and
- (d) the Contractor complies with all other requirements as may be prescribed under Applicable Laws to complete the divestment and assignment of all the rights, title and interest of the Contractor in the Work free from all Encumbrances absolutely and free of any charge or tax to HCL or its nominee.

**12.3** Not earlier than three (3) months before the expiry of the Contract Period but not later than thirty (30) days before such expiry, or in the event of earlier Termination of this Contract, immediately upon but not later than fifteen (15) days from the date of issue of Termination Notice, the Engineer-in-Charge shall verify, in the presence of a representative of the Contractor, compliance by the Contractor with the divestment requirements in relation to the Work Facilities and, if required, cause appropriate Tests to be carried out at the Contractor's cost for determining the compliance therewith. If any shortcomings in the divestment requirements are found by either Party, it shall notify the other of the same and the Contractor shall rectify the same at its cost.

**12.4** Upon the Contractor conforming to all divestment requirements and handing over actual or constructive possession of the Work Site to HCL or a person nominated by HCL in this regard, HCL shall issue a certificate (the "**Vesting Certificate**") within one month of Contractor

conforming to all divestment requirements and handing over actual or constructive possession of the Work Site and Work Facilities to HCL, which will have the effect of constituting evidence of divestment of all rights, title and lien in the Work Site and Work Facilities by the Contractor and their vesting in HCL pursuant hereto. Issue of the Vesting Certificate shall not be unreasonably withheld by HCL. The divestment of all rights, title and lien in the Work shall be deemed to be complete on the date when all the divestment requirements have been fulfilled and Vesting Certificate has been issued, it being expressly agreed that any defect or deficiency in any divestment requirement shall not in any manner be construed or interpreted as restricting the exercise of any rights by HCL or its nominee on or in respect of the Work on the footing as if all divestment requirements have been complied with by the Contractor.



## ARTICLE - 13

### MODE OF PAYMENT BY HCL

**13.1** The Contractor hereby expressly authorizes HCL to make payment of Contract Price, Termination Payment, if any, and any other payment which becomes payable by HCL to the Contractor under this Contract directly to the credit of such bank account at \_\_\_\_\_, (Designated Account), and/or to make/issue and deliver cheques, drafts or other instruments in respect of such payments in favour of a bank a \_\_\_\_\_(Designated Bank).

Payment will be made through e-mode for which Bank Mandate Form, as given in **Schedule- VIII**, duly filled up has to be submitted by the successful bidder

### **13.2 Valid Discharge**

The Contractor hereby agrees, undertakes and confirms that;

- (a) The payment to the credit of the Designated Account or to the Designated Bank shall be made by HCL notwithstanding any instructions to the contrary issued or disputes raised by the Contractor.
- (b) Any payment made in accordance with Article 11.2 (a) shall be valid and HCL shall, to the extent of the payment so made, be relieved and discharged of all its obligations in respect of such payments under this Contract. Provided no such discharge shall prejudice any claim which the Contractor may have against the Lenders.

**ARTICLE - 14**  
**DISPUTE RESOLUTION**

**14.1 Amicable Resolution**

- a) Save where expressly stated to the contrary in this Contract, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Contract including disputes, if any, with regard to any acts, decision or opinion of the Engineer-in-Charge and so notified in writing by either Party to the other (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in part (b) below.
- b) Either Party may require such Dispute to be referred to the work in charge of HCL and the Contractor for amicable settlement. Upon such reference, the two shall meet at the earliest as per their mutual convenience and in any event within twenty one (21) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within fifteen (15) days of such meeting, either Party may refer the Dispute in accordance with the provisions of part (c) below.
- c) In the event that any Dispute has not been resolved as per the provisions of (b) above, the same shall be referred to the director or a person of equivalent designation, of HCL and the Contractor for amicable settlement. Upon such reference, the two shall meet at the earliest as per their mutual convenience and in any event within fifteen (15) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within fifteen (15) days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Arbitration clause.

