

FORM - 'B'**General Condition of contract for the supply of Plants and Machinery for Works
Pertaining to the Pashchimanchal Vidyut Vitran Nigam Limited, Meerut**

1. In constructing these General Conditions an annexed Specification, of the following words shall have meaning here in assigned to them unless there is any thing in the subject to context inconsistent with such construction:

**Definition
of terms**

The "Purchaser" shall mean the Pashchimanchal Vidyut Vitran Nigam Limited, Meerut shall include his successors and assigns.

The "Contractor" shall mean the Tenderer whose tender shall be accepted by the Purchaser and shall include such Tenderer's heirs, legal representatives, successors and assigns.

The "Sub-Contractor" shall mean the person named in the Contract for any part of the work for any person to whom any part of the Contract has been sublet with the consent in writing of the Engineer and the heirs, legal representatives, successors and assigns of such person.

The "Engineer" shall mean the officer placing the order for the work with the Contractor and such other as may be duly authorized and appointment in writing by the purchaser to act as Engineer for the purposes of the Contract and in case where no such officer has been so appointed, the purchaser or his authorized representative.

"Plant" shall mean the plant and materials to be provided by the contractor under the Contract.

The "Contract" shall mean and include the General Conditions, Specifications, Schedules, Drawings, From or Tender, Covering letter, Schedule of prices or the final General conditions, specifications and Drawing and the Agreement to be entered into under clause 3 of these General Conditions.

The "Specification" shall mean the specification annexed to these General Conditions and the schedule thereto (if any),

The "Site" shall mean the site of proposed work as detailed in the specification or any other place in Uttar Pradesh where is to be executed under the Contract.

"Month" shall mean calendar month.

"Writing" shall include any manuscript, typewritten or printed statement, under or over signature of seal as the case may be.

Words important persons shall include Firms Companies, Corporations and other bodies whether incorporated or not.

Words importing the singular only shall also include the plural and vice versa where the context requires.

2. The Contractor shall be deemed to have carefully examined the General Conditions, Specifications Schedules and Drawing. If he shall have any doubt as to the meaning of any portion of these General Conditions, or of the Specifications he shall, before signing the Contract, set forth the particulars there of and submit them to the Engineer in writing in order that such doubt be removed.

Contractor to inform himself fully.

3. A formal agreement shall, if required by the purchaser, be entered into between the purchaser and the Contractor for the proper fulfillment of the Contract, Further, if required by the Purchaser and the Contractor shall deposit with the purchaser as security for the due and the faithful performance of the contract such sum not being less than one percent of the total value of the Contract as may be fixed by the Purchaser either in cash or any other form approved by the purchaser. The security deposit shall be refunded to the Contractor on the delivery and check of the plant at the site of work.

Contract

The charges in respect of vetting and execution to the contract document shall be borne by the Contractor. The Contractor shall be furnished with an executed stamped counter-part of the agreement.

After the tender has been accepted by the Purchaser all order or instructions to the Contractor shall, except as herein otherwise provided be given by the Engineer on behalf of the purchaser.

4. The Contractor shall submit, in duplicate, to the Engineer for his approval drawing of the General Arrangement of the plant to be provided and such detailed drawing, other than shop drawings, as maybe reasonably necessary.

Contract drawing

Within fourteen days of the receipt of such drawings the Engineer shall signify his approval or otherwise of the same, and in the event of disapproving the drawings, the Contractor shall submit further drawing for approval.

Within a reasonable period of the notification by the Engineer to the Contractor of his approval of such drawings, three sets in ink on tracing cloth of forroallic prints mounted on cloth, of the drawings as approved shall be supplied to him by the Contractor and be signed by him and the Contractor, respectively and be thereafter deemed to be the "Contract Drawings"

These drawings when so signed shall be committee property of the Purchaser and be deposited with the Engineer, and shall not be departed from in any way whatsoever except by the written permission of the Engineer as hereinafter provided.

In the event of the Contractor design and to process a signed set of drawing, he shall supply four sets instead of three sets and in this case the Engineer shall sign the fourth set and return the same to the Contractor.

The Contractor if required by the Engineer shall supply in addition copies of any drawing other than shop drawing, which may reasonably be required for the purpose of the Contractor and make a reasonable charge for such copies.

