

Section No	GCC Clause	Bidder Comments	TPCODL Response
4.2 (GCC)	Indemnity	We would like to propose changes to the indemnity clause as below:	It will be as per NIT.
	Associates shall undertake to fully indemnify TPCODL (also referred to as the Company in the GCC) against all kinds of liabilities or damages, of whatsoever nature, including compensation arising from any accident to the person or property of those in Associate's employment or to any other person or properties including those of TPCODL, arising due to reasons attributable to any, act, omission or negligence of the Associate the Associates, for the entire period of contract including period of guarantee.	Associates shall undertake to fully indemnify TPCODL (also referred to as the Company in the GCC) against all kinds of liabilities or damages, of whatsoever nature, arising from any accident to the person or property of those in Associate's employment or to any other person or properties including those of TPCODL, arising due to reasons attributable to any, act, omission or negligence of the Associate the Associates, for the entire period of contract including period of guarantee.	
	Failure in Guarantee Period (GP)		NIT Terms will be prevailed.

14.3	<p>If the equipment and material supplied/service or work rendered under the contract fails to perform its due, rated & intended quality performance, during the Guarantee period, the associate is liable to undertake repair/rectify/replace the equipment and material supplied/service or work rendered under the contract within time frame specified in the SCC or elsewhere in the contract documents at associate's cost to make the equipment and material supplied/service or work rendered under the contract of performing its due, rated and intended quality performance. If Associate fails to repair/rectify/replace the equipment or material supplied/service or work rendered under the contract, failed in Guarantee Period, TPCODL will be at liberty to get the same done at Associate's risks and costs and recover all such expenses plus the TPCODL's own charges (@ 20% of expenses incurred), from the Associate or from the "Security cum Performance Deposit" as the case may be.</p>	<p>If the equipment and material supplied/service or work rendered under the contract fails to perform its due, rated & intended quality performance, during the Guarantee period, the associate is liable to undertake repair/rectify/replace the equipment and material supplied/service or work rendered under the contract within time frame specified in the SCC or elsewhere in the contract documents at associate's cost to make the equipment and material supplied/service or work rendered under the contract of performing its due, rated and intended quality performance. If Associate fails to repair/rectify/replace the equipment or material supplied/service or work rendered under the contract, failed in Guarantee Period, TPCODL will be at liberty to get the same done at Associate's risks and costs and recover all such expenses from the Associate or from the "Security cum Performance Deposit" .</p>	
14.7	<p>Support beyond the Guarantee Period</p>		<p>It will be as per tech spec clause no 11 shall prevail.</p>
	<p>The Associate shall ensure availability of spares and necessary support for a period of at least 10 years post completion of guarantee period of equipment supplied against the contract.</p>	<p>3M don't guarantee beyond warranty period.</p>	
	<p>Liquidated Damages</p>		<p>NIT clause shall prevail.</p>

<p>Liquidated damages @1% of the total executed contract value per week or part thereof, for the period of delay in integrated completion, subject to maximum 10% of the value of the contract shall become leviable without prejudice to other rights of the TPCODL. This amount shall be recoverable from any amount due or becoming due to the Business Associates under this or any other contract. In specific cases, TPCODL reserves the right to apply LD only on the unexecuted portion of the supply and works for standalone use, provided full quantity is executed within a maximum 30% additional time. Deduction of LD shall be on landed cost i.e contract value inclusive of taxes and in pursuant statutory compliance GST would be applicable at the stipulated rate and the same shall be borne by Business Associate. In case of LD deduction, a GST invoice shall be issued by TPCODL as a proof of deduction/ recovery.</p>	<p>Liquidated damages @1% of the total executed contract value per week or part thereof, for the period of delay in integrated completion, subject to maximum 5% of the value of the contract shall become leviable without prejudice to other rights of the TPCODL. This amount shall be recoverable from any amount due or becoming due to the Business Associates under this or any other contract. In specific cases, TPCODL reserves the right to apply LD only on the unexecuted portion of the supply and works for standalone.</p>	
<p>Intellectual Property</p>		<p>It will be as per NIT.</p>

