

## **GENERAL TERMS & CONDITIONS FOR WORK ORDER EFFECTIVE FROM 10.08.2016**

Any special conditions mentioned in the work order shall be read in conjunction with the general terms & conditions and all other documents forming part of the Work Order. Where any portion of the general terms & conditions is repugnant to or at variance with any provisions of the special terms & conditions, the special terms & conditions shall prevail to the extent.

### **Definition**

“Department” means the intending department mentioned else were in this order of JUSCO “Purchaser” means JUSCO Ltd. Who awards the work order to vendor and shall include its directors, employees, successor, permitted assigns, engineers, agents, representatives, etc. or any of them.

“Vendor” (name of the vendor or contractor to whom this work order is awarded mentioned elsewhere in this order ) includes its directors/proprietor/partners (as the case may be) employees, successors, permitted assigns, engineers, agents, representatives etc. or any of them “Delivery site or site means the site where job will be executed.

“Engineer” means any consultant / Employee of JUSCO/Project in charge- engaged and authorized by JUSCO to supervise the job “Goods” means any material mentioned in the work order. It includes equipment, spares, consumables, raw material and other hardware/software articles “Order” means work order/value contract (as the case may be) issued by the purchaser from time to time for supply of the materials / service by vendor within a specified time period and in pursuance to the other special terms and condition as mentioned therein. Language and Law Language of the contract/order shall be in English and the law governing the contract/order shall be Law of India Sublet The Vendor shall not sublet subcontract, transfer or assign the Contract or any part There of without the written permission of the Contract Owners, except as stipulated otherwise in the Contract. In the event of the vendor r contravening this condition, the Contract Owners shall be entitled to place, the Contract elsewhere on the vendor’s account and at his sole risk and the vendor shall be liable for any loss or damage which the Contract Owners may sustain in consequence or arising out of such placing of the Contract.

### **Subcontracts –**

Subcontracting or the hiring of others by contractor to perform the services herein is conditioned upon obtaining specific, prior approval by JUSCO. Such approval shall be conditioned upon compliance with the following minimum conditions:

- (a) Vendor shall be fully liable and responsible to JUSCO for the acts and omissions of its subcontractors and shall not be relieved of any obligation to JUSCO under this agreement.
- (b) Vendor shall only use subcontractors of demonstrated experience and reliability as to the services to be provided.
- (c) Subcontractor agrees in writing to be bound by all obligations of contractor set forth in these general conditions.
- (d) Sub contractor complies with all statutory and legal requirements of Jusco

### **Replacement and Insurance:**

#### **Covering for Contractors tools, tackles etc:**

The Vendor shall at his cost effect necessary insurance for all the plant(s), equipment(s), tools, tackles, or any other assets owned by the Vendor (Contractor)/subcontractor/employees used for the Job/job constructions and the Purchaser (Contract Owners) shall have no responsibility for loss or damage to such property

#### **Any other Insurance required under Law:**

Vendor shall at his cost carry and maintain any and all other insurances which may be required under any law or regulation from time to time without any extra cost to the Purchaser (Contract Owners).

**Vendor Transit risk responsibility**

Any damages/ loss whatsoever at any time including loading, transit and/or unloading at the delivery site will be at vendor account.

However, the Vendor shall be responsible for safe arrival of the material at its final destination in satisfactory condition and without any loss or damage until the same is actually delivered to and received by the purchaser. If, on inspection at the final destination, the purchaser discovers any loss/damage in the material supplied or if the goods are received in damaged condition or if in the opinion of the purchaser, the material does not comply with the ordered quantity or specification, the purchaser, notwithstanding the title of the material having passed on to the purchaser, shall be entitled to refuse acceptance of the material or reject it altogether and claim damages or cancel the order and shall be at liberty to buy the purchaser's equipment from any other vendor of his choice and recover the loss, if any, from the vendor.

The risk/ title and ownership of material shall remain with the vendor till the equipment/items and materials are received by the purchaser at the delivery site

**Price Adjustment/Escalation**

Rates are firm and fixed and shall be valid during the entire period of execution of the Work Order. No claims for escalations will be entertained unless agreed to in writing by us. It shall be Vendors responsibility to submit the bills timely along with HR/IR clearances.. The contractor's bills will be subject to Works Contract Tax / Income Tax deductions at source as per the laws.