**14.2 Arbitration**

All question(s), dispute(s) of difference(s) of any kind whatsoever arising out of, or relating to the contract shall be referred by the parties to this contract for decision within 30 days from the occurrence of difference or the dispute, to a arbitral tribunal consisting of an arbitrator nominated by both parties each and one arbitrator appointed by both the arbitrators who according to Arbitration and Conciliation Act, 1996 and any amendments thereof, will not stand in conflict of interest with any of the organizations. A declaration to the effect shall be submitted by the arbitrators to guarantee the impartiality in the proceedings. In the event of such an arbitrator to whom the matter is originally referred, being transferred or has vacated his office because of retirement or resignation or otherwise or refuse to act or incapable of acting for any reason whatsoever. then the appointment of arbitrator in his place will be done with mutual consent of the parties to the contract, who again would not stand in any conflict of interest with both the parties. Such person(s) shall be entitled to proceed from the stage at which his predecessor left it.

The duration of proceedings and the fee structure will be governed by the 2015 Act. The venue of the arbitration shall be Malanjhand, Dist: Balaghat only. The award of the arbitrator shall be final and binding on the parties. Any dispute, which arises at any point of time out of arbitration, shall have the jurisdiction of the Court of Dist. Balaghat [MP].

## **ARTICLE - 15**

### **MISCELLANEOUS**

#### **15.1 Assignment and Charges**

- a. Subject to Articles 15.1 (b) and Article 15.1 (c) herein below, neither Party shall assign this Contract or the rights, benefits and obligations hereunder save and except with prior consent of the other Party.
- b. Except as provided in Article 15.1 (c) herein below, the Contractor shall not create nor permit to subsist any Encumbrance over or otherwise transfer or dispose of all or any of its rights and benefits under this Contract except with prior consent in writing of HCL, which consent HCL shall be entitled to decline without assigning any reason whatsoever.
- c. Restraint set forth in Article 15.1 (a) and Article 15.1 (b) above shall not apply to:
  - (i) liens/Encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Contractor;
  - (ii) mortgages/pledges/hypothecation of goods/assets other than Work Site, as security for indebtedness, in favour of the Lenders and working capital providers for the Work;
  - (iii) Assignment of Contractor's rights and benefits under this Contract to or in favour of the Lenders as security for financial assistance provided by them.

#### **15.2 Indemnity**

- (a) The Contractor shall at all times, indemnify and keep HCL and the Engineer-in-Charge indemnified against any claim and hold them harmless from any and all liabilities for death, bodily injury and/or damages resulting from or arising out of or in any way connected with the operations covered by the Contract. The Contractor shall be responsible for all risks arising in connection with or on account of the operations covered under the Contract and it shall make good all losses and damages arising there from. In case HCL or the Engineer-in-Charge incurs any cost, expense or loss on account of any claim, demand or cause of action brought against them and arising out of the operations covered by the Contract, HCL shall recover such cost, expense or loss from the Contractor. HCL shall have power, without being bound to do so, to defend, contest or compromise any such claim, demand or cause of action and any amount that may become payable by HCL and any expense that may be incurred by HCL in this behalf, shall also be recoverable from the Contractor.
- (b) The Contractor shall, at all times, indemnify and keep indemnified HCL and the Engineer-in-Charge and hold them harmless against any claim or demand which may be made, arising out of any use of existing patents, or alleged infringement of such patent or of other patent rights committed by the Contractor in carrying out the operations covered by the Contract and against all liabilities in respect thereof, and against all acts, suit proceedings, claim, cost and

expense whatsoever, which may be lodged against or incurred and become payable by HCL in respect thereof.

### **15.3 Governing Law and Jurisdiction**

This Contract shall be governed by the laws of India. The courts at Balaghat/Jabalpur, India shall have jurisdiction over all matters arising out of or relating to this Contract.

### **15.4 Waiver**

- a. Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Contract:
  - a. Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Contract;
  - ii. Shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
  - iii. Shall not affect the validity or enforceability of this Contract in any manner.
- b. Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Contract or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Contract.

### **15.5 Survival**

Termination of this Contract shall not relieve the Contractor or HCL of any obligations except as otherwise provided in this Contract or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

### **15.6 Confidentiality**

The Contractor shall at all-time keep confidential all oral and written information relating directly or indirectly to the Work; either disclosed to the Contractor by/or on behalf of HCL; or acquired by the Contractor during the course of performance of the Contract. The Confidential Information shall be held in strict confidence and used only for purposes of this Contract. The Contractor shall not disclose such information to any third party without HCL's prior written approval. If the Contractor is required to disclose any confidential information by operation of law, the Contractor shall notify HCL immediately and shall cooperate in seeking a reasonable protective order. Any contravention of the provision of this Article will tantamount to breach of the Contract.