The Engineer or his duly authorized representative whose name shall have previously been communicated in writing to the Contractor, shall have the right, at all reasonable times, to inspect, at factory of the Contractor, drawing of any portion of the plant.

- | | |
|---|---|
| <p>5. The Contractor shall be responsible for and shall pay for any alternations or the plant due to any discrepancies, errors or omission in the drawings and other particulars, supplied by him, whether such drawing of particulars have been approved by the Engineer or not provided that if such discrepancies, errors or omission are due to inaccurate information of particulars furnished the Contractor by the Engineer any alternations in the plant necessitated by reason of such inaccurate information of particulars shall be paid for by the purchaser.</p> <p style="padding-left: 40px;">If any dimensions figured upon the drawings or plan differ from those obtained by scaling the drawing of plant, the dimensions as figured upon the drawing or plan shall be taken as correct.</p> | <p>Mistake
in
drawing</p> |
| <p>6. The Contractor shall not without consent in writing of the Engineer or Purchaser which shall not be unreasonably withheld, assign or subject this Contract, or any substantial part thereof other than for raw materials, for minor details, or for any part of the plant, of which the makers are named in the Contract provided that any such consent shall not relieve the contractor from any obligation, duty or responsibility under the Contract.</p> | <p>Subletting
of contract</p> |
| <p>7. In the event of any claim or demand being made or action being brought against the purchaser for infringement or alleged infringement of later patent, In respect of any machine, plant or thins used or supplied by the Contractor under this contract or in respect of any method of using or working by the purchaser or such machine, plant, or thing, the Contractor will indemnify the Purchase against such claim or demand and all costs and expenses arising from or incurred by reason of such claim or demand Provided that the Purchaser shall notify the Contractor immediately and claim is made and that the Contractor shall be at liberty, if he so desires, with the assistance of the Purchaser. If required but at all the Contractor's own expense, to conduct all negotiation for the settlement of the same of any litigation that may arise there from and Provided that no such machine, plant, or thing shall be used by the purchaser of any purpose or in any manner other than that for which they have been supplied by the Contractor and specified under this contract.</p> | <p>Patent
rights</p> |
| <p>8. The plant shall be manufactured and constructed in the best and most substantial and most workmanlike manner and with materials of the best or of approved qualities for their respective uses.</p> | <p>Quality of
material</p> |
| <p>9. The Contractor shall be responsible for security protecting and packing the plant so as to avoid damage under normal conditions of transport.</p> | <p>Packing</p> |
| <p>10. The cost of delivering the whole of the material F.O.R. at the Railway stations specified shall all be born by the Contractor.</p> <p style="padding-left: 40px;">The import License fee for the import of equipment or component parts of raw materials, if required shall be paid by the Contractor even when the import License may have to be taken in the name of the Purchaser.</p> | <p>Delivery
and
import
license
fee</p> |

11. No alterations, amendments, omissions, additions, suspensions, or variations of the plant (hereinafter referred to as "Variation") under the Contract as shown by the contract drawings or the Specifications shall be made by the Contractor except as directed in writing by the Engineer, but the Engineer shall have full power, subject to the provision hereinafter contained, from time to time during the execution of the Contract by notice in writing to instruct the contractor to make such variations without prejudice to the Contract, and the Contractors shall make such variations, and be bound by the same conditions as far as applicable, as though the said variations occurred in the specification. If any' suggested variations would in the opinion of the Contractor, if carried out, prevent him from fulfilling any of his obligations or guarantees under the Contract, he shall notify the Engineer thereof in writing, and the Engineer shall decide forthwith whether or not the same shall be carried out, and if the Engineer confirms his instructions, the Contractor's obligations and guarantees shall be modified to such an extent as maybe justified. The difference of cost, if any, occasioned by any such variations shall be added to, or deducted from, the contract-price as the case may require. The amount of such deference, if any, shall be ascertained and determined in accordance with the rates specified in the Schedules of Prices, so far as the same maybe applicable and where the rates are not contained in the said Schedules, or are not applicable they shall be settled by the Engineer and Contractor jointly, as far as possible, before such variations are carried out provided that the Purchaser shall not become liable for the payment of any charge in respect of any such variations, unless, the instruction for the performance of the same shall have been given in writing by the Engineer.

