

**TRANSMISSION BUSINESS GROUP**  
**SUB CONTRACTS MANAGEMENT**  
**NOIDA**

**SPECIAL TERMS & CONDITIONS (ERECTION PART)**

**1.0 SECURITY DEPOSIT:**

1.1 Upon acceptance of tender, the successful tenderer must deposit the security Deposit before commencement of work. The rate of Security Deposit will be as below:

4 Lakhs + 5 % of the amount exceeding 50 Lakhs.

- i) Cash (as permissible under the Income Tax Act).
- ii) Pay Order, Demand Draft in favour of BHEL.
- iii) Local cheques of scheduled banks / Nationalized banks, subject to realization.
- iv) Bank Guarantee from Nationalized banks / scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should be as per Annexure H " Proforma for BG for Security deposit.
- v) Fixed Deposit receipt issued by Scheduled Bank / Public Financial Institutions as defined in the Companies Act. The FDR should be in the name of the contractor, A/C BHEL, duly discharged on the back.
- vi) Security deposit can also be recovered at the rate of 10% from the running bills. However in such cases at least 50% of the Security Deposit should be collected before start of the work and the balance 50% may be recovered from the running bills.
- vii) EMD of the successful tenderer can be converted and adjusted against the security deposit.
- viii) The security deposit shall not carry any interest.
- ix) Security deposit shall not be refunded to the contractor except in accordance with the terms of the contract.
- x) The Head of Unit may waive the Security Deposit in respect of Public Sector Undertaking particularly on a reciprocal basis.

**Note :** 1) Acceptance of Security Deposit against Sl. No. (v) above will be subject to hypothecation or endorsement on the documents in favour of BHEL. However, 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.

2) The BG shall be submitted only through the Banker and direct submission by the party will not be accepted. Along with the BG, the Bank shall also furnish a letter of confirmation (as per prescribed format).

3) The validity of the Bank Guarantee furnished towards Security Deposit under (iv) above shall be up to three months more than the period of completion of work as stipulated in the LOI and the same will be kept valid by proper renewal till the completion of the work.

- 1.2 If the value of the work done at any time exceeds the accepted agreement value, Security Deposit shall be correspondingly enhanced and the extra Security Deposit shall be immediately deposited by the contractor or recovered from the payments due to him.
- 1.3 The successful bidder shall submit unconditional acceptance to the LOI within 15 days of the issue of the same. In case the bidder fails to convey unconditional acceptance or to initiate work as per site requirement, it may lead to forfeiture of EMD and cancellation of the award of work. However, the work order shall be issued only after submission of security deposit as per clause 1.0.
- 1.4 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 fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of the contract. BHEL reserves the right to set off the Security Deposit, against any claims of any other contracts with BHEL.
- 1.5 RETURN OF SECURITY DEPOSIT: If the contractor duly performs and completes the work in all respects to the entire satisfaction of BHEL and presents an absolute "No demand certificate" in the prescribed form and returns properties belonging to BHEL, taken, borrowed or hired by him for carrying out the said works, Security Deposit will be released to the contractor after deducting all costs, expenses and other amounts that are to be paid to BHEL under this contract or other contracts entered into with the contractor. It may be noted that in no case the Security Deposit shall be refunded/released prior to passing of final bill.
- 1.6 No interest shall be payable by BHEL on Security Deposit or on any money due to the contractor.

**1.7 CONDITIONS FOR ACCEPTANCE OF BANK GUARANTEES**

Contractors are advised to obtain Bank Guarantee preferably from any of the following BHEL consortium banks

Sl. No.	Nationalised Bank		Nationalised Bank
1	Allahabad bank	19	Vijaya Bank
2	Andhra bank		<b>Public Sector Banks</b>
3	Bank of Baroda	20	IDBI
4	Canara Bank		<b>Foreign bank</b>
5	Corporation bank	21	CITI Bank N.A
6	Central bank of India	22	Deutsche Bank AG
7	Indian Bank	23	The Hongkong and Shanghai Banking Corporation Limited
8	Indian Overseas Bank	24	Standard Chartered Bank
9	Oriental bank of Commerce	25	J P Morgan
10	Punjab National Bank		