**15.7 No Third Party Rights**

This Contract and all rights hereunder are intended for the sole benefit of the Parties hereto and, to the extent expressly provided in this Contract, for the benefit of the Lenders and, except as set forth in the Contract, it shall not imply or create any rights on the part of, or obligations to, any other entity or individual.

**15.8 Amendments**

This Contract and the schedules together constitute a complete and exclusive understanding of the terms of the Contract between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

**15.9 Severability**

If for any reason whatsoever any provision of this Contract is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Contract or otherwise.

**15.10 No Partnership**

Nothing contained in this Contract shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

**15.11 NA.**

**15.12 Counterparts**

This Contract may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Contract but shall together constitute one and only the Contract.

IN WITNESS WHEREOF THE, PARTIES HAVE EXECUTED AND DELIVERED THIS CONTRACT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of HCL by:  
by:

For and on behalf of CONTRACTOR

\_\_\_\_\_  
\_\_\_\_\_

Signature:

Name:

Designation:

Seal:

In the presence of:

1)

Signature:

Name:

Designation:

Seal:

In the presence of:

1)

## **SCHEDULE - I**

### **ENGINEER IN CHARGE**

#### **PART A - RIGHTS AND OBLIGATIONS OF ENGINEER-IN-CHARGE**

Engineer-in-Charge shall be the officer as may be designated, deputed or authorized, by HCL for the purpose of the Work with the following rights and obligations:

1. Co-ordination with the various agencies/ contractors engaged in the Work Site and ensures minimum interference among such agencies/ contractor.
2. Ensure exchange of technical information with the Contractor in order to complete the Work economically with full efficiency.
3. Ensure smooth sharing of certain facilities, if any, among various contractors, inter se.
4. Take cognizance of changes (leave/travel) in Work Managers or other key personnel of the Contractor.
5. In case of emergency/ contingency situations, execute work which are under scope of Contractor and the Contractor is unwilling or unable to execute the same
6. Review and record daily progress reports (containing details of progress of execution of the work, resources deployed, etc.) prepared by Contractor.
7. Issue necessary instructions for Work for which specifications/ drawings have not been prescribed or issued by HCL. The instructions shall include execution of all details which shall cover incidental works whether temporary or permanent, which must evidently, required by reasons of the nature of the Works included in the Contract and are to be carried out by the Contractor in all respect.
8. Review and approve drawings, prints, articles, machinery or fabricated materials of work entering into or forming part of the permanent construction prepared by the Contractor, specifications/ details of which are not provided by HCL in advance.
9. Direct the Contractor to repair or replace the materials in case the same was issued by HCL and has been damaged or lost by the Contractor.
10. In case of delay in execution of Work by Contractor on account of non-procurement of certain material, issue such materials if available with HCL at the risk and cost of the Contractor.
11. Authorize the Contractor for the utility of materials for manufacturing the items which can be obtained from manufacturer in finished form.
12. Issue necessary directions to Contractor for execution of an indemnity bond in the prescribed form for the safe custody and accounting of the all materials issued by HCL.



13. Issuing materials at his own discretion from HCL's site store (however any item issued from the site store has to be recorded and regularized from the central store).
14. Inspection of the materials used by the Contractor during the work process in the Work Site.
15. For the fabrication of the items required for the work, issue prior permission to remove the materials (in case of damage or waste).
16. During the transportation of the materials to the Work Site of erection, issue instructions prior to their actual erection and ensure that the things are not left lying around indefinitely.
17. Ensure that the staff employed by Contractor are as per the technical proposal of the Contractor and have valued qualifications and are efficient to perform the work
18. Periodically reviewing on time to time basis the attendance of a Work Manager or a contactor in the site of the work.
19. Testing, commissioning and approving the machinery and equipment's during installation and assembling in the company.
20. Provide guidance to Contractor, in case of erection of fencing and barricades during execution of the work.

