

CUSTOMER'S CONDITIONS OF CONTRACT

Relevant clauses from Customer's tender documents reproduced below

BOOK-I

TENDER NO. : CE/TR.PROJ/TKC-I/EST.NEW S/S/0812

SPECIFICATION NO. CE./TR.PROJ/TKC-I/EST.NEW S/S/2008-09/12

**INVITATION FOR BIDDING (IFB)
(LOCAL COMPETITIVE BIDDING)**

SECTION II

GENERAL TERMS AND CONDITIONS OF CONTRACT

3.0 SCOPE OF CONTRACT

This shall be as per Technical Specifications.

4.3.2 The Engineer shall during the progress of the work, have following powers to order, in writing, from time to time.

- a) The removal from the site within such time or times as may be specified in the order, any materials, which in the opinion of the Engineer are not in accordance with the Contract.
- b) The substitution by proper and suitable material
- c) The removal and proper re-execution (notwithstanding any previous test thereof or interim payment there for) of any work, which in respect of materials or workmanship is not, in the opinion of the Engineer, in accordance with the Contract.
- d) Removal of materials obstructing the operation of existing station/equipments.

In case of default on the part of the Contractor in carrying out such order, the Owner shall be entitled to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be recoverable from the contractor by the Owner or may be deducted by the Owner from any amount/money due or which may become due to the Contractor. The engineer shall stipulate reasonable time for the Contractor to carry out the order aforesaid.

5.0 CONTRACT DOCUMENTS

5.1 The term "Contract Documents" shall mean and include the following which shall be deemed to form an integral part of the Contract.

- A) Bidding document of the Owner, covering the Instructions to Bidders, general terms and conditions of Contract, special terms and conditions, technical specifications, annexures, schedules, amendments etc.
- B) Contractor's bid proposal including the letters of clarifications exchanged there to between the Contractor and the Owner prior to the Award of Contract.
- C) All the data/information of any sort given by the Contractor alongwith his bid, subject to the approval of the Owner/engineer.

Any mutually agreed variations to the conditions of the documents, specifications terms and conditions of Contract, if any.

6.0 ASSIGNMENT AND SUBLETTING OF CONTRACT

6.1 The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or thereunder without the prior written consent of the Owner.

6.2 The Contractor shall not sublet any part of the works without prior written consent of the engineer/Owner.

6.3 Such consent, if given, shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants or workman as fully as if those were the acts, defaults, neglects of the Contractor, his agents, servants or workmen.

6.4 The engineer shall have the right to obtain from the Contractor any agreement in writing entered into by the Contractor with any of his sub- Contractors or any purchase orders placed for supplies and services in respect of the works included in the Contract provided that the Contractor shall not be bound to disclose the sub Contract value. The Contractor shall supply the engineer with full technical and commercial details of orders placed on his sub-Contractors. The technical specification of all the items ordered on sub-Contractor shall be subject to the approval of engineer.

7.0 CONTRACTOR TO INFORM HIMSELF FULLY

7.1 The Contractor shall be deemed to have satisfied himself as to all the conditions and circumstances affecting the Contract price and as to the possibility of executing the works as shown and described in the Contract. The Contractor shall be deemed to have inspected and examined the site and its surroundings, examined the approach roads etc., loading/unloading/ fabrication space etc. and to have fixed his price taking into account all such relevant conditions and also the risks, contingencies and other circumstances which may influence or affect the execution of the work as specified in the Contract.

7.2 The Contractor shall be responsible for any misunderstanding or incorrect information, however obtained, on which the Contract price has been based except the written information furnished by the Owner.

7.3 The Contractor shall be deemed to have carefully examined all Contract documents to his entire satisfaction. If he shall have any doubt as to the meaning of any portion of the Contract documents, he shall, within one month of issue of Letter of Award or before signing the Contract as the case may be, set forth the particulars thereof, and submit them to the Owner in writing, in triplicate, in order that such doubt may be removed. The Owner shall provide such clarification as may be necessary, in writing to the Contractor. Any information otherwise obtained from the Owner or the engineer shall not in any way relieve the Contractor of his responsibility to fulfil his obligations under the Contract.

8.0 PERFORMANCE GUARANTEE IN LIEU OF SECURITY DEPOSIT

8.1 The Performance Bank Guarantee for the proper fulfillment of the Contract shall be furnished by the Contractor in the prescribed form within Thirty (30) days of Notice of Award of Contract/Letter of Award and before release of any payments due including the advance payment, if any. The performance Guarantee shall be as per proforma attached to the Bid Document. This guarantee shall be for an amount equal to 10% (ten percent) of the Contract price.

8.2 The performance guarantee shall cover additionally the following guarantee to the Owner:-

The Contractor guarantees that the equipment installed by him shall be free from all defects in materials/workmanship and shall, upon written notice from the Owner, fully remedy free of expenses to the Owner such defects that are attributable to the Contractor within the period of guarantee specified in the relevant clause of the Contract.

