



DAMODAR VALLEY CORPORATION

DVC Towers VIP Road
Kolkata – 700 054

GENERAL CONDITIONS OF CONTRACT

1. DEFINITION :

The following terms and expressions used herein shall have the meaning as indicated therein :-

Purchase Order/The Contract : Shall mean the documents forming the tenders and acceptance thereof together with the documents referred to therein including the conditions, specifications/Scope of Work, designs, drawings and instructions issued from time to time by the Purchaser/ Owner and all these documents taken together shall be deemed to form one contract and shall be complementary to one another.

Applicable Law : This contract including all matters connected with this Contract shall be governed and construed in accordance with the Indian Law both substantive and procedural and shall be subject to the exclusive jurisdiction of Indian courts at Kolkata (India).

Contract Price : It means the total price to be paid for the supply of materials/goods/services to the consignee in accordance with the payment terms stipulated in the contract.

Supplier/Vendor/Contractor : Shall mean the registered individual firm, Company or Corporation whether incorporated or otherwise to whom the Purchase Order/Work Order/LOA/LOI is addressed and shall include its permitted assigns and successors.

Purchaser/Owner : Shall mean Damodar Valley Corporation, a statutory body established under Act No. XIV of 1948 of GOI having its Corporate Office at DVC Towers, VIP Road, Kolkata – 700 054.

Party : It means the owner or the bidder, as the case may be, and 'Parties' means both of them.

Sub-Vendor/Sub Contractor : Shall mean the person/organization/firm named in the Purchase Order/Contract for any part of the material/works to whom that part of the Purchase Order/Contract has been sublet by the

vendor with the consent in writing of the 'Owner' and will include the legal representatives, successors and permitted assigns of such person.

Equipment/Stores/Materials : Shall mean and include equipment, stores & materials to be supplied by the vendor under the contract.

Specification/Scope of Work : Shall mean the Specifications and Bidding documents forming a part of the contract and also such other schedules and drawings furnished by purchaser/owner and or as may be mutually agreed upon.

Guarantee/Warranty Period : Shall mean the period during which the vendor shall remain liable to repair or replacement of any defective part of the Stores/Equipment/Materials supplied/works executed under the contract.

2. REFERENCE :

The number of the concerned Purchase Order/Work Order/LOA/LOI must appear on all correspondence, drawings, invoices, packing and shipping documents and on all documents or papers connected with the Contract.

3. SPECIFICATIONS AND DRAWINGS :

3.1 Any information, details etc. called for in the specification and not shown in the drawings and vice-versa shall have the same effect and meaning as if called for and shown both in the specification and drawings. In case of conflict between the specifications and drawings, the decision of the Purchaser/owner or his duly authorized representative shall be final and binding.

3.2 STANDARDS :

The goods/materials supplied under this contract shall conform to the standards mentioned in the Technical Specification, and, when no applicable standard is mentioned, the authoritative standard appropriate to the goods/materials issued by the concerned institution and such standard shall be the latest.

4. GENERAL INFORMATIONS :

Single Stage Bidding :

(a) For One Part Limited/Open Tender : Bidders are requested to Submit their offer in sealed envelope superscribing on it Enquiry/Tender No. and Date. Also indicate the Name and Address

of the firm; and date of opening on the envelope. In case, earnest money is required to be deposited, the above envelope should contain two smaller sealed envelopes marked 'A' & 'B'.

- (i) Envelope 'A' superscribed on it "Earnest Money against Tender Notice No. and Date" should contain the Earnest Money in desired form and also the cost of tender documents in DD / Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, if the same is downloaded from website.
 - (ii) Envelope 'B' superscribed on it 'Techno-Commercial and Price Bid against Tender Notice No. and Date" should contain quotation with price and other details.
- (b) For two part Limited / Open Tender :

I. 4 ENVELOPE BIDDING :

Bidders are requested to submit their offer in sealed envelope superscribing on it "Tender Notice No. and Date". Also indicate the Name and Address of the firm; and date of opening on the envelope. Above sealed envelope should contain three smaller sealed envelopes marked 'A', 'B', 'C' & 'D'.

- (i) Envelope 'A' superscribed on it "Earnest Money against Tender Notice No. and Date" should contain Earnest Money in desired form and also the cost of tender documents in DD/Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, if the same is downloaded from the website.
- (ii) Envelope 'B' superscribed on it 'Quotation against Tender Notice No. and Date should contain supporting documents for Qualifying Requirement as asked in the NIT.
- (iii) Envelope 'C' superscribed on it 'Quotation against Tender Notice No. and Date should contain quotation with technical details and commercial terms along with Deviation Schedule as per format given in Annexure 'C'.

- (iv) Envelope 'D' superscribed on it "Price Bid against Tender Notice No. and Date" should contain the Price Schedule along with the withdrawal prices for deviation, if any, as per format given in Annexure 'D'. This envelope will be opened only for techno-commercially and QR complied bids at a date to be notified later on.

II. 3 ENVELOPE BIDDING :

- (i) Envelope 'A' superscribed on it "Earnest Money against Tender Notice No. and Date" should contain Earnest Money in desired form and also the cost of tender documents in DD/Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, if the same is downloaded from the website.
- (ii) Envelope 'B' superscribed on it 'Quotation against Tender Notice No. and Date should contain supporting documents for Qualifying Requirement as asked in the NIT and techno-commercial offers along with Deviation Schedule as per format given in Annexure 'C'.
- (iii) Envelope 'C' superscribed on it "Price Bid against Tender Notice No. and Date" should contain the Price Schedule along with the withdrawal prices for deviation, if any, as per format given in Annexure 'C'. This envelope will be opened only for techno-commercially and QR complied bids at a date to be notified later on.

FOR TWO STAGE BIDDING : GENERALLY ADOPTED FOR HIGH VALUE PROCUREMENT FROM MANUFACTURERS ONLY AT THE DISCRETION OF TIA

A two stage bidding process shall broadly comprise of the following two stages :

- (a) 1st Stage Bidding (Techno-Commercial Bids without prices but with Deviation Schedule, if any).

- (b) 2nd Stage Bidding (Price Bids along with requisite EMD and cost of withdrawal of declared techno-commercial deviation, if any).
- The owner will provide necessary inputs/information as considered necessary to the successful bidder for completion of the assignment.
 - The cost on account of preparation of proposal, negotiation, discussion etc. as may be incurred by the Bidder in the process of finalisation of the contract are not reimbursable by the owner.
 - The owner reserves the right to reject any or all proposals, wholly or partially, without assigning any reasons whatsoever.
 - Sub contracting in part or full of the assignment awarded to the successful bidder without prior written consent of the owner is not permitted.

5. BIDDING DOCUMENTS :

Each bidder shall submit with its bid the following attachments for single stage bidding :

Attachment 1: EMD/BID SECURITY. An EMD to be furnished in accordance with GCC Clause No. 06 and cost of bid documents in DD if the same is downloaded from Website.

