



INVITATION TO TENDER

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Ref: OS/SC/2022-23/62/37

Date: 23.09.2022

Sub: Service Contract for carrying out 3D modelling in E3D (AVEVA version 2.1) software for Fresh Feed Furnace of M/s IOCL-Panipat (SO-7935) -Reg.

Sealed tenders are invited under **two bid systems**, Techno-Commercial Bid (Part-I) and Price Bid (Part-II) from the reputed and experienced contractors with sound technical and financial capability for the subject work.

SL. NO.	NAME OF THE WORK	EMD ₹
01	Service Contract for carrying out 3D modelling in E3D (AVEVA version 2.1) software for Fresh Feed Furnace of M/s IOCL-Panipat (SO-7935)	36,600/- *

*** Micro & Small Enterprises (MSEs) are eligible for exemption of EMD as per clause no. 5**

1. ELIGIBILITY CRITERIA:

I) Average annual turnover of the contractor duly certified by a practitioner-chartered accountant during the last 3 years ending 31st March 2021 should be at least 30% of the estimated value (i.e. ₹ **5.50 Lakhs**).

Tenderer should enclose PAN, GSTIN registration Certificate. and Income tax returns for last three years (**AY- 2019-20, 2020-21, 2021-22**) and Profit & Loss account and Balance Sheet certified by the Practicing Chartered Accountant for the last 3 years.

II) Service provider (SP) should have experience of completing similar works during the last 10 years ending 31st August 2022 as given below: -

- a) SP should have similar E3D modelling experience and might have executed minimum one Heater package / Boiler / Refinery plant / package and successfully completed the project using E3D (AVEVA version 2.1) software.
- b) SP to submit their qualification documentation in support of their qualification along the technical offer (e.g. **Work orders & Job Completion Certificates shall be enclosed in support of the above**).
- c) SP should have executed similar single order (as mentioned above) of worth **equal to or more than ₹5 lakhs**.

III) The works executed in the own name of the tenderer will only be considered for eligibility criteria.

2. SCOPE OF THE WORK:

Work is to be carried out as per Scope of work (Annexure – I), General Conditions of Contracts – (works / services) (Annexure– II) and as per schedule of Quantities (Annexure-VII).

3. WORK COMPLETION PERIOD:

Engineering sub-contracting work shall require to be completed within maximum **120 days** from the date of submitting Inputs from Engineering Dept. or **15 days** from the date of last input from Engineering Dept. whichever is later.

Contract shall be valid for 12 months from the date of Work order or **15 days from the date of last inputs** given by Engineer– in charge whichever is later.

4. LIQUIDATED DAMAGES / PENALTY:

In the event of any delay in completion of work or part thereof as per the contractual time schedule due to the reasons attributable to contractor, BHEL - HPVP shall have the right to impose Liquidated Damage at the rate of 0.5% of the contract value per week delay subject to a maximum of 10% of the contract value.

5. EARNEST MONEY DEPOSIT

- I. The tenderer shall submit EMD for **₹36,600/-** (Rupees Thirty-Six Thousand and SIX Hundred only) in the following forms only:
 - a) Electronic Fund Transfer credited in BHEL account (before tender opening).
- II. EMD by the tenderer will be forfeited as per NIT conditions, if:
 - a) After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL.
 - b) The contractor fails to deposit the required security deposit or commence the work within the period as per LOI/ Contract.
 - c) EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" and forfeited/ released based on the action as determined under these guidelines.
- III. EMD given by all unsuccessful tenderers shall be refunded normally within 15 days of award of work.
- IV. EMD shall not carry any interest.
- V. EMD of successful tenderer will be retained as part of Security Deposit.

Note: Micro & Small Enterprises (MSEs) are eligible for exemption of EMD as given below:

MSE suppliers can avail the intended benefits only if they submit valid UDYAM Registration / Udyog Aadhaar Registration Certificate for Micro / Small category for the above subject service along with the offer. Non-submission of such documents will lead to consideration of their bid at par with other bidders. No benefits shall be applicable for this enquiry if any deficiency in the above required documents is not submitted before price bid opening.

6. SECURITY DEPOSIT

Security Deposit shall be collected from the successful tenderer as per clause 1.10 of Annexure – II.

7. INCOME TAX

Income tax as per statutory requirement will be deducted on each payment made to the contractor and TDS certificate will be issued to this effect.

8. TDS ON GST:

TDS on GST amount as per statutory requirement as applicable will be deducted on each payment made to the contractor. Present TDS on GST is 2%.

9. PAYMENT TERMS:

Milestone payments:

SI. No.	Milestone Description	Percentage
1	Completion of 60% Model	20
2	Completion of 90% Model and incorporation of punch points (APH, Heater & Piping)	45
3	Completion of 100% Model and incorporation of punch points	20
4	Final documentation with Source file submission	15

Completion of all the above milestones will be considered for payment only if, concerned deliverables are acceptable to BHEL.

BHEL will release payment to EC payments within 45 days for MSE (Micro/Small), 60 days for Medium Enterprise, 90 days for non-MSEs from the date of acceptance of invoice by BHEL.

Note:

- 1) No advance in any form is payable by BHEL.
- 2) All payments will be released only through RTGS/ NEFT.

10. VALIDITY OF THE OFFER :

The offer shall be valid for a period of **3 months** from the last date for tender submission.

11. PRICE SCHEDULE, TAXES & DUTIES:

- a. Prices shall be quoted in the price schedule attached to the tender for the complete scope of work.
- b. The quoted prices shall be inclusive of all applicable taxes, duties & GST as applicable as on due date of tender submission. GST as applicable shall be payable by contractor & the same will be reimbursed as per annexure - GST.
- c. In addition to existing taxes, any new taxes imposed by Central/ State Govt. shall be payable by the contractor and same shall be reimbursed on submission of relevant documents/proof of payment.
- d. In case, any new tax is imposed instead of existing tax, difference of the amount shall be reimbursed/ recovered on submission of documentary evidence.
- e. Any new tax is imposed by Central/ State Govt. or there is any variation in taxes after expiry of delivery / contract period, the same shall be borne by contractor only.
- f. All terms & conditions of the contract in respect of taxes & duties are subject to new taxation laws introduced time to time by Govt. and terms & conditions will deemed to be modified in accordance with the provisions of New Laws (i.e., GST).
- g. The quoted prices shall be fixed & firm without any escalation during the entire period of contract and till completion of the work.**
- h. All rates shall be quoted in the tender format only.

12. RISK PURCHASE:

In case the contractor fails to execute the work due to any reason, BHEL reserves the right to get the same completed through some other party at the risk & cost of the contractor and any additional expenditure incurred due to the same shall be charged to the contractor.

13. REVERSE AUCTION

Applicable and will be conducted in GeM portal

14. GENERAL:

14.1 Bidders shall confirm their acceptance to all the terms & conditions of the tender enquiry.

Deviations to the tender conditions are not acceptable and BHEL-HPVP reserves the right to reject such offers which do not meet Technical / Commercial requirements without any / further correspondence.

Bids not accompanied with requisite EMD, late / delayed bids, incomplete / conditional offers, bids not conforming to the terms & conditions specified in the tender documents are liable for rejection.

14.2 BHEL reserves the right to modify or cancel or short close the tender at any stage at its discretion without assigning any reason thereof.

14.3 The bidders shall study the Tender documents and all other relevant documents in detail for understanding the scope of work involved in various items before submission of offers.

For any clarifications required on this tender document, scope of work etc., the bidders shall depute their authorized representatives to HPVP, Visakhapatnam with prior intimation to get clarifications from concerned authorities.

- 14.4 **Manager (Engg)** shall be the Engineer-in-charge for herein after referred to as such in the tender.
- 14.5 BHEL-HPVP reserves the right to opt for Reverse Auction as per applicable guidelines. Lowest offer need not be the rate acceptable to BHEL-HPVP and BHEL-HPVP reserves the right to go for negotiation with L1 bidder.
- 14.6 The following documents (enclosed) shall form part of the contract including this Notice Inviting Tender.

PART - I: TECHNO COMMERCIAL BID

- | | |
|--|------------------|
| a) Scope of Work | : Annexure – I |
| b) General Conditions of the Contract (Works/Services) | : Annexure – II |
| c) Acceptance to the tender terms & conditions | : Annexure – III |
| d) Contractor Information | : Annexure – IV |
| e) Check List | : Annexure – V |
| f) Third Party Non-Disclosure Agreement | : Annexure – VI |

PART - II: PRICE BID

- | | |
|---|------------------|
| g) Price Bid (Schedule of Quantities and Rates) | : Annexure – VII |
|---|------------------|

15. TENDER SUBMISSION

15.1 **The Bid shall be submitted through GeM portal.**



15.2 Submission of offer by a tenderer implies that all the tender documents were read by the tenderer and the tenderer is aware of the scope and specifications of the work, site condition, local conditions and rates at which stores, tools and plant, free / chargeable materials etc., will be issued to him by BHEL - HPVP and other factors having bearing on the execution of the work.

16. FRAUD PREVENTION POLICY:

The bidder along with its associate/collaborators/sub-contractors/sub-vendors/consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL management about any fraud or suspected fraud as soon as it comes to their notice.


17. The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.



In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.

Plant INDMAX and MS Block	Client IOCL, PANIPAT REFINERY	Contract Code RHQ, EPCM-2 (P-25)	Document ID 6745-PIP-000-EC-0010	Contract No. 66-6745
	<h3>Technical specification of 3D Model for fired heater package</h3>			

NOTE : DRAWING EXTRACTS FROM 3D MODEL NOT REQUIRED.
 THE EXTENT OF SCOPE COVERS AS PER ENCLOSED HEATER DRGS., P&I WHICH INCLUDES FEED PIPE FROM B/L TO HEATER TERMINALS, FUEL GAS PIPING TO BURNERS, UTILITY PIPING. NO UNDER GROUND PIPING/WORK ENVISAGED. E&I CABLING NEED TO BE DONE

<p>tkIS India / Vendor</p> <p>Category Codes (Submission Purpose)</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1 For Approval <input type="checkbox"/> 2 For Review / Comments <input type="checkbox"/> 3 For Information <input type="checkbox"/> 4 For Engineering <input checked="" type="checkbox"/> 5 For Enquiry <input type="checkbox"/> 6 For Order Placement <input type="checkbox"/> 7 Final & Approved <input type="checkbox"/> 8 Released for Construction <hr/> <p>Acceptance Codes (Approval Codes)</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1 Approved <input type="checkbox"/> 2 Approved for Manufacturing / Fabrication with Comments as marked <input type="checkbox"/> 3 Not Approved / Resubmit <input type="checkbox"/> 4 Retained for Information / Records <input type="checkbox"/> 5 Reviewed <input type="checkbox"/> 6 Reviewed as Noted / Resubmit <p>Remarks for AC2 : This marked-up drawings is hereby approved for fabrication / manufacturing and shall be re-submitted after revision. This drawing should be revised only to the extent of tkIS India / Owner / Client comments. Any other changes made by you will not be considered unless clearly highlighted in covering letter asking for approval.</p> <p>This approval / review does not absolve the supplier from the full responsibility for design and fabrication.</p> <p>Date : ___/___/___ Name : _____</p>	<p>tkIS India / Owner / Client</p> <p>Category Codes (Submission Purpose)</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1 For Approval <input type="checkbox"/> 2 For Review / Comments <input type="checkbox"/> 3 For Information <input type="checkbox"/> 4 For Engineering <input type="checkbox"/> 5 For Enquiry <input type="checkbox"/> 6 For Order Placement <input type="checkbox"/> 7 Final & Approved <input type="checkbox"/> 8 Released for Construction <hr/> <p>Acceptance Codes (Approval Codes)</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1 Approved <input type="checkbox"/> 2 Approved for Manufacturing / Fabrication with Comments as marked <input type="checkbox"/> 3 Not Approved / Resubmit <input type="checkbox"/> 4 Retained for Information / Records <input type="checkbox"/> 5 Reviewed <input type="checkbox"/> 6 Reviewed as Noted / Resubmit <p>Date : ___/___/___ Name : _____</p>
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00	IFR	Issued for Enquiry	07-10-21	HGN	14-10-21		PSA	14-10-21	KYD	-
Rev.	Status	Description	Date	Prepared	Date	Checked	Date	Approved	AC	
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Category Code: -										

Plant INDMAX and MS Block	Client IOCL, PANIPAT REFINERY	Contract Code RHQ, EPCM-2 (P-25)	Document ID 6745-PIP-000-EC-0010	Contract No. 66-6745	
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NOTE : DRAWING EXTRACTS FROM 3D MODEL NOT REQUIRED.
THE EXTENT OF SCOPE COVERS AS PER ENCLOSED HEATER DRGS., P&I WHICH INCLUDES
FEED PIPE FROM B/L TO HEATER TERMINALS, FUEL GAS PIPING TO BURNERS, UTILITY PIPING.
NO UNDER GROUND PIPING/WORK ENVISAGED. E&I CABLING NEED TO BE DONE

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1 INTRODUCTION

The specifications given herein describe the minimum requirements and guidelines to VENDOR for 3D detail engineering for the package .

OWNER wherever specified in this document Indicates – IOCL

SITE wherever specified in this document Indicates – IOCL Panipat Refinery

CONSULTANT wherever specified in this document Indicates – tkIS India

VENDOR wherever specified in this document Indicates indicates- Successful fired Heater Bidder.

2 SOFTWARE

E3D by AVEVA, Version 2.1 shall be used for 3D Modelling. For design review and dynamic walkthrough Navisworks 2019 shall be used. Final 3D Model shall be submitted to OWNER/ CONSULTANT. Also regular submission shall be required at 30%, 60% & 90% in addition to Interface meeting's as scheduled by OWNER/ CONSULTANT.

3 OBJECTIVE

The objective of this 3D mode software is to deliver to OWNER a complete 3D model for the project, which shall be utilized by OWNER for all future maintenance, operation, revamping and any de-bottlenecking of the plant. The 3D Design Reviews through dynamic walk through shall assist the OWNER's operation and maintenance personnel in reviewing the project prior to construction and suggest modifications for efficient operation of the plant. It shall also be used for frequent review of design by OWNER/ CONSULTANT.

4 EXTENT OF MODELING/SCOPE OF WORK



4.1 PIPING

4.1.1 All piping within the battery limit and corridor piping, above ground, below ground big bore and small bore, except tubing, for all piping materials are to be modelled. Details shall include all pipes, valves, flanges, fittings, reducers, spectacle blinds, physical supports, drains, temperature / pressure connections, sample points, drip legs; jacketed pipes, fittings, flanges Electrical, Instrument cable trenches, etc. shall also be modelled to exact geometry.



4.1.2 All in line instruments like control valves, safety valves, rotameters, orifice plate etc. with near exact geometry along with same Tags as per P&ID.

4.1.3 All piping special items like expansion bellows, slide valves, special valves with purge points, steam traps, strainers etc. with near exact geometry.

4.1.4 Complete vessel trim with level gauges, level switches, level transmitters, stand pipes /equipment's /instrument vent / drains utility connections, and pressure gauges etc. with exact geometry including vent / drain / purge points on these instruments.

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- 4.1.5 Steam supply and condensate recovery stations with steam supply header up to tracing tap- off valve and condensate manifold beyond steam trap and valves.
- 4.1.6 All pipe supports to be modelled as per exact geometry.
- 4.1.7 All safety showers & utility connections are to be modelled as per inputs from Consultant.
- 4.1.8 All Access and Escape ways are to be modelled for vehicle and pedestrian movements.
- 4.1.9 All equipment's to be modelled with near exact geometry including but not limited to following: Manholes with davits, pipe davits on top platforms, nozzles, bellows, break flanges, platforms, ladders, handrails etc., for all the equipment in the plant like, vessels, pumps with motors, pumps with turbine drivers etc., and fans, filters, blow down drums etc.
- Maintenance areas and insulation around equipment's, drop out areas to be modelled as soft envelopes and should be used for clash detection.
 - Equipment supports: skirts, support legs/lugs, equipment mounted platforms Saddles to be modelled along with the equipment.
 - Extent of internal Piping of the skid with all inline and online instruments to be modeled.
- 4.1.10 Tagging of all Line no's, Instrument no's, special items, equipment nos. shall be as marked in the P&Ids.
- 4.1.11 For Fire Fighting Lines modelling within the package battery limit shall be done as per inputs from the OWNER/ CONSULTANT, for these lines supporting secondary structural members shall be provided by the Fired heater vendor.
- 4.1.12 Line information required in 3-D model.
The following attributes must be keyed in while modelling:
- Line operating/design, temperature/pressure in deg.C and Kg/cm²g respectively (units as per Design basis).
 - Flow direction
 - Insulation thickness and type i.e. H/P/R etc.
 - Line number label should be as per the P&ID with the following attributes:
Line size + Service + unit no. + line sequence no. + sub-line no. + Piping material
 - Specification + Insulation Type + area. User defined attributes (UDA's) to be Generated for keying in this information in E3D.
- 4.1.13 Incorporation of Site changes during fabrication and erection with 3D Model in order to deliver a complete as built model to OWNER/ CONSULTANT.
- 4.1.14 GAD Extraction
- Piping General Arrangement Drawings (GAD's) are to be extracted from the 3D Model on AO Size with a scale of 1:33 1/3. Separate plans shall be made for each level. Dimensions shall be in millimetres while levels and coordinates in meters. Vital installations and Battery limits shall be marked with coordinates.

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All locating dimensions like spacing for Equipment, Structural columns, pipe to pipe, etc. shall be marked on the GAD's. Equipment Tag numbers, Line numbers, Instrument and Specialty Item Tag numbers shall be marked on the GAD's. Electrical/Instrument ducts shall be marked and labelled. Access ways, Maintenance corridors, Drop out areas, bundle removal areas shall be marked on the GAD's.

4.1.15 Isometric Extraction

Isometrics shall be extracted from 3D model using E3D Software along with Bill of Material and pipe supports.

4.1.16 Interference Detection shall take care of Hard-Hard clashes and Hard-soft clashes for all the disciplines.

4.1.17 Vendor shall adhere to the requirements of providing Native inputs for Integration by OWNER/ CONSULTANT for developing drawings required from time to time for Statutory approvals.

4.2 STRUCTURAL:



The scope of modelling for structural shall include but not limited to the following:

4.2.1 Main steel/secondary steel equipment support beams, bracings, columns, stiffener plates, platforms, ladders, pipe racks, stair cases, walkways, wind shield supports, claddings, supporting structure for fans with operating platforms and staircase, monorails, EOT support rails, supporting structure along with all platforms, handrails, ladder, staircases etc. shall be modelled in exact geometry. Sub Station complete control room with all details shall be modelled in exact geometry.

- Handrails, gratings to be modelled in approximate geometry.
- Skid supports, platforms, ladders & Equipment supports inside skids are to be modelled in exact geometry.
- Fire proofing envelope shall be modelled.
- Cable tray supporting shall be modelled.
- Moment connections, stiffener plates, gusset plates etc. with tentative sizes shall be modeled at initial stage of modelling (before 30 % model stage).
- Modeling of buildings shall include all doors, windows, trenches, walls, openings in walls etc., and shall be imported from Architecture Model.

4.2.2 Equipment and structure foundations, Technological Buildings, Equipment supporting structure, and any other concrete structure to be modelled in exact geometry with exact locations of all insert plates. Interference Detection shall take care of clashes within civil / structural model as well as clashes with model of other the disciplines like piping, electrical etc.

Foundation and structure for platforms, gratings, hand rails etc. for packaged item and skid mounted items are also included.

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4.3 INSTRUMENTATION

4.3.1 Instrument cable trenches, Instrument Ducts, cable trays & it's supporting greater than or equal to 300mm width, Instrument Junction boxes to be modelled in exact geometry.

4.3.2 Following instrument entities shall be modeled:

- Analyzer Shelter / House, Analyzer Racks/ Cabinets located in the field to be modeled near exact geometry
 - Control Room with piping & cable entry points
 - Local Control Panels
- Inside details of control Room/ Shelter/ Racks/Cabinets/ Local Control Room are excluded from the scope of modeling..

4.3.3 Transmitters and other floor stand mounted instruments on grade/platform to be modelled in approximate geometry with tag nos. as per P&ID's.



- Prefabricated Assemblies (Hook-ups)
- Gas detectors
- Closed Circuit Television (CCTV)
- Instrument Stanchions
- Instrument Air lines from the Air Header to the consumer
- Instrument Junction Boxes
- Input to General Civil / Structures for Instrument Cable Trench (Concrete/Buried), Sleeves and Culvert.
- Instrumentation ducts connectivity between main pipe rack

4.4 ELECTRICAL

4.4.1 Electrical cable trays greater than or equal to 300mm width & its supporting Electrical cable trenches all sizes, junction boxes to be modelled in exact geometry.

4.4.2 LCS for motors, power junction boxes, lighting panel, earthing pits, power panel and local control panels, communication and fire alarm devices, CCTV, power and lighting distribution boards etc. to be modelled in approximate geometry.

- Light fixtures, Control gear boxes, plugs, sockets, welding receptacle, lighting masts, lighting poles in the field.
- Earth electrodes
- Plant communication system equipment including field call stations, paging loudspeakers and telephones in the field.
- FA system equipment including break glass units in the field.
- Sleeves for cables in the field

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5 MODEL SPLIT

The Vendor shall develop the Specification for E3D Modelling , Following the OWNER/ CONSULTANT Guidelines, Database requirements, Database range allotted, Project common code, Naming convention (these shall be shared with the successful bidder) & submit the document to OWNER/ CONSULTANT for approval prior to start of modelling.

6. DELIVERABLES

- 6.1 Complete 3D model along with as built GAD's, Isometrics, MTO reports extracted and 3D model for all disciplines as specified above with any other document generated from 3D model and naming conventions as per clause 5 with As-built updates along with complete reference databases, component catalogues for the entire size range in the approved specifications are to be installed and commissioned at IOCL Panipat Refinery by the VENDOR. Apart from the 3D Model, all drawings like GADs, Isometrics etc. extracted from (editable) the model shall also be submitted by the VENDOR in Electronic (editable) form. In addition, VENDOR shall submit the as built 3D model in electronic form .
- 6.2 Models shall be installed on 1 workstation by the VENDOR sufficiently before completion of Mechanical work at site and shall be continuously updated either through dedicated ISDN Link or broad band connection, or through CD's etc. (updates once a fortnight for the first 3 months and once a week thereafter). Updation of Model by Cartridge tapes shall only be permitted if other means of wide Area communication like ISDN etc. are not available.
- 6.3 Smooth handover of the deliverables with detailed index of all the model GADs, ISOs any other document/drawing to OWNER's personnel shall be performed by the VENDOR along with some minor modification works which might be required as per OWNER's requirements at the time of handing over/commissioning the 3D model at IOCL Panipat Site. The updated as built 3D model shall be handed over to OWNER/CONSULTANT on completion of the project.



By handover, it is implied that all necessary modules as required by OWNER for review, updation, walkthrough and extraction of 2D drawings and isometrics with BOM shall be supplied.

This is required in future for incorporation of any additional schemes by OWNER and thereafter viewing it in the same software along with the existing unit.

6.4 Reference Data Bases

6.4.1. E3D

The complete material specifications and component catalogues developed by the VENDOR on E3D shall be delivered including but not limited to the following.

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6.4.1.1 Piping

- Piping Material Specifications
- Insulation Specifications
- Bolt specification
- Nozzle specifications
- Complete Piping component catalogues with write-up on naming conventions used for CATALOGUE references, component references for Property Database, Bolt References for Single and multibolts.
- Detail texts along with the symbol keys & R texts.
- Material texts with X Texts.
- Any symbol key library developed for special items where Isometric Symbols by Cad Centre were not available.
- Property -Database with nominal bore and outside diameter developed for the project.

6.4.1.2 Other Disciplines

With complete reference data base with all the libraries, VENDOR shall prepare a comprehensive list of these files separately for each discipline.

- 6.5** Costs for all the above activities at.6.2 ,6.3 along with total hardware, software, networking, model transfers, ISDN link/ broad band connection etc. shall be borne by the VENDOR. The ISDN link shall be operational until all the as built in the model have been incorporated and complete model transferred to OWNER / CONSULTANT.



7 Review by OWNER / LICENSOR / CONSULTANT

VENDOR shall attend 3D review sessions at CONSULTANT office which include design center with Dynamic walkthrough with overhead projector system for OWNER/ CONSULTANT'S comprehensive review. These reviews shall be carried out in the sessions as agreed with OWNER/ CONSULTANT. Each unit can be split in adequate number of areas and reviews shall be carried out after completion of all piping and structure of proposed areas. VENDOR shall follow the schedule of CONSULTANT and shall prepare for the milestone.

VENDOR to adhere the dates for the 3D reviews as proposed by OWNER / CONSULTANT.

The formal reviews envisaged are the 30%, 60%, and the 90% 3D model review unless modified by OWNER. The contents of this reviews are as below:

- a) 30% Review:** This review includes all equipment including all nozzles and foundations, all building and structural including foundations, all major access ways, critical lines as negotiated, major underground-piping like cooling water and cable trenches. The main purpose of 30% model review is to finalize the equipment layouts from operation, maintenance and erection point of view.
- b) 60% Review:** This review includes all equipment including the nozzles and connections, space indication for packaged units, all structures, operating and maintenance platforms, all major process piping (including supports, hanger etc.) all underground piping for cooling water, OWS, fire-fighting etc., utility stations, safety showers and eye baths, all access routes

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(routing and emergency) drop zones for maintenance rigging purposes. The main purpose of 60% model review is an intermediate exercise to reduce the risk of major changes during 90% model review.

- c) 90% Review:** This review includes all equipment's including the nozzles and connections also for packaged equipment, all structures, operating and maintenance platforms, all process and underground piping (including supports, hanger etc.), all field mounted instrumentation, analyzers, junction boxes and cable racks, including all associated equipment and pipe nozzles, utility stations, safety showers and eye baths, all access routes (routing and emergency), firefighting equipment (including hose connections and monitor), drop zones for maintenance access as well as a demonstration of consistency between the model, the P&id's and the data sheets and closure of earlier model review comments by means of spot checks.

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CHAPTER -1

GENERAL INSTRUCTION TO TENDERERS

1.1. DESPATCH_INSTRUCTION:

- i) The General Conditions of Contract form part of the Tender specifications. **All pages of the tender documents shall be duly signed, stamped and submitted along with the offer in token of complete acceptance thereof.** The information furnished shall be complete by itself. The tenderer is required to furnish all the details and other documents as required in the following pages.
- ii) Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with the full understanding of the implications thereof. Should the tenderers have any doubt about the meaning of any portion of the Tender Specification or find discrepancies or omissions in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, the scope of work etc., they shall at once, contact the authority inviting the tender well in time (so as not to affect last date of submission) for clarification before the submission of the tender. Tenderer's request for clarifications shall be with reference to Sections and Clause numbers given in the tender documents. The specifications and terms and conditions shall be deemed to have been accepted by the tenderer in his offer. Non compliance with any of the requirements and instructions of the tender enquiry may result in the rejection of the tender.
- iii) Integrity pact (IP) shall be applicable for all tenders / contracts if indicated in NIT. This integrity pact shall be issued as part of the Tender documents and shall be returned by the bidder along with Techno-commercial bid duly filled, signed and stamped by the authorized signatory who signs the bid. Only those vendors / bidders who have entered into such an IP with BHEL shall be considered qualified to participate in the bidding. Entering into this pact shall be a preliminary qualification

1.2. SUBMISSION OF TENDERS:

- 1.2.1 The tenderers must submit their tenders as per instructions in the NIT
- 1.2.2 Tenders submitted by post shall be sent by 'REGISTERED POST ACKNOWLEDGEMENT DUE / by COURIER' and shall be posted with due allowance for any postal/courier delays. BHEL takes no responsibility for delay, loss or non-receipt of tenders sent by post/courier. **The tenders received after the specified time of their submission are treated as 'Late Tenders' and shall not be considered under any circumstances.** Offers received by Fax/Email/Internet shall be considered as per terms of NIT.
- 1.2.3 Tenders shall be opened by authorised Officers of BHEL at the place, time and date as specified in the NIT, in the presence of such of those tenderers or their authorised representatives who may be present
- 1.2.4 Tenderers whose bids are found techno commercially qualified shall be informed the date and time of opening of the Price Bids and such Tenderers may depute their representatives to witness the opening of the price bids. BHEL's decision in this regard shall be final and binding.
- 1.2.5 Before submission of Offer, the tenderers are advised to inspect the site of work and the environments and be well acquainted with the actual working and other prevalent conditions, facilities available, position of material and labour, means of transport and access to Site, accommodation, etc. No claim will be entertained later on the grounds of lack of knowledge of any of these conditions.