8.3 The Contract performance Guarantee is intended to secure the performance of the entire Contract. However, it is not to be construed as limiting the damages stipulated in other clauses of the Contract.

8.4 The Performance Guarantee shall be returned to the Contractor 90 days after the end of the guarantee period. The Owner is not liable to pay any interest or compensation to the Contractor for retaining the performance Guarantee after the end of the guarantee period.

8.5 The termination of the Contract under the clause 25.0 'Contractor's default' of this section shall not entitle the Contractor to reduce the value of the performance guarantee nor the time thereof. The performance guarantee shall be valid for the full value and for the full period of Contract including 90 days after the end of guarantee period.

14.0 WORKMANSHIP & MATERIALS

14.1 The plant and/or the work shall be manufactured, constructed, provided, put in possession, carried out and maintained in all respect with workmanship and material of the best and most substantial and approved qualities to the entire satisfaction of the Engineer, who may reject any plant, apparatus, material or workmanship which shall in his opinion be defective in quality and such rejection shall be final and binding on the Contractor. The Contractor shall at his own expense provide all materials, labour, haulage, tools, tackles apparatus and all things necessary to execute and complete the work and plant in manner aforesaid.

14.2 All materials used in the manufacture shall be high graded, free from defects and imperfection, recent manufacture & unused. Materials shall, conform to the latest specifications of BIS, where applicable.

17.0 TIME THE ESSENCE OF CONTRACT

17.1 The time stipulated in the Contract for the completion of works shall be deemed to be the essence of the Contract. The Contractor shall so organise his resources and perform his work as to complete it not later than the date agreed to.

17.2 The Contractor shall submit a detailed PERT net work/Bar chart within the time frame agreed consisting of adequate number of activities covering various key phases of work also clearly indicating the completion period for various groups of activities. This network shall also indicate the interface facilities to be provided by the Owner and the dates by which such facilities are needed. The Contractor shall discuss the network so submitted with the Owner and the agreed network which may be in the form as submitted or in revised form in line with the outcome of discussions shall form part of the Contract. During the performance of the Contract, if in the opinion of the engineer proper progress is not maintained, suitable changes shall be made in the Contractor's operations to ensure proper progress.

17.3 The above PERT network shall be reviewed and periodic review reports shall be submitted by the Contractor as directed by the engineer.

21.0 CONTRACT PRICE

21.2.1 The Contract price shall include all taxes and duties inclusive of Corporate tax, Income Tax, Excise Duty, VAT/CST, Other levies, Fees, Cesses, Octroi, Deposit etc. whatsoever, and the Owner shall not be liable for payment of any such taxes or duties.

21.2.2 The prices quoted by the bidder shall take into account credit availed on inputs under the 'Modvat' scheme introduced by G.O.I. w.e.f. 1-3-86. Accordingly, as a result of additional duty

set offs as may become available during the currency of Contract on the inputs used for the manufacture of final products on the date of supply under 'Modvat' scheme shall be passed on to the Company and you shall advise the Company for suitable reduction in the prices duly certified by Chartered Accountant.

21.3 The Bidder to furnish invariably break-up of the prices of taxes and duties on unit rate considered (for the items in BOM including ETC) in the bid in the prescribed Proforma.

21.4 The Contract price shall include any cost or charges for obtaining any permits, approval or licence etc. wherever applicable.

22.0 PRICE VARIATION DUE TO VARIATION IN TAXES

22.1.1 In case any existing taxes or duties are enhanced or any tax or duty is newly introduced by Govt. applicable for this work with effect from the next day of first working day of the calendar month just previous to the month of due date of submission of the bid and if the Contractor is required to pay additional amount towards this tax or duty then the Owner shall reimburse the Contractor, at actuals, the additional tax or duty so paid by the Contractor against submission by the Contractor of documentary evidence to the satisfaction of the Owner. The breakup of prices & % of taxes and duties considered for quoting is to be given in a separate schedule other than price schedule.

22.1.2 The above provision is applicable for any reduction in duty or tax from the next day of the first working day of the calendar month just previous to the month of due date of submission of the bid. Accordingly you shall pass on the benefit due to reduction in taxes and duties etc. to the Purchaser.

22.2 If any statutory variation regarding enhancement of existing tax or duty or introduction of a new tax or duty applicable for this work takes place in the extended period of Contract, no claim for additional cost due to statutory variation shall be entertained by the Owner.