11	Punjab & Sindh Bank		<b>Private bank</b>
12	State Bank of India	26	Axis Bank
13	State Bank of Hyderabad	27	The Federal Bank Limited
14	Syndicate Bank	28	HDFC
15	State Bank of Travancore	29	Kotak Mahindra Bank
16	UCO Bank	30	ICICI
17	Union Bank of India	31	Indusind Bank
18	United Bank of India	32	Yes Bank

Conditions for acceptance of Bank Guarantees from Banks outside BHEL's consortium shall be as below:

The Bank Guarantees of all Public sector banks can be accepted (in addition to consortium banks)

**The Bank Guarantees of Co-operative banks shall not be accepted.**

Bank Guarantees of other than consortium bank and public sector bank can be accepted subject to an overall exposure limit (at New Delhi) of Rs. 10 crores for banks with networth of more than Rs. 500 crores as on last balance sheet date and Rs 5 crores for banks with net worth between Rs. 350 to Rs 500 crores (A certificate and copy of latest Balance Sheet to be given by the Bank at the time of submission of Bank Guarantees).

In case of private sector banks a clause to be incorporated in the text of Bank Guarantee that it can be enforceable by being presented at any branch of the bank.

In case of foreign vendors the bank guarantees issued by foreign banks may be confirmed by our consortium bank in India.

**In case of Bank Guarantees given by Non-Consortium banks (Private sector or Public sector), the Bank Guarantees are to be enforceable in New Delhi or the town/ city in which the sector/ project is located.**

**2.0 TERMS OF PAYMENT**

2.1.1 10% of the contract item price on the monthly progressive bills on pro rata basis for receipt, unloading, maintaining proper records of receipt & storage in Field Quality Plans (FQPs) and as certified by BHEL Engineer.

2.1.2 80% of the contract item price on the monthly progressive bills on pro rata basis after completion of equipment/ material erection including maintaining proper records of installation in FQPs and as certified by BHEL, Engineer. **(In case where unloading is not in scope of contractor as specified in BOQ, 90% of item price shall be released against equipment/ material erection).**

- 2.1.3 10% of the contract item price after completion of satisfactory commissioning and submission of complete records of erection/testing/commissioning/charging protocol as per FQPs for the complete transmission line and issuance of Taking over Certificate by BHEL's Customer.
- 2.2 'Commissioning' for the purpose of payments shall mean satisfactory completion of supply, erection, commissioning checks and successful completion of all site tests and charging of the transmission line at rated voltage as per the contract and to the satisfaction/approval of the BHEL/ Customer.
- 2.3 In case, for any reason solely attributable to the Employer/BHEL, the commissioning/ handing over of line is delayed beyond 120 days of successful completion of final checking and testing of line for the purpose of commissioning, the balance 10% payment shall be released against an unconditional & irrevocable bank guarantee of equivalent amount valid till guarantee period in prescribed proforma of BHEL.
- 2.4 The Engineer shall after a measured bill allow and certify payment to the contractor on the basis of abstract measurement bill submitted by contractor. However, the usual recoveries would be affected from bill.
- 2.5 All intermediate or RA bill payments shall be regarded as advance against the final payment only and shall not be considered as an admission of the due performance of the contract or any part thereof in any respect of the occurring of any claim whatsoever. Such intermediate payments shall not conclude, determine or affect in any way the powers of the Engineer as to the final settlement and adjustment of the account of otherwise, or in any way vary or affect the contract. To this effect the contractor shall submit the final bill, which shall contain the complete up-to-date measurements for the total work done.
- 2.6 Any certificate relating to the work done may be modified by any subsequent interim certificates or by the final certificate and no certificate of the Engineer supporting an advance payment shall of itself be conclusive evidence that any work or materials to which it relates are in accordance with the contract.

