

**MAHARASHTRA STATE ELECTRICITY TRANSMISSION CO. LTD.**



**e-TENDER**

**FOR**

**Development of Comprehensive Software for On-Line Project monitoring, Dashboard presentation, Reports Generation etc. and Providing Functional support to Transformation Cell in STU/MSETCL along with hosting of Entire Data Base and Application Software on Cloud**

**TENDER SPECIFICATION NO: CE/MSETCL/STU/T-04/2024-25**

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## **Section – II**

### **GENERAL TERMS & CONDITIONS OF THE CONTRACT (GTC)**

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## **SECTION-II**

### **GENERAL TERMS & CONDITIONS OF THE CONTRACT (GTC)**

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## SECTION – II

### GENERAL TERMS & CONDITIONS OF CONTRACT (GTC)

#### 1. DEFINITION OF TERMS

In constituting these general terms and conditions and the annexed specifications, the following words shall have the meanings herein assigned to them.

- a) 'Owner' or 'Purchaser' shall mean the State Transmission Utility (STU)/Maharashtra State Electricity Transmission Company Ltd. (MSETCL), Mumbai and shall include their legal representatives, successors and permitted assigns.
- b) Contractor' shall mean the Bidder whose Bid has been accepted by the Owner for the award of the contract and shall include such successful Bidder's legal representatives, successors and permitted assigns.
- c) 'Sub-Contractor' shall mean any person (other than the Contractor) named in the contract for any part of the work or any person to whom any part of the contract has been sublet by the Contractor with the consent in writing of the Owner/Engineer and will include the legal representatives, successors and permitted assigns of such person.
- d) 'Engineer' shall mean the officer appointed in writing by the Owner to act as Engineer from time to time for the purpose of the contract. Unless any change is notified Chief Engineer (STU), MSETCL, Mumbai shall act as Engineer.
- e) “Consulting Engineer / Consultant” shall mean any firm or person duly appointed as such by the owner from time to time.
- f) Scope: Scope shall mean execution of all the works covered in the contract in prescribed quantities and of prescribed qualities and in prescribed manner.
- g) “Contract Period / Work completion period” shall mean the time for completion of works as stated in the contract.
- h) “Inspector” shall mean the owner or any person/ firm appointed by or duly authorized by the owner or appointed by the contractor on approval of the owner from time to time to inspect the equipment, plant or works etc under the contract.
- i) 'Engineer's Representative' shall mean any assistant of the Engineer appointed from time to time to exercise the powers, directions, functions, and other authorities vested in the Engineer.

- j) The terms 'Equipments', 'materials', 'Stores' shall mean and include 'plant', 'Stores' and 'Materials' to be provided by the Contractor under the contract.
- k) 'Works' shall mean the design, engineering, manufacture (wherever applicable), testing, supply of materials and erection and commissioning of various equipments as detailed in the bidding documents.
- l) 'Specification' shall mean the Tender Specification forming a part of the contract and such other Schedules and drawings as may be mutually agreed upon.
- m) 'Site' shall mean the whole of the premises, buildings and grounds in or upon which the work or works is or are to be provided, executed, erected, done or carried out.
- n) 'Manufacturer's works' or 'Contractor's works' shall mean the place of work used by the Manufacturer, the Contractor, or subcontractor for the performance of the works.
- o) 'Notice of Award of Contract' / 'Letter of Award (LOA)' shall mean the official notice issued by the Owner notifying the Contractor that his bid has been accepted.
- p) The 'Contract' shall mean the agreement, if any, to be entered into by the Owner with the contractor and shall include the conditions of contract, specification, schedules, tender guarantees, drawings, and any further conditions which may be specifically agreed to between the parties as forming a part of the contract.
- q) 'Contract Price' shall mean the sum named in the contract agreement if any or the work order by the Owner, subject to such additions there to or deductions there from as may be made under the provisions herein after contained.
- r) 'Contract Value' shall mean that part of contract price which is properly apportionable to the work in question having regard to the amount of work done and all other relevant circumstances and disregarding any changes that may have occurred since the date of contract in the cost of executing the works.
- s) 'Manufacturer's Supervisory Personnel' shall mean the supervisory personnel deputed by the Contractor or any other manufacturer who has supplied materials or under whose supervision the installation of equipment is to be carried out.
- t) 'Date of Contract' shall mean the date on which LOA is issued and/or acceptance of bid is intimated to Contractor as the case may be.
- u) "Date of Contract Agreement" shall mean the date on which both the parties have signed the contract agreement document.