23.0 DEDUCTION FROM CONTRACT PRICE

23.1 All cost, damages or expenses which the Owner may have paid for which under the Contract the Contractor is liable, will be claimed by the Owner. All such claims shall be billed by the Owner to the Contractor regularly as and when they fall due. Such bills shall be supported by appropriate and certified vouchers or explanations to enable the Contractor to properly identify such claims. Such claims shall be paid by the Contractor within fifteen (15) days of the receipt of the corresponding bills and if not paid by the Contractor within the said period, the Owner may then deduct the amount from any amount due or becoming due by him to the Contractor under the Contract or Bank Guarantee issued by the Contractor or may be recovered by actions of law or otherwise, if the Contractor fails to satisfy the Owner of such claims.

24.0 TERMS OF PAYMENT

24.1 The payment to the Contractor for the performance of the works under the Contract shall be made by the Owner as per guidelines and conditions specified herein. All payments made during the Contract shall be on account payment only. The final payment shall be made on completion of the whole work as per the Contract and on fulfilment by the Contractor of all his liabilities under the Contract.

24.2 The Owner shall make progressive payments as and when those are due as per the payment schedule. Payment shall become due and payable by the Owner within **45 days** from

the date of verification by owner for completeness of bills/invoices submitted by contractor and the same shall be passed to BHEL's contractor within 15 days by the Engineer (BHEL).

24.3 Verification for completeness of bills/invoices shall be completed within seven days of receipt of the same from the contractor. In case any discrepancy is noticed, the bills/invoices shall be returned to the Contractor for revision within seven days of receipt of the same from Contractor.

24.4 The Owner shall be liable to pay interest to the Contractor at SBI PLR for the duration beyond the due date of payment on the amount due and payable.

"This shall be made effective only for cases where payment is delayed beyond 60 days and the interest will be effective from 61st day".

24.5 A) PAYMENT SCHEDULE

c) For Civil Works

i) **90%** of the cost of civil works completed shall be paid within **45 days** from the date of completion, on pro-rata basis.

(ii) Balance **10%** shall be paid within **45** days from the date of successful commissioning of the works.

Note: The **45 days** period mentioned for payments shall be reckoned from the date of successful clearance of verification of documents or due date whichever is later.

B) Incentive Bonus

i) The Contractor shall be paid an incentive bonus for early completion of Project, before the scheduled Project Commissioning Date. (Subject to BHEL getting same from customer)

ii) The incentive bonus shall be calculated as per the following formula

$$\text{incentive bonus} = Z \cdot \{y/(x/3)\} \cdot 4\%$$

where,

Z = Project Cost

x=time period in days for completion of a project as specified in the LOA.

y=days equivalent to the difference of the Scheduled project Commissioning date and the project commissioning date and provided where,

y > 30 days.

iii) Incentive bonus for early completion will be capped at 4% of the Project Cost.

iv) The contractor should submit its calculations of incentive bonus to MSETCL, with the invoice raised after Project Commissioning. The incentive bonus will be paid along with the return of Performance Bank Guarantee by MSETCL.

24.6 MODE OF PAYMENT

24.6.1 All payment due to the Contractor shall be paid only by 'Account Payee Cheques'.

24.6.2 The Contractor shall present every month his invoice for the supply/works done in the preceding month. The invoice/bill for supply/works should be separately submitted. After

verification of such invoice by Owner, all items having financial value shall be entered and certified in Owner's Measurement Book by the "Engineer Incharge" and these certified invoices along with relevant supporting documents complete in all respect shall be presented for payment.

24.6.3 Work is to be measured as per standard procedure. The measurement shall be taken jointly by persons duly authorised on the part of Owner and by the Contractor.

24.6.4 If, at any time due to any reason whatsoever, it becomes necessary to remeasure the work done in full or in part, the expense towards such remeasurement shall be borne by the Contractor.

24.6.5 The Contractor shall bear the expenditure involved, if any, in making the measurement. The Contractor shall, without extra charges, provide all the assistance with appliances and other things necessary for measurement.

24.6.6 The measurement entered in the measurement books and the bills prepared shall be signed and dated by both the Contracting parties.

24.6.7 The Contractor will be intimated in writing by the engineer the proposed date of measurement. If the Contractor does not turn at the appointed time, the Engineer shall have the powers to proceed by himself to take measurement in which case the measurement shall be accepted by the Contractor as final.

24.6.8 Passing of measurement as per bills does not amount to acceptance or the completion of the work mentioned. Any left out work has to be completed if pointed out at a later date by Engineer.

24.6.9 The Contractor shall be directly responsible for payment of wages to his workmen. A payroll sheet giving all the payments given to the workers and duly signed by the Contractor's representative should be furnished to Engineer for record purpose every month.