**Power
to vary
or omit
work**

In the event of the Engineer requiring any variations, such reasonable and proper notice shall be given to the Contractor as will enable him to make his arrangement accordingly, and in cases where goods or materials have already been prepared, or any design, drawings or patterns have been made or work done that required to be altered, the Engineer shall allow such compensation in respect thereof as he shall consider reasonable.

Provided that no such variations shall, except with the consent in writing of the Contractor, be such as will involve an increase or decrease of the total price payable under the contract by more than 10 percent thereof.

In every case in which the Contractor shall receive instructions from the Engineer for carrying out any work which either then or later, will in opinion of the Contractor, involve a claim for additional payment, the Contractor shall as soon as reasonably possible after the receipt of such instructions inform the Engineer of such claim for additional payment.

12. If the Contractor shall neglect to manufacture or supply the plant with due diligence and expedition or shall refuse or neglect to comply with any reasonable orders given to him in writing by the Engineer in connection with the manufacture or supply, or shall contravene any provision of the Contract, the Purchaser may give seven day's notice in writing to the Contractor, to make good the failure, neglect or contravention complained of any if the Contractor shall fail to comply with the notice within a reasonable time from the date of service thereof in the case of a failure, neglect or contravention capable of being made good within that time then and in such case if the Purchaser shall think fit. It shall be lawful for him to take the manufacturer or supply of plant wholly or in part out of the Contractor's hand and give it to another person on contract at the reasonable price and the purchaser shall be entitled to

Negligence

retain and apply any balance which may be otherwise due on the Contract by him to the Contractor or such part thereof as may be necessary, to the payment of the cost of manufacture of or supply of such plant as aforesaid.

13. If the Contractor shall die or commit any act of Bankruptcy, or being a corporation commence to be wound up except for reconstruction purpose of carry on its business under a receiver, the executors, successors, or other representative in law of the estate of the Contractor or any such receiver, liquidator or any person in whom the contract may become vested shall forthwith give notice thereof in writing to the purchaser and shall for one month during which he shall take all reasonable steps to prevent stoppages of the manufacture of plant, have the option of carrying out the Contract subject to his or their providing such guarantee as may be required by the Purchaser, but not exceeding the value of the plant, for the time being remaining unexecuted. In the event of stoppage of the manufacture of the plant the period of the option under this clause & shall be fourteen days only, provided that should the above option not be exercised, the contract may be determined by the purchaser by notice in writing to the contractor, and the purchaser may exercise the same power which he could exercise and will have the same rights which he would have under the last preceding clause if work had been taken out of the contractor's hand under that clause.

**Deaths,
Bankruptcy
etc.**

14. The Engineer, and his duly authorized representatives shall have at all reasonable times access to the Contractor's premises and shall have the power at all reasonable time to inspect and examine the material and workmanship of the plant during its manufacture there, and if part of the plant is being manufactured on other premises, the Contractor shall obtain for the Engineer and for his duly authorized representatives permission to inspect it as if the plant manufactured on the Contractor's own premises.

**Inspection
& testing**

The Engineer shall, on giving seven day's notice in writing to the Contractor setting out any grounds of objections which he may have in respect of the work, be at liberty to reject all or any plant or workmanship connected with such work which, in his opinion, are not in accordance with the Contract, or are in his opinion, defective for any reason whatsoever. Provided that, if such notice be not sent to the Contractor within reasonable time after the grounds upon which such notice is based have come to the knowledge of the Engineer, he shall not be entitled to reject the said plant or workmanship on such grounds. Unless specifically provided otherwise all tests shall be made Contractor's works before shipment.

The Contractor shall, if required, give the Engineer notice of any material being ready for testing, and the Engineer, or his said representative, if so desired, shall, on giving twenty four hour's previous notice in writing to the Contractor attend at the Contractor's premises within seven days of the date of which the material is notified as being ready, failing which visit the Contractor may proceed with the test, which shall be deemed to have been made in Engineer presence, and he shall forthwith forward to the Engineer due certified copies of the tests in duplicate.

In all cases where the contractor provides for tests, whether at the premises of the Contractor or of any subcontractor, the Contractor, except where otherwise specified, shall provide, free of charge, such labour, materials, electricity, fuel, water stores, apparatus and instruments as may reasonably be demanded to carry out efficiently such test of the plant in accordance with the Contract and shall give

**Test at
contractor's
premises**

facilities to the Engineer or to his authorized representative to accomplish such testing.