- v) 'Guarantee Tests' shall mean such tests as prescribed in the Contract or as instructed by the Engineer to be performed by the Contractor before the works are finally accepted by the Owner ready for commercial use, complete with all items to the satisfaction of the Engineer.
- w) 'Delivery period' shall mean the time period required from issue of LOA/Email intimation of acceptance of bid to the stage the works are ready for operation and inclusive of performance test.
- x) 'Commissioning' shall mean the first successful operation of the equipment after all initial adjustments, trials, etc, cleaning and re-assembly required at site if any have been completed and the equipment is made ready for commercial use.
- y) The term 'Final Acceptance' shall mean the Owner's written acceptance of the works performed under the contract after successful testing and commissioning of the equipments offered under this contract.
- z) 'Warrantee period' shall mean the period during which the Contractor shall remain liable for repair, replacement of any defective part of the works performed under the contract.
- aa) 'Month' shall mean the calendar month. DAY or DAYS unless herein otherwise expressly defined shall mean calendar day or days of 24 hours each.
- bb) 'Writing' shall include any manuscript, under or over signature and/or seal as the case may be.
- cc) 'Drawings Plans' shall mean all drawings furnished by the Owner as a basis for proposal.
- dd) Supplementary drawings, if any, furnished by the Owner to clarify and to define in greater detail the intent of the Contract.
- ee) Drawings submitted by the Contractor with his proposal, provided such drawings are acceptable to the Owner.
- ff) Drawings furnished by the Contractor / Manufacturer to the Owner during the progress of the work.
- gg) 'Codes' shall mean the following, but not limited to, including the latest amendments and/or replacements, if any:-
  - a. Indian Electricity Act, 2003 and Rules and Regulations made there under.



- b. Indian Factory Act,1948 and Rules and Regulations made there under:
- c. A.S.M.E Test Codes.
- d. A.I.R.E. Test codes.
- e. Standards of the Bureau Indian Standards applicable for relevant materials supplied.
- f. Other Internationally approved standards and/or Rules and Regulations touching the subject matter of Contract.

## **2. INTERPRETATION OF TERMS**

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

Words importing 'Persons' shall include firms, companies, corporations and associations or bodies of individuals, whether incorporated or not.

When the words 'Approved', 'Subject to approval', 'As directed', 'Accepted' etc. or words or phrases of like are used, the approval, direction, Judgment, etc. is understood to be a function of the Owner/ Engineer.

Terms and expressions not herein defined shall have the same meaning as are assigned to them in the Indian Sale of Goods Act (1930), failing that in the Indian Contract Act (1872) and failing that in the General Clauses Act (1987).

## **3. SCOPE OF CONTRACT**

This shall be as per Technical Specifications Section-III.

## **4. ENGINEER'S SUPERVISIONS**

### **4.1 ENGINEER'S INSTRUCTIONS**

All instructions and orders to the Contractor shall, except as herein otherwise provided, be given by the Engineer.

### **4.2 ENGINEER'S REPRESENTATIVE**

The Engineer may, from time to time, delegate to Engineer's Representative any of the powers, discretions, functions and authorities vested in him and may at any time revoke

any such delegation. Any such delegation or revocation shall be in writing signed by the Engineer; and in case of delegation, shall specify the powers, discretions, functions and authorities thereby delegated and the person or persons to whom the same are delegated. No such delegation shall have effect until a copy thereof has been delivered to the Contractor. Any person to whom any delegation is made shall be entitled to exercise the powers, discretions, functions and authorities so delegated to him as aforesaid.

### **4.3 RESIDENT ENGINEERS**

4.3.1 Resident Engineer/Engineers shall mean the Engineer / Engineers to be appointed by the Owner to execute the works on the site. The Contractor shall afford him every reasonable facility for so doing but the Engineer/s shall not be authorized to relieve the Contractor in any way of his duties or obligation under the Contract. Any written notice from the Engineer/s pointing out the defects in materials or workmanship shall have the effect of a similar notice given by the Engineer under clause entitled "Remedy of Defects" except that the Contractor may appeal to the Engineer for his decision in the matter.

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, 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 (not-with-standing any previous test thereof or interim payment therefore) 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/equipment.

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. CONTRACT DOCUMENTS

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 along with his bid, subject to the approval of the Owner/Engineer.
- d) Any mutually agreed variations to the conditions of the documents, specifications terms and conditions of contract, if any.

## 6. 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 there under 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 sub-contractor, his agents, servants or workmen as fully as if those were the acts, defaults, and 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. 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.
- 6.5 All the works carried out by sub-contractors, sub vendors or collaborators shall be considered as carried out by the contractor himself for the purpose of this contract.

## **7. CONTRACT PERFORMANCE GUARANTEE**

7.1 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. BGs issued by Nationalized banks/Scheduled banks only will be accepted.

7.2 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."

7.3 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.

7.4 The Performance Guarantee shall be returned to the Contractor 90 days after the end of the warranty/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.

7.5 The termination of the contract under the clause 21, '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.

## **8. CONTRACT DRAWINGS**

These should be as per technical specifications section.