Attachment 2: Techno-commercial Terms & Conditions as per Format given in Annexure “A” and Specification Booklet/Sheet.

Attachment 3: Price schedule as per Annexure “B”. The bidder shall also provide the withdrawal price, if any, for withdrawal of techno-commercial deviations as per format given in Annexure ‘D’ along with the price bid.

Attachment 4: Deviation sheet – Deviations, if any, from the commercial terms and conditions or Technical Specifications shall be listed ONLY as per format given in Annexure “C” and to be enclosed with the Techno-commercial offer.

Attachment 5 : Supporting Documents as asked in the qualifying requirements in accordance with this NIT.

Attachment 6 : Proforma and check list of Bank Guarantee against EMD.

Each bidders shall submit with its bids the following attachments for two stage bidding :

First Stage Bidding : Attachment 2, 4 & 5 as detailed above along with the cost of bid documents in DD if the same is downloaded from website.

Second Stage Bidding (if qualified after first stage bidding) : Attachment 1, 3 & 6 as detailed above.

Each bidder should respond for single stage bidding with

- (i) 4-envelope (Two part tendering): Attachment 1 & 6 in envelope 'A', attachment 5 in envelope 'B', attachment 2 & 4 in envelope 'C' and attachment 3 in envelope 'D'.
- (ii) 3-envelope (Two part tendering): Attachment 1 & 6 in envelope A, Attachment 2, 4 & 5 in envelope B and Attachment 3 in envelope C.
- (iii) 2- envelope (1 part tendering) : Attachment 1 & 6 in envelope A and Attachment 2, 3, 4 & 5 in envelope 'B'.

6. EARNEST MONEY DEPOSIT (IF APPLICABLE) :

Every tender must accompany 'Earnest Money' as mentioned in the Tender Notice/Enquiry in desired form as mentioned below without which the tender will not be accepted. The Earnest Money should be deposited in any of the following forms :-

- a) The Earnest Money shall be in the form of Pay Order or Demand Draft in favour of Chief Accounts Officer, DVC, Kolkata - 54 in INR or USD/EURO and which is concurrent with the currency in which the price bid has been offered. In case the bidder submits Pay Order or Demand Draft in INR from Nationalized or Schedule Bank through their trade relation and quote the bid in USD/EURO, the same shall be accepted.
- b) Earnest Money can be submitted in the form of Bank Guarantee from an Indian Nationalized Bank / Schedule Bank / Foreign Bank (in the scheduled list of Reserve Bank of India), irrevocable and operative till the validity of the offer as per standard Proforma.

Overseas bidder in case of participation is permitted to submit the Bank Guarantee from Foreign Bank which are included in the scheduled list of Reserve Bank of India, copy of which is annexed in Annexure-F. However, any Foreign Bank not mentioned here but subsequently included in the scheduled list of RBI in the course of bidding shall be accepted. Such inclusion of Bank's name to be obtained from the website of RBI – www.rbi.org.in and the same got to be approved by TIA for the purpose.

The Bank Guarantee currency shall be same as currency of Price Bid. In case the bidder arranges to submit BG in INR from Nationalized or Schedule Bank through their trade relation and quote the bid in USD/EURO, the same shall be accepted.

- c) Fixed Deposit Receipt issued by Nationalised Bank endorsed in favour of DVC.
- d) DVC Bonds duly endorsed in favour of DVC.
- e) Post Office National Savings Certificate having face value equal to the EMD value and duly endorsed in favour of DVC.

No Bank Guarantee shall be accepted for EMD amount upto Rs. 10,000/-. However, EMD exceeding Rs. 10,000/- may be accepted in any of the above forms.

The offer accompanied by B.G. against EMD will only be considered valid on acceptance of the Bank Guarantee. The offer not accompanied by EMD or specified EMD in proper form as defined above shall not be considered as valid tender for opening provided necessary stipulations are made in the NIT.

- i) Earnest Money will only be refunded to the unsuccessful Tenderer within 15 days after finalisation of Tender and no interest will be paid for the same.
- ii) The amount of Earnest Money will be refunded to the successful tenderer, after acceptance of their Security Deposit-cum-Performance B.G. / successful completion of the order.
- iii) Small Scale Industries registered with NSIC shall be exempted from the payment of Earnest Money. Small Scale Industries seeking such exemption must enclose valid registration certificate from the appropriate Govt. authority giving details such as validity, stores etc., failing which exemption will not be granted.

7. CONDITIONS FOR FORFEITURE OF EMD :

The EMD may be forfeited

- In case the purchase order/work order is not executed by the vendor in full.
- In case a bidder withdraws his offer within the offer validity period specified by the bidder.
- If the bidder does not accept the arithmetical correction of its Bid Price.
- If the Bidder does not withdraw any deviation at the cost of withdrawal price indicated by him in 'deviation schedule'.
- If the bidder refuses to withdraw, without any cost to the owner, any deviation not listed in deviation schedule but found elsewhere in the bid.
- In the case of a successful bidder, if the bidder fails within the specified time limit as mentioned in the purchase order/contract to furnish the acceptance of contract.
- In case of a successful bidder, if the bidder fails to submit Security Deposit-cum-Performance BG within 30 days from last day of the stipulated period mentioned in the Purchase Order / Work Order / LOA / LOI.
- For those tenderers who are found to be indulging in changing / adding or deleting the contents of the downloaded tender documents.

8. PRICE BASIS :

Price mentioned in the Purchase Order/Work Order/Turnkey Project Contracts shall normally be firm till execution of the contract unless stated otherwise.

- The contractor/vendor shall furnish the following certificate to the Paying Authority along with each invoice/bill against payment for supplies made against any supply order/RC with longer completion period (more than a year), if the same is placed on firm price basis.

'I / we certify that there has been no reduction in the sale price of the stores of description identical to this item, supplied to any person/organization and such stores have not been offered/sold by me/us to any person/organization at a price lower than the price charged under this contract upto the date of this bill.'

The bids may be invited either on 'firm price basis' or on 'variable price basis', but not on both. Tender Inviting Authority may invite any or all the items / components in supply / works / turnkey project tenders on 'variable price basis' i.e. few items / components of a NIT may be on 'variable price' basis and remaining items / components of the same NIT may be on 'firm price basis'.