**PART B - Power of the Engineer-In-Charge to Order Suspension of Work:**

The Engineer-in-Charge may, as he deems fit, by giving directions in writing and without invalidating the Contract, order the Contractor to suspend the Work or any part hereof for such time and for such reasons, as he may consider necessary. The Contractor shall not, after such directions to suspend the Work or any part thereof has been given, proceed with the Work or part thereof until he receives a written order from the Engineer-in-Charge to do so. In the event of such suspension, the Employer may, under the provision of the Contract, extend the time for Completion of the Work or part thereof by such period as it may consider reasonable, provided the suspension is not due to violation of regulations by Contractor. The decision of the Employer in the matter shall be final and binding on the Contractor.

The Work or any part thereof shall not be suspended by the Contractor in any circumstance without prior knowledge and approval of the Engineer-in-Charge excepting accident(s) involving loss of life or serious bodily injury. If the Contractor proposes to suspend the Work or any part thereof, he should report to the Engineer-in-Charge furnishing the reasons necessitating such suspension(s) of Work in detail, and should obtain his prior written order before such suspension(s).

If it appears to the Engineer-in-Charge that any Work has been executed with unsound, imperfect or unskillful workmanship or with material or articles of unsound or of a quality inferior to the requirement of the Contract, the Contractor shall on order in writing from the Engineer-in-

Charge, rectify or remove and reconstruct the Work forthwith so specified in whole or in part as the case may be, remove the material or articles at his own cost notwithstanding that the same may have been passed, certified and paid for. In the event of his failing to do so within a period as specified by the Engineer-in-Charge in his aforesaid order then the Engineer-in-Charge may rectify, remove, reconstruct and/or re-execute the Work or remove and replace with other material or articles as the case may be at the risk and cost of the Contractor.

## **SCHEDULE - II**

### **CONDITIONS FOR EMPLOYMENT OF LABOUR**

1. The Contractor shall carry out its operations in strict compliance of its obligations under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and various notifications issued from time to time under the act.
2. The Contractor shall perform all its operations preferably mechanically and shall engage a minimum number of workers.
3. The workers engaged by the Contractor shall be on its roll. The Contractor shall ensure that all labour engaged by the Contractor shall be properly trained and qualified craft persons. The Contractor shall pay all their wages, other dues and benefits and shall abide by the Applicable Laws relating to employment of labour like Payment of Wages Act, Minimum Wages Act, Workmen's Compensation Act, Contract Labour (Abolition and Regulation) Act, and Workmen's Health Insurance etc.
4. The Contractor shall maintain all records required under the Applicable Laws relating to employment of workers in general. HCL shall have the right to inspect all such records and the Contractor shall have the obligation to rectify all omissions and commissions relating to these records.
5. The Contractor shall, at its cost provide all facilities including medical facilities, canteen, training centre, recreation facilities etc. as may be required by the Applicable Laws or otherwise.
6. For employment of skilled/semi-skilled/unskilled labour the Contractor will give preference to local people.
7. When so required by HCL, the Contractor shall furnish certificate of qualifications and experience of all workers employed by the Contractor and HCL, if so required by law, retain these certificates in its custody.

**8. Security regulations:**

Contractor and their representatives shall abide by all the rules and regulations of Security available at HCL/MCP in all phases of the work emanating from this contract.

Contract Labour engaged on the job shall be entered in the above premises subject to security check by Security officials on duty. The Contractor will arrange necessary Entry Passes from concerned officials of Security Unit sufficiently in advance. HCL shall not be responsible for any delay caused in issue of such passes.

**9. Social security acts:**

- (i) **Deduction of P.F., Family Pension & E.C. act. etc.**

The contractor shall comply with the provision of Employee Provident Fund and Miscellaneous Provision Act, 1952 and schemes and rules etc., framed there under and Employee Compensation 1923 Act, and the rules etc., framed there under and all other laws of the land application to the employees of the Contractor.

Provident Fund amount is to be deposited to RPFC concerned directly by the contractor and receipt voucher/acknowledgement shall be produced to HCL/MCP by the contractor along with the list of subscribers.

**(ii) Wages to the Labourer**

Party will abide by laws with the provisions of the Minimum Wages Act, 1948, Payment of Wages Act, 1936 and Contract Labour (Regulation & Abolition) Act, 1970 etc. and also provisions of any other law as may be applicable from time to time. Wages of any kind i.e. Salary, Over Time, Bonus, and Advance or on any other account whatever may be paid, through bank account only. Cash payment will not be allowed in any circumstance whatever the reason there may be.