### **3.0 TAXES AND DUTIES:**

- 3.1 TDS under Income Tax, VAT etc. if any, shall be deducted at prevailing rates on Gross Value of invoice from the running bills unless Exemption certificate from the appropriate Authority/Authorities is furnished.
- 3.2 All taxes (Except service Tax including Cess/surcharge etc on service tax as applicable), WCT under VAT act, duties, charges, royalties, duties etc. and any other State or Central Levy and other taxes by whatsoever name called 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. Contractor is responsible to furnish all documentary evidences towards registration, payment of works contract Tax and other documents in connection with State VAT Act, as may be required from time to time as and when required by BHEL. Submission of Tax Invoice is a must after Grossing up Bills as the price is inclusive of VAT, separate depiction of VAT.

- 3.3 Contractors have to make their own arrangement at their cost for completing the formalities , if required, with state Vat Authorities, for bringing their material, plant & machinery at site for the execution of contract, road permit / way bill, if required shall be arranged by the contractor and BHEL will not supply any road permit / way bill for this purpose. Contractor must be a Registered as Dealer with the state VAT Act. A copy of the said Registration certificate must be provided to BHEL before the first bill is raised by the contractor.
- 3.4 Service tax: Contractor shall obtain prior approval of BHEL for adopting the scheme for payment of service tax for this contract before the first bill is raised by the contractor. BHEL reserves the right to disagree with the scheme proposed by the contractor .The decision of BHEL shall be final and the contractor shall be bound to adopt the scheme of service tax as finalized by BHEL.

Service Tax (including Cess/surcharge etc on service tax as may be applicable) as legally leviable & payable by the contractor under the provisions of applicable law/ act, shall be paid by BHEL extra as per provision of applicable law. The contractor must be duly registered service provider under service tax law The invoice shall be a Tax invoice under service tax law and it should clearly depict following (i) the service tax registration number of the contractor (ii) the amount of service tax (iii) the rate of service tax (iv) any other requirement specified by law.

BHEL will not be held to be responsible for any non-compliance of the contractor in respect of various service tax rules, being framed from time to time.

Contractor will be required to provide all necessary documents / certificates as may be necessary for availment of input credit by BHEL.

- 3.5 Tender rates are inclusive of all taxes, duties levies etc except service tax. Any increase by the government in any of taxes except service tax shall be borne by contractor. Service tax as per Clause No. 3 (4) above will be paid extra as per Contract. However, regarding newly introduced taxes (i.e. taxes introduced by government after tender opening date) reimbursement will be made subject to following

(a) if new tax introduced by Central Govt. /state Govt./ /Municipality becomes directly applicable on items specified in Bill of Quantities and as per the scheme announced by the government and new tax is neither in lieu of substitution nor in lieu of abolition, reduction of any of present taxes but is altogether a new tax , full reimbursement will be made provided it becomes directly applicable on materials/ services specified in BOQ.

(b) If new tax introduced by Central /state Govt. becomes directly applicable on items specified in Bill of Quantities but is in substitution /abolition /reduction of any present taxes other than service tax, no reimbursement will be made to that effect.

*(c) If new tax introduced by Central /state Govt becomes directly applicable on materials/ services specified in Bill of Quantities but EITHER is in substitution /abolition of service tax OR is in substitution /abolition of service tax as well as any or all of present taxes, reimbursement will be made only to the extent service tax rate, which the contractor is entitled as per contract on the date immediately prior to date on which rate of new tax announced by Government becomes applicable/effective. New tax shall be paid at actual restricted to service tax rate which the contractor is entitled on the date immediately prior to date on which rate of new tax announced by the Govt. becomes applicable/effective, will have to be*

*borne by contractor .If required, unit rates specified in BOQ may have to be appropriately adjusted for the work/bills pertaining to period after new tax becomes applicable.*

It is further clarified in any of above cases, no reimbursement of any new tax shall be considered unless new tax becomes directly leviable on materials/ services specified in BOQ.

**4.0 COMPLETION TIME:**

All the activities associated with the above package must be completed within 02 months from zero date. Date of receipt of civil fronts as certified by site in charge shall be considered as zero date.

**5.0 LIQUIDATED DAMAGE :**

If the contractor fails to complete the work within the time specified contractual period or extension thereof granted by the engineer, liquidated damage will be imposed on the contractor for delay in completion of the work @ 0.5% (half percent) of the contract value, per calendar week, subject to ceiling of 5% of the contract value.