The bids may be invited on variable price basis in respect of transmission lines packages, supply of tower members and different conductors and major equipments like power and instrument and distribution transformers, HV circuit breakers, EHV grade transformer oil or any other materials/packages at the discretion of TIA. In such cases Standard Price Variation Formula, based on PV formula published by IEEMA / CACMAI or similar recognised sources or adopted by power utilities like NTPC / PGCIL etc shall be prepared by TIA for the purpose of price variation of equipments/materials and shall be indicated in the bid document. Bid document shall also indicate the standard source of different indices (for labour / material / exchange rate etc.) used in the PV formula for purpose of calculation of variable component. The base date for different indices for the purpose of calculating price variation will normally be considered 30 days prior to the last date of submission of price bid or as decided by TIA for this purpose and shall also to be indicated in the bid document. The cut off date for different indices in the PV formula for the purpose of calculating price variation may be considered as 2 to 4 months ahead of scheduled delivery period or as decided by TIA. The same shall also to be indicated component-wise in the bid document. The PV formula shall be stipulated in the bid document with or without any ceiling limit as decided by Tender Inviting Authority. In case of non-publication of applicable indices on a particular date, which happens to be applicable date for price adjustment purposes, the published indices prevailing immediately prior to the particular date will be applicable.

Such bids shall be evaluated on the basis of offered price without any loading on account of price variation. In case a specific ceiling limit is mentioned in the bid document, payment shall, however, be restricted to the actual extent of variation that would take place limited to the ceiling limit. For bids on variable price basis without any ceiling limit, payment will also be effected on actuals as per PV formula without any ceiling limit.

No price variation beyond scheduled contractual delivery/completion period will be allowed. There shall also be no price variation on the advance payment component, if any.

In case of any bidder offering firm price against NIT stipulation of variable price basis or variable price against NIT stipulation of firm price basis, it will be considered as deviation and bidder shall declare the cost of withdrawal of the same alongwith the price bid, failing which the offer will be considered unresponsive and to be rejected.

9. TAXES, LEVIES AND DUTIES :

Manufacturers / Contractors shall quote statutory taxes and duties (Sales Tax, VAT, Excise Duty, E. Cess, Customs Duty, Service Tax, Municipal Tax, Octroi, Levies and any other duties) as applicable on the date of bid opening and shall be shown separately in the offer. This shall be to the account of the Purchaser / Owner against documentary evidence, unless otherwise mentioned in the Purchase Order /Work Order. Any upward/downward variation in statutory taxes and duties after bid opening and up to the scheduled delivery period/work completion period shall be to the purchaser's account. Since such statutory taxes shall be on the account of purchaser, benefits of any decrease in the same shall be retained by the purchaser irrespective of decrease taking place during period of submission of bid and opening of bid. Taxes – duties shall always be paid at actuals based on documents of evidence. Any upward variation in statutory taxes and duties beyond the contractual delivery period/work completion period will not be paid by DVC if the reasons of the delay are attributable to the vendor. Entry Tax / Octroi as applicable will be to the account of Purchaser/Owner (DVC) at actuals as per rate ruling within contractual delivery period/work completion period, if applicable.

Changes in the tax rate dependant on the volume of turn over shall not come under the purview of reimbursement and should be spelt out in the bid documents itself.

Bidders, other than manufacturers shall quote all-inclusive price upto the consignee's end, clearly indicating the quantum of CST/VAT, if applicable and F&I Charges embedded in all-inclusive FOR Destination Price.

For turnkey contracts/any other similar contracts, the bidder shall quote price of all the items manufactured by them and to be directly supplied to DVC with ruling rates of taxes and duties which would be reimbursed at actual including variations, if any, against documentary evidence at the time of supply, upto contractual completion period. All taxes and duties applicable on materials / equipment supplied as finished goods to DVC

through Sub-vendor / Sub-contractor as bought out items are to be included in the price quoted by the bidder for such items, which will remain firm throughout the pendency of the contract. This will also cover raw material, component, special assembly procured for manufacturing finished goods, material/equipment to be supplied to DVC either directly by the contractor or through Sub Vendor. However, taxes and duties charged by the concerned State Govt. / Local Statutory Body for entry into the destination state / site viz. (a) Octroi, (b) Entry / Exit Tax, (c) Additional Toll Tax, (d) Special Toll Tax, (e) Turnover Tax etc. or any other taxes and duties having the same spirit and purpose shall be to the account of Purchaser/Owner (DVC) as applicable as per rate ruling within contractual delivery period/work completion period.

Service Tax as applicable on service that are provided directly by the contractor to the owner (DVC) shall be indicated separately in the bid price schedule with the ruling rate and will be reimbursed at actual including variation, if any, upto contractual completion period, on production of documentary evidence. However, Service Tax on services that is not provided directly by the contractor to DVC viz., transportation, insurance etc. shall be included in the bid price itself and shall not be considered separately.

Works Contract Tax (WCT) at the admissible rate wherever applicable will normally be included in bid price. DVC will, however, deduct WCT from the vendor's bill/invoice and deposit the same to the concerned authorities as per statutory provisions.

Beyond contractual completion period, DVC will normally accept lower of the tax liability either on the scheduled or actual date of completion unless the contractor is not responsible for the delay and/or it is otherwise decided by the authority granting the extension of time. Changes in the tax rate dependant on the volume of turn over shall not come under the purview of reimbursement and should be spelt out in the bid documents itself.

For reimbursement of Sales / VAT / Service Tax, self-attested/notarized copy of registration certificate will normally be accepted as documentary evidence.

In case of change of source of supply from Sub Vendor to bidder or Sub Vendor to contractor (if approved by DVC), no additional payment shall be made by DVC towards reimbursement of taxes and duties as they are deemed to be included in the contract price.

In the event of change of source of supply from bidder/contractor to Sub Vendor (if approved by DVC), taxes and duties will be reimbursed at

actual against documentary evidence restricted to the amount of taxes and duties as originally payable to the bidder in terms of the contract.

While fixing total financial involvement, Tender Committee should also consider and evaluate the total monetary involvement towards taxes and duties charged by the concerned State Govt. / Local Statutory Body for entry into the destination state / site viz. (a) Octroi, (b) Entry / Exit Tax, (c) Additional Toll Tax, (d) Special Toll Tax, (e) Turnover Tax etc. or any other taxes and duties having the same spirit and purpose. These will be apart from other statutory taxes and duties (ED etc.).

10. DISCREPANCIES IN THE BID & OFFER VALIDITY :

The bids shall also be checked for computational error, if any, to arrive at the computed price, as per provisions in the following:

- In case of discrepancy between the original and copies of bid, the original bid will be considered correct.
- If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity of any item, or between sub-total and the total price, the unit or sub-total price shall prevail, and the total price shall be corrected accordingly.
- If there is a discrepancy between words and figures, the amount in words will prevail.
- If there is a discrepancy between the quantity specified by DVC in the bidding document and that indicated by the bidder in his bid, the former shall be taken to arrive at the computed price on pro-rata basis.
- In case the unit rate of an item is not quoted but the total price is indicated, the same shall be taken to arrive at the computed price. The computed price arrived at, as above, shall be considered for the purpose of award also.
- If the bidder does not accept the correction of errors as worked out by above methodology, its bid will be rejected.

Quotation must be kept valid for at least 90/180 days or as decided by Tender Inviting Authority from the date of opening of the Enquiry / Tender and to be indicated in the NIT. If any bidder offers bid having validity shorter than that asked in the NIT, bid should not be rejected outrightly. Bidder should be persuaded to accept NIT stipulation.