**(iii) Provisions of Social Security Acts in the Job contract (Work carried out **within the premises** of principal employer):**

- In Job Contract (work carried out within the premises of principal employer) all jobs and services are outsourced by the principal employer to the contractor and are to be carried out in the premises of the principal employer, by employing the sufficient number of manpower to work inside the premises of the principal employer to complete the work in the stipulated time period.
- Therefore, all the labour that are being engaged by the contractor will be covered under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and all social security acts will also be applicable on the said contract labour. It is the responsibility of the contractor to provide all the facilities/benefits which are applicable to the contract labour employed in the establishment.

**(iv) Provisions of Social Security Acts in the Job contract (Work carried out **outside the premises** of principal employer): -**

- In Job contract (Work carried out outside the premises of principal employer) all the job and services outsourced by the principal employer are being carried out in some other premises not being premises under control and management of the principal employer. "This type of contract doesn't come under the purview of Contract labour (Regulation and Abolition) Act, 1970".

- Following provisions (No. I & II) will be applicable to contract labour in the above said type of contract:-

(I) “The persons who will be engaged by the contractor for transportation of equipment/material to & from the company to the contractor’s premises the said persons will be insured under the provision of the Employees Compensation Act, 1923 (Including Contractor also if he is coming inside the premises of principal employer). The cost of insurance premium will be borne by contractor only.”

(II) Also, if in any case the work has to be carried out inside the premises of the company then the said persons will be covered under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and all social security acts will also be applicable on the said contract labour

#### **10. Salary & Wages of Contractor Labour:**

Contractor shall regularly pay the wages of his labourers. If he fails to clear the dues (wages of his labourers), and HCL is forced by statute to pay them, in addition to the amount actually paid to the contractual labours penalty of 24 % of dues paid to his labourers will be recovered from the contractor’s pending amount with HCL.

#### **11. Supervision:**

a) The contractor shall himself supervise the execution of the work or shall appoint a competent authorized representative with the approval of the Engineer-in-Charge to act in his place. The whole responsibility for supervision of the works and the workers employed on the works by the contractor shall rest with the contractor only.

b) The contractor shall also depute one safety supervisor during the execution of the contract.

#### **12. Payment of Bonus:**

The provision for payment of bonus to workmen engaged by the contractor/agency will be the contractor’s responsibility. This will be as per Bonus Act, 1965 & Rules there under and subsequent changes if any.

#### **13. Welfare:**

The contractor shall be fully responsible for the welfare and regular payment of his manpower/ employees for this work. The contractor will apprise and show the relevant records maintained by him to Engineer-in-Charge regularly.

14. No persons below 18 years of age shall be allowed to work.

**15. Medical Treatment:**

For all treatment / medical expenditure of contractor's labour shall be the responsibility of the contractor. The charges of such medical treatment will be borne by the contractor in addition to the various provisions under the Employees Compensation Act, 1923 (as amended up to date).

## **SCHEDULE - III**

### **CONDITION FOR ENVIRONMENT, HEALTH & SAFETY MANAGEMENT**

#### **1. Environment, Health and Safety Management**

During the entire Contract Period, the Contractor shall observe and abide by the general guidelines and specific guidelines on environment, health and safety applicable to mining works in accordance with Applicable Laws and Good Industry Practices.

#### **2. Environment**

2.1 During the entire Contract Period, the Contractor's men and equipment shall conform to the provisions of all directions and orders issued by HCL in respect of environment protection.

2.2 The Contractor shall abide by and perform all Works in accordance with all applicable environmental laws, regulations and permits in force.

2.3 If after the execution of this Contract, any change in the Work or additional work is required due to new environmental laws and regulations not previously applicable to the Work, the Contractor and HCL shall agree upon the changes required and Additional Cost, if any. An addendum to the Contract will be executed incorporating the required changes and additional price, if any.