1.3. LANGUAGE:

- 1.3.1 The tenderer shall quote the rates in English language and international numerals. These rates shall be entered in figures as well as in words. For the purpose of the tenders, the metric system of units shall be used.
- 1.3.2 All entries in the tender shall either be typed or written legibly in ink. Erasing and over-writing is not permitted and may render such tenders liable for rejection. All cancellations and insertions shall be duly attested by the tenderer.

1.4 PRICE DISCREPANCY:

- 1.4.1 **Conventional (Manual) Price Bid opening:** In the case of price bid opening without resorting to Reverse Auction, if there are differences between the rates given by the tenderer in words and figures or in amount worked out by him, the following procedure for evaluation and award shall be followed:
 - i) When there is a difference between the rates in figures and in words, the rates which corresponds to the amounts worked out by the contractor, shall be taken as correct
 - ii) When the amount of an item is not worked out by the contractor or it does not correspond with the rate written either in figure or in words, then the rate quoted by the contractor in words shall be taken as correct
 - iii) When the rate quoted by the contractor in figures and words tallies but the amount is not worked out correctly, the rate quoted by the contractor shall be taken as correct and not the amount.

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- iv) In case of lump sum price, if there is any difference between the amount in figures and in words, the amount quoted by the bidder in words shall be taken as correct.
- v) In case of omission in quoting any rate for one or more items, the evaluation shall be done considering the highest quoted rate obtained against the respective items by other tenderers for the subject tender. If the tenderer becomes L-1, the notional rates for the omission items shall be the lowest rates quoted for the respective items by the other tenderers against the respective omission items for the subject job and the 'Total quoted price (loaded for omissions)' shall be arrived at. However, the overall price remaining the same as quoted originally, the rates for all the items in the 'Total quoted price (loaded for omissions)' shall be reduced item wise in proportion to the ratio of 'Original' total price and the 'Total quoted price (loaded for omissions)'.
- vi) The 'Final Total Amount' shall be arrived at after considering the amounts worked out in line with 'i' to 'iv' above.
- 1.4.2 **Reverse Auction:** In case of Reverse Auction, the successful bidder shall undertake to execute the work as per overall price offered by him during the Reverse Auction process. In case of omission of rates, the procedure shall be as per 'Guidelines for Reverse Auction' enclosed.
- 1.5. QUALIFICATION OF TENDERERS:**
- i) Only tenderers who have previous experience in the work of the nature and description detailed in the Notice Inviting Tender and/or tender specification are expected to quote for this work duly detailing their experience along with offer.
 - ii) Offers from tenderers who do not have proven and established experience in the field shall not be considered
 - iii) Offers from tenderers who are under suspension (banned) by any Unit/Region/Division of BHEL shall not be considered.
 - iv) Offers from tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt. of India shall not be considered.
- 1.6. EVALUATION OF BIDS:**
- i) Techno-commercial Bids submitted by the tenderer will be opened first and evaluated for fulfilling the Pre-Qualification criteria and other conditions in NIT/Tender documents, based on documentary evidences submitted along with the offer
 - ii) In case the same qualifying experience is claimed by more than one agency, then the agency who has executed the work as per documentary evidence submitted shall only be qualified. Scope of qualifying work should be totally with the agency who has executed and in case it is only labour + consumables without T&P, then the responsibility of execution is assigned to the first agency and not to the agency who has executed only as labour supply contractor. Further, BHEL reserves the right to ask for further proofs including submission of TDS certificates for the said job
 - iii) In case the qualifying experience is claimed by private organizations based on Work Order and completion certificates from another private organization, BHEL reserves the right to ask for further proofs including submission of TDS certificates for the said job
 - iv) Assessing Bidder Capacity for executing the current tender shall be as per Notice Inviting Tender
 - v) Price Bids of shortlisted bidders shall only be opened either through the conventional price bid opening or through electronic Reverse Auction, at the discretion of BHEL
 - vi) Price Bids of unqualified bidders shall not be opened. After release of Letter of Intent / Work Order, the un-opened bids (including price bids) shall be returned to respective bidder along with reasons for not opening the bid.
- 1.7. DATA TO BE ENCLOSED:**
- Full information shall be given by the tenderer in respect of the following. Non-submission of this information may lead to rejection of the offer.
- i) **INCOME TAX PERMANENT ACCOUNT NUMBER**
Certified copies of Permanent Account Numbers as allotted by Income Tax Department for the Company/Firm/Individual Partners, etc. shall be furnished along with tender.
 - ii) **GSTIN REGISTRATION NUMBER**
Certified copies of GSTIN Numbers for the Company/Firm/Individual Partners, etc. shall be furnished along with tender
 - iii) **ORGANIZATION CHART**
The organization chart of the tenderer's organization, including the names, addresses and contact information of the Directors/Partners shall be furnished along with the offer.
An attested copy of the Power of Attorney, in case the tender is signed by an individual other than the sole proprietor
 - iv) **IN CASE OF INDIVIDUAL TENDERER:**
His / her full name, address and place & nature of business.

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v) **IN CASE OF PARTNERSHIP FIRM**

The names of all the partners and their addresses, A copy of the partnership deed/instrument of partnership duly certified by the Notary Public shall be enclosed.

vi) **IN CASE OF COMPANIES:**

- a. Date and place of registration including date of commencement certificate in case of Public Companies (certified copies of Memorandum and articles of Association are also to be furnished).
- b. Nature of business carried on by the Company and the provisions of the Memorandum relating thereof.

1.8. AUTHORISATION AND ATTESTATION:

Tenders shall be signed by a person duly authorized/empowered to do so. An attested copy of the Power of Attorney, in case the tender is signed by an individual other than the sole proprietor shall be submitted along with the tenders

1.9. EARNEST MONEY DEPOSIT:

1.9.1 Every tender must be accompanied by the prescribed amount of Earnest Money Deposit (EMD) in the manner described herein.

- a) ~~Cash Deposit as permissible under the extant Income Tax Act (before tender opening).~~
- b) Electronic Fund Transfer credited in BHEL account (before tender opening).
- c) ~~Banker's Cheque/ Pay Order/ Demand Draft, in favour of BHEL, Visakhapatnam along with offer~~
- d) ~~Fixed Deposit Receipt (FDR) issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL)~~

~~In case total EMD amount is more than ₹ 20 Lakh, the amount in excess of ₹ 20 lakhs may be accepted in the form of Bank Guarantee from scheduled bank. The Bank Guarantee in such cases shall be valid for at least six months.~~

1.9.2 EMD by the tenderer will be forfeited as per NIT conditions, if:

- a) After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL.
- b) The contractor fails to deposit the required security deposit or commence the work within the period as per LOI/ Contract.
- c) EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" and forfeited/ released based on the action as determined under these guidelines.

1.9.3 EMD given by all unsuccessful tenderers shall be refunded normally within 15 days of award of work.

1.9.4 EMD shall not carry any interest.

1.9.5 EMD of successful tenderer will be retained as part of Security Deposit.

1.10. SECURITY DEPOSIT:

- A. Security deposit means the security provided by the contractor towards fulfilment of any obligations in terms of the provisions of the contract.
- B. The total amount of the security deposit will be **3%** of the contract value. EMD of the successful tenderer shall be converted and adjusted towards the required amount of Security deposit.

C. Modes of Deposit:

The balance amount to make up the required Security Deposit of **3%** of the contract value may be accepted in the following forms:

- a) Cash (as permissible under the extant Income Tax Act)
- b) Local Cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL.
- c) Bank Guarantee from Scheduled Banks/ Public Financial Institutions as defined in the company's act. The bank guarantee format should have the approval of BHEL.
- d) Fixed Deposit Receipt issued by Scheduled Banks/ Public Financial Institutions as defined in the company's act (FDR should be in the name of the contractor, a/c BHEL).

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- e) Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL) (Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith)

D. Collection of Security deposit:

At least 50% of the required security deposit, including the EMD, should be submitted before start of the work. Balance security deposit can be collected by deducting 10% of the gross amount progressively from each of the running bills of the contractor till the total amount of the required security deposit is collected.

If the value of work done at any time exceeds the contract value, the amount of Security Deposit shall be correspondingly enhanced and the additional Security Deposit shall be immediately deposited by the Contractor or recovered from payment/s due to the Contractor.

The recoveries made from running bills (cash deduction towards balance SD amount) can be released against submission of equivalent Bank Guarantee in acceptable form, but only once, before completion of work, with the approval of the authority competent to award the work.

(Note: In case of (a) small value contracts not exceeding ₹ 20 Lakh or (b) SAS jobs, work can be started before the required Security Deposit is collected. However, payment can be released only after collection/ recovery of initial 50% Security Deposit).

- E. Security deposit shall be released to the contractor upon fulfilment of contractual obligations as per the terms of the contract.
- F. The security deposit shall not carry any interest.

G. Bidder agrees to submit performance security required for execution of the contract within the time period mentioned. In case of delay in submission of performance security, enhanced performance security which would include interest (SBI rate +6%) for the delayed period, shall be submitted by the bidder. Further if performance security is not submitted till such time the first bill becomes due, the amount of performance security due shall be recovered as per terms defined in NIT/ contract, from the bills along with due interest.

1.10.1 The validity of Bank Guarantees towards Security Deposit shall be initially up to the completion period as stipulated in the Letter of Intent/Award + 3 months, and the same shall be kept valid by proper renewal till the acceptance of Final Bills of the Contractor, by BHEL

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

1.11. RETURN OF SECURITY DEPOSIT:

Security Deposit shall be refunded/Bank Guarantee(s) released to the Contractor along with the 'Final Bill' after deducting all expenses/ other amounts due to BHEL under the contract / other contracts entered into with them by BHEL.

1.12. BANK GUARANTEE:

Where ever Bank Guarantees are to be furnished/ submitted by the contractor, the following shall be complied with

- i) Bank Guarantees shall be from Scheduled Banks/ Public Financial Institutions as recommended by BHEL time to time.
- ii) The Bank Guarantees shall be as per prescribed formats of BHEL.
- iii) It is the responsibility of the bidder to get the Bank Guarantees revalidated/extended for the required period (subject to a minimum period of six months), as per the advice of BHEL Engineer-in-Charge / Site Engineer / Construction Manager. BHEL shall not be liable for issue of any reminders regarding expiry of the Bank Guarantees.
- iv) In case extension/further extensions of any Bank Guarantees are not required, the bidders shall ensure that the same is explicitly endorsed by the Engineer-in-Charge / Construction Manager and submitted to the BHEL Visakhapatnam.
- v) In case the Bank Guarantees are not extended before the expiry date, BHEL reserves the right to invoke the same by informing the concerned Bank in writing, without any advance notice/communication to the concerned bidder.

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- vi) Bidders to note that any corrections to Bank Guarantees shall be done by the issuing Bank, only through an amendment in an appropriate non judicial stamp paper.
- vii) The Original Bank Guarantee shall be sent directly by the Bank to BHEL under Registered Post (Acknowledgement Due), addressed to the Finance Bills, BHEL, HPVP, Visakhapatnam – 530012

1.13. VALIDITY OF OFFER:

The rates in the Tender shall be kept open for acceptance for a minimum period of **THREE MONTHS** from latest due date of offer submission (including extension, if any). In case BHEL (Bharat Heavy Electricals Ltd) calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the original offer which shall be binding on the tenderers.

1.14. EXECUTION OF CONTRACT AGREEMENT:

The successful tenderer's responsibility under this contract commences from the date of issue of the Letter of Intent / Work Order by Bharat Heavy Electricals Limited. The Tenderer shall submit an unqualified acceptance to the Letter of Intent/Work order within the period stipulated therein.

The successful tenderer shall be required to execute an agreement in the prescribed form, with BHEL, within a reasonable time after the acceptance of the Letter of Intent/Work Order, and in any case before releasing the first running bill. The contract agreement shall be signed by a person duly authorized/empowered by the tenderer. The expenses for preparation of agreement document shall be borne by Contractor.

1.15. REJECTION OF TENDER AND OTHER CONDITIONS:

- 1.15.1 The acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender or any tender and reserves to itself full rights for the following without assigning any reasons whatsoever:
 - a. To reject any or all of the tenders.
 - b. To split up the work amongst two or more tenderers as per NIT
 - c. To award the work in part if specified in NIT
 - d. In case of either of the contingencies stated in (b) and (c) above, the time for completion as stipulated in the tender shall be applicable.
- 1.15.2 Conditional tenders, unsolicited tenders, tender which are incomplete or not in the form specified or defective or have been materially altered or not in accordance with the tender conditions, specifications etc., are liable to be rejected.
- 1.15.3 Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL or tenderer under suspension (hold/banning /delisted) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt. of India. BHEL reserves the right to reject a bidder in case it is observed that they are overloaded and may not be in a position to execute this job'. The decision of BHEL will be final in this regard.
- 1.15.4 If a tenderer who is a proprietor expires after the submission of his tender or after the acceptance of his tender, BHEL may at their discretion, cancel such tender. If a partner of a firm expires after the submission of tender or after the acceptance of the tender, BHEL may then cancel such tender at their discretion, unless the firm retains its character.
- 1.15.5 BHEL will not be bound by any Power of Attorney granted by changes in the composition of the firm made subsequent to the execution of the contract. They may, however, recognize such power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned.
- 1.15.6 If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract if awarded and forfeit the Earnest Money/Security Deposit/any other money due.
- 1.15.7 Canvassing in any form in connection with the tenders submitted by the Tenderer shall make his offer liable to rejection.
- 1.15.8 In case the Proprietor, Partner or Director of the Company/Firm submitting the Tender, has any relative or relation employed in BHEL, the authority inviting the Tender shall be informed of the fact as per specified format, along with the Offer. Failing to do so, BHEL may, at its sole discretion, reject the tender or cancel the contract and forfeit the Earnest Money/Security Deposit.
- 1.15.9 The successful tenderer should not sub-contract part or complete work detailed in the tender specification undertaken by him without written permission of BHEL's Construction Manager/Site-in-charge / Engineer-in-Charge. The tenderer is solely responsible to BHEL for the work awarded to him.
- 1.15.10 The Tender submitted by a techno commercially qualified tenderer shall become the property of BHEL who shall be under no obligation to return the same to the bidder. However unopened price bids and late tenders shall be returned to the bidders.

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1.15.11 Unsolicited discount received after the due date and time of Bid Submission shall not be considered for evaluation. However, if the party who has submitted the unsolicited discount/rebate becomes the L-1 party, then the awarded price i.e. contract value shall be worked out after considering the discount so offered.

1.15.12 BHEL shall not be liable for any expenses incurred by the bidder in the preparation of the tender irrespective of whether the tender is accepted or not.

1.16. EMD EXEMPTION FOR MSME VENDORS:

MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate in similar works having deemed validity (five years from the date of issue of acknowledgement in EM II) or valid NSIC certificate or EM II certificate along with attested copy of a CA certificate (Format enclosed at annexure-A where deemed validity of EM II certificate of five years has expired) applicable for the relevant financial year (latest audited). Date to be reckoned for determining the deemed validity will be the date of bid opening (Part 1 in case of two part bid). Non submission of such documents will lead to consideration of their bid at par with other bidders. No benefits shall be applicable for this enquiry if any deficiencies in the above required documents are not submitted before price bid opening. Documents should be notarized or attested by a Gazetted officer”.

1.17. FRAUD PREVENTION POLICY:

The bidder along with its associate/collaborators/sub-contractors/sub-vendors/consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL management about any fraud or suspected fraud as soon as it comes to their notice

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CHAPTER-II

2.1 DEFINITIONS:

In these general conditions of contract, the following terms shall have the meaning hereby assigned to them except where the context otherwise requires: -

- (a) The "CONTRACT" means the documents forming the tender and acceptance thereof together with all the documents referred to therein including General and Special conditions of contract, CPWD specifications Vol. I to VII as amended up to date and the drawings. All the documents as applicable taken together shall be deemed to form one contract and shall be complementary to one another.
- (b) The "TENDER DOCUMENT" means the form of tender as applicable General and Special Conditions of contract, and the specifications and/or drawings as given to contractors for the purpose of preparing their tender including "Notice Inviting Tender".
- (c) The "WORK" means the work described in the tender documents in individual work order and/ or accompanying drawings and specifications as may be issued from time to time to the contractor by the Engineer-in-Charge in writing the power conferred upon them, including all modifications or additional works and obligations to be carried out either at the site or in factory, workshop or any other place as may be essentially required for the performance of the work.
- (d) The "SITE" means the land and/ or other place on into or through which the work is to be executed under the contract or any adjacent land, part or structure which may be allotted to or used for the purpose of carrying out the contract.
- (e) The "CONTRACTOR" means the individual firm or company whether incorporated or not, undertaking the work and shall include the legal personal representatives of such individuals or the person(s) composing the firm or company and the permitted assigns of such individuals or firm or company.
- (f) The abbreviations "SE/ Dy. Mgr/ Mgr./ Sr. Mgr/ DGM/ Sr. DGM/ AGM/ GM" means Senior Engineer/ Deputy Manager/ Manager/ Senior Manager/ Deputy General Manager/ Sr. Dy. General Manager / Additional General Manager / General Manager respectively who will direct the contract.
- (g) The "ENGINEER-IN-CHARGE " means the Engineer/ Sr. Engineer or any other executive deputed by BHEL to supervise the work or part of the work on behalf of the First Party.
- (h) Accepting authority: As per BHEL Delegation of Power
- (i) "APPROVED" means the approval of directions of the Sr. Manager/ Manager/ Dy. Manager or person deputed by them for the particular purpose.
"Bharat Heavy Electricals Limited" hereinafter referred to as BHEL shall mean the Head of the contracting / Outsourcing department / Other Administrator or other Administrative Officers of the said Company including the Engineer-in-Charge, Sr. Manager or other executive deputed by BHEL is authorized to invite tenders and enter into contract for works on behalf of the Company. BHEL means the Bharat Heavy Electricals Limited/ HPVP plant of the said Company at Visakhapatnam.
- (j) In the case of percentage rate contract, "Contractor's percentage" shall if the context so permits means the uniform percentage tendered by the contractor and accepted by the Accepting Officer and expression "Contract Rates" shall refer to rates in the Schedule of Quantities & Rates (SOQR).
- (k) The "CONTRACT SUM" means the sum accepted or the sum calculated in accordance with the prices accepted in tender and/ or the Contract rate as applicable to the contractor for the entire execution and full completion of the work.
- (l) The "FINAL SUM" means the actual amount payable under the contract by BHEL to the contractor for the entire execution and full completion of the work.
- (m) The "TIME OF COMPLETION" is the date or dates for completion of the work or any part of the work as set out in or ascertained in accordance with the individual work or the tender documents or any subsequent amendments thereto.
- (n) A "WEEK" means seven days without regard to the number of hours worked in any day in that week.
- (o) A "DAY" means a day of 24 (twenty-four) hours irrespective of the number of hours worked or not worked in that day.
- (p) A "WORK DAY" means day other than that prescribed by the Negotiable Instruments Act, as being a holiday and consists of the number of hours of labour as commonly recognized by good employers in the trade, in the district where the work is carried out or as laid in the BHEL Rules and Regulations.
- (q) "DEVIATION ORDER" means any order given by the Engineer-in-Charge to effect an alteration, addition or deduction, which does not radically affect the scope and nature of the contract.
- (r) "EMERGENCY WORK " means any urgent measures which in the opinion of the Engineer-in-Charge become necessary during the progress of the work to obviate any risk of accident or failure or which become necessary for security.

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- (s) "PROVISIONAL SUM" or "PROVISIONAL LUMPSUM" means a lump sum included by the BHEL in the work for which details are not available at the time of inviting tender.
- (t) "PROVISIONAL ITEMS" means items for which approximate quantities have been included in the tender documents.

SCOPE OF WORK

2.2 HEADING OF THE CONDITIONS:

The heading to these conditions shall not affect the interpretation thereof. The decision of BHEL regarding interpretation of any of terms and conditions set forth in this agreement shall be final and binding on the contractor

2.3 CONTRACT DOCUMENTS:

The accepting officer shall furnish to the contractor on demand, two copies of the signed drawings and schedule, and copies of all other relevant documents and specifications and the Engineer in- charge or his representative shall have, at all reasonable times, access to them.

2.4 WORKS TO BE CARRIED OUT:

The contractor shall, except as provided under schedule include all labour, materials, tools, plant, equipment & transport which may be required in preparation for, and in the entire execution and full completion of work. Schedule shall be deemed to have prepared in accordance with good practice and recognized principles & unless otherwise stated the descriptions given therein shall be held to include rate on materials, carriage, and cartage, lead, return of empties, hoisting, setting, fitting in position and all other labour necessary in and for the entire execution and full completion aforesaid. Any error in description or in quantity in schedule or any omission there from shall not vitiate the contract or release the contractor from the execution of the whole or any part of the work comprised there in accordance to the drawings and material workmanship but the articles or materials specified may be obtained from any other firm subject to the prior written approval of the Unit Head of the First Party.

In case of any discrepancy between schedule, the specification and/ or the drawings, the Accepting Officer shall be the deciding authority as to which shall prevail and his decision shall be final and conclusive. If neither drawings nor specifications contain any mention of minor details of construction, which in the opinion of the Accepting Officer are essentially as are reasonably and obviously and fairly intended for the satisfactory completion of the work, whose decision shall be final and conclusive. Such details shall be provided by the contractor without any extra cost as if they were specifically mentioned and shall be deemed to be included in the contract. The contractor shall be deemed to have satisfied himself as to the nature of site, local facilities of access and all matters affecting the execution and completion of the work. No extra charges consequent on any misunderstanding in these respects or otherwise will be allowed by the First Party.

2.5 DEVIATIONS:

The contractor shall not make any alteration and addition to or omission from the work as described in the tender documents except in pursuance of the written instructions of the Engineer-in-Charge. No such DEVIATION from the work described in the tender documents shall be valid unless the same has been specifically confirmed in writing.

The Accepting Officer may deviate, either by way of addition or deduction from the work so described provided that the contract sum thereby carried on the whole, by not more than the percentage set out in the tender documents. The value, of all additions and deductions will be added to or deducted from the contract sum. Whenever the Accepting Officer intends to exercise such a right, his intention shall specify the deviations, which are to be made on the lump sum assessment or the proposed basis of payment, the extra items allowed, if any, and the date for completion of entire contract. Any objection by the contractor to any matter consisting the order shall be notified by him in writing to Engineer-in-Charge within seven days from the date of such order, but under no circumstance shall the work be stopped (unless so ordered by the Engineer-in-Charge) owing to such difference or controversy that may arise from such an objection by the contractor. The Contractor shall be deemed to have accepted the order and the conditions stated therein. In the event of the contractor failing to agree with Engineer-in-Charge regarding the terms of proposed deviation, the objection shall be referred to the Accepting Officer or officer authorized by Accepting Officer whose decision shall be binding on the contractor.

2.6 TIME:

Time is the essence of the contract and is specified in the tender document or in each individual work order.

As soon as possible after the contract is let or any substantial work order is placed and before the work is to begin, the Engineer-in-Charge and the contractor shall (if so required by the Engineer-in-Charge) agree a time and progress chart for completion of the work within the scheduled time. The chart in the work order shall have the completion date of the individual items thereof and/ or the contract or order as a whole. It shall indicate the forecast of the dates for commencement and completion of the various processes or sequences of the work, and shall be amended as may be required by agreement between Engineer-in-Charge and contractor writing the limitations of time imposed in the tender document or order.

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In the absence of any specific time and progress chart to be agreed to between the contractor and Engineer-in-Charge, the contractor shall ensure and maintain, uninterrupted progress of the work such that the entire work shall be completed within the time imposed in the tender documents or order and the proportion of work that shall be completed up to any time in relation to the entire work to be done under the contract or order shall not be less than the proportion that the time elapsed bears to the total time of completion provided in the tender documents or order. The contractor shall suspend the execution of the work or any part or parts thereof whenever called upon in writing by the Engineer-in-Charge. The contractor will be allowed an extension of time for completion limited to not less than the period of suspension but no other claim in respect for compensation or otherwise whatsoever will be admitted. Time may also be extended to allow for alteration of work made by the deviation order as may be decided upon by the Engineer-in-Charge in consultation with the contractor.

2.7 STORE AND MATERIALS:

The contractor shall, at his own expense, supply all stores and material required for the contract other than free issue materials provided by BHEL at the rates detailed therein subject to their availability at the place of issue indicated therein. All stores and materials to be supplied by the contractor shall be of the best kind as described in the specification and the contractor shall ensure that the stores and materials so comply with the specifications. The contractor shall, at his own expense and without delay, supply samples of stores and materials proposed to be used in the execution of the work for the approval of Engineer-in-Charge, who may reject all stores and materials not corresponding either in quantity or character to the approved samples. The stores and materials so rejected shall be duly replaced by the Contractor in time to ensure completion of the work as scheduled and the rejected stores/ materials shall also be replaced by him at his own cost and effort.

In case of stores and material provided by BHEL, the contractor shall bear the cost of loading, transporting to site, unloading, storing under cover and as required, assembling and jointing the several parts together as necessary and incorporating fixing these stores and materials in the work including all preparatory work of whatever description that may be required, and returning empty cases or containers to the place of issue without any extra charge.

2.8 DELAY AND TIME EXTENSION:

If in the opinion of Engineer-in-Charge the work is delayed by any one or more of the following:

- 1) By reason of abnormally bad weather,
- 2) By reason of serious loss or damage by fire,
- 3) By reason of civil commotion, local combination of worker, strike or lockout, affecting any of the trades employed on the work,
- 4) By delay on the part of the agency or tradesmen engaged by B.H.E.L./ HPVP in executing work not performing part of this contractor,
- 5) Earthquake & floods
- 6) Busy of nation
- 7) Riots
- 8) Non-availability of stores which are responsibility of BHEL etc. the same shall be covered under force majeure.
- 9) Any Other Reason.

By reason of any other cause, which in the absolute discretion of the Engineer-in-Charge (when he is the accepting officer of the contract), is beyond the contractor control. When in such case(s) the accepting officer, on recommendation of the Engineer-in-Charge (or higher authority) to be specified in this regard, may make fair and reasonable extension in the completion date of the individual items of work of the contract as a whole. Such extension, which will be communicated to the contractor by the Engineer-in-Charge in writing, but shall nevertheless use constantly his best endeavour to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-Charge to proceed with the work. The delay caused on this account may be waived by the Accepting Officer on merit, based on the written request of the Contractor.