**6.0 GUARANTEE:**

The contractor shall be responsible for any defects in the execution of work noticed in guarantee period of 12 months reckoned from the date of putting the complete system into commercial operation/handing over to customer or 18 months from the date of system is declared completely erected, duly tested and accepted by BHEL and customer whichever is later. The Contractor shall submit a bank guarantee of an approved Nationalized Bank / Scheduled Bank of worth 10% of the total contract value in the prescribed format of BHEL before release of Security Deposit as per the special terms & conditions of NIT.

**7.0 PERFORMANCE BANK GUARANTEE:**

The contractor shall submit Bank Guarantee of an approved Nationalized Bank / Scheduled Bank as per BHEL proforma for an amount equal to 10% of the total contract value as performance bond to get balance 10% money released at the discretion of the engineer before release of Security Deposit as per the special terms & conditions of NIT. The performance Bank Guarantee shall remain valid till issuance of Operational Acceptance Certificate by the authorized Project Manager of the Principal Employer and after complete handing over to the principal employer/customer along with submission of as built drawings. Notwithstanding the provisions of any other clause(s) of General Conditions of Contract, the contractor shall continue to be responsible to execute all such works of repair, rectification and making good of defects, imperfections of other faults as may be required of the contractor in writing by the Engineer for the period as stated above.

**8.0 ADDITIONAL EXPENDITURE DUE TO FAULTY EXECUTION:**

In case any additional expenditure is incurred in the works arising out of the faulty execution of the works by the contractor , such additional expenditure shall be borne by the contractor.

## **9.0 RIGHT OF WAY:**

The arrangement of the right of way is primarily in the scope of the customer. The Customer shall arrange the land for the execution of works at site. However the contractor shall be required to liaison with the local authorities for clearance of land for the execution of the work.

The contractor shall be required to work under minimum available working space to avoid land issues at site.

The work has to be executed at site location to ensure that there is no damage to the standing crop and other dwellings units of the affected villages.

## **10.0 PRICE VARIATION:**

Prices will be **firm** for total contract period and extended period , if any , and no price escalation / price variation will be applicable.

## **11.0 OVER ALL CONTRACT PRICE VARIATION**

The quantity of individual item 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.

## **12.0 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 executed contract value per month after the expiry of grace period. Executed value as on last day of respective month(s) will be taken for purpose of calculation of overrun 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.

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.

**Total Over Run Compensation shall be limited to 10% of the executed contract value as certified in Final Bill. For this purpose executed contract value excludes PVC, ORC, Supplementary/Additional Items and Extra Works done.**

**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 thereof) 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.

### **13.0 UNLOADING, STORAGE AND WATCH & WARD**

- 13.1 The contractor shall be responsible for safe receipt, unloading, storage, watch and ward , erection, testing and commissioning of the material/ equipment supplied by BHEL for Transmission line work under this NIT.
- 13.2 Watch and ward by authorized agency for the safe custody of the materials at site shall be responsibility of the vendor.
- 13.3 The watch and ward for the erected items will also be arranged by the vendor till taking over by BHEL.
- 13.4 It is the responsibility of the vendor to dismantle and take away all the materials of his office accommodation as soon as the project is handed over to BHEL and debris are cleared off.

### **14.0 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. 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.
- vi) In case of delay in completion of work BHEL reserve the right to grant time extension under the following options depending upon the performance of the vendor:
  - a. Time extension without levy of LD in case it is found that delay is not attributable to the vendor.
  - b. Time extension with deduction of applicable LD in line with Liquidity Damage clause if the delay is solely attributable to the vendor.
  - c. In case facts of delay is not settled, BHEL reserve the right to grant provisional time extension for delay in completion of total work or part thereof and running/ interim payments to the vendor will be released without deduction of LD subject to submission of additional Bank guarantee equivalent to maximum LD amount valid till completion of work under their scope and grant of final time extension..

During provisional time extension period ORC/ PVC (if any) shall not be payable to the contractor. The Final Delay analysis shall be prepared on completion of the work. In case of delay is not attributable to contractor as per final delay analysis the ORC/ PVC (if any) shall be released along with the final bill without any interest charges attributable to BHEL.

