

SPECIAL CONDITIONS OF CONTRACT

1.0 FIRMNESS OF PRICE

The quoted price shall remain firm during the currency of the Contract (to be signed at a later date) and is not subject to any variation whatsoever except for variation on Taxes and duties as per Clause 6.1

2.0 EFFECTIVE DATE OF CONTRACT

The Contract (to be signed at a later date) shall be valid and binding from the date of its signature by both Parties herein.

The effectiveness or Coming into Force of the Contract shall be the date on which the Contract is signed.

3.0 DELIVERY PERIOD:

10 Months from the date of signed contract date.

4.0 TERMS OF PAYMENT

100% payment within 30 days from the date of receipt and acceptance of material at MIDHANI, Hyd against submission of PBG of 10% Basic value valid till warranty/ Guarantee period of 05 year from the date of PAC issued. If PBG not submitted, then the same amount will be kept hold till warranty/ Guarantee period.

MODE OF PAYMENT

For Import Suppliers: Purchaser shall make payment through Irrevocable Letter of Credit established by Purchaser or Telegraphic Transfer within 30 days from the submission of specified documents as per Clause No. 7.0 of SCC.

For Indigenous Suppliers: All Payments shall be made through RTGS within 30 days from the date of submission of documents as per clause 4.0 of SCC

BANK CHARGES:

All Bank Charges from Supplier's side are to Supplier's account and Purchaser's side to Purchaser's account.

5.0 SECURITY DEPOSIT

Security Deposit valuing **5 (Five) percent** of the Total Contract price, valid till issue of PAC upon successful completion of the PG test, shall be deposited by the supplier by way of online or Bank Guarantee (in the prescribed proforma given at part-VI) from a Nationalized Bank or Scheduled commercial Bank encashable in Hyderabad, INDIA. This Guarantee should be furnished immediately, but in any case, not later than thirty (30) days from the date of signing the Contract.

This amount is liable to be forfeited, in full or in part, for breach of any of the terms and conditions of

the Contract (to be signed at a later date) by the supplier.

If a Security Deposit is not submitted within the stipulated time as above, interest @ 12% p.a. shall be levied for the period of delay beyond the stipulated time. Interest as above may be either deposited by the supplier / contractor or recovered from any amounts due to the supplier / contractor.

6.0 SHIPPING DOCUMENTS

The following documents will be furnished for purposes of payment. Clear instructions shall be given by you to the bank to forward the following documents as applicable without any delay to our bank. Union Bank of India, BDL Campus Branch, PO Kanchanbagh, Hyderabad – 500058, Telangana, India (OR) State Bank of India, Chandrayangutta, Hyderabad, Telangana, India.

- 1) Clean on-Board Bill of Lading, three (3) negotiable and three (3) non-negotiable copies.
- 2) Signed Invoice for the goods dispatched – four (4) copies.
- 3) Packing List – five (5) copies.
- 4) Certificate of Origin issued by the Seller's local Commercial Chamber – two (2) copies.
- 5) Shipment advice with packing details via e-mail (no fax).
- 6) Test / Manufacturer's Guarantee / Warantee Certificate – four (4) copies.
- 7) Fax / e-mail intimation particulars regarding shipment sent to our insurer (insurer details shall be indicated in the contract) – two (2) copies.
- 8) Dispatch Advice issued by the Purchase – 4 copies

The goods shall be consigned to the following address-

To,

Addl General Manager-I/c, Stores, Mishra Dhatu Nigam Limited,
(A Govt. of India Enterprise) PO: Kanchanbagh
Hyderabad- 500058, Telangana, INDIA

7.0 INSURANCE

The supplier shall bear the transit insurance charges from their works to the Purchaser's site at Hyderabad.

If required all subsequent insurance shall also be arranged by the supplier till completion of project, with the beneficiary being indicated as Midhani.

If any Contract work, including supplies and services, perishes or becomes unserviceable from any cause whatsoever, the supplier shall, on demand by the Purchaser, make replacement and in such a way as to avoid disturbances in the general progress of the installation of the work. This shall apply irrespective of the question whether or not the risk has been passed to the Purchaser, or who shall be responsible for unserviceableness as aforesaid.

8.0 TAXES AND DUTIES

The supplier shall bear and pay all taxes, duties, levies and charges. The payment of duties, taxes, levies, etc. will be reimbursed (at actual) against documentary evidence to be produced by the supplier, subject to a ceiling indicated in price schedule of the Contract. In no case the reimbursement towards duties and taxes, etc. shall exceed the amount indicated in price bid format except on account of statutory variation in Taxes & Duties and/or imposition of new taxes and duties.

The supplier shall bear and pay all the liabilities in respect of non-observance of all legal formalities as per various statutory provisions.

The supplier shall make "Sale in Transit" as per Section 6(2) of Central Sales Tax Act 1956 and all formalities required shall have to be observed by the supplier, wherever applicable.

Income tax (Withholding Tax) in India, if leviable and other taxes in relation thereto on any other account shall be borne and paid by the successful supplier. The successful supplier shall be liable to file tax returns with respective income tax authorities as required under the Indian Income Tax Act.

