

TRANSMISSION BUSINESS GROUP
SUB CONTRACTS MANAGEMENT
LODHI ROAD, NEW DELHI

SPECIAL TERMS & CONDITIONS

1.0 EARNEST MONEY DEPOSIT

- 1.1 "Every Tender must be accompanied by the earnest money Deposit as specified in NIT in cash (as permissible under Income Tax Act), Pay order or Demand Draft only"

CASH: The amount should be remitted by the party to cashier of Bharat Heavy Electricals Limited, at any of the following offices and "Cash Receipt" issued shall be enclosed along with tender

Demand Draft or Pay order : From State Bank of India/ Nationalised Banks in favour of Bharat Heavy Electricals Limited, payable at New Delhi.

2.0 SECURITY DEPOSIT:

- 2.1 Upon acceptance of tender, the successful tenderer must deposit the security Deposit before commencement of work. The rate of Security Deposit will be as below:

| | |
|--------------------------------------|--|
| Work upto Rs. 10 Lakhs | :10% |
| Above Rs. 10 Lakhs upto Rs. 50 Lakhs | :1Lakh+7.5%of the amount exceeding 10 Lakhs. |
| Above Rs. 50 Lakhs | :Rs. 4 Lakhs + 5 % of the amount exceeding Rs. 50 Lakhs. |

The SD may be deposited in anyone of the following forms given in (i)to(vii)

- i) Cash (as permissible under the Income Tax Act).
- ii) Pay Order, Demand Draft in favour of BHEL.
- iii) Local cheques of scheduled banks, subject to realization.
- iv) Deleted
- v) Bank Guarantee from scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format shall be provided by BHEL.
- vi) Fixed Deposit receipt issued by Scheduled Bank / Public Financial Institutions as defined in the Companies Act. The FDR should be in the name of the contractor, A/C BHEL, duly discharged on the back.
- vii) Security deposit can also be recovered at the rate of 10% from the running bills. However in such cases at least 50% of the Security Deposit should be collected before start of the work and the balance 50% may be recovered from the running bills.

- viii) EMD of the successful tenderer can be converted and adjusted against the security deposit.
- ix) The security deposit shall not carry any interest.
- x) Security deposit shall not be refunded to the contractor except in accordance with the terms of the contract.
- xi) The Head of Unit may waive the Security Deposit in respect of Public Sector Undertaking particularly on a reciprocal basis.

Note : 1) Acceptance of Security Deposit against Sl. No. (iv) and (vi) above will be subject to hypothecation or endorsement on the documents in favour of BHEL. However, BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.

2) The BG shall be submitted only through the Banker and direct submission by the party will not be accepted. Along with the BG, the Bank shall also furnish a letter of confirmation.

3) The validity of the Bank Guarantee furnished towards Security Deposit under (v) above shall be up to three months more than the period of completion of work as stipulated in the LOI and the same will be kept valid by proper renewal till the completion of the work.

2.2 If the value of the work done at any time exceeds the accepted agreement value, Security Deposit shall be correspondingly enhanced and the extra Security Deposit shall be immediately deposited by the contractor or recovered from the payments due to him.

2.3 Failure to deposit the Security Deposit within the stipulated time, may lead to forfeiture of EMD and cancellation of the award of work.

2.4 BHEL reserves the right of forfeiture of Security Deposit in addition to other claims and penalties in the event of the contractor's failure to fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of the contract. BHEL reserves the right to set off the Security Deposit, against any claims of any other contracts with BHEL.

2.5 RETURN OF SECURITY DEPOSIT: If the contractor duly performs and completes the work in all respects to the entire satisfaction of BHEL and presents an absolute "No demand certificate" and returns properties belonging to BHEL, taken, borrowed or hired by him for carrying out the said works, Security Deposit will be released to the contractor after deducting all costs, expenses and other amounts that are to be paid to BHEL under this contract or other contracts entered into with the contractor. It may be noted that in no case the Security Deposit shall be refunded/released prior to passing of final bill.