In special tests other than those specified in the Contract are required they shall be paid for by the purchaser as variations, under clause 1 1.

When the tests have been satisfactorily completed at the Contractor's work the Engineer shall issue a certificate to that effect.

In all cases where the Contract provide for test on the site, the Purchaser, except otherwise specified, shall provide, free of charge, such labour, materials. Electricity, fuel, water, stores, apparatus and instruments as may be requisite from time to time and as may reasonably be demanded. Efficiently to carry out such test of the plant or workmanship in accordance with the Contract. In the cases of Contractor requiring electricity for test on site such electricity shall be supplied to Contractor in the most convenient form available.

**Test on
site**

15. The plant or material shall not be forwarded until shipping dispatch instructions shall have given to the contractor.

**Delivery
of Plant**

Notification of delivery or dispatch in regard to each and every consignment shall be made to the Purchaser immediately after dispatch or delivery. The Supplier shall further supply to the Consignee a priced invoice and packing accounts of all stores delivered or dispatched by him. All packagers, containers, bundles and loose material forming part of each and every consignment shall be described in fully in the packing account, and full details of the contents of packages and quantity of material shall be given to enable the Consignee to check the stores on arrival at destination.

16. The manufacture and supply of plants shall be carried out under the direction and to the reasonable satisfaction of the Engineer.

**Engineer's
supervision**

17. In respect of all matters which are left to decision of the Engineer, including the granting or withholding of certificates, the Engineer shall, if required so to do by the Contractor, give in writing a decision thereon, and his reasons for such decision. If the decision is not accepted by the Contractor, the matter shall, at the request of the Contractor, be referred to arbitration under provision of arbitration hereinafter contained, but subject to the right or reference to arbitration, such decision shall be final and binding on the Contractor.

**Engineer's
decisions**

18. The contractor shall be responsible for loss, damage of depreciation to goods up to delivery at site.

**Liability
for
accidents
and
damage**

19. If during the Progress of manufacture or supply plant the Engineer shall decide and notify In writing to the Contractor that the Contractor has manufactured any plant or part of unsound or imperfect, or has supplied and plant inferior in quality to that specified, the contractor on receiving details of such defect of deficiency shall, at his own expenses, within such time as may be reasonably necessary for the purpose proceed to alter, reconstruct or remove such plant or part of plant, supply fresh materials up to the standard of the Specification and in case the Contractor shall fail to do so the Purchaser may, on giving the Contractor seven day's notice in writing of his intention so to do proceed to alter, reconstruct or remove such plant or part of plant of supply all such materials at the Contractor's cost provided that nothing in this

**Replacem-
ent of
defective
plant or
materials
Deduction**

clause shall be deemed to deprive the purchaser of or affect any rights under the contract which he may otherwise have in respect of such defects or deficiencies.

20. All cost damages or expenses, which the Purchase may have paid, for which under the Contract, the Contractor is liable, maybe deducted by the Purchaser from any moneys due or which may become due by him to the Contractor under this Contract, or may be recovered by suit or otherwise from the Contractor.

**From
contract
price**

Any sum of Money due and payable to the Contractor (including security deposit returnable to him) under this Contract may be appropriated by the Purchaser and set off against any claim of the Purchaser for the payment of a sum, of money arising out of or under any other Contract made by the Contractor with the Purchaser.

21. (1) Subject to any deduction, which the Purchaser may be authorized to make under the contract, or subject to any additions of deductions provided for under clauses 11, the contractor shall, on the certificate of the Engineer, be entitled to payment as follows:

**Terms of
payment**

- (a) Ninety percent of the F.O.R. Contract value of the plant alongwith 100% sale tax and Excise Duty as applicable on finished material/equipment shall be made through Bank, intimated by the purchaser in rupees on receipt by the Purchaser of the contractor's invoice giving the number and date of the railway receipt covering the dispatch of the plant from the Indian Port and of the advice note giving case number and contents, together with a certificate by the Contractor to the effect advice note has actually been that the plant detailed in the said dispatched under the said railway receipt and that the Contract value of the said plant so dispatched is not less than the amount entered in the Invoice.