2.9 PATENT RIGHTS:

The contractor shall fully indemnify BHEL or the agent servant or employees or BHEL against any action, claim or proceeding to infringement or the use of any patent or design or any alleged patent or design rights, and shall pay any royalties which may be payable in respect of article or part thereof included in the contract. In the event of any claims being made or action against BHEL in respect of any of the matters aforesaid, the contractor shall immediately be notified thereof for taking necessary action provided that the payment of indemnity shall not apply when such infringement has taken place, in complying with the specific direction issued by BHEL but the contractor shall pay any royalties payable in respect of any such use.

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2.10 TAXES & DUTIES:

All charges on account of taxes and/or duties on materials obtained for the work (excluding materials provided by BHEL) shall be as per Notice of Inviting tender.

2.11 ROYALTIES:

Royalties fixed from time to time as per prevalent local rules will be recovered for materials, after which the contractor may be allowed to remove from quarries situated on land, which is in the charge of BHEL authorities.

2.12 PLANT:

The contractor, shall at his own expense, supply all tools plants and equipment (herein after referred to as T & P) required for the execution of the contract, as specified in the tender documents.

2.13 ASSIGNMENT OR TRANSFER OF CONTRACT:

The contractor shall not without prior written approval of the accepting officer, assign or transfer the contract or any part thereof or any share, or interest wherein to any other person. No sum of money which may become payable under the contract shall be payable to any person other than the contractor without prior written approval of Accepting Officer to the assignment or transfer of such money.

SUB CONTRACT: The contractor shall not sub-contract any portion of the contract without the prior written approval of the Accepting Officer.

2.14 LAWS GOVERNING THE CONTRACT:

BHEL reserves the right to take penal action as deemed fit if any information provided by the vender / contractor is found to be incorrect. This contract shall be governed by the Indian Laws for the time being in force.

2.15 COMPLIANCE TO REGULATION AND BYE LAWS:

The contractor shall conform to the provisions of any statute relating to the work and regulations and bye-laws of any local authority and of any water and lighting companies or undertakings with whom/whose systems the work is proposed to be connected. Before making any variation from the drawings or specifications so as to necessitate for such connections the contractor shall give notice to Engineer-in-Charge specifying the variations proposed to be made and the reasons thereof. Until he has received instructions from the Engineer-in-Charge in respect thereof, the contractor required shall be bound to give all notice by statute regulations or bye-laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.

PERFORMANCE OF THE CONTRACT

2.16 ORDERS UNDER THE CONTRACT:

All orders, notices etc. to be given under the contract shall be in writing, typescript or printed and if sent by registered post to the address given in tender of the contractor, shall be deemed to have been on the date when in ordinary course they would have been delivered to him. The contractor shall carry out without delay all orders given to him.

2.17 ADMISSION TO THE SITE:

The contractor shall not enter on (other than for inspection purpose) or take possession of the site unless permitted to do so by Engineer-in-Charge. The portions of the site to be occupied by the contractor shall be clearly defined and marked on the site plan, and the contractor will not on any account be allowed to extend his operations beyond these areas.

The contractor shall be provided if necessary or required at site, temporary access thereto and shall modify and maintain the same as required from time to time. He shall take out and clear away and access route when no longer required, restoring the area to its original condition. The Engineer-in-Charge shall have power to execute other works whether or not connected with the work in contract agreement on the site contemporaneously with the execution of the original work and the contractor shall give reasonable facilities for this purpose.

BHEL reserves the right of taking over, at any times any portion of the site which they may require and the contractor shall at his own expense clear such portion forthwith. The photographs of the site of work or any part therein shall be taken, published or otherwise circulated with the prior approval of Engineer-in-Charge.

No such approval shall, however, exempt the contractor from complying with any statutory provision in regard to the taking and publication of such photograph. No such approval shall, however, exempt the contractor or shall give him the right to entry to the site at all time. The Engineer-in-Charge shall have the power to exclude from the site any person of the Contractor whose admission thereto may in his opinion be undesirable for any reason whatsoever.

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2.18 CONTRACTORS SUPERVISORS:

The contractor shall either himself supervise the execution of the contract or shall appoint competent agent approved by the Engineer-in-Charge to act in his stead.

The contractor shall employ such Agent having at least DEGREE of BACHELOR of Engineering from a recognized University for contract value exceeding rupees ten lacs, or having at least a diploma in engineering from a recognized college for contract value exceeding Rs.5 lacs but not exceeding Rs ten lacs. The employment of any agent as aforesaid shall not be necessary if the contractor himself is in possession of recognized technical qualification and is in opinion of the Engineer-in-Charge, capable of receiving instructions of the Engineer-in-Charge and for execution of the works to the full satisfaction of the Engineer-in-Charge. If the contractor fails to appoint a suitable Engineer/ agent as aforesaid, the Engineer-in-Charge shall have full power to suspend the execution of work and stop payment of any advance that may become due until such date till a suitable Engineer/ agent is appointed and the contractor shall be held responsible for the delay caused to the work and no extension of time on this account shall be given to him as stipulated in condition mentioned above.

Orders given to contractor's agent shall be considered to have the same force as if they had been given to the contractor himself.

The contractor or his accredited agent shall attend whenever required and without making any claim for doing so, either to the office of the Engineer-in-Charge or the work site to receive instructions. The Engineer-in-Charge shall have full power and without assigning any reason, to require the contractor immediately and cease to employ in connection with this contract any agent, servant or employee whose continued employment is, in his opinion, undesirable. The contractor shall not be allowed any compensation on this account.

2.19 LABOUR LAWS TO BE COMPLIED WITH BY THE CONTRACTOR:

The contractor shall employ labour in sufficient number to maintain the required rate of progress and of quality required to ensure workmanship of the degree required by the specifications and to the satisfaction of the Engineer-in-Charge.

Contractor shall decide the number of employees to be deployed for execution of the work awarded to him and he or his authorized representative will be solely entitled to dictate such workers about the manner of carrying out the work as per the prescribed specifications and quality plan.

Contractor to ensure that the employees deployed in the premises of BHEL are physically and mentally fit and do not have any criminal record. Such employees should possess requisite skill, proficiency, qualification, experience etc. Contractor to provide employment card / identity with photograph duly verified and attested by the contractor to his employees. Contractor to indicate the name of the proprietary/ partnership firm/ company, place of work, contract no. and duration of validity of card. Contractor will be responsible for good conduct of his employees. In case of any misconduct / misbehaviour by any employee, the contractor will replace such employee(s) immediately.

BHEL shall have the privity of the contract with the contractor only and will give instructions to the contractor or his authorized representatives. BHEL will have nothing to do or be concerned with the employment of employees working for the contractor. The relationship between BHEL and the contractor will be that of independent entities and nothing herein contained will amount to joint venture, partnership or an employer employee relationship.

The contractor shall obtain a valid labour licence under the Contract Labour (R&A) Act 1970, and the Contract Labour (Regulation and Abolition) Central Rules 1971, before the commencement of the work, and continue to have a valid licence until the completion of work. The contractor shall also abide by the provisions of the Child Labour (Prohibition and Regulation) Act 1986. The relevant statutory provisions of the State Government of Andhra Pradesh shall also be applicable in toto. The contractor shall observe provisions of the Factories Act in respect of working hours, holidays, rest intervals, leaves and overtime to his employees. No work shall be done on second/ third shift, overtime, Sundays or on other declared holidays without written permission from BHEL.

Any failure to fulfil this requirement shall attract the penal provisions of the Contract arising out of the resultant non-execution of the work.

Payment of wages:

The contractor shall pay to labour employed by him either directly or through sub-contractors, in accordance with the provisions of the Contract Labour (Regulations and Abolition) Act 1970 and the Contract Labour (Regulation and Abolition) Central Rules 1971 or Minimum Wages Act wherever applicable, including the relevant statutory provisions of the State Government. The contractor shall ensure payment of wages to the Contract labour employed by him latest by 7th of the following month. The above payments shall be verified by the departmental supervisor under his name and designation.

II. In respect of all labour directly or indirectly employed in the works for performance of the contractor's part of this contract, the Contractor shall comply with or cause to be complied with the BHEL's Contractor's Labour Regulations made by BHEL from

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time to time or as per the provisions of the Contract Labour (Regulations and Abolition) Act 1970 and the Contact Labour (Regulation and Abolition) Central Rules 1971 and Minimum Wages Act wherever applicable.

- III. (A) The Engineer-in-Charge concerned shall have the right to deduct from the moneys due to the contractor any sum required or estimated to be required for making good the loss suffered by a worker or workforce by reason of non-fulfilment of the conditions of the contract for the benefit of the workers, non-payment of wages or of deductions made from his or their wages which are not justified by their terms of the contract or non-observance of the regulations.
- B) Under the provisions of Minimum Wages (Central) Rules 1950, the contractor is bound to allow to the labours directly or indirectly employed in the works one-day rest for 6 days continuous work and pay wages at the same rates as for duty. In the event of default, the Engineer-in-Charge shall have the right to deduct the sum or sums not paid on account of wages for weekly holidays to any labour and pay the same to the persons entitled thereto from any money due to the contractor by the Engineer-in-Charge concerned.
- IV. The contractor shall duly comply with the provisions of the Payment of wages Act-1936, Minimum Wages Act 1948, Employees liability Act-1938, Workmen's compensation Act-1923, Industrial Disputes Act 1947, Maternity Benefits Act 1961, EPF and MP Act 1952, Payment of Gratuity Act 1972, Income tax Act, Service Tax Act, Employees State Insurance Act, Payment of Bonus Act 1967 etc. and the Contract Labour (Regulations and Abolition) Act 1970, or the modifications thereof or any other laws relating thereto and the rules made there under from time to time.
- a) Contractor must ensure payment of PF, pension dues under EPF and MP Act 1952 to the RPF.
- b) Contractor must ensure payment of ESI contribution under ESI Act 1948 and provide ESI membership No. / Card of each employee.
- c) Contractor shall produce proof of deductions as well as remittances of PF, Pension, ESI contribution; administrative charges etc. wherever applicable and shall maintain proper records. Contractor to issue wage slip to his employees.
- d) The contractor shall furnish proper returns to the concerned statutory authorities like PF etc. and also provide a copy of the same to BHEL.
- e) In case of non compliance of any of the labour laws e.g. payment of minimum wages to his employees or remittance of contribution to the concerned authorities etc., the contractor shall be responsible for all the expenses /liability occurring/ accruing on BHEL because of this including expenditure of legal proceedings. All such expenses shall be recoverable from the contractor from any of his running contracts / security deposit / other dues with BHEL or from any contract entered with BHEL thereafter.
- f) Payment of bonus under the Payment of Bonus Act, payment of Gratuity under the Gratuity Act and retrenchment compensation under act will be the sole responsibility of contractor.
- g) Contractor shall pay minimum wages as applicable from time to time including leave with wages to their workers as per rules /act.
- h) Contractor will give three National Holidays to his workers.
- V. The contractor shall indemnify and keep BHEL indemnified against statutory payments to be made under for due observance of the laws aforesaid as well as the BHEL contractor's Labour Regulations without prejudice to his rights to claim indemnity from his sub-contractors not affecting BHEL under any event or statutory violation by the contractor.
- VI. The laws aforesaid shall be deemed to be part of this contract and any breach thereof shall be deemed to be a breach of the contract.
- VII. Whatever is the minimum wage for the time being, such wage shall be paid by the contractor to the workmen directly without any intervention of jamadar and that jamadar shall not be entitled to deduct or recover any amount from the minimum wage payable to the workmen and by way of commission or otherwise.
- VIII. The contractor shall ensure that no amount by way of commission or otherwise is deducted or recovered by that jamadar from the wages of workmen engaged by him in the work premises of BHEL.
- IX. All the registers and records shall be preserved in original for a period of 3 years from the passing of final bill and shall be produced on demand before any officer, inspector, etc. of the Government/ BHEL.
- In respect of all labours directly or indirectly employed in the work of the performance of the contractor's part of the contract, the contractor shall its own expenses arrange for the safety provisions as per BHEL safety clause framed from time to time and shall its own expense provide for all facilities in connection therewith. In case the contractor fails to make arrangement and provide necessary facilities aforesaid the Engineer-in-Charge shall be at liberty to make arrangement and provide facilities as aforesaid and recover in full the costs incurred in that behalf from the contractor.
- Should it appear to the Engineer-in-Charge that the contractor is not properly observing and complying with the provisions of the BHEL Contractor's Labour Regulations and Model Rules and the Contact Labour (Regulation and Abolition) Central

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Rules 1971, for the protection of health and sanitary arrangements for the workmen employed by the contractor, (hereinafter referred as “the said Rules”) the Engineer-in-Charge shall have the power to give notice in writing to the contractor requiring that the said rules be complied with and the amenities prescribed therein be provided to the workmen within a reasonable time to be specified in the notice. If the contractor shall fail within the period specified in the notice to comply with and/observe the said Rules and to provide the amenities to the workmen as aforesaid, the Engineer-in-Charge shall have the power to provide amenities herein before mentioned at the cost of the contractor.

The Engineer-In charge may require the contractor to dismiss or remove from the site of the work any person or persons in the contractor’s employee upon the work who may be incompetent or misconduct himself and the contractor shall forthwith comply with such requirements.

It shall be the responsibility of the contractor to see that the building under construction is not occupied by anybody unauthorized during construction, and is handed over to the Engineer-in-charge with vacant possession of complete building. If such building though completed is occupied illegally, then the Engineer-in-charge shall have the option to refuse to accept the said building/ buildings in that position.

However, the Engineer-in-charge, through a notice, may require the contractor to remove the illegal occupation any time on or before construction and delivery. The contractor will be liable for all payments to be made under the law and for the observance of the regulations aforesaid without prejudice to his right to claim indemnity from his subcontractor.

2.20 ACCOMMODATION FOR LABOUR:

The contractor shall during the progress of the work, provide, erect and maintain at his own expense and approved standards and scales, all necessary temporary living and sanitary accommodation required for his work people on the site, in connection with the execution of the work and also arrange for supply of wholesome drinking water for his work people.

The planning, siting, layout and erection of these temporary buildings shall be approved by the Engineer-in-Charge and the whole of such temporary accommodation shall at all times during the progress of the work be kept tidy and in clean sanitary conditions to the entire satisfaction of the Engineer-in-Charge and at the contractor’s expenses. The contractor shall confirm generally to the sanitary requirements of the local medical and health authority and at all times with such precautions that may be necessary to prevent soil pollution of the site.

On completion of the work all such temporary buildings shall be cleaned away, all rubbish burnt, excrete or other disposal pits or trenches filled and effectively sealed off and the whole of the site left clean and tidy to the entire satisfaction of the Engineer-in-Charge and at the contractors expense.

2.21 ANTI MALARIAL PRECAUTION:

The contractor shall at his own expenses, conform to all anti-malarial instruction given to him by the Engineer-in-Charge including filling up of borrow pits, if any.

2.22 CONSERVANCY:

The contractor shall at his own expenses, carry out all instructions issued to him by Engineer-in-Charge to effect a proper disposal to night soil and other conservation work in respect of the contractors work people or his employees on the site.

The contractor will bear the cost of any charges levied by the local authority for the execution of such work on his behalf.

2.23 NUISANCE:

The contractor shall not at any time do, cause or permit any nuisance on the site or do anything which may cause unnecessary disturbance or inconvenience to the owners, tenants or occupier of other properties near the site and to the public generally and shall secure the efficient protection of streams and water ways against pollution.

2.24 WATER & ELECTRICITY:

Water and electricity shall be supplied to the contractor by the department subject to the following conditions:

- a) One/ two source of supply of water/ electricity points, to be decided by Engineer-in-Charge, shall be provided by BHEL. However, contractor shall have to make their own arrangement for laying of pipelines/ connection from the main source of supply for working at site.
- b) Department do not guarantee to maintain uninterrupted supply of water/ electricity and it will be incumbent on the contractor to make alternative arrangement for proper supply of the same at their own cost in the event of any break down in the government water/ electricity mains so that the progress of work is not held up for the want of the same. No claim of damage or refund will be entertained on account of such break down.
- c) In case of non-availability of above facilities at work place, contractor has to make his own arrangements at his cost or as mentioned in the NIT.

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2.25 TEMPORARY WORKSHOPS STORES etc.:

The contractor shall, during the progress of work, provide, erect and maintain at his own expense all necessary temporary work-shops, stores, offices etc. required for the proper and efficient execution of work. The planning, sitting and execution of these buildings/ works shall have the approval of the Engineer-in-Charge and the contractor shall at all times keep them tidy in a clean and sanitary condition to the entire satisfaction of the Engineer In-charge.

2.26 STORES AND MATERIALS ON SITE:

All stores and materials for the work are to be deposited by the contractor only in places to be indicated by the Engineer-in-Charge, where in accordance with the contract, stipulations certain stores and materials (for incorporation in the work) are to be issued to the contractor by BHEL as detailed.

BHEL free issue items will be so issued only to the extent required for the actual completion of the work as stipulated in the contract. The decision of Engineer—in-Charge / Head of the department regarding the quantities to be issued as above shall be final and binding on the contractor. For any excess quantities consumed on the work, the cost will be recovered from the contractor at punitive rates, which will be as mentioned in Schedule “B”.

As regard issue of material and stores to be issued to the contractor by BHEL, the contractor shall give the Engineer-in-Charge reasonable notice in writing of his requirement of such stores/ materials and on the approval of his demand being notified to him, he shall make immediate arrangement for drawing the same. Such stores and materials shall be transported by the contractor at his own expense direct from the place of issue to the site of work with the prior written approval, obtained from the Engineer-in-Charge to take them to a store or work shop or elsewhere. BHEL officers connected with the contract shall have the power at any time to inspect and examine any stores or at any factory or workshop or other place where material intended to be used in or on the workshop, or other places such stores or materials are being fabricated or manufactured, or at any place where the same are lying and the contractor shall give necessary facilities for such inspection and examination.

The Engineer-in-Charge shall be entitled to have tests made of any stores or materials supplied by the contractor who shall provide at his own expense all facilities which the Engineer-in-Charge may require for this purpose. If at the discretion of Engineer-in-Charge, independent expert is employed to make any such test, his charges shall be borne by the contractor only, if the test disclosed that the said stores or materials are not in accordance with the provisions of the contract.

Should the Engineer-in-Charge consider at any time during the construction or reconstruction or prior to the expiry of the maintenance period that the stores or materials provided by the contractor are unsound or of a quality inferior to the constructed or otherwise and not in accordance with the contract (in respect whereof the decision of the Engineer-in-Charge shall be final and conclusive). The contractor shall on demand in writing from the Engineer-in-Charge specifying the stores or materials complained or notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith remove the stores or materials so specified and provide other proper and suitable stores or materials at his own expense to the entire satisfaction of Engineer-in-Charge and in the event of his failing to do so within a period to be specified by Engineer-in-Charge in his demand aforesaid, the Engineer-in-Charge may replace with others, the stores or materials complained of, at the risk and expense in all respect of the contractor.

The liability of the contractor under this condition shall not extend beyond the maintenance period aforesaid except as regard stores or materials, which the Engineer-in-Charge shall have previously given, notice to the contractor to replace that. (Maintenance period for any work under this organization will be TWELVE MONTHS from the date of actual completion of the particular work and handing over to BHEL in the case of building works and SIX MONTHS for all other works.).

All stores and materials brought to the site shall become and remains the property of BHEL and shall not be removed from the site without the prior written approval of the Engineer-in-Charge. However, when the work is finally completed, the contractor shall at his own expense forthwith remove from the site surplus stores and materials originally supplied by him and upon such removal the same shall revert and become the property of the fixing in the work and which after making due allowance for the reasonable wear and tear/ or waste have not on completion of the works been so incorporated or fixed, shall be returned by the contractor at his own expense to the place of issue.

Credit for surplus stores and/ or material returned by the contractor to BHEL will be given to him at a price, based on the prevailing market rate but not exceeding that at which the said stores and materials were originally issued to him but due consideration shall be given to the allowance claimed by BHEL, in respect of any depreciation or damage suffered by the stores and / or materials while in the custody of the contractor regarding which the decision of Engineer-in-Charge shall be final and conclusive.

If in the opinion of the Engineer-in-Charge (which will be final and conclusive) any stores supplied by the BHEL have either during progress of work or after completion of work but under the custody of the contractor, become damaged to such an extent that they cannot be usefully utilized either in the same work or in other work, the Engineer-in-Charge shall not accept

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the stores and in the event of his so rejecting, the contractor shall be charged for the said stores at a rate fixed by the accepting officer. The contractor shall not be entitled to any claim whatsoever on this account.

2.27 TOOLS AND PLANTS ON SITE:

All tools, plants and equipment brought to site shall become the property of the BHEL and shall not be removed from the site without the prior written approval of the Engineer-in-Charge. When the work is finally completed or contract is terminated for reasons other than the default of the contractor, the contractor shall forthwith remove from the site all tools, plants and equipments (other than those as may have been provided by BHEL) and upon such removal the same shall become the property of the contractor.

2.28 STATEMENT OF HIRE CHARGES:

A monthly detailed statement of the hire charges incurred in respect of BHEL tools, plants, equipment etc. shall be given to the contractor by the Engineer-in-Charge.

2.29 PRECAUTIONS AGAINST RISK:

The contractor shall be responsible for providing at his own expense, for all precautions to prevent loss or damage from any and all risk and to minimize the amount of any such loss or damage and for necessary steps to be taken for the said purpose until the works have been handed over complete in all respect to the Engineer In-charge.

The contractor shall provide all watchmen necessary for the protection of site, the work, the materials, tools, plants, equipment and anything else lying in the site during the progress of work. He shall solely be responsible for and shall take all responsible and proper steps for protecting, securing and watching all and/ or about the work and the site which may be dangerous to any person whatsoever.

2.30 NOTICES AND FEES:

The contractor shall give all notices required by any statutory provisions or by the regulations and/ or bye-laws or any local authority and/ or of any public service, company or authority affected by the work or with those systems if the same are or will be contracted. The contractor shall pay and indemnify BHEL against any fees and charges demandable by law under such Acts, Regulations and/ or bye-laws in respect of the work and shall make and supply all drawings and plans required in connection with any such notice.

2.31 SETTING OUT OF THE WORK & PROTECTING/ MAINTAINING SIGNALS & MARKS:

The Engineer-in-Charge shall supply dimensions, drawings, levels and other information necessary to enable the contractor to set out the work. The contractor shall at his own expense set out accurately according to the drawings, figures and dimensions there, on all the work in the contract and any extras or additions thereto and shall be solely responsible for their being so set out and executed. All bench marks, pegs, signals on surface, alignment stones, mile stones and all similar marks whether putting by BHEL authorities for the purpose of checking the contractor's work in the tenure of the contractor, be put under the care of the contractor who shall, at his own expense take all proper and responsible precautions and care to preserve and maintain them in their true position. In the event of these marks being disturbed or obliterated by accident or due to any other cause whatsoever the same may, if deemed necessary, be replaced by Engineer-in-Charge / Head of the department to the contractor's expense and the cost thereof deducted from any money thereon or/ after becoming due to the contractor.

Where requested by the contractor, the level mark, centre line and chain age pegs corresponding to those as shown on the drawings, will be pointed out to the contractor on the ground but all bench marks or chain age pegs additional to these shown on the drawing shall be provided by the contractor at his expense.

2.32 SITE DRAINAGE:

All water that may accumulate on the site during the progress of the work or in trenches and excavations shall be removed by the contractor to the entire satisfaction of the Engineer-in-Charge at his own expense.

2.33 EXCAVATION RELICS etc.:

Material of any kinds obtained from excavation on the site shall remain the property of BHEL and shall be disposed off as the Engineer-in-Charge directs. All gold, silver, oil and other materials of any description and all precious stones, coins, treasures, relics, antiquities and other similar items which may be found on at/upon the site shall be the property of the BHEL.

2.34 FOUNDATIONS:

The contractor shall not lay any foundation until the excavations for the same have been examined and approved in writing by the Engineer-in-Charge.

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2.35 COVERING OF WORK:

The contractor shall give reasonable notices in writing to the Engineer-in-Charge whenever any work is to be permanently covered or cancelled, whether by earth or other means so that it can finally be inspected or measured if necessary. In default of doing so the contractor shall, if required by the Engineer-in-Charge uncover such work at his own expense.

2.36 APPROVAL OF WORKS BY STAGES:

All work embracing more than one process shall be subject to examination and approval at each stage and the contractor shall give due notice in writing to the Engineer-in-Charge when each stage is ready. In default of such notice being received, the Engineer-in-Charge shall be entitled to approve the quality and extent thereof at any time he may choose and in the event of any dispute, the decision of the Engineer-in-Charge thereon shall be final and conclusive.

2.37 EXECUTION OF WORK:

The work shall be executed in a workman like manner and to the satisfaction in all respect of the Engineer-in-Charge. The Engineer-in-Charge will communicate or confirm his instruction to the contractor in respect of the execution of the work in a "WORK SITE ORDER BOOK "maintained at his office and the contractor shall visit this office, daily and shall conform receipt of such instructions by signing the relevant entries in this book. Such entries will rank as order notices in writing within the intent and meaning of these conditions.

2.38 RESPONSIBILITY FOR BUILDINGS:

In the event of any building or part of any building being handed over to the contractor for execution of work thereto under provisions of the contract, he shall give a written receipt for all fixtures, glasses etc. and shall be required to make good at his own expense all damage resulting from whatsoever cause while in his charge and on completion of the work to deliver up the said building or part thereof in a clean stage complete in every particular to the entire satisfaction of the Engineer-in-Charge.

2.39 INSPECTION OF WORKS:

BHEL Officers / BHEL representatives concerned with the contract shall have power at any time in respect and examine any part of the work and the contractor shall provide such facilities as may be required for such inspection and examination. Should the Engineer-in-Charge consider at any time during the construction or reconstruction or prior to the expiry of maintenance period, that any work has been executed with unsound, imperfect or unskilled workmanship or of a quality inferior to that contracted for or not otherwise in accordance with the contract, in respect whereof the decision of the Engineer-in-Charge shall be final and conclusive. The contractor shall on demand in writing from the Engineer-in-Charge specifying the fault notwithstanding that the same may have been inadvertently passed, certified and paid for, forthwith rectify or remove and reconstruct, the work so specified, in whole or in part as the case may be, require at his own risk and expense to the entire satisfaction of Engineer-in-Charge, who may accept the work at reduced rate if deemed fit. However, the liability of the contractor under this condition shall not extend beyond the maintenance period except as regard workmanship, which the Engineer-in-Charge should have previously given notice to the contractor to rectify.

2.40 DAMAGE AND LOSS TO PRIVATE PROPERTY AND INJURY TO WORKS:

The contractor shall at his own expense reinstate and make good to the satisfaction of the Engineer-in-Charge and pay compensation for any injury, loss or damage caused to any property or right what so ever including property or/ and rights of BHEL (or agent /servants/any outsider or employees of BHEL) and the injury, loss or damage arising out of or in any way in connection with the execution or purported execution of the contract and further the contractor shall indemnify BHEL, against all claims enforceable against BHEL) or which would be so enforceable against BHEL were BHEL a private person in respect of any such injury (including injury resulting in death, loss or damage to any person whatsoever or property, including all claims which may arise under Workman's Compensation Act or otherwise.

2.41 COMPLETION:

The works shall be completed to the entire satisfaction of the Engineer In-charge and in accordance with contractor's forecast of time and progress where operative and that, all unused stores and materials, tools, plant, equipment, temporary buildings and things shall be removed and the site and work cleared of rubbish and all waste material and delivered up clean and tidy to the satisfactions of the Engineer In-charge at the contractor's expense on or before the scheduled date of completion. BHEL shall have power to take over from the contractor from time to time such section of work as have been completed to the satisfaction of the Engineer In-charge. The Engineer-in-Charge shall certify to the state of the work at the end of the maintenance period where applicable.

