

**CONVERGENCE ENERGY SERVICES LIMITED**

Core-3,2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003.

**SUPPLY CHAIN MANAGEMENT DEPARTMENT**

**OPEN TENDER**

**SECTION-1**

**DETAILED INVITATION FOR BIDS (IFB)**

**FOR**

**Name of Work: -** "Selection of Bidder(s) for Location Survey, Planning, Design, Engineering, Supply, Installation, Testing, Commissioning and on-site warranty and 3-year comprehensive on-site warranty and AMC (extendable up to 10 years) for 80 nos. of CCS2 50/60 kW Electric Vehicle Chargers across multiple locations in India"

**NIT/Bid Document No:** CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022

CESL invites E-bids from interested bidders for the aforesaid work(s) under Single-stage Two-envelope Bidding Process **THROUGH E-TENDERING\***. For details about the IFB, please refer to the details that follow. Any amendment(s)/corrigendum/clarification(s) with respect to this Tender shall be uploaded on the E-Procurement website only. The bidders should keep themselves updated by regularly visiting the E-Procurement website of CESL for any amendment/corrigendum/ clarification in regard to this Tender.

For & on Behalf of CESL

**\*The bids for E-tenders will be submitted online on the web site <https://cesl.eproc.in>. Oral, telephonic, telegraphic bids or those submitted in hard copies/physical form will not be entertained. In case, anything to the contrary is mentioned anywhere in the Tender, the same should be ignored.**

**NIT/Bid Document No.:** CESL/06/2022-23/EVCI/CCS2 Charger/222307005  
dated 22.07.2022

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(IFB)

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Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466



## **BID DETAILS**

NIT/Bid Document No.	CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022
Bidding Document Cost	Rs.25,000/- (Rupees Twenty Five Thousand only) (non-refundable & non-adjustable).
Earnest Money Deposit (EMD)/ Bid Security	Rs.34,98,000/- (Rupees Thirty Four Lakhs Ninety Eight Thousand Only). (EMD to be valid up to 225 days from the date of techno-commercial bid opening).
Security Deposit/ Contract Performance Guarantee/Security	As per Section – 4 (Technical and SCC)
Document Sale Date & Timing, i.e., Last date & time for downloading RfP from website	From 22-07-2022 (Friday) to 10.08.2022 (Wednesday) (up to 1400 hours IST)
Online Bid Submission Period	From 22-07-2022 (Friday) to 10.08.2022 (Wednesday) (up to 1400 hours IST)
Pre-bid Meeting	On 29.07.2022 (Friday) at 11:00 Hrs IST through video Conferencing  Meeting link: <a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZmMwOTdjNDYtOGFkOS00NmFiLWFkMjEtYTjIOTU2NmM2ZmFl%40thread.v2/0?context=%7b%22Tid%22%3a%224a993be3-3ce0-49c4-96e9-23324992b1dd%22%2c%22Oid%22%3a%22b85c8853-f74a-4781-8e87-60c3fe118d09%22%7d">https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZmMwOTdjNDYtOGFkOS00NmFiLWFkMjEtYTjIOTU2NmM2ZmFl%40thread.v2/0?context=%7b%22Tid%22%3a%224a993be3-3ce0-49c4-96e9-23324992b1dd%22%2c%22Oid%22%3a%22b85c8853-f74a-4781-8e87-60c3fe118d09%22%7d</a>  <b>Note:</b> <ul style="list-style-type: none"><li>• <b><i>Bidder shall ensure at their end that the device from which bidder is attending the online meeting is configured appropriately (if required).</i></b></li><li>• <b><i>CESL shall not be responsible for any issue arising on this context.</i></b></li><li>• <b><i>All the queries shall be sent well in advance as mentioned in Annexure-A.</i></b></li></ul>
Techno-commercial E-bid Opening Date & Time	10-08-2022 (Wednesday) at 1500 hrs. IST, online, at following address: - Convergence Energy Services Limited Core-3, 2 <sup>nd</sup> Floor, SCOPE Complex, Lodhi Road, New Delhi-110003
Bid Validity Duration	180 days from the date of opening of techno-commercial bid.

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Bid Documents Sections in this Tender	Section 1 - Detailed Invitation For Bids (IFB) Section-2 – Instructions to Bidders (ITB). Section-3 – General Conditions of Contract (GCC). Section-4 – Technical Specification and Special Conditions of Contract (SCC). Section-5 – Measurement and Verification. Section-6 – Forms & Procedures.
Contact Person for Technical Queries  (copy of the query to be marked to SCM Dept.)	Sh. Upwan Kishor AM, (Tech-EVCI) Sh. N Mohan (DGM – EVCI), Convergence Energy Services Ltd. E-mail: <a href="mailto:nmohan@eesl.co.in">nmohan@eesl.co.in</a> , <a href="mailto:ukishor@eesl.co.in">ukishor@eesl.co.in</a>
Contact Person(s) for Tender-related Queries	Sh. Divyang Suri (Engineer- SCM) Sh. Deepak Mittal (AM – SCM), Convergence Energy Services Ltd. E-mail: <a href="mailto:dmittal@eesl.co.in">dmittal@eesl.co.in</a> , <a href="mailto:u_dsuri@eesl.co.in">u_dsuri@eesl.co.in</a>
RfP to be addressed to	CGM (SCM) (CESL), Core-3, 2 <sup>nd</sup> Floor, SCOPE Complex, Lodhi Road, New Delhi-110003

1.0 All the bids must be accompanied by Earnest Money Deposit and Bid Document Fee, as mentioned above. **Bids not accompanying the Bidding Document Cost and Earnest Money Deposit, or those accompanied by these instruments of inadequate value, shall not be entertained and in such cases, the bids shall not be opened.**

The bid Document fee and Earnest Money Deposit (EMD) and must reach the following address in a sealed envelope superscribed “**EMD and Bidding Document Fee for. CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022** “ **before** the submission date & time mentioned above.

CGM -SCM (CESL),  
Convergence Energy Services Limited  
Core-3, 2<sup>ND</sup> Floor,  
SCOPE Complex,  
Lodhi Road, New Delhi-110003

The details of the instruments of Bidding Document Cost (DD/BG, etc. as applicable) have to be entered online in relevant fields/columns of the module while submitting the E-bid. It must be ensured by the bidder that the original instruments towards Bidding Document Cost and Earnest Money Deposit are received by CESL before opening time of the techno-commercial bids for verification of the details of the same as given online by the bidder. Failure to comply with this would render the bid liable for rejection and the bid will not be opened online. CESL will not be responsible for any delay, loss or non-receipt of Bidding/RfP Document Cost or Earnest Money Deposit sent by post/courier.

Any relaxation/exemption sought by bidders shall only be considered in accordance with relevant clauses Section-2 (ITB) regarding submission of Earnest Money Deposit and Bidding Document Cost and shall be subject to fulfilment of conditions defined in the said clauses. Since all the conditions explained in the said clauses for seeking exemption from submission of Bidding Document Cost & Earnest Money Deposit are self-explanatory, bidders should ascertain about their fulfilment of all conditions and submit their bid accordingly. If at any stage, it is found that false information is furnished or non-compliance of any of the conditions defined at the said clauses, the bid/offer shall be

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considered as non-responsive and would not be considered for further evaluation. Bidder seeking exemption from submission of the Bidding Document Cost and the Earnest Money Deposit has to mandatorily submit/upload the scanned copy of their valid original registration certificate(s) as asked for in the relevant, clause along with other relevant documents as part of their online bid.

2.0 CESL reserves the right to cancel / withdraw the IFB without assigning any reason whatsoever and in such a case, no bidder / intending bidder shall have any claim arising out of such action.

3.0 The subject procurement will be done through e-tendering. The NIT is available on the website <https://cesl.eproc.in> or could be viewed after following the link of 'e-Tendering' on CESL's website's Home Page, i.e., <http://ceslindia.org> from where the bidders registered with CESL (registration process is explained at the Home Page) will be able to download the Tender documents and submit their bids online. The Tender submission, Tender closing and opening will be done electronically and online.

**NOTE: CESL has appointed M/s. C1 India Pvt. Ltd., NOIDA as implementation agency for carrying out e-Procurement. Also, as per IT ACT 2000, use of Digital Signature Certificate (DSC) is mandatory for participating in the E-tendering process. New bidders should register on the website <https://cesl.eproc.in> by payment of one-time registration fee of Rs. 5,000/- through DD in favour of "Convergence Energy Services Limited".**

*Bidders are requested to visit "e-Tendering" section at CESL website, [www.ceslindia.org](http://www.ceslindia.org) for instructions and registration on E-tendering portal.*

**Steps for Registration on CESL's E-Procurement Portal**

- (i) Open portal by entering URL <https://cesl.eproc.in> in internet explorer.
- (ii) Download and read 'System Requirement Manual' and Registration Manual from our e-tendering portal <https://cesl.eproc.in>
- (iii) Click on 'Login/Sign Up' link and then Registration link for new registration.
- (iv) Fill all mandatory fields and click on submit button.
- (v) Login with the user id and password you have created. You will be redirected to a page where you have to enter your challenge phrase which is received in your registered email id.
- (vi) Register your class-III Signing and Encryption Digital Signature Certificate (DSC).
- (vii) Fill all mandatory fields of Common Info form and upload scan copy of your DD (in favour of "Convergence Energy Services Limited", Delhi) in PDF format of INR 5,000/- and click on save and send the original DD to CESL, Delhi office, Covering Letter on your letter head pad and print out of page regarding registration of approval (automatically generated on screen).
- (viii) Also read the instructions given under E-tendering link available at home page of CESL website <https://www.convergence.co.in/>

**Note:** Online registration shall be done on e-tendering website, i.e., <https://cesl.eproc.in> & in general, activation of registration may take 24 hours subject to the submission of original DD. It is sole responsibility of the bidder to register in advance.

**A. Digital Signature Certificate:**

It is mandatory for all the bidders to have class-III Digital Signature Certificate (DSC) with signing and Encryption certificate (in the name of person who will sign the BID) from any of the licensed Certifying Agency (Bidders can see the list of licensed CAs from the link [www.cca.gov.in](http://www.cca.gov.in) ) to participate in e-tendering of CESL.

**B. CESL Global Support Telephones and e-mail id**

Contact Details: +91-124-4302033/36/37, +91-8826814007  
[ceslsupport@c1india.com](mailto:ceslsupport@c1india.com), [sandeep.bhandari@c1india.com](mailto:sandeep.bhandari@c1india.com)

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## **SECTION-2**

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## SECTION-2

### INSTRUCTIONS TO THE BIDDER (ITB) / CONSORTIUM OF BIDDERS

Name of Work: -: "Selection of Bidder(s) for Location Survey, Planning, Design, Engineering, Supply, Installation, Testing, Commissioning and on-site warranty and 3-year comprehensive on-site warranty and AMC (extendable up to 10 years) for 80 nos. of CCS2 50/60 kW Electric Vehicle Chargers across multiple locations in India".

NIT/Bid Document No: CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022

**NOTE: THE TERMS & CONDITIONS STIPULATED IN SECTION-4 WILL SUPERSEDE ANY CONTRADICTION/SIMILAR/OVERLAPPING TERMS & CONDITIONS IN ANY OTHER SECTION/PART OF THE TENDER**

#### A. The Bidding Documents

##### 1.1 The bidding documents include the following

Section-1	Invitation for Bids (IFB)
Section-2	Instructions to Bidder / Consortium of Bidders
Section-3	General Conditions of Contract
Section-4	Special Conditions of Contract explaining in detail technical specifications, scope of work for supply/supply and installation & Commissioning/Consultancy, drawings, documents in support of bidder's qualifications (Qualifying Requirement), and Online Price Bid format.
Section -5	Measurement and Verification
Section-6	Forms and Procedure Attachment 1: Format of Bid Form Attachment 2: Format for submitting BG format in lieu of EMD Attachment 3: Format of Power of Attorney. Attachment 4: Format for certificate acceptance of Important terms and Conditions. Attachment 5: Format for Deviations statement. Attachment 6: Format for Submission of Contract Performance Guarantee (CPG) Attachment 7: forms of Acceptance of Fraud Prevention Policy. Attachment 8: Not Applicable Attachment 9: Performa of Letter of undertaking. Attachment 10: Format for RTGS/NEFT payments. Attachment 11: Declaration of Quoted states. Attachment 12: Duly Compliance Matrix Attachment 13: Declaration of Local Content.

The bidder is expected to examine all the instructions, forms, terms, specifications and other information in the bidding documents. Failure to furnish all information required by the bidding documents or submission of a bid not substantially responsive to the bidding documents in every respect will be at the bidder's risk and may result in rejection of bid.



## Definitions

In the "Bid / Tender / Contract Document" as herein defined where the context so admits, the following words and expression will have the following meaning:

1. "Affiliate" shall mean a company that either directly or indirectly
  - i) controls or
  - ii) is controlled by or
  - iii) is under common control with

a Bidding Company (in the case of a single company) and "control" means ownership by one company

2. "B.I. S" shall mean specifications of Bureau of Indian Standards (BIS);
3. "Bid / Tender" shall mean the Techno Commercial and the Price Bid submitted by the Bidder along with all documents/credentials/attachments, formats, etc., in response to this Bid Document, in accordance with the terms and conditions hereof.
4. "Bidder / Tenderer" shall mean Bidding Company submitting the Bid. Any reference to the Bidder includes Bidding Company including its successors, executors and permitted assigns jointly and severally, as the context may require";
5. "Bid Security" shall mean the unconditional and irrevocable bank guarantee/ demand draft to be submitted along with the Bid by the Bidder under ITB Clause 2.4 of this Bid;
6. "Bidding Company" shall refer to such single/consortium company that has submitted the Bid in accordance with the provisions of this Bid;
7. "Bid Deadline" shall mean the last date and time for submission of Bid in response to this Bid as specified in Bid information Sheet and as specified in ITB Clause 3.2 of this Bid document including all amendments thereto;
8. "Bid Document" shall mean all Definitions, Sections, Layouts, Drawings, Photographs, Formats & Annexures etc. as provided in this bid including all the terms and conditions hereof.
9. "Chartered Accountant" shall mean a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949;
10. "Competent Authority" shall mean Managing Director (MD) of himself and/or a person or group of persons nominated by MD for the mentioned purpose herein;
11. "Company" shall mean a body incorporated in India under the Companies Act,1956;
12. "Contract" means the agreement entered into between the Employer and the Contractor, as recorded in the Contract Form signed by the parties, including all the attachments and appendices thereto and all documents incorporated by reference therein;
13. "Contract Price / Contract Value" shall mean the sum accepted or the sum calculated in accordance with the prices accepted in Bid and/or the Contract rates as payable to the Contractor for the entire execution and full completion of the Work (Price for Supply, Transportation(including loading, unloading and transfer to Site), Insurance including change order.
14. "Completion of Work" means that the Project/Works have been completed operationally and structurally and Commissioning has been attained as per Technical Specifications.
15. "Commissioning" means successful operation of the Project/Works by the Contractor, for the purpose of carrying out Guarantee Test(s).
16. "Contract Document" shall mean collectively the Bid Document, Design, Drawings, and Specifications, Annexures, agreed variations, if any, and such other documents consisting the bid and acceptance thereof;
17. "Contractor's Equipment" means all plant, Works, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Works that are to be provided by the Contractor, but does not include plant and equipment, or other things intended to form or forming part of the Works.
18. "Day" means calendar day;
19. "Defect Liability Period" means the period of validity of the warranties given by the Contractor (commencing at Completion of the Project/Works, during which the Contractor is responsible for defects with respect to the Project/Works.
20. "Employer" or "CESL" shall mean Convergence Energy services Limited, New Delhi.



21. "Eligibility Criteria" shall mean the Eligibility Criteria as set forth in Section 3: Technical& Special Conditions of Contract of this BID;
22. "Engineer-in-Charge" shall mean the person designated from time to time by the Employer and shall include those who are expressly authorized by him to act for and on his behalf for operation of this Contract;
23. "Effective Date" means the date from which the Time for Completion shall be determined;
24. "GCC" means the General Conditions of Contract contained in this section;
25. "GHI" shall mean Global Horizontal Irradiation.
26. "Goods" means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Works by the Contractor under the Contract but does not include Contractor's Equipment;
27. "Guarantee Test(s)" means the test(s) specified in the Technical Specification to be carried out to ascertain whether the Project/Works is able to attain the functional requirements specified in the Technical Specifications.
28. "The Government" means the Government of India.
29. "IEC" shall mean specifications of International Electro-technical Commission;
30. "CESL" shall mean Convergence Energy Services Limited;
31. "Mobilization" shall mean establishment of adequate infrastructure by the Contractor at Site comprising of construction equipment's, aids, tools tackles, offices with facilities such as power, water, communication etc. including manpower comprising of Engineers, Supervising personnel and an adequate strength of skilled, semi-skilled and un-skilled workers, who with the so established infrastructure shall be in a position to commence execution of Work at site(s), in accordance with the agreed Time Schedule of Completion of Work.
32. "O&M/ AMC" shall mean Operation & Maintenance(O& M)/ Annual Maintenance Contract (AMC) of the supplied equipments;
33. "Parent Company" shall mean a company that holds paid-up equity capital directly or indirectly in the Bidding Company, as the case may be;
34. "Price Bid" shall mean separate Envelope, containing the Bidder's Quoted Price as per the format prescribed in Section-4 (Technical & Special Conditions of Contract) of this BID;
35. "Qualified Bidder" shall mean the Bidder(s) who, after evaluation of their Techno Commercial Bid as per Eligibility Criteria set forth in Section 3: Technical& Special Conditions of Contract of this BID stand qualified for opening and evaluation of their Price Bid;
36. "SNA" shall mean State Nodal Agency.
37. "SCC" means the Special Conditions of Contract.
38. "Statutory Auditor" shall mean the auditor of a Company appointed under the provisions of the Companies Act, 1956 or under the provisions of any other applicable governing law;
39. "Services" means all those services ancillary to the supply of the Works, to be provided by the Contractor under the Contract; e.g. transportation(including loading, unloading and transfer to Site) and provision of marine or other similar insurance, inspection, expediting, Site preparation works (including the provision and use of Contractor's Equipment and the supply of all civil, structural and construction materials required),installation,/Pre-commissioning, commissioning, carrying out guarantee tests, operations, maintenance, the provision of operations and maintenance manuals, training of Employer's personnel and one or two persons from the beneficiaries groups are imparted trainings etc.
40. "Successful Bidder(s) / Contractor(s)" shall mean the Bidder(s) selected by Employer pursuant to this Bid i.e. on whom award is made. They are also called as implementing partner which includes Consultants also.
41. "Site" means the Land and other places upon which the Works are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site. The details of the Site are as contained in Section 3: Technical& Special Conditions of Contract of this BID.
42. "Sub-Contractor" means any person or firm or Company (other than the Contractor) to whom any part of the Work has been entrusted by the Contractor, with the written consent of the Engineer-in-Charge, and the legal representatives, successors and permitted assigns of such person, firm or company.
43. "Standards" shall mean the standards mentioned in the technical specification of the goods and equipment utilized for the Work or such other standard which ensure equal or higher quality and such



standards shall be latest issued by the concerned institution like Bureau of Indian standards(BIS), MNRE, etc.