- (b) Ten percent of the F.O.R. Contract value on presentation of the Contractor's invoice when each commercially useable section of the plant is complete and the last portion of such section has been dispatched and the whole material has been delivered at the place fixed for delivery and checked at the site of the work or, within one month of such delivery, whichever is earlier.

Provided that each of the payments under this clause shall be due on the last of the month in which the invoice for the amount due together with the necessary documents is received by the purchaser, provided also that the Purchaser shall not be bounded to make any payment under sub-clauses (a) unless the amount of such payment represent at least 8 percent of the total contract value of the plant.

- (2) If at the time at which the last installment becomes payable there are minor defects in the plant which are to of such Importance as to affect the full commercial use of the plant, then the Purchaser shall be entitled to retain such part of the installments as represents the cost of making good such minor defects, and any sum so retained shall, subject to the provisions of clause 30, become due upon such minor defects being made good.

- (3) If the purchaser desires that the plant or any portion should not be dispatched by the contractor when it is due for dispatch, the contractor shall store such plant or portion at his works and be responsible for all risk. For such storage the Purchaser shall pay to the contractor at a rate to be mutually agreed upon between the parties, but not

exceeding 5 as (five shillings) per ton per week payable quarterly plus interest at percent per annum above the current rate of the State Bank of India, on 80 percent of the contract value of the plant or portion there of so stored, for the period from the date on which the said plant or portion become due and is ready for shipment up to the date on which it is actually shipped.

22. In any case where the contract price includes a provisional sum to be provided by the Contractor for meeting the expenses of extra work or for work to be done or materials to be supplied by a sub-contractor, such sum shall be expended or used either wholly or in part, or be not used at the discretion of the Engineer, and entirely as he may decide and direct. If no part or only a part there of be used, then the whole or the part used, as the case may be, shall be deducted from the contract price. If the sum used is more than such provisional sum the Contractor shall pay the excess. In the case of materials supplied or work done by a sub-contractor, the total of the net sums paid to the sub-contractor on account of such materials or works and a sum equal to 10 percent of such net sum allowed as Contractor's profit shall be deemed to be the sum used. None of the works or articles to which such sum of money refers shall be done or purchased without the written order of the Engineer. The Contractor shall allow the sub-contractors every facility for the supply of materials or execution of their several works simultaneously with his own, and

**Provisional
Sums**

shall within fourteen days after the Engineer has requested him in writing so to do, pay the dues of such sub-contractors on account of such materials or work; PROVIDED ALWAYS that the contractor shall have not responsibility with regards to such works or articles unless he shall have previously approved the sub-contractor and or the material or plant to be supplied.

- 23 (i) Every application to Engineer for a certificate must be accompanied by a detailed invoice (in duplicate) setting fourth in the order of the Schedule of price, particulars of the plant supplied and the certificates as to such plant as is the reasonable opinion of the Engineer, in accordance with the Contract shall be issued within fourteen days of the application for the same.

**Certificate
of Engineer**

- (2) The Engineer may, be any certificate make any correction or modification in any previous certificate which shall have been issued by him and payments shall requested and adjusted accordingly.

24. No certificate of the Engineer on account nor any sum paid on account by the purchaser nor any extension of time granted under clause 26 shall affect or prejudice the rights of the Purchaser, against. The contractors either under this agreements or under the law, or relieve the Contractor of his obligations for the due performance of the Contract, or be interpreted as approval of the plant manufactured or supplied; and no certificate of the Engineer shall create liability on the Purchaser to pay for any alteration, amendments, variations, or additions not ordered in writing by the Engineer or absolve the Contractor of the liability for the payment of damages whether due, as curtailed or certified or not or of any sum against the payment of which he is bound to indemnity the purchaser, nor shall any such certificate nor the acceptance by him of any sum paid on account of otherwise affect or prejudice the rights of the Contractor against the Purchaser, either under this Agreement or under the law.