2.6 No interest shall be payable by BHEL on Security Deposit or on any money due to the contractor.

3.0 TERMS OF PAYMENT

A. FOR ITEM NO. 1 OF BOQ (ROUTE SURVEY)

1. Payment will be on lump sum basis.
 - a. 50% of item no. 1 of BOQ on submission of "Route Survey" report.
 - b. Balance 50% of above item after verification and certification of report by BHEL/Customer.

B. FOR ITEM NO. 2 & 3 OF BOQ

- a. 100% after completion of work, submission of report and acceptance of the final report by BHEL/Customer.

C. FOR ITEM NO. 4 & 5 OF BOQ

1. After proto assembly and successful type testing, 60% of payment will be released after receipt of all structural materials of Towers required for the work along with its hardwares.
2. 30 % payment on complete erection including stringing, leveling, alignment, tightening etc.
3. The last 10% payment shall be paid after commissioning of the work and issuance of Operational Acceptance Certificate by the authorized Project Manager of the Principal Employer and after complete handing over to the principal employer /customer. However this 10% payment shall be released to the contractor after compliance of point no. 9.0 (Guarantee) & 10.0 (Security cum-performance guarantee) of special terms & conditions of NIT.

- D. Detailed Billing Break Up (BBU) for the purposes of payments may be submitted at sector office by the contractor after award of work for approval by BHEL.

- 4.0 Permission for carrying out the survey in the Power Plant area will have to be obtained from M/s THDC through BHEL.

- 5.0 Contractor shall obtain necessary permission for use of private/ forest/ canal service roads for transportation of materials, constructional personals etc. In case of difficulty BHEL provide necessary help for the same wherever possible under the rules. Any charges levied by the concerned authorities for use of such roads etc. shall be borne by the contractor.

6.0 DEDUCTION OF INCOME TAX/SALES TAX/WORKS TAX:

- 6.1 BHEL shall be releasing payments against this work order after deduction of income tax, works tax and any other applicable taxes at source as per requirements of tax rules and BHEL will issue appropriate certificates in this regard.
- 6.2 All taxes including sales tax / works tax / service tax, etc, if any shall be to the contractors account.

7.0 COMPLETION TIME:

- a. Route Survey - 8 Weeks from the date of issue of LOI.
- b. Design, Supply & ETC of Transmission Line Towers- 4 months from date of issue of LOI.

Bidder shall submit detail bar chart for all major activities based on above construction schedule.

8.0 OVER RUN CHARGES:

- 8.1 No over run charges shall be payable under this contract.

9.0 LIQUIDATED DAMAGE :

If the contractor fails to complete the work within the time specified contractual period or extension thereof granted by the engineer, liquidated damage will be imposed on the contractor for delay in completion of the work @ 0.5% (half percent) of the contract value, per calendar week, subject to ceiling of 10% of the contract value.

10.0 GUARANTEE:

Even though the work will be carried under the supervision of BHEL Engineers, the contractor will be responsible for the quality of the workmanship and shall guarantee the work done for a period of 12 months from the date of putting the complete system into commercial operation or 18 months from the date of system is declared completely erected duly tested and accepted by customer whichever is later and shall rectify free of cost all defects due to faulty erection detected during the guarantee period starting from the date of the completion of rectification. In the event of the contractor failing to repair the defective works within the time specified by the Engineer, BHEL may proceed to undertake the repairs of such defective works at the contractor's risk and expense without prejudice to any other rights and recover the same from Security Deposit/other dues.

11.0 SECURITY CUM-PERFORMANCE GUARANTEE.

The contractor shall submit Bank Guarantee of an approved Nationalised Bank as per BHEL proforma for an amount equal to 10% of the total contract value as performance bond to get retentions money released at the discretion of the engineer before release of Security Deposit as per the special terms & conditions of NIT. The performance Bank Guarantee shall remain valid up to successful completion of performance and guarantee tests of the station and taking over of the plant by BHEL/client of BHEL. Notwithstanding the provisions of any other clause(s) of General Conditions of Contract, the contractor shall continue to be responsible to execute all such works of repair, rectification and making good of defects, imperfections of other faults as may be required of the contractor in writing by the Engineer for the period as stated above.