44. "Time for Completion" means the time within which Completion of the Project/Works is to be attained in accordance with the stipulations in the SCC and the relevant provisions of the Contract;
45. "Work" means the "Goods" to be supplied and installed, as well as all the "Services" to be carried out by the Contractor under the Contract;
46. "Wp" shall mean Watt Peak.
47. Third Parties means to which employer has awarded some work and consultant may be required to co-ordinate with third parties as per scope of work.
48. Agreed Remuneration means the fee to which consultant is entitled as per their quoted and agreed price according to the contract.
49. Consultant: The consultant shall be the professional undertaking or the professional individual named in the contract who is appointed by the employer to perform the services.

### Interpretations

1. Words comprising the singular shall include the plural & vice versa
2. An applicable law shall be construed as reference to such applicable law including its amendments or re-enactments from time to time.
3. A time of day shall save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.
4. Different parts of this contract are to be taken as mutually explanatory and supplementary to each other and if there is any differentiation between or among the parts of this contract, they shall be interpreted in a harmonious manner so as to give effect to each part.
5. The table of contents and any headings or sub headings in the contract has been inserted for case of reference only & shall not affect the interpretation of this agreement.

### 1.2 Clarification on Bidding Documents

A prospective Bidder requiring any clarification to the bidding documents may notify the CESL in writing or by post or by telex or telefax) at the CESL's mailing address indicated below. The CESL will respond in writing to any request for clarification or modification of the bidding documents that it receives no later than ten (10) days prior to the deadline for submission of bids prescribed by the CESL. Written copies of the CESL's response (including an explanation of the query but not identification of its source) will be sent to all prospective Bidders that have received the bidding documents.

The address of CESL, for communication:

Ashim Bhattacharya  
CGM (Supply Chain Management),  
Convergence Energy Services Limited,  
C/o Floor 2<sup>nd</sup>, Core 3  
Scope Complex, Lodhi Road,  
New Delhi-110003  
Email: abhattacharya@eesl.co.in

The Bidder is advised to visit and examine the site where the facilities are to be installed and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract for supply and installation of the facilities. The costs of visiting the site shall be borne by the bidder fully.

CESL will also facilitate the bidder and any of its personnel or agents for getting permission from the authorities, where actual work is to be executed, to enter upon its premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents will release and indemnify the CESL and also the authorities, where work is to be executed, and its



personnel and agents from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of the inspection.

Whenever the bidder is silent about the acceptance of RfP/IFB conditions such as bank guarantee, warranty period, liquidated damages, certification of relation clause no.2.13 [Conflict of Interest] etc. it shall be presumed that the bidder has accepted and certified RfP/IFB conditions and no further correspondence seeking specific confirmation about acceptance of these conditions shall be made.

The Bidder shall be deemed to have examined the Bid document, to have obtained his own information in all matters whatsoever that might affect carrying out the Works in line with the Technical specifications and Scope of Work specified in the document at the offered rates and to have satisfied himself to the sufficiency of his Bid. The bidder shall be deemed to know the scope, nature and magnitude of the work and requirement of materials, equipment, tools and labour involved, local and national wage structures and as to what all works he has to complete in accordance with the Bid documents irrespective of any defects, omissions or errors that may be found in the Bid documents.

### 1.3 Amendment to bidding documents

At any time prior to the deadline for submission of bids, the CESL 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 who have purchased 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 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 CESL may, at its discretion, extend the deadline for the submission of bids.

### 1.4 Cost of tender Documents

Interested bidder/consortium of bidders may download the RfP/ Tender documents from the website [www.convergence.co.in](http://www.convergence.co.in) or may purchase the detailed RfP from the CESL office, address of which is given above at 1.2, between 0900 hrs. and 1730 hrs. on working days on payment of amount as mentioned in Section-1. The payment would be accepted in the form of crossed Demand Draft (DD)/Pay Order/Banker's Cheque, drawn from any Scheduled Bank, payable at par at NOIDA, in favour of "Convergence Energy Services Limited".

While submitting the bid (in case tender documents are downloaded from CESL website), bidder shall submit Tender Document Cost as mentioned in Section-1 in the form of DD/Pay Order/Banker's Cheque in favour of "Convergence Energy Services Limited" payable at NOIDA/Delhi along with the bid. However, bidders who directly purchase the tender documents from CESL can do so by payment of requisite bid document fee at CESL office in the form of DD/Pay order or Banker's Cheque.

## B. Preparation of Bids

### 2.1 Procedure for Submission of Bid/RfP.

Single Stage Single Envelope Bidding Process:

The Bidder or Consortium of bidders should submit hard copy of the offer, i.e. Techno Commercial and Price Bid together in a single sealed envelope superscripted with Bid/RfP number and date, content of envelope, name of work and Bid opening date. Bid-Form, Power of Attorney, Certificate



regarding acceptance of important terms and conditions, Deviations Statement, Form of acceptance of Fraud Prevention Policy, etc. as per format defined in Section-6 (Forms & Procedures) shall also be submitted in the same envelope.

#### Single Stage Two Envelope Bidding Process:

The Bidder shall seal the proposal in one outer and two inner envelopes labeled as Envelope-I and Envelope-II. Two Envelopes should contain the details of the offer as follows:

Envelope-I should contain (This envelope appear ONLINE in dynamic form in case of E-tenders)

- i. Tender Document Cost in the form of DD/Pay Order/Banker's Cheque (wherever applicable).
- ii. Bid Security/Earnest Money Deposit in the form of Banker's Cheque/Demand Draft/Pay order in favor of "Convergence Energy Services Limited" or in the form of Bank Guarantee as prescribed format as Attachment-2 of Section-6 (Forms & Procedures). **(Only Earnest Money Deposit and Bid document fee related document to be submitted by post in sealed envelope super-scribed with RfP/Tender reference in case of e-tender).**
- iii. Power of attorney to sign the bid as Attachment-3 of Section-6 (Forms & Procedures). Bidders to use their own format.
- iv. Certificate regarding acceptance of important terms and conditions as per ITB Clause No. 4.6 as Attachment-4 of Section-6 (Forms & Procedures).
- v. Letter of the bidder submitting the bid in the form as stipulated in the bid document, i.e., as per Bid Form as Attachment-1 of Section-6 (Forms & Procedures).
- vi. Deviation statement as per Attachment-5 of Section-6 (Forms & Procedures).
- vii. Form of acceptance of CESL fraud prevention policy as per Attachment-7 of Section-6 (Forms & Procedures).
- viii. Techno-commercial bid as indicated in bid document. Documentary evidence regarding bidder's qualifications to perform the contract as required in qualifying Requirement.

Envelope-II should contain Price Bid, to be submitted in 2<sup>nd</sup> inner sealed envelope, shall comprise of: (In case of E-tender Price bid is to be submitted ONLINE)

- i. Price Bid in the format prescribed in the tender document.

The entire two separately sealed envelopes will then be placed in one outer envelope, sealed and marked properly and submitted to the CESL office on or before the deadline for submission of the bid. Every envelope (2 inner and 1 outer) should be super-scribed with Bid/RfP number and date, content of envelope i.e. bid security/price bid etc., name of work and Bid opening date.

#### Single Stage Three Envelope Bidding Process:

The Bidder shall seal the proposal in one outer and three inner envelopes labeled as Envelope-I, Envelope-II and Envelope-III. Three Envelopes should contain the details of the offer as follows:

Envelope-I should contain (This envelope appear ONLINE in dynamic form in case of E-tenders).

- i. Bid document fee/cost of tender documents inform of DD/Pay order or banker's cheque [wherever applicable].
- ii. Bid Security fees/Earnest Money Deposit in form of Banker's Cheque/Demand Draft/Pay order in favor of "Convergence Energy Services Limited" or in the form of Bank Guarantee as prescribed format [attachment 2 of section - 6, Forms & Procedure]. **(Only Earnest Money Deposit and Bid document fee related document to be submitted by post in sealed envelope superscripted with RfP/Tender reference in case of e-tender)**
- iii. Letter of the bidder submitting the bid in the form as stipulated in the bid document i.e., as per Bid Form as attachment 1 of section - 6, Forms & Procedure.
- iv. Power of attorney to sign the bid as attachment 3 of section - 6, Forms & Procedure. Bidders to use their own format.



- v. Certificate regarding acceptance of important terms and conditions as per ITB clause 4.6 as attachment 4 of section – 6 (Forms& Procedures).
- vi. Form of acceptance of CESL fraud prevention policy as per attachment 7 of section-6 (Forms & Procedures).

Envelope-II i.e. Techno commercial Proposal of the bid, to be submitted in 2<sup>nd</sup> inner sealed envelope, shall comprise of: (This envelope appear ONLINE in dynamic form in case of e tenders)

- i. Deviation statement as per attachment 5 of section - 6, Forms & Procedures.
- ii. Techno-commercial bid as indicated in bid document. Documentary evidence regarding bidder’s qualifications to perform the contract as required in qualifying Requirement.

Envelope-III should contain Price Bid, to be submitted in 3<sup>rd</sup> inner sealed envelope, shall comprise of: (In case of e tender Price bid is to be submitted ONLINE)

- i. Price Bid in the format prescribed in the tender document.

The entire three separately sealed envelopes will then be placed in one outer envelope, sealed and marked properly and submitted to the CESL office on or before the deadline for submission of the bid. Every envelope (3 inner and 1 outer) should be superscripted with Bid/RfP number and date, content of envelope i.e. bid security/price bid etc , name of work and Bid opening date.

Copy of Bid/RfP should be a complete document and should be bound as a volume separately. The document should be page numbered and appropriately flagged and contain the list of contents with page numbers. The deficiency in documentation may result in the rejection of the Bid. All pages of the bid are to be signed by the authorized signatory (authorized through power of attorney) and must be having official seal of the bidder.

Bids not accompanied by cost of tender documents/ Bid Security Fees or EMD etc. shall be out-rightly rejected and treated as non-responsive. Further, their price-bid will be not be opened. For tenders received in unsealed/unstapled/open condition or without any superscription, resulting in opening of tender before due date, the risk and responsibility of losing confidentiality shall rest with the tenderer (applicable for manual tender only)

## 2.2 Cost of Bid/ RfP

The Bidder or Consortium of bidders shall bear all costs associated with the preparation and submission of its Bid/RfP, including cost of presentation for the purposes of clarification of the bid, if so desired by the CESL. CESL will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

## 2.3 Language of Bids

The proposal prepared by the bidder/consortium of bidders and all correspondence and documents relating to the Bid/RfP exchanged by the bidder/consortium of bidders and CESL, shall be written in English language, provided that any printed literature furnished by the bidder/consortium of bidders may be written in another language so long the same is accompanied by an English translation in which case, for purposes of interpretation of the bid, the English translation shall govern.

## 2.4 Bid Security/Earnest Money Deposit (EMD) (To be submitted Offline before bid submission time)





Amount of Bid Security: Bid Security/Earnest Money deposit as mentioned in Section I is to be submitted.

The bidder shall furnish, as part of its bid, a bid security in a separate envelope (ITB Clause 2.1). The bid security shall, at the bidder's option, be in the form of a NEFT/RTGS/Insurance Surety Bonds/Banker's cheque, Demand Draft in favor of "Convergence Energy Services Limited" or a bank guarantee as per format in section VI. Bid security/EMD shall remain valid for a period of 45 days beyond the original bid validity period. If there is any extension in bid validity period, then CESL may ask the bidder to extend the validity of bid security.

Any bid not accompanied by an acceptable bid security, shall be rejected by CESL as being non-responsive and returned to the bidder without being opened. The bid security of a consortium must be in the name of all the partners in the consortium submitting the bid. If lead partner is mentioned in case of consortium, then bid security can be in the name of lead partner.

The bid securities of unsuccessful bidders will be returned as promptly as possible after the award is made to lowest evaluated technically acceptable bidder.

The bid security of the successful bidder will be returned when the bidder has signed the contract agreement, and has furnished the required performance security.

Please note that:

1. Following benefits will be given to Start ups and MSEs in this tender: -

All MSEs notified as per GFR 2017 clause no. 1.10.4 and as notified below shall be exempted from payment of Tender Document Fee and Bid Security/ Earnest Money Deposit. For claiming this exemption, MSE must, along with their offer, provide proof of their being registered as MSE (indicating the terminal validity date of their registration) for the item tendered, with any agency mentioned in the notification of Ministry of MSME, indicated below: -

- (a) District Industries Centers;
- (b) Khadi and Village Industries Commission;
- (c) Khadi and Village Industries Board;
- (d) Coir Board;
- (e) National Small Industries Corporation;
- (f) Directorate of Handicraft and Handloom;
- (g) Udyam Registration issued by Ministry of MSE; or
- (h) Any other body specified by the Ministry of MSME.

1. For claiming the above exemption for Start-ups, a valid certificate of Start-up recognized by 'Department of Industrial Policy & Promotion (DIPP)' along with Business eligibility certificate or any other document issued by Govt/Recognized institute is required in support of product/ service item being tendered.
2. **Purchase Preference to MSEs:** Subject to meeting terms and conditions stated in the tender document including but not limiting to prequalification criteria, 25% of the total quantity of the tender is earmarked for MSEs registered with above mentioned agencies/bodies for the tendered item. Out of the 25% target of annual procurement from micro and small enterprises 4% & 3% shall be earmarked for procurement from micro and small enterprises owned by Scheduled Caste (SC) & Scheduled Tribe (ST) entrepreneurs & Women entrepreneurs respectively. In the event of failure of such MSEs to participate in the tender process or meet the tender requirements and L1 price 4% & 3% sub targets so earmarked shall be met from other MSEs.

Type of	Price quoted by MSE	How the tender shall be finalized
---------	---------------------	-----------------------------------



tender		
Can be split	L1	Full Order on MSE subject to tender evaluation condition
Can be split	Not L1 but within L1+15%	25% order on MSE subject to matching L1 price
Cannot be split	L1	Full Order on MSE
Cannot be split	Not L1 but within L1+15%	Full Order on MSE subject to matching L1 price

**2.1 Where the tendered quantity can be split:** In a bid, if prices quoted by participating Micro and Small Enterprises (MSEs) fall within the price band of L1+15%, such MSE shall also be allowed to supply 25% of the total tendered quantity by bringing down their prices to L1 prices. In case of more than one such MSE (L1+15%) the supply shall be shared proportionately (to tendered quantity), subject to the condition that such MSEs match the L1 price. Further, 4% out of above 25% shall be from MSEs owned by SC/ST entrepreneurs & 3% out of above shall be from MSEs owned by women entrepreneurs. This quota is to be transferred to the general category MSEs in case of NON-availability of MSEs owned by SC/ ST entrepreneurs & Women entrepreneurs respectively.

**2.2 Where the tendered quantity cannot be split/divide:** In case of tender item is non-split able or non-dividable, etc.: MSE quoting price within price band L1+15% may be awarded for full/complete supply of total tendered value to MSE, considering spirit of Public Procurement Policy, 2012 for enhancing the Govt. Procurement from MSE.

**2.3** MSE owned by SC/ST is defined as:

- In case of proprietary MSE, proprietor(s) shall be SC /ST
- In case of partnership MSE, The SC/ST partners shall be holding at least 51% shares in the enterprise.
- In case of Private Limited Companies, at least 51% share shall be held by SC/ST promoters.

**2.4** MSE owned by Women is defined as:

- In case of proprietary MSE, proprietor(s) shall be Women
  - In case of partnership MSE, The Women partners shall be holding at least 51% shares in the enterprise.
  - In case of Private Limited Companies, at least 51% share shall be held by Women promoters.
- If bidder does not provide appropriate document or any evidence to substantiate the above, then it will be presumed that he does not qualify for any preference admissible under the Public Procurement Policy, 2012.