#### **3. Safety And Statutory Obligations**

- Before commencement of any work at site, the Contractor has to obtain clearance from the Owner and shall abide by all safety rules and regulations of the Plant and applicable statutory requirements.
- All Items / appliances / kits for Personnel protection and safety shall be arranged by the Vendor at his cost. The Owner shall not permit the Contractor's personnel to enter the Plant premises without required Items/kits for personnel protection.
- Contractor shall strictly comply with the safety rules and regulations for dismantling of the equipment's, working at heights or within Tanks etc.
- The equipment's / appliances used by the Contractor shall be complete with safety devices for smooth operation and free from any potential hazards to the working personnel.
- The Contractor shall carry out the work in a manner that it does not affect the activities of other Vendors/ Contractors at Site.
- The successful Bidder shall comply with the provisions of the Factories Act, Contract Labor (Regulation and Abolition) Act, ESI Act, Employees Provident

Fund and or any other Laws and Rules that may be applicable from time to time to the workers engaged by him.

- The Contractor, when required by the Owner shall produce the registers and records for verification and comply with other directions issued by the Owner for compliance of the statutory provisions.
- The Contractor shall fully indemnify the Owner of loss if any caused due to any fault or non-observance of any of the laws, or any omission or commission or inability on the part of the Contractor or his representative.
- The Contractor will be required to maintain the daily attendance of his labors in the prescribed format for accounting payments of minimum wages, deductions, payment of Bonus, leave etc.

#### **4. Safety**

- 4.1 The Contractor shall, at all times, exercise all reasonable precautions for the safety of its personnel and employees/workers in the performance of its obligations under the Contract and shall comply with all lawful instructions of HCL and/or DGMS or other authority relating to safety in general and in particular to the safety of the Mine and its operations and safety of all persons engaged in the mine and shall abide by all applicable provisions of the safety laws drawn up by the DGMS, GoI or GoMP or municipalities and other authorities in India and shall provide all facilities and gadgets required for the purpose. Any compensation to be paid to the workers/employees or others on any account including failure to observe safety laws shall be the responsibility of the Contractor. In case of non-compliance by the successful bidder, the same may be provided by HCL at the successful bidder's cost.

The contractor shall be responsible for implementation of safety rules as per good industry practices and applicable laws.

- 4.2 The contractor shall be responsible for implementation of safety rules as per good industry practices and applicable laws and directions of DGMS.
- 4.3 Special precautions should be taken while deploying workers in the mine. Before employing any labour to the mine proper vocational training should be imparted and all rules and regulations in that regard should be strictly followed and shall ensure that:
- 4.3.1 No person/vehicle shall be deployed at any place other than authorized place.
  - 4.3.2 All workers should obey lawful instructions of mine management.
  - 4.3.3 All drivers shall obey systematic traffic rules prepared by management.



Before deployment of the workers, they must be trained and briefed about safety aspects in a mine. However during course of execution of the work, if any accident occurs whether major or minor, the matter shall have to be immediately informed to mine management so that Notices of accidents in accordance of the statutes as mentioned in regulation of MMR be given and other necessary steps may be taken in accordance of the Mines Act 1952 and other relevant laws.

**5. Fire Prevention**

The Contractor shall take all reasonable precautions to prevent break out of fire of any nature in the place or in the vicinity of the Mining Facilities. The Contractor shall be responsible for all damages due to fire directly or indirectly attributable to its activities or of its workers/employees. The Contractor shall have to provide a suitable, reliable and adequate firefighting system by way of water pipeline with firefighting hydrant points at various strategic locations in the Mining Facilities. In addition to this, fire extinguishers of different types such as CO<sub>2</sub> type, foam type, dry chemical powder type and soda-acid type, suitable for industrial use shall be provided at different required locations. Fire hydrants and firefighting facilities shall also be provided at vulnerable points like workshops, fuelling facilities, mine offices etc. within the Work Site. The Contractor shall prepare a plan for this purpose, obtain the approval of HCL and shall implement the plan, after such modifications/ additions as HCL may prescribe. The firefighting plan should comply with all Applicable Laws and the Contractor shall obtain necessary approvals from the statutory authorities.

**6. Sanitary and Medical Requirements**

The Contractor shall promptly and fully comply with the Applicable Laws and provide sanitary and medical requirements, or as may be prescribed by HCL or by Engineer-in-Charge for proper work, safety and health of the workers/employees and of the local communities. In case of such non-compliance of the Contractor, the same may be provided by the Engineer-in-charge at the Contractor's cost.

**7. Cleanliness**

All portions of the work shall be maintained and kept neat, clean and proper sanitary conditions shall be maintained at all time.