24.6.10 The payment for the works shall be made direct to the Contractor by the Owner/through funding agency.

25.0 CONTRACTOR'S DEFAULT

25.1 If the Contractor shall neglect to execute the works 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 works or shall contravene the provisions of the Contract, the Owner may give notice in writing to the Contractor to make good the failure, neglect or contravention complained. Should the Contractor fail to comply with the notice within thirty(30) days from the date of service thereof then and in any such case, the Owner shall be at liberty to employ other workmen and forthwith execute such part of the works as the Contractor may have neglected to do or, if the Owner shall think fit, it shall be lawful for him, without prejudice to any other right he may have under the Contract, to take the works wholly or in part of the Contractor's hand and re-Contract with any other person or persons to complete the works or any part thereof and in that event the Owner shall have free use of Contractor's all equipment that may have been at the time on the site in connection with the works without being responsible to the Contractor for fair wear and tear thereof and to the exclusion of any right of the Contractor over the same, and the Owner shall be entitled to retain and apply any balance money which may otherwise be due on the Contractor thereof as may be necessary, to the payment of the cost of executing the said part of the works or completing the works, as the case may be. If the cost of completing the works or executing a part thereof as aforesaid shall exceed

the balance due to the Contractor, the Contractor shall pay such excess. The Owner shall have the right to terminate the Contract in case of Contractor's default.

26.0 TERMINATION OF CONTRACT

26.1 The Owner may upon written notice of default by the Contractor, terminate the Contract in the circumstances detailed hereunder:

a) If, in the opinion of the Owner the Contractor fails to make delivery of equipment/ completion of work within the time specified in the Contract agreement or within the extended period of delivery granted by the Owner.

b) If in the opinion of the Owner, the Contractor fails to comply with any of the other provisions of the Contract including technical requirements, statutory provisions etc.

26.2 In the event the Owner terminates the Contract in whole or in part as provided above, the Owner reserves the right to purchase the materials/equipments and get work executed as deemed by the Owner to be similar to the one contracted for, upon such terms and in such manner as the Owner may deem proper and the Contractor shall be liable to the Owner for any additional cost for purchase of such similar materials/equipments or works.

26.3 If the Contract is terminated under the provisions of this clause, the Owner, in addition to any other rights that he may have in terms of the Contract, may require the Contractor to transfer title and deliver to the Owner and in the manner as directed by the Owner,

a) any completed equipment/works.

b) Such partially completed equipments, works, drawing, information and Contract rights as the Contractor has specifically produced or acquired for the performance of such parts of this Contract which has been terminated.

26.4 The Owner shall pay to the Contractor the Contract price for the completed equipment delivered to and accepted at the rates as provided for in the Contract or where no rates are provided for in the Contract, at the rates deemed reasonable by the Owner after deduction by the Owner for the additional expenses incurred by him in getting the balance equipment from agencies other than the Contractor.

26.5 In all such cases where the Contract has been terminated due to Contractor's defaults, the decision of the Owner regarding the reasonability of the price for the parts completed and accepted and for which no rates are available in the Contract shall be final and binding on the Contractor.

27.0 REJECTION

27.1 In the event any of the equipment supplied/work done by the Contractor is found to be defective in material or workmanship or otherwise not in conformity with the requirements of the Contract even after rectification by the Contractor during the guarantee period, the Owner shall have the right to reject part or the whole of the material/work and call upon the contractor to replace the material/work by a new one at his own expenses. If the Contractor fails to do so the Owner may either replace or rectify such defective equipment/work and charge to the Contractor the excess cost incurred by the Owner for replacement with a 15% overhead expenditure to cover the Owner's cost or terminate the Contract for Contractor's default as provided for in the Contract.

27.2 In the event the Contractor is unable to replace the rejected material within a reasonable time, the Owner reserves the right to acquire the said material/work at a reduced price considered equitable under the circumstances and the decision of the Owner as regards such reduced price shall be binding on the Contractor.

28.0 DELAYS BY OWNER OR HIS AUTHORISED REPRESENTATIVES

28.1 In case the Contractor's performance is delayed due to any act of omission on part of the Owner or his authorised representatives, then the Contractor shall be given due extension of time for the completion of the works to the extent such omission on the part of the Owner has caused delay in the Contractor's performance of his work.

28.2 The Contractor shall apply for time extension in writing to the engineer at least 90 days (ninety days) before the expiry of the stipulated period of completion. Regarding reasonableness or otherwise of the extension of time, the decision of the Engineer shall be final.

30.0 COMPLETION OF CONTRACT

30.1 Unless otherwise terminated under the provision of any other relevant clause, this Contract shall be deemed to have been completed at the expiration of the guarantee period as provided for under the clause entitled 'Guarantee' and upon release of last payment to the Contractor by the 'Owner', whichever is later.

32.0 FORCE MAJEURE

32.1 The following clauses which substantially affect the performance of the Contract shall only be considered as force majeure conditions.

- a) Natural phenomena, including but not limited to floods, droughts, earthquakes and epidemics.
- b) Acts of any Government, domestic or foreign, including but not limited to war, declared or undeclared, quarantines, embargoes.

Provided the party affected by the 'Force Majeure' shall within fifteen (15) days from the occurrence of such a clause, notify the other party in writing of such cause with sufficient documentary proof.