2.42 COMPENSATION AS LIQUIDATED DAMAGES FOR DELAY:

If the contractor fails to complete and clear the site on or before the scheduled date of completion or does not achieve the progress as set out under the caption "TIME " in clause 2.6 of these General Conditions, he shall without prejudice to any other right or remedy on BHEL on account of such breach, be liable to pay as compensation as liquidated damage an amount

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equal to 0.50 percentage of the total contract sum for every week (7 days) of extension sought beyond the scheduled date of completion of the contract provided always that the total amount of compensation as liquidated damages to be paid under this condition shall not exceed 10% of the contract sum. Such amount may be adjusted or set off against any sum payable to the contractor under this or any other contract. If delay is for 8 days, it will be counted as delay for 2 weeks for liquidated damages. In case any penalty is to be levied at any stage during the progress of work, reference shall be made to the clause as mentioned in special condition of tender.

2.43 CANCELLATION OF CONTRACT FOR CORRUPT ACTS:

The Accepting Officer, whose decision shall be final and conclusive, shall without prejudice to any other right or remedy which shall have accrued or shall accrue thereafter, BHEL cancel the contract if any of the following cases and the contractor shall be liable to pay to BHEL for any loss or damage relating from any such cancellation to the same extent as provided in the case of cancellation of defaults.

If the contractor---

- a) Offer to give or agree to give to any person in BHEL service, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do for having done or for borne to do any act in relation to obtaining or execution of this or any other contract for BHEL service

OR

- b) Enter into a contract with BHEL in connection with which commission has been paid or agreed to be paid by him or with his knowledge, unless the particulars of any such commission and the terms of payment thereof have previously been disclosed in writing to the Accepting Officer.

OR

- c) Obtain a contract with BHEL as a result of ring tendering or by non-bearing methods or competitive tendering without first disclosing the fact in writing to the Accepting Officer.

OR

- d) Steel or misuse of any property of BHEL either by himself or through his workmen within his knowledge or convince.

2.44 CANCELLATION OF CONTRACT DUE TO INSOLVENCY, ASSIGNMENT OR TRANSFER OR SUBLETTING OF CONTRACT:

The Accepting Officer, without prejudice to any other right or remedy, which shall have accrued or shall accrue thereafter to BHEL, shall cancel the contract in any of the following cases:

If the contractor -----

- a) Being an individual or if a firm, or any partner thereof shall at any time to be adjudged bankrupt or having a receiving order or order for administration of his estate made against him or shall take any proceedings for liquidation or composition under any Bankruptcy Act for the time being enforce or make any connivance or assignment or makes unauthorized or illegal arrangement for the benefit of his creditors or propose to do so, or if any application be made under any bankruptcy and for the time being in force for the sequestration of his estate or if a trust deed be granted by him on behalf of his creditors,

OR

- b) Being a company, shall pass a resolution or the court shall make an order for the liquidation of its affairs, or a receiver or Manager on behalf of the debenture holders shall be appointed or circumstances shall arise which entitle the court of debenture holders to appoint a receiver or Manager.

OR

- c) Assigns, sublets or attempts to assign, transfer or sublet any portion of the work without the prior written approval of the Accepting Officer,

Whenever the Accepting Officer exercises his authority to cancel the contract under this condition, he may complete the work by any means at the contractor's risk and expense, provided that, in the event of the cost of completion (as certified by Engineer-in-Charge, which is final and conclusive) being less than the contract cost the advantage shall accrue to the BHEL, and that if the cost of completion exceeds the money due to the contractor under the contract, the contractor shall either pay the excess amount ordered by the Engineer-in-Charge or the same shall be recovered from the contractor by other means

In case BHEL completes the work under the provisions of this condition, the cost of such completion to be taken into account in determining the excess cost to be charged to the contractor under this condition shall consist of the cost of materials purchased and/ or labour provided by BHEL with an addition of such percentage to cover superintendence and establishment charges as may be decided by the DGM / GM, whose decision shall be final and conclusive.

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2.45 CANCELLATION OF CONTRACT IN PART OR IN FULL FOR CONTRACTOR'S DEFAULT:

If the contractor—

- a) Makes default in commencing the work within a reasonable time from the date of handing over of the site and continues in that state after a reasonable notice from the Engineer-in-Charge.

OR

- b) In the opinion of the Engineer-in-Charge at any time, whether before or after the date or extended date for completion, makes default in proceeding with the work with due diligence and continues in that state after reasonable notice from Engineer-in-Charge.

OR

- b) Fails to complete the work, without prejudice to any other right or remedy which shall have accrued, or shall accrue thereafter to BHEL contract.

OR

- c) Fails to comply with any of the terms and conditions of the contract after reasonable notice in writing with order properly issued.

OR

- d) Fails to complete the work, work order, and items of work with individual dates for completion and clear the site on or before the date of completion, or if fails to achieve the conditions of contract, the Accepting Officer, may without prejudice to any other right or remedy which shall have accrued or shall accrue thereafter or do only such work order or items of work in default from the contract at the expense and cost of the contractor. Whenever the Accepting Officer exercises his authority to cancel the contract as a whole or in part under this condition, he may complete the work as a whole or part to under this contract, the contractor shall either pay the excess amount ordered by Engineer-in-Charge or the same shall be recovered from the contractor by other means.

In case of BHEL completes the work or any part thereof under the provisions of this condition, the cost of such completion to be taken into account in determining the excess cost to be charged to the contractor under this condition, shall consist of the materials purchased and/ or labour provided by BHEL with an addition of such percentage to cover superintendence and establishment charges as may be decided by the DGM whose decision shall be final and conclusive.

In the event of termination of contract for any reason whatsoever, the contractor shall withdraw all his employees from the establishment of BHEL. In case contractor decides to terminate services of his employees he should settle all terminal dues including retrenchment compensation.

2.46 TERMINATION OF CONTRACT DUE TO DEATH:

Without prejudice to any of the rights or remedies under this contract, if the contractor dies, the Accepting Officer shall have the option of terminating the contract without compensation to the contractor authorized survivors.

2.47 SPECIAL POWERS OF TERMINATION:

If at any time after the acceptance of the tender, BHEL shall for any reason whatsoever not require the whole or any part of the work, to be carried out, the Engineer-in-Charge shall give notice in writing of the fact to the contractor, who shall have no claim to any payment of compensation or otherwise, howsoever on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of the foreclosing of the work.

The contractor shall be paid at contract rates for the full amount of the work executed including such additional work i.e., cleaning of site etc. as may be rendered necessary by the said foreclosing. He shall also be allowed a reasonable payment (as decided by the Accepting Officer) for any expenses sustained on account of labour and material collected but which could not be utilized on the work as verified by the Engineer-in-Charge but the contractor shall not have any claim for compensation on account of any alterations having been made in the original specifications, drawings, designs and instructions involving and curtailment of the work as originally contemplated.

2.48 FAIR WAGE:

Refer clause 2.19 of General terms and conditions of Contract.

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CHAPTER-III

VALUATION AND PAYMENT

3.1 RECORDS AND MEASUREMENTS:

All items having a financial value shall be entered in the BHEL Measurement book so that a complete record is obtained on all work performed under the contract.

Measurement shall be carried out as per unit mentioned in the bill of quantity (price-bid).

The measurements shall be taken jointly by any person or persons duly authorized on the part of the BHEL and the contractor.

The Engineer-in-Charge shall give reasonable notice in writing to the contractor of appointments for measurements.

The contractor shall without extra charge, provide assistance with appliance and other things necessary for measurements.

The contractor shall bear all the cost of measurement of his work.

Measurements shall be entered in the BHEL measurement book and signed and dated by both parties each day on the site on completion of measurement. If the contractor objects to any of the measurement recorded on behalf of BHEL in the Measurement Book or against the item or items objected to, and such note shall be signed and dated by both parties engaged in taking the measurements.

If as a result of such objection it becomes necessary to remeasure the work wholly or in part, the expense of such measurement shall be borne by the party requiring the measurement to be retaken provided that net error found by this remeasurement amount to less than 5 % (five percent) of the value as recorded by the first measurement.

If the contractor's representative fails to attend when required, the Engineer-in-Charge shall have power to proceed by himself to take measurements, and in that case these measurements shall be accepted by the contractor as final.

The contractor shall once in every month, submit to the Engineer with a copy to the concerned Engineer-in-Charge details of his claims for the work done by him up to and including the previous month which are not covered by his contract agreement in any of the following respects: -

- a) Deviation from the item and specification provided in the contract documents.
- b) Extra items / new items of the work.
- c) Quantities in excess of those provided in the contract agreement.
- d) Items in respect of which rates have not been settled, in addition furnish a clear certificate to the effect that the claims submitted by him as aforesaid cover all his claims and that no further claims shall be raised by him in respect of the work done up to and including the period under report.

3.2 FINAL BILLS:

As soon as possible after the completion of the work to the satisfaction of the Engineer-in-charge, the contractor shall forward a certified final account on BHEL forms in duplicate. It shall be accompanied with all abstracts; vouchers etc. in support thereof and shall be prepared, in the manner prescribed by the Engineer-in-Charge. No claims will be entertained after the receipt of the final bills.

The contractor shall be entitled to be paid the final sum less the value of payments already made on account subject to certification to the final bill by the Engineer-in-Charge. No charge shall be allowed to the contractor on account of the preparation of the final bills.

3.3 PAYMENTS OF BILLS:

The payment of final bill will be made only after successful proving. All payments to be made to the contractor under this contract shall be through online payment i.e., RTGS/ NEFT within a reasonable time after the certification by the Engineer-in-Charge.

3.4 RECOVERY FROM THE CONTRACTOR:

Whenever under the contract any sum of money shall be recoverable from or payable to the contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the contractor under the contract or under any other contract with BHEL or from his security deposit, or he shall pay the claim on demand.

3.5 POST TECHNICAL AUDIT OF WORK & BILLS:

BHEL reserves the right to carry out a post payment audit and technical examination of the work and bill including all supporting vouchers, abstracts etc. and to enforce recovery of any sums becoming due as a result thereof in the manner

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provided into the proceedings sub-paragraph provided, however, that no such recovery shall be enforced after three years of passing the final bills.

3.6 REFUND OF SECURITY DEPOSIT:

After expiration of the maintenance period, provided always that the contractor shall first have been paid final bill and have rendered a "No Demand" certificate, the security deposit mentioned *shall be released after satisfactory completion of the maintenance period* of the work duly verified by Site In charge. *The maintenance period of work is 3 months from the date of actual completion of work.*

3.7 ARBITRATION & CONCILIATION:

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to the sole arbitration of an arbitrator appointed by Head of the BHEL Unit/Region/Division issuing the Contract.

The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties.

Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1995 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be at Visakhapatnam.

The cost of arbitration shall be borne as per the award of the Arbitrator.

Subject to the arbitration in terms of Clause- above, the Courts at Visakhapatnam shall have exclusive jurisdiction over any matter arising out of or in connection with this Contract.

Notwithstanding the existence or any dispute or differences and/or reference for the arbitration, the Contractor shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner except where the Contract has been terminated by either Party in terms of this Contract."

3.8 IMPLEMENTATION OF PROVISION OF THE APPRENTICE ACT:

Contractor shall comply with the provisions of Apprentice Act-1961, and the Rules and Orders issued there under from time to time. If he fails to do so his failure will be a breach of the contract and the Accepting Authority may, in his discretion cancel the contract. The contractor shall also be liable for any pecuniary liability arising on account of any violation by him of the provision of the Act.

3.9 SAFETY AND SECURITY:

1. BHEL reserves the right to take penal action as deemed fit if any information provided by the vender / contractor is found to be incorrect.

2. Other safety related conditions:

- a) The contractor shall ensure proper safety of all the workmen, materials, plant and belonging to him or to BHEL or to others, working at or near the site. The contractor shall also be responsible for provision of all safety notices and safety equipment required both by the relevant legislation and the Engineer-in-charge as he may deem necessary.
- b) The contractor shall adopt adequate safety measures and use of protective clothing by all the workmen at site/work place whether engaged or not in actual of work or supervision thereof. The contractor shall ensure that the workmen on site use safety belt, gloves, helmets, masks etc. as are necessary for their safety.
- c) The contractor shall be responsible for safety arrangements of all equipment used in connection with the execution of the work and shall ensure employment of only trained person to operate the equipment. Only tested equipment, tools, wires, ropes etc. shall be used and shall periodically be tested to the satisfaction of the BHEL. All test certificates shall be made available to the BHEL at site as and when required.
- d) The contractor shall ensure provision and maintenance of lights, guards, fencing with gates and watching when and where necessary or required by the BHEL or by any one duly constituted authority for the protection of the work and / or for the safety and convenience of the public or others.
- e) The contractor shall take adequate safety precautions for prevention of accidents at site. The contractor shall also ensure that their employees / workmen comply with the statutory safety rules and regulations as and also those laid down by BHEL from time to time.
- f) The contractor shall provide at his cost necessary watch and ward force as may be approved by the BHEL to ensure security and safety of all buildings, structures, equipments and materials under their custody at the site of work.

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- g)** The contractor shall abide by all security regulations at site by the BHEL from time to time. The contractor shall provide identify badges to their personnel and workmen, which must be properly displayed by them at site.
- h)** In order to facilitate issue of exit gate permits by the BHEL for materials and equipments either during execution or the maintenance period, the CONTRACTOR shall submit to the BHEL list of construction / erection equipment etc. and / or other materials that shall be taken by them inside the site from time to time. Such movement of materials, equipment, tools, tackles etc. shall be subject to certification by the Engineer-in-Charge.
- i)** The contractor and his personnel / workmen shall be subject to security check by BHEL's own security force or Central Industrial Security Force if engaged by the BHEL for the overall protection of the project.
- j)** The contractor shall not allow any visitors on the works except with the written permission of the BHEL.
- k)** From the commencement to the completion of work, the contractor shall take full responsibility for the care of the work, constructional plant and equipment and all temporary works and in case any damage or loss shall happen to the work, constructional plant and equipment or to plant temporary work from any cause whatsoever, the contractor shall at his own cost replace or repair and make good the same.
- l)** The contractor will notify well in advance to the Engineer-in-charge of his intention to bring to site any container filled with liquid or gaseous fuel explosive or petroleum substance or such chemicals, which may involve hazards. The Engineer-in-charge shall have the right to prescribe the conditions under which such containers are to be stored, handled and used during the performance of the works and the contractor shall strictly adhere to and comply with such instructions. The Engineer-in-charge shall have to right at his sole discretion to inspect any such container or such construction plant / equipment, for which material in the container is required to be used and if in his opinion, its use is not safe, he may forbid its use. No claim due to such prohibition shall be entertained by BHEL nor shall BHEL entertain any claim of the contractor towards additional safety provisions/ conditions to be provided for/ constructed as per Engineer-in-Charge instructions compliance to statutory in respect of such conditions will be the sole responsibility of the contractor.
- m)** Further any such decision of the Engineer-in-Charge shall not in any way absolve the contractor of his responsibilities for safety provisions and in case, use of such a container or entry thereof into the site area is forbidden by Engineer-in-Charge without any cost implications to BHEL or extension of work schedule.
- n)** Where it is necessary to provide and/ or store petroleum products or petroleum mixtures and explosive, the contractor shall be responsible for carrying out such provision and / or storage in accordance with the rules and regulations laid down in Petroleum Act 1934, Explosives Act 1948 and Petroleum and Calcium Carbide Manual published by the Chief Inspector of Explosives of India. All such storage shall have prior approval of the Engineer-in-charge. In case, any approval is necessary from the Chief Inspector (Explosives) or other statutory authorities, the contractor shall be responsible for obtaining the same.
- o)** All equipment used in construction & erection by the contractor shall meet Indian/ International Standards and where such standards do not exist, contractor shall ensure these to be absolutely safe. All equipment shall be strictly operated and maintained by the contractor in accordance with manufacturer's operation manual and safety instructions and as per guide lines/ rules of BHEL in this regard.
- p)** Periodical examination and all tests for all lifting/ hoisting equipment and tackles shall be carried out in accordance with the relevant provisions of Factories Act 1948, Indian Electricity Rules 1910 and associated Law/ Rules in force from time to time. A register of such examinations and tests shall be promptly produced as and when desired by Engineer-in-charge or Safety Officer.
- q)** Contractor shall provide suitable safety equipment of prescribed standard to all employees and workmen according to the need at his own cost as may be directed by Engineer-in-charge who will also have the right to examine these safety equipments to determine their suitability, reliability, acceptability and adoptability.
- r)** The contractor shall provide safe working conditions to all workmen and employees at the site including safe means of access, railings, stairs, ladders, scaffolding, safety belts etc. the scaffoldings shall be erected under the control and supervision of an experienced and competent person.
- s)** The contractor shall not interfere with or disturb electric fuses, wiring and other electrical equipment belonging to BHEL or other contractors under any circumstances whatsoever, unless specially permitted in writing by BHEL to handle such fuses, wiring or electrical equipment.

Before the contractor connects any electrical appliances to any plug or socket belonging to the other contractor or BHEL, he shall:

- i) Satisfy the Engineer-in-charge that the appliance is in good working condition.
- ii) Inform the Engineer-in-charge of the maximum current rating voltage and phases of the appliances.

Ref: OS/SC/2022-23/62/37, Date: 23.09.2022	ANNEXURE – II
BHARAT HEAVY ELECTRICALS LIMITED Heavy Plates & Vessels Plant, Visakhapatnam	
GENERAL CONDITIONS OF CONTRACT (Works / Services)	PAGE 24 OF 24

iii) Obtain permission of the Engineer-in-charge detailing the sockets to which the appliances may be connected.

The Engineer-in-charge will not grant permission to connect until he is satisfied that:

- i) The appliance is in good condition and is fitted with a suitable plug.
- ii) The appliance is fitted with suitable cable having two earth conductors, one of which shall be an earthed metal sheet surrounding the cores.
- iii) No electrical cable in use by the contractor will be disturbed without prior permission. No weight of any description will be imposed on any cable and no ladder or similar equipment will rest against or attached to it.
- iv) No repair work shall be carried out on any live equipment, the equipment must be declared safe by the Engineer-in-charge and a permit to work shall be issued by Engineer-in-charge before any repair work is carried out by the contractor. While working on electric lines/ equipment whether alive or dead suitable type and sufficient quantity of tools will have to be provided by contractor to electricians/ workmen/ officers.
- t) The contractor shall employ necessary number of qualified full time electricians/ electrical supervisors to maintain his temporary electrical installations.
- u) In case any accident occurs during the construction/ erection or other associated activities undertaken by the contractor thereby causing any minor or major or fatal injury to his employees due to reason whatsoever, it shall be the responsibility of the contractor to promptly inform the same to BHEL Engineer-in-Charge in prescribed form. The contractor will be responsible for all pecuniary liability if any under such circumstances.
- v) The Engineer-In charge and Safety Officer shall have the right at his sole discretion to stop the work, if in his opinion, the work is being carried out in such a way that it may cause accidents and endanger the safety of the person and/ or property and/ or equipments. In such cases, the contractor shall also be informed in writing about the nature of hazards and possible injury/ accident and he shall remove the shortcomings promptly. The contractor after stopping the specific work can, if felt necessary, appeal against the order of stoppage of work to the respective General Manager within 3 days of such stoppage of work and decision of GM in this respect shall be conclusive and binding on the contractor.
- w) Notwithstanding anything contrary to this, in the event of his workmen, the contractor shall be required to fill Injury Report and submit to the Shop Manager/ Engineer-in-Charge of BHEL immediately and ensure due compliance of Workmen Compensation Act 1923 and Rules made there under.
- x) The contractor shall not be entitled to any damages/ compensation for stoppage of work due to safety reasons as provided above and the period of such stoppage of work will not necessarily be taken as an extension of time for completion of work and will not be the ground for waiver of levy of liquidated damages.
- y) The contractor shall follow and comply with all BHEL safety rules, relevant provision of applicable law pertaining to the safety of workmen, plant and equipment as may be prescribed from time to time without any demur protest or contest or reservation. In case of any unconformity between statutory requirement and BHEL Safety Rules referred above, the later shall be binding on the contractor unless the statutory provisions are more stringent.
- z) If the contractor fails in providing safe working environment as per the statutory requirements and / or BHEL Safety Rules or continue to work even after being instructed to stop the work by Engineer-in-charge or Safety Officer as provided above, the contractor shall promptly pay to BHEL, on demand, compensation at the rate of Rs. 500/- per day or part thereof till instructions are complied with and so certified by Engineer-in-charge/ Safety Officer. However, in case of accident taking place causing death/ injury to any individual the statutory provisions shall apply in addition to compensation mentioned in this para; and the contractor will be solely liable on account of this.

* * *

Ref: OS/SC/2022-23/62/37

Date: 23.09.2022

Sub: Service Contract for carrying out 3D modelling in E3D (AVEVA version 2.1) software for Fresh Feed Furnace of M/s IOCL-Panipat (SO-7935) – Reg.

ACCEPTANCE TO TENDER TERMS & CONDITIONS

I / We hereby confirm that the **Tender documents, all annexures etc.** have been studied in detail and we have fully understood the scope of work.

I / We accept to all the **Terms and Conditions** of the Tender Enquiry and the prices quoted are in accordance with the same.

I / We accept to offer valid for a period of **3 months** from the last date for tender submission.

I / We give our acceptance to participate in **Reverse Auction** in case BHEL decides to go for reverse auction for this tender.

Tender documents duly signed on all the pages by the Owner / authorized representative of the bidder are attached herewith.

SIGNATURE OF TENDERER WITH SEAL

CONTRACTOR INFORMATION

Sl. No.	Particulars	To be Filled by Bidder
01.	Name of the Contractor	
02.	Nature of Firm / Concern (Proprietor/Partnership/Pvt. Limited/Public Ltd.) Note: In case of partnership concern, please enclose photo copies of the partnership deed	
03.	Full address	
04.	Name of the Proprietor/Partner	
05.	Name of the Person(s) and designation authorized for signing the contract/dealing with BHEL	
06.	Telephone No. of the firm	
07.	Fax No.	
08.	Mobile No.	
09.	E-mail ID	
10.	HSN Code/ SAC Code	
11.	Organizational structure with name and designation	

SIGNATURE OF THE TENDERER WITH SEAL

CHECK LIST

Sl. No.	Particulars	Document Enclosed (Yes / No)	Document No
01.	Name of the Contractor		
02.	Tender Document Signed & Stamped		
03.	Earnest Money Deposit (EMD)		
04.	PF Registration Certificate		
05.	ESI Registration Certificate		
06.	GSTIN Registration Certificate		
07.	HSN / SAC Code		
08.	PAN Number		
09.	Income Tax Returns for last 3 years		
10.	Profit & Loss account and Balance Sheet certified by the Practicing Chartered Accountant for the last 3 years		
11.	Work orders & Job Completion Certificates in similar works as mentioned in eligibility criteria.		
12.	MSE/ UDYAM Registration if any		

SIGNATURE OF THE TENDERER WITH SEAL

Ref: OS/SC/2022-23/62/37, Date: 23.09.2022

THIRD PARTY NON-DISCLOSURE AGREEMENT

I, _____, on behalf of the (Name of Company), _____
_____ acknowledge that the information received of generated, directly or indirectly, while working with HPVP, Visakhapatnam on contract is confidential and that the nature of the business of the HPVP, Visakhapatnam is such that the following conditions are reasonable, and therefore:

I warrant and agree as follows:

I, or any other personnel employed or engaged by our company, agree not to disclose, directly or indirectly, any information related to the HPVP, Visakhapatnam without restricting the generality of the foregoing, it is agreed that we will not disclose such information consisting but not necessary limited to:

- Technical information: Methods, drawings, processes, formulae, compositions, systems, techniques, inventions, computer programs/data/configuration and research projects.
- Business information: Customer lists, project schedules, pricing data, estimates, financial or marketing data.

On conclusion of contract, I, or any other personnel employed or engaged by our company shall return to HPVP, Visakhapatnam all documents and property of HPVP, Visakhapatnam, including: drawings, blueprints, reports, manuals, computer programs/data/configuration, and all other materials and all copies thereof relating in any way to HPVP, Visakhapatnam's business, or in any way obtained by me during the course of contract. I further agree that I, or any others employed or engaged by our company shall not retain copies, notes of abstracts of the foregoing.

This obligation of confidence shall continue after the conclusion of the contract also.

I acknowledge that the aforesaid restrictions are necessary and fundamental to the business of the HPVP, Visakhapatnam and are reasonable given the nature of the business carried on by the HPVP, Visakhapatnam I agree that this agreement shall be governed by and construed in accordance with the laws of country.

I enter into this agreement totally voluntarily, with full knowledge of its meaning, and without duress.

Dated at _____, this _____ day of _____, 20_____.

Signature:

Name :

Name of the Company

Company Seal

ACCEPTANCE FOR ELECTRONIC FUND TRANSFER / RTGS / NEFT TRANSFER

01	NAME & ADDRESS OF THE SUPPLIER / SUBCONTRACTOR	
02	VENDOR CODE ASSIGNED BY BHEL,HPVP LTD	

DETAILS OF BANK ACCOUNT

03	NAME & ADDRESS OF THE BANK	
04	NAME OF THE BRANCH	
05	BRANCH CODE	
06	MICR CODE	
07	ACCOUNT NUMBER	
08	TYPE OF ACCOUNT	
09	BENEFICIARY'S NAME	
10	IFSC CODE OF THE BRANCH	
11	EMAIL ID	
12	TELEPHONE / MOBILE NUMBER	

CERTIFICATE

I / We here by agree to receive the payments due from M/s Bharat Heavy Electricals Ltd., by the National Electronic Fund Transfer / or RTGS Transfer mode by credit to my / our above mentioned Bank account. I / We also agree that payments made to the above mentioned account are a valid discharge of the liability of M/s Bharat Heavy Electricals Ltd. I / We also agree to bear the applicable Bank charges for the above mode of transfer. A copy of the Cheque leaf/ cancelled Cheque leaf of the above account is sent herewith.

(Authorized Signatories with Name & Seal)

BANKER'S CERTIFICATION

We confirm that we are enabled for receiving RTGS and NEFT credits and we further confirm that the account number of _____ (name of account holder), the signature of authorized signatory and the MICR and IFSC codes of our branch mentioned above are correct.