<p>If, in the course of performance of its functions and duties as envisaged by the scope of the present GCC, the Associate acquires or develops, any unique knowledge or information which would be covered, or, is likely to be covered within the definition of a trademark, copyright, patent, business secret, geographical indication or any other form of intellectual property right, it shall be obliged, under the terms of this present GCC, to share such knowledge or information with the TPCODL. All rights, with respect to, or arising from such intellectual property, as afore mentioned, shall solely vest in TPCODL.</p>	<p>Not acceptable. This clause doesn't apply on 3M, as 3M has the ownership of all of its products.</p>
<p>Moreover, the Associate undertakes not to breach any intellectual property right vesting in a third party/parties, whether by breach of statutory provision, passing off, or otherwise. In the event of any such breach, the Associate shall be wholly liable to compensate, indemnify or make good any loss suffered by such third party/parties, or any compensation/damages arising from any legal proceeding/s, or otherwise. No liability of TPCODL shall arise in this respect, and any costs, damages, expenses, compensation payable by TPCODL in this regard to a third party/parties, arising from a legal proceeding/s or otherwise, shall be recoverable from the Associate</p>	<p>Not acceptable. This clause doesn't apply on 3M, as 3M has the ownership of all of its products.</p>

	The TPCODL shall not be held responsible for any accident or damages incurred or claims arising, due to the Associate's error there from prior to completion of work. The Associate shall be liable for such accidents and after completion of work for such accidents as the case may be due to negligence on his part to carry out Work in accordance with Indian laws and regulations and the specifications set forth herein.	The TPCODL shall not be held responsible for any accident or damages incurred or claims arising, due to the Associate's error there from prior to completion of work. The Associate shall be liable for such accidents and after completion of work for such accidents as the case may be due to negligence on his part to carry out Work in accordance with Indian laws and regulations and the specifications set forth herein.	
21.1	Liability TPCODL shall have no liability or any special, incidental, indirect or consequential Damages for any loss of Business Contracts, revenues or other financial loss arising out of this Contract.	Neither party shall be liable for any special, incidental, indirect or consequential Damages for any loss of Business Contracts, revenues or other financial loss arising out of this Contract.	TPCODL shall have no liability or any special, incidental, indirect or consequential Damages for any loss of Business Contracts, revenues or other financial loss arising out of this Contract.
21.2	Limitation of Liability The total liability of Associate against any contract shall be limited to the Total All Inclusive Contract Value.	The total liability of Associate against any contract shall be limited to the All Inclusive Contract Value paid to Associate in a calendar year.	The total liability of Associate against any contract shall be limited to the maximum Total All Inclusive Contract Value.
	Termination for convenience of Associate		NIT Terms will be prevailed.

24.2

Associate at its convenience may request for termination of contract, clearly assigning the reason for such request. TPCODL has full right to accept, reject or partially accept such request. This convenience will be available to associate only after one year from the contract effective date. For this purpose, associate will provide a notice period of 90 days to TPCODL, Associate will have to pay TPCODL a 'termination convenience fee' equivalent to 5% of unexecuted contract value.

Associate may terminate the contract by giving 90 days prior notice in writing or through email to the TPCODL.

DISPUTE RESOLUTION & ARBITRATION

NIT Terms will be prevailed.

25	<p>In case of any dispute or difference the parties shall endeavor to resolve the same through conciliatory and amicable measures within 15 Days failing which the matter may be referred by either party for resolution by the sole arbitrator to be appointed mutually by both the parties. The arbitral proceedings shall be conducted in accordance with Arbitration and Conciliation Act 1996 and the place of arbitration shall be Bhubaneswar. The language to be used at proceedings shall be English and the award of the arbitrator shall be final and binding on the parties. The parties shall bear their respective costs of arbitration. The associate shall continue to discharge its obligations towards due performance of the works as per the terms of the contract during the arbitration proceedings unless otherwise directed in writing by TPCODL or suspended by the arbitrator. Further, TPCODL shall continue making such payments as may be found due and payable to the associate for such works.</p>	<p>In case of any dispute or difference the parties shall endeavor to resolve the same through conciliatory and amicable measures within 15 Days failing which the matter may be referred by either party for resolution by the sole arbitrator to be appointed mutually by both the parties. The arbitral proceedings shall be conducted in accordance with Arbitration and Conciliation Act 1996 and the place of arbitration shall be Delhi. The language to be used at proceedings shall be English and the award of the arbitrator shall be final and binding on the parties. The parties shall bear their respective costs of arbitration. The associate shall continue to discharge its obligations towards due performance of the works as per the terms of the contract during the arbitration proceedings unless otherwise directed in writing by TPCODL or suspended by the arbitrator. Further, TPCODL shall continue making such payments as may be found due and payable to the associate for such works</p>	
25.1	<p>Governing law and jurisdiction The parties shall be subject to the jurisdiction of the courts of law in Bhubaneswar and any matter arising here from shall be subject to applicable law in force in India.</p>	<p>The parties shall be subject to the jurisdiction of the courts of law in Delhi and any matter arising here from shall be subject to applicable law in force in India.</p>	<p>NIT Terms will be prevailed.</p>