32.2 Notwithstanding any provision under clause 32.1, the Owner shall not in any way be liable for non-performance either in whole or in part of any Contract or for any delay in performance thereof in consequence of strikes, shortages of labour or workmen or lockout, breakdown or accident to machinery or accidents of whatever nature, failure on the part of the railways to supply, sufficient wagons to carry essential raw materials etc. and finished products from the stores etc. These causes shall not be treated as 'Force Majeure' but subject to the provision and stipulation made in clause of liquidated damages for late delivery.

32.3 The Contractor or the Owner shall not be liable for delays in performing their respective obligations resulting from any force majeure causes as defined above. The date of completion will be extended by a reasonable time by mutual agreement.

32.4 In case of damage or destruction of any property or equipments belonging to the Contractor due to force majeure causes, the Owner shall not be liable for the same.

32.5 The Owner shall have the right to inform the Contractor not to ship any part of the equipment due to weather or any other reasonable cause and in all such cases, the Contractor shall withhold shipment of such parts without any extra charge for storage for a reasonable time.

34.0 SUSPENSION OF WORK

The contractor shall, on the written order of the Engineer, suspend the progress of works or any part thereof for such time or times and in such manner as the Engineer may consider necessary and shall, during such suspension, properly protect and secure the work so far as is necessary in the opinion of the Engineer. If such suspension is not due to any default on the part of the Contractor the time for completion of the works shall be extended for a period of corresponding to the duration of the suspension of works.

35.0 TERMINATION OF CONTRACT ON OWNER'S INITIATIVE

35.1 The owner reserves the right to terminate the contract either in part or in full for reasons other than those under clause 'Contractor's Default'. The owner shall in such an event give fifteen (15) days notice in writing to the contractor of his decision to do so.

35.2 The Contractor upon receipt of such notice, shall discontinue the work on the date and time specified in the notice, make all reasonable efforts to obtain cancellation of all orders and Contracts to the extent they are related to the work terminated and upon terms satisfactory to the Owner, stop all further sub-Contracting or purchasing activity related to the work terminated and assist the Owner in maintenance, protection and disposition of the works acquired under the Contract by the Owner.

35.3 In the event of such a termination, the Contractor shall be paid reasonable compensation dictated by the circumstances prevalent at the time of termination.

36.0 POWER TO VARY OR OMIT WORK

36.1 No alterations, amendments, omissions, suspensions or variations (hereinafter referred to as "Variation") of the works under the Contract as detailed in the Contract Documents shall be made by the Contractor except as directed in writing by the Engineer, but the engineer shall have full powers subject to the provisions hereinafter contained from time to time during the execution of the Contract, by notice in writing to instruct the Contractor to make such variation without prejudice to the Contract. The Contractor shall carry out such variation and be bound by the same conditions as far as applicable as though the said variations occurred in the Contract documents. If any suggested variation 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, Contractor's obligations and guarantees shall be modified to such an extent as may be mutually agreed. Any agreed difference in cost occasioned by any such variation shall be added to or deducted from the Contract price as the case may be.

36.2 In the event of the Engineer requiring any variation, such reasonable and proper notice shall be given to the Contractor to enable him to make his arrangement accordingly, and in cases where any work done requires to be altered, a reasonable and agreed sum in respect thereof shall be paid to the Contractor.

36.3 In any case in which the Contractor has received instructions from the Engineer as to the requirements of carrying out the altered or additional substituted work which either then or later

on will, in the opinion of the Contractor, involve a claim or additional payment, the Contractor shall immediately and in no case later than thirty (30) days after receipt of the instructions, aforesaid and before carrying out the instructions advise the Engineer to that effect. But the engineer shall not become liable for the payment of any charges in respect of any such variations, unless the instructions for the performance of the same are confirmed in writing by the Engineer.

36.4 If any variation in the works results in reduction of Contract price, the parties shall agree in writing as to the extent of any change in the price.

36.5 In all the above cases, in the event of a disagreement as to the reasonableness of the said sum, the decision of the Engineer shall prevail.

36.6 Notwithstanding anything stated above in this clause, the Engineer shall have the full power to instruct the Contractor, in writing during the execution of the Contract, to vary the quantities of the items or groups of items. The Contractor shall carry out such variations and be bound by the same conditions, as though the said variations occurred in the Contract Documents.

40.0 CONTRACTOR'S MATERIAL BROUGHT TO SITE

40.1 The Ownership of Contractor's all goods, tools and plants shall, from the time of their being brought to site, vest in the Owner, and these may be used for the purpose of the works and shall not on any account be removed or taken away by the Contractor from the site without the written permission of the Engineer. The Contractor shall nevertheless be solely liable and responsible for any loss or destruction thereof and damage thereto.