Place:

Bank Manager / Officer

Date:

Signature with Bank stamp and Name seal

FORWARDED TO ACCOUNTS DEPARTMENT / CASH SECTION

We confirm the above details are verified with the records available with us

Signature of BHEL Official with Name & Seal
Operating the contract / Services

GST COMPLIANCE FOR INDIGENOUS SUPPLIERS / CONTRACTORS

1. In Response to Tenders for Indigenous supplier will be entertained only if the vendor has a valid GSTIN which should be clearly mentioned in the offer. If any specific exemption is available, a declaration with due supporting documents need to be furnished for considering the offer.
2. Supplier shall mention their GSTIN in all their invoices and invoices shall be in the format as specified/prescribed under GST laws. Invoices shall necessarily contain Invoice number (in case of multiple numbering system is being followed for billing like SAP invoice no, commercial invoice no etc., then the Invoice No which is linked/uploaded in GSTN network shall be clearly indicated), item description as per PO, Quantity, Rate, Value, applicable taxes with nomenclature (like IGST, SGST, CGST & UTGST) separately, HSN/ SAC Code, etc.
3. All invoices shall bear the HSN Code for each item separately (Harmonized System of Nomenclature)/ SAC code (Services Accounting Code).
4. A declaration to the effect that all invoice particulars are/were uploaded in the GSTN network/ portal & all tax liability as per GST rules and regulations have been and will be discharged, shall be mentioned in the invoice. If not mentioned in the invoice, a separate declaration shall be submitted as per the requirement of BHEL.
5. All documents like Test Certificate, LR copy, Guarantee/Warrantee certificate, work completion certificate, any other document mentioned in PO, shall be sent along with the vehicle/consignment where ever applicable. For all consignments received within the calendar month, input credit will be availed within that month in line with monthly returns filing cycle. In case of any discrepancy in the document or non-submission of documents mentioned in the PO, then BHEL will not be able to accept or account the material, in such case availing of tax credit will be deferred to next month or so.
6. In case of discrepancy in the data uploaded by supplier in the GSTN portal or in case of any shortages or rejection in the supply, then BHEL will not be able to avail the tax credit and will notify the supplier of the same. Supplier has to rectify the data discrepancy in the GSTN portal or issue credit note (details to be uploaded in GSTN portal) for the shortages or rejections in the suppliers, within the calendar month notified by BHEL.
7. For any such delay in availing of tax credit for reasons attributable to supplier (as mentioned above), interest (calculated @ SBI Base Rate + 6%) along with penalty if any will be deducted for the delayed period i.e. from the month of receipt till the month tax credit is availed, from the running bills.
8. Under GST regime, BHEL has to discharge GST liability on LD recovered from suppliers/contractors. Hence applicable GST shall also be recoverable from suppliers/contractors on LD amount. For this Debit note will be issued by BHEL indicating the respective supply invoice number.
9. This is to inform that GST portion of invoice, shall be released only upon Vendor declaring such invoice in his GSTR-1 and receipt of goods and Tax invoice by BHEL and Confirmation of payment of GST thereon by vendor on GSTN portal. Alternatively, BG of appropriate value may be obtained from vendor which shall be valid At least one month after the confirmation of date of payment of GST by vendor on GSTN portal and receipt of Tax invoice and receipt of goods, whichever is later. Above is subject to receipt of goods/service and tax invoice thereof along with vendor declaring invoice in his return and paying GST within timeline prescribed for availing ITC by BHEL.
10. That in case vendor delays Declaring such invoice in his return and GST credit availed by BHEL is denied or reversed subsequently as per GST law, GST amount paid by BHEL towards such ITC reversal as per GST law shall be recoverable from vendor/contractor along with interest levied/leviable on BHEL.

Note: The above will be followed strictly for Processing vendor payments to ensure GST Compliance



(A MAHARATNA COMPANY)

BHARAT HEAVY ELECTRICALS LIMITED

Heavy Plates & Vessels Plant (A Govt. of India Enterprise)

VISAKHAPATNAM - 530 012

MANDATE FORM

OPTION TO RECEIVE E-PAYMENT THROUGH NEFT & RTGS

1. NAME : BHEL - HPVP
2. ADDRESS : NATHAYYA PALEM, VISAKHAPATNAM
3. PARTICULARS OF BANK ACCOUNT –
 - a. BANK NAME : STATE BANK OF INDIA
 - b. BRANCH NAME : BHPV Branch
 - c. BRANCH ADDRESS : BHPV POST, VISAKHAPATNAM
 - d. IFSC CODE : **SBIN0001675**
 - e. ACCOUNT NO. : **33276118389**
 - f. WHETHER BRANCH IS NEFT ENABLED : YES
 - g. WHETHER BRANCH IS RTGS ENABLED : YES
4. E-MAIL ID FOR RECEIVING SYSTEM GENERATED PAYMENT ADVICE:
: **rsprakash@bhel.in**

I hereby declare that the particulars furnished above are correct

For Bharat Heavy Electricals Limited, Visakhapatnam,

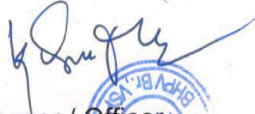

(Authorised Signatory)

BANK CERTIFICATION:

This is to certify that the particulars furnished above are correct & complete as per our records.

Date:

- 3 JUL 2020


Bank Manager / Officer
Signature with Bank stamp and Name seal

K. SAMBA MURTY
Deputy Manager M-10461
Pr.-1675, VSP

PART – II

(PRICE BID)

Name of Work: Service Contract for carrying out 3D modelling in E3D (AVEVA version 2.1) software for Fresh Feed Furnace of M/s IOCL-Panipat (SO-7935) – Reg

Tender Enquiry No.: OS/SC/2022-23/62/37, **Date:** 23.09.2022

Note:

- 1) **Contractor shall quote prices as per Schedule of Quantities & Rates mentioned below**
- 2) **The quoted prices shall be fixed & firm without any escalation during the entire period of contract and till completion of the work.**
- 3) **L1 shall be evaluated based on total quoted price at Sl. No:3 of Table- A. Bidders has to enter the same price in GeM portal.** Lowest offer need not be the rate acceptable to BHEL-HPVP and BHEL-HPVP reserves the right to go for negotiation with L1 bidder.
- 4) **The quoted prices shall be inclusive of all applicable taxes, duties & GST as applicable as on date of tender submission.** However, GST as applicable shall be paid by contractor and same shall be reimbursed on submission of proof of payment along with the bill as per Annexure - GST.
- 5) The Lump sum price quoted, shall be inclusive of all costs that are envisaged to be incurred by the bidder/ EC in connection with the activities that are to be carried out to deliver the Residual Process Engineering and Detailed Engineering as per NIT including necessary travel charges (meeting like KOM, across table drawing approvals if required)
- 6) EC to submit Unpriced **Price Bid with “Quoted”** above along with the techno-commercial bid.

SIGNATURE OF TENDERER WITH SEAL

**BHARAT HEAVY ELECTRICALS LIMITED
HEAVY PLATES & VESSELS PLANT
VISAKHAPATNAM – 530 012**

Name of Work: Service Contract for carrying out 3D modelling in E3D (AVEVA version 2.1) software for Fresh Feed Furnace of M/s IOCL-Panipat (SO-7935) – Reg

Tender Enquiry No.: OS/SC/2022-23/62/37, **Date:** 23.09.2022

SCHEDULE OF QUANTITIES & RATES (SOQR)

Table-A

Line item No:	Item description	Qty	Amount (INR)
1.	Rendering Engineering services as per the scope of work.	Lump sum	
2.	GST @ _____%		
3	Total Amount Including GST		

Table-B

Line item No:	Item description	
1	No of Man-hours required for completion of above service	
2	Man-hour rate (for addition / deletion of scope.) in ₹	

Total Amount in Words at Sl. No.3 of Table- A:

Important Note:

1. Bidder to submit Unpriced Price Bid with “Quoted” above along with the techno-commercial bid.

SIGNATURE OF TENDERER WITH SEAL

General terms and conditions on GeM 3.0 (Version 1.18)

1. Introduction

This document is an electronic record published by GeM under the provisions of the Information Technology Act, 2000 and the rules made there under (as applicable) and shall act as valid agreement between Seller / Service Provider and Buyer. Further the use of GeM Portal for Sale / Purchase of Goods / Services and the **resulting Contracts shall be governed by the following General Terms and Conditions (GTC) (unless otherwise superseded by Product / Service specific Special Terms and Conditions (STC), Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement) and BID/Reverse Auction Specific Additional Terms and Conditions (ATC) as applicable).**

Government e-Marketplace (GeM) is the National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. The portal is owned and managed by GeM SPV which is a Section 8 (Non-Profit) Company registered under the Companies Act, 2013. GeM SPV operates, monitors and supervises all the business transactions on the portal through the Managed Service Provider as per defined roles and responsibilities.

2. General Terms and Definitions:

- a. **“APPLICABLE LAWS”** shall mean any statute, law, ordinance, notification, rule, regulation, judgment, order, decree, bye-law, approval, directive, guideline, policy or other governmental restriction as may be in effect.
- b. **“GOODS”** shall mean an Article / product or an intangible product like software, technology transfer, licenses, patents or other intellectual properties being offered for sale on the GeM portal by Seller(s) on GeM. The term ‘Goods’ shall also include works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and guarantee / warrantee obligations as defined in the scope of supply given in the contract.
- c. **“SERVICES”** shall mean the services offered or provided by the Seller such as IT Professional Services, Manpower Services, Security Services, Transport Services, etc. listed as Services on GeM. The term ‘Service’ shall also include supply of goods / articles which are incidental or consequential to the provisioning of such Services as defined in the scope of supply given in the contract.

- d. **“SERVICE LEVEL AGREEMENT (SLA)”** shall mean the Contractual Commitment that prevails between the Buyer and the Service Provider with regard to type of service to be provided, deliverables, desired performance level, reliability and responsiveness, monitoring process and service level reporting, response and issue resolution time-frame, repercussions / penalties / remedies for service provider not meeting its commitment. The SLA of a particular contract may carry the matrix regarding the delivery of the goods and/or services and the corresponding penalties or remedies and liquidated damages as applicable.
- e. **“CATEGORY SPECIFICATION”** shall mean the framework of technical features, functional capabilities, technical properties, certifications of the items etc. in a particular category. The Specifications shall identify the key parameters defining the products with all necessary validations related to configuration, type of data, restrictions, range / allowed values, allowed units etc. Sellers as well as Buyers while offering / buying the Goods / services shall have to comply with the validation rules / restrictions provided for in the Category Specification. Buyers / Sellers can not add parameters and / or drop down values not provided for in category Specification. If any Buyer / Seller desire to add new parameter, value, validation etc. against any category specification, they have to raise request for the same to GeM for incorporation in Category Specification.
- f. **“BUYER”** is the Contract placing authority, which includes Central/State Government Ministries/Departments including its attached/subordinate offices, Central/State Public Sector Units (PSUs) and Autonomous Bodies acting through its authorized officer(s) for and on behalf of President of India/Governor of the State /PSU/Autonomous Bodies, as the case may be, for purchase of Goods/Services offered by Sellers on GeM.
- g. **“SELLER / SERVICE PROVIDER”** on GeM shall mean any legal entity such as firm(s) of Proprietorship / Partnership Firm / Limited Liability Partnership / Private Limited / Limited company / Society registered under Society’s Act / Statutory Bodies etc., registered on GeM to sell its Good(s) / Service(s) to the Buyers registered on GeM.

The “Seller on GeM” will be either OEM (Original Equipment Manufacturer*) or Seller having authorization to sell products manufactured by the OEM in open market.

* OEM is the owner of the Brand / Trademark of the product being offered or in case of un-registered brand’s products / products with own brand, the actual manufacturer of the final product. To be recognized as an OEM on GeM, seller has to get Vendor Assessment Report from designated agency (unless exempted as per GeM VA policy) as per due process of vendor assessment notified on GeM portal

(which would include production of documentary evidences and demonstration of manufacturing facilities and / or capabilities as required).

In case of Services related to Goods, Service Provider on GeM will be either OEM or Service Provider having authorization to Service products manufactured by that OEM in open market. In respect of other Services, Service Provider on GeM will be any legal entity offering its services.

By registering on GeM portal , Seller / Service Provider hereby agrees to be bound by these General Terms and Conditions for Sale / Purchase of Goods and / or Services (GTC); Product / Service Specific Special Terms and Conditions (STC) and Service Level Agreements (SLAs) for various Services; and Additional (Bid Specific) Terms and Conditions (ATC) as applicable.

For the purpose of this document and transactions on GeM, Seller as well as Service Provider will be referred to as “Seller”

- h. **“USER ID and PASSWORD”** All users including Buyers and Sellers (primary as well as secondary) will get User ID and Password created on GeM following due registration process defined on GeM. It is the responsibility of the user to keep their User ID and Password secure and confidential. Individual user shall be solely and completely responsible for all transactions taking place on GeM portal using his / her User Id and Password and GeM shall not be responsible in any manner.
- i. **“LICENSE”** shall mean by registering the Seller and by offering Product / Service details on GeM, the Seller grants GeM a non-exclusive, royalty-free, irrevocable, perpetual and fully sub-licensable right to use, reproduce, modify, adapt, publish, translate, distribute, and/or display the content/materials which has been submitted to GeM excluding Aadhaar No. In case of registration of Primary user and creation of secondary user(s) by the Buyer/Seller, their Aadhaar (UID) details collected by GeM are solely for user verification and to apply e-signing on the documents. The e-sign is at par with digital signatures as per Information Technology Act Amendment 2008 and it works based on details available in Aadhaar database of UIDAI and there is no interference / intrusion in their personal details.
- j. **“CONTRACT”** shall mean the purchase order created / issued by the Buyer on GeM for supply of Goods / Services in electronic form which includes scope of supply, delivery instructions and specifications etc. as ordered by Buyer against such Contract besides the subject GTC, STC/ATC as the case may be.

3. Role, Responsibilities and Obligations of Seller/ Buyer:

A. Role and Responsibilities of Sellers on GeM are as under:

- i. Only Director (s) / Partner (s) / Proprietor (as applicable) are authorized to become Primary User and register any legal entity on GeM as Seller.
- ii. Once Seller/Service Provider is registered and account is created on GeM, the Primary user of the Seller/Service Provider can create Secondary User Accounts within Seller/Service Provider Organization with different Roles and Responsibilities. However, the Primary User creating Secondary User accounts shall continue to be fully responsible and accountable for all actions / transactions done by Secondary Users on GeM Portal.
- iii. Since GeM is a trust based Portal, the complete accuracy and integrity of data submitted in respect of the Seller and also in respect of the Goods / Services offered on GeM will be the sole responsibility of the Seller/Service Provider. Seller will be liable for administrative action as per GeM terms and conditions in case of any discrepancy / infirmity in any data / information submitted on GeM.
- iv. The Primary / Secondary Users of Sellers, offering Goods/Services and/or participating in e-Bidding / Reverse Auction on GeM, must ensure that they have the requisite authorization to enter into contract with Buyer(s) in GeM for and on behalf of the Seller, failing which such Seller as well as the individual(s) shall be vicariously liable for its actions and also for any liability arising out of such actions.
- v. Seller can offer any number of products. However, it will be the sole responsibility of the seller to satisfy themselves regarding possessing the requisites for doing business for the offered product(s). The Sellers are solely responsible for ensuring that there is no violation of any Intellectual Property Rights in their offer for sell / providing service on GeM.
- vi. The Seller should not exercise any corrupt influence on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency, integrity and fairness in all activities related to GeM.
- vii. The seller would represent its business on the GeM portal and is mandated to comply with all the terms and conditions of the platform. Sellers would be solely and absolutely responsible for the information provided about their organization, business, products and services on the portal and would be required to produce proof of such information, if requested at any point in time by the Buyer and / or GeM.

- viii. GeM would not allow creation of any fresh data related to Seller identity on GeM portal. All details provided by the Seller at the time of registration would be counter checked / verified through other data bases of Government such as PAN, MCA 21, Udyog Aadhaar etc. For Financial details, PAN / Income tax Database shall be primary validating database and will override any conflicting data in any other database. If the data / details entered by the seller while registering on GeM is not verified with validating databases, registration will not be allowed. Further, in case of any conflict in details after registration, Seller's registration would be automatically suspended. It is the Seller's responsibility to keep all their information on GeM updated with the latest change(s). Non-updating of details on GeM within 7 days of such occurrence would make Seller liable for administrative actions.
- ix. Eligibility of Sellers in terms of Turn Over / Past Performance / Profitability etc. and also their eligibility for availing various benefits / advantages in terms of various Govt. Policies / Guidelines / Acts / Laws etc. shall be determined solely on the basis of data fetched / validated or verified through external agency / owner of that set of database such as IncomeTax / PAN Data Base, MCA 21, Udyog Aadhaar, GSTN, Certifying Agencies such as BIS, BEE etc. In case of any discrepancy in data available in these databases, Seller has to get the same updated in the corresponding validating database before updating the same on GeM. Till such time only the existing validated information shall be used to decide seller's eligibility on GeM. Any default in sellers updating their data on partner sites / validating databases and any fall out of the same impacting adversely any transaction on GeM, shall entirely and exclusively be Seller's responsibility. GeM shall not be responsible for any consequential impact on any GeM transaction due to data discrepancy and / or suspension of seller account due to data discrepancy. Seller will be solely responsible for the same.
- x. The Seller shall be solely responsible for the Goods / Services including, without limitation, the applicable guarantee / warranty, shelf-life, quantity, quality and the title and for giving the correct and accurate details of the offer their Goods and / or /Services indicating product specifications, quantity which can be supplied over the specified time period, etc. as per catalogue or catalogue based template prescribed in GeM. Seller would ensure that the Goods or /Services offered are latest, new and complete in all respects. Where Seller is selling any Goods which needs spare parts, Seller should ensure and make available such spare parts for a minimum

period of three years from the date of expiry of warranty period (unless otherwise specified). The individual Sellers shall ensure that the products offered in e-Bidding and/or ordered shall remain available on GeM during the bid / contract validity period.

- xi. Sellers shall offer minimum discount of 10% on the Maximum Retail Price (MRP) mandatorily (unless otherwise specified for offering their products on GeM). Sellers are free to offer higher discounts. The Seller must offer its best possible lowest price on GeM and undertake that it would not sell or offer to sell the same product outside GeM in comparable quantity on similar terms and conditions at a price equal to or lower than Offer Price on GeM. In case any such infringement by Seller is noticed, the Seller shall be liable to be removed / debarred from the GeM.
- xii. By offering their product on GeM, the Seller agrees for sharing price details of the offered Goods / Service by GeM authorities with other Government agencies including Department of Excise & Customs, Income tax, GST etc.
- xiii. Listing of Goods / Services in irrelevant / inappropriate categories is strictly prohibited. If any such infringement made by Seller leads to placement of a contract by any Buyer for such inappropriately offered product(s)/service(s) by the Seller, such contract shall be treated as null and void. No claim whatsoever against such contract shall be admissible and entertained.
- xiv. The Seller(s) shall pass on all the benefits associated with any scheme / offer / freebies provided by the OEM on any product from time to time on an "as-is basis" to the Buyer. This obligation will also apply to OEM's directly supplying the goods. Holding back any such offer or accounting such freebies in quantity supplied shall make such consignments liable to be rejected by the consignee and shall also be considered as inappropriate and against the GeM policies for which GeM reserves all rights to take necessary action against such Seller/OEM as deemed fit.
- xv. By registering on GeM and by participating in any bid on GeM, Seller undertakes that presently it is not "Debarred from Bidding" on the grounds mentioned in Rule 151 of GFR 2017.

B. Role and Responsibilities of Buyer on GeM:

Buyer Registration on GeM is divided in two categories:

- a. **Primary User:** In GeM , the Primary User is as under:

- i. Any officer of Central / State Government / PSU / Autonomous Bodies / Local Bodies / Constitutional Bodies / Statuary Bodies at the level of Deputy Secretary of the Government of India or equivalent
- ii. Head of the Office at Sub Centre / Unit / Branch, can Register his / her organization / unit on GeM portal as Primary User.

Primary User shall be responsible for registering the organization on GeM, for creating User accounts for Secondary Users, assigning them roles and responsibilities on GeM and for supervision of all transactions performed by Secondary Users under him / her.

Primary User shall also be vicariously responsible for ensuring compliance of General Financial Rules and / or Rules Governing Public Procurement in respect of their organization, all GeM terms and conditions and other Procurement Policies / Guidelines notified by the government from time to time, by all the secondary users including timely payments and for dispute resolutions as per GeM terms and conditions.

Primary user cannot perform any Procurement related transactions on GeM portal.

- b. **Secondary Users:** Secondary Users are officials responsible for procurement transactions on GeM including Placement of Contracts, Receipt of Stores, and Payments to the Sellers etc. The access rights permissible to registered Secondary users would be decided by the Primary User of the Department. Secondary Users may be given the roles of Buyer / Consignee / Drawing and Disbursement Office (DDO) / Paying Authority etc. For transaction on GeM portal, Buyer is the official who is responsible for processing procurement transaction up to Order Placement stage. Consignee is the Secondary User in Buyer Organization responsible for certifying receipt and acceptance of the goods procured.

Buyer's responsibilities on GeM portal are as under:

- i. The Buyers are responsible to ensure that the procurement done by them are in compliance of General Financial Rules and / or Rules Governing Public Procurement in respect of their organization, all GeM terms and conditions and other procurement Policies / Guidelines notified by the government from time to time, including timely payments as per GeM terms and conditions.
- ii. The Buyers (in all capacities i.e. as Buyer, Consignee, DDO, Paying Authority etc) are responsible to ensure that the procurement done by them are in compliance with GeM Terms and Conditions / Guidelines

and all contract related transactions are completed within time lines prescribed in GeM Contract.

- iii. The Buyers must ensure that they have the requisite authorization to enter into contract with Seller(s) on GeM for and on behalf of the organization, failing which such individual(s) shall be individually liable for its actions and also for any liability arising out of such actions.
- iv. While making procurement on GeM, the Buyers shall judiciously search and shortlist items using filters such as quantity, technical parameters, delivery period, warranty period, consignee location(s), Seller's eligibility etc. as per their approved requirements. Placement of contract for a product / service uploaded by the Seller in any wrong/inappropriate product category is strictly prohibited and such contracts shall be treated as null and void and such Buying shall adversely affect Buyer Rating on GeM.
- v. The Buyers shall satisfy themselves that the price of the selected offer is reasonable. Buyer is at liberty to utilize all the data / information and Business Analytics made available in GeM including e-bidding and reverse auction.
- vi. The Buyers, before placing the order on GeM, should have the required mandatory approval with prior sanction and approval of the competent authorities and shall be in compliance with and as per procedures outlined in GFR and other procurement guidelines issued by the Government from time to time.
- vii. On award of the Contract(s), it would be construed that the Buyer has obtained all necessary Administrative & Financial sanctions of the competent authority and adequate funds are available indicating the relevant Head of accounts in the awarded Contract(s).
- viii. The Buyers should not exercise any corrupt influence on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency and fairness in all activities related to GeM.
- ix. Buyers are not allowed to place any order at GeM prices outside GeM. The prices on GeM are only applicable if the procurement is made through GeM portal. Using GeM prices for procurement outside GeM portal is strictly prohibited. Further, Buyers are not allowed to place any off-line contract to the Seller directly based on the outcome of e-Bidding

/ RA conducted on GeM. All such contracts shall be treated as null and void and GeM reserves the right to delete all data related to such transactions from GeM database besides taking suitable actions against such Buyers including suspension from GeM and / or reduction of Buyer rating etc.

4. Enabling provisions of Rule 149 of General Financial Rules- 2017

Enabling provisions of Rule 149 of General Financial Rules- 2017 as amended vide Ministry of Finance OM dated 02.04.2019 regarding procurement through GeM and necessary guidelines and terms and conditions thereon:

GeM portal may be utilized by the Government buyers for on-line purchases as under:-

- i. Up to Rs.25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.
- ii. Above Rs.25,000/- and up to Rs.5,00,000/- through the GeM Seller having lowest price amongst the available sellers (excluding Automobiles where limit of Rs.30,00,000/- will be applicable), of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by the Buyer if decided by the competent authority.
- iii. Above Rs.5,00,000/- through the supplier having lowest price meeting the requisite quality, specification and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM (excluding Automobiles where limit of Rs.30,00,000/- will be applicable).
- iv. The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.
- v. GFR rule 149 allows direct on-line purchases on GeM up to Rs. 25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period. However this is subject to procuring authorities certifying the reasonability of rates. While making such direct on-line purchase below Rs. 25,000/-, the buyer should have

approval of competent authority and should also record reasons for selecting the specific product in case lowest priced products are not being accepted / ordered.

- vi. Tools have been deployed on GeM portal to show the price of compared products on other e-commerce sites (wherever available) and also the rates at which orders have been placed on GeM for such items in recent past. While taking decision on reasonableness of price, the buyers may also take into account the discount over MRP; Last Purchase Price on GeM, Department's own Last Purchase Price; rates on other e-commerce websites etc. The prices on e-commerce site give a broad idea and its terms and conditions may be different. If it is found that the price available on GeM marketplace is not reasonable or is substantially higher than e-commerce sites or LPP, the GeM Portal provides tools for online bidding or reverse auction which can be used by the Buyers to get better competitive rates and then satisfy themselves about reasonableness of the price as per GFR -2017 before placement of contract. Bidding should be considered as the preferred mode of procurement above Rs. 25,000/-.
- vii. In case of Direct Purchase, during carting period, rates for carted quantity, for that buyer, are frozen for carting period as notified from time to time on GeM against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.
- viii. According to the provisions of Rule 149 (ii) of GFR, 2017, GeM shall be utilized by Government buyers for direct on-line purchases above Rs. 25,000/- and up to Rs. 5,00,000/- however such purchase has to be through the Seller having the lowest price (L-1) amongst the available Sellers on the GeM. In order to ensure that buyers select only L-1 available offer, the GeM portal requires that buyer first compares all the product options available on GeM to ensure that it meets its requirements/ specifications. While comparing, care should be taken that comparison has to be done between products of at least three different Manufacturers / OEMs. For L-1 buying, comparison has to be made between products of at least three different OEMs. If Buyer wants to buy any specific OEM's product then he has to go for Proprietary Article Certificate (PAC) buying after obtaining necessary approvals of competent authorities for PAC buying as per GFR-2017.
- ix. **Proprietary Article Certificate (PAC) Buying:** While making procurement under PAC Buying on GeM, Buyer has to comply with following conditions:

(a) In case a Govt. Buyer on GeM wants to make procurement on proprietary basis on the GeM Portal after obtaining the requisite approvals / PAC certificate from their competent authority as per Rule 166 of GFR-2017, the Buyer can use PAC filter provided on GeM for selecting a specific model/ make available from a particular GeM Seller. As per GFR, Proprietary Article Certificate in the following form should be available with Buyer before procuring the goods under PAC Buying:

(i) The indented goods are manufactured by M/s.

(ii) No other make or model is acceptable for the following reasons:

(iii) Concurrence of Finance wing to the proposal vide:

(iv) Approval of the competent authority vide:

(b) The Seller's price on the Portal is just their offer prices and the proper discovery of price generally happens through bidding/RA. Moreover, in PAC procurement irrespective of multiple listing by authorised sellers, the important issue of price control remaining with the OEM cannot be overlooked. Therefore, in case of all the PAC procurements, the Buyers will have to carry out extra due diligence in establishing the reasonableness of prices before placement of contract as per Para (vii) of Rule -149 of GFR-2017.

(c) Except for direct buying up to Rs. 25,000/- subject to establishing the reasonableness of price, the bidding will be mandatory for procurements above Rs. 25,000/-. As result of bidding, the response could be as under:

i. Only OEM is available or only single authorised seller is available.

ii. OEM as well as multiple authorised Sellers are available.

iii. Multiple authorised Sellers of the OEM are available.

(d) After bidding, under PAC buying, the Buyer may take decision with the approval of the competent authority to process the

procurement subject to establishing the reasonableness of prices before placement of contract as per Para (vii) of Rule - 149 of GFR-2017.