- For relaxing the PQ/QR conditions regarding prior turnover and prior experience for MSEs and start-ups, the prior turnover and prior experience will be as under subject to their meeting of quality and technical specifications: -

Category of tender	Past experience	Average Turn Over	Award Philosophy
Can be split as per tender conditions	25% of total experience as required for general bidders	25% of total ATO as required for general bidders	(a) If MSE is L1, order will be given as per split criteria in order of ranking as defined in the tender document which could be greater than 25%. The treatment for award



			<p>will be same for MSE as general bidder.</p> <p>(b) If MSE is other than L1 bidder, then the split criteria as per tender condition will be followed subject to price matching with L1 bidder in order of ranking treating the MSE bidder(s) at par with the general bidder. In such event also, order(s) going to MSE bidder(s) could be greater than 25%. If order(s) going to MSE bidder(s) is/are less than 25% after the matching of rates with L1 bidder by adopting the tender split criteria, then the clause of purchase preference for award to MSE bidder(s) up to 25% of the tendered quantity subject to matching L1 rates will be followed to make the total quantity going to MSE bidder(s) @ 25%; provided the rates are within L1+15% range. In such cases, remaining quantity after award of 25% to MSE bidder(s) shall be distributed amongst other eligible bidders in the pre-declared split ratio. If order(s) going to MSE bidder(s) is less than 25% and also MSE bidder(s) not meeting the condition of purchase preference clause i.e. quoted rates not within L1+15% range, then the order(s) quantity going to MSE bidder(s) in such cases shall be less than 25% which will be in line with the tender conditions.</p> <p>(c) If MSE is in the range</p>
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			<p>of L1+15% and not getting the order after splitting and award is going to all non MSE bidder(s), then in such event 25% will be awarded to MSE bidder(s) who fall in the range of L1+15% subject to price matching and remaining 75% will be awarded as per the tender conditions to general bidders subject to matching L1 rates.</p> <p>(d) If after splitting MSE bidder(s) are getting order for more than or equal to 25%, then other MSE bidder(s) will not be awarded any work under purchase preference clause even if they fall in the range of L1+15%. However, they will be considered for award of work as any other general bidder as per tender conditions subject to matching of rates in order of ranking.</p> <p>(e) If MSE bidder is a single resultant vendor, then the quantity that would be considered for award to such bidder will be as defined in the pre-declared split ratio to L-1 bidder in the tender condition; provided the quoted rates of the bidder are found reasonable by CESL. However, CESL reserves the right to award 100% quantity to such MSE bidder provided the MSE bidder has got ATO which is corresponding to the cumulative applicability for 100% order value. In case,</p>
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			where ATO of the MSE bidder is less than what is required for 100% cumulative order value, then work may be awarded to such MSE bidder in proportion to the ATO. For exp: If ATO of MSE bidder is 56% of the cumulative ATO requirement of 100% order value, then maximum 56% work may be awarded to the MSE bidder. However, in such case CESL reserves the right to award appropriate quantity based on the existing requirement and such decision will be taken by CESL which will be binding on the bidder. CESL may take consent from the bidder for award of such quantity (which is over and above the quantity to be allotted to L-1 bidder as per pre-declared split ratio) before award.
Cannot be split as per tender conditions	25% of total experience as required for general bidders	85% of total ATO as required for general bidders	<p>(a) If MSE is L1, 100% order will be given to MSE.</p> <p>(b) If MSE is within the range of L1 + 15%, 100% order will be given to MSE subject to price matching with L1 bidder.</p> <p>(c) If MSE is not L1 and not in range of L1 + 15%, no work will be given to MSE.</p>

4. Start-ups are also covered under 25% purchase preference from procurement basket of MSEs as defined in point (3) above, provided that participating Start-ups submit all the relevant documents pertaining to MSEs as defined in point (1) above and documents for start-ups as defined in point (2) above.

# whereas, startup means an entity, incorporated or registered in India:

- i Not prior to ten years,
- ii With annual turnover not exceeding INR 100 crore in any preceding financial year, and
- iii Working towards innovation, development or improvement of products or processes or services, or



- if it is a scalable business model with a high potential of employment generation or wealth creation
- iv Provided that such entity is not formed by splitting up, or reconstruction, of a business already in existence. Provided also that an entity shall cease to be a Startup if its turnover for the previous financial years has exceeded INR 100 crore or it has completed 10 years from the date of incorporation/ registration.

Note: For Start-up firms, Gazette Notifications dated: 17-Feb-2016, G.S.R. 180 (E), and subsequently issued notifications will be considered.

**NOTES: -**

- In case where tender quantity can be split and MSE bidder is already getting order more than 25% of the tender value, no additional purchase preference is required to be given in that tender.
- In case MSE bidder is already getting order for less than 25% of the tender quantity, purchase preference to this and other MSE vendor (together) shall be given only up to the differential quantity to make total as 25% to MSE vendor subject to L1+15% and price matching.
- Public Procurement policy is meant for procurement of goods produced and services rendered by Micro and Small Enterprises. The preference to MSEs is not applicable for works contracts where supply of goods not produced by MSEs is also involved.
- The eligibility of MSE bidders for any other benefits/relaxations for MSE bidders indicated in Tender documents shall be as indicated in the above "Tender conditions for Benefits/Preference for Micro & Small Enterprises (MSEs)."
- If bidder submits EMD/bid security fees and also MSE certificate along with the offer, then the bidder will be treated as general bidder and no relaxation will be given to such bidders pertaining to MSE's.
- The registration certificate must be valid as on bid closing date of the tender. Bidder shall ensure validity of certificate in case bid closing date is extended. The MSEs who have applied for registration or renewal of registration with any of the above agencies/bodies, but have not obtained the valid certificate till the end date of bid submission, are not eligible for any exemption/preference and will not be considered. Such offers will be treated as offers received without EMD and out rightly rejected.
- Traders, resellers, distributors and agents will not be considered for availing benefits under PP Policy 2012 for MSEs.

**2.5 Power of Attorney**

Power of Attorney as attachment 3 in first envelope: A power of attorney duly authorized by a notary public, indicating that the person(s) signing the bid has/have the authority to sign the bid and thus the bid is binding upon the bidder during the full period of its validity in accordance with ITB clause 2.10.

**2.6 Certificate Regarding Acceptance of Important Conditions**

Certificate Regarding Acceptance of Important Conditions as attachment 4 is to be submitted in first envelope.

No deviation, other than mentioned in Deviation statement, is permitted by the CESL, to the provisions of the bidding documents listed in ITB sub-clause 4.6. The Bidders are advised that while making their bid proposals and quoting prices, these conditions may appropriately be taken into consideration. Bidders are required to furnish a certificate indicating their compliance to the provisions relating to the clauses listed in ITB sub-clause 4.6 in Attachment 4. Attachment 4 for acceptance of important conditions duly signed and stamped by the bidder is to be furnished in a separate sealed first envelope/Online. Any bid not accompanied by such certificate in a separate sealed first envelope/such certificate Online shall be rejected by the CESL and returned to the Bidder without being opened.

**2.7 Deviations,**

NIT/BID Document No.:- CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022	SECTION - 2 (ITB)	Page 17 of 41
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Signature :-  
 Subject : CN=DIVYANG SURI, ST=DELHI, O=D=2.5.4.17=110003, OU=SUPPLY CHAIN M  
 ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
 User ID : divyang.suri  
 Serial No : 131B466



Deviations, if any, from the terms and conditions of bidding documents or technical specifications shall be listed only in Attachment 5 to the bid. The Bidder shall also provide the additional price, if any, for withdrawal of the deviations. However, the attention of the bidders is drawn to the provisions of ITB sub-clause 4.6 regarding the rejection of bids that are not substantially responsive to the requirements of the bidding documents.

Bidders may further note that except for the deviations listed in Attachment 5, the bid shall be deemed to comply with all the requirement in the bidding documents and the bidders shall be required to comply with all such requirements of bidding documents and technical specifications without any extra cost to the CESL irrespective of any mention to the contrary, anywhere else in the bid, failing which the bid security of the bidder may be forfeited.

At the time of award of contract, if so desired by the CESL, the bidder shall withdraw these deviations listed in Attachment-5 at the cost of withdrawal stated by him in his bid. In case the bidder does not withdraw the deviations proposed by him, if any, at the cost of withdrawal stated in the bid, his bid will be rejected and bid security forfeited.

## 2.8 Bid prices

Unless otherwise specified in the technical specifications, bidders shall quote for the entire facilities on a "single responsibility" basis such that the total bid price covers all the contractor's obligations mentioned in or to be reasonably inferred from the bidding documents in respect of the design, manufacture, including procurement and subcontracting (if any), delivery, construction, installation, survey cost, monitoring and verification cost and completion of the facilities including supply of mandatory spares or spares to be supplied during warranty (if any). This includes all requirements under the contractor's responsibilities for testing, pre -commissioning and commissioning of the facilities and, where so required by the bidding documents, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and such other items and services as may be specified in the bidding documents, all in accordance with the requirements of the General Conditions of Contract and Technical Specification.

Bidders are required to quote the price for the commercial, contractual and technical obligations outlined in the bidding documents. If a Bidder wishes to make a deviation to the provisions of the bidding documents, such deviations shall be listed in Attachment 5 of its bid. The bidder shall also provide the additional price, if any, for withdrawal of the deviations, pursuant to ITB sub-clause 2.7.

Bidders shall give a breakdown of the prices in the manner and detail called for in the price schedules.

## 2.9 Price Basis

Price basis of the price quoted shall be on F.O.R (Free on Road) destination basis for site. Price mentioned in the quotation must be firm. Hence prices in Letter of Award shall be firm and not subject to escalation till the execution of the complete order and its subsequent amendments accepted by the bidder even though the completion / execution of the order may take longer time than the delivery period specified and accepted in the Letter of Award.

Statutory variation in applicable taxes & duties (other than excise duty) shall only be on account of Employer in case bidder has shown the rates of present taxes in their bid and other prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account. Even in case prices asked in Bid price Schedule are quoted as inclusive of taxes, tax rates shall be shown separately. Bidders shall quote all prices in Indian Rupees only.

## 2.10 Period of Validity of Bid

NIT/BID Document No.:- CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022

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Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, O=D.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466



Bids shall remain valid for a period of 90 days after the closing date prescribed by the CESL for the receipt of bids. A bid valid for a shorter period may be rejected by the CESL as being non responsive. In exceptional circumstances, the CESL may solicit the bidder's consent to an extension of the bid validity period. The request and response thereto shall be made in writing thro' letters/ e-mails .If the bidder accepts to prolong the period of validity, the bid security/EMD shall also be suitably extended. A bidder may refuse the request for Bid Validity Extension without forfeiting its bid security. A bidder granting the request will not be required nor permitted to modify its bid.

## 2.11 Format and Signing of Bid

The original copy of the bid, consisting of the documents listed in ITB sub-clause 1.1 shall be typed or written in indelible ink and shall be signed by the bidder or a person or persons duly authorized to bind the bidder to the contract. The authorization shall be indicated by written power of attorney accompanying the bid and submitted as Attachment 3 to the bid under ITB sub-clause 2.5. All pages of the bid, except for un-amended printed literature, shall be initialed by the person or persons signing the bid.

Any interlineations, erasures or overwriting shall only be valid if they are initialed by the signatory to the bid.

## 2.12 Contents of the RfP/Bid

The Bidder or consortium of bidders is expected to examine all instructions, forms, terms & conditions and scope of work in the RfP/bid documents. Failure to furnish all information required or submission of an RfP/bid document not substantially responsive to the RfP/bid document in every respect will be at the bidder's risk and may result in the rejection of the RfP/bid.

## 2.13 Conflict of Interest

CESL's policy requires that a bidder participating in a procurement/contract process under CESL financed projects shall not have a conflict of interest. All bidders found to have a conflict of interest shall be ineligible for award of contract.

A. Bidder may be considered to have a conflict of interest in a bidding process if:

- a) it, or any of its affiliates, has been engaged by CESL to provide consulting services for the preparation or implementation of a project, and participates in a bidding to provide goods, works, or non-consulting services resulting from or directly related to such consulting services. Or
- b) it submits more than one bid in a bidding process, either individually or as a partner in a joint venture, except for permitted alternative bids. This will result in the disqualification of all bids in which the bidder is involved. However, this does not limit the inclusion of a firm as a subcontractor in more than one bid and the participation of a bidder as a subcontractor in another bid in certain types of procurement/contract, if permitted by the CESL's bidding documents; or
- c) it (including its personnel or sub-contractors) has a business or family relationship with a member of a CESL's staff (or of the project implementing staff, or of a recipient of a part of the loan) who: are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or would be involved in the implementation or supervision of such contract unless the authority inviting tenders shall be informed of the fact/ such relationship at the time of submission of the tender and the conflict stemming from such relationship has been resolved in a manner acceptable to the CESL throughout the procurement process and execution of the contract. CESL may in its discretion reject the tender or rescind the contract.; or
- d) it does not comply with any other conditions that may be specified in the Company's Standard Bidding Documents relevant to the specific procurement process.





## 2.14 Disclaimer

CESL and/or its officers, employees disclaim all liability from any loss or damage, whether foreseeable or not, suffered by any person acting on or refraining from acting because of any information including statements, information, forecasts, estimates or projections contained in this document or conduct ancillary to it whether or not the loss or damage arises in connection with any omission, negligence, default, lack of care or misrepresentation on the part of CESL and/or any of its officers, employees.

## 2.15 Authorized Signatory (Bidder or Consortium of bidders)

The bidder or consortium of bidders as used in the RfP/ bid document shall mean the one who has signed the bid/RfP document forms. The bidder or consortium of bidders should be the duly authorized representative of the bidder/consortium of bidders, for which a certificate of authority/power of attorney will be submitted along with the offer. This should clearly define the authority provided to the authorized representative. Complete offer, all certificates and documents (including reply to any clarifications sought and any subsequent correspondences) shall be furnished and signed on all pages by the authorized representative.

The power of attorney or authorization, or any other document consisting of adequate proof of the ability of the signatory to bind the bidder or consortium of bidders shall be annexed to the bid as attachment 3 in envelope 1. CESL may reject outright any proposal not supported by adequate proof of the signatory's authority.

## 2.16 Consortium related conditions

The bidder shall have the option to submit the proposal either alone or along with other partner companies. Prerequisites for bidder have been specified in qualifying requirement and other parts of the tender document. The lead partner shall be the sole point of contact for all purposes of the Contract. The lead partner will have the prime and sole responsibility for the execution of the scope of work. Any information/clarification submitted to the lead partner by CESL will mean that the same has been conveyed to all partners. However, the partner companies should not be involved in any major litigation that may have an impact of affecting or compromising the delivery of services as required under this contract. The bidder or any of the partner companies should not have been black-listed by any Central / State Government or Public Sector Undertakings. If at any stage of tendering process or during the currency of the contract, any suppression / falsification of such information is brought to the knowledge, CESL shall have the right to reject the proposal or terminate the contract, as the case may be, without any compensation to the tenderer & forfeiture of bid security/EMD/CPG.

## 2.17 Contact details of the Bidder or Consortium of bidders

Bidder or Consortium of bidders who wants to receive CESL's response to queries should give their contact details to CESL. The Bidder or Consortium of bidders should send their contact details in writing at the CESL's contact address.

## 2.18 Inspection / Checking / Testing

All materials / Equipment manufactured by the bidder/consortium of bidders against the Letter of Award shall be subject to inspection, check and/or test by the CESL or his authorized representative at all stages and place, before, during and after the manufacture. All these tests shall be carried out in the as per technical specifications and bidder shall submit the relevant test reports. If upon delivery the material / equipment does not meet the specification, the materials / equipment shall be rejected and returned to the bidder for repairs / modification etc. or for replacement. In such cases all expenses including the to-and-fro freight, repacking charges, any other costs etc. shall be to the account of the bidder.



## 2.19 Removal of Rejected Goods and Replacement

If upon delivery, whether inspected and approved earlier or otherwise, the material/equipment is not in conformity with the specification, the same shall be rejected by CESL or duly authorized representative and notification to this effect will be issued to the bidder normally within 7 days from the date of receipt of the material at the work/site/office.

The bidder shall arrange removal of the rejected items within 15 days from the date of notification. In the event, the bidder fails to lift the materials within the said 15 days, CESL shall be at liberty to dispose off such rejected items in any manner as it may deemed fit. All expenses incurred on storage, disposal etc. shall be recoverable from the bidder.

## 2.20 Access to Bidders Premises

CESL and/or its authorized representative shall be provided access to bidder and/or his sub-bidder's premises, at any time during the pendency of the Order, for expediting, inspection, checking, etc. of work, if it is felt by CESL.

## 2.21 Taxes, Levies and Duties

Prices of items shall be quoted as per instruction contained in SCC. However, in general, prices shall be inclusive of sales tax, transportation, insurance, levies, service tax and any other duties payable including entry tax/octroy etc, (wherever applicable) on FOR destination/site basis. All taxes and duties shall be clearly indicated. Bidder is to arrange on its own to deliver the material at site. No road permit is provided by CESL.

For hiring of consultant/consultancy work also service tax shall be quoted exclusive of basic price. However, rates of such taxes consider while preparing the offer should invariably be mention in the offer so that any variation in taxes (except excise duty) can be paid as actual.

## 2.22 Terms of Payment

The payment will be made by CESL to the bidder in accordance with the terms and conditions specified in section 4 of special conditions of contract of tender document/agreed upon during negotiation and reproduced in Letter of Award.

## 2.23 Delivery Schedule

Time will be the essence of order and no variation shall be permitted in the delivery time/delivery schedule mentioned in the order unless agreed by CESL without levy of LD. Tentative time schedule is enclosed in the RfP/ bid document. Delivery of the equipment/material described shall be deemed to constitute acceptance of this order and terms and conditions by the bidder at the price specified.