**8. First Aid**

The Contractor shall keep first aid facilities and provisions as required under Applicable Laws at the work site.

**9. Protection of Work**

The Contractor and its workmen shall protect the work, excavations, equipment existing installation and material belonging to the Contractor and HCL from damage until the issuance of Completion Certificate to the satisfaction of the Engineer-in-Charge. Should any damage occur,

due to negligence of the Contractor he shall repair it at his own cost, to the satisfaction of the Engineer-in-Charge.

**10. Drinking Water**

The Contractor shall make necessary arrangements for sufficient supply of cool and wholesome drinking water as per the provisions of Applicable Law.

**11. Conservancy**

The Contractor shall make necessary arrangements urinals and latrines at the Work Site in accordance with the Mines Act and rules thereto.

**12. Work Hours**

The Contractor shall comply with the requirements of the work hours and wages as prescribed in the relevant the Act and rules thereto.

## **SCHEDULE – IV**

### **Supplies from HCL**

**Electric Power** : HCL shall provide only one 11 KV power source to the Successful Bidder a Main receiving Substation for surface as well as in the following manner:

- a) The successful bidder will construct main sub-station at surface and subsequent distribution of power for underground and other sub-station will be from the main sub-station. The voltage supply and usages for the underground sub-station will be as per the latest CERA-2021 and DGMS guidelines. Successful bidder has to comply by the statutory standards for sub-stations and accordingly get approvals for charging of underground sub-station from DGMS.
  
- b) HCL will provide one 11 kV power source to the Successful Bidder from existing MRS 132/11 KV sub-station. Distribution of power supply to surface installation, buildings, and workshop shall be arranged by the Successful bidders. However, considering the vastness of HCL Underground Mines, during the execution of project HCL in consultation with the Successful bidder will analyze the situation for the arrangement of power supply; and if required, 11 kV and other power supply source (3.3 kV/440 Volts) may be provided to the successful bidder in future depending upon the availability of feeders for the power supply at HCL. However, arrangement for suitable power distribution arrangement will be made by the Successful Bidder only.

The successful bidder at his own cost will also provide suitable electric meter, fuses, switches etc. which should be in the custody and control of HCL. The recovery rate of power supply shall be guided by prevailing tariff policy of MPERC/MPPKVVCL. The successful bidder shall provide details of total connected load and contact demand for HT supply, based on which per month electricity charges will be calculated considering Fix Charges ( Consisting 90 % of contract demand minimum) and Variable Charges ( Consisting of Energy Charges based on Load factor, FCA charges, TOD rebate and duty etc.

HCL shall not however guarantee for the supply of power and no compensation for any failure of shortage of supply of power will be entertained and this also does not relieve the successful bidder of his responsibility for timely completion of his work.

Power tariff as on date of is as follows:

The average tariff rate (including fixed+ variable charges) for the year 2020-21 based on tariff policy of MPERC/MPPKVVCL is as follows:

- i) Fixed Charges at the rate Rs. 660 per kVA
- ii) Variable charges

- a. Energy Charges @ Rs. 6.62 upto 50% of load factor and Rs . 5.50 for more that 50 % of load factor.
- b. Duty @ 40% for mines

(1) WATER :

Construction & Drinking water shall be supplied on free of cost by the Employer to the Contractor at a single point within a distance of 1200 m from the North decline portal. The Contractor shall make its own arrangements to lay and maintain necessary distribution lines, valves, etc., from this point at its own cost up to the working face.

The Contractor shall be responsible to store water in sufficient quantities to meet its requirements and ensure that there is no wastage of water. Quantum of supply will depend on availability and no claim for shortfall shall be allowed by the Employer.

**SCHEDULE - V**

**Schedule of items and Rates  
as per Contract Price**

**As given in Appendix X**

**SCHEDULE – VI**

**PERFORMA FOR BANK GUARANTEE TOWARDS SECURITY DEPOSIT**

(ON NON-JUDICIAL STAMP-PAPER OF APPROPRIATE VALUE)

**Hindustan Copper Limited,**

**‘Tamra Bhawan’**

**1, Ashutosh Chowdhury Avenue,**

**Kolkata – 700 019**

**Dear Sir,**

M/s.....

awarded the work of at Malanjkhand Copper Mine under tender/LOI/WorkOrderNo----- approached us with the request to furnish Hindustan Copper Limited at Corporate Office, Kolkata a Bank Guarantee for Rs. .... only (Rupees ..... only) towards security deposit. At their request and in consideration of the promises we----- have agreed to give guarantee as hereinafter mentioned.