- x. In order to give flexibility to the buyers in sourcing their requirements through GeM, provision has been made in e-bid and RA modules for indicating delivery period in terms of “number of days from date of placement of contract”. While stipulating delivery period in their bid documents, Buyers are advised to be careful since un-realistic delivery period stipulations may result in elimination of some genuine sellers, lack of competition and may ultimately have impact on cost of procurement. While fixing delivery period in e-bid/ RA bid, buyers should not only take into consideration the quantity required and the essentiality of requirement of that quantity within stipulated time period but also the possible impact of shorter delivery period on competition in e-bidding / RA.
- xi. Splitting of demands by creating multiple Bids / RAs of same goods / services or making repeated procurements of same Goods / Services through L-1 buying as per rule 149(i) and 149(ii) of GFR-2017 are strictly prohibited on GeM. Splitting of demand deprives the organizations from achieving the best competitive prices leveraging economies of scale. It also implies avoiding the necessity of obtaining the sanction of higher authority required with reference to the estimated value of the total demand. It is a violation of Para Rule 149 (viii) of GFR -2017 and terms and conditions of GeM Portal and Buyer including the Primary Buyer shall be entirely responsible for the same. If any such splitting of demand is noticed, GeM shall have the right to take necessary action such as blocking of such Bids/RAs and / or cancelling such contracts.
- xii. GeM is a dynamic online marketplace. The product/service listings across the existing categories are dynamic. Moreover, new categories of products/services are continuously being added on GeM. In situations where there is only one offer available in a product/ service category and/or there is offer from only one Seller after filter based search, the buyer should not select such offer for buying. Efforts should be made by Buyer to get their past suppliers and prospective Sellers on-boarded on GeM so as to ensure availability of sufficient Sellers on GeM. This however will not apply for PAC procurement.
- xiii. e-Bidding and Reverse Auction (RA) on GeM**

- (a) The e-Bidding / RA module of GeM is a tool provided to the Buyer(s) for organizing bidding / RA from GeM Sellers of the particular product category for a pre-defined requirement i.e. quantity, technical parameters for Goods/ Services of the particular product category required for one or more Buyers / Consignees.
- (b) Prior to initiating e-Bidding / RA, the Buyer shall judiciously search and shortlist item among the items offered on GeM using filters such as quantity, technical parameters, warranty period, consignee location(s) etc. as per the requirement. In case the search made using actual quantity required, fails to identify sufficient offers, the Buyer may use an indicative quantity for initial search and selection of product and quantity may be amended to match the actual requirement at the time of finalizing e-Bidding / RA.
- (c) The technical parameters and warranty of the item identified by the Buyer shall be base parameters of the item for conducting e-Bidding / RA for the required Goods/Services.
- (d) The e-Bidding / RA document will be finalized by the Buyer(s) by stipulating requirements such as Quantity, Consignee Details, Terms of Delivery, Delivery Period, EMD, Performance Bank Guarantee, Time & Date for Start and End of Bid Submission and for Opening of Bids and required Bid Validity period etc. GeM system shall decide Start / Reference Price and Step Value of Decrement in case of RA based on product selection and / or outcome of bidding process.
- (e) Bid Life Cycle: Bid Life Cycle is the period within which a buyer has to complete the entire life cycle i.e. technical evaluation, financial evaluation and order creation of Bid process. By default, it is 90 days from the date of Bid publication. This can be configured to 120 / 150 or 180 days in exceptional cases through catalogue Management System (CMS) for a particular product category (not for a particular Buyer or Bid).
- (f) The e-Bidding / RA invitation / Notice shall be published on GEM, stipulating the last date for bid submission / opening of bids giving at least clear 10 days time after the publication. Any change in last date for bid submission will be intimated to

eligible bidders through e-mail / GeM. The e-Bidding invitation shall be extended to all the registered Sellers on GeM who have Goods / Services for that particular category listed on GeM, at least 2 hours prior to closing time of e-Bidding / RA. The GeM normally requires 48 hrs for approval / rejection of the product / service offered by Sellers before it is listed on the portal. Considering these time lines, the Sellers are required to offer their Goods / Services on GeM well in advance before bid closure. The decision of the Buyer/GeM regarding technical/commercial eligibility of the individual Seller to be invited for e-Bidding / RA shall be final.

- (g) The Seller participating in the e-bidding / RA may offer any one of their product(s) already listed on GeM. The bid submitted under e-Bidding / RA shall remain valid for 15 days (or as stipulated by the Buyer in the bid document) from the Bid Opening Date (till 24.00 Hrs IST). Bid Validity can be further extended with mutual consent between Buyer and Seller subject to the condition that total Bid Life Cycle cannot go beyond the stipulated time limit as per GeM CMS. The products offered in e-Bidding / RA can not be withdrawn by the Sellers from GeM during the bid validity period. The Buyer reserves the right to postpone/cancel the e-bidding and intimation thereof will be sent by e-mail / GeM to the Bidders. Any amendment / corrigendum to the e-bid invitation issued by the Buyer will be made online and shall be uploaded on the GeM. The participation by the Seller in e-bidding shall be construed as his / her acceptance for all the Terms and Conditions as outlined in the e-bidding including GTC, STC and ATC. However, the Buyer shall have right to decide the technical and commercial acceptability of the individual bids based on eligibility criteria and compliances as stipulated in the bid document. The technical parameters shown in the bid are from a particular catalogue as selected by the buyer while applying initial filters in selection of the product. The sellers are free to bid for same, equivalent or superior specifications catalogue / products. In the public interest, buyers will evaluate such bids based on their requirements / end use and

bid parameters and will accordingly technically accept or reject the bids on merits.

- (h) In bid documents, Buyers can incorporate suitable eligibility criteria and additional terms and conditions only using various filters and ATC module available in e-bidding / RA modules of GeM. Buyers are not allowed to incorporate eligibility criteria and / or additional / special terms and conditions exterior to the GeM portal by making reference to any other website / documents etc.
- (i) In case, two or more acceptable bidders are found to have quoted identical lowest bid price, Buyer has to conduct Reverse Auction for the required Goods among all technically qualified bidders in case of bids for Goods. In case of Services bids, if the multiple L-1 bidders have quoted the lowest allowed price for that service, Buyer shall have two options for placement of Contract:
 - a) Placement of contract by selection of an agency from amongst the L-1 bidders through a Random Algorithm run by GeM system.
 - b) Placement of contract on any one of the L-1 bidders based on any criteria as deemed fit by the Buyer with appropriate internal approvals
- (j) The Buyer reserves the right to accept/reject any bid including the lowest bid received through e-bid and/or annul the e-bidding process.
- (k) The participating bidders shall not disclose details of their bids or other details of their e-bids to other bidders or indulge in any anti-competitive behaviour including price manipulation in violation of Competition Act, 2002.
- (l) The Buyer/GeM will not be held responsible for consequential damages such as no internet connection, no power supply, system problems, loss of electronic information, power interruption etc.
- (m) Against any bidding or RA conducted on GeM, if a bidder quotes Nil Charges/consideration, the bid shall be treated as non-responsive and will not be considered.

(n) There shall be no EMD for Bids / RA having estimated value less than Rs. 5 lakh. For bids / RA having estimated value more than Rs 5 Lakh, while finalizing e-Bid / RA, Buyer shall indicate the exact amount of EMD required to be submitted by bidders in the form of Bank Guarantee on GeM portal in the prescribed format. Scanned copy of the same shall be uploaded by Seller in the online bid and hard copy of the same will have to be submitted directly to the Buyer within 5 days of bid opening. GeM recommends quantum of EMD @ 1% of estimated value of procurement. The Buyer also has the option to select EMD between 0.5% to 5%. The same should be valid for 45 days beyond the bid validity. Following categories of Sellers shall however, be exempted from furnishing EMD:

- i. Micro and Small Enterprises who are manufacturer of the Primary Product Category or Service Provider of the Primary Service Category and give specific confirmation to this effect at the time of bid submission and whose credentials are validated online through Udyog Aadhaar and through uploaded supporting documents.
- ii. Start-ups as recognized by Department of Industrial Policy and Promotion (DIPP).
- iii. KVIC, ACASH , WDO, Coir Board, TRIFED and Kendriya Bhandar.
- iv. Sellers who have got their credentials verified through the process of Vendor Assessment by Vendor Assessment Agencies for the Primary Product / Primary Service for which Bid / RA has been invited.
- v. Sellers/ Service Provider having annual turnover of Rs 500 Crore.
- vi. Micro and Small Enterprises registered with NSIC for the Primary Product Category whose credentials are validated through NSIC database and through uploaded supporting documents.
- vii. Micro and Small Enterprises registered with DIC for the Primary Product Category whose credentials are validated through DIC database and through uploaded supporting documents.

- viii. Sellers / Service Providers holding BIS License for the Primary Product Category whose credentials are validated through BIS database and through uploaded supporting documents.
 - ix. Central / State PSUs.
 - x. Seller / Service Provider registered with designated Agency / Authority as specified in the bid document by the Buyer – such bidder shall have to upload scanned copy of relevant registration document in place of EMD document while bidding.
- (o) EMD submitted by the bidder shall be forfeited, if the bidder:
- i. Withdraws or modify or impairs or derogates from the bid in any respect within the period of validity of its bid; or
 - ii. If it comes to notice that the information / documents furnished in its bid is false, misleading or forged; or
 - iii. Fails to furnish requisite performance security / PBG within stipulated time required as per e-bid / RA conditions.
- (p) Notwithstanding above, GeM SPV / GeM Admin also reserve the right to debar such seller from GeM portal. Such debarment shall be for minimum 3 months initially on first such offence and on repeat offence, the debarment period can be increased suitably by GeM SPV / GeM Admin. By submitting a bid on GeM, the Bidder explicitly undertakes to abide by the above clause.
- (q) Earnest money of unsuccessful bidders shall be returned within 15 days after the award of contract or expiry of bid validity whichever is earlier. Earnest money of successful bidder shall be returned within 15 days after receipt of Performance Security / e-PBG.
- (r) In case of RA, Start / Reference Price and Step Value of Decrement shall be indicated to the Bidders at the start of the auction. Any participating bidder can bid one or multiple Step Decrement lower than the prevailing Lowest Bid at that time.
- (s) The Bidder shall be able to view Bid Start Price, Bid Decrement Value, Prevailing Lowest Bid value and last Bid Placed by him. Whenever a lower price bid is received in the closing moment

i.e. within 15 minutes of existing end time of Reverse Auction, the end time of reverse auction shall be extended automatically by another 15 minutes. All participant sellers of that RA shall be notified by the GeM system about extension of time through email and/or SMS and they shall be allowed to submit revised bid under the RA. The same process shall be repeated, if there is another lower bid received in the RA during last 15 minutes of RA.

(t) GeM / Buyer shall not have any liability to bidders for any interruption or delay in access to the GeM site / Reverse Auction link etc, irrespective of the cause.

(u) By creating a bid on GeM, the Buyer undertakes as under:

"I confirm that this tender document complies with the "Public Procurement (Preference to Make in India) Order, 2017" issued by DIPP and "Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012" issued by MoSME".

(v) **Bid to RA:** While creating bid on GeM, Buyer shall have the provision to select Bid to RA option. If this option is selected by the Buyer at the time of bid creation, Sellers would be required to submit their Technical and Commercial bids before bid closure. After completion of technical evaluation by the Buyer, Reverse Auction would be conducted amongst first 50% of the technically qualified bidders arranged in the order of prices from lowest to highest. Number of sellers eligible for participating in RA would be rounded off to next higher integer value if number of technically qualified bidders is odd (e.g. if 7 bids are technically qualified, then RA will be conducted amongst L-1 to L-4). In case number of technically qualified bidders are 2, RA will be between both without any elimination.

In case Primary products of only one OEM are left in contention for participation in RA based on lowest 50% bidders qualifying for RA, the number of sellers qualifying for RA would be increased to get at least products of one more OEM (directly participated or through its reseller) if available. Further, if bid(s) of any seller(s) eligible for SME preference is / are coming within price band of 15% of L-1 or if bid of any seller(s)

eligible for Make in India preference is / are coming within price band of 20% of L-1, then such SME / Make in India seller shall also be allowed to participate in the RA process. After the RA process, the award of contract(s) shall be made by the buyer keeping in view the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 and Public Procurement (Preference to Make-in-India) Order, 2017 last revised on 29.5.2019 as amended from time to time.

- (w) In case any Seller / Service provider has been debarred in any particular Department / Organization, Buyers of that particular Department / Organization only shall have the right to disqualify such Sellers / Service providers at the time of technical evaluation of Bids during the period of debarment, subject to the condition that orders of such debarment has been taken with approval of Competent Authority of that Department / Organization and has been communicated to the concerned Seller / Service Provider before bid opening date.
- (x) GeM is an end to end on-line procurement portal and not a tender publishing portal. GeM has detailed GTC, product / service specific STC and a rich ATC library in-built in the portal which can be used to create a comprehensive bid document. Based on the available terms and conditions, there is hardly any need to add any additional conditions to be attached with any GeM bid. However, for inclusion of some clause which is considered absolutely necessary for that particular bid for reasons to be explained in detail, a provision for inclusion of additional conditions in the bid through corrigendum is available in Request Management System. Only indispensable conditions that are not covered in and are not in conflict with GeM GTC, Product / Service STC and the standard ATC library, and which are in compliance with the Govt. orders on Public Procurement and are not restrictive and not against the core principals of transparency, fairness and efficiency enshrined in GeM, can be requested through RMS ATC request for making part of GeM bid through corrigendum. Each such request has to be made only after due approval of the Competent Authority in Buyer Organization confirming that the request has been made with the approval of the Competent

Authority. Buyer organization shall be solely responsible for the impact of the requested clauses on the bidding process and its outcome. The clauses which are already covered in standard ATC library available on GeM Portal, will not be allowed through RMS.

- (y) Determination of eligibility in case of products requiring BIS License: In case the bid requires availability of BIS License, bidder has to upload currently valid and operative BIS License copy (Valid on the date of bid opening) to be considered eligible. Submitted BIS License may be in the name of Bidder / OEM or in the name of the Manufacturer to whom the OEM has outsourced manufacturing of his brand of product. The name of the Brand of the offered product should be mentioned in the BIS License. BIS certificate issued under Compulsory registration Scheme for electronic products to OEM/Brand owners for the products marketed under their brand name wherein their products are manufactured at third-party manufacturing unit is valid and is allowed for participation in the bids floated on GeM. The Manufacturer's Authorization in all such cases wherein the manufacturing is done by a third party shall be issued by the Brand owner / OEM and not by the third-party manufacturing unit mentioned in the BIS certificate.
- (z) **Bid Splitting:** In case of critical / vital / safety / security nature of the item, and / or large quantity under procurement and / or urgent delivery requirements and / or inadequate vendor capacity, Buyer may decide to have more than one source of supply. In such cases Buyer may opt for Bid Splitting while creating the bid on GeM, clearly indicating the Bid Splitting ratio in which order will be split among L-1, L-2, L-3 etc as per ratio of splitting pre-disclosed in the bid . After technical and financial evaluation, before splitting the quantity, it should be ensured by the Buyer that the L1 price is reasonable. After deciding the acceptable reasonable price, L1 would be awarded contract for at least the first / highest percentage indicated in the bid splitting ratio. For the rest of the bid quantity, the L-1 rates / lowest accepted rate will be counter offered to the next higher quoting bidder(s) for price matching. On acceptance of the counter offer, the order will be placed on next higher

quoting bidder(s) for the respective percentage. In case of non-acceptance of the counter offer by the next higher quoting bidder(s), a similar offer shall be made to L3 and L4, and so on. In case counter offered rates are not accepted for ratio of splitting quantity as per bid document by any of the subsequent bidders, the left over quantity will be divided between bidders who have accepted the rates in the ratio of their originally allocated quantities subject to their confirmation and after getting consent on mutually agreed delivery schedule for the additional quantity.

5. Contract(s):

Following documents shall be construed to be part of the contract generated through GeM:

- i. Scope of supply including price as enumerated in the Contract Document.
- ii. General Terms and Conditions (GTC).
- iii. Product / Service specific Special Terms and Conditions (STC).
- iv. Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement)
- v. Bid / RA specific Additional Terms and Conditions (ATC).

The Terms and Conditions stipulated in STC & SLA will supersede those in GTC and Terms and Conditions stipulated in ATC will supersede those in GTC and STC in case of any conflicting provisions.

6. Prices:

- i. **Offer price on GeM portal:** The prices of the offered Goods or Services shall be firm and fixed at any point of time and shall be indicated in INR for each accounting unit. The Seller can choose to offer Goods or Services with uniform all inclusive unit price for deliveries at locations across India on All India basis or for specified locations selected at the time of product listing. As such, for supply of Goods contract, no additional charges such as local levies / transportation / loading unloading charges etc., shall be payable over and above the contract price. For selected freight intensive products, as notified on GeM, the Seller may quote unit price inclusive of GST with delivery charge(s) (including transportation, loading unloading and local levies) payable extra as defined in the relevant categories. In

respect of items requiring installation and / or commissioning and other services (as indicated in technical details of the item), the charges for the same shall also be included in the offered price on GeM.

Once a Buyer carts a particular quantity of offered Goods / Service, during carting period as notified from time to time on GeM, rates for carted quantity, for that buyer, are frozen for the period as specified on the portal against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.

- ii. **Offer price in e-bidding:** Bidder is required to indicate offer price in the price schedule as provided in the bidding document. Complete breakup of price as required must be indicated. However evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC).
- iii. **Offer price in RA:** Bidder is required to indicate total offer price. Evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC). Successful bidder shall have to provide complete breakup of the quoted price in the required price bid format before award of contract.

7. Performance Security and Performance:

- i. *There shall be no Performance security / PBG requirement for contracts:*
 - a) *Placed under Direct Purchase / L-1 Purchase Option under Para (i) and (ii) of GFR rule 149;*
 - b) *Placed through Bids / RA with estimated bid value up to Rs 5 Lakh (in case of Goods contracts); and*
 - c) *Placed through Bids / RA with estimated bid value up to Rs 5 Lakh (in case of Services contracts)*
- ii. In case of contracts placed following e-Bidding / RA, Performance Security / Performance Bank Guarantee (PBG) (in format provided on GeM) valid for 2 months beyond the date of completion of all contractual obligations including warrantee obligations, will be obtained from the successful Bidder, for ensuring due performance of the contract. GeM recommends quantum of Performance Security @ 2% of the value of contract. The Buyer also has the option to select Performance Security between 2% to 10%. While finalizing e-Bid / RA, Buyer shall indicate the % of Performance Security required to be submitted by successful bidders. In case of any extension of contract

obligation period, the seller shall be liable to suitably extend the validity of the Performance Security.

Such Performance Bank Guarantee, in prescribed format, from a scheduled commercial bank must be submitted by Seller to the Buyer within 15 days of award of contract on GeM. The payments to the seller shall become due only after receipt of Performance Bank Guarantee by the Buyer and verification of its genuineness.

If the Seller fails or neglects to observe or perform any of his obligations under the contract it shall be lawful for the Buyer to forfeit either in whole or in part, the Performance Security furnished by the Seller.

If the Seller duly performs and completes the contract in all respects the Buyer shall, refund the Performance Security to the Seller within 30 days of completion of all contractual obligations by the Seller.

8. Duties & Taxes:

- i. Offer Prices on GeM shall be on all inclusive basis i.e. including all taxes, duties, local levies / transportation / loading-unloading charges etc. In the case of Bid / RA, complete break-up of the quoted price in the required price bid format shall furnished by the Bidder, before award of contract.
- ii. Statutory variation in the rate of GST, taking place between the date of award of contract and the original / refixed delivery period, shall be to the Buyer's account. For claiming any change in price due to such Statutory variation, the seller shall have to lodge claim before the Buyer providing documentary evidence of change in rate of GST taking place after the date of award of contract and the date of supply within the original / refixed delivery period. Buyer shall issue necessary amendment in the contract to enable generation of supplementary invoice or revised invoice as the case may be.
- iii. No increase in price on account of statutory increase in the rate of GST taking place during the period of delivery period extension with liquidated Damages shall be admissible. Nevertheless the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.
- iv. The Bill Form / On-line invoice shall be generated by the Seller which may inter-alia include the following confirmations from the Seller:

- a. Certified that the Goods and Services Tax (GST) charged on this Bill is not more than what is payable under the provision of the relevant Act or the Rules made there under.
 - b. Certified that the goods on which GST has been charged have not been exempted under the GST Act or the rules made there under and the charges on account of GST on these goods are correct under the provisions of that Act or the Rules made there under.
 - c. Certified that the Seller is registered with above indicated GSTIN as dealer in the State where in their Billing address is located for the purpose of GST.
 - d. The on-line bill form / invoice generated on GeM is not a replacement for the GST invoice. The proper GST invoice as per requirements of GST rules shall be sent by the seller to the buyer / consignee directly along with the Goods / Services as and when deliveries are made to the consignee.
- v. Seller shall comply with all the necessary statutory compliances including but not limited to providing GST invoices or other documentation as per GST Law relating to the supply of Goods or Services, uploading the details of the invoices, payment of taxes, timely filing of valid statutory returns for the tax period in the GST portal. In case the Input Tax Credit of GST is denied or demand is recovered from Buyer on account of any act/ omission of the Seller in this regard, the Seller shall be liable in respect of all claims of tax, penalty and / or interest, loss, damages, costs, expenses and liability that may arise due to such non-compliance. Buyer shall have the right to recover such amount from any payments due to the Seller or from Performance Security, or any other legal recourse from the said Seller. If any tax is required to be paid by the Seller in pursuance of any demand from tax authorities, on account of Seller's suppression of facts, fraud or wilful misstatement of facts while offering the products or submitting the bids, then the same shall not be passed on to Buyer through debit notes or Invoices or Supplementary Invoices and the seller shall be solely liable for payment of the same.

9. Integrity Pact:

All the Users in GeM i.e. Seller as well as Buyer agree not to indulge in any corrupt practices including without limitation any activity or action to influence the transaction on any aspect of contract and commit to take all measures necessary to prevent corruption maintaining complete transparency and fairness in all

activities related to GeM. Users agree to follow and adhere with the Integrity Pact guidelines provided on GeM Portal.

10. Guarantee And Warrantee:

- i. The Goods/Services supplied under the Contract(s) shall be in accordance with the contract specifications & quality and the Goods shall be brand new and have standard Guarantee/Warrantee for one year period from the date of final acceptance by the consignee unless otherwise specified in category specifications, specific Bid/RA . Seller, at the time of listing their product on GeM portal or offering their products against any Bid / RA, may accordingly provide longer Guarantee/Warrantee period (i.e. more than 1 year) and in such case, Guarantee/Warrantee period stipulation made in category specifications / Bid / RA document, shall prevail over standard Guarantee / Warrantee period of 1 year stipulated in these General Terms and Conditions.
- ii. Notwithstanding the fact that the Buyer or its Quality Assurance Officer may have inspected and/or approved / accepted the said Goods, it is further guaranteed that if during the said guarantee / warrantee period, the Goods be discovered not to conform to the requisite description and quality and/or not giving satisfactory performance or have deteriorated, and the decision of the Buyer in that behalf shall be final and binding on the Seller and the Buyer shall be entitled to call upon the Seller to rectify and/or replace the Goods or such portion thereof as is found to be defective by the Buyer within 7 days. Otherwise, the Seller shall pay to the Buyer such compensations that may arise by reasons of the warranty therein contained. In cases requiring Spares, the Seller guarantees that they will supply Spare Parts, if and when required on agreed basis for an agreed price for a minimum period of three years from the date of expiry of warrantee period (unless otherwise specified in STC / ATC). The agreed basis could be, including but without any limitation, an agreed discount on the published catalogue or an agreed percentage of profit on the landed cost. The aforesaid provisions made specifically for Goods, shall also be applicable for Services to the extent the same are practically possible.

11. Buyer / Consignee's Right Of Rejection (Return Policy):

- i. The Goods delivered shall bear the self certified Manufacturer's/Seller's Warranty/Guaranty. Buyer / Consignee shall have the right to inspect the supplied Goods themselves and/or through their appointed agency at consignee's own cost, at Consignee's site(s) after receipt and accept or reject

on proper justification any consignment of the Goods received within a period of 10 days (unless otherwise specified in STC or ATC) of receipt of consignment of goods. The date of receipt shall be reckoned from the date of receipt of the Goods as notified in the Provisional Receipt Certificate (PRC) which will be issued online by consignee immediately after receipt of Goods.

- ii. In case of Service contract, the Buyer reserves right to reject the same in conformance with the terms and conditions of the agreed Service Level Agreement (SLA). However, such right to reject services offered by the Seller under the contract shall be exercised by the Buyer within 10 days (unless otherwise specified in STC or ATC) of the date of receipt of the Service. The date & time of start and completion of the Service, shall be indicated by the Seller while raising on-line invoice for a specified period of Service as per Service Level Agreement (SLA). The date of such invoice or the date of completion of the service, whichever is later shall be reckoned as date of receipt of the Service.
- iii. On Acceptance / Part Acceptance or Rejection of Goods / Services, Consignee will issue an on line 'Consignee's Receipt cum Acceptance Certificate' (CRAC), which will form the basis of Payments to the Seller.
- iv. No payment shall be made for rejected goods or services. After intimation of the rejection / part rejection by the Buyer/ Consignee, the Seller shall be liable to remove / lift back such rejected Goods within 10 days without any extra charge/cost to the Buyer / Consignee failing which suitable ground rent / warehousing charges would be payable by the Seller to the Buyer /Consignee. If the Seller fails to remove / lift back such rejected Goods within reasonable time period, the Buyer / Consignee shall have the right to dispose off such rejected goods at the risk and cost of the seller.

12. Payment Authority and Payment Terms:

Payments shall be made to the Seller in the manner below:

i. For Goods :

In case of goods, 100% payment will be released within ten (10) days of issue of consignee receipt-cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

ii. For Services:

In case of services, 100% payments on the basis of monthly (unless otherwise specified) bills will be paid within ten (10) days of issue of consignee receipt-cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

13. Terms of Delivery:

All the Goods or Services in the GeM shall be offered on Free Delivery at Site basis including loading/unloading. In respect of items requiring installation, commissioning and other services in the scope of supply (as indicated in respective product category specification / STC / ATC), the cost of the same shall also be included in the offer price.

14. Delivery Period

Seller shall indicate the quantity which can be supplied over the specified time period(s). The Seller would offer these details, which would constitute the part of the awarded Contract(s) in the GeM and would make a binding Contract between the Seller & the Buyer. Any modification thereto shall be mutually agreed and incorporated in the Contract. This Delivery Period/Time shall be deemed to be essence of the Contract and delivery must be completed not later than such date(s).

15. Extension of Delivery Period and Liquidated Damages:

Buyer may, on the request of the Seller or otherwise, extend the delivery date suitably subject to the following conditions:

- i. The original Delivery Period may be re-fixed by the Buyer without any Liquidated damages subject to Force Majeure conditions mentioned below and also on the ground/reasons of delay attributable to the Buyer / Consignee.
- ii. For other cases, provided the price trend is not lower, the Delivery Period may be suitably extended for which an amount equal to the Liquidated Damages for the extended period(s) for delay in the supply of the Goods/Services after the expiry of contract delivery period /re-fixed delivery period, shall be recovered from the Seller as mentioned hereinafter for the extended period. No increase in price on any ground after the original/re-fixed delivery date shall be admissible during such extended period(s). Nevertheless the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.

iii. **Liquidated Damages:** If the Seller/Service Provider fails to deliver any or all of the Goods/Services within the original/re-fixed delivery period(s) specified in the contract, the Buyer will be entitled to deduct/recover the Liquidated Damages for the delay, unless covered under Force Majeure conditions aforesaid, @ 0.5% of the contract value of delayed quantity per week or part of the week of delayed period as pre-estimated damages not exceeding 10% of the contract value of delayed quantity without any controversy/dispute of any sort whatsoever.

iv. **Force Majeure Conditions :**

If at any time during the continuance of the Contract, the performance in whole or in part by either party of any obligation under this Contract shall be prevented or delayed by the reasons of any war, hostility, acts of the public enemy, epidemics, civil commotion, sabotage, fires, floods, explosion, quarantine restrictions, strikes, lockouts or act of God provided notice of happening of such event duly evidenced with documents is given by one party to the other within 10 days from the date of occurrence thereof, neither party shall be by reasons of such event, be entitled to terminate the Contract nor shall either party have any claim for damages against the other in respect of such non-performance or the delay in performance, and deliveries under the contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist, and the decision of the Buyer as to whether the deliveries have been so resumed or not, shall be final and conclusive, Provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding **10 days**, either party may at its option terminate the contract provided also that the Buyer shall be at liberty to take over from the Seller at a price to be fixed by Buyer, which shall be final, all unused, undamaged and accepted material, bought out components and Goods in course of manufacture in the possession of the Seller at the time of such termination or such portion thereof as the Buyer may deem fit excepting such materials, bought out components and Goods as the Seller may with the concurrence of the Buyer elect to retain.