## 2.24 Source of Supply

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

## 2.25 Patent Indemnity

Royalties and fees for patents covering material/equipment or processes used in executing the work shall be to the account of the bidder. The bidder 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 CESL indemnified in that regard in the event of any equipment/ material or part there of supplied by the bidder is involved in any suit or other proceedings held to constitute infringement and its used is



enjoyed, the bidder shall, at his own expenses, either procure for CESL the right to continue the use of such equipment/material replace it with a non-infringing material / equipment or modify it so it become non- infringing.

Tenderer shall agree to indemnify the CESL or/and hold it/them harmless from against all claims, liability, loss, damage or expense including counsel fees arising from or by reasons of an action or claimed trade mark patent or copyright infringement or any litigation based thereon with respect to any part of the quoted items and such obligation shall survive acceptance of and payment for the items.

## 2.26. Force Majeure

Bidder 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, strikes, fire, frost, floods, riot. Only those causes which have duration of more than 7 days shall be considered cause of force/ calendar majeure. A notification to this effect duly certified by local chamber of commerce/ statutory authorities shall be given by the bidder to CESL by registered/speed post 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 CESL, the order may be cancelled. Such cancellation, would be without any liability whatsoever on the part of CESL. In the event of such cancellation, the bidder shall refund any amount advanced or paid to the bidder by CESL and deliver back any materials issued to him by the Purchaser and release facilities, if any provided by the Purchaser.

## 2.27 Limitation of Liability

Except in cases of criminal negligence or willful misconduct, the Implementing Partner shall not be liable to the CESL, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Implementing Partner to pay liquidated damages to the CESL and the aggregate liability of the Implementing Partner to the CESL, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Implementing Partner to indemnify the CESL with respect to patent infringement or as specified in SCC.

## 2.28 Statutory Compliance/ Certification regarding Cyber Security Products

A certificate (in the format at Attachment-13 of Section-6) is to be submitted by the bidders that the items offered meet the definition of domestically manufactured/produced Cyber Security Products as per MeitY notification vide File no. 1(10)/2017-CLES dt. 02.07.18. The above certificate shall be on Company's letterhead and signed by Statutory Auditor or Cost Auditor of the Company

## C. Submission of Bids

### 3.1 Sealing and Marking of Bids

The Bidder shall seal the original copy of the bid in envelope duly marking the envelopes as "ORIGINAL BID". All envelopes must be super-scribed with name of work, RfP No., envelope no., content of envelope and date and bid opening date. The envelopes shall then the sealed in an outer envelope which should also be super scribed with name of work, RfP/ bid document no./package no. and date and bid opening date.

### 3.2 Deadline for submission of bids



Bids must be received by the CESL at the address specified as under and the bids will be opened at the same address as per timings stated in IFB and as repeated below.

Ashim Bhattacharya  
CGM (Supply Chain Management),  
Convergence Energy Services Limited,  
C/o Floor 2<sup>nd</sup>, Core 3  
Scope Complex, Lodhi Road,  
New Delhi-110003  
Email: [abhattacharya@eesl.co.in](mailto:abhattacharya@eesl.co.in)

Date of submission of bids: As mentioned in Section I

Date of bid opening: As mentioned in Section I

Bids must be received at the address specified above but no later than the time and date stated as above. In the event of the specified date for submission of bids being declared a holiday for the CESL, the bids will be received up to the appointed time on the next working day.

The CESL may, at its discretion, extend this deadline for submission of bids by amending the bidding documents in accordance with ITB Sub-Clause 1.3, in which case all rights and obligations of CESL and bidders will thereafter be subject to the deadline as extended.

No bid may be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITB Clause 2.10. Withdrawal of a bid during this interval may result in the bidder's forfeiture of its bid security, pursuant to ITB Sub-Clause 2.4.

### 3.3 Late Bids:

Any bid received by the CESL after the bid submission deadline prescribed by the CESL, pursuant to ITB Clause 3.1& 3.2, will be rejected and returned in unopened condition.

## D. Bid Opening and Evaluation

### 4.1 Bid Opening Process

The CESL will open all bids in the presence of bidders' representatives who choose to attend the opening at the time, on the date and at the place specified in the NIT. Bidders' representatives shall sign a format as proof of their attendance. In the event of the specified date for the opening of bids being declared a holiday for the CESL, the bids will be opened at the appointed time on the next working day.

Bidders' names, bid prices, discounts, the presence or absence of requisite bid security and other such details as the CESL, at its discretion, may consider appropriate, will be announced at the opening. Late bids pursuant to ITB clause 3.2, and/or bids not accompanied by the "Certificate regarding acceptance of important conditions" as per Attachment-4 in a separate sealed envelope pursuant to ITB sub-clause 2.6, and/or bids not accompanied by requisite bid security in a separate sealed envelope pursuant to ITB clause 2.4, will be rejected and returned unopened to the bidder.

Bids that are not opened and read out at bid opening will not be considered for further evaluation, regardless of the circumstances.

The CESL will prepare minutes of the bid opening.

### 4.2 Clarification on Bids

During bid evaluation, the CESL may, at its discretion, ask the bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the price or substance



of the bid shall be sought, offered or permitted. The address for communication will be same as ITB clause 1.2.

#### 4.3 Preliminary Examination of Bids.

The CESL will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.

#### 4.4. Arithmetical errors rectification process

Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between sub totals and the total price, the unit or subtotal price shall prevail, and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail. If the Bidder does not accept the correction of errors, its bid will be rejected and the bid security will be forfeited in accordance with ITB Sub-Clause 2.4.

The CESL may waive any minor informality, nonconformity or irregularity in a bid that does not constitute a material deviation, whether or not identified by the bidder in Attachment 4 to its bid, and that does not prejudice or affect the relative ranking of any bidder as a result of the technical and commercial evaluation, pursuant to ITB clauses 4.7 and 4.8.

#### 4.5. Preliminary Evaluation

Prior to the detailed evaluation, the CESL will determine whether each bid is of acceptable quality, is generally complete and is substantially responsive to the bidding documents. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions and specifications of the bidding documents without material deviations, objections, conditionality's or reservations. A material deviation, objection, conditionality or reservation is one (i) that affects in any substantial way the scope, quality or performance of the contract; (ii) that limits in any substantial way, inconsistent with the bidding documents, the CESL's rights or the successful bidder's obligations under the contract; or (iii) whose rectification would unfairly affect the competitive position of other bidders who are presenting substantially responsive bids.

#### 4.6. Acceptance of Important Condition

No deviation, whatsoever, is permitted by the CESL to the provisions relating to the following clauses (Important Conditions). Party is to submit the following as attachment 4 in envelope 1:

Governing Laws	-	Clause 7 of ITB
Settlement of Disputes	-	Clause 17 of ITB
Terms of payment	-	Clause 1.0 of SCC
Performance Security	-	Clause 5.9 of ITB
Taxes and Duties	-	Clause 8 of ITB
Completion Time Guarantee	-	Clause 9 of ITB
Defects Liability	-	Clause 10 of ITB



Functional Guarantee	-	Clause 11 of ITB
Patent Indemnity	-	Clause 2.25 of ITB
Limitations of Liability	-	Clause 2.27 of ITB
Statutory Compliance/ Certification regarding Cyber Security Products	-	Clause 2.28 of ITB
Project information, Estimation, Assumptions and conditions for Evaluation	-	As per Tables in price bid

Bidders are required to furnish a certificate as per Attachment 4, indicating their compliance to the provisions of the above clauses in a separate sealed envelope. In case the certificate as per Attachment-4 duly signed and stamped by the bidder, is not furnished along with the bid in a separate sealed envelope, the bid shall be rejected and returned to the bidder without being opened

At the time of award of contract, if so desired by the CESL the bidder shall withdraw the deviations listed in attachment 5 at the cost of withdrawal stated by him, in his bid. In case the bidder does not withdraw the deviations proposed by him in attachment 5 to his bid, if any; at the cost of withdrawal stated in his bid, his bid will be rejected and security will be forfeited.

The CESL's determination of a bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence. If a bid is not substantially responsive, it will be rejected by the CESL, and may not subsequently be made responsive by the bidder by correction of the nonconformity.

#### 4.7. Technical Evaluation

The CESL will carry out a detailed evaluation of the bids previously determined to be substantially responsive in order to determine whether the technical aspects are in accordance with the requirements set forth in the bidding documents. In order to reach such a determination, the CESL will examine and compare the technical aspects of the bids on the basis of the information supplied by the bidders, taking into account the following factors:

- a) Overall completeness and compliance with the technical specifications and drawings; deviations from the technical specifications as identified in Attachment 5 to the bid; suitability of the facilities offered in relation to the environmental and climatic conditions prevailing at the site; and quality, function and operation of any process control concept included in the bid. The bid that does not meet minimum acceptable standards of completeness, consistency and detail will be rejected for non- responsiveness.
- b) Achievement of specified performance criteria by the facilities as per scope of work
- c) Type, quantity and long-term availability warranty spare parts and also mandatory and recommended spare parts and maintenance services
- d) Any other relevant factors, if any, listed in the tender document, or that the CESL deems necessary or prudent to take into consideration.

#### 4.8. Commercial Evaluation

The comparison shall be of the FOR site price of domestically manufactured plant and equipment including type test charges, if any and mandatory spares, warranty spares plus applicable sales tax &



duties as well duties and taxes paid/payable on components and raw materials incorporated or to be incorporated in the plant and equipment including mandatory spares/warranty spares plus the cost of loading, unloading, local transportation, insurance covers, installation and commissioning, civil work other services required under the contract including service tax and surcharge, if any plus any survey cost, monitoring and verification cost, distribution cost, scrap disposal cost, annual maintenance cost, any services as per scope of work, administrative charges and statutory agencies cost including service tax and surcharge, if any. The CESL's comparison will also include the costs resulting from application of the evaluation procedures described in ITB sub-clause 4.9. However, the price of recommended spare parts or optional spares or services, if asked in the bid, shall not be considered for evaluation of bids.

The CESL's evaluation of a bid will take into account, in addition to the bid prices indicated in price schedules in section 4 along with the corrections pursuant to ITB sub-clause 4.3, the following costs and factors that will be added to each bidder's bid price in the evaluation using pricing information available to the CESL, in the manner and to the extent indicated in ITB sub-clause 4.9 and in the technical specifications:

- a) The cost of all quantifiable deviations and omissions from the contractual and commercial conditions and the technical specifications as identified in Attachment 5 to the Bid.
- b) Compliance with the time schedule called for and evidenced as needed in a milestone schedule provided in the bid.
- c) The functional guarantees of the facilities offered as per scope of work.
- d) The extra cost of work, services, facilities etc, required to be provided by the CESL of third parties.

#### 4.9. Evaluations of Deviations:

Pursuant to ITB Sub-Clause 4.8, the following evaluation methods will be followed:

##### a) Technical and Commercial Deviations

The evaluation shall be based on the evaluated cost of fulfilling the contract in compliance with all commercial, contractual and technical obligations under this bidding document. In arriving at the evaluated cost, the price for withdrawal of deviations shown in Attachment 5 to the bid will be used if necessary. If such a price is not given in Attachment-5, the CESL will make its own assessment of the cost of such a deviation for the purpose of ensuring fair comparison of bids.

##### b) Time schedule (program of performance)

The plant and equipment covered by this bidding are required to be transported/ shipped and installed, and the facilities are to be completed within the period as mentioned below.

Completion of all facilities/work: As per year/months in SSC.

The above date will be the effective date specified in the contract agreement. Bidders are required to base their prices on the time schedule or, where no time schedule is given, on the completion date(s) given above. No credit will be given for earlier completion.

The master network and the key milestone dates will be discussed with the successful bidder and agreed upon in pre-award discussion before issuance of Letter of Award. Engineering drawing and data submission schedule shall also be discussed and finalized before the issuance of Letter of Award.



After the Letter of Award, the contractor shall plan the sequence of work manufacture, supply, installation to meet the above stated dates of successful completion of facilities and shall ensure all work, manufacture, shop testing, inspection and shipment of the equipment in accordance with the required sequence.

c) Functional Guarantees of the facilities

Bidders shall state the functional guarantees (e.g. performance, efficiency, consumption) of the proposed facilities in response to the technical specifications. In case a minimum (or a maximum, as the case may be) level of functional guarantees is specified in the technical specifications for the bids to be considered responsive, bids offering plant and equipment with such functional guarantees less (or more) than the minimum (or maximum) specified shall be rejected.

d) Work, services, facilities etc., to be provided by the CESL

Where bids include the undertaking of work or the provision of services or facilities by the CESL in excess of the provisions allowed for in the bidding documents, the CESL shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the bid price for evaluation.

**4.10. Illustrative Method of Evaluation**

	Any Bidder (INR)
1. Quoted bid price without taxes and duties (After considering arithmetical errors)	
i) Ex works including Excise duty price including Type test Charges/Lab Test charges + inland transportation including inland Transit insurance etc. For equipment and spares	N1
ii) Prices for dismantling and/or installation	N2
iii) Prices for additional Warranty, if any	N3
iv) Total Price	N(N1+N2+N3)
2. Taxes and Duties	
i) CST/VAT	T1
ii) Service Tax	T2
iii) Total	T(T1+T2)
3. Cost Compensation	
i) Technical Cost Compensation	TCC
ii) Commercial Cost Compensation	CCC
iii) Total	TCC+CCC
4. Adjustments for Functional Guarantees	X
5. Final Evaluated Bid Price	N+T+TCC+CCC+X

**4.11. Contacting the Employer**





Subject to ITB Clause 20, no Bidder shall contact the Employer on any matter relating to its bid, from the time of the opening of bids to the time the contract is awarded.

Information relating to the examination, evaluation and comparison of bids and recommendations for the award of contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful bidder has been announced. Any effort by a Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result in rejection of the Bidder's bid.

## **E. Award of Contract**

### **5.1. Post qualification**

In the absence of pre-qualification, the CESL will determine to its satisfaction whether the bidder selected as having submitted the lowest evaluated responsive bid/or bidder giving highest return to CESL, as the case may be, as mentioned in special condition of contract is qualified to satisfactorily perform the contract in terms of the qualifying requirements stipulated in IFB/NIT and section 3.

The determination will take into account the bidder's financial, technical and production capabilities, in particular its contract, work in hand, future commitments and current litigation. It will be based upon an examination of the documentary evidence of the bidder's qualifications submitted by the bidder in RfP forms in section IV to the bid, as well as such other information as the CESL deems necessary and appropriate.

An affirmative determination will be a prerequisite for award of the contract to the bidder. A negative determination will result in rejection of the bidder's bid, in which event the CESL will proceed to the next lowest evaluated bid/next bid giving highest return to CESL to make a similar determination of that bidder's capabilities to perform satisfactorily.

The capabilities of the vendors and subcontractors proposed in section 3, if permitted, to the bid to be used by the lowest evaluated bidder or bidder giving highest return to CESL as per SCC will also be evaluated for acceptability. Their participation should be confirmed with a letter of intent between the parties, as needed. Should a vendor or subcontractor be determined to be unacceptable, the bid will not be rejected, but the Bidder will be required to substitute an acceptable vendor or subcontractor without any change to the bid price.

The Employer reserves the right to assess the capacity and capability of the bidder/ his collaborator to satisfactory execute the contract. Such assessment shall include but not be limited to the evaluation of adequacy of facilities, services, resources, design / engineering capability and financial capability

### **5.2. Award criteria**

Subject to ITB Clause 5.5, the CESL will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and to be the lowest evaluated technically acceptable bid or bid offering highest return to CESL as the case may be as per tender documents and special conditions of contract, further provided that the Bidder is determined to be qualified to perform the contract satisfactorily.

Except for the deviations listed in Attachment-5, the bidder would be required to comply with all the requirements of bidding documents without any extra cost to CESL failing which his bid security will be forfeited. Further, the CESL may request the bidder to withdraw any or all of the deviations listed in Attachment – 5 to the winning bid, at the price shown for the deviation in Attachment 5 to the bid. In case the bidder does not withdraw the deviations proposed by him, if any, at the cost of withdrawal stated in the bid, his bid will be rejected and bid security forfeited.



The mode of contracting with the Successful Bidder will be as per stipulation briefly indicated below:

- (i) First Contract: For supply of plant and equipment.
- (ii) Second Contract: For providing all services i.e. inland transportation for delivery at site, inland transit insurance, unloading, storage, handling at site, installation (including civil. Structural steel work & allied work, if applicable) insurance covers other than inland transit insurance, erection, testing & commissioning, conducting Guarantee tests in respect of all the Goods supplied under the 'First Contract' and all other
- (iii) Services as specified in the Contract Documents.

The above Contracts will contain a cross-fall breach clause specifying that breach of one Contract will constitute breach of the other Contract which will confer a right on the Employer to terminate the other Contract also at the risk and the cost of the Contractor

### 5.3. Quantity Variation

The CESL reserves the right to vary the quantity of any of the spares and maintenance equipment upto +/- 20% and/or delete any items of spares altogether at the time of Award of Contract. Successful bidder, on whom award is made, is to supply this quantity variation at same price and terms and conditions of contract.

### 5.4. Additions / Alterations / Modifications

CESL reserves the right to make minor additions/alterations/modifications to the quantity of the items to the extent of +/- 20% in the Letter of Award. The bidder shall supply such quantities also at the same rate as originally agreed to and incorporated in the Letter of Award. However CESL may increase this quantity, if required.