**Liquidated damages for delay in delivery/service: If applicable the same shall be decided as per departmental plan mutually agreed with the vendor and indenting department in writing or mentioned elsewhere in this order/contract.**

**Legal and statutory compliances-**

The vendor shall comply with all legal and statutory compliances as applicable and arising out as a consequence of this order and indemnifies the purchaser from all liabilities arising out of any of its failure in this regard.

**Force majeure:**

The purchaser shall not be responsible for performance of any obligation under or in connection with the purchase order for reason such as declared war, hostility, acts of the public or enemy, civil commotion, sabotage, fire, flood, earthquake, explosion, epidemic, quarantine restriction or other acts of god. Subject to right to terminate under termination clause, no party to this contract shall be considered in default or in contractual breach to the extent that performance of obligations is prevented by a Force Majeure event.

**Risk purchase:**

Service/s must be delivered as per the delivery schedule indicated in order or agreed with department in writing failing which purchaser reserves the right to cancel the order and procure service/s from alternate source and recover loss, cost, expense, if any, incurred in this connection from the vendor from any outstanding sums that may be due from the purchaser to the vendor against any of the orders/agreements entered into with the service provider or through a debit note in this regard.

**Extension of time**

Since Time is the Essence of the contract, no extension of time is applicable. However, any period within which a party shall, pursuant to this contract, complete any action or task, shall be extended for a period equal to the time during which such party was unable to perform such action as a result of force majeure. Any kind of time extension if required will be at discretion of Jusco and cannot be claimed.

**Termination/Cancellation of order/contract**

The purchaser at his option, may cancel the contract at any time by a simple written notice to the vendor in case of vendor's non- compliance with his obligation under the contract and more specifically in case any of the following circumstances occurs:

A) unjustified interruption of contractual services by the vendor including delays and /or failure to maintain delivery schedule of plant and equipment, designs and drawings and other supplies or completion of work as agreed to

B) errors, negligence, insufficiencies in the contractual work under execution or failure to supply required materials as per specification or manpower or in other similar circumstances affecting the quality of work for reason attributable to the vendor.

C) if the vendor refuses to implement instruction received from the purchaser or the engineer within the stipulation of the contract/order.

D) where the vendor is declared in liquidation or bankruptcy or is involved in similar proceedings or has been implicated repeatedly in litigation or may have entered into or transfers with his creditors or others which might compromise the vendor's solvency. In any of the cases described above, the purchaser shall inform the vendor of its decision to cancel the contract/order or to terminate the vendor's services, in whole or part under it, specifying in such notice the reason or the basis for this decision. The vendor shall within fifteen (15) days from the above notice of default, correct such default or satisfy the purchaser regarding the action taken by him or The corrective action, failing which the purchaser at his option will cancel the contract/order.

The vendor shall immediately stop all work in connection with the contract/order, except as directed by the purchaser. In such case, the purchaser shall be at liberty to contract with other parties or to perform with his own personnel those supplies/services undertaken by the vendor in the contract/order. In such case, the vendor shall be liable for any/all costs incurred by the purchaser for obtaining and/or erecting the balance /service from another party in excess of the ordered price.

In case of termination of part of the contract/order, the vendor will continue performance of the contract/order to the extent not terminated by the purchaser.

**General Direction of work:**

Purchaser shall have the right, without contacting the Contractor, to immediately stop any work that, in the opinion of the Purchaser employee, has fatal potential without penalty to Purchaser. Purchaser will immediately report the situation to the Contractor for correction. Work will remain stopped until work conditions are made safe

**Change in Law**

"Change in Law" means a change in the applicable Laws (including the introduction of new laws and the repeal or modification of existing laws) or in the judicial or official government interpretation of such laws, made after the effective date, which affect the vendor in the performance of obligation under the contract.

If the vendor incurs additional cost as a result of a change in Law, the vendor remuneration shall be adjusted so as to put the vendor in the same financial position as it would be if the change in Law had not occurred.

**Exclusion of Indirect/Consequential Losses**

Notwithstanding any other provision of the contract, neither party shall, under any circumstances be liable to the other for loss of profit, loss of use, loss of opportunity or any consequential or indirect or economic losses.