The materials which are to be procured on single tender propriety basis, the vendor must submit a Proprietary Article Certificate (PAC) and Price Reasonability Certificate (PRC) stating that the prices charged are reasonable and the same as being charged to all the Govt. / semi Govt. Organizations / PSUs including D.G.S. & D. wherever applicable and shall be submitted along with the offer with documentary evidence. Where agency commission is involved, the same in percentage invariably be indicated and in such cases document required to be furnished.

11. CLARIFICATIONS ON BID DOCUMENT :

Bidder may seek clarifications on the bidding documents (GCC + SCC, if any + Technical Specification Booklet + NIT {Tender Notice} along with annexure + Proforma & Check List of BG against EMD), if required, upto 7 days before the scheduled bid opening date. Any clarification sought by the bidders must be sent in writing to the Tender Issuing Authority.

Besides this, a Pre-bid Conference may also be held at the Tender Issuing Office at the discretion of Tender Inviting Authority. If agreed by Tender Inviting Authority, date, time and place for holding the Pre-bid Conference to be mentioned in the bidding document (NIT).

12. AMENDMENT OF BIDDING DOCUMENTS :

At any time prior to the deadline for submission of bids, the owner may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the bidding documents.

The amendment will be notified in writing or by cable to all prospective Bidders that have received the bidding documents and will be binding on them. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained therein will have been taken into account by the Bidder in its bid.

In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their bid, the owner may, at its discretion, extend the deadline for the submission of bids.

13. COST COMPENSATIONS FOR DEVIATIONS :

Deviations specifically declared by the bidders in the respective Deviation Schedules of as per Annexure C (to be submitted along with techno-commercial offer) and respective cost of withdrawal of such deviation as per Annexure D (to be submitted along with the price bid) only will be taken into account for the purpose of evaluation. The bidders are required to declare the prices for the withdrawal of the deviations declared by them in the Deviation Schedules. Such prices declared by the bidders for the withdrawal of the deviations in the Deviation Schedules shall be added to the bid price to compensate for these deviations. In case prices for the withdrawal for declared deviations are not furnished by the bidder, their offer will be considered as unresponsive and will be rejected. In case the bidder refuses to withdraw the deviations at the cost of withdrawal indicated by the bidder in the Deviation Schedules, the bid Security / EMD of the bidder may be forfeited.

Bidders may note that deviations, variations and additional conditions etc. found elsewhere in the bid other than those stated in the Deviation Schedules, save those pertaining to any rebates, shall not be given effect to in evaluation and it will be assumed that the bidder complies to all the conditions of Bidding Documents. In case bidder refuses to withdraw, without any cost to the Owner, those deviations which the bidder did not state in the Deviation Schedules, the bid security of the bidder may be forfeited and the bid is liable for rejection.

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- (i) Bidders are requested to quote the technical parameters/ guaranteed technical particulars of the quoted item as per specification sheet/booklet enclosed with the bid document.
 - (ii) Bidders are requested to offer their commercial terms and conditions as per Annexure-A attached herewith.
 - (ii) Manufacturers are requested to offer their pricing as per Annexure - B attached herewith.

15. BID EVALUATION PROCEDURE :

Offered bids from any manufacturer will be evaluated in the following methodology. Bids from other than manufacturer to be evaluated by deleting the respective components which are not applicable to them, namely, ED, Cess, P&F charges etc.

Original Basic Price : Ex-Works Price (Rs.)=.....Rs.
+Packing & forwarding charges, if any :% on basic price only

+Excise Duty -.....% on (Basic Price + P & F)**

+Education Cess -.....% on ED**

+Sales Tax/VAT -.....% on (Basic Price+ P & F + E.D.+Cess)**

+Freight -.....% on (Basic Price + P&F) or any lump sum value

+Insurance -.....% on (Basic Price + P & F + E.D. +Cess+ S.T.) or any other value against documentary evidence or actual premium in case of DVC's Open Policy (presently it is 0.0112% of basic price).

+Cost of withdrawal price - As declared by the bidder in Annexure-D of declared deviations along with price schedule.

+Highest quoted price of other bidders, in case the bidder fails to quote the mandatory items or description of item not as per our specification *

+Type test charge/3rd Party Inspection - Charge as per our QAP with applicable taxes and duties, if any * -

+Loss capitalization charges, if any* -

+Any Other taxes and duties, such as TOT, Entry Tax, Municipal Tax etc. as applicable **-

= Total Evaluated Price

If the bidder fails to quote the mandatory items or description of items not as per our specification the bidder shall have to supply these items of goods/ services at a rate not exceeding the evaluated rate as mentioned above, in the event DVC decides to place order on him.

The liability of DVC shall be as per actual ED as applicable at the time of despatch, subject to production of documentary evidence by the manufacturer (bidder). Further the rate of ED shall be restricted to as applicable within the contractual delivery period only. Increase in ED rate, if any due to delay in supply beyond the contractual delivery period shall not be payable by DVC if the reasons for delay is attributable to the vendor only. However, the benefit of any decreases in ED shall be passed on to DVC.

The lines with * mark may be deleted wherever not applicable.

** = Rate as on date of bid opening to be taken.

16. INSPECTION / CHECKING / TESTING :

All materials/equipments manufactured/supplied by the vendor against the Purchase Order/contract shall be subject to inspection, check and/or test by the Purchaser or his authorised representative. All these tests shall be carried out in the presence of Owner and/or his authorized representative. Vendor shall notify the Purchaser at least 15 days in advance when the material / equipment is ready for inspection. If upon delivery the material / equipment does not meet the specifications / samples, the material / equipment / spares shall be rejected and vendor to be intimated for necessary repairs / modification etc. or for replacement. In such cases all expenses including to-and-fro freight, repacking charges etc., if required, shall be to the account of the vendor.

Inspection by Purchaser and / or his authorized representative or failure by the Purchaser and/or his authorized representative to inspect the material / equipment shall neither relieve the Vendor of any responsibility or liability under this Purchase Order / contract in respect of such material / equipment nor be interpreted in any way to imply acceptance thereof by the Owner.

Whenever specifically asked for by the Owner/Purchaser and/or his authorized representative, the Vendor shall arrange for inspection/testing by the Owner or third party authorised agencies as stipulated in the Purchase Order / contract. In such cases Vendor shall adhere to the inspection / testing procedure laid down by such agencies. All expenses including inspection fees shall be to the Purchaser account unless agreed to the contrary and specified in the Purchase Order/contract.

17. ACCESS TO VENDOR'S PREMISES :

The Owner and/or his authorized representative shall be provided access to Vendor's and/or his sub-vendor's premises at any time during the pendency of the Order/contract for expediting inspection, checking etc. of work.