### 5.5. CESL's right to accept any bid and to reject any or all bids

The CESL reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to award of contract, without thereby assigning any reason thereof and incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the CESL's action.

### 5.6. Letter of Intent / Letter of Award

Prior to the expiration of the period of bid validity, the CESL will notify the successful bidder in writing by issuing Letter of Intent or Letter of Award either through telefax/ scanned e-mail or though registered/speed post/couriered letter, that its bid has been accepted. The letter of award will constitute the formation of the contract. In case, bidder does not return the duplicate copy of LOA with duly signed and acceptance within 10 days, then the LOA will be deemed to be accepted by the successful bidder, on whom award is made.

The bidder shall return duplicate copy of the Lol/LoA/contract and the other enclosed documents duly signed as a token of acceptance, within 15 days from the date of receipt of this order. Bidder is to make two original copies of contract containing Contract agreement at top, and then Letter of award, techno commercial offer, copy of price bid and copy of all tender documents are to be placed. Three more copies of the contract to be submitted by the bidder in addition to two original at bidder's own cost. Total five copies of contract including two originals copies are to be submitted. This is to be done on instructions of Contract deptt.



Upon the successful bidder's furnishing of the performance security pursuant to ITB Clause 5.9, the CESL will promptly notify each unsuccessful bidder and will discharge its bid security.

### 5.7. Cancellation

CESL reserves the rights to cancel the order in the part or in full by giving one week advance notice thereby if-

- The bidder fails to comply with any of the terms of the order.
- The bidder becomes bankrupt or goes in to liquidation.
- The bidder makes general assignment for the benefit of the creditors and any receiver is appointed for the property owned by the bidder.

### 5.8. 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.

#### Signing the Contract Agreement

At the same time as the CESL notifies the successful Bidder that its bid has been accepted, the CESL will send the bidder the contract agreement provided in the bidding documents, incorporating all agreements between the parties.

Within twenty-one (21) days of receipt of the contract agreement, the successful bidder shall sign and date the contract agreement and return it to the CESL. Contract agreement will contain agreement on stamp paper, bid documents and bidder's offer etc.

### 5.9. Performance security

Within twenty-eight (28) days after receipt of the letter of award, the successful bidder shall furnish the performance security for three percent (3%) of the contract price or as specified in tender documents and in the form provided in the section "Forms and Procedures" of the bidding documents or in another form acceptable to the CESL.

In case Joint Deed(s) of Undertaking by the Contractor along with his associate(s)/collaborator(s) form part of the Contract, then, unconditional Bank Guarantee(s) from such associate(s)/collaborator(s) for amount(s) specified in Bid

Failure of the successful Bidder to comply with the requirements of ITB Clause 5.7 or Clause 5.8 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event the CESL may make the award to the next lowest evaluated bidder or call for new bids.

### 5.10. Corrupt or Fraudulent practices:

The CESL requires that bidders observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the CESL: defines, for the purposes of this provision, the terms set forth below as follows:

a. i) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the CESL, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the CESL of the benefits of free and open competition;



- b) will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract of the CESL.

### 5.11 Ineligibility for Future Tenders

Notwithstanding the provisions specified in ITB sub clause 2.4 and ITB sub clause 5.7 and 5.8, if a bidder after having been issued and letter of award, either does not sign the contract agreement pursuant to ITB clause 5.7 or does not submit an acceptable performance security pursuant to ITB clause 5.9, such bidder may be considered ineligible for participating in future tenders of CESL for a period as may be decided by the CESL.

Successful bidder is to submit interchangeability certificate for its product supplied for replacement during warranty and maintenance period and even when it is purchased from open market. In case due to change in technology, the supplied product is not available during warranty/ maintenance period than the improved version of product can be used in warranty/ maintenance period with same or improved technical parameters or the combination thereof after written communication of Engineer in Charge at same cost & terms and conditions. Successful Bidder, on whom letter of award has been placed, has also to confirm that the prices of improved version of product is not lesser than the original product or its parts in comparison.

Note: Special Terms and Conditions will prevail upon the instruction to Bidders.

### 6.0 Liquidated Damages

In case of any delay in the execution of the order beyond the stipulated time schedule including any extension permitted in writing, CESL reserves the right to recover from the bidder a sum equivalent to 0.5% of the value of the delayed equipment installation/unexecuted portion of work for each week of delay and part thereof subject to a maximum of 5% of the total value of the contract.

Alternatively, CESL reserves the right to purchase and distribute equipment/ material from elsewhere at the sole risk at the cost of successful bidder/contractor and recover all such extra cost incurred by CESL in procuring the material from resources available including EMD/Bid Security/encashment of Bank Guarantee or any other sources etc. Further, if any extra cost is incurred by CESL due to delay in work completion by the party beyond the completion time as per P.O./L.O.A., the same shall also be recovered from party's invoice/EMD/BGs etc.

Alternatively, CESL may cancel the order completely or partly without prejudice to his right under the alternatives mentioned above.

### 7.0 Governing Law

The Contract shall be governed by and interpreted in accordance with laws in force in India. The Courts of Delhi shall have exclusive jurisdiction in all matters arising under the Contract.

### 8.0 Tax and Duties

8.1 Except as otherwise specifically provided in the Contract, the Implementing Partner shall bear and pay all taxes, duties, levies and charges assessed on the Implementing Partner, its Sub Implementing Partners or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.



8.2 Notwithstanding above Sub-Clause 8.1 above, the CESL shall bear and promptly reimburse all customs and import duties, if imposed in future, on the Plant and Equipment including Type Test and mandatory spares supplied from abroad and specified in Price Schedule (and on spare parts to be supplied from abroad and specified in Schedule, when awarded) and that are to be incorporated into the Facilities, by the law of the country where the Site is located. However, if the plant and equipment are shipped in Shipper's containers, then the custom duty levied on the cost of empty containers shall be borne and paid/ reimbursed by the Implementing Partner. The CESL shall also bear and pay/ reimburse to the Implementing Partner/Assignee of Foreign Implementing Partner (if applicable) Sales Tax (but not the surcharge in lieu of Sales Tax), Local Tax including Entry Tax / Octroi (if applicable) in respect of direct transactions between the CESL and the Implementing Partner, if imposed on the Plant and Equipment including Type Test and Mandatory Spares manufactured within the CESL's country and specified in Price (and also on locally supplied spares quoted when awarded) to be incorporated in the Facilities, by the law of country where the site is located. For this purpose, the Ex-works price if quoted in foreign currency and so incorporated in the contract, shall be converted to Indian Rupees as per the TT buying exchange rates established by State Bank of India prevailing on the actual date of Ex-works (India) dispatch.

All taxes, duties and levies on works contract, if any, shall be to the Implementing Partner's account and no separate claim in this regard will be entertained by the CESL.

8.3 If any tax exemptions, reductions, allowances or privileges is available to the Implementing Partner in the country where the Site is located, the CESL shall use its best endeavors to enable the Implementing Partner to benefit from any such tax savings to the maximum allowable extent.

8.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Contract Price and Terms of Payment of the Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date seven (7) days prior to the last date of bid submission in the country where the Site is located (hereinafter called "Tax" in this Sub-Clause 8.4). If any rates of Tax are increased or de-created, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Implementing Partner in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction there-from. However, these adjustments would be restricted to direct transactions between the CESL and the Contractor/assignee of Foreign Implementing Partner (if applicable). These adjustments shall not be applicable on procurement of raw materials, intermediary components etc. by the Implementing Partner/assignee and also not applicable on the bought out items dispatched directly from sub-vendor's works to site.

## 9.0 Completion Time Guarantee:

If the Successful bidder, on whom award is made/Implementing Partner/Consultant fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under ITB Clause 2.23, the Successful bidder, on whom award is made/Implementing Partner/Consultant shall pay to the CESL liquidated damages in the amount computed at the rates specified in the SCC. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the SCC. Once the "Maximum" is reached, the CESL may consider termination of the Contract.

Such payment shall completely satisfy the Successful bidder, on whom award is made/Implementing Partner/Consultant obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under ITB Clause 2.23. The Implementing Partner shall have no further liability whatsoever to the CESL in respect thereof.



However, the payment of liquidated damages shall not in any way relieve the Successful bidder, on whom award is made/Implementing Partner/Consultant from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Implementing Partner under the Contract.

## 10.0 Defect Liability

10.1 The Successful bidder, on whom award is made/Implementing Partner/Consultant warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed, wherever applicable.

10.2 The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Facilities (or any part thereof) or twelve (12) months from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs, unless specified otherwise in the SCC.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment supplied or of the work executed by the Implementing Partner, the Implementing Partner shall promptly, in consultation and agreement with the CESL regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Implementing Partner shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect. The Implementing Partner shall not be responsible for the repair, replacement or making good of any defector of any damage to the Facilities arising out of or resulting from any of the following causes:

- improper operation or maintenance of the Facilities by the CESL
- operation of the Facilities outside specifications provided in the Contract.
- Normal wear and tear.

10.3 The CESL shall give the Successful bidder, on whom award is made/Implementing Partner a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The CESL shall afford all reasonable opportunity for the Implementing Partner to inspect any such defect.

10.4 The CESL shall afford the Implementing Partner all necessary access to the Facilities and the Site to enable the Implementing Partner to perform its obligations.

The Implementing Partner may, with the consent of the CESL, remove from the Site any Plant and Equipment or any part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

10.5 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the CESL may give to the Implementing Partner a notice requiring that tests of the defective part of the Facilities shall be made by the Implementing Partner immediately upon completion of such remedial work, whereupon the Implementing Partner shall carry out such tests.

If such part fails the tests, the Implementing Partner shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests in character shall in any case be not less than what has already been agreed by the CESL and the Implementing Partner for the original equipment/part of the Facilities.

10.6 If the Implementing Partner fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event



be considered to be less than fifteen (15) days), the CESL may, following notice to the Implementing Partner, proceed to do such work, and the reasonable costs incurred by the CESL in connection therewith shall be paid to the CESL by the Implementing Partner or may be deducted by the CESL from any monies due to the Implementing Partner or claimed under the Performance Security.

10.7 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the CESL because of any of the aforesaid reasons. Upon correction of the defects in the Facilities or any part thereof by repair/ replacement, such repair/replacement shall have the Defect Liability Period extended by a period of twelve (12) month from the time such replacement/ repair of the Facilities or any part thereof.

10.8 In addition, the Implementing Partner shall also provide an extended warranty for any such component of the Facilities and during the period of time as may be specified in the SCC. Such obligation shall be in addition to the defect liability specified under ITB Clause 10.2 or as specified in SCC.

## 11.0 Functional Guarantees

11.1 The Implementing Partner guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees as specified in the Contract Agreement, subject to and upon the conditions therein specified.

11.2 If, for reasons attributable to the Implementing Partner, the guaranteed level of the Functional Guarantees specified in the Contract Agreement are not met either in whole or in part, the Implementing Partner shall, within a mutually agreed time, at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet such Guarantees. The Implementing Partner shall notify the CESL upon completion of the necessary changes, modifications and/or additions, and shall seek the CESL's consent to repeat the Guarantee Test. If the specified Functional Guarantees are not established even during the repeat of the Guarantee Test, the CESL may at its option, either

- Reject the Equipment and recover the payments already made, or
- Terminate the Contract and recover the payments already made, or
- Accept the equipment after levy of liquidated damages in accordance with the provisions specified in the Contract Agreement.

## 12.0 Inspections and Tests

12.1. Inspection of Goods: The Employer or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Employer. (SCC and the Technical Specifications shall specify what inspections and tests the Employer requires and where they are to be conducted). The Employer shall notify the Contractor in writing in a timely manner of the identity of any representatives retained for these purposes.

12.2 The inspections and tests may be conducted on the premises of the Contractor or its subcontractor(s), at point of delivery and/or at the Goods final destination. If conducted on the premises of the Contractor or its subcontractor(s), all reasonable Works and assistance, including access to drawings and production data shall be furnished to the inspectors at no cost to the Employer.

12.3 Should any inspected or tested Goods fail to conform to the specifications, the Employer may reject and the Contractor shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Employer.



12.4 The Employer's right to inspect, test and, where necessary, reject the Goods after the arrival at Site shall in no way be limited or waived by reason of the Goods having previously been inspected, tested and passed by the Employer or its Representative prior to the Goods shipment.

12.5 Nothing in GCC Clause 6 shall in any way release the Contractor from any warranty or other obligations under this Contract.

12.5 Manuals and Drawings

12.6 Before the Goods and Services are taken over by the Employer, the Contractor shall supply operation and maintenance manuals together with drawings of the goods and equipment. These shall be in such detail as will enable the Employer to operate, maintain, adjust and repair all parts of the equipment as stated in the specifications.

12.7 The manuals and drawings shall be in the English ruling language and in such form and numbers as stated in the contract.

12.8 Unless and otherwise agreed, the goods and equipment shall not be considered to be completed for the purpose of taking over until such manuals and drawings have been supplied to the Employer.

12.9 It shall be the obligation of the Contractor to train and familiarize the designated person by the Employer in regard to the operation manual and drawings.

### 13.0 Insurance

The Goods supplied under the Contract shall be fully insured in Indian Rupees against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery. For delivery of goods at site, the insurance shall be obtained by the Contractor, for an amount not less than the Contract Price of the goods from "warehouse to warehouse" (final destinations) on "All Risks" basis including War risks and strikes.

### 14.0 Transportation, Demurrage Wharfage, Etc.

Contractor is required under the Contract to transport the Goods to place of destination defined as Site. Transport to such place of destination in India including insurance, as shall be specified in the Contract, shall be arranged by the Contractor, and the related cost shall be included in the Contract Price.

Successful bidder, on whom letter of award is placed, is to ensure all safety guidelines, rules and regulations, labour laws etc. Successful bidder indemnify CESL for any accident, injury met by its labour, employee or any other person working for him. Any compensation sought by its labour, employee or any other person working for him shall be paid by successful bidder as per settlement solely. CESL has no role to play in this matter

### 15.0 Warranty

15.1 The Contractor warrants that the Goods supplied under this Contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Contractor further warrants that all Goods supplied under this Contract shall have no defect arising from design, materials or workmanship (except when the design and/or material is required by the Employer's Specifications) or from any act or omission of the Contractor, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.

15.2 This warranty of all the Works shall remain valid for 2 year after the Commissioning. The Contractor shall, in addition, comply with the performance and/or guarantees specified under the Contract. If for reasons attributable to the Contractor, these guarantees are not attained in whole or in part, the Contractor shall:

15.3 make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with SCC





Clause 2;

OR

15.4 pay liquidated damages to the Employer with respect to the failure to meet the contractual guarantees.

15.5. The Employer shall notify the Contractor in writing of any claims arising under this warranty.

15.6 Upon receipt of such notice, the Contractor shall, within the period of 15 days and with all reasonable speed, repair or replace the defective Goods or parts thereof, free of cost at the ultimate destination. The Contractor shall take over the replaced parts/goods at the time of their replacement. No claim whatsoever shall lie on the Employer for the replaced parts/goods thereafter. In the event of any correction of defects or replacement of defective material during the Warranty period, the Warranty for the corrected or replaced material shall be extended to a further period.

15.7 If the Contractor, having been notified, fails to remedy the defect(s) within 15 days, the Employer may proceed to take such remedial action as may be necessary, at the Contractor's risk and expense and without prejudice to any other rights which the Employer may have against the Contractor under the Contract. The performance guarantee and liquidated damaged be entitled to be recovered without prejudice to other rights of the Employer.

#### **16.0. Termination for Default**

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

16.2 if the Contractor fails to deliver any or all of the Goods and complete the Work within the period(s) specified in the Contractor within any extension thereof granted by the Employer pursuant to GCC Clause 20; or

16.3 if the Contractor fails to perform any other obligation(s)/duties under the Contract.

16.4 If the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

16.5 In the event the Employer terminates the Contract in whole or in part, pursuant to GCC Clause 22.1, the Employer may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Contractor shall be liable to the Employer for any excess costs for such similar Goods or Services. However, the Contractor shall continue the performance of the Contract to the extent not terminated.

#### **17.0. Settlement of Disputes**

##### **17.1 Adjudicator**

17.1.1 If any dispute of any kind whatsoever shall arise between the CESL and the Implementing Partner in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Facilities—whether during the progress of the Facilities or after their completion and whether before or after the termination, abandonment or breach of the Contract—the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the dispute shall be referred in writing by either party to the Adjudicator, with a copy to the other party.

17.1.2 The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the CESL or the Implementing Partner within fifty-six (56) days of such reference, the decision shall become final and binding upon the CESL and the



Implementing Partner. Any decision that has become final and binding shall be implemented by the parties forthwith.

17.1.3 Should the Adjudicator resign or die, or should the CESL and the Implementing Partner agree that the Adjudicator is not fulfilling its functions in accordance with the provisions of the Contract; another retired Judge of High Court/Supreme Court of India shall be jointly appointed by the CESL and the Implementing Partner as adjudicator under the Contract. Failing agreement between the two within twenty eight (28) days, the new retired judge of High Court/Supreme Court of India shall be appointed as the Adjudicator under the Contract at the request of either party by the Appointing Authority specified in the SCC. The adjudicator shall be paid fee plus reasonable expenditures incurred in the execution of its duties as adjudicator under the contract. This cost shall be divided equally between the CESL and the Implementing Partner.

## 17.2 Arbitration

17.2.1 If either the CESL or the Implementing Partner is dissatisfied with the Adjudicator's decision, or if the Adjudicator fails to give a decision within twenty-eight (28) days of a dispute being referred to it, then either the CESL or the Implementing Partner may, within fifty-six (56) days of such reference, give notice to the other party, with a copy for information to the Adjudicator, of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

17.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with Sub-Clause 17.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after completion of the Facilities.