**Representation and Warranties**

The Vendor represents and warrants to the Authority that:

(a) it is duly organised and validly existing under the laws of Jamshedpur/ India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has taken all necessary corporate and/or other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(d) it is subject to the laws of Jamshedpur/ India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;

(e) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

(f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of

its memorandum and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is party or by which it or any of its properties or assets is bound or affected;

(g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasijudicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(j) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(k) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;

(l) all information provided by the {selected bidder/ members of the Consortium} in response to the Request for Proposal is to the best of its knowledge and belief, true and accurate in all material respects; and

(m) nothing contained in this Agreement shall create any contractual relationship or obligation between the Authority and any Sub-contractors, designers, consultants or agents of the Contractor.

#### **Severability**

If any provision of the Work Order is or becomes invalid or unenforceable or prohibited by the law of the place where it is performed, the Work Order shall be considered divisible as to such provision, and such provision shall be inoperative and shall not be part of the consideration and the remainder of the Work Order shall be valid and binding and of like effect as though such provisions were not included herein.

#### **Confidentiality**

The Vendor shall keep confidential all matter relating to service and this contract/order and will not make any disclosure, and shall use reasonable endeavours to ensure that their employees, sub-contractors and agent do not make any disclosure, to any person of any information, data, experience, documents, secrets, dealings, transaction or affairs of or relating to the parties, the services or this contract/order. Contractor shall not make use of the fact of this Contract/Work Order in any manner for publicity or any other promotional purpose. The Contractor shall keep all the information given by JUSCO to the Contractor confidential and this clause shall survive and remain in force for 1 (one) year upon and following the termination of this Work Order.

#### **Deployment of resources**

The contractor hereby agrees to make all such requisite arrangement as necessary to a carry out and to execute the Work Order including raw materials, plants & machinery, tools & tackles, spares, consumables, fuels & oils, safety & personal protective appliances etc. unless otherwise specified in our Work Order. . You will deploy requisite resources to achieve the same as per your commitments. Any failure in mobilizing resources in time shall amount to breach of Work Order. The contractor shall make his own arrangement for power & water however arrangement can be also done by Jusco if mentioned elsewhere in this

#### **Issue of material**

If materials are issued to the contractor, the materials indents signed and sent by the contractor for getting materials from our store shall be valid for recovery of the value from the contractor/not applicable if it is a free issue. The contractor is liable for wastage of material given to him for use in the work and any damage he may cause to the work already existing/wastage percentage if fixed by indenting department, same shall be considered during reconciliation of material. If any tools and plant are provided by the company/ JUSCO, normal wear and tear will be allowed but loss of damage in respect for the same must be made good by the contractor. The value of loss shall be determined by Jusco. Materials reconciliation statements should be submitted by the contractor at required periodic intervals as specified by

Jusco. In case the contractor fails to submit the reconciliation statement within one month of completion of any job with detailed back up, then we reserve the right to recover the cost of all such issued materials from the contractor. During the execution of Work Order, if the contractor damages any property belonging to JUSCO / Tata Steel / Public / Private body, the cost of restoration shall be recovered from the contractor. Repetition of such acts shall be liable for disciplinary action on the contractor as per rules of Jusco.

#### **Inspection and rejection**

The purchaser shall reserve the right at its sole discretion to reject/part accept the goods/service under following condition

- a) Inordinate delay
- b) Goods/service not as per specification
- c) Test certificate/MSDS/other certificates as specified in the order not provided at the time of delivery
- d) Goods in damaged condition/service not satisfactory
- e) Short/excess supply/Delay in service or mobilization
- f) Invoice commercially not clear