40.2 The Owner shall have a lien on such goods for any sum or sums which may at any time be due or owing to him by the Contractor, under in respect of or by reasons of the Contract. After giving a fifteen (15) days notice in writing of his intention to do so, the Owner shall be at liberty to sell and dispose of any such goods, in such manner as he shall think fit including public auction or private treaty and to apply the proceeds in or towards the satisfaction of such sum or sums due as aforesaid.

40.3 After the completion of the works, the Contractor shall remove from the site under the direction of the engineer the materials such as construction equipment, erection tools and tackles, etc. with the written permission of the Engineer. If the Contractor fails to remove such materials within fifteen (15) days of issue of a notice by the Engineer to do so, then the Engineer shall have the liberty to dispose of such materials as detailed above and credit the proceeds thereto to the account of the Contractor after deducting reasonable expenses incurred by the Engineer for such disposal.

45.0 EMPLOYMENT OF LABOUR

45.1 The Contractor will be expected to employ on the work only his regular skilled employees with experience of this particular work. No person below the age of eighteen years shall be employed.

45.2 All travelling expenses including provisions of all necessary transport to and from site, lodging allowances and other payments to the Contractor's employees shall be the sole responsibility of the Contractor. The Contractor shall arrange, at his own cost, the accommodation for his labour and other supervisory staff.

45.3 The Contractor's employees shall wear identification badges while on work at site.

45.4 In case the Owner becomes liable to pay any wages or dues to the labour or to any Government agency under any of the provisions of the **Minimum Wages Act, Workmen Compensation Act, Contract Labour Regulation Abolition Act** or any other law due to act or omission of the Contractor, the Owner may make such payments and shall recover the same from the Contractor's bill.

45.5 As far as possible, unskilled workers shall be engaged from the local area in which the work is being executed.

45.6 The Contractor shall at all times during the continuance of this Contract, in all his dealings with local labour for the time being employed on or in connection with the work, have due regard to all local festivals and religions and other customs. The Contractor will fully comply with all the provisions of labour, civil and other state and central laws, statutory rules, regulations etc. In case of his non-compliance with any provision under the laws, the Contractor will indemnify the Owner from and against all liabilities, damages, penalties, demand etc.

45.7 The Contractor, in the event of his engaging 20 or more workmen at the Project, shall obtain independent licence under the Contract Labour (Regulation and Abolition) Act, from the concerned State Labour Authorities.

45.8 No idle labour charges will be admissible in the event of any stoppage caused in the work resulting in Contractor's labour being rendered idle due to any cause at any time.

45.9 The Contractor shall fulfill all his obligations in respect of accommodation including proper medical facilities for the personnel employed by him.

51.0 UNFAVOURABLE WORKING CONDITIONS

The Contractor shall confine all his field operations to those works which can be performed without subjecting the equipment and materials to adverse effects, during inclement weather conditions like monsoon, storms, etc. and during other unfavourable construction conditions. No field activities shall be performed by the Contractor under conditions which might adversely affect the quality and efficiency thereof, unless special precautions or measures are taken by the Contractor in a proper and satisfactory manner in the performance of such works and with the concurrence of the engineer. Such unfavourable construction conditions will in no way relieve the Contractor of his responsibility to perform the works as per the Schedule.

54.0 INSURANCE

54.1 The Contractor at his cost shall arrange, secure and maintain comprehensive insurance as may be necessary and for all such amounts to protect his interests and the interest of the Owner, against all risks. Any loss or damage to the equipment, during supply, handling, transporting, storage and erection, till such time the plant is taken over by the Owner shall be to the account of the Contractor. The Contractor shall be responsible for lodging of all claims and make good for the damage or loss by way of repairs and/or replacement of the portion of the works damaged or lost. The transfer of title shall not in any way relieve the Contractor of the above responsibilities during the period of the Contract.

55.0 INDEMNIFICATION OF OWNER

The Contractor shall insure all his personnel, tools and plants, etc. and shall also take a third party liability cover to indemnify the Owner of all liabilities which may come up due to any act or omission on the part of Contractor and cause harm/damage to other contractor/ representatives of Owner or all or anybody rendering service to the Owner or is connected with Owner's work in any manner whatsoever.

The Contractor shall necessarily indemnify the Owner in all these respects and the indemnification and insurance policy shall be to the approval of Engineer. The recommended value for the third party insurance policy to be taken by the Contractor are as follows:

- a) Maximum liability for injury to any person - Rs.1,00,000/-
- b) Maximum liability for any one accident - Rs.2,00,000/-
- e) Maximum liability for total number of accidents during the Contract period -Rs.10,00,000/-

If the total liability exceeds Rs.10/- lakhs prior to completion of the work then the Contractor shall arrange to renew the policy for the same amount to cover the balance completion period. However, irrespective of the value of the policy, the Contractor shall indemnify the Owner for all liabilities.