**Certificate
not to effect
rights of the
purchaser
or
contractor**

25. The purchaser shall pay to the Contractor all reasonable expenses, incurred by the Contractor by reason of suspension of the manufacture of plant or delay in shipment by order in writing of the purchaser of the Engineer unless such suspension or delay shall be due to some default on the part the Contractor of sub-Contractor. **Suspension of works**
26. The time given to the Contractor for dispatch or delivery shall be reckoned from the date of receipt by the Contractor of the order together with all necessary information and drawings, to enable the work to be put in hand. **Extension of time of completion**
- In all cases in which progress shall be delayed by strikes, lockouts, fire, accidents defective materials, delays in approval of drawings or any cause whatsoever beyond the reasonable control of the Contractor, and whether such delays or impediment shall occur before or after the time or extended time, for dispatch or delivery, a reasonable attention of time shall be granted.
27. If the contractor shall fail in the due performance of his Contract within the time fixed by the Contractor any extension there of, the Contractor agrees to accept a reduction of the Contract price by half percent per week reckoned on the contract value of such portion only of the plant as cannot in consequence of the delay be used commercially and efficiently during each week between the appointed or extended time, as the case may be and the actual time of acceptance under clause 29, and such reduction shall be in full satisfaction of the contractor's liability for delay but shall not in any case exceed 10 percent of the contract value of such portion of the plant." **Price reduction clause**
28. If the completed plant or any portion thereof, before it is taken over under clause 29 be found to be defective, or fails to fulfill the requirements of the Contract, the Engineer shall give the Contractor notice setting forth particulars of such defects or failure, and the Contractor shall forth with make the defective-plant good, or alter the same to make it comply with the requirements of contract. If the Contractor fails to do so within a reasonable time the Purchaser may reject and replace, at the cost of the Contractor, the whole or any portion of the plant, as the case may be, which is defective or fails to fulfill the requirements of the Contract. Such replacement shall be carried out by the Purchaser within a reasonable time, and at a reasonable price, and where reasonable possible to the same specification and under competitive conditions. In case of such replacement by the purchaser the Contractor shall be liable to pay to the Purchaser the extra cost, if any, of such replacement delivered and or erected as provided for in the original contract, such extra cost being the ascertained difference between the price paid by the Purchaser, under the provisions above mentioned, for such replacement and the Contract price for plant, so replaced and also to repay any sum paid by the Purchaser to the Contractor in respect of such defective plant. If the Purchaser does not so replace the rejected plant within a reasonable time, the Contractor shall be liable only to repay to the Purchaser all moneys paid by the purchaser to him in respect of such plant. **Rejection of defective plant**

In the event of such rejection, the Purchaser shall be entitled to the use of the plant in a reasonable and proper manner for a time reasonably of sufficient to enable him to obtained other replacement plant. During the period the rejected plant is used commercially the Contractor shall be entitled to a reasonable sum as payments for such use.

29. Where the specification calls for performance test before shipment and these have been successfully carried out, the plant shall be accepted and taken over and the Engineer shall notify the Contractor to that effect. When the specification calls for tests on site the plant shall be taken over immediately after such tests have been satisfactorily carried out and the Engineer shall notify the Contractor to that effect. Such notification shall not be unreasonably withheld, nor shall the Engineer delay giving such notification on account of minor omissions which does not necessarily delay shipment nor affect the commercial use of plant without any serious risk: PROVIDED ALWAYS that the contractor undertakes to make good such omissions and defects at the earliest possible moment.

**Taking
over**

30. For a period of 12 (twelve) or calendar months commencing immediately upon the setting to work of the plant or on 18 month from the date of receipt of equipment by the Purchaser at site whichever is earlier called the Maintenance period" the Contractor shall remain liable to replace any defective parts that may develop in plants of his own manufacture or those of his sub-contractors approved under clause 6, under conditions provided for by the Contract under proper use and arising, solely from faulty designs, materials or workmanship. PROVIDED ALWAYS the such defective parts as are not reparable at site and are not essential in the meantime to the maintenance in commercial due to the plant are promptly returned to the Contractor's work at the expenses of the contractor unless otherwise arranged.

**Maintena-
nce**

If it becomes necessary for the contractor to replace or renew any defective parts of the plant under this clause, the provisions of the first paragraph of this clause shall apply to the parts of the plant so replaced or renewed until the expiration of six months from the date of such replacement or renewal or until the end of the above mentioned period of twelve months, whichever may be the later.

If any defect be not remedied within a reasonable time the Purchaser may proceed to do the work at the Contractor's risk and expense, but without prejudice to any other rights, which the Purchaser may have against the Contractor in respect of such defects.

The repaired or new parts will be delivered in accordance with clause 10. The Contractor shall bear reasonable cost of minor repair carried out on his behalf at site.