#### **Governing law**

This Work Order shall be generally governed by The Indian Contract Act, 1872 unless otherwise specified. The Contractor shall strictly follow the Payment of Wages Act, 1936, The Employees Compensation Act, 1923, The Minimum Wages Act, 1948, The Contract Labor (Regulation & Abolition) Act, 1970, Employees Provident Fund & Miscellaneous Provisions Act, 1952, The Employees' State Insurance Act, 1948, The Interstate Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979, Factory Act, 1948, The Equal Remuneration Act, 1976, The Industrial Dispute Act, 1947, The Child Labor (Prohibition & Regulation) Act, The Maternity Benefits Act, 1961, The State Industrial Establishments (National and Festival Holidays) Act, The Payment of Gratuity Act, 1972, Payment of Bonus Act, 1965, The Companies Act, 1956, Sick Industrial Companies (Special Provisions) Act, 1985, Central Excise Act, 1944, Central Sales Tax Act, 1956, Income Tax Act, 1961 and other relevant Central and State Acts and rules or notifications pertaining to (i) Value Added Tax , (ii) Sales Tax, (iii) Mines & Mineral (iv) Shops & Establishment , (v) Service Tax, (vi) Laws relating to Building and Other Construction Workers, wherever applicable, (vii) Environment and all other laws of the land as applicable. The contractor shall collect the relevant Forms from JUSCO and submit the same duly filled in for getting relevant Certificates/Licenses/Approvals.

Contractors shall have to submit the requisite affidavit in prescribed Form and Transport Challan under the applicable provisions of relevant state Mines & Minerals Concession Rules along with their bills wherever applicable.

The above list of Central/State acts, rules, and notifications is/are not exhaustive and JUSCO shall not in any manner be responsible for any non compliance on the part of the Contractor or its sub contractor in this regard.

#### **Compliance of statutory requirement**

All contractors and its subcontractors must have valid Statutory Registrations for EPF, ESI, PAN, VAT, Professional Tax and Service Tax etc as applicable. These are mandatory requirements for vendor registration with JUSCO. If a complaint regarding non-payment of wages/delayed payment of wages/ short payment of wages or dues / violation of minimum wages is received by the company from any of the workmen of the contractor or by principal employer or representative of any union or Govt. authorities, the contractor's bill will be held up till inquiry is completed and once we are satisfied that the workmen's wage dues have not been paid by the contractor, such wages will be deducted from the contractor's bill and paid directly to the aggrieved workmen.

Also, in addition, Vendor shall indemnify Purchaser against any proceeding by statutory authority duly impeding himself as the party answerable and to exclude Vendor from such proceeding.

The Vendor's/vendor's employees should be issued Employment Card, Photo Identity Card and Attendance Card in all the cases whether the employment is of temporary nature or of Permanent nature. The Vendor will have to maintain all registers, documents, records, Returns and Forms as per above Act & Rules. The Vendor will keep the records updated & submit regularly to our project manager/ site in-charge/ Contractor Cell/ HR-IR Department & obtain HR/IR Clearance before submitting the bills.

In short, the Vendor should ensure to submit the copy of workmen register, attendance register (duly certified by project manager), wages register (duly certified by principal employer, monthly PF & ESI paid challans covering all workmen engaged/ deputed at JUSCO's business place/ site to JUSCO's Contractors' Cell by 25th (this date may be changed /altered & communication may be given if required) of the month. Leave & bonus to be paid to all workmen engaged/ deputed at JUSCO's business place/ site and copy of the same to be also submitted to confirm the compliance. The Vendor should file monthly, half yearly & annual returns under provisions of various Labor & Industrial Laws and copy of the same to be also submitted to confirm the compliance. Full and final settlement of all workmen (in case of left/ resign/ project closure/ Work Order termination) to be done within 02 working days of such issue and copy of the same to be submitted to JUSCO's Contractors' Cell. Non-compliance on above will be viewed very seriously and suitable action will be initiated by the company.

The Contractor engaged in Construction activities (ref. sec. 2(1)(d) of BOCW Act - means the construction, alteration, repairs, maintenance or demolition, of or , in relation to , buildings , streets , roads , railways , tramways , airfields , irrigation , drainage , embankment & navigation work , flood control works ( including storm water drainage works), generation, transmission & distribution of power, water works ( including channels for distribution of water ), oil & gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqua ducts , pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate govt., by notification but does not include any building or other construction to which the provisions of the Factories Act,1948 (63 of 1948), or the Mines Act,1952(35 of 1952), apply;) would be liable pay 1% or 2% Cess as per state rules and compliance of the same to submitted to Contractor Cell- JUSCO.