## **9. MISTAKES IN DRAWINGS**

9.1 The contractor shall be responsible for any discrepancies, errors or omissions in the drawings or other particulars supplied by him and shall pay all the costs of the alterations in the work necessitated thereby, notwithstanding the fact that such drawing or particulars have been approved by the Engineer, provided that such discrepancies, errors or omission

are not due to inaccurate information or particulars furnished to the Contractor in writing by the Engineer. The Owner shall be responsible for the drawings and information supplied by the Engineer.

- 9.2 If any dimensions/figures upon a drawing or a plan differ from those obtained by scaling the drawings or plan, the dimensions as figured upon the drawings or plan shall be taken as correct.

## **10. EFFECT AND JURISDICTION OF CONTRACT**

- 10.1 The Contract shall be considered as having come into force from the date of the issue of Letter of Award by the Owner.
- 10.2 The laws applicable to this contract shall be the laws in force in India. The Courts of Mumbai shall have exclusive jurisdiction in all matters arising under this contract.

## **11. LANGUAGE AND MEASURES**

All documents pertaining to the Contract including specification, schedules, notices, correspondence, operating and maintenance instructions, drawings or any other writing shall be written in English language. The metric system of measurement shall be used exclusively in the Contract.

## **12. PATENT RIGHTS & ROYALTIES**

- 12.1 Royalties and fees for patents covering materials, articles, apparatus, devices, equipment or processes used in the Works shall be deemed to have been included in the Contract Price. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees and he alone shall be liable for any damages or claims for patent infringements and shall keep the Owner indemnified in that regard. The Contractor shall, at his own cost and expenses, defend all suits or proceedings that may be instituted for alleged infringement of any patents involved in the works and in case of an award of damages, the Contractor shall pay for such award. In the event of any suit or other proceedings instituted against the Owner, the same shall be defended at the cost and expenses of the Contractor who shall also satisfy/comply the decree, order or award made against the Owner. Final payment to the Contractor by the Owner will not be made while any such suit or claim remains unsettled. In the event any apparatus or equipment or any part thereof furnished by the Contractor is in such suit or proceedings held to constitute infringement, and its use is enjoined, the Contractor shall, at his option and at his own expense, either procure for the Owner the right to continue use of said apparatus, equipment or part thereof, replace it with non-infringing apparatus or equipment or modify it, so that it becomes non-infringing.

- 12.2 The Contractor shall be responsible for the observance by his sub-contractors of the foregoing.

### **13. WORKMANSHIP & MATERIALS**

- 13.1 The plant and /or the work shall be manufactured, constructed, provided, put in possession, carried out and maintained in all respects 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, labor, haulage, tools, tackles, apparatus and all things necessary to execute and complete the work and plant in manner aforesaid.
- 13.2 All materials used in the manufacture shall be high grade, free from defects and imperfection, recent manufacture & unused. Materials shall conform to the latest specifications of BIS, where applicable.
- 13.3 All work shall be performed and completed in accordance with the best shop practice. Manufacture of high-grade equipment - castings shall be free from blow-holes, flaws, cracks or other defects and shall be smooth, close-grained and of free form and dimensions. All materials, supplies, parts, supplied under this contract shall be tested.

### **14. PACKING, FORWARDING AND TRANSPORTATION, ETC:**

- 14.1 The Contractor shall be fully responsible for packing, forwarding, transportation by railways or any other authorized mode of transport, clearance of equipment and further transportation at site to place of works/storage yards etc. in respect of material in his scope.
- 14.2 The Contractor wherever applicable shall, after proper painting, pack and crate all equipment in such a manner as to protect them from deterioration and damage during rail / road or any other authorized mode of transport. The Contractor shall be held responsible for all damages / losses due to improper packing.
- 14.3 The Contractor shall notify the Owner of date of each shipment from his/ manufacturer's works and the expected date of arrival at the site for the information of Owner. The Contractor shall also give all shipping information concerning the weight, size, content of each packing and any other information the Owner may require.

### **15. INSPECTION, TESTING & INSPECTION CERTIFICATE**

As per Technical Specifications Section-III

## **16. TIME: THE ESSENCE OF CONTRACT**

- 16.1 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 organize his resources and perform his work as to complete it not later than the date agreed to.
- 16.2 The Contractor shall submit a detailed PERT network/ 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 inter face 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.
- 16.3 The above PERT network/bar chart shall be reviewed and periodic review reports shall be submitted by the contractor as directed by the Engineer.

## **17. DEMURRAGE AND WHARFAGE, ETC.**

When the materials are dispatched to the site stores with the name of consignee as that of the Owner, demurrage and wharf age and other expenses incurred due to delayed clearance of the material, dispatch documents, Railway / Lorry Receipt, or any other reason shall be to the account of the Contractor. It shall be the responsibility of the Contractor to obtain clear railway receipt / lorry receipt and allied documents in order to avoid any difficulty while clearing / taking delivery of the materials.