18. TRANSIT INSURANCE & REMOVAL OF REJECTED GOODS AND REPLACEMENT :

The items to be supplied have to be covered by Insurance during transit from vendors work site upto the consignee store. However, the vendor may have the option to avail DVC's Open Insurance Policy for this purpose. Alternatively, vendor may arrange transit insurance coverage at his own risk and cost. The insurance charge as claimed by the vendor will be payable by DVC on actuals against production of documentary evidence.

In Turnkey Project Contracts, the bidders have to supply materials / equipments from the vendors approved by DVC (which may also include the bidder as manufacturer of the product), which is normally firmed up after placement of order. The quoted freight & insurance charges for this purpose are, therefore, irrespective of the vendors and geographical locations of their works. The bidder is, therefore, entitled to the fixed freight & insurance charges and no documentary evidence in support of the claim may be insisted upon.

- 18.1** If upon delivery to consignee's go-down, whether inspected and approved earlier or otherwise, the material / equipment is not found in conformity with the specifications, the same shall be rejected by the Purchaser or his duly authorized representative and notification to this effect will be issued to the Vendor normally within 30 days from the date of Receipt of the material at the Works / Site / consignee's end.

The Vendor on receipt of notification shall arrange removal of the rejected items within 15 days from the date of notification at his own cost. In the event the Vendor fails to lift the materials within the said 15 days, the Owner without any further notice or information to the vendor, shall be at liberty to dispose of such rejected items in any manner as he may think fit. All expenses shall be recoverable from the Vendor.

- 18.2** In the event, the equipment and materials or any portion thereof are damaged or lost during transit, the owner shall give notice to the Supplier/vendor detailing the particulars of such equipments & materials damaged or lost during transit. The replacement of such equipment and

materials to be effected by the supplier / vendor free of costs including handling and transportation charges upto site, within a reasonable time.

19. TERMS OF PAYMENT :

For purchase order involving supply only, payment terms will be as below :

100% payment alongwith full taxes & duties will normally be made by the purchaser/Owner to the Vendor through A/C Payee Cheque within 15 working days from the date of receipt of material at site and after inspection & acceptance thereof or from date of receipt of invoice whichever is later. The consignee would arrange for inspection of the supplied items. All documents relating to payment would be checked and verified and to be passed by the concerned Accounts Office before effecting payment, with reference to the P.O./ LOI /LOA.

However, payment terms for POs placed directly on manufacturer may also be done as below :

90% of the ordered value to be paid against despatch documents through bank subject to prior acceptance of SDBG, if applicable. Balance 10% of the ordered value to be paid after receipt of materials at site and acceptance thereof.

Provision of part payment against part supply of consignment at consignee's end may be incorporated in Purchase order on the merit of the case (only if the part consignment can be used independently), provided necessary stipulation is made in the bid document.

The payment terms for any works/service contract may be regulated as below :

90% of contract price for works/service contract against RA bills. This also includes initial advance, if any. Remaining 10% after completion of the contract.

The payment terms for supply and erection & commissioning for any Turnkey contracts/packages may be regulated as follows :

1) Supply portion only :

70% of the Ex-works price /ordered value of supply (of bought out items) with full taxes and duties as applicable after adjustment of advance, if any, will be paid against proof of despatch (viz. R/R, L/R) , detailed invoice /

packing list, warranty certificate, test certificate ,insurance policy / certificate, dispatch clearance .

20%of the Ex-works price / ordered value of supply (in case of bought out items) after receipt of the materials and inspection and acceptance at site. However, for spares, balance 30% shall be paid after receipt of materials and inspection & acceptance at site.

Remaining 10% after complete erection and commissioning & testing and handing over.

2) Erection & Commissioning :

90% of contract price for Erection & commissioning against RA bills. This also includes initial advance, if any. Remaining 10% after complete erection and commissioning & testing and handing over.

Payment terms in respect of imports will be regulated as below :

100% FOB price less Indian Agency Commission in Rs, if any, shall be paid against presentation of shipping documents as called for in the purchase order through irrevocable LC. The Indian Agency Commission in Rs, if any, shall be paid within 30 days of receipt of material at the consignee end.

The payment of advance is normally discouraged. The advance payment, in exceptional cases, may be given to the extent of 10% of total ordered value against submission of a Bank Guarantee of equivalent amount (on account of advance) and the same should have sufficient validity covering the full delivery period / full completion period and final payment thereof. Rate of interest of advance should be package specific and commensurate with the market rate.

20. ADDITIONS / ALTERATIONS / MODIFICATIONS :

The Owner reserves the right to make additions/ alterations/ modifications to the quantity of the items in the Purchase Order. The Vendor shall supply such quantities also at the same rate as originally agreed to and incorporated in the Purchase Order. If, however, the additional supply is at variance with design, size and specifications and not already covered by the Purchase Order or the amendments therein, the rates for such additional supply shall be negotiated and mutually agreed upon.

21. DELIVERY SCHEDULE / COMPLETION PERIOD :

Time is the essence of this contract and normally no variation shall be permitted in the completion time/delivery schedule mentioned in the

Order/contract unless an amendment in this regard is issued by DVC. Time extension may be issued on specific request/reason provided such request is communicated to the Order Issuing Authority before the expiry of the stipulated delivery schedule/completion period. Such extension, however, can be accorded as per provisions in DFP. Date of delivery of materials/goods is to be reckoned as the date of receipt of same by the consignee.

22. LIQUIDATED DAMAGES FOR DELAY IN DELIVERY :

22.1 The time remains the essence of any contract/ purchase order awarded by DVC and all supply under a Purchase Order/all deliverables under a Work Order needs to be completed within the stipulated time schedule. Therefore, the provision has been kept in the contract that in case of delay in completion/delivery, for the reasons attributable to the contractor/vendor, owner reserves the right to recover from the contractor/vendor, a sum equivalent to 0.5% of the value of the delayed materials / equipment / spares / work for each week of delay and part thereof subject to maximum of 5% of the total value of the order as Liquidated Damage (LD).

In cases, where the works/supply/services extend beyond the contractual completion schedule/delivery period and provisional extension order is issued without deciding on the application of LD, no amount from the RA bill will be deducted as “withheld LD” amount in case where adequate retention payment (over and above SD) remains with DVC as per terms of the contract.

22.2 Alternatively, the Purchaser reserves the right to purchase the material/spares/equipment from elsewhere at the sole risk and cost of the Vendor and recover all such extra cost incurred by the Purchaser in procuring the material by the above procedure.

22.3 Alternatively, the Purchaser may cancel the Order/contract completely or partly without prejudice to his right under the alternatives mentioned above.

22.4 In the event of recourse to alternative 22.2 and 22.3 above, the Purchaser will have the right to re-purchase the stores, to meet urgency in requirement caused by Vendor’s failure to comply with the schedule of delivery irrespective of the fact whether the materials/equipments are similar or not.