12.0 INSURANCE

Although insurance of BHEL supplied materials will be done by BHEL but any loss or damage to the line material during handling, transportation, storage & erection till such time the line is taken over by BHEL/Customer shall be to the contractor's account. Contractor shall be responsible for preferring of all claims and make good for damage or loss by way of repairs and replacement of the portion of the work damaged or lost.

13.0 ADDITIONAL EXPENDITURE DUE TO FAULTY EXECUTION:

In case any additional expenditure is incurred in the works arising out of the faulty execution of the works by the contractor, such additional expenditure shall be borne by the contractor.

14.0 SAFETY MEASURES:

All safety rules and codes as applicable to work shall be followed without exception.

15.0 PRICE VARIATION:

Prices will be firm for total contract period and extended period, if any, and no price escalation / price variation will be applicable.

16.0 FORCE MAJEURE:

The following shall amount to force majeure conditions:

throughout the acts of God, Act of any Government, war, sabotage, riots, civil commotion, Police action, revolution, flood, fire cyclone, earthquake, epidemic and other similar causes over which the contractor has no control.

If the contractor suffers delay in the due execution of the contract, due to delays caused by force majeure conditions, as defined above, the agreed time of completion of the work covered by this contract may be extended by a reasonable period of time in consultation and after agreement of BHEL's clients/owner, provided that on the occurrence of any such contingency, the Contractor immediately reports to BHEL in writing the causes of delay. The Contractor shall not be eligible for any compensation on this account.

17.0 ARBITRATION :

Except where otherwise provided for in the contract all questions and disputes relating to the meaning of the specification designs, drawings and instruction herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings specifications, estimates, instructions, orders of these conditions or otherwise concerning the works, of the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of the General Manager BHEL, Bhopal and if the General Manager is unable or unwilling to act, to the sole arbitration of some other person appointed by the General Manager willing to act as such arbitrator. There

will be no objection if the arbitrator so appointed is an employee of BHEL, Bhopal and that he had to deal with the matters to which the contract relates and that in the course of his duties as such he had expressed views on all or any of the matters in dispute of difference. The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason such General Manager as aforesaid at inability to act shall appoint (see note) another person to act as arbitrator in accordance with the terms of the contract such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor. It is also a term of this contract that no person other than a person appointed by such General Manager as aforesaid should act as arbitrator and if for any reason that is not possible the matter is not to be referred to arbitration at all, in all cases where the amount of the claim dispute is Rs. 50,000/- (Rupees fifty thousand) and above the arbitrator shall give reasons for the award.

Subject as aforesaid the provisions of the arbitration Act, 1940 or any statutory modification or re-enactment thereof and the rules made there under and the time being in force shall apply to the arbitration proceeding under this clause.

It is a term of the contract that the party involving arbitration shall specify the dispute or disputes to be referred to arbitration under this clause together with the amounts claimed in respect of each dispute.

The arbitrator (s) may from time to time with consent of the parties enlarge the time for making and publishing the award.

The work under the contract shall, if reasonably possible, continue during the arbitration proceedings and no payment due or payable to the contractor shall be withheld on account of such proceedings.

The Arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties fixing the date of the first hearing.

The Arbitrator shall give a separate award in respect of each dispute or difference referred to him.

The Venue of arbitration shall be such place as may be fixed by the Arbitrator in his sole discretion.

The award of the arbitrator shall be final, conclusive and binding all parties to this contract.

Laws governing the Contract:

The contract shall be governed by the Indians Laws for the time being in force.

NOTE:- The Authority appointing the arbitrator should not be lower in rank than the Authority accepting the Agreement.

1. Other terms & conditions of the tender shall be governed by the general conditions of contract for erection works enclosed.
2. **If any discrepancies found between “special terms & conditions” and “condition of contract for erection works” the clauses mentioned in the “special terms & conditions” shall prevail.**