At the end of the Maintenance period the Contractor's liability shall cease. In respect of goods not covered by the first paragraph of this clause, the Purchaser shall be entitled to the benefit of any guarantee given to the Contractor by the Original supplier or manufacturer of such goods.

31 If any dispute, difference or controversy shall at any time arise between the contractor on the one hand and the U.P. Power Corporation Limited and the Engineer of the Contract or the other 'touching the contract, or as to the true construction, meaning interpretation, construction of effect of the clauses of the contract, specifications or drawings or any of them, or as to any thing to be done committed or suffered in pursuance of the contract or specifications, or as to the mode of carrying the contract into effect or as to the breach or alleged breach, or as

Arbitration

to obviating or compensating for the commission of any such breach, or as to any other matter of thing, whatsoever connected with or arising out of the contract, and whether before or during the progress or after the completion of the contract, such question difference or dispute shall be referred for adjudication to the Chairman, U.P. Power Corporation Limited or to any other person nominated by him in this behalf and his decision in writing shall be final, binding and conclusive. This submission shall be deemed to be a submission to arbitration within the meaning of the Indian Arbitration Act, 1940 or any statutory modification thereof. The Arbitrator may from time to time with consent of the parties enlarge the time for making and publishing the award.

Upon every or any such reference, the costs of, an incidental to, the reference and awards respectively shall be in the discretion of the arbitrator, who shall be competent to determine the amount thereof or direct the same to be taxed as between solicitor and client or as between Parties and to direct by whom and to whom and in what manner the same shall be borne and paid.

Work under the contract shall, if reasonable possible, continue during the arbitration proceedings and no payments due to payable by the Corporation shall be withheld on account of such proceedings. In case of refusal/neglect by such nominee, Chairman cum MD, U.P. Power Corporation Limited may nominate may nominate another person in his place.

- | | |
|--|---|
| 32. All dispute arising out of and touching or relating to the subject matter of his agreement shall be subject to the jurisdiction of High Court of Judicature at Allahabad only. | Law
Clause |
| 33. The Contractor shall in all respect be construed and operate as a Contract as defined in the Indian Contract Act. 1872, and all payments there under shall be made in rupees unless otherwise specified. | Construc-
tish of
Contract |
| 34. The marginal note to any clause of this Contract shall not affect or control the construction of such clause. | Marginal
Notes |

**Form of Agreement
(Referred to in Clause 3)**

This Agreement made the _____ day of _____ 200__ Between (hereinafter referred to as "the Contractor") of the one part and The Pashchimanchal Vidyut Vitran Nigam Ltd., Meerut (hereinafter called "Purchaser") of the other part:

Whereas the Purchaser is about to erect and maintain the (hereinafter called "the works") and for the purpose requires the plant and machinery mentioned and specified in certain general conditions, specification, schedules, drawings, form offender, covering letter and schedule of prices which, for the purpose of identification, as been signed by ----- on behalf of the Contractor and ---

(The Engineer or the Purchaser) on behalf of the Purchaser all of which are deemed to form part of this contract as through separately set out herein and are included in the expression "Contract" whenever herein used.

And whereas the purchaser has accepted the tender of the contractor for the supply and delivery of the said plant and machinery for the sum of -----
-----Upon the terms and subject to the conditions hereinafter mentioned:

NOW THESE PRESENT WITNESS and the parties hereto hereby agree and declare as follows, that is to say, in consideration of the payments to be made to the contractor by the Purchaser as hereinafter mentioned the contractor shall and will duty provide the said plant machinery for the said work on the terms and conditions mentioned in the Contract:

And in consideration of the due provisions of the said plant and machinery by Contractor and due performance of his part of the contract, the purchaser, does hereby for himself, his successors or assigns covenant with the Contractor that he, the Purchaser or his successors or assigns will pay to the contractor the said sum of or such other sums as may become payable to the Contractor under the Provisions of this Contract, such payments to be made at such time and in such manner as is provided by this contract.

In Witness whereof the parties, hereto have signed this Deed hereunder on the dates respectively mentioned against the signature of each.

Signed
(for and on behalf of the purchaser)
(date)

Signed
(Contractor)
(date)

By _____

By _____

in the presence of _____

in the presence of _____

and of _____

and of _____