23. SECURITY DEPOSIT-CUM-PERFORMANCE GUARANTEE :

- No Security Deposit-cum-Performance Guarantee is required for contract value upto Rs. 5 lacs when 100% payment is released after full execution/ completion of the contract.

- Security Deposit in the form of BG of 10% ordered value/10% ordered value in Advance Bank Draft/Pro-rata deduction @ 10% from the running bill/submitted invoice may be allowed at the discretion of Tender Inviting Authority for any site packages upto Rs. 100 lacs (Rs. 25 lacs for HQ package/procurement) with EMD equivalent (2% of total order value) as initial SD.
- Pro-rata deduction @ 10% is also allowed as SD for scheduled upward variation on account of variation of scope/quantity/price for any value of contract irrespective of instrument used for original SD.

The amount so deducted /accepted as SD to be refunded to the bidder after completion of warranty/guarantee period as mentioned in the contract.

For all other cases, the successful tenderer will have to deposit as security, for satisfactory execution of the order, and for guaranteed performance of the supplied item/executed works or services for an amount equivalent to 10% of the ordered value in the form of Bank Guarantee (as per DVC format) within 30 days from the date of issuance of Purchase Order/Work Order, from any Nationalised / Scheduled Bank and it should have validity initially for 18 months from the date of execution of BG plus 6 months claim period thereafter. The said BG should be extended suitably covering the entire warranty period plus 6 months claim period after despatch of materials.

For turnkey projects/project contracts, this SDBG should have the validity covering the entire warranty/guarantee period plus six months claim period thereafter and to be submitted within 30 days of issuance of W.O. / LOA / LOI.

No payment, whatsoever will be made till the acceptance of SDBG/deposit of initial SD as the case may be as per the terms of the contract.

In case banks refuse to issue BGs having Claim Period separately, the validity period of those BGs may be taken as warranty period plus six months.

However, for ordered value above Rs. 25 lakhs at Headquarter and for ordered value above RS. 100 lakhs at site, Security Deposit in the form of Bank Guarantee shall only be acceptable.

SSI Units registered with NSIC, under its single point registration scheme, are exempted from depositing Security Deposit for ordering value upto the

monetary limit for which the unit is registered. Small-scale industries seeking such exemption must enclose valid registration certificate from appropriate Govt. Authority giving details such as validity, stores, monetary limit etc. failing which exemption will not be granted.

However, these SSI units will have to submit Performance Guarantee for the materials to be supplied as per DVC norms and to be submitted before the despatch of materials and no payment will be effected till the acceptance of the same.

In case of acceptance of SD in the form of Demand Draft or pro-rata reduction from running bills/submitted invoices, the amount so accepted/deducted as SD may be refunded to the vendors after submission of acceptable BG of equivalent amount valid till expiry of warranty/guarantee period plus six months claim period or valid covering warranty/guarantee period plus six months.

24. PURCHASE PREFERENCE :

At present DVC, an autonomous body under Ministry of Power, GOI is granted exemption from Purchase Preference Policy vide GOI OM dated 18-07-2005. However, any change in Govt. Policy/Directives on this subject will be applicable.

25. SOURCE OF SUPPLY :

The Vendor shall ensure that the indigenous capacity is utilized to the fullest extent possible in execution of the order. Where the imports are unavoidable, the Vendor shall import all such items in good time against his own import licence without affecting the contractual delivery schedule.

26. PATENT RIGHTS :

Royalties and fees for patents covering materials/equipments/ spares or processes used in executing the work shall be to the account of the Vendor. The Vendor shall satisfy all demands that may be made at any time for such royalties and fees and he alone shall be liable for damages, infringement and shall keep the Purchaser indemnified in that regard in the event of any equipment / spares / material or part thereof supplied by the Vendor is involved any suit or other proceedings held to constitute infringement and its use is enjoyed, the Vendor shall, at his own expenses, either procure for the Purchaser the right to continue the use of

such equipment/spares/material replace it with a non-infringing material / spares / equipment or modify it so it become non-infringing.

27. FORCE MAJEURE :

Vendor shall not be considered in default if delay in delivery occurs due to causes beyond his control such as acts of God, natural calamities, civil wars, fire, strike, frost, floods, riot and acts of unsurpassed power. Only those causes which have duration of more than seven (7) days shall be considered cause of force / calendar majeure. A notification to this effect duly certified by the statutory authorities shall be given by the Vendor to the Owner within 10 days from the date of such Force Majeure condition by registered letter. In the event of delay due to such causes, the delivery schedule will be extended for a length of time equal to the period of force majeure or at the option of the Owner the order may be cancelled. Such cancellation would be without any liability whatsoever on the part of the Owner. In the event of such cancellation, the Vendor shall refund any amount advanced or paid to the Vendor by the Purchaser and deliver back any materials issued to him by the Purchaser and release facilities, if any, provided by the Purchaser. However, applicability of Force Majeure Clause in respect to a particular contract in the above backdrop is to be decided by Tender Accepting Authority / Director / HOD.

28. CANCELLATION/SHORT CLOSURE :

The Owner may terminate/short close the contract, by not less than 30 days' written notice to the bidder, to be given after occurrence any of the events specified in the Sl. No. (a) to (e) of this clause and 60 days in the case of the event referred to Sl. No. (g), (h) & (f) below :

- a) The Vendor fails to comply with any of the terms of the Order or the bidder do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Owner may have subsequently approved in writing.
- b) The Vendor becomes bankrupt or goes into liquidation.
- c) If as a result of Force Majeure, the Bidder is unable to supply a material for a period of not less than 60 days.
- d) If the Bidder, in the judgment of the Owner has engaged in corrupt or fraudulent practices in competing or in executing the Contract. For the purpose of this clause:

- e) "Corrupt Practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the selection process or in contract execution.
- f) "Fraudulent Practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Owner.
- g) The vendor is otherwise precluded from complying with any of the terms of the order on account of any directives of any lawful authority.
- h) If the Owner, at its sole discretion, decides to terminate this Contract.

DVC reserves the right not to issue tender documents to any intending bidders with whom DVC has stopped entering into business by virtue of policy decision.

29. OWNER SUPPLIED MATERIALS (OSM) :

In turnkey contracts/Work contracts, there are occasions where DVC supply some of the materials/equipment to the contractor free of cost, for erection. The contractor shall arrange proper storing and insure against all risks for such OSM. The contractor shall furnish indemnity bond for the total value of OSM.

RECOVERY OF EXCESS CONSUMPTION :

Rate of recovery (for excess consumption of OSM exceeding allowable wastage) for OSM may be determined on the basis of latest PO with storage charge (wherever incurred) / 15% service charge and price variation, wherever applicable (only positive variation to be considered without any ceiling) as on date of commissioning of OSM after erection.