56.0 WORKMEN'S COMPENSATION INSURANCE

This insurance shall protect the Contractor against all claims applicable under the Workmen's compensation Act 1948 or any amendment thereof. This policy shall also cover the Contractor against claims for injury, disability, disease or death of his or his sub-Contractor's employees, which for any reason are not covered under the Workmen's compensation Act 1948. The liabilities shall not be less than Workmen's Compensation as per statutory provisions.

57.0 COMPREHENSIVE AUTOMOBILE INSURANCE

This insurance shall in such a form to protect the Contractor against all claims for injuries, disabilities, disease and death to members of public including the Owner's men and damage to the property of others arising from the use of motor vehicle during, on or off the site operations, irrespective of the Ownership of such vehicles.

58.0 COMPREHENSIVE GENERAL LIABILITY INSURANCE

58.1 This insurance shall protect the Contractor against all claims arising from injuries, disabilities, disease or death of members of public or damage to property of others, due to any act or omission on the part of the Contractor, his agents, his employees, his representatives and sub-Contractors or from riots, strikes and civil commotion. This insurance shall also cover all the liabilities of the Contractor arising out of the clause entitled "Defence of Suits".

58.2 The hazards to be covered will pertain to all the works which and areas the Contractor, his sub-Contractors, his agents and his employees have to perform work pursuant to the Contract.

58.3 The above are only illustrative list of insurance covers normally required and it will be the responsibility of the Contractor to maintain all necessary insurance coverage to the extent both in time and amount to take care of all his liabilities either direct or indirect.

59.0 GUARANTEE/WARRANTY

59.1 The Contractor shall warranty that the equipments/materials will be new and in accordance with the Contract documents and will be free from defects in material and workmanship for a period of **two years** from the date of **final acceptance** of the works by the Owner. Any defect developed due to defective materials and/or workmanship during testing and commissioning of the equipments or during the guarantee period of two years from the date of final acceptance of work by the Owner, shall be rectified or made good by the Contractor at his own cost. The Contractor's liability shall be limited to repair/replacement of any defective part in the equipment of his own manufacture or those of his sub-Contractor and arising from faulty, design, materials and/or workmanship. All costs for the repair and/or replacement of defective parts such as dismantling, re-erection, supply, transportation, etc. shall be to the account of the Contractor.

59.2 No repairs or replacement shall normally be carried out by the Engineer when the plant is under supervision of Contractor's supervisory engineers. In the event of emergency, where in the judgement of the Engineer, delay would cause serious loss or damage, repairs or adjustment may be made by the engineer or a third party chosen by the engineer without advance notice to the Contractor and the cost of such work shall be paid by the Contractor. In the event the cost of such action is taken by the engineer, the Contractor will be notified promptly and he shall assist wherever possible in making the necessary corrections. This shall not relieve the Contractor's liability under the terms and conditions of the Contract.

59.3 If it becomes necessary for the Contractor to replace or renew any defective portion of the plant under this clause, the provision of this clause shall apply to the portion of the plant so replaced or renewed until the expiry of two year from the date of such replacement or renewal.

59.4 The acceptance of the works by the engineer shall in no way relieve the Contractor of his obligation under this clause.

59.5 If at any time during the guarantee period, it shall appear to the engineer that any work has been executed with unsound, imperfect or unskillful workmanship or with materials of inferior quality or that any materials or articles provided by him for the execution of the work unsound or of a quality inferior to that Contracted for or are otherwise not in accordance with the Contract, it shall be lawful for engineer, notwithstanding the fact that the work or materials or articles complained of may have been inadvertently passed, certified and paid for the Contractor shall be found forthwith to rectify, to remove and reconstruct the work so specified in whole or in part, as the case may require or, if so required, to remove the materials or articles so specified and provide other proper and suitable materials or articles at his own charge and cost.

59.6 In the event of the Contractor failing to remove the defect within the time specified by the engineer, the Owner may proceed to undertake the removal of such defect at the Contractor's risk and expense, without prejudice to any other rights and recover the same from performance bank guarantee/other dues.

59.7 The Contractor shall promptly provide adequate staff at site during the guarantee period to attend to defects, if any.

60.0 BANKRUPTCY

If the Contractor shall become bankrupt or insolvent, or have a receiving order made against him, or compound with his creditors, or being a company or corporation commence to the wound up, not being a member's voluntary winding up for the purpose of amalgamation or reconstruction, or carry on its business under a receiver for the benefit of its creditors or any of

them, the Owner shall be at liberty (a) to terminate the Contract forthwith by notice in writing to the Contractor or to the receiver or liquidator or to any person the option of carrying out the Contract subject to his providing a guarantee for the due and faithful performance of the Contract upto an amount to be agreed.

62.0 DETAILS CONFIDENTIAL

The Contractor shall treat the Contract and everything contained therein as private and confidential. In particular the Contractor shall not publish any information, drawing or photograph concerning the works and shall not use the sites for the purpose of advertising except with the written consent of the Engineer and subject to such conditions as he may prescribe.