Octroi (if any), shall be reimbursed at actual.

8.1 VARIATION IN TAXES & DUTIES

The price specified in Price Bid format (as per Clause 1.0) is based on the taxes, duties, levies etc. and charges prevailing on Base date (i.e., Seven (7) days before the last date of submission of Price Bid). If any rate of tax is increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of Contract, which was or will be assessed on the supplier in connection with performance of the Contract, an adjustment of the Contract Price shall be made by addition to the Contract Price or deduction there from, as the case may be, within the Delivery period.

The adjustment in the Contract Price towards variation in the taxes shall be made by the Purchaser on production of the documentary evidences by the supplier. The Contract Price shall be adjusted towards variations in taxes in respect of only finished equipment supplied by the supplier to the Purchaser. No adjustment in the Contract price shall be made for variations in the taxes on raw-materials, parts, component/intermediate components, assemblies/sub-assemblies, etc.

9.0 PERFORMANCE AND GUARANTEE, DEFECT LIABILITY

- 1.1 The Guarantee for performance shall cover individual items and systems including electrics for their ratings / outputs as well as for the integrated operation of the equipment, its auxiliaries and the ancillaries as specified.

The material shall be guaranteed for workmanship & material as specified for a minimum period of 5 years from the date of provisional acceptance based on performance trial. The supplier at his own expense, upon written demand by the purchaser promptly repair or replace free to the

purchaser at site any part comprising the equipment which is defective or not complying with the specification, within a period of 5 years from the date the equipment is put into commercial operation at site. Part, which is so repaired or replaced, shall be guaranteed for an additional year, as shall any portion of the work that might have been affected by such defect. The maximum guarantee period for repaired or replaced parts shall be 5 years from the date of completion of project i.e., PAC.

1.2 Performance Guarantee Test & Provisional Acceptance Certificate (PAC):

The supplier shall be responsible for carrying out the performance guarantee tests as per the Contract / technical specifications in the presence of Purchaser's representative on all plant, machinery and equipment supplied by him.

If, for reasons attributable to the supplier, the performance guarantee parameters specified in Technical Specification are not met either in whole or in part, the supplier shall at its cost and expense make such changes, modifications and/ or additions to the Plant & machinery or any part thereof as may be necessary to meet performance guarantee parameters.

The supplier shall notify the Purchaser upon completion of the necessary changes, modifications and/ or additions and the supplier shall be allowed by the Purchaser to repeat the performance guarantee tests ONCE after first campaign of guarantee test and the supplier must establish the performance guarantee parameters during the Repeat test and all costs of this second campaign has to be borne by supplier. If the above-mentioned performance guarantee parameters are not achieved after repeat test, PAC shall not be issued.

The date of completion of performance guarantee test shall be considered to be the date of PAC, and the plant, machinery and equipment is ready for commencement of commercial production.

1.3 Defect Liability Period and Final Acceptance Certificate (FAC):

The supplier shall warrant that the facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the plant, machinery and equipment and structures supplied and of the work executed for 05 years from the date of issue of PAC.

After satisfactory completion of guarantee period (i.e. 05 years), Purchaser shall issue the Final Acceptance Certificate (FAC) to the supplier.

10.0 COMPLETENESS OF EQUIPMENT

The equipment shall be complete in all respects with all auxiliaries, mountings, fittings, fixtures and accessories etc. The supplier shall not be eligible for any extra payment in respect of such auxiliaries, mountings, fittings, fixtures and accessories etc. that may be required for the safe operation of the equipment. The supplier shall be responsible for the completeness of the equipment to ensure its specified performance as per technical specification.

11.0 PROGRESS INSPECTION, PRE-DISPATCH INSPECTION AND TRAINING

Not Applicable..

12.0 ORDER OF PRECEDENCE

In case of any inconsistency or repugnancy between any provision of "Technical Specification", "Special Conditions of Contract", "General Instructions to tenderer" and "General Conditions of Contract" on the same subject matter, the provisions of the "Technical Specification and Special

Conditions of Contract” shall prevail over the “General Instructions to tenderer” and “General Instructionstotenderer” shall prevail over “General Conditions of Contract”.

13.0 JURISDICTION

All questions, disputed or differences arising under or in connection with this Contract, other than those covered by Arbitration clause, shall be subject to the exclusive jurisdiction of the courts withinthelocallimitsofHyderabad,Telangana, India.

14.0 LIABILITIES

The supplier shall be liable for damages caused by him according to its Insurance Coverage for General Liability, Product Liability and Environmental Liability. Evidence of these policies shall be given by the supplier.

Neither PARTY shall be liable to the other for any loss of profit, loss of use, loss of production, loss of Contracts or for any other indirect or consequential damages that may be suffered by the other.

15.0 PATENT INFRINGEMENT & COPYRIGHT

The supplier shall warrant that the Equipment at the time of its delivery is free from any third party's intellectual property right. If, despite this confirmation, a third party's claim comes up, the supplier will at his own choice and at his own cost procure for the Purchaser the right to use the equipment for the contractually agreed purpose or will replace the infringing part or component by a noninfringing one.