## **18. PROGRESS REPORT**

The Contractor shall submit monthly reports to the engineer showing the progress of manufacture and delivery of the equipment / materials and the erection work executed by the Contractor. The Contractor shall also furnish to the engineer such other information as the engineer may require to satisfy himself about the timely manufacture and delivery of the equipments / materials and the various stages of execution of the works to suit the accepted commissioning program. The Contractor shall be responsible for the proper dispatch, receipt and storage at the site of all equipment/materials delivered for the purpose of the contract and also for notifying the engineer of the details of the deliveries and delay thereto. Should any plant and equipment be lost or damaged due to improper packing, transport, handling, of cost to the Owner, the

Contractor shall make best efforts to ensure that the replacement is arranged expeditiously so that commissioning schedule is not affected.

## **19. EXTENSION OF TIME LIMIT FOR COMPLETION**

If by reasons of extra or additional work or any natural phenomenon or any cause beyond the control of the Contractor or the Owner as defined in the Clause entitled "force majeure", the Contract shall have been delayed or impeded in the completion of the works, whether such delay or impediment occurs before or after the time or extended time fixed for completion, provided that the Contractor shall without delay have given to the Engineer a notice in writing of his claim for an extension of time, the Engineer shall on receipt of such notice grant the Contractor either prospectively or retrospectively such extension of time fixed by the contract for the completion of work as may be justified. The Contractor shall have no other claim against the Owner in respect of delay and disorganization of the work arising from occurrences herein above mentioned.

## **20. CHANGE IN QUANTITY**

The Owner reserves the right to vary the quantities of items or group of items ordered, as may be necessary during the execution of the contract without change in unit price or other terms and conditions. The variation in contract price due to this change in quantity shall be limited to increase or decrease by up to 20% (twenty percent only) of the original contract price. In case unit prices are not available the prices of the items added or deleted shall be mutually agreed upon.

## **21. DEDUCTION FROM CONTRACT PRICE**

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 from the 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.

## **22. CONTRACTOR'S DEFAULT**

- 22.1 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.

In addition, such action by the Owner as aforesaid shall not relieve the Contractor of his liability to pay liquidated damages for delay in completion of works as defined in contract.

- 22.2 The termination of the contract under this clause if effected by the Owner 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 the contract including 90 days after the end of guarantee period.

## **23. TERMINATION OF CONTRACT**

- 23.1 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.

- 23.2 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 & 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.

23.3 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.

23.4 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.

23.5 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.

## **24. REJECTION**

24.1 In the event any of the equipments 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 expense. 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 (b) terminate the contract for Contractor's default as provided for in the contract.

24.2 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.

## 25. DELAYS BY OWNER OR HIS AUTHORISED REPRESENTATIVES

- 25.1 In case the Contractor's performance is delayed due to any act of omission on the part of the Owner or his authorized 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.
- 25.2 The Contractor desirous of extension of time for completion of work on this ground shall apply 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.

## 26. MODIFICATION & RECTIFICATION

- 26.1 The modification, rectification, rework, revamping (in brief, any work done to change the existing state to the desired state) and also fabrication, all or any, as are needed due to any change in or deviation from the drawing and design of equipment, operation/maintenance requirements, mismatching, transit damages and other allied works which are not very specifically indicated in the drawings, but are found essential for satisfactory completion of the work, if are required to be done, no extra charges shall be paid to the Contractor.
- 26.2 For the above work, any material and consumable required will also have to be arranged by the Contractor at his cost.
- 26.3 All the above type of work shall preferably be carried out by separate personnel. Diversion of regular working personnel for such work shall not be permissible and no delay or slow progress should be caused due to executing such works. The Contractor shall not be liable for extension in contract period for carrying out such works.

## 27. LIQUIDATED DAMAGES

- a) 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 in case the progress is not to the satisfaction of owner.
- b) The liquidated damages shall be levied at 1/2% (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. In case of such maximum 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.

- c) Project Software Development and Integration with existing Software is to be executed in 120 days.

**d) TERMS OF PAYMENT**

- a) 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 payee only. The final payment shall be made on completion of the whole work as per the contract and on fulfillment by the contractor of all his liabilities under the contract
- b) 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 receipt of contractor's bills/invoices (except final bill) by the Owner, provided the documents submitted with the invoices are complete in all respects

**28. PAYMENT SCHEDULE:**

The activity wise payment schedule for Software, Cloud Services and AMC for 3 years is as per mentioned in Section I.

**29. MODE OF PAYMENT TO CONTRACTOR**

All payments due to the contractor shall be paid only by 'Account Payee cheques' or by RTGS/NEFT.

- a. The Contractor shall present his invoice for the supply/works done as mentioned in payment schedule. After verification of such invoices by Owner, all items having financial value shall be entered and certified in by incharge Work is to be measured as per standard procedure. The Measurement shall be taken jointly by persons duly authorized on the part of Owner and by the Contractor.
- b. If, at any time due to any reason whatsoever, it becomes necessary to re-measure the work done in full or in part, the expense towards such re-measurement shall be borne by the Contractor
- c. 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.