17.2.3 Any dispute submitted by a party to arbitration shall be heard by an arbitration panel composed of three arbitrators, in accordance with the provisions set forth below.

17.2.4 The CESL and the Implementing Partner shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the two arbitrators do not succeed in appointing a third arbitrator within twenty-eight (28) days after the latter of the two arbitrators has been appointed, the third arbitrator shall, at the request of either party, be appointed by the Appointing Authority for arbitrator designated in the SCC.

17.2.5 If one party fails to appoint its arbitrator within forty-two (42) days after the other party has named its arbitrator, the party which has named an arbitrator may request the Appointing Authority to appoint the second arbitrator.

17.2.6 If for any reason an arbitrator is unable to perform its function, the mandate of the Arbitrator shall terminate in accordance with the provisions of applicable laws as mentioned in ITB Clause 7 (Governing Law) and a substitute shall be appointed in the same manner as the original arbitrator.

17.2.7 Arbitration proceedings shall be conducted (i) in accordance with the rules of procedure designated in the SCC, (ii) in the place designated in the SCC, and (iii) in the language in which this Contract has been executed.

17.2.8 The decision of a majority of the arbitrators (or of the third arbitrator chairing the arbitration, if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction as decree of the court. The parties thereby waive any objections to or claims of immunity from such enforcement.

17.2.9 The arbitrator(s) shall give reasoned award.



17.3 Notwithstanding any reference to the Adjudicator or arbitration herein,

- the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree
- the CESL shall pay the Implementing Partner any monies due to the Implementing Partner.

## 18.0 MSME Bidder

Are you registered as MICRO, SMALL or MEDIUM Enterprise under MSMED Act 2006?

If YES,

A) Please indicate relevant category with copy of documentary proof issued by the concerned authorities:

B) Does your firm fall under MSE's owned by SC/ST Entrepreneurs. If so, enclose a copy of documentary evidence:

IN ADDITION TO ABOVE FOLLOWING WILL ALSO BE APPLICABLE FOR CONSULTANCY/PROJECT MANAGEMENT CONTRACT SERVICES.

## 19.0 THIRD-PARTY CONSULTANCY SERVICES

The Employer (CESL) is obliged, at its own expense, to make the necessary provision for the performance of those services by third parties commissioned by it, as described in Special Conditions of Contract

## 20.0 SCOPE OF SERVICES

20.1 The Consultant shall deliver the Services in full and on time.

20.2 The Services to be performed by the Consultant encompass all the part services described and explained in Special Conditions of Contract, Terms of Reference plus Tender Documents and The Consultant's bid. Furthermore, the Consultant must deliver all the standard and special services as defined intender RfP.

20.3 The Consultant shall work together with third parties wherever commissioned by the Employer. The Employer is not responsible for these third parties or their performance, when the work is assigned to consultant to co-ordinate with them. In addition, the Consultant must comprehensively coordinate their services with its own services, as far as possible.

### 20.1 STANDARD AND SPECIAL SERVICES

20.1.1 In addition to the Services specified explicitly in the Contract, the Consultant shall also perform all other services, if necessary, that are not listed under the contractual services, but are customarily required in order to properly discharge the contractual obligations ("standard services"). The standard services shall be fully compensated through the Agreed Remuneration in the contract.

20.1.2 "Special Services" are services that are not included under the contractual or standard services, but must necessarily be delivered by the Consultant in order to properly perform its duties under the Contract, because the external circumstances of service delivery have changed unexpectedly, or because the Employer has suspended the Services *Force Majeure* or because the Employer, with the prior consent of CESL, requires services that were not included in the invitation to tender but are necessary.

No extra cost is payable to fulfill the standard and / or special services.

### 20.2 DUE DILIGENCE

20.2.1 Except where otherwise stipulated in this Contract, or otherwise legally stipulated within the country or within another legal system (including the legal system in the Consultant's jurisdiction) by provisions that impose higher demands than this Contract, when performing its obligations under this Contract the Consultant shall exercise due diligence and provide the Services in compliance with professional practice and to the recognized quality standards, in accordance with current scientific



and generally accepted engineering standards. The Consultant must document its work, the progress of the Project and the decisions it takes in an appropriate form that is acceptable to the Employer, bearing in mind the requirements of tender/RfP/Letter of Award.

### 20.3 REPORTING

20.3.1 The Consultant shall inform the Employer promptly of all extraordinary circumstances that arise *during the performance of the services and of all matters* requiring CESL approval. The consultant is to make reports as defined in scope of work and submit the same as per timelines defined in the contract.

### 20.4 STAFFING

20.4.1 The Consultant shall employ the staff specified in bid [Staffing Schedule] to implement performance of the Services. The list of designated key staff and any changes to it shall require the prior written approval of the Employer.

20.4.2 The Employer may require the Consultant to terminate the contract of, or replace, any staff member who fails to meet the requirements as per contract. Any such demand must be submitted in writing to the Consultant stating the reasons for it.

20.4.3 If staff employed by the Consultant need to be replaced, the Consultant shall ensure that the staff member in question is replaced promptly by an individual who possesses at least equivalent qualifications.

20.4.4 If any one of the Consultant's staff falls ill for more than one month and this jeopardizes the performance of this Contract by the Consultant, the Consultant shall replace this staff member with another staff member who possesses at least equivalent qualifications.

20.4.5 Staff shall only be replaced after prior approval by the Employer, such approval not to be unreasonably withheld. The exchange, replacement, or planned dispensation of replacement (as exception to existing rules) of key staff specified by name shall require the prior approval of CESL.

20.4.6 If the Consultant must terminate the contract of, or replace, any staff during the Contract period, the costs thus accrued shall be borne by the Consultant, except where staff are removed or replaced at the Employer's request. In this case, the Employer shall meet the costs of replacing the staff member, unless the staff member in question does not meet the requirements.

### 20.5 CONTACT PERSON OF THE CONSULTANT

20.5.1 The Consultant shall appoint for the exercise of all rights and obligations arising from this Contract a natural person as its contact person for the Employer under this Contract.

20.5.2 The Consultant shall specify and provide respective contact data to the Employer - for an individual at the Consultant's place of business who can be reached at any time in cases of emergency or crisis as well as a deputy of the Consultant. The Consultant shall notify the Employer without delay of any change of elected person or their contact data.

## 21.0 INDEPENDENCE OF THE CONSULTANT

21.1 The Consultant undertakes that neither the Consultant nor any enterprise associated with the Consultant shall bid for the Project as manufacturer, supplier, or building contractor. This prohibition also applies to any bidding for any further consulting services, insofar as such consulting services might lead to a restriction of competition or a conflict of interests. Any violation of this stipulation may lead to the immediate cancellation of this Contract and require the reimbursement of any and all costs incurred by the Employer up to the time of such violation as well as compensation for any and all losses and damages incurred by the Employer as a result of such cancellation.

## 22.0 COMMENCEMENT AND COMPLETION

22.1.1 The Consultant shall begin performing the Services on the prescribed date on which execution of the Contract shall take place, but not earlier than and without undue delay after the Contract has come into force. The Consultant shall deliver the Services in accordance with the time



schedule in the bid [Time Schedule for the Performance of the Services defined in SCC], and shall complete the Services within the Completion Period, subject to any further extensions to this Contract accorded by employer.

22.1.2 In relation to optional services (if any), the Consultant shall commence delivery of the optional services not earlier than upon receipt of notification from the Employer,

22.1.3 Any change to the time schedule [Time Schedule for the Performance of the Services] due to a reasonable request by either party shall be mutually agreed upon in writing.

## 23.0 FORCE MAJEURE

In addition to Force Majeure defined in clause 2.26, following will also be applicable for consultancy work.

23.1 In the event of Force Majeure, the contractual obligations, as far as affected by such event, shall be suspended for as long as performance remains impossible due to the Force Majeure, provided that one party to the Contract receives notification of the Force Majeure event from the other party within two weeks after its occurrence and both the parties agree for that to be a force majeure. Any and all liability of the Consultant for damages arising due to its absence caused by the Force Majeure is excluded.

23.2 In the event of Force Majeure, the Consultant shall be entitled to an extension of the Contract equal to the delay caused by such Force Majeure. If the performance of the Services is rendered permanently impossible by the Force Majeure, both parties to this Contract shall be entitled to terminate the Contract on mutual agreement basis only.

23.3 In case of suspension or termination of the Contract due to Force Majeure, the Services performed up to the time of the Force Majeure and all necessary expenditure (which is evidenced) of the Consultant arising from the discontinuing of the Services shall be invoiced on the basis of contractual prices subject to employer agreement with the work. Neither party shall make any further claims.

## 24.0 SUSPENSIONS OR TERMINATION

24.1 The Employer may fully or partially suspend the Services or terminate this Contract after serving written notice of at least 30 days. In this event, the Consultant must immediately take all measures necessary to ensure that the Services are discontinued and the expenditure minimized. The Consultant shall hand over all reports, drafts and documents to be drawn up by the date in question to the Employer. In case of termination Force majeure shall apply mutatis mutandis.

24.2 If the Consultant fails to meet its contractual obligations without sufficient reason; in accordance with the Contract; or on time, the Employer may serve a notice upon the Consultant and request it to duly perform its Services. If the Consultant fails to remedy the performance deficit within a period of 21 days of having been called upon to do so by the Employer, the Employer shall be entitled, after this period has elapsed, to terminate the Contract by written notice.

24.3 If the termination of the Contract is due to a default on the part of the Consultant, the Consultant shall be entitled to demand the Agreed Remuneration for the Services performed until the date of termination but not yet remunerated. The Employer shall be entitled to demand compensation for the direct damages caused by the default.

## 25.0 REMUNERATION OF THE CONSULTANT

The Consultant shall receive the remuneration agreed in the Special Conditions and bid price schedule for performing the Services owed under this Contract, subject to the conditions listed therein and the conditions below.

## 26.0 TERMS OF PAYMENT

NIT/BID Document No.:- CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated  
22.07.2022

SECTION - 2  
(ITB)

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Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, O=D, S.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466



Except where otherwise agreed in the Special Conditions, the Employer shall pay the Consultant's remuneration as follows:

- (a) Advance payment, due within 30 days of award of Contract upon presentation of an invoice against equivalent advance bank guarantee, if mentioned in SCC.
- (b) Payments based on deliverables as per tender/SCC or as agreed upon in amendments.
- (c) The final payment shall be made after the Services have been performed in full and confirmation had been provided by the Employer to that Consultant.

## 27.0 METHOD OF PAYMENT

Payment shall be made according to the conditions set out in the Special Conditions or as agreed upon.

## 28.0 INSURANCE AGAINST LIABILITY AND DAMAGES

The Consultant is advised to take out insurance for the period of the Contract, on the terms specified in the Special Conditions, including, but not limited to, the following:

- a) Professional liability insurance;
- b) Personal liability insurance;
- c) Equipment insurance covering loss of or physical damage to all equipment acquired, used, provided or paid for by the Employer within the context of this Contract; and
- d) Motor vehicle third party liability insurance and motor vehicle comprehensive insurance for the vehicles acquired in connection with this Contract.

CESL will not be responsible in case any accident/ mis-happenings with consultant employee or contract person and for any equipment damage or theft occurs and in no case CESL shall pay for it.

In case of any contradiction in ITB and SCC, then SCC will prevail.

## LIST OF ACRONYMS

EMD: Earnest Money Deposit  
Eol: Expression of Interest  
SCC: Special Conditions of Contract  
INR: Indian Rupees  
IST: Indian Standard Time  
LED: Light Emitting Diodes  
Lol: Letter of Intent  
LoA: Letter of Acceptance  
MoU: Memorandum of Understanding  
MoP: Ministry of Power  
RECL: Rural Electrification Corporation Ltd  
EESL: Energy Efficiency Services Ltd  
CESL : Convergence Energy Services Ltd  
O&M: Operation & Maintenance  
RfP: Request for Proposal  
R&M: Repair & Maintenance  
SD: Security Deposit  
CPG: Contract Performance Guarantee  
FTL: Fluorescent Tube Light  
SVL: Sodium Vapor Lamp  
PMA: Project Management Agency



SECTION-3

GENERAL CONDITIONS OF CONTRACT (GCC)



Signature :  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 1318466

GENERAL CONDITIONS CONTRACT (GCC)		
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## A. Contract and Interpretation

### 1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

“Contract” means the Contract Agreement entered into between the CESL and the Implementing Partner, together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.

“Contract Documents” means the documents listed in Article. 1.1 (Contract Documents) of the Form of Contract Agreement (including any amendments thereto).

“GCC” means the General Conditions of Contract hereof.

“SCC” means the Special Conditions of Contract.

“Day” means calendar day of the Gregorian calendar.

“Month” means calendar month of the Gregorian calendar.

“Employer” means CESL, New Delhi/Noida and includes the legal successors or permitted assigns of the CESL.

“Project Manager” means the person appointed by the CESL in the manner provided in GCC Sub-Clause 17.1 (Project Manager) hereof and named as such in the SCC to perform the duties delegated by the CESL.

“Contractor or Implementing Partner” means the person(s) whose bid to perform the Contract has been accepted by the CESL and is named as such in the Contract Agreement, and includes the legal successors or permitted assigns of the Implementing Partner.

“Contractor or Implementing Partner’s Representative” means any person nominated by the Implementing Partner and approved by the CESL in the manner provided in GCC Sub-Clause 17.2 (Implementing Partner’s Representative and Construction Manager) hereof to perform the duties delegated by the Implementing Partner.

“Sub Contractor or Sub Implementing Partner,” including vendors, means any person to whom execution of any part of the Facilities, including preparation of any design or supply of any Plant and Equipment, is subcontracted directly or indirectly by the Implementing Partner, and includes its legal successors or permitted assigns.

“Adjudicator” means the person or persons named as such in the SCC to make a decision on or to settle any dispute or difference between the CESL and the Implementing Partner referred to him or her by the parties pursuant to GCC Sub-Clause 6.1 (Adjudicator) hereof.

“Contract Price” means the sum specified in Article 2.1 (Contract Price) of the Contract Agreement, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.

“Facilities” means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Implementing Partner under the Contract.

“Plant and Equipment” means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Facilities by the Implementing Partner under the Contract (including the spare parts to be supplied by the Implementing Partner under GCC Sub-Clause 7.3 here-of), but does not include Implementing Partner’s Equipment.

“Installation Services” means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Implementing Partner under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, Site preparation works (including the provision and use



of Implementing Partner's Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training of CESL's Personnel etc.

"Contractor or Implementing Partner's Equipment" means all plant, facilities, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Facilities that are to be provided by the Implementing Partner, but does not include Plant and Equipment, or other things intended to form or forming part of the Facilities.

"Site" means the land and other places upon which the Facilities are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site.

"Effective Date" means the date from which the Time for Completion shall be determined as stated in Article 3 (Effective Date for Determining Time for Completion) of the Form of Contract Agreement.

"Time for Completion" means the time within which Completion of the Facilities as a whole (or of a part of the Facilities where a separate Time for Completion of such part has been prescribed) is to be attained in accordance with the stipulations in the SCC and the relevant provisions of the Contract.

"Completion" means that the Facilities (or a specific part thereof where specific parts are specified in the SCC) have been completed operationally and structurally and put in a tight and clean condition, and that all work in respect of Pre-commissioning of the Facilities or such specific part thereof has been completed; and Commissioning has been attained as per Technical Specifications.

"Pre-commissioning" means the testing, checking and other requirement specified in the Technical Specifications that are to be carried out by the Implementing Partner in preparation for Commissioning as provided in GCC Clause 24 (Completion) hereof.

Commissioning" means trial/intial operation of the Facilities or any part thereof by the Implementing Partner, which operation is to be carried out by the Contractor as provided in GCC Sub-Clause 25.1 (Commissioning) hereof, for the purpose of carrying out Guarantee Test(s).

"Guarantee Test(s)" means the test(s) specified in the Technical Specifications to be carried out to ascertain whether the Facilities or a specified part thereof is able to attain the Functional Guarantees specified in the Technical Specifications in accordance with the provisions of GCC Sub Clause 25.2 (Guarantee Test) hereof.

Operational Acceptance" means the acceptance by the CESL of the Facilities (or any part of the Facilities where the Contract provides for acceptance of the Facilities in parts), which certifies the Implementing Partner's fulfilment of the Contract in respect of Functional Guarantees of the Facilities (or the relevant part thereof) in accordance with the provisions of GCC Clause 28 (Functional Guarantees) hereof and shall include deemed acceptance in accordance with GCC Clause 25 (Commissioning and Operational Acceptance) hereof.

Defect LiabilityPeriod" means the period of validity of the warranties given by the Implementing Partner commencing at Completion of the Facilities or a part thereof, during which the Implementing Partner is responsible for defects with respect to the Facilities (or the relevant part thereof) as provided in GCC Clause 27 (Defect Liability) hereof.

## 2. Contract Documents

2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement all documents forming part of the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory. The Contract shall be read as a whole.

2.2 The Contract will be signed in three originals and the Implementing Partner shall be provided with one signed original and the rest will be retained by the CESL.

2.3 The Implementing Partner shall provide free of cost to the CESL all the engineering data, drawing and descriptive materials submitted with the bid, in at least five (5) copies to form a part of the Contract immediately after Notification of Award/ letter of Award.