#### **INDEMNITY**

The Vendor (Contractor) shall be responsible for any fatal or bodily injury to any person whatsoever, as well as for any physical damage to property of purchaser (Contract Owners) other than the Goods, or property of third parties, arising out of any negligent acts or omissions or resulting from any breach of Vendor's (Contractor's) obligations under this Contract, including those imposed under any local or national laws applicable to vendor's (Contractor's) Work. Vendor (Contractor) shall indemnify and keep indemnified the purchaser (Contract Owners) against all claims for injuries or damage to property, demands, proceedings, direct damages, charges and expenses to the extent that the Vendor(Contractor) would be directly responsible to the claimant. The Vendor (Contractor) further shall indemnify and save purchaser (Contract Owners) harmless in respect to all salaries, wages or other compensation of all persons employed by the Vendor (Contractor) or his sub-Contractors or vendors in connection with the performance of any work covered by the Contract. The vendor shall execute and deliver and shall cause his sub-Contractors and vendor to execute and deliver such other further instruments and to comply with such requirements of such laws and regulations as may be necessary there under to confirm and execute this Contract and to protect the Purchaser (Contract Owners) or his officers and employees.

The Vendor (Contractor), its directors, employees, successors, assignees, servants, agents or any of them from any claim, demand, course of action, loss, expenses or liability on account of injury or death of persons (including the employees of the Contract Owners/Contractor/Subcontractor).

Any claim arising out of damage to or loss of property (including the property of the Purchaser Contract Owners/Sub-contractor) arising directly or indirectly out of the negligent acts, errors or omissions of the vendor in performance of his obligation under this agreement.

- Any claim by Government authorities/quasi Governmental body for failure by the vendor to pay taxes, duties, fees applicable to them arising out of the Job/construction.
- Any claim by third party including sub-contractors for failure to make payment for labour services, equipment and materials arising out of this Job/construction.
- Any claim with regard to designs, methods, process including but not limited to claims arising out of infringement of patent, trademark, property information, know-how, copyright, unpatented inventions or any unauthorized use of work.

The vendor shall defend at his own expenses any suit proceedings for any claim asserted against the Purchaser (Contract Owners). The Purchaser(Contract Owners) shall give reasonable assistance required in defending the suit and Purchaser (Contract Owners) shall reserve the right to represent his counsel through not obligated to

do so. Purchaser (Contract Owners) reserves the right to defend/settle the claim if Vendor fails to defend diligently any such suits or proceedings and without relieving the Vendor of his obligation.

Vendor shall at all times indemnify the principal employer against all claims, damages or compensation under the provisions of various Acts applicable such as the Payment of Wages Act 1938, Minimum Wages Act 1948, Employees State Insurance Act 1948, Workmen's Compensation Act 1923, Fatal Accidents Act 1855, Apprentices Act 1961, industrial Disputes MAct 1947 and Contract Labour (Regulation and Abolition) Act 1970 etc or any modification thereof or any other Law relating thereto (including common law) and Rules made there under from time to time.

**Dispute Resolution**

All disputes and differences arising between the Purchaser and vendor hereto in respect of any aspect of this contract/order or the interpretation construction or effect of the terms and conditions of this contract/order shall be referred to the sole Arbitration of Managing Director, JUSCO or anyone else nominated by him and the same shall be deemed to be a reference within the meaning of arbitration and conciliation act,1996. The Arbitrator shall have summary powers and shall be entitled to lay down his procedure. It will not be obligatory on the part of the Arbitrator to follow the provisions of Indian Evidence act, unless specifically enjoined upon the Arbitrator under any statute or law for the time being in force. It will not be obligatory on the part and covenant with each other and they have full trust and confidence in the Arbitrator and it is by mutual consent that the parties have agreed to appoint the Arbitrator as mentioned hereunder as the sole Arbitrator. The parties have further agreed that the award passed by the Arbitrator shall be final and binding on the parties and they will comply and fulfill the same without raising any objection whatsoever. Jamshedpur shall be the venue for all arbitration proceedings.

**Governing Law and Jurisdiction**

This contract/order shall be construed, governed and enforced in accordance with the laws of India. The parties hereby agree that all disputes relating to or in connection with this purchase contract/order shall be subject to and be referred to the exclusive Jurisdiction of Jamshedpur (Jharkhand ) courts.

**Notice**

Any notice required or permitted by this contract shall be in writing and shall be given by either party to the other at the last known address of the either party.