The contractor may be allowed to replenish the excess consumed materials from the sources approved by DVC. However, if the OSM has to be issued through additional procurement on demand of the contractor because of excess consumption of his/their part, replacement of such additional quantity may not be allowed at the discretion of DVC and the same will be recovered as per procedure described above. In case penal recovery is considered to be expedient in respect of any critical equipment, the same shall be provided in the contract/bid document only after obtaining approval of HOD/Director.

30. ELIGIBILITY CRITERIA OF JOINT VENTURE COMPANIES IN TURNKEY CONTRACT :

- a) The participating Joint Venture companies formed by two or more firms shall have one firm as a 'lead partner' and one or more firms as 'other partner(s)'.
- b) The lead partner shall meet all the eligibility criteria in respect of similar executed works and their performance. The lead partner shall also meet not less than 40% of the minimum financial requirement specified for participation in the job.
- c) The other partner(s) shall meet not less than 50% of the minimum credential of similar executed work and their performance and 25% of the financial requirement for the job.

The firm satisfying the credential by way of manufacturing, type testing and supplying major substation equipment/line materials (as the case may be) which are in satisfactory operation for a minimum period of two years will also be eligible.

- d) The financial credential of each of the partners of the joint Venture Firms added together shall comply with minimum qualifying requirement as stated in the NIT.
- e) The lead partner shall be authorized to incur liabilities and receive instruction for and/or on behalf of partners of Joint Venture and the entire execution of the contract including receipt or payment shall be done exclusively through lead partners. The authorization shall be authenticated by submitting power of attorney signed by the legally authorized signatories of all the partners as per approved proforma of DVC.
- f) All the partners of the Joint Venture Companies shall be liable jointly and severally for the execution of the contract, if awarded, in accordance with the settled terms & conditions and a copy of agreement entered into by the Joint Venture partners having such provision shall be submitted with the bid. A statement to this effect shall be included in the authorisation mentioned under (e) above.
- g) The Joint Venture of the firms shall furnish all the required information as asked for in the NIT / GCC / Specification in respect of each of their partners in their bid. In case of successful bid, the form of agreement shall be signed so as to be legally binding on all the partners.

The format of the power of attorney and other documents to be submitted by Joint Venture Partners as indicated in (d), (e) & (f) may be suitably structured by our Legal Department.

31. SELECTION OF SUB VENDORS FOR TURNKEY CONTRACTS / PACKAGES :

Approved list of Sub-vendors will be indicated in the bidding documents for QR and non-QR items of supply.

For non-critical items, there may not be enlisted Sub-vendors for every item and the supply shall be accepted as per related standards, approved sample, and satisfactory inspection, wherever applicable.

The bidders are, however, permitted to propose new/different Sub Vendor for approval of DVC in the pre and post bid stage.

For QR related supply items, if any new sub-vendor is proposed by the bidder, it may be approved if it is found to meet the QR and is acceptable on consideration that the proposed Sub Vendor made previous supplies to DVC or is included in the approved list in any other DVC / PGCIL / NTPC Project for similar supply.

In case the proposed Sub Vendor is found to meet the QR and is neither in the approved list nor has made any previous supply to DVC, appropriate decision may be taken by the concerned Chief Engineer in consideration of documents furnished by the sub-vendor and further assessment, if required, may be done in the pre-award/post award stage. For non-QR items of supply, if new Sub Vendor is proposed by the bidder, it will be obligatory on the part of bidder to furnish the details / documents in support of their claim which would be reviewed and appropriate decision taken. In the event of further assessment of credential of Sub Vendor being felt necessary beyond the document furnished by the bidders, it shall be dealt with during post award stage.

Normally no separate QR may be stipulated for sub-contracting of erection works. In cases, where Sub-contractor for erection job is proposed by the bidder, the qualification of the proposed Sub-Contractor may be examined keeping in view the qualification requirement applicable for the quantum of job proposed to be sub-contracted and other relevant aspects related to the site condition and overall responsibility of the contractor.

The Sub Vendor / vendors shall be approved by the Tender Accepting Authority/concerned CEs.

32. CHANGES IN CONSTITUTION OF BUSINESS :

In the event of change in constitution of business of the contractor after issuance of contract due to merger/acquisition/any other reasons, the newly formed entity shall be equally held responsible to fulfil the contractual obligation. This is notwithstanding anything contained in NIT or subsequent LOI / LOA / GCC or any other document issued or provisions contained in any other Rules / Acts / Legislation.

33. WAIVER :

Any waiver by the Owner of any breach of the terms and conditions of the Order shall not constitute any subsequent breach of the waiver of any other right or conditions.

34. COMPLIANCE OF REGULATIONS :

The Vendor shall warrant that all Goods and/or services covered by this Purchase Order/ contract shall have been produced, sold, dispatched, delivered, tested and commissioned in strict compliance with all applicable laws, regulations including industries (Development & Regulations) Act, 1951 & Industrial Dispute Act, 1947 and any amendments there under, labour agreements, working conditions and technical codes and requirement as applicable from time to time.

All laws, rules and regulations required to be followed in execution of the order / contract, must be complied with. The Vendor should execute and deliver such documents as may be needed by the Purchaser/ owner in evidence of compliance. Any liability arising out of contravention of any of the laws on executing this order shall be the sole responsibility of the Vendor and the Owner shall not be responsible in any manner whatsoever.

35. SUB-LETTING & ASSIGNMENT :

The Vendor shall not sub-let or assign any part of this Purchase Order/ contract to any other vendor/agency without the prior written consent of the Purchaser / owner. Such assignments or sub-letting or transfer shall not relieve the Vendor from any obligation, duty and responsibility under this Purchase Order / contract. Any assignment, transfer or sub-letting without the prior written approval of the Owner shall be void. The Purchaser / owner shall have the right to cancel the order/contract and to purchase the goods/services from elsewhere and the supplier/vendor shall be liable to the Purchaser / owner for any loss or damage which the Purchaser / owner may sustain in consequence or arising out of such

purchase and the Vendor shall indemnify such loss or damage to the Owner.

36. VENDORS DRAWING & DATA :

All Drawings, data and documentation in respect of the ordered items are an integral part of the Purchase Order / contract. The Vendor will furnish all such drawings, data and documentation to the Purchaser / owner. Purchaser / owner will specify the schedule for submission of these documents by the Vendor and the required number of copies. The vendor shall ensure strict compliance to this schedule.

37. INFORMATION PROVIDED BY THE PURCHASER :

All Drawings, data and documentation that are given to the vendor by the Purchaser / owner for the execution of the Order / contract shall be the property of the Purchaser / owner and shall be returned by the Vendor on demand by the Purchaser / owner. The Vendor shall not make use of any of the above documents for any purpose at any time except for the purpose of executing the Order / contract of the Purchaser / owner. The Vendor shall not disclose any of the information given by the Purchaser / owner to any person, firm, corporate body or authority and shall make all endeavours to ensure that the above information is kept confidential. All such information shall also remain the absolute property of the Purchaser/owner.