- d. The measurement entered in the measurement books and the bills prepared shall be signed and dated by both the contracting parties.
- e. The Contractor will be intimated in writing by the Engineer the proposed date of measurement. If the Contractor does not turn up 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.
- f. 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.
- g. The Contractor shall be directly responsible for payment of wages to his workmen. A pay roll 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.
- h. The payment for the works shall be made directly to the Contractor by the Owner.

### **30. COMPLETION OF CONTRACT**

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 warrantee/guarantee period as provided for under the clause entitled 'Warrantee/Guarantee' and upon release of last payment to the Contractor by the Owner, whichever is later.

### **31. CO-ORDINATION MEETINGS**

Co-ordination meetings between the STU/MSETCL or its representative and the Contractor/developer shall be held to monitor the works.

The Contractor will also be called upon to attend to design coordination meetings with the engineer, other contractors and consultants of the Owner during the period of contract. The Contractor shall attend all such meetings at his own cost as and when required and fully co-operate with the engineer/owner and other agency involved during these discussions.

### **32. FORCE MAJEURE**

- 33.1 The following clauses which substantially affect the performance of the contract shall only be considered as force majeure conditions.

- a) Natural calamity, 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, and embargoes.

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

- 33.2 Notwithstanding any provision under clause 29.1, 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.
- 33.3 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.
- 33.4 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.
- 33.5 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.

### **33. ARBITRATION**

#### **34.1 The matters to be determined by the Chief Engineer (STU)**

All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the progress of the work or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the C.E. and the C.E. shall (within 120 days) after receipt of the contractor's representation make and notify decisions of all matters referred to by the contractor in writing.

**1. Demand for Arbitration:**

In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, the dispute or difference on any account or as to the withholding by STU/MSETCL of any certificate to which the contractor may claim to be entitled to, or if the Chief Engineer(STU) fails to make a decision (within 120 days) then and in any such case, the contractor (after 120 days) but within (180 days) of his presenting his final claim on disputed matters, shall demand in writing that the dispute or difference to be referred to arbitration.

2. The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item wise. Only such dispute(s) or difference (s) in respect of which the demand has been made, together with counter claims or set off shall be referred to arbitration and other matters shall not be included in the reference.
  - a) The arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the MSETCL.
  - b) The claimant shall submit his claim stating the facts supporting the claims along with all relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.
  - c) The MSETCL shall submit its defense statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from the Tribunal thereafter unless otherwise extension has been granted by the Tribunal.
3. No new claim shall be added during the proceedings by either party. However, a party may amend or supplement the original claim or defense thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.
4. If the contractor(s) does/do not prefer his/their specific and final claims in writing within a period of 90 days of receiving the intimation from the MSETCL, that the final bill is ready for payment, he/they will be deemed to have waived his/their claim(s) and the MSETCL shall be discharged and released of all liabilities under the contract in respect of these claims.

### **34.2 Obligation during pendency of Arbitration :**

Work under the contract shall, unless otherwise directed by the Engineer, continue during the arbitration proceedings, and no payment due or payable by the owner shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not such work should be continued during arbitration proceedings.

1. In cases where the total value of all claims in question added together does not exceed Rs.1,00,00,000/- (Rupees One Crore) the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be either the C.E. of the MSETCL OR serving or retired officer of the MSETCL/Government not below the grade of C.E. or equivalent nominated by the Chairman of the MSETCL in that behalf. The Sole Arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by the MSETCL.
2. In cases where the value of the claim exceeds Rs.1,00,00,000/- (Rupees One Crore) as above, the Arbitral Tribunal shall consist of a panel of 3 serving or retired officers of MSETCL/ Govt. not below the grade of C.E./C.A.O. as the Arbitrators. For this purpose, the Board will send a panel of more than 3 names of arbitrators of one or more department of the Board/Govt. to the contractor who will be asked to suggest to the M.D. (MSETCL) at least 2 names for appointment as contractor's nominee. The M.D. shall appoint at least one of them as contractor's nominee and will also appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the presiding arbitrator from amongst the three (3) arbitrators so appointed. While nominating arbitrators, it will be necessary to ensure that one of them is or has worked in Accounts department.
3. If one or more arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the M.D. fails to act without undue delay, the M.D. shall appoint new arbitrator/s to act in his/their place in the same manner in which the earlier arbitrator/s had been appointed. Such reconstituted Tribunal, may, at its discretion proceed with the reference from the stage at which it was left by the previous arbitrator(s).
4. The Tribunal shall have powers to call for such evidence by way of affidavits or otherwise as the Arbitral Tribunal shall think proper, and it shall be the duty of the parties hereto to do or cause to be done all such things as may be necessary to enable the Arbitral Tribunal to make the award without any delay.