16. Dispute Resolution Between Buyer and Seller:

AMICABLE SETTLEMENT:

In the event of any question, dispute or difference arising connection with the Contract, the Parties shall use their respective reasonable endeavour to settle any dispute amicably. If a Dispute is not resolved within 30 days after written notice of

any dispute by one Party to the other, the same shall be resolved through the mechanism of a co-ordination committee to be formed by the Buyer and Seller/Service Provider and to be chaired by the Primary User of Buyer Organization/Department along with representatives from Buyer Department and Seller.

ARBITRATION:

In the event of any question, dispute or difference arising under the terms and conditions of the contract placed through GeM, the same shall be referred to the sole arbitration by an officer nominated as Arbitrator by the Primary Buyer of the concerned Buyer Organization. It will be no objection that the arbitrator is a Government Servant and that he had to deal with the matters to which the contract relates or that in the course of his duties as a Government servant he has expressed views on all or any of the matters in dispute or difference. The award of the arbitrator shall be final and binding on the parties to the contract. The arbitration shall be governed as per Indian Arbitration and Conciliation Act 1996 as amended up to date. The place for arbitration shall be at the place from where contract has been placed by the Buyer or at the place of Primary Buyer as decided by the Primary Buyer.

In the event of the Arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the Primary Buyer to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.

In respect of all contract placed through GeM, the dispute would not be referred or entertained by Micro and Small Enterprise Facilitation Council, Consumer Forum or any other adjudication forum.

All disputes in connection with the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction, the place from where Contract was issued is situated

GeM SPV would not be a party to any such dispute/matter.

In case any Seller / Service provider makes GeM a party / respondent in any case involving any dispute between Buyer and Seller arising out of a concluded contract or arising out of bidding process initiated / concluded by the Buyer on GeM, it would be obligatory on the part of the Buyer to represent GeM also through their Counsel / Lawyer in the proceedings before the legal authority and ensure timely filing of replies / affidavits etc provided by GeM also through their Counsel / Lawyer before the concerned legal authority during the course of

litigation. A standard reply on behalf of GeM, covering following aspects shall be incorporated in all replies / affidavits filed by the Buyer in such cases:

“Government e-Marketplace is a National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. Prima facie, the dispute in the present case appears to be between the Buyer and Seller arising out a contract placed / bid created by the Buyer on Government e-Marketplace. As per Clause 16, Clause 17 and Clause 22 of the General Terms and Conditions of Government e-Marketplace (duly accepted by the Buyer and Seller), GeM is not to be made a party to any dispute between the Buyer and the Seller. As such Government e-Marketplace is liable to be deleted from the array of parties.

In light of the above, we request your goodself to kindly delete Government e-Marketplace from the array of parties.”

17. Laws Governing the Contract:

- i. The contract shall be governed by the laws of India for the time being in force.
- ii. Irrespective of the place of delivery, the place of performance or the place of payment under the contract, the contract shall be deemed to have been made at the registered address of the Buyer and / or Primary Buyer.
- iii. Jurisdiction of Courts: The courts of the place from where the contract has been made shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.
- iv. GeM SPV would not be a party to any such litigation.
- v. In case any Seller / Service provider makes GeM a party / respondent in any case involving any dispute between Buyer and Seller arising out of a concluded contract or arising out of bidding process initiated / concluded by the Buyer on GeM, it would be obligatory on the part of the Buyer to represent GeM also through their Counsel / Lawyer in the proceedings before the legal authority and ensure timely filing of replies / affidavits etc provided by GeM also through their Counsel / Lawyer before the concerned legal authority during the course of litigation. A standard reply on behalf of GeM, covering following aspects shall be incorporated in all replies / affidavits filed by the Buyer in such cases:

“Government e-Marketplace is a National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. Prima facie, the dispute in the present case appears to be between the Buyer and Seller arising out a contract placed / bid created by the Buyer on Government e-Marketplace. As per Clause 16, Clause 17 and Clause 22 of the General Terms and Conditions of Government e-Marketplace (duly accepted by the Buyer and Seller), GeM is not to be made a party to any dispute between the Buyer and the Seller. As such Government e-Marketplace is liable to be deleted from the array of parties.

In light of the above, we request your goodself to kindly delete Government e-Marketplace from the array of parties.”

18. Limitation of Liability:

Notwithstanding anything contained in this agreement, no party will be liable for any special, incidental or consequential damages arising out of or in connection with this agreement or any breach hereof (including for loss of data or profits, or cost of cover), whether or not such party has been advised of the possibility of such damages, and whether under a theory of contract, tort (including negligence) or otherwise; except for liabilities arising out of any violation, misappropriation or infringement of a party's intellectual property rights, or from a breach by either party of its obligation. In no event will either party's aggregate liability arising out of or in connection with this agreement or any breach hereof (whether under a theory of contract, tort (including negligence), warranty or otherwise) exceed the Contract Price entered into the Contract between Buyer and Seller.

19. Termination for Default:

If the Seller does not perform its obligations within the Delivery Period/Date mentioned in the Contract, the same would constitute the breach of the Contract and the Buyer shall have the right to Cancel or withdraw the Contract for the unsupplied portion after the expiry of the original or re-fixed delivery date or period stipulated in the Contract. Such cancellation of contract on account of non-performance by the Seller would entitle the Buyer to forfeit the performance security besides other actions such as downgrading the Seller's rating or debarment from the GeM for specified period as decided by GeM on merits.

20. Closure of Transaction:

After satisfactory completion of all the obligations under the Contract and release of payments for the goods / services, the transaction shall be treated as closed.

21. Grounds for Administrative Action

(i) Administrative actions may be taken by GeM against the Buyer or the Seller either suo-moto on the basis of the platform mechanisms identified through analytics or on the basis of a complaint or report made to GeM by any stakeholders or any third party information or upon Court order, inter –alia, for non-adherence to the GeM Website Policies including Terms and Conditions and the Incident Management Policy published on the GeM Website.

(ii) The Seller would be liable for administrative actions such as suspension / debarment / removal from GeM, if they fail to abide by any of the Website Policies including the terms & conditions stipulated in this document and/or on anyone or more of the following grounds:

- (a) Listing the products/services not in the relevant categories and/or listing the same with vague/conflicting product specifications/details and irrelevant product photographs.
- (b) Offering Goods / Services without having proper authorization
- (c) Supplies goods of inferior/ substandard quality
- (d) Supplies or offers to supply refurbished or counterfeit or fake products
- (e) Withdraws or modify or impairs or derogates from the bid in any respect within the period of validity of its bid;
- (f) Seller furnishes inaccurate, false, misleading or forged or fails to furnish any information / documents, within the prescribed time limits, to GeM or to a Buyer, including during e-Bidding/ RA process;
- (g) Fails to furnish requisite performance security / PBG within stipulated time required as per e-bid / RA conditions;
- (h) Fails to update GeM about any change in information furnished within the prescribed time limits;
- (i) Executes services without conforming to requirement given in Service Level Agreement (SLA);
- (j) Fails to execute an order/ contract or fail to execute it satisfactorily
- (k) Is declared bankrupt or insolvent;
- (l) Fails to produce the requisite documents/ information during the course of inspection / assessment at any stage;

- (m) Performs any activity which is listed as prohibited activities on GeM.
- (n) On any other ground for which, in the opinion of GeM, the retention of the seller or any of its offered product in GeM is not in Public Interest.
- (o) The grounds mentioned above are illustrative only. Users are also advised to read the list of prohibited activities published on the website.
- (iii) Notwithstanding anything contained in the GTC, GeM reserves the right to cancel or annul the registration of any Seller or remove any of the Good/Services listed by a Seller on the GeM Website to comply with any provision of the Applicable Laws and / or Court Orders.
- (iv) GeM may take an administrative action in terms of the GeM Website Policies against a Buyer which may include reporting of any breach or misconduct to the Buyer Primary User and/or to the competent authority and GeM reserves the right to review the rating of such Buyer, and / or block Buyer's account for such time as considered appropriate by GeM.
- (v) The Seller and the Buyer understands that the grounds for administrative action as provided under the Contract are only indicative and additional grounds may be provided under the GeM Website Policies including the Incident Management policy. The Seller / Buyer warrants to abide by all additional grounds as may be specified by GeM in the GeM Website Policies from time to time.

22. Role of Government E- Marketplace - Gem SPV

Government e-Marketplace – GeM SPV is the owner of the GeM portal which monitors and supervises all the business transactions on the portal. The role and responsibilities of the company are as under:

- a. To develop, operate and maintain technology driven e-marketplace, through a Managed Service Provider (MSP), to be used by government agencies for procurement of various goods and services in a transparent and efficient manner.
- b. Overall supervision and monitoring of GeM portal operations, policy management, finalization and implementation of various business processes and work flows in adherence with the applicable law and executive orders

issued from time to time . To provide tools for on-line Bidding, on-line Reverse Auction and Business Analytics Tools on GeM.

- c. To work continuously for improvements in the Business Processes and Work Flows for various activities / functions on GeM based on feedback from various stakeholders to enhance transparency, efficiency, competitiveness, equality, economy in procurement of goods and services by government agencies.
- d. To finalize General Terms and Conditions for sale and purchase of Goods and Services on GeM, Product / Service Specific Special Terms and Conditions, Special Terms and Conditions for Bunching of Goods / Services, Bid Specific Special Conditions, Project Specific Special Conditions etc.
- e. To finalize, upload and approve Technical Specification Frameworks for various item / service categories on GeM and to monitor conformity of offered products to the larger framework so finalized and uploaded.
- f. To decide addition / deletion of any of the offered product(s)/Product category (ies) and their framework of technical parameters on GeM.
- g. To work and co-ordinate with different Organizations/Departments / Agencies for integration of their Databases with the GeM portal on real time basis for the purpose of verification/authentication of data entries made by stakeholders.
- h. To offer and manage Demand Aggregation services for identified categories across buyers with assured reasonability of price, recommending for placement of orders by individual buyers
- i. To co-ordinate with MSP for conducting workshops for the various Stakeholders in capacity building and in change management associated with the implementation of technology enabled procurement process.
- j. To monitor MSP that the Buyers, Sellers and Service Providers are being assisted properly by them to onboard their goods and services on the GeM platform.
- k. To identify and offer services of 3rd parties for Vendor Assessment relating to technical, financial capacity, past experience of sellers including manufacturing / testing facilities / quality control arrangement(s) of manufacturing premises and/or any of the premises related to manufacturing process of products / services offered by the seller / service provider on GeM.

- l. To identify and offer services of 3rd parties for testing and certifying the quality of the product offered/ supplied, through documents, test reports/ certificates, testing at any independent lab or through inspection/testing by its authorized representative/s at firm's premises or at user's premises, that buyer choose to use.
- m. Overall monitoring and management of Call Centre/Help desk operations being provided by the MSP.
- n. Removal / debarring the Sellers/Buyers and Goods / services in GeM.
- o. Management of complaints and their redressal mechanism in GeM (not disputes related to concluded contracts).
- p. To identify, integrate and manage MoUs with verifying, certifying and validating entities across government(s) and also professional agencies to reinforce the online paperless, contactless and cashless system on GeM.
- q. To issue Notices, Circulars, News, Flashes, Updates etc in GeM
- r. Reporting and MIS mechanism in GeM
- s. Any other related activities in the GeM
- t. In exceptional circumstances, for ensuring propriety of procurement processes or to obviate possible misuse of GeM functionalities, GeM SPV as GeM Admin may keep any Bidding / RA process on hold for some time as considered appropriate.
- u. To take approved User Charges from Buyers and Sellers for the various transactions on the GeM portal as decided and notified on the GeM portal.

23. Miscellaneous Provisions

- a. **Assignment:** Users understand and agree that the GTC, STC and ATC provisions, rights and obligations granted by GeM are non- transferrable or assignable by the User to any third party, without the prior written consent of GeM. If same is permitted by GeM, all the conditions, rights and obligations of the GTC or any on-going STC/ATC shall also be binding upon such third party assignee besides the User.
- b. **Indemnification:** The Seller shall at all time indemnify Buyer against all suits and claims which may be made in respect of the goods/services for infringement of any right protected by patent, registration of designs or trade mark. Provided always that in the event of any claim and suit in respect of alleged breach of patent, registered designs or trade-mark being

made against the Buyer, the Buyer shall notify the Seller/ Service Provider of the same who shall at its own expense either settle any such dispute or conduct and litigation that may arise there from.

Buyers and Sellers agree to indemnify, defend and hold harmless GeM, its officials, Managed Service Provider (herein after individually and collectively referred to as "indemnified parties") from and against any and all losses, liabilities, claims, suits, proceedings, penalties, interests, damages, demands, costs and expenses (including legal and other statutory fees and disbursements in connection therewith and interest chargeable thereon) asserted against or incurred by the indemnified parties that arise out of, result from, or in connection with

- i. Breach of the contract(s); or
- ii. Any claims made by any third party due to, or arising out of, or in connection with, use of the Website; or
- iii. Any claim made by any third party regarding content/ information or materials provided by Seller cause any damage to a third party; or arising out of, or in connection with, use of the Website.
- iv. Violation of any intellectual property rights or any other rights.

Once GeM notifies the Buyer/ Seller of such claims, they shall defend and indemnify GeM for the same. Further, in no case they shall compromise or settle any claim or admit any liability on the part of GeM without the express or prior written consent of GeM which can be withheld or denied or modified by GeM in its sole discretion or as per the Applicable Laws.

- c. **Severability:** If due to any change in Applicable laws, certain part of the GTC or any applicable STC or any provisions of the GeM policies or portions thereof, becomes unenforceable, the remaining provisions shall continue in full force and effect so as to give effect to the intent of the parties.
- d. **Website Terms and Policies Updation:** Buyers and Sellers are advised to check the website terms and conditions as well as policies such as Privacy Policy and the Website Disclaimer at all times, as GeM may update the Website and such terms from time to time.
- e. **List of Prohibitive Activities (Suggestive And Non-Exhaustive):**

LIST OF PROHIBITIVE ACTIVITIES: The following is an indicative list of prohibitive activities which the Buyers and the Sellers registered on GeM platform shall not perform on the GeM platform. A breach of any of the prohibited activities shall give the right to GeM under the Applicable Laws or in terms of these GTC or the GeM Website Policies to take administrative action which may include partial or permanent disabling of account on GeM Website, debarment etc. Additionally, GeM may remove any non-compliant information and reserves the right to preserve and share with the appropriate authority such information and associated records for investigation purposes. The Buyer and the Seller understand that this list is only indicative and additional activities may be prohibited under the GeM Website Policies. The Buyers and the Sellers shall undertake to provide their full support that may be required by GeM for removal and disabling of the non compliant information. The prohibited activities include:

- (i) Indulging in cyber crime or other criminal activities which can become a threat to GeM, GeM Website, to the Government of India or to any State Government or Government Agency.
- (ii) Advertising, exhibiting, representing, publishing, pronouncing, listing, delivering, offering to sell or selling any kind of Goods/Services which can cause any kind of infringement or disparagement of intellectual property rights.
- (iii) Selling refurbished, counterfeit and/or fake Goods / Services under a brand or misusing others brand name.
- (iv) Offering to sell or selling above the MRP any Goods or misrepresenting the MRP.
- (v) Delivering some other Goods or Services instead of the Goods or Services Contracted for or delivering empty parcels or used Goods in breach of the terms of the Contract.
- (vi) Offering to sell or selling freebies which are 'Not for sale' Goods.
- (vii) Listing of the Goods on GeM Website without authorization to sell Goods manufactured by the OEM in open market or without proper authorisation, if any required, for providing the Service.
- (viii) Listing of the Goods or Services is done on GeM Website without guarantee/warranty or without a genuine guarantee/warranty.

- (ix) Listing of the Goods or Services in irrelevant or inappropriate categories or with vague or conflicting specifications or description (including descriptive or pictorial description).
- (x) The Buyer /Seller registering on GeM and/or offering or buying the Goods and/or Services and/or participating in e-bidding/reverse auction on GeM, without the requisite authorization to enter into contract on behalf of the concerned legal entity. Failing which such individual(s) shall be individually liable for its actions and also for any liability arising out of such actions.
- (xi) If any Seller has been debarred from GeM then such Seller or their authorized sellers shall also not be permitted to register and offer/sell their products on GeM and / or participate in Bids / RA on GeM.
- (xii) Using GeM prices for making procurement outside GeM Portal.
- (xiii) Splitting of demands by creating multiple Bids/RAs of same goods / services or making repeated procurements of same goods/services through Direct Purchase / L-1 buying as per rule 149(i) and 9(ii) of GFR-2017.
- (xiv) Uploading goods / services containing information that —
 - (a) belongs to another person and to which the user does not have any right to;
 - (b) is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever;
 - (c) harm minors in any way;
 - (d) infringes any patent, trademark, copyright or other proprietary rights;
 - (e) violates any law for the time being in force;
 - (f) deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
 - (g) impersonate another person;

- (h) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource;
- (xv) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation.
- (xvi) Achieving or trying to achieve illegal access to features on GeM Website not specifically authorised or exceeding the scope of authorized access to or other features of the GeM Website;
- (xvii) Obstructing or causing GeM to lose (in whole or in part) the services provided by any internet service provider ("ISPs") or carrying out any cyber security incident;
- (xviii) Sending unsolicited emails, bulk messaging, auto messaging, junk email, spam and like.

24. Incident management Policy on GeM: GeM is a trust based system and self-declaration is the key, along with a strong automated process to penalize any deviant behaviour on part of Sellers / Buyers. For this purpose, deviations from the terms and conditions of procurement on GeM, including general terms and conditions, special and additional terms and conditions and any other relevant Government rules and guidelines, are termed as "deviation". A deviation can occur while listing the products on GeM, at pre-contract stage, during bidding or at post contract stage on GeM. The mechanism for reporting and initiating action on such deviation has been detailed in the Incident Management Policy available on GeM portal under Resources. All stake holders of GeM shall be bound by the actions as detailed in the Incident Management Policy. All administrative actions under this Incident management Policy, taken by GeM against any of the stakeholders shall not cause any limitation on the legal and/or contractual remedies including any financial recoveries, available to Buyers/Sellers under the Terms and Conditions of contract and/or GeM policies. In case the Buyer / Seller choose to pursue any of these remedies, GeM shall not be made party to such proceedings / remedial actions taken by Buyer/Seller under the contractual provisions.

25. Use of Aadhaar Number in GeM: Purpose of the Aadhaar authentication in GeM is to identify the user using eKYC. GeM has provisioned the option for Sellers and Buyers to provide virtual Aadhaar ID instead Aadhaar number. GeM receives First Name, Last Name, Mobile Number, Email ID, DOB and Gender details. It is used to link the mobile number with the user who is registering on GeM; on which subsequently OTP is sent for

achieving the property of non-repudiation in different artefacts / documents generated on GeM. GeM has provisioned an alternative Identity Information option through PAN based verification to Sellers.

26. Compliance of Restrictions under Rule 144 (xi) of GFR 2017: Restrictions on procurement from a bidder of a country which shares a land border with India

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
- II. "Bidder" (Seller / Service Provider) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Order means: -
 - a. An entity incorporated, established, or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established, or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established, or registered in such a country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An Indian (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- IV. The beneficial owner for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanation—
 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 3. In case of an unincorporated association or body of individuals, the

beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of

or

entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

Any false declaration and non-compliance of the above would be a ground for immediate termination of the contract and further legal action in accordance with the laws.

Clause 27: Caution Money Deposit:

(i) All sellers on GeM are required to deposit a one-time amount as under as caution money:

- a) Seller Turnover less than 1 Crore: Rs 5,000/-
- b) Seller Turn over > 1 Crore but < 10 Crore: Rs 10,000/-
- c) Seller Turn over > 10 Crore: Rs 25,000/-

(ii) The above caution money shall remain at the disposal of GeM SPV. This can be forfeited in part or in full (as per approval of CEO (GeM)) in following circumstances:

- a) Seller rejects or does not accept any Direct Purchase / L-1 Purchase order within defined timelines leading to order auto cancellation.
- b) Failure of the seller in executing any GeM contract or if the Seller fails or neglects to observe or perform any of his obligations under the contract (applicable only in respect of contracts that did not have provision of Performance Security / PBG).
- c) Withdraws any bid submitted on GeM within the period of validity of the bid.
- d) Fails to furnish requisite performance security / PBG as per GeM e-bid / RA conditions.

(iii) In case the Caution Money of any seller is forfeited in full or part and his caution money deposit goes below the threshold indicated in para 1 above, the seller account shall be put on hold till the seller re-coups the caution Money account to required

value. Seller's stock will become zero for all categories and seller will not be allowed to update anything till the caution money is topped up to minimum required amount.

(iv) Forfeiture of caution money as per above shall be over and above any other actions taken against such sellers as per GeM Incident Management Policy and shall be without any prejudice to the rights and remedies available to GeM and / or Buyer as per provisions of the relevant contracts.

Clause 28: CMS 3.0 and OEM - Reseller responsibility matrix:

GeM has implemented enhanced Catalogue Management System (CMS 3.0) on GeM Portal. The Primary Objective of CMS 3.0 is to offer higher level of ownership & accountability to OEMs & its approved Resellers while maintaining Efficiency, Transparency & Inclusiveness of GeM. Complete and detailed Obligations and Privileges matrix of the different stakeholders in different quadrants is given in CMS document available on GeM Portal and OEMs and Resellers are bound to operate on GeM in compliance with the CMS document as updated from time to time.

1) CMS Quadrant 1 (CMS Q1): Product offers in categories under Q1 will be solely offered by GeM validated OEMs. OEM shall be exclusively responsible for maintaining currency and sanity of catalogue and its offer in the Market Place. OEM shall be absolutely and exclusively responsible and be legally liable for sanity and quality of offers including Warranty and After Sales Service obligations.

2) CMS Quadrant 2 (CMS Q2): OEMs as well as pre-Authorized Resellers can offer products in Q2. OEMs shall operate Market Place subject to providing its complete list of Open market authorized sellers along with formal commitment to list and maintain all appropriate and current Product Catalogue for pairing by its Resellers. OEM shall be absolutely and exclusively responsible and be legally liable for sanity and quality of catalogues including Warranty and After Sales Service obligations. Authorized Resellers shall be responsible for Pairing their offer with the already existing Product Catalogue created by the OEM. However, resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same.

3) CMS Quadrant 3 (CMS Q3): Catalogue creation in categories under Q3 can be from OEMs and/or their Authorized Resellers concurrently. In case OEM has not created Product Catalogue, Authorized Resellers of OEMs are also permitted to do the same. However, OEM (when registered on GeM and taken OEM Dashboard) shall be responsible for Validating & verifying the Catalogue uploaded by Reseller, Maintaining the Catalogue by adding/updating the Specifications, MRP etc. specific to catalogue. OEM shall also assume all responsibility and legal liability for sanity and quality of offers including Warranty and After Sales Service obligations. However, resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same.

4) CMS Quadrant 4 (CMS Q4): Catalogue creation in categories under Q4 can be done by OEMs as well as by any Reseller also. However, OEM (when registered on GeM and taken OEM Dashboard) shall be responsible for Validating & verifying the Catalogue uploaded by Reseller, Maintaining the

Catalogue by adding/updating the Specifications, MRP etc. specific to catalogue. However, there is no requirement of any endorsement or authorization of the reseller by the OEM. Resellers can Update their Offer Price, Stock and Delivery Locations solely at their own discretion and shall be solely responsible for the same. Reseller will also be responsible for providing Replacement Warranty in case of Q4 products and Buyer shall not be required to take up with OEM for any warranty claims.

5) CMS (Special Category) : The Special Category is a specialized segment outside the four quadrants for select few categories that require a customized behavior such as Self-Help Groups (SHG) categories.

In Q3 and Q4, in case of re-sellers, if the reseller has not been approved as an authorized re-seller by the OEM on GeM, the re-seller is required to give an undertaking as under while uploading the product, while accepting any order and while participating in any bid:

“I hereby undertake that I have made arrangements for getting the stores from authorized distributor / dealer / channel partner of the OEM of the offered product. At the time of delivery of goods, I will provide necessary chain documents to prove that the supplied goods are genuine and are being sourced from authorized distributor / dealer / channel partner of the OEM. In case of any complaint from the Buyer / Consignee about genuineness of the supplied products, I shall be responsible for providing genuine replacement supplies.”

By uploading any product on GeM or accepting any order on GeM or by participating in any bid on GeM, the re-seller is deemed to have given above undertaking and is liable for compliance of the same.

Further in view of the on-line verification of Seller credentials by the OEM on GeM platform, there is no need for Buyer to ask for or insist on furnishing of OEM authorization in bids in respect of “OEM verified Catalogue” offered by “OEM Verified Reseller”. OEM authorization is also not required to be sought and checked by Buyers in case of bids for products in Q1 or Q2.



Service Level Agreement And Packages

MANPOWER OUTSOURCING SERVICES - MINIMUM WAGE

Service Level Agreement for Manpower Hiring Services

1 AGREEMENT OVERVIEW

This Agreement represents a Service Level Agreement ("SLA" or "Agreement") between the Buyer and Manpower Hiring Service Provider. The purpose of this agreement is to facilitate implementation of Manpower Hiring Service at the Buyer's premises or any other premises designated by Buyer. This Agreement outlines the scope of work, Buyer's obligations, special terms and conditions related to service delivery and payment of services for mutual understanding of the stakeholders. The Agreement remains valid till completion of scope of services or end of contractual duration (whichever is earlier) unless either superseded by a revised agreement mutually endorsed by the stakeholders or terminated by either of the parties thereof.

The Services contracts placed through GeM shall be governed by following set of Terms and Conditions:

1. General terms and conditions for Services;
 2. Service Specific STC of the Services contracts shall include the service level agreement (SLA) for the service;
- BID/ Reverse Auction specific ATC.

The above terms and conditions are in reverse order of precedence i.e. ATC supersedes Service specific STC which supersedes GTC, whenever there are any conflicting provisions. The above set of terms and conditions along with scope of work and service level agreement as enumerated in the document shall be construed to be part of the Contract between Buyer and Service Provider.

2 OBJECTIVES AND GOALS

The objective of this agreement is to ensure that all the commitments and obligations are in place to ensure consistent delivery of services to Buyer by Service Provider. The goals of this agreement are to:

1. Provide clear reference to service ownership, accountability, roles and responsibilities of both parties
 2. Present a clear, concise and measurable description of services offered to the Buyer
- Establish terms and conditions for all the involved stakeholders, it also includes the actions to be taken in case of failure to comply with conditions specified
 1. To ensure that both the parties understand the consequences in case of termination of services due to any of the stated reasons

The agreement will act as a reference document that both the parties have understood the above-mentioned terms and conditions and have agreed to comply by the same. The agreement can also be revised/ modified on mutual consent of the stakeholders.