In case of delay attributable to contractor, LD shall be deducted for that period in line with clause "Compensation/ LD/ Penalty for delay in execution" of conditions of contract and balance ORC/ PVC (if any) shall be released along with the final bill without any interest charges attributable to BHEL.

PVC/ ORC shall be governed by respective clauses in the NIT.

#### **15.0 RISK & COST:**

In case successful bidder fail to start the work or fails to comply with terms & conditions of the Work Order / LOI, BHEL reserves the right to the work done, whether by itself or from any other agency, at risk and cost of the successful bidder. Rights of BHEL shall be as per B.7 of ' Conditions of Contract'.

**16.0 RESPONSIBILITY OF CONTRACTOR IN RESPECT OF BUILDING AND OTHER CONSTRUCTION WORKER STATUTORY RULES / REGULATIONS (IF APPLICABLE)**

It shall be mandatory for the contractor to comply with Building and Other Construction Worker (Regulation of Employment and Conditions of Service) Act, 1996 and Rules of 1998 read with Building and other Construction Workers welfare Cess act, 1996 and Cess Rules.

It shall be the sole responsibility of the contractor to apply for a license to the Competent Authority under the Building and Other Construction Worker (Regulation of Employment and Conditions of Service) Act, 1996 and Rules of 1998 read with Building and other Construction Workers welfare Cess act, 1996 and Cess Rules and obtain proper certificate thereof by specifying the scope of its work. It shall also be responsibility of the contractor to furnish a copy of such certificate of license / permission to BHEL within 2 months from date of start of award of work at site or along with 1<sup>st</sup> RA bill whichever is earlier.

It shall be the responsibility of the sub-contractor to furnish the receipts / challans towards deposit of the cess together with the number, name and other details of beneficiaries (building or construction workers) engaged by the sub-contractor during the preceding month.

The onus shall lie on the contractor to register with the authorities and provide the details of the amount remitted to the authorities. In case the contractor fails to comply with the BOCW act, no payments shall be released to the contractor.

In case the customer owns the responsibility of compliance of BOCW act and deducts the amount from BHEL, the same shall be deducted from the RA bills of the contractor.

In the event of any penalty or other implication due to non compliance of statutory obligation the same shall be on contractor's account"

**17.0 ADJUSTMENT OF RECOVERY:**

Any amount payable by the contractor under any condition of this contract, shall be liable to be adjusted against any amount payable to this contractor under any other works/contract/purchase order awarded to him by any BHEL unit or from security deposit of any other work / contract / purchase order with any unit of BHEL or by encashment of bank guarantee furnished by contractor with any unit of BHEL pertaining to any works / contract / purchase order. This is without prejudice to any other action as may be deemed fit by BHEL or any other right of BHEL mentioned elsewhere in this tender.

**18.0 FORCE MAJEURE:**

The following shall amount to force majeure conditions:

throughout the acts of God, Act of any Government, war, sabotage, riots, civil commotion, Police action, revolution, flood, fire cyclone, earthquake, epidemic and other similar causes over which the contractor has no control.

If the contractor suffers delay in the due execution of the contract, due to delays caused by force majeure conditions, as defined above, the agreed time of completion of the work covered by this contract may be extended by a reasonable period of time in consultation and after agreement of BHEL's clients/owner, provided that on the occurrence of any such contingency, the Contractor

immediately reports to BHEL in writing the causes of delay. The Contractor shall not be eligible for any compensation on this account.

## **19.0 ARBITRATION :**

**19.1** Except where otherwise provided for in the contract all questions & disputes relating to the meaning of the specification designs, drawings and instruction herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings specifications, estimates, instructions, orders of these conditions or otherwise concerning the works, of the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of the Head TBG, BHEL, Noida and if the Head TBG is unable or unwilling to act, to the sole arbitration of some other person appointed by the Head TBG willing to act as such arbitrator.

A party wishing to commence arbitration proceeding shall invoke Arbitration Clause by giving 60 days notice to the other party. The notice invoking arbitration shall specify all the points of disputes with details of the amount claimed to be referred to arbitration at the time of invocation of arbitration and not thereafter.