2.4 Subsequent to signing of the Contract, the Implementing Partner at his own cost shall provide the CESL



with at least five(05) true copies of Contract Agreement within thirty (30) days after signing of the Contract.

### 3. Interpretation

#### 3.1 Language

**3.1.1** Unless the Implementing Partner is a national of the CESL's country and the CESL and the Implementing Partner agree to use the local language, all Contract Documents, all correspondence and communications to be given, and all other documentation to be prepared and supplied under the Contract shall be written in English, and the Contract shall be construed and interpreted in accordance with that language.

**3.1.2** If any of the Contract Documents, correspondence or communications are prepared in any language other than the governing language under GCC Sub-Clause 3.1.1 above, the English translation of such documents, correspondence or communications shall prevail in matters of interpretation.

#### 3.2 Singular and Plural

The singular shall include the plural and the plural the singular, except where the context otherwise requires.

#### 3.3 Headings

The headings and marginal notes in the General Conditions of Contract are included for ease of reference, and shall neither constitute a part of the Contract nor affect its interpretation.

#### 3.4 Persons

Words importing persons or parties shall include firms, corporations and government entities.

#### 3.5 Inco terms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties there under shall be as prescribed by Incoterms.

Inco terms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France.

#### 3.6 Construction of the Contract

**3.6.1** The Contracts to be entered into between the CESL and the successful bidder shall be as under :

- i) First Contract: For Ex-works (India) supply of plant and equipment and accessories by bidder including mandatory spares and spares to be supplied during warranty
- ii) Second Contract: for providing all services i.e. loading, inland/air/shipment transportation for delivery at site, inland/air/shipment transit insurance, unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, testing, commissioning and conducting Guarantee tests in respect of all the equipments supplied under the 'First Contract' and all other services including civil works, if any, as specified in the Contract Documents including sales tax and duties as asked in price bid in section IV. It will also cover cost for Repair and Maintenance and equipmentsand/or additional warranty, where ever asked for ,supplied under the 'First Contract' and all other services including civil works, if any, as specified in the Contract Documents. All items in second contract must be quoted including service tax.
- iii) Third Contract: For providing all services including Awareness programme for public/stake holders/workshops/printing brochure and other materials, Survey cost, Monitoring and verification cost, scrap disposal cost, arrangement of office at both sites and Statuary agencies cost including service tax.

All the above Contracts will contain a cross-fall breach clause specifying that breach of one Contract will constitute breach of the other Contracts which will confer a right on the Employer to terminate the other Contracts also at the risk and the cost of the contractor /Implementing Partner for the Project, for which awards have been made.

In case, value of second contract viz transportation, insurance is lower or the supply cost includes transportation, insurance etc than three contract may be merged in two contract.

Arbitration: 1. Appointing authority for adjudicator: MD, CESL



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User ID : divyang.suri  
Serial No : 131B466

2. The place of arbitration shall be: New Delhi

Prices are to be quoted as Firm during currency of contract. No price adjustment is allowed.

General:

1. In case of investment partner, A project manager is to be deputed from their side for co-coordinating activities.
2. Word Implementing Partner for any Project used in General Conditions of contract includes persons of Investment partner, executing and implementing agencies etc
3. Notification of award means Letter of Intent and Letter of award

3.6.2 The award of separate Contracts shall not in any way dilute the responsibility of the Implementing Partner for the successful completion of the Facilities as per Contract Documents and a breach in one Contract shall automatically be construed as a breach of the other Contract(s) which will confer a right on the CESL to terminate the other Contract(s) also at the risk and the cost of the Implementing Partner.

### **3.7 Entire Agreement**

Subject to GCC Sub-Clause 16.4 hereof, the Contract constitutes the entire agreement between the CESL and Implementing Partner with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

### **3.8 Amendment**

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party here to.

### **3.9 Independent Contractor or Implementing Partner**

The Implementing Partner shall be an independent Implementing Partner performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties here to.

Subject to the provisions of the Contract, the Contractor or Implementing Partner shall be solely responsible for the manner in which the Contract is performed. All employees, representatives or Sub Contractor or Sub Implementing Partners engaged by the Implementing Partner in connection with the performance of the Contract shall be under the complete control of the Implementing Partner and shall not be deemed to be employees of the CESL, and nothing contained in the Contract or in any subcontract awarded by the Implementing Partner shall be construed to create any contractual relationship between any such employees, representatives or Sub Contractor or Sub Implementing Partners and the CESL.

### **3.10 Joint Venture or Consortium**

If the Implementing Partner is a joint venture or consortium of two or more firms, all such firms shall be jointly and severally bound to the CESL for the fulfilment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the joint venture or consortium. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the CESL.

### **3.11 Non-Waiver**

3.11.1 Subject to GCC Sub-Clause 3.11.2 below, no relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.



3.11.2 Any waiver of a party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

### 3.12 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### 3.13 Country of Origin

"Origin" means the place where the materials, equipment and other supplies for the Facilities are mined, grown, produced or manufactured, and from which the services are provided.

## 4. Notices

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing, and shall be sent by personal delivery, airmail post, special courier, cable, telegraph, telex, facsimile or Electronic Data Interchange (EDI) to the address of the relevant party set out in the Contract Coordination Procedure to be finalised pursuant to GCC Sub-Clause 17.2.3.1, with the following provisions.

4.1.1 Any notice sent by cable, telegraph, facsimile or shall be confirmed within two (2) days after despatch by notice sent by airmail/ post or special courier, except as otherwise specified in the Contract.

4.1.2 Any notice sent by airmail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after despatch. In proving the fact of despatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and conveyed to the postal authorities or courier service for transmission by airmail or special courier.

4.1.3 Any notice delivered personally or sent by telegraph, facsimile shall be deemed to have been delivered on date of its despatch.

4.1.4 Either party may change its postal, cable, telex, facsimile or EDI address or addressee for receipt of such notices by ten (10) days' notice to the other party in writing.

4.2 Notices shall be deemed to include any approvals, consents, instruction orders and certificates to be given under the Contract.

## 5. Governing Law

5.1 The Contract shall be governed by and interpreted in accordance with laws in force in India. The Courts of Delhi shall have exclusive jurisdiction in all matters arising under the Contract.

## 6. Settlement of Disputes

### 6.1 Adjudicator

6.1.1 If any dispute of any kind whatsoever shall arise between the CESL and the Implementing Partner in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity or termination, or the execution of the Facilities—whether during the progress of the Facilities or after their completion and whether before or after the termination, abandonment or breach of the Contract—the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, then the dispute shall be referred in writing by either party to the Adjudicator, with a copy to the other party.

6.1.2 The Adjudicator shall give its decision in writing to both parties within twenty-eight (28) days of a dispute being referred to it. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the CESL or the Implementing Partner within fifty-six (56) days of such reference, the decision shall become final and binding upon the CESL and the Implementing Partner. Any decision that has become final and binding shall be implemented by the parties forthwith.

6.1.3 Should the Adjudicator resign or die, or should the CESL and the Implementing Partner agree that the Adjudicator is not fulfilling its functions in accordance with the provisions of the Contract; another retired Judge of High Court/Supreme Court of India shall be jointly appointed by the CESL and the Implementing Partner as adjudicator under the Contract. Failing agreement between the two within twenty eight (28) days, the new retired judge of High Court/Supreme Court of India shall be appointed as the Adjudicator under the Contract



at the request of either party by the Appointing Authority specified in the SCC. The adjudicator shall be paid fee plus reasonable expenditures incurred in the execution of its duties as adjudicator under the contract. This cost shall be divided equally between the CESL and the Implementing Partner.

## 6.2 Arbitration

6.2.1 If either the CESL or the Implementing Partner is dissatisfied with the Adjudicator's decision, or if the Adjudicator fails to give a decision within twenty-eight (28) days of a dispute being referred to it, then either the CESL or the Implementing Partner may, within fifty-six (56) days of such reference, give notice to the other party, with a copy for information to the Adjudicator, of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

6.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Sub-Clause 6.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after completion of the Facilities.

### **In case the Contractor is a Public Sector Enterprise or a Government Department**

6.2.3 In case the Contractor is a Public Sector Enterprise or a Government Department, the dispute shall be referred for resolution in Permanent Machinery for Arbitration(PMA) of the Department of Public Enterprise, Government of India. Such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of 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 a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

### **In case the Contractor is not a Public Sector Enterprise or a Government Department**

6.2.4 In all other cases, any dispute submitted by a party to arbitration shall be heard by an arbitration panel composed of three arbitrators, in accordance with the provisions set forth below.

6.2.5 The Employer and the Contractor shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the two arbitrators do not succeed in appointing a third arbitrator within twenty-eight (28) days after the latter of the two arbitrators has been appointed, the third arbitrator shall, at the request of either party, be appointed by the Appointing Authority for arbitrator designated in the SCC.

6.2.6 If one party fails to appoint its arbitrator within forty-two (42) days after the other party has named its arbitrator, the party which has named an arbitrator may request the Appointing Authority to appoint the second arbitrator.

6.2.7 If for any reason an arbitrator is unable to perform its function, the mandate of the Arbitrator shall terminate in accordance with the provisions of applicable laws as mentioned in GCC Clause 5(Governing Law) and a substitute shall be appointed in the same manner as the original arbitrator.

6.2.8 Arbitration proceedings shall be conducted in accordance with The Arbitration and Conciliation Act, 1996 and its subsequent thereof. The venue of arbitration shall be New Delhi.

6.2.9 The decision of a majority of the arbitrators (or of the third arbitrator chairing the arbitration panel, if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction as decree of the court. The parties thereby waive any objections to or claims of immunity from such enforcement.

6.2.10 The arbitrator(s) shall give reasoned award.

Notwithstanding any reference to the Adjudicator or arbitration herein,



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Serial No : 131B466

the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree

the Employer shall pay the Contractor any monies due to the Contractor.

## **B. Subject Matter of Contract**

### **7. Scope of Facilities**

7.1 Unless otherwise expressly limited in the Technical Specifications, the Implementing Partner's obligations cover the provision of all Plant and Equipment and the performance of all Installation Services required for the design, the manufacture (including procurement, quality assurance, construction, installation, associated civil works, Recommissioning and delivery) of the Plant and Equipment and the installation, completion, commissioning and performance testing of the Facilities in accordance with the plans, procedures, specifications, drawings, codes and any other documents as specified in the Technical Specifications. Such specifications include, but are not limited to, the provision of supervision and engineering services; the supply of labour, materials, equipment, spare parts (as specified in GCC Sub-Clause 7.3 below) and accessories; Implementing Partner's Equipment; construction utilities and supplies; temporary materials, structures and facilities; transportation (including, without limitation, unloading and hauling to, from and at the Site); and storage, except for those supplies, works and services that will be provided or performed by the CESL, as set forth in Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement.

7.2 The Contractor or Implementing Partner shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Completion of the Facilities as if such work and/or items and materials were expressly mentioned in the Contract.

7.3 In addition to the supply of Mandatory Spare Parts if asked and warranty spares included in the Contract, the Implementing Partner agrees to supply spare parts required for the operation and maintenance of the Facilities. However, the identity, specifications and quantities of such spare parts and the terms and conditions relating to the supply thereof are to be agreed between the CESL and the Implementing Partner, and the price of such if asked spare parts shall be that given in Price Schedule which shall be added to the Contract Price. The price of such spare parts shall include the purchase price there for and other costs and expenses (including the Implementing Partner's fees) relating to the supply of spare parts. The prices of spares covered under the Price Schedule shall be kept valid for a period as specified in SCC.

7.3.1 The Contractor / Implementing Partner agrees that the spare parts recommended by him for 3 years operation and quoted in price Schedule shall be supplied by him at the same terms and conditions as are otherwise applicable to this Contract. Further, the Implementing Partner also agrees to supply spare parts required for the operation and maintenance of the Facilities as per provision of subsequent paragraphs of this Sub-Clause.

7.3.1.1 All the spares for the equipment under the Contract will strictly conform to the Specification and other relevant documents and will be identical to the corresponding main equipment/components supplied under the Contract and shall be fully interchangeable.

7.3.1.2 All the mandatory spares covered under the Contract shall be produced along with the main equipment as a continuous operation and the delivery of the spares will be effected along with the main equipment in a phased manner and the delivery would be completed by the respective dates for the various categories of equipment as per the agreed network. In case of recommended spares the above will be applicable provided the orders for the recommended spares have been placed with the Implementing Partner prior to commencement of manufacture of the main equipment.

7.3.1.3 The Implementing Partner will provide the CESL with the manufacturing drawings, catalogues, assembly drawings and any other document required by the CESL so as to enable the CESL to identify the recommended





spares. Such details will be furnished to the CESL as soon as they are prepared but in any case not later than six months prior to commencement of manufacture of the corresponding main equipment.

7.3.1.4 To enable the CESL to finalise the requirement of recommended spares which are ordered subsequent to placement of order for main equipment/plant, in addition to necessary technical details, catalogue and such other information brought-out herein above, the Implementing Partner will also provide a justification in support of reasonableness of the quoted prices of spares which will, inter-alia, include documentary evidence that the prices quoted by the Implementing Partner to the CESL are not higher than those charged by him from other customers in the same period.

7.3.1.5 In addition to the spares recommended by the Implementing Partner, if the CESL further identifies certain items of spares, the Implementing Partner will submit the prices and delivery quotation for such spares within thirty (30) days of receipt of such request with a validity period of six (6) months for consideration by the CESL and placement of order for additional spares if the CESL so desires.

7.3.1.6 The quality plan and the inspection requirement finalised for the main equipment will also be applicable to the corresponding spares.

7.3.1.7 The Contractor or Implementing Partner will provide the CESL with all the addresses and particulars of his sub-suppliers while placing the order on vendors for items/components/equipment covered under the Contract and will further ensure with his vendors that the CESL, if so desires, will have the right to place order for spares directly on them on mutually agreed terms based on offers of such vendors.

7.3.1.8 The Contractor or Implementing Partner shall guarantee the long term availability of spares to the CESL for the full life of the equipment covered under the Contract. The Implementing Partner shall guarantee that before going out of production of spare parts of the equipment covered under the Contract, he shall give the CESL at least 2 years advance notice so that the latter may order his bulk requirement of spares, if it so desires. The same provision will also be applicable to Sub-Implementing Partners. Further, in case of discontinuance of manufacture of any spares by the Contractor and/or his Sub- Contractor or Implementing Partner, Implementing Partner will provide the CESL, two years in advance, with full manufacturing drawings, material specification and technical information including information on alternative equivalent makes required by the CESL for the purpose of manufacture/procurement of such items.

7.3.1.9 The prices of all future requirements of item of spares beyond 3 years operational requirement will be derived from the corresponding ex-works price at which the order for such spares have been placed by CESL as a part of mandatory spares or recommended spares, or from the rates of mandatory spares or recommended spares as quoted by/ negotiated with the Implementing Partner. Ex-works order price of future spares shall be computed in accordance with the price adjustment provisions covered under the main Contract excepting that the base indices will be counted from the scheduled date of Commissioning of the last equipment under the main project and there will be no ceiling on the amount of variation in the prices. The above option for procuring future recommended spares by the CESL shall remain valid for the period of 5 years from the date of Commissioning of the equipment.

7.3.1.10 The Implementing Partner will indicate in advance the delivery period of the items of spares, which the CESL may procure in accordance with above sub-clause. In case of emergency requirements of spares, the Contractor would make every effort to expedite the manufacture and delivery of such spares on the basis of mutually agreed time schedule.

7.3.1.11 In case the Implementing Partner fails to supply the mandatory, recommended or long term spares in the terms stipulated above, the CESL shall be entitled to purchase the same from the alternate sources at the risk and the cost of the Implementing Partner and recover from the Implementing Partner, the excess amount paid by the CESL over the rates worked on the above basis. In the event of such risk purchase by the CESL, the purchases will be as per the Works and Procurement Policy of the CESL prevalent at the time of such purchases and the CESL at his option may include a representative from the Implementing Partner in finalising the purchases.

7.3.1.11 It is expressly understood that the final settlement between the parties in terms of relevant clauses of the Contract Documents shall not relieve the Implementing Partner of any of his obligations under the provision of long term availability of spares and such provisions shall continue to be enforced till the expiry of 5 years period reckoned from the scheduled date of Commissioning of the Plant and Equipment unless other-wise discharged



expressly in writing by the CESL. Further, the provisions pertaining to long term availability of spares shall be extended beyond 5 years applicability period mentioned hereinabove if so desired by the CESL and at the mutually acceptable escalation formula.