65.0 PRICE VARIATION

65.1 Bids for all the packages having completion schedule more than 6 months will be on variable price basis.

65.2 Bids for all the packages having completion schedule less than 6 months will be on firm price basis.

65.3 For the purpose of calculation of price adjustment for lines & substation:

✂ The indices for various materials shall be considered as published by IEEMA. The indices published by IEEMA on the 1st working day of the calendar month, one month prior to the date of opening of bid will be the base indices for calculation of PV.

✂ In case of negotiation of prices, the indices published by IEEMA on the 1st working day of the calendar month, one month prior to the date of negotiation will be the base indices for calculation of PV . The formula for calculation of price variation will be as per IEEMA.

For supply of materials(as specified under clause 65.5, Section II in Book I) and **civil and services (Erection)**. Latest revision of IEEMA. P.V. formula will be applicable.

Price variation will be calculated as per prevailing IEEMA formula for items specified in 65.5 below.

65.4 The Owner shall not be liable for any additional cost incurred by Contractor on account of price variation beyond the time stipulated in the Contract for completion of works on account of default by Contractor.

65.5 Components for which PV is applicable:

(i) Major sub-station equipments: Power Transformer, circuit breakers, instrument transformers, isolators, relay panels, structural steel, control and power Cables.

(ii) Civil and ETC works .

Price of all other materials/equipments shall be on firm basis.

65.6 In case of supply of material, 10% of PV calculated every time will not be considered, if 10% interest free advance amount is paid.

66.0 LIQUIDATED DAMAGES

66.1 If the Contractor fails to complete all the works within the time frame stipulated as completion period or within any extension of time granted by the Owner, the Owner shall levy

liquidated damages for breach of Contract without prejudice to any other rights and/or remedies provided for the Contract.

66.2 The liquidated damages shall be levied at ½% (half percent) of the total Contract price per week of delay subject to maximum of **10%** (ten percent) of the Contract price for the entire scope of work. delay, The Contract may be terminated by the Owner and the balance work shall be completed by the Owner at the risk and cost of the Contractor in case the progress is not to the satisfaction of the owner.

67.0 VALIDITY OF THE OFFER

67.1 Validity of the offer should be for a period of 6 months from the due date of submission of the Bid.

68.0 The bidder should submit their offer in two copies (original+ 1 copy) complete in all respects.

69.0 The offers not conforming to our clauses regarding (1) EMD (2) Performance (3) Price break-up of taxes and duties in the prescribes proforma, (4) Terms of payment (5) liquidated damages (6) Force Majeure and (7) validity are liable to be rejected.

SCHEDULE OF UNIT PRICE

Note:

The bidder shall indicate the unit rate for erection, testing & commissioning of each item so as to enable calculation of revised order value due to any increase/decrease in scope of work that may become necessary during execution.

Name of the 400KV/220 kV substation:

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For Erection Portion:

Sr. No.	Item Description	Qty.	Unit	Quoted unit price (Rs.)	VAT on Material Portion @ ---% and value (Rs.)	Service tax on Labour portion @ --- % & value (Rs.)	Total Net Unit Rate Payable (Rs.)	Total Amount (Qty.x Net Unit Rate) (Rs.)
1	2	3	4	5	6	7	8	9 = (3x9)
	Items As per bill of Materials i.e. Annex I							

Date:

Place:

Signature: _____

Designation _____

Company Seal: _____

PERFORMANCE SECURITY FORM

(To be Stamped in accordance with Stamp Act)

The Bank of (Name & Address) hereby agree unequivocally and unconditionally to pay, at Mumbai with in 48 house, on demand in writing from the Maharashtra State Electricity Transmission Company Ltd, or any Officer authorised by it in this behalf, of any amount upto and not exceeding Rs..... (in words) Rupees on behalf of M/s who have tendered and/or contracted or may tender or contract hereafter for unit scope of works for the Maharashtra State Electricity Transmission Company Ltd against order No..... dated Total value of order is Rs.....

This agreement shall be valid and binding on this Bank upto and including and shall not be terminable by notice or any change in the constitution of the Bank or the firm of Contractors or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, concerned or agree with or without our knowledge or consent, by or between parties to the said within written contract. The validity of this Bank Guarantee will be extended by us for the further period of six months, one month prior to its present validity period at the request of Maharashtra State Electricity Transmission Company Ltd.

In case of any dispute arising out of or in connection with the extension or encashment of Bank Guarantee the courts in Mumbai will have jurisdiction.

Our liability under this Guarantee is restricted to 10% value of Contract Rs..... (Rs..... only). Our Guarantee shall remain in force until

Date :

Signature :

Address:

Name & Designation:.....

.....

Telex No.....

(For.....

(Banker's Rubber Seal)

Gram:.....

WITNESS:

(Signature)

(Name & Official Address)