There will be no objection if the arbitrator so appointed is an employee of BHEL and he had to deal with the matters to which the contract relates, in the course of his duties. The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason such Head TBG as aforesaid at the time of such transfer vacation of office or inability to act shall appoint (see note) another person to act as arbitrator in accordance with the terms of the contract such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor. It is also a term of this contract that no person other than a person appointed by such Head TBG as aforesaid should act as arbitrator and if for any reason that is not possible the matter is not to be referred to arbitration at all, in all cases where the amount of the claim dispute is Rs. 50,000/- (Rupees fifty thousand) and above the arbitrator shall give reasons for the award.

The provisions of Indian Arbitration and Conciliation Act 1996 or any statutory modification or re-enactment thereof and the rules made thereunder and the time being in force shall apply to the arbitration proceeding under this clause.

It is a term of the contract that the party involving arbitration shall specify the dispute or disputes to be referred to arbitration under this clause together with the amounts claimed in respect of each dispute.

The arbitrator may from time to time with consent of the parties enlarge the time for making and publishing the award.

The work under the contract shall, if reasonably possible, continue during the arbitration proceedings and no payment due or payable to the vendor shall be withheld on account of such proceedings.

The Arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties fixing the date of the first hearing.

The Arbitrator shall give a separate award in respect of each dispute or difference referred to him.

The Venue of arbitration shall be at New Delhi.

The award of the arbitrator shall be final, conclusive and binding all parties to this contract, subject to the provisions of the Arbitration and Conciliation Act, 1996.  
Laws governing the Contract:

The contract shall be governed by the Indians Laws for the time being in force.  
NOTE:-The Authority appointing the arbitrator should not be lower in rank than the Authority accepting the Agreement.

**19.2 In case of Contract with Public Sector Enterprise (PSE) or a Government Department through Permanent Machinery of Arbitrators (PMA) in the department of Public Enterprises, the following shall be applicable:**

In the event of any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of public enterprises. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively.

19.3 The cost of arbitration shall be borne equally by the parties.

19.4 Neither party shall be entitled for any pre-reference or pendent-lite interest on its claims and any claim for such interest made by any party shall be void.

**20.0 FACILITIES PROVIDED TO MSEs**

20.1 Following facilities shall be provided to MSEs

a) Exemption from submission of EMD

20.2 "MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate having deemed validity (five years from the date of issue of acknowledgement in EM II) or valid NSIC certificate or valid Udyog Aadhar memorandum or EM II certificate along with attested copy of a CA certificate (Format enclosed at Annexure -1 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 benefit shall be applicable for this enquiry if any deficiency in the above required documents are not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer.

**Certificate by Chartered Accountant on letter head**

This is to Certify that M/S .....  
(hereinafter referred to as 'company') having its registered office at  
..... is registered under MSMED Act 2006, (Entrepreneur  
Memorandum No (Part-II) ..... dtd:.....,  
Category: ..... (Micro/Small)). (Copy enclosed).

Further verified from the Books of Accounts that the investment of the company as per the latest audited financial year ..... as per MSMED Act 2006 is as follows:

1. **For Manufacturing Enterprises:** Investment in plant and machinery (i.e. original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification No.S.O.1722(E) dated October 5, 2006 :  
Rs.....Lacs
2. **For Service Enterprises:** Investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006:  
Rs.....Lacs

**(Strike off whichever is not applicable)**

The above investment of Rs.....Lacs is within permissible limit of Rs.....Lacs for .....Micro / Small (Strike off which is not applicable) Category under MSMED Act 2006.

Or

The company has been graduated from its original category (Micro/ Small) (Strike off which is not applicable) and the date of graduation of such enterprise from its original category is ..... (dd/mm/yyyy) which is within the period of 3 years from the date of graduation of such enterprise from its original category as notified vide S.O. No. 3322(E) dated 01.11.2013 published in the gazette notification dated 04.11.2013 by Ministry of MSME.

Date:



(Signature)

Name -

Membership number -

Seal of Chartered Accountant