

ANNEXURE TO CONDITIONS OF CONTRACT FOR ETC WORKS

The following terms and conditions shall form a part of the tender document. If any discrepancies found between below mentioned clauses and clauses in the Conditions of Contract for Erection Works, DOC. NO. – TB-ETC-GCC,REV.-02, dated 20th JUNE, 2005, the clauses mentioned in this annexure shall prevail.

1. Condition of Contract for Erection works (DOC. NO. – TB-ETC-GCC, REV.-02, 20th June, 2005):

A. Clause No. C.17.0 “Over-run Charges” stands deleted. Now this clause shall be read as below.

Over-run compensation- If the contract is extended beyond the contract period (including grace period) for any reason (including due to extra work/additional quantity) other than those attributable to the contractor or force majeure conditions, the contractor will be compensated by payment of over-run charges at the rate of 0.2 percent (point two percent) of the original awarded contract value per month after the expiry of grace period. The original awarded contract value will be considered firm for calculation purpose of over run compensation.

The over run compensation will be payable for the eligible period of time extension on account of reasons attributable to BHEL only. No over run will be payable for the extension on account of reasons attributable to contractor and/or force majeure conditions.

Over run compensation for the eligible period shall be in proportion to the progress achieved against the plan for respective period.

Part of Extension attributable to the contractor, if any, in total contract extension shall be exhausted first i.e. immediately after end of grace period. This shall be followed by Extension on account of force majeure conditions, if any and lastly on account of BHEL.

The compensation will be payable for the extended eligible period in months and days as applicable.

Any compensation paid to the contractor against over run charges during the eligible extended period of the project will be recovered from the contractor or any payment on this account payable to the contractor will be cancelled if further extension is required due to the reasons attributable to the contractor or situation of risk & cost arises due to failure of the contractor to complete the work.

If the delay is attributable to the contractor LD will be imposed as per the provision in the contract.

Grace period- The grace period will be defined in the Tender Document based on the calculation as one month for every six month (or part there of) of the contract period. The prices quoted by the contractor will remain firm till the contract period plus the grace period including extended period if any.

B. Clause No. B.16.3 shall be read in conjunction with the following

Extra works - Extra works that arise on account of contractor's fault will have to be carried out by the contractor free of cost including the supply of consumables etc.

After eligibility of extra works is established and finally accepted by BHEL Engineer/Designer, payment will be decided on the following rates

Man-day rate for eligible extra works:

Single average man-day rate for carrying out rework/repairs/rectification/fabrication and other such works for a man-day of 8 hours as may arise during the course of erection will be

- i) For Skilled manpower Rs 200/- per day
- ii) For Un-skilled Rs 125/- per day

(The above man day rate includes overtime if any, other site expenses and incidentals, consumables, tools and tackles etc.)

As mentioned above, no payment will be made if an item of work lasts less than eight man hours.

- C. Over all price variation-** The individual quantity can vary to any extent or may be deleted for which no compensation will be payable to the contractor and the rates will remain firm. Also the rate of each item remains firm as long as the variation in the total value of work executed under the contract including extra items if any remains within plus/minus 30 percent of the contract value. In case the actual value of executed work including extra work on completion of work becomes less than 70% of the basic/original contract value than the following method shall be adopted.

The actual executed value shall be raised by 7 % (For arriving at the final payment against work executed) subject to the condition that total value of work executed plus increase by 7% as above shall be limited to 70% of the basic/original contract value. The rate quoted shall be firm irrespective of any upward variation in the contract price.

- D. Clause No. C.30.0 "INCOME TAX/SALES TAX/WORKS TAX/VAT" stands deleted. Now this clause shall be read as below.**

- a.** All taxes (except Service Tax including Educational Cess), WCT under VAT act, duties, charges etc for execution of the contract shall be borne by the contractor and shall not be payable extra. Any increase of the same at any stage during execution of the contract shall have to be borne by the contractor. Quoted price of the bidder shall be inclusive of all such requirements.

- b. Service Tax (including Educational Cess) as legally leviable & payable by the contractor under the provisions of applicable law/ act shall be paid by BHEL as per contractor's invoice. The invoice shall be an invoice under service tax and it should clearly depict (i) the service tax registration number of the contractor (ii) the amount of service tax (iii) the rate of service tax (iv) the nature of service provided. The contractor shall furnish proof of Service Tax registration with Central Excise Division covering the services covered under this contract. Registration should also bear endorsement for the premises from where the billing shall be done by contractor on BHEL for this project.
- c. With introduction of CENVAT credit rules 2004 which came into force wef 10-09-04, Excise Duty paid on input goods including capital goods used for providing the output service & service tax paid on input service can be taken credit of against the Service Tax payable on output service. As such, while offering the rates, contractors may take into account benefit of above provisions as the cost of input to contractors will be cost net of Excise Duty & Service Tax and adjust their offer price accordingly to make it more competitive.
- d. As such, bidder's quoted rates shall be exclusive of Service Tax (including Educational Cess). Any changes in Service Tax rules (by Govt) shall be complied with.
- e. Contractor shall obtain prior approval of BHEL for adopting the scheme for assessment of the service tax amount for the contract before first deposit of service tax to service tax department. The vendor shall also arrange to provide such document/ certificate as may be necessary for availment of input credit by BHEL.
- f. Contractor should be registered under State VAT Act of concerned state. They should produce their Registration No and copy of Registration Certificate as proof of registration and contractor shall produce proof of payment of VAT so that BHEL as main contractor can get the benefit of deduction of input credit from the contractual transfer price under VAT Act of concerned state. Contractors should produce Tax Invoice, copy of tax paid challan, copy of returns of the bidder showing BHEL portion of job value separately and other necessary documents to BHEL as required under VAT Act/ Rules so that BHEL can avail input credit under VAT Act.

E. DELAY AND EXTENSION OF TIME:

If, in the opinion of the Engineer, the work is delayed

- i) by reason of abnormally bad weather, or
- ii) by reason of serious loss or damage by fire, or
- iii) by reason of civil commotion, local combination of workmen, strike or lockout, affecting any of the trades employed on the work, or

- iv) by delay on the part of the agency or tradesman engaged by the BHEL in executing work not forming part of the contract, or

- v) by reason of any other cause which in the absolute discretion of the Engineer is beyond the contractor's control, then in any such case, the Engineer (or higher authority) may make fair and reasonable extension in the completion dates of the individual items of work of the contract as whole. Such extension which will be communicated to the contractor by the Engineer in writing shall be final and binding on the contractor. No other claim in this respect for compensation, idle labour or otherwise howsoever is admissible unless specified elsewhere in contract. Upon the happening of any such event causing delay the contractor shall immediately give notice thereof in writing to the Engineer but shall nevertheless use constantly his best endeavour to prevent or make good the delay and shall do all that may reasonably be required to the satisfaction of the Engineer to proceed with the work.

All other terms and conditions of tender shall remain unchanged.