16.0 DISCLAIMER

Eligible bidder to study carefully all documents, technical specifications and commercial conditions referred to herein before accepting the same. He shall fully satisfy himself of the appropriateness of the equipment and layout as indicated in the “Technical Specification” considering the conditions of working at and around the construction site. Further he shall take full responsibility for design, manufacturing, supply and safe & efficient operation and guarantee quality of the plant, machinery & equipment supplied and specified output. Claims and objections due to ignorance on the subject shall not be considered after submission of the Price bid.

19.0 LIQUIDATED DAMAGES(LD):

Liquidated Damages shall be levied against Suppliers/Contractors in the event of unsatisfactory, delayed or non-supply of materials/execution of Contract beyond the date of delivery/completion of job. LD is leviable at the rate of 1% of the total order/contract prices per week or part thereof subject to a maximum 10% of the order/contract prices including taxes & duties without prejudice to the right of the purchaser to take any other action. The amount shall also be recoverable from any other contract on account of the supplier. The payment or deduction of such damages shall not relieve the contractor from his obligations to complete the work or from any other of his obligations and liabilities under the contract. MIDHANI shall issue GST Invoice/Debit Note for the LD deducted on the name of Supplier/Contractor against which GST credit may be availed, if applicable.

20.0 RISK PURCHASE:

If the Contractor fails to complete the supply of material /assigned work within the time prescribed in the tender/ contract/Purchase Order thereof, the Purchaser reserves the right to get the supplies/job done through other sources at the supplier's/Contractor's cost and risk.

21.0 ADDENDA TO TENDER DOCUMENTS :

The Purchaser reserves the right to issue addenda to the tender documents to clarify, modify, supplement or delete any of the condition, clause or items stated in the tender documents issued with this invitation to Tender. Each addendum issued will be distributed to each tenderer or his authorized representative and the addendum so issued shall form a part of the original tender documents to be reviewed as required.

22.0 NO CLAIM FOR COMPENSATION FOR SUBMISSION OF TENDER:

The tenderers whose tenders are not accepted shall not be entitled to claim any costs, charges and expenses of the tender, incidental to or incurred by them, through or in connection with their submission of tenders even though the Purchaser may elect to withdraw the invitation to tender.

23.0 BANKRUPTCY ETC.:

If the Supplier/Contractor shall become bankrupt or insolvent or cause or suffer any receiver to be appointed of his business or any asset thereof or compound with his creditors, or being a corporation commence to be wound up, or carry on its business under a Receiver for the benefits of its creditors or any of them, the Purchaser shall be at liberty:

- a. To terminate the contract forthwith upon coming to know of the happening of any such event as aforesaid by notice in writing to the Contractor or to the receiver / liquidator.
- OR
- b. To give such receiver, liquidator or other person the option of carrying out the contract subject to his providing guarantee up to an amount to be agreed for the due and faithful performance of the Contract.

24.0 RIGHT OF ACCEPTANCE:

The Purchaser does not bind himself to accept the lowest or any of other tender and reserves the right of acceptance the whole or any part of the tender or portion of the quantity offered.

25.0 CANCELLATION / SHORT CLOSURE OF CONTRACT/PURCHASE ORDER:

The purchaser may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the supplier, terminate the contract in whole or in part:

- a) If the supplier fails to deliver any or all of the stores within the time period(s) specified in the contract, or any extension thereof granted by the Purchaser.
- b) If the supplier fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted by the purchaser.

c) Purchaser reserves the right to cancel the Purchase Order/ contract on its own under exceptional circumstances.

On receipt of notice for short closure, the contractor shall cease all further work, except for such work as may be specified in the notice for the sole purpose of protecting that part of the stores already executed. Further, the liability of MIDHANI in such cases will be limited to the extent of the cost as assessed by MIDHANI, in its opinion, till the point of short closure.

26.0 **REJECTED GOODS:**

The rejected goods at MIDHANI premises will lie at the risk of the Vendor. They should be replaced immediately on receipt of intimation regarding rejection from Midhani. In case the rejected goods are not replaced within six weeks from the date of receipt of the inspection memo, MIDHANI is not responsible for any loss, damage and theft, and in addition, MIDHANI reserves the right to recover such amount as may be assessed on account of storage and incidentals or any other charges MIDHANI may have incurred.

The vendor has to lift the rejected material from MIDHANI within 6 months from the date of receipt of intimation. In case of rejected goods are in MIDHANI for more than 6 months, MIDHANI reserves the right to dispose of the same and Vendor shall not have any right for claiming the goods or damages thereof.

27.0 **OTHERS**

The documents attached (General Instructions to tenderer, General conditions of contract) are general in nature and covers both indigenous as well as import supplies. However, the relevant portions shall be considered during execution of contract. All the bidders are requested to take a note of it.

Bidders shall submit the acceptance of "Technical specification" and "Special conditions of Contract".

No changes are allowed in the submitted Price Bid at a later date.

Note: In case of termination of Contract/extension of delivery period due to default of the seller or where advance taken has not been/could not be used for the purpose of order execution, interest @14% PA on the advance paid shall be levied for the delayed period from the contractor's bill.