1. We hereby agree and undertake that if in your opinion any default is made by the said M/s in performing any of the terms and/or conditions of the agreement or if in your opinion he commits any breach of agreement or there is any demand by you against the said M/s.----- then on notice to us by you we shall on demand without demur and without reference the said M/s,----- immediately pay to your, in any manner in which you may direct, the said amount of Rs.----- only (Rupees ----- only ) or such portion thereof as may be demanded by you not exceeding the said sum and as you may from time to time require. Our liability to pay is not dependent or conditional on your proceeding against the said M/s ----- and we shall be liable to pay the aforesaid amount as and when demanded by you merely on a claim being raised by you and even before any legal proceedings are taken against the said M/s.....
2. You will have full liberty without reference to us and without affecting this guarantee. Postpone for any time or from time to time the exercise of any of the powers and rights conferred on you under the contract with the said M/s..... and to enforce or to forbear from endorsing any power or rights or by reason of time being given to the said M/s.  
-----  
which under law relating to sureties would but for the provision have the effect of releasing us.
3. Your right to recover the said sum of Rs.-----only (Rupees ----- from Us in manner aforesaid will not be affected or suspended by reason of the fact that any dispute or

disputes have been raised by the said M/s-----and/or that any dispute or disputes are pending before any officer, tribunal or court.

4. Our guarantee herein contained shall not be determined or affected by the liquidation or winding up of dissolution or change or constitution or in solvency of the said M/s.----- but shall in all respects and for all purposes be binding and operative until payment of all money due to you in respect of such liability or liabilities.
5. Our liability under this guarantee is restricted to Rs. -----only (Rupees----- only). Our guarantee shall be valid up to ----- and we are liable to pay the guaranteed amount or any part thereof under the Bank Guarantee only and only if you serve upon us acclaim or demand or a suit/action to enforce acclaim under guarantee is filed against us on or before -----.
6. We have power to issue this guarantee in your favour under Memorandum and Articles of Association and the undersigned has full power to do under the power of attorney dated----- granted to him by the Bank.

Yours faithfully,

-----  
-----

----- Bank

(Signature of a person duly authorized to sign on behalf of the Bank).

**SCHEDULE -VII**

**MANDATE FORM FOR ELECTRONIC PAYMENT THROUGH INTERNET & RBI**

To

Hindustan Copper Limited,

.....  
 .....

Dear Sir,

Sub: Authorization for release of payment due from HCL, ----- through  
 Electronic fund transfer (RBI-EFT)/ Internet /RTGS.

Refer Work Order No..... dated.....

(Please fill in the information in CAPITAL LETTERS. Please TICK wherever it is applicable)

1. Name of the Party :
2. Address of the Party :.....

.....  
 City:.....Pin Code.....  
 E-mail Id:.....  
 Permanent Account Number:.....

3. Particulars of Bank:

Bank Name				Branch Name			
Branch Place				Branch City			
Pin Code				Branch Code			
MICR No							
(9 Digits code number appearing on the MICR Band of the Cheque supplied by the Bank. Please attach Xerox copy of a Cheque of your bank for ensuring accuracy of the Bank name, Branch name and Code number)							
Account Type	Savings		Current			Cash Credit	
Account Number (as appearing in the Cheque Book)							
RTGS/IFSC Code							



4. Date from which the mandate should be effective:

I hereby declare that the particulars given above are correct and complete. If any transaction is delayed or not effected for reasons of incomplete or incorrect information, I shall not hold Hindustan Copper Limited responsible. I also undertake to advise any change in the particulars of my account to facilitate updation of records for purpose of credit of amount through RBIEFT/Internet/RTGS.

Place:

Date:

Signature of the Party/Authorized Signatory

Certified that the particulars furnished above are correct as per our records.

Bank's Stamp:

Date:

(Signature of the Authorized Official from the Banks)

**N.B.:**RTGS / NEFT charges, if any, shall be borne by the party.