3 PARTIES TO THE AGREEMENT

The main stakeholders associated with this agreement are below-

1. **Buyer:** Buyer is responsible to provide clear instructions, approvals and timely payments for the services availed
2. **Service Provider:** Service provider is responsible to provide all the required services in timely manner. Service provider may also include seller, any authorized agents, assignees, successors and nominees as described in the agreement

The responsibilities and obligations of the stakeholders have been outlined in this document. The document also encompasses service level/ penalties in case of non-adherence to the defined terms and conditions. It is assumed that all stakeholders have read and understood the same before signing the document.

4 SCOPE OF SERVICES

The scope of service requires the Service Provider to provide Manpower Hiring Services in the Buyer's premises or the Buyer's designated premises. The Service Provider would be required to provide sufficient and qualified manpower, capable of supporting the functioning of the project/ department in a manner desired by the Buyer. The services shall be rendered as per the agreement signed between the parties. The services may be required for one or more locations.

Buyers of this service will have the option to choose the desired manpower on the basis of type of function, educational qualification, work experience, skill categories as per their requirement. Buyer will also provide additional details like duration of requirement, number of manpower required etc. Service Providers will quote price as per the given service parameters.

4.1 Service Details And Standards



Ask GeMmy while providing the services shall be compliant with all the applicable laws with respect to Buyer's organization, region or premises. List of laws under Ministry of Labour and Employment is given as Annexure 1, Service Provider shall follow all the laws applicable for Buyer.

2. Buyer will be required to select the manpower as per available type of manpower category, in case the category is not available; Buyer will select Other category and provide manual inputs.
- It is the responsibility of the Service Provider to provide manpower as per Buyer's requirement. The person deployed should not below the age of 18 years old.
 1. The persons deployed should be efficient while handling the assigned work and complete the assigned work in given timelines. The Service Provider shall be responsible for any act of indiscipline on the part of the persons deployed.
 2. The Service Provider should have a legal status, it can be a registered Proprietorship Firm/ Partnership Firm/ Company under Companies Act having legal entity with all statutory licenses/ registration for carrying out such activities like registration with labour department, PF Act, 1952, ESI Act, 1948, Income Tax Act etc.
 3. The Service Provider shall ensure that all the relevant licenses/ registrations/ permissions which may be required for providing the services are valid during the entire period of the contract; failing to which shall attract the appropriate penalties. The documents relevant in this regard shall be provided by the Service Provider to the Buyer on demand.
 - Working shifts (includes day and night shift) if any, and daily working hours shall be mutually agreed upon between Buyer and Service Provider and should be in compliance with all the labour laws. In case of continuous work (24 hours), Service Provider shall be responsible to change the shifts and manpower in compliance with the labour law, maximum working hours, minimum wages, overtime and/ or any other conditions mentioned in the contract.
 - In case of services hired on annual basis and 5 working days, the manpower will be entitled to 08 days of casual leaves per year on pro-rata basis and in case of 6 working days, the manpower will be entitled to 15 days casual leave per year on pro-rata basis. Beyond specified leaves as applicable, leave will be treated as leave without pay (LWP) for which necessary deduction will be made by the Buyer in the billed amount if no replacement is provided.
 1. Employers share of EPF, ESI, ELDI, Insurance and other relevant/ mandatory compliances shall be deposited to the respective authorities with proof of deposit of both employee and employer share by within first 7 working days of the succeeding month. Employee share of EPF and ESI contribution shall be recovered from the gross remuneration and balance amount is to be released to the persons employed.
 2. The Service Provider shall be required to keep the Buyer updated about the change of address, change of the Management etc. from time to time.
 3. The Service Provider shall be solely responsible for the redressal of grievances/ resolution of disputes relating to persons deployed. The Buyer shall, in no way be responsible for settlement of such issues whatsoever.
 - After award of the contract, if the Service Provider is found to be charging any money/charges/fees/penalties in whatever form, manner, or name, from the manpower resources engaged by it for deployment to the Buyer/ Client's site, the Buyer will have the right to terminate the contract forthwith along with forfeiture of Performance Security amount deposited by the Service Provider. The Buyer may also blacklist/debar the Service Provider, as deemed fit by the Buyer. Any such amount received from its manpower by the Service Provider may be recovered by the Buyer from the pending bills of the Service Provider and paid directly to the concerned person/manpower.
 - Any violation of contractual obligations by the Service Provider/ manpower shall attract penalties, before imposing a penalty, the Buyer will provide 3 days prior notice to the Service Provider to make its representation. The Service Provider confirms and agrees that penalty whenever becomes payable, shall be deducted by the Buyer from the payments due to the Service Provider.
 - In case the submission of monthly bills is delayed by the Service Provider beyond 15 days from the last day of the month in which the services have been provided, the entire liability towards payment of interest/penalty to the tax authorities shall be borne by the Service Provider.

4.2 Defined Timelines

1. If Buyer requires additional manpower during the contract period; Buyer shall inform about the same with specific requirements to the Service Provider 2 months prior to the employment start date.
 2. The manpower deployed shall be punctual and reach Buyer's premise/ designated premise on the time defined by Buyer, prior information shall be given to Buyer for any delay/ absence. In case, deployed person comes late/leaves early on three occasions, one-day wage shall be deducted.
- Service Provider shall adhere to the timeline given by Buyer for providing the required manpower on Buyer's premise/ designated premise.
 1. In case of non-availability of specifically demanded manpower; the Service Provider shall communicate the same to Buyer at least 1 month prior to the employment start date.

4.3 Service Assumptions

1. The Service Provider shall not sublet any part of the Contract. The Service Provider shall be responsible and liable to deliver the services as per the contract.
 2. The manpower provided by the Service Provider shall not be deemed employees of the Buyer department hence the compliance of the applicable acts/ laws will be the sole responsibility of the Service Provider.
- The Service Provider must assess all the proposed candidates of desired requirement on the parameters of educational qualification, work experience, skill assessment, pre-interviewing, short-listing and proposing to Buyer all pre-screened candidates ("Services").
 1. The Service Provider would be required to provide sufficient and qualified manpower, capable of supporting the functioning of the project/department in a manner desired by the Buyer. Any mismatch in demand and supply of the manpower such as number of employees, educational qualification, sectoral/ desired work experience etc. may lead to penalties and/or replacement of the resource with the matching skillset or profile desired by the Buyer.
 2. The persons deployed by the Service Provider shall not claim nor shall be entitled to pay, perks and other facilities admissible to regular/ confirmed employees during the currency or after expiry of the Agreement.
 3. No medical facilities or reimbursement or any sort of medical claims thereof in respect of employees provided by the Service Provider will be entertained by the Buyer.



- **Ask GeMmy** and days of the outsourced manpower shall be as per the existing applicable rules of the Buyer. The deployed manpower shall get the benefit of holidays as notified/ declared by the Buyer. However, outsourced manpower has to work on holidays, if necessary and required based on demand of

work.

- The requirement of the manpower may increase or decrease during the period of initial contract also. In case of decrease in the requirement, the same will be informed to the Service Provider and additional manpower shall be withdrawn at the given time. If the requirement is increased, the Service Provider shall provide additional manpower on the same terms and conditions in reasonable time.
 1. The persons deployed shall, during the course of their work be shall perform integrity to the Buyer and shall not disclose/ share any qualified documents and information which they are not supposed to divulge to Service Provider/ third parties. In view of this, they shall be required to sign the confidentiality clause and breach of this condition shall make the Service Provider as well as the person deployed liable for penal action under the applicable laws besides, action for breach of contract and termination of contract.
 2. The Buyer will in no way be responsible for the violation of any rules and/or infringement of any other laws from the time being in force, either by the manpower or by the Service Provider. The manpower as well as the Service Provider shall comply with the relevant rules and regulations applicable at present and as may be enforced from time to time, for which the Buyer will not be liable or responsible in any manner. The onus of compliance to all the applicable laws/acts/rules shall only rest with the Service Provider.
 3. The Buyer shall have the right, within reason, to have any personnel removed who is considered to be undesirable with proper reasoning or otherwise and similarly the Service Provider reserves the right to remove any personnel with prior intimation to the Buyer in case of any emergencies.
- The Service Provider shall nominate a coordinator/ Single Point of Contact (SPOC) who shall be responsible for regular interaction with the Buyer Department so that optimal services of the persons deployed could be availed without any disruption.
- For all intents and purposes, the Service Provider shall be the "Employer" within the meaning of different Rules & Acts in respect of manpower so deployed. The persons deployed by the Service Provider shall not have any claim whatsoever like employer and employee relationship against the Buyer Department.
- No deployed manpower shall be allowed to stay in the Buyer's premise/ designated premise unnecessarily after working hours without Buyer's permission.
 1. Any damages/ losses caused by deployed manpower shall be borne by the Service Provider. The Buyer Department shall not be responsible for any financial loss or any injury to any person deployed by the Service Provider in the course of their performing the functions/duties, or for payment towards any compensation.
- The Total Price includes Minimum Wage, ESI, EPF, EDLI, Insurance, Other non-mandatory variables defined by the Buyer in the bid document, Admin Charge and GST on the mentioned components. Service Provider will thus quote over and above the following components as a Service Charge and Special Allowance if any:
 1. Minimum Wage+ ESI + EPF + EDLI + Insurance + Other non-mandatory variables defined by the Buyer in the bid document + Admin Charges+ GST (on the Minimum Wage, ESI, EPF, EDLI and Insurance component), which is provided by the Buyer Department and the rest (GST on the component provided by the Buyer) is added by the platform.
 2. In case of any changes in the minimum wages as per the Applicable Laws during the Contract period, Buyer shall pay the Service Provider the difference in wage from the amount mentioned in the contract on pro rata basis.
- The cost of the Contract shall be valid for initial contract period. No price escalation, other than minimum wages revision, shall be entertained by the Buyer during the period.
- The wages of every person employed in any establishment upon or in which less than one thousand persons are employed, shall be paid before expiry of the seventh day after the last day wage-period in respect of which the wages are payable. In any other establishment, wages of every person employed shall be paid before expiry of tenth day after last day wage-period. Payment of salary/ wages to the employees shall be made in their bank accounts only, no cash or kind payment shall be made.
- The claims in bills regarding Employees State Insurance, Provident Fund etc. shall be necessarily accompanied with the documentary proof pertaining to the concerned month bill. A requisite portion of the bill/whole of the bill amount will be held up till such proof is furnished, at the discretion of the Buyer.

4.4 Limitations Of Service Delivery (If Any)

1. The Service Provider will provide manpower services as per the service categories/ manpower selected by the Buyer.
2. The Buyer will have option to replace the proposed manpower in case of non-performance, non-delivery or in any other exceptional case, however replacement of the manpower will be in same category with same degree of skills, educational qualification and number of years of experience, also prior approval for the same shall be obtained from Buyer.

5 SERVICE PROVIDER'S OBLIGATION

Service Provider's obligations will include the following-

1. The service provider shall be responsible for ensuring compliance with the provisions related to Labour Law (Central/State), Minimum Wages Act, PF, ESI Act, Payment of Bonus Act, Contract Labour(R&A) Act, Workmen Compensation Act etc. as applicable from time to time.
 2. The Service Provider shall maintain all statutory registers under the Law and shall produce the same, on demand, to the Buyer Department or any other authority under Law.
- The Service Provider shall provide the documentary proof for the qualifications and experience of the manpower deployed by them. The biodata/ resume, qualification and experience of the said manpower should be certified by the Service Provider. In case any of such document is found to be false at any stage, it would be deemed to be a breach of terms of contract making the Service Provider liable for legal action.
 1. The Service Provider shall be responsible for police verification, character and antecedents verification of the manpower. The same may be verified by the Buyer at the time of joining of the manpower, if he/she so desires.
 2. The Service Provider shall furnish the following documents in respect of the manpower deployed by them to Buyer's premise/ designated premise in the given time limit:
 1. Copy of Aadhaar Card of the candidates (at the time of deployment)
 2. Copy of Antecedents details (at the time of deployment)
 3. Copy of Aamhaar Card of the candidates (at the time of deployment)



Ask GeMmy with antecedents details (at the time of deployment)

3. Copy of Aamhaar Card of the candidates (at the time of deployment)

6. Identity Cards issued by Service Provider bearing photograph (within 8 days of joining)
7. Identity proof and residential proof (at the time of deployment)
8. Copy of police verification certificate (at the time of deployment)
9. Copy of birth certificate, if required (at the time of deployment - for domicile purpose)
10. All selected manpower shall wear Identity Card provided by the Service Provider every day during working hours.

- The Service Provider shall issue the letter of deployment to every deployed manpower and a copy of same shall be submitted to Buyer.
- In an event of deployed manpower availing leave, and if required by Buyer, suitable substitute(s) shall be provided by Service Provider as per mutual understanding with Buyer.
 1. Consequent to poor performance of deployed manpower, Service Provider shall immediately replace the deployed manpower thereby maintaining service levels and continuity.
 2. The Service Provider shall be responsible for timely payment of take-home remuneration to the manpower and deposit of EPF and ESI (both employee and employer share), failing which a penalty will be deducted.
 3. The Service Provider shall also deposit EPF and ESI of both employer and employee share within 15th day of the month of payment for the support staff engaged from their account and prefer the bill to the Buyer for reimbursement of employer share only.
- The Service Provider shall furnish statement of amount paid for the month to the manpower deployed along with cheque number and date and Bank account from which the payment has been made. Service Provider shall furnish copy of bank statement in support of amount paid as and when required by Buyer.
- The Service Provider shall submit before the Buyer Department, one copy of the return within 7 days from the date of filing of monthly/ quarterly/ half yearly/ annual return if any before the EPF and ESI authorities.
- All applicable taxes and duties except GST, shall be payable by the Service Provider and the Buyer shall not entertain any claims whatsoever with respect to the same.
 1. The Service Provider shall ensure regular payment to the deployed manpower to their entitlements like monthly salaries/ wages etc. and submit the documentary proof of the salary paid as per the terms and conditions of the contract. Bill for the subsequent month will be paid only after submission of certificate of disbursement of wages of previous month.
- The Breakup of the salary/ payment components shall be provided to the Buyer. The Buyer will provide Minimum Wage as per the Notification applicable in their area for the category of Resource they want to procure.

6 BUYER'S OBLIGATIONS

Buyer's obligations will include the following-

1. The attendance of the manpower shall be entered in the register provided by the Service Provider and/or in the Aadhaar based Biometric attendance system at the Buyer's premises.
 2. The Buyer shall provide work space (seating area, work desk, furniture etc.) for the manpower hired through Service Provider, Buyer shall also arrange necessary gate/ entry pass to Buyer's premise/ designated premise for the manpower.
- Buyer shall directly or in consultation with the Service Provider provide the necessary training to the manpower for Buyer specific tools, applications and machinery etc., if required.
 1. Buyer shall provide, free of charge unimpeded access to all the infrastructure which is required to perform the Services. It may include use of stationery, printer, electricity, internet, Buyer specific servers, data drives, tools and softwares etc. However, use of such infrastructure shall be limited for official purpose only.
 2. The Buyer shall make necessary arrangements for use of basic facilities like water pots/ machines, cafeteria, washrooms etc. for manpower working at Buyer's premise/ designated premise.
 3. TA/ DA shall be payable directly by the Buyer on production of travel documents in original and approval of appropriate authority of the Buyer for undertaking such travel for the project/assignment.
 4. Price Variation Clause:

"It is advisable to include Price Variation Clause in the long term contracts to take care of the increase/decrease in prices of various ingredients which majorly affect the overall price of the service. Buyers are therefore advised to include the Price Variation Clause (PVC) in the bid document through ATC for long term contracts. The additional payment, if any, on account of PVC can be done offline till such time online functionality is developed on GeM."

7 SERVICE TRACKING

Tracking of services ensures quality of service delivery in time bound manner, effective service tracking helps in analyzing Service Provider's performance as well as Buyer's timely inputs for services and leads to immediate actions against the defaulters if any. Service tracking shall be mandatory for the both Buyer and Service Provider, non-tracking of the same may lead to a fine/ penalty on either party.

7.1 Attendance Sheet

1. The Buyer shall be responsible to maintain the attendance in attendance sheet/ register or Aadhar based biometric attendance machine (whichever is applicable) at Buyer's premise/ designated premise. Buyer shall share a copy of the same with Service Provider at the end of every month.

7.2 Logbook



ler shall update the logbook on the GeM portal as per the logbook process flow.

- Once the service provider updates the logbook online, the Buyer shall either accept or reject these entries within the prescribed time lime. The buyer will also record the any service non delivery or non-performance issues, and subsequent penalties Failure to take action on logbook entries updated by service provider shall be deemed as accepted.
 - The Service Provider can raise an issue against the rejection of any entry by the buyer within prescribe timelines of such rejection with the designated representative of the Buyer.

7.3 ServicePerformance And Feedback

- Feedback from the Human Resources Committee/ SPOC of the Buyer shall be maintained (weekly/ monthly, bi-annually) by the Service Provider. The same can be used to track the service standards. Feedback should be taken without any bias of either party. Buyer can also ask for submission of service feedback notes/ documents at the time of payment towards services delivered.
- The SinglePoint of Contact (SPOC) for the issues arising out of this agreement will be the Service Provider or a designated representative who shall be any employee of the Service Provider in administrative and managerial capacity and in a position of authority to resolve issues. Nonetheless, the Service Provider shall be solely responsible for maintaining the quality and level of service provided.

Such service tracking initiatives not only ensures the quality and punctuality of service delivery also reduces the chances of flaws in delivery mechanism. If any variation in attendance sheet, logbook, service feedback is found during the tracking; immediate action can be taken against the party.

8 PENALTIES AND FINE

Penalties and fine can be imposed on either party in case they have caused loss to other party, loss can be financial as well as reputational. These losses may occur due to breach of contract/ agreement, faulty services, non/ delayed payment to the Service Provider for the services availed. Amount of penalties/ fine shall be settled/ recovered during next payments/ final settlements of the Service Provider.

Penalties and fine are detailed below-

S. No.	Description	Penalty/ Fine		
		1st Instance	2nd Instance	3rd Instance
1	Non-deployment of total manpower mentioned in the contract as per the date of joining	Up to 15 Days, @1 % per day of the total value and Beyond 15 days cancellation of the contract with cancellation charges @ 10% of the order value.	Up to 15 Days, @2 % per day of the total value and Beyond 15 days cancellation of the contract with cancellation charges @ 10% of the order value.	Cancellation of the contract with cancellation charges @ 10% of the order value
2	If employee is found disclosing any confidential information/ document to the Service Provider/ any third parties	Cancellation of the contract with cancellation charges @ 10% of the order value along with recovery of losses caused (if any) and legal action against the Service Provider depending on the gravity of the act	-	-
3	If the employee is found responsible for any theft, loss of material/ articles and damages	Immediate payment in actuals, equivalent to the value of the article theft/ lost/ damaged. Replacement of employee within 2 days	Immediate payment in actuals, equivalent to the value of the article theft/ lost/ damaged. Replacement of employee within 2 days/ cancellation of contract as decided by the buyer depending on the gravity of the act.	Cancellation of the contract with cancellation charges @ 10% of the order value
4	If the employee is found responsible for disobedience/ misconduct	Warning/ counselling of employee as decided by the Buyer depending on the gravity of the act	Warning/ counselling/ Immediate replacement of employee within 2 days as decided by the Buyer and Warning to Service Provider depending on the gravity of the act	Cancellation of the contract with cancellation charges @ 10% of the order value



S. No.	Description	Penalty/ Fine		
		1st Instance	2nd Instance	3rd Instance
5	If the employee is absent or takes leave for more than 2 days without informing or taking prior approval.	Substitute within 2 days failing which, @ 1 % per day of the total value (excluding service tax etc.) of the absent resources up to 15 days. Beyond 15 days, cancellation of the contract with cancellation charges @ 10% of the order value	Substitute within 2 days failing which, @ 3 % per day of the total value (excluding service tax etc.) of the absent resources up to 15 days. Beyond 15 days, cancellation of the contract with cancellation charges @ 10% of the order value	Cancellation of the contract with cancellation charges @ 10% of the order value
6	If the employee is found responsible for adopting illegal and foul methods or exercising any corrupt practice in collusion with any third party or officials at the workplace	Immediate replacement within 2 days/ cancellation of the contract with cancellation charges @ 10%, as decided by the buyer depending on the gravity of the act.	Cancellation of the contract with cancellation charges @ 10% of the order value	-
7	Delay in payments of take-home remuneration by the Service Provider and deposit of EPF and ESI (both employee and employer share)	Rs. 100 per day for each default, warning to Service Provider to deposit the said amount within 7 working days	Rs. 200 per day for each default, hold on all type of payments to Service Provider till the said amount is deposited to respective stakeholders and proof of same is submitted to Buyer	Cancellation of the contract with cancellation charges @ 10% of the order value

9 PAYMENT TERMS

This section provides details about the terms and conditions of payment towards the services, it may also include deduction of payment in case of faulty service. Some notable points under payment terms are-

9.1 Payment Condition

- The cost of services quoted by the Service Provider shall cover all aspects of service delivery and include all the components of salary/ wages (minimum wage, insurance, PF, ESI etc.) and taxes, as applicable.
 - The payment shall be made as per the financial quotes submitted by the Service Provider and accepted by the Buyer.
- No advance payment shall be made to the Service Provider.

9.2 Payment Cycle

- Payment shall be made once the services are delivered, and the Service Provider submits the invoice for the same.
- The Buyer shall make the payment within prescribed timelines as per the payment process flow upon submission of invoice, logbook and service feedback.

9.3 Payment Process

- Payment shall be made only after submission of invoices, attendance sheet, logbook, service feedback, non-submission of the same may lead to delay/ deduction in payment.
 - All the penalties/ fine/ interest (if applicable) shall be settled before making the payments. Service Provider shall not have any objection on the same.
- Payment shall be made through bank transfer only, in no circumstance cash/ cheque payment shall be made.

10 AMENDMENT OF CONTRACT

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During service delivery period some conditions may occur when the Buyer and/ or Service Provider may require to amend the Agreement, some of such conditions may be as followed-

1. *Amendment of the Contract after event of Force Majeure:* In case of occurrence of any exceptional event/ circumstance which has affected either party directly to perform the agreed services, the agreement can be amended. However, cause, evidence and nature of such effect shall be notified to the other party.
 2. *Amendment in statutory variations:* All statutory variations leading to increase in the cost of the contract will be debited to the buyer accounts.
- *Amendment of the Contract as per both parties' consent:* Amendment of the Contract shall be done as per mutual consent of both parties; no party shall be made liable to pay/ get any compensation for agreement amendment. However, the variation put together shall not reduce or exceed 25% of contract value.

11 TERMINATION OF CONTRACT

The Agreement shall be come to an end either on completion of the Contract Period or shall be terminated for the following reasons:

1. *Mutual consent:* The contract may be terminated based on mutual consent in case the services are no longer required. Termination based on mutual consent will not attract any penalties or shall not be liable for any extra payments other than payment of invoices raised till the time of termination including notice period.
 2. *Breach of contractual obligations:* Any incidents considered as the breach of contract will result in immediate termination of services. The Buyer shall have the right to terminate the Contract effective immediately by giving written notice to the Service Provider if, the Service Provider breaches a material provision of this Contract where that breach is not capable of remedy; or if the Service Provider breaches any provision of this Contract and fails to remedy the breach within 14 days after receiving notice requiring it to do so.
- *Breach of SLAs:* The contract may also be terminated if i) the cumulative penalties rise to 10% of the contract value or, ii) repeated breach of any SLA beyond 3 instances as per buyer discretion.

However, termination of this Contract shall not affect any accrued rights or remedies of either party.

12 UNDERTAKING

The Service Provider hereby undertakes to not charge any money/fees/penalties in whatever manner, name, or form, or take any monetary/non-monetary considerations, or make any unlawful deductions from its manpower/employees/resources engaged by it and, to be deployed at the Buyer/Client site. The Service Provider further agrees that it will not indulge in any unethical practices and acknowledges that any non-compliance of the aforesaid undertaking will be treated as a material breach of the Contract, in which case the Buyer and GeM shall have the right to take appropriate independent actions including termination of the Contract and actions as per the GeM Incident Management Policy.

13 FORMULAE USED

13.1 Total :-

$$\begin{aligned} & \text{"((($basic_pay+$esi+$provident_fund+$eldi+$bonus+$epf_admin_charge+$non_mandatory_1+$non_mandatory_2+$non_mandatory_3} \\ & \text{)*\$number_of_working_days)*1.18 + (\$percentage_of_service_charge*} \\ & \text{($basic_pay+$esi+$provident_fund+$eldi+$bonus+$epf_admin_charge+$non_mandatory_1+$non_mandatory_2+$non_mandatory_3)*\$number_of_working_days)/100} \\ & \text{)*\$quantity*\$tenure_duration_of_employment"} \end{aligned}$$

13.2 Cumulative Cost :-

$$\text{"($basic_pay+$esi+$provident_fund+$eldi+$bonus+$epf_admin_charge+$non_mandatory_1+$non_mandatory_2+$non_mandatory_3)*\$number_of_working_days"}$$

13.3 Terms Used In Formulae:-

1. \$number_of_working_days – Number of working days in a month
2. \$tenure_duration_of_employment – Tenure/Duration of Employment (in Month)
3. \$basic_pay – Minimum daily wages (INR) exclusive of GST
4. \$provident_fund – Provident Fund (INR per day)
5. \$eldi – ELDI (INR per day)
6. \$esi – ESI (INR per day)
7. \$bonus – Bonus (INR per day)
8. \$epf_admin_charge – EPF Admin Charge (INR per day)
9. \$non_mandatory_1 – Optional Allowance 1 (INR per day)
10. \$non_mandatory_2 – Optional Allowance 2 (INR per day)
11. \$non_mandatory_3 – Optional Allowance 3 (INR per day)

ANNEXURE - 1

List of central labour laws under Ministry of Labour and Employment[1]-

- 1. The Minimum Wages Act, 1948
- 2. The Payment of Wages Act, 1936



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3. The Payment of Bonus Act, 1965
4. The Equal Remuneration Act, 1976
5. The Trade Unions Act, 1926
6. The Industrial Employment (Standing Orders) Act, 1946.
7. The Industrial Disputes Act, 1947
8. The Weekly Holidays Act, 1942
9. The Factories Act, 1948
10. The Plantation Labour Act, 1951
11. The Mines Act, 1952
12. The Building and Other Constructions Workers' (Regulation of Employment and Conditions of Service) Act, 1996
13. The Motor Transport Workers Act, 1961
14. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
15. The Contract Labour (Regulation and Abolition) Act, 1970.
16. The Bonded Labour System (Abolition) Act, 1976
17. The Sales Promotion Employees (Conditions of Service) Act, 1976
18. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
19. The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
20. The Dock Workers (Safety, Health and Welfare) Act, 1986
21. The Child Labour (Prohibition and Regulation) Act, 1986
22. The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
23. The Working Journalists (Fixation of rates of Wages) Act, 1958
24. The Employees' Compensation Act, 1923
25. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
26. The Employees' State Insurance Act, 1948
27. The Maternity Benefit Act, 1961
28. The Payment of Gratuity Act, 1972
29. The Unorganized Workers' Social Security Act, 2008
30. The Building and Other Construction Workers Cess Act, 1996
31. The Mica Mines Labour Welfare Fund Act, 1946
32. The Cine Workers Welfare (Cess) Act, 1981
33. The Cine Workers Welfare Fund Act, 1981
34. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
35. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
36. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
37. The Beedi Workers Welfare Cess Act, 1976
38. The Beedi Workers Welfare Fund Act, 1976
39. The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
40. The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959

[1]https://labour.gov.in/sites/default/files/Central%20Labour%20Acts_0.pdf