5. While appointing arbitrator(s) as above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as MSETCL's servant(s) expressed views on all or any of the matters under dispute or differences. The proceedings of the Arbitral Tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.
6. Arbitral award shall state item wise, the sum and reasons upon which it is based.
7. A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award and interpretation of specific point of award to tribunal within 30 days of receipt of the award.
8. A party may apply to Tribunal within 30 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings, but omitted from the arbitral award.
9. In case of the Tribunal comprising of three members any ruling or award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
10. Where the arbitral award is for payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.
11. The cost of the arbitration shall be borne equally by the respective parties. The cost shall inter-alia include fees of the arbitrators as per the rates fixed by the MSETCL from time to time. Provided that the fees payable per arbitrator for claims up to Rs. One Crore, shall not exceed Rs.2000/- per sitting subject to a maximum of Rs.25, 000/- and the fees payable per arbitrator for claims over Rs. One Crore, shall not exceed Rs.2000/- per sitting subject to a maximum of Rs.50, 000/-. Provided further that the arbitrators who are in service of Govt. /MSETCL shall draw fees at half of the rates mentioned above.
12. MSETCL shall maintain a list of arbitrators. The M.D. shall have full powers to delete or add the name of the arbitrators in the list or to make amendments to the said list as per his discretion.

13. The arbitral proceedings should be completed and the award be finalized within one year from the date of appointment of arbitrators.
14. Subject to the provisions as aforesaid, Arbitration & Reconciliation Act, 1996 and the rules there under, and any statutory notification thereof shall apply to the arbitration proceedings under this clause.

#### **34. SUSPENSION OF WORK**

The Contractor shall, on the written order of the Engineer, suspend the progress of the 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 corresponding to the duration of the suspension of works.

#### **35. 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 covered 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 subcontracting 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. In such cases, the Engineers decision shall be final and binding on the contractor.

#### **36. 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.

## **37. ENFORCEMENT OF TERMS**

The failure of either party to enforce at any time any of the provisions of this contract or any rights in respect thereto or to exercise any option herein provided shall in no way be construed to be a waiver of such provisions, rights or options or in any way to affect the validity of the Contract. The exercise by either party of any of its rights herein shall not

preclude or prejudice either party from exercising the same or any other right it may have under the contract.

### **38. ACCESS TO SITE AND WORKS ON SITE**

38.1 The works shall be carried out at such time as the Owner may approve and the Owner shall give the Contractor facilities as brought out in the contract for carrying out the works.

38.2 In the execution of the works, no persons other than the Contractor or his duly appointed representative, sub-contractor and workmen, shall be allowed to do work on the site, except with the special permission, in writing, of the engineer or his representative.

### **39. LINES AND GRADES**

39.1 All the works shall be performed to the lines, grades and elevations indicated on the drawings. The Contractor shall be responsible to locate and layout the work. Basic horizontal and vertical control points will be established and marked by the Engineer at site at suitable points. These points shall be used as datum for the works under the contract. The Contractor shall inform the Engineer well in advance of the times and places at which he wishes to do work in the area allotted to him, so that suitable datum points may be established and checked by the Engineer to enable the Contractor to proceed with his work. Any work done without being properly located may be removed and/or dismantled by the Engineer at Contractor's expense.

39.2 If any time during the progress of works any error shall appear or arise in the position, levels, dimension or alignment of any part of the work, the Contractor on being required to do so by the Engineer or Engineer's representative shall at his expense, rectify such error.

39.3 The Contractor shall carefully protect and preserve all bench marks, reference points, pegs and other things used in setting out, locating and layout of the works.

### **40. 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.

#### **41. CO-OPERATION WITH OTHER CONTRACTORS AND OWNER**

- 41.1 The Contractor shall co-operate with all other contractors or tradesmen of the Owner, who may be performing other works on behalf of the Owner and the workmen who may be employed by the Owner in the vicinity of the works under the contract. The Contractor shall also so arrange to perform his work as to minimize, to the maximum extent possible, interference with the work of other Contractors and his workmen. Any injury or damage that may be sustained by the employees of the other contractors and the Owner, due to the Contractor's work shall promptly be made good at his own expense. The engineer shall determine the resolution for any difference or conflict that may arise between the Contractor and other contractors or between the Contractor and the workmen of the Owner in regard to their work. If the works of Contractor are delayed because of any acts/omissions on the part of another Contractor, the Contractor shall have no claim against the Owner other than an extension of time for completing his works.
- 41.2 The Engineer shall be notified promptly by the Contractor of any defects in other Contractor's works that could affect the Contractor's works. The Engineer shall determine the corrective measures, if any, required to rectify this situation after inspection of the works and such decisions by the Engineer shall be binding on the Contractor.

#### **42. WORK TO BE OPEN TO INSPECTION AND CONTRACTOR TO BE PRESENT**

All works under or in course of execution or executed in pursuance of the contract shall at all times be open to the inspection and supervision of the Engineer and the Contractor shall at all times during the usual working hours and at all other times at which

reasonable notice of the intention of the Engineer to visit the works shall have been given to the Contractor, either himself be present to receive orders and instructions or have a responsible agent duly accredited in writing, present for that purpose. Orders given to the Contractor's duly authorized agent shall be considered to have the same force and effect as if those had been given to the Contractor himself.