38. SPARE PARTS, OILS & LUBRICANTS :

Wherever applicable, the Vendor shall furnish item wise price list of spare parts required for two years operation of the equipment ordered. The Vendor shall also provide the necessary instructions and drawings to identify the spare part numbers and their location as well as an interchangeability chart. The Vendor shall recommend the quality of oils and lubricants required to be used to the operation of the equipment supplied under this Order for a continuous operation for a period of at least one year.

39. VENDORS LIABILITY :

Vendor hereby accepts full responsibility and indemnifies the Purchaser/owner and shall hold the Purchaser / owner harmless from all acts of omissions and commissions on the part of the vendor, his agents, his subcontractors and employees in execution of the Order. The Vendor also agrees to defend and hereby undertakes to indemnify the Purchaser /

owner and also hold him harmless from any and all claims of injury to or death of any and all persons including but not limited to employees and for damage to the property arising out of or in connection with the performance of the work under the Purchase Order / contract.

40. PACKING AND MARKING :

All goods shall be securely packed in cases, bundles, crates etc. suitable for Rail / Road / Air / Sea transport. All exposed services/connections, protrusions shall be properly protected. All unexposed parts shall be packed with due care and the packages should bear the words "Handle with Care". The packing of the goods to be transported by Rail / Road / Air / Sea shall be as per the conditions laid down by the appropriate authorities and the Vendor shall obtain clean railway / goods receipts without any qualifying remark.

All packages and unpacked materials shall be marked on at least two places indicating the name of the Purchaser/ Consignee, Purchase Order No., gross & net weights and dimensions with indelible paint in English. In case of bundles, metallic plates marked with the above details shall be tagged.

All goods should be despatched as per the relevant terms of the Purchase Order. In case any mode of transports has to be resorted to other than that mentioned in the Purchaser Order, the same should be done only after obtaining prior approval in writing from the Purchaser. All movement sanctions, loading permissions etc. from the railway or other authorities shall be obtained by the Vendor. The Vendor shall communicate the relevant dispatch particulars immediately on dispatch by telex/telegram to the consignee as specified in the Purchase Order.

The Vendor shall also forward original and copies of dispatch documents to the concerned authorities as required in the Purchase Order within two days from the date of despatch, failing which the Vendor shall be responsible for any delay in payments of consignment for want of documents and consequent demurrage, detention charges, etc.

41. MODIFICATIONS :

This order constitutes an entire agreement between the parties hereto. Any modifications to this Order shall become binding only upon the same being confirmed in writing duly signed by both the parties.

42. GUARANTEE / WARRANTY :

- 42.1** The Vendor shall warrant that all material / equipment / services supplied under this Order / contract shall be new, unused and conform to the Purchasers / owners requirements and specifications. The Vendor shall guarantee the material / equipment / services under this Order for a period of 18 months from the date of delivery or 12 months from the date of commissioning whichever is earlier.

For turnkey contracts, Guarantee / Warranty period is to be considered as 12 months from the date of commissioning of the same irrespective of date of delivery. The date of delivery to be reckoned as the date of receipt of the material by the consignee. The Vendor shall agree to replace any material, which has been proved defective or fails to conform to the desired specifications free of cost to the Purchaser within the Guarantee/Warranty Period. The guarantee period for such replaced part shall be the same as that of equipments / materials specified earlier.

- 42.2** Checking / approval of vendors drawings, inspection and acceptance of material / spares / equipment / furnishing to effect shipment and / or work done for erection, installation and commissioning of the equipment by the Purchaser/owner or any other agency on behalf of the Purchaser / owner shall not in any way relieve the Vendor from the responsibility for proper performance during the guarantee period.

- 42.3** Service contracts like hiring of vehicle / Insurance / consultancy / Clearing & Forwarding services etc and other consumable items like stationeries, printing of matter etc. are beyond the purview of Warranty Clause.

Also Medicines / Chemicals / Liveries & Dungrees / Petrol / Diesel / LDO / FO etc. are generally covered with limited warranty and it should be decided before floating enquiry at the discretion of TIA.

Performance Bank Guarantee for above items to be asked accordingly.

Before floating of enquiry, Indentor / TIA at his discretion and depending on the technical intricacies of the procurement of goods and services may decide on the period of warranty / guarantee.

43. MODE OF DESPATCH :

Vendor shall despatch the materials as per schedule mode of despatch as indicated in the purchase order/contract and any violations to this effect

without taking prior written approval from the purchaser/owner is not permissible.

44. DEMURRAGE / WHARFAGE :

In cases where documents are negotiated through Bank, any consequential charges e.g. demurrage / wharfage charges, due to late retirement of documents on account of (i) violation of the inspection clause, (ii) material despatched after expiry of delivery period without obtaining approval in advance for extension of delivery period (iii) despatch of materials not as per schedule mode of despatch by approved transporters as per P.O/contract. (iv) late receipt of invoice or due to violation of any other clause/clauses of the purchase order will be to the Vendors account. Supplier would also be responsible for all such payment due to late receipt of RR/LR and other documents.

45. GRAFTS / COMMISSION :

Any graft, commission, gift or advantage given, promised or offered by or on behalf of the Supplier or his partner, agent officers, director, employee or servant or any one on his or their behalf in relation to the obtaining or to the execution of this or any other Contract with the Owner, shall in addition to any criminal liability which it may incur, subject the Supplier to the cancellation of this and all other Contracts and also to pay for any loss or damage to the Owner resulting from such cancellation. The Owner shall then be entitled to deduct the amount so payable from any money otherwise due to supplier.

46. ACCEPTANCES :

The Vendor shall return the duplicate copy of the Purchase Order / contract / Work Order and the other enclosed documents duly signed with seal and date as a mark of acceptance, within 15 days from the date of issuance of the order to the Order Issuing Authority.

47. SETTLEMENT OF DISPUTES & ARBITRATION :

Any dispute(s) or difference(s) arising out of or in connection with the contract shall, to the extent possible, be settled amicably between the owner and supplier.

In the event of any dispute or difference whatsoever arising under the contract or in connection therewith including any question relating to existence, meaning and interpretation of the contract or any alleged

breach thereof, the same shall be referred to the Secretary, CEO of Damodar Valley Corporation, Kolkata-54 or to a person nominated by him for arbitration. The Arbitration shall be conducted in accordance with the provisions of **arbitration and conciliation law 1996 or latest** and the decision / judgment of Arbitrator/Arbitrators shall be final and binding on both the parties.

However, in case the contractor is a Central Public Sector Enterprise/ Govt. Department, the dispute arising between the 'Owner' and the 'Contractor' shall be settled through Permanent Arbitration Machinery (PAM) of the Department of Public Enterprise, Govt. of India as per prevailing rules.

All suits arising out of this enquiry and subsequent purchase order / contract, If any, are subject jurisdiction of Court in the City of Kolkata only and no other Court, when resolution/settlement through mutual discussion and arbitration fails.