#### **43. NOTICE TO BE GIVEN BEFORE WORK IS COVERED UP**

The Contractor shall give not less than seven days' notice in writing to the Engineer before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof taken. In case the Contractor covers up the work without such notice, the Engineer reserves the right to get the same uncovered at the risk and expense of the Contractor.

#### **44. REMEDY OF DEFECTS**

If at any time before the works are finally taken over by the Owner, the Engineer shall decide that any work done or plant supplied or materials used by the Contractor or any subcontractor is/are effective or not in accordance with the contract or that the works or any portion thereof are defective or do not fulfill the requirements of the contract (all such matters being hereinafter in this clause called defects') and

- a) as soon as reasonably practicable give to the Contractor notice in writing of the said decision specifying particulars of the defects alleged and/or where the same are alleged to exist or to have occurred and
- b) so far as may be necessary, place the works at the Contractor's disposal, then the contractor shall with all speed and at his own expense make good the defects so specified. In case the Contractor shall fail to do so, the Owner may take, at the cost of the Contractor such steps as may in all circumstances be reasonable to make good such defects. All plant provided by the contractor to replace defective plant shall comply with the contract. The Contractor shall be entitled to remove and retain all plant that the Owner may have replaced at the Contractor's cost. In case of failure of the contractor to remove the replaced parts within a reasonable time, the Owner, reserves the right to take further action for its disposal in any manner deemed fit. Such action shall in no way limit the liabilities and responsibilities of the contractor for removal of such parts. However, the Owner shall give reasonable time to the Contractor before such action is taken.

#### **45. 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 traveling 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 religious 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 license under the Contract Labour (Regulation and Abolition) Act, from the concerned State Labour Authorities.
- 45.8 No idle labor charges will be admissible in the event of any stoppage caused in the work resulting in contractor's labor 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.
- 45.10 The Contractor shall submit to the Engineer, on the first day of every month, a man hour schedule for the month indicating the number of manpower, skilled or otherwise proposed to be employed by him for the works. Should the Engineer be of the opinion



that the list needs modification to ensure completion of the scheduled work in time and in a professional manner, the Contractor shall, at his own expense, rearrange the manpower to be employed at site.

#### **46. DISCIPLINE OF WORKMEN**

The Contractor shall adhere to the disciplinary procedure set by the Engineer in respect of his employees and workmen at site. The Engineer shall be at liberty to object to the presence of any representative or employee of the Contractor who in the opinion of the Engineer has misconducted himself or is incompetent or negligent or otherwise undesirable. The Contractor shall forthwith remove such a person from site and provide in his place a competent replacement.

#### **47. DISORDERLY CONDUCT, ETC**

The Contractor shall at all time take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his employees and for the preservation of peace and protection of persons and property in the neighborhood of the works.

#### **48. CLEANLINESS**

- 48.1 The Contractor shall be responsible for keeping the entire area allotted to him clean and free from rubbish, debris etc. during the period of contract. The contractor shall employ enough number of special personnel to thoroughly clean his work area at least once in a day. All such rubbish and scrap material shall be stacked or disposed of in a place to be identified by the Engineer. Materials and stores shall be so arranged to permit easy cleaning of the area. In areas where equipment might drip oil and cause damage to the floor surface, a suitable protective cover of a flame resistant, oil proof sheet shall be provided to protect the floor from such damage.
- 48.2 Similarly, the labour colony, the offices and the residential area of the Contractor's employees and workmen shall be kept clean and best to the entire satisfaction of the Engineer. Proper sanitary arrangements shall be provided by the Contractor, in the work areas, office and residential areas of the Contractor.
- 48.3 On the completion of the works, the contractor shall clear away and remove from the site all Contractor's equipments, surplus materials, rubbish and temporary works of every kind and leave the whole of the site and works clean and in a workman like condition to the satisfaction of the Engineer.



#### **49. FIRST AID**

The Contractor shall provide necessary first aid facilities for all his employees, representatives and workmen working at the site. Enough number of contractor's personnel shall be trained in administering first aid.

#### **50. SECURITY**

The Contractor shall have total responsibility for all equipments and materials in his custody stored, loose, semi-assembled and/or erected by him at site. The contractor shall make suitable security arrangements to ensure the protection of all materials, equipment and works from theft, fire, pilferage and any other damages and loss. All materials of the Contractor shall enter and leave the work site only with the written permission of the Engineer in the prescribed manner. It shall be the responsibility of the Contractor to arrange for security till the works are finally taken over by the Engineer.

#### **51. 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 unfavorable 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 unfavorable construction conditions will in no way relieve the Contractor of his responsibility to perform the works as per the Schedule.

#### **52. WORKS & SAFETY REGULATIONS**

- 52.1 The Contractor shall ensure the safety of all the workmen, materials and equipment either belonging to him or to others working at site.
- 52.2 The Contractor will notify the Engineer of his intention to bring on to site any equipment or any container, with liquid or gaseous fuel or other substance which may create hazard. The Engineer shall have the right to prescribe the conditions under which such equipment or container may be handled and used during the performance of the works and the Contractor shall strictly adhere to such instructions. The Engineer shall have the right to inspect any construction plant and to forbid its use, if in his opinion it is unsafe. No claim due to such prohibition shall be entertained by the Owner.

- 52.3 The Contractor shall be responsible for provision of all safety notices and safety equipments required both by the relevant legislations and the Engineer as he may deem necessary.
- 52.4 All safety rules and codes applied by the Owner at site shall be observed by the contractor without exception. The Contractor shall be responsible for the safety of the equipment/material and work to be performed by him. The Contractor shall also take such additional precautions as may be indicated from time to time by the Engineer with a view to prevent pilferage, accidents, fire hazards and due precautions shall be taken against fire hazards and atmospheric conditions. Suitable number of clerical staff, watch & ward, store keepers to take care of equipment, materials and construction tools and tackles shall be posted at site by the Contractor till the completion of the work under this contract.
- 52.5 The Contractor shall arrange for such safety devices as are necessary for such type of work and carry out the requisite tests of handling equipment, lifting tools, tackles, etc. as per prescribed standards and practices.

### **53. ELECTRICAL SAFETY REGULATIONS**

- 53.1 No work shall be carried out on any live equipment. The equipment must be made safe by the Engineer and a permit to work issued before any work is carried out.
- 53.2 The Contractor shall employ the necessary number of qualified, full-time electricians to maintain his temporary electrical installation, wherever necessary.

### **54. INSURANCE**

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. INDEMNIFICATION OF OWNER**

- 55.1 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.

- 55.2 The Contractor shall necessarily indemnify the owner in all these respects and the indemnification and insurance policy shall be subject to the approval of Engineer.

#### **56. 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 subcontractor'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. COMPREHENSIVE AUTOMOBILE INSURANCE**

This insurance shall be in such a form to protect the Contractor against all claims for injuries, disability, 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. 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 "Defense of Suits".
- 58.2 The hazards to be covered will pertain to all the works which and areas where the Contractor, his sub-contractors, his agents and his employees have to perform work pursuant to the contract.
- 58.3 The contractor shall insure all his own personnel, tools, tackles etc and shall also take insurance cover for all liabilities which may come up due to any act or owners representative or all or anybody rendering service to the owner or is connected to the owners work in any manner whatsoever.
- 58.4 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.

58.5 The contractor shall be responsible for preferring the insurance claims and its settlement.

## **59. 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 Contractor. Above guarantee shall also be applicable for cabling & civil works including leakages from buildings, etc.

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 an emergency, where, in the judgment 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 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 bound 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. 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 be 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 in whom the contract may become vested or (b) to give such receiver, liquidator or other 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.

## **61. NOTICES**

- 61.1 Any notice to be given to the Contractor under the terms of the contract shall be served by sending the same by registered post or leaving the same at the contractor's principal place of business (or in the event of the Contractor being a company, to or at its registered office).
- 61.2 Any notice to be given to the Owner under the terms of the contract shall be served by sending the same by registered post at the Owner's address.

## **62. 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.

**63. EVALUATION CRITERIA**

Evaluation Criteria will be as specified in Section –I of Bid Document.

**64. MODE OF AWARD OF CONTRACT:**

The contract will be considered as a divisible contract. The contract shall include all applicable taxes, duties, cesses etc. in specification. The bidder shall note this point while quoting the prices against this invitation to bid.

**65. ACCEPTANCE OF BIDS**

The Owner does not bind himself to accept the lowest or any bid, neither will any reason be assigned for the rejection of any bid or part of the bid. It is also not binding on the Owner to disclose any analysis report on bids.

**66. WITHDRAWAL OF INVITATION FOR BID**

While the Owner has floated this public tender and has requested bidders to submit their proposals, the Owner shall always be at liberty to withdraw this invitation for bid at any time before its acceptance.

**67. REPRESENTATIVE/AGENT OF BIDDER**

All the bidders are requested to mention the name of their authorized representative / agent if any, with full address in the offer.

**68. POLICY FOR BIDS UNDER CONSIDERATION**

The bids shall be deemed to be under consideration immediately after those are opened and until such time official intimation of award/rejection is made by the Owner to the bidders. While the bids are under consideration, bidders and/or their representatives or other interested parties are advised to refrain from contacting by any means, the Owner and/or his employees/ representatives on matters related to the bid under consideration. The Owner if necessary, shall obtain clarifications on the bid by requesting for such information from any or all the bidders in writing as may be necessary.

Sd/-  
**Chief Engineer (STU)**  
M.S.E.T.C.L., Mumbai