7.3.1.13 The Implementing Partner shall warrant that all spares supplied will be new and in accordance with the Contract Documents and will be free from de-fects in design, material and workmanship and shall further guarantee as under:

- (i) For 3 years operational spares (both mandatory and recommended)
  - a) For any item of spares ordered or to be ordered by the CESL for 3 years operational requirement of the plant which are manufactured as a continuous operation together with the corresponding main equipment/component, the Defect Liability Period will be twelve (12) months from the scheduled date of commercial operation of main equipment/ plant under the Contract. 'Commercial Operation' shall mean the conditions of operation in which the complete equipment covered under the Contract is officially declared by the CESL to be available for continuous operation at different loads up to and including rated capacity. Such declaration by the CESL, however, shall not relieve or prejudice the Implementing Partner any of his obligations under the Contract. In case of any failure in the original component/equipment's due to faulty designs, materials and workmanship, the corresponding spare parts, if any, supplied will be replaced without any extra cost to the CESL unless a joint examination and analysis by the CESL and the Implementing Partner of such spare parts prove that the defect found in the original part that failed, can safely be assumed not to be present in spare parts. Such replaced spare parts will have the same Defect Liability as applicable to the replacement made for the defective original part/component provided that such replacement for the original equipment and the spare replaced are again manufactured together. The discarded spare parts will become the property of the Implementing Partner as soon as they have been replaced by the Implementing Partner.
  - b) For the item of spares ordered or to be ordered by the CESL for 3 years operational requirement of the plant, which with the written approval of the CESL, are not manufactured as a continuous operation will be warranted for 7000 hrs of trouble free operation if used within a period of eighteen (18) months reckoned from the date of delivery at site. However, if such spare parts are put to use after eighteen (18) months of the delivery at Site then the guarantee of such spares will stand valid till the expiry of thirty six (36) months from the scheduled date of Commissioning of equipment/plant covered under the contract or 7000 hrs of trouble free operation after such spares are put in service, whichever is earlier.
  - c) For long term requirement

For item of spares that may be ordered by the CESL to cover requirements beyond 3 years of Initial Operation of the plant, the warranty will be till the expiry of 7000 hrs of trouble free operation if used within a period of eighteen (18) months from the date of delivery at site. For item of spares that may be used after eighteen (18) months from the date of delivery at site, the warranty period will be 12 months from the date they are put to use or 7000 hrs of trouble free operation, whichever is earlier. In any case the defect liability of spares will expire at the end of forty eight (48) months from the date of their receipt at site.

- (ii) The Defect Liability of spares covered in para (b) & (c) above, that are not used within 18 months from the respective date of the delivery at Site will, however, be subject to condition that all such spares being stored/maintained/preserved in accordance with Implementing Partner's standard recommended practice, if any, and the same has been furnished to the CESL.



Signature :-  
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User ID : divyang.suri  
Serial No : 131B466

## 8. Time for Commencement and Completion

8.1 The Implementing Partner shall commence work on the Facilities from the date of Notification of Award and without prejudice to GCC Sub-Clause 26.2 hereof, the Implementing Partner shall thereafter proceed with the Facilities in accordance with the time schedule specified in Appendix 4 (Time Schedule) to the Contract Agreement or / and as mentioned in special conditions of contract.

8.2 The Implementing Partner shall attain Completion of the Facilities (or of a part where a separate time for Completion of such part is specified in the Contract) within the time stated in the SCC or within such extended time to which the Implementing Partner shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.

## 9. Contractor or Implementing Partner's Responsibilities

9.1 The Contractor or Implementing Partner shall design, manufacture (including associated purchases and/or subcontracting), install and complete the Facilities with due care and diligence in accordance with the Contract.

9.2 The Contractor or Implementing Partner confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities (including any data as to boring tests) provided by the CESL, and on the basis of information that the Contractor or Implementing Partner could have obtained from a visual inspection of the Site (if access thereto was available) and of other data readily available to it relating to the Facilities as at the date twenty-eight (28) days prior to bid submission. The Implementing Partner acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.

9.3 The Implementing Partner shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the performance of the Contract, including, without limitation, visas for the Contractor or Implementing Partner's and Sub Contractor or Implementing Partner's personnel and entry permits for all imported Implementing Partner's Equipment. The Implementing Partner shall acquire all other permits, approvals and/or licenses that are not the responsibility of the CESL under GCC Sub-Clause 10.3 hereof and that are necessary for the performance of the Contract.

9.4 The Implementing Partner shall comply with all laws in force in the country where the Facilities are installed and where the Installation Services are carried out. The laws will include all national, provincial, municipal or other laws that affect the performance of the Contract and bind upon the Implementing Partner. The Implementing Partner shall indemnify and hold harmless the CESL from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or Implementing Partner or its personnel, including the Contractor or Sub Implementing Partners and their personnel, but without prejudice to GCC Sub Clause 10.1 hereof.

9.5 Any Plant, Material and Services that will be incorporated in or be required for the Facilities and other supplies shall have their origin as specified under GCC Clause 3.13 (Country of Origin).

## 10. CESL's Responsibilities

10.1 The CESL shall ensure the accuracy of all information and/or data to be supplied by the CESL as described in Appendix 6 (Scope of Works and Supply by the CESL) to the Contract, except when otherwise expressly stated in the Contract.

10.2 The CESL shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement. The CESL shall give full possession of and accord all rights of access thereto on or before the date(s) specified in Appendix 6.

10.3 The CESL shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require the CESL to obtain them in the CESL's name, are necessary for the execution of the Contract (they include those required for the performance by both the Implementing Partner and the CESL of their respective obligations under the Contract), including those specified in Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement.

10.4 If requested by the Implementing Partner, the CESL shall use its best endeavours to assist the Implementing Partner in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the



execution of the Contract from all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Implementing Partner or Subcontractor or Implementing Partners or the personnel of the Contractor or Implementing Partner or Sub Contractor or Implementing Partners, as the case may be, to obtain.

10.5 Unless otherwise specified in the Contract or agreed upon by the CESL and the Implementing Partner, the CESL shall provide sufficient, properly qualified operating and maintenance personnel; shall supply and make available all raw materials, utilities, lubricants, chemicals, catalysts other materials and facilities ; and shall perform all work and services of whatsoever nature, to enable the Implementing Partner to properly carry out Pre commissioning, Commissioning and Guarantee Tests, all in accordance with the provisions of Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement at or before the time specified in the program furnished by the Contractor or Implementing Partner under GCC Sub- Clause 18.2 (Program of Performance) hereof and in the manner there-upon specified or as otherwise agreed upon by the CESL and the Contractor or Implementing Partner.

10.6 The CESL shall be responsible for the continued operation of the Facilities after Completion, in accordance with GCC Sub-Clause 24.8, and shall be responsible for facilitating the Guarantee Test(s) for the Facilities, in accordance with GCC Sub-Clause 25.2.

10.7 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the CESL save those to be incurred by the Implementing Partner with respect to the performance of Guarantee Tests, in accordance with GCC Sub-Clause 25.2.

### **C. Payment**

#### **11. Contract Price**

11.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Form of Contract Agreement.

11.2 The Contract Price shall be adjusted in accordance with provisions of Appendix-2 (Price Adjustment) to the Contract Agreement, if applicable. It will be mentioned in SCC.

11.3 Subject to GCC Sub-Clauses 9.2, 10.1 and 35 (Unforeseen Conditions) hereof, the Implementing Partner shall be deemed to have satisfied itself as to the hereof, correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

#### **12. Terms of Payment**

12.1 The Contract price shall be paid as specified in Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement. The procedures to be followed in making application for and processing payments shall be those outlined in the same Appendix 1.

12.2 No payment made by the CESL herein shall be deemed to constitute acceptance by the CESL of the Facilities or any part(s) thereof.

12.3 The currency or currencies in which payments are made to the Implementing Partner under this Contract shall be specified in Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement, subject to the general principle that payments will be made in the currency or currencies in which the Contract Price has been stated in the Contract.

#### **13. Securities**

##### **13.1 Issuance of Securities**

The Implementing Partner shall provide the securities specified below in favour of the CESL at the times, and in the amount, manner and form specified below.

##### **13.2 Advance Payment Security**

13.2.1 The Implementing Partner shall, within twenty-eight (28) days of the notification of contract award, provide a security in an amount equal to the advance payment calculated in accordance with Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement, and in the currency or currencies of the contract, with a initial validity of up to ninety (90) days beyond the schedule date of Completion of the Facilities in accordance with GCC Clause 24. However, in case of delay in completion of facilities under the package, the validity of the security shall be extended by the period of such delay.



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User ID : divyang.suri  
Serial No : 131B466

13.2.2 The security shall be in the form of an unconditional bank guarantee as per the proforma provided in Section VII (Forms and Procedures)- Form of Advance Payment Security. The Advance payment Security shall be reduced prorate every three (3) months after First Running Account Bill/Stage Payment under the Contract based on the value of equipment/facilities received. The cumulative amount of reduction at any point of time shall not exceed seventy five percent (75%) of the advance corresponding to cumulative value of the respective equipment Facilities supplied and received as per a certificate issued by the Project Manager and the balance of 25% released after ninety (90) days beyond the Completion of those Facilities. It should be clearly understood that reduction in the value of security for advance shall not in any way dilute the Implementing Partner's responsibility and liabilities under the Contract including in respect of the Facilities for which the reduction in the value of security is allowed.

### 13.3 Contract Performance Security

13.3.1 The Implementing Partner shall, within twenty-eight (28) days of the Notification of Award, provide securities for the due performance of the Contract for ten percent (10%) of the Contract Price of all the Contracts, with a initial validity upto ninety (90) days beyond the end of scheduled Defect Liability Period of the last equipment covered under the package. If the CESL accepts to enters into 'Second Contract' and/or 'Third Contract' with the Assignee of a foreign Implementing Partner, pursuant to GCC Sub-Clause 3.6, the said Assignee, in addition to the Contract Performance Securities to be provided by the foreign Implementing Partner for ten percent (10%) of the value of all the Contracts i.e. First Contract, Second Contract and Third Contract, shall provide within twenty eight (28) days of the Notification of Award, separate Contract Performance Security(ies) equivalent to ten percent (10%) of the value of Contract(s) entered into with the Assignee, for the due performance of Contract, with a initial validity up to ninety (90) days beyond the end of Scheduled Defect Liability period of the last equipment covered under the package. However, in case of delay in completion of the defect liability period, the validity of all the contract performance securities shall be extended by the period of such delay.

13.3.2 The performance security shall be denominated in the currency or currencies of the Contract, or in a freely convertible currency acceptable to the CESL, and shall be in the form of unconditional bank guarantee provided in Section-VII (Forms and Procedures)-Form of Performance Security of the bidding documents.

13.3.3 Unless otherwise stipulated in SCC, the security shall be reduced pro rata to the Contract Price of a part of the Facilities for which a separate time for Completion is provided, twenty one (21) months after Completion of the Facilities or where relevant part thereof, or fifteen (15) months after Operational Acceptance of the Facilities (or the relevant part thereof), whichever occurs first; provided, however, that if the Defects Liability Period has been extended on any part of the Facilities pursuant to GCC Sub-Clause 27.8 hereof, the Implementing Partner shall issue an additional security in an amount proportionate to the Contract Price of that part. The security shall be returned to the Implementing Partner immediately after its expiration, provided, however, that if the Implementing Partner, pursuant to GCC Sub-Clause 27.10, is liable for an extended warranty obligation, the performance security shall be extended for the period and up to the amount agreed upon or as specified in the SCC.

## 14. Taxes and Duties

14.1 Except as otherwise specifically provided in the Contract, the Implementing Partner shall bear and pay all taxes, duties, levies and charges assessed on the Implementing Partner, its Sub Implementing Partners or their employees by all municipal, state or national government authorities in connection with the Facilities in and outside of the country where the Site is located.

14.2 Notwithstanding GCC Sub-Clauses 14.1 above, the CESL shall bear and promptly reimburse all customs and import duties, if imposed in future, on the Plant and Equipment including Type Test and mandatory spares supplied from abroad and specified in Price Schedule (and on spare parts to be supplied from abroad and specified in Schedule, when awarded) and that are to be incorporated into the Facilities, by the law of the country where the Site is located. However, if the plant and equipment are shipped in Shipper's containers, then the custom duty levied on the cost of empty containers shall be borne and paid/reimbursed by the Implementing Partner. The CESL shall also bear and pay/reimburse to the Implementing Partner/Assignee of Foreign Implementing Partner (if applicable) Sales Tax (but not the surcharge in lieu of Sales Tax), Local Tax including Entry Tax / Octroi (if applicable) in respect of direct transactions between the CESL and the Implementing Partner, if imposed on the Plant and Equipment including Type Test and Mandatory Spares manufactured within the CESL's country and specified in Price (and also on locally supplied spares quoted when awarded) to be incorporated in the Facilities, by the law of country where the site is located. For this purpose, the Ex-works price if quoted in foreign currency and so incorporated in the contract, shall be converted to Indian Rupees as per the TT buying exchange rates established by State Bank of India prevailing on the actual date of Ex-works (India) despatch.



All taxes, duties and levies on works contract, if any, shall be to the Implementing Partner's account and no separate claim in this regard will be entertained by the CESL.

14.3 If any tax exemptions, reductions, allowances or privileges is available to the Implementing Partner in the country where the Site is located, the CESL shall use its best endeavours to enable the Implementing Partner to benefit from any such tax savings to the maximum allowable extent.

14.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies and charges prevailing at the date seven (7) days prior to the last date of bid submission in the country where the Site is located (hereinafter called "Tax" in this GCC Sub-Clause 14.4). If any rates of Tax are increased or de-created, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Implementing Partner in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction there-from, as the case may be, in accordance with GCC Clause 36 (Change in Laws and Regulations) hereof. However, these adjustments would be restricted to direct transactions between the CESL and the Contractor/assignee of Foreign Implementing Partner (if applicable). These adjustments shall not be applicable on procurement of raw materials, intermediary components etc. by the Implementing Partner/assignee and also not applicable on the bought out items despatched directly from sub-vendor's works to site.

#### D. Intellectual Property

#### 15. Copyright

15.1 The copyright in all drawings, documents and other materials containing data and information furnished to the CESL by the Implementing Partner here shall remain vested in the Implementing Partner or, if they are furnished to the CESL directly or through the Implementing Partner by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. The CESL shall however be free to reproduce all drawings, documents and other material furnished to the CESL for the purpose of the contract including, if required, for operation and maintenance of the facilities.

#### 16. Confidential Information

16.1 The CESL and the Implementing Partner shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following termination of the Contract. Notwithstanding the above, the Contractor or Implementing Partner may furnish to its SubContractor or Implementing Partner(s) such documents, data and other information it receives from the CESL to the extent required for the Sub Contractor or Implementing Partner(s) to perform its work under the Contract, in which event the Implementing Partner shall obtain from such SubContractor or Implementing Partner(s) an undertaking of confidentiality similar to that imposed on the Implementing Partner under this GCC Clause 16.

16.2 The CESL shall not use such documents, data and other information received from the Implementing Partner for any purpose other than the operation and maintenance of the Facilities. Similarly, the Implementing Partner shall not use such documents, data and other information received from the CESL for any purpose other than the design, procurement of Plant and Equipment, construction or such other work and services as are required for the performance of the Contract.

16.3 The obligation of a party under GCC Sub-Clauses 16.1 and 16.2 above, however, shall not apply to that information which

- (a) now or hereafter enters the public domain through no fault of that party.
- (b) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party hereto
- (c) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

16.4 The above provisions of this GCC Clause 16 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Facilities or any part



thereof.

16.5 The provisions of this GCC Clause 16 shall survive termination, for what-ever reason, of the Contract.

## E. **Work Execution**

### **17. Representatives**

#### **17.1 Project Manager**

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the CESL shall appoint and notify the Implementing Partner in writing of the name of the Project Manager. The CESL may from time to time appoint some other person as the Project Manager in place of the person previously so appointed, and shall give a notice of the name of such other person to the Implementing Partner without delay. The CESL shall take reasonable care to see that no such appointment is made at such a time or in such a manner as to impede the progress of work on the Facilities. The Project Manager shall represent and act for the CESL at all times during the currency of the Contract. All notices, instructions, orders, certificates, approvals and all other communications under the Contract shall be given by the Project Manager, except as herein otherwise provided.

All notices, instructions, information and other communications given by the Implementing Partner to the CESL under the Contract shall be given to the Project Manager, except as herein otherwise provided.

#### **17.2 Contractor's representative & Construction Manager**

17.2.1 If the Implementing Partner's Representative is not named in the Contract, then within fourteen (14) days of the Effective Date, the Implementing Partner shall appoint the Implementing Partner's Representative and shall request the CESL in writing to approve the person so appointed. If the CESL makes no objection to the appointment within fourteen (14) days, the Implementing Partner's Representative shall be deemed to have been approved. If the CESL objects to the appointment within fourteen (14) days giving the reason therefor, then the Implementing Partner shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 17.2.1 shall apply thereto.

17.2.2 The Implementing Partner's Representative shall represent and act for the Implementing Partner at all times during the currency of the Contract and shall give to the Project Manager all the Implementing Partner's notices, instructions, information and all other communications under the Contract.

All notices, instructions, information and all other communications given by the CESL or the Project Manager to the Implementing Partner under the Contract shall be given to the Implementing Partner's Representative or, in its absence, its deputy, except as herein otherwise provided.

The Implementing Partner shall not revoke the appointment of the Implementing Partner's Representative without the CESL's prior written con-sent, which shall not be unreasonably withheld. If the CESL consents thereto, the Implementing Partner shall appoint some other per-son as the Implementing Partner's Representative, pursuant to the procedure set out in GCC Sub-Clause 17.2.1

17.2.3 The Implementing Partner's Representative may, subject to the approval of the CESL (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Implementing Partner's Representa-tive, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the CESL and the Project Manager.

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GCC Sub-Clause 17.2.3 shall be deemed to be an act or exercise by the Implementing Partner's Representative.

17.2.3.1 Notwithstanding anything stated in GCC Sub-clause 17.1 and 17.2.1 above, for the purpose of execution of contract, the CESL and the Implementing Partner shall finalise and agree to a Contract Co-ordination Procedure and all the communication under the Contract shall be in accordance with such Contract Co-ordination Procedure.

17.2.4 From the commencement of installation of the Facilities at the Site until Operational Acceptance, the



Implementing Partner's Representative shall appoint a suitable person as the construction manager (hereinafter referred to as "the Construction Manager"). The Construction Manager shall supervise all work done at the Site by the Implementing Partner and shall be present at the Site throughout normal working hours except when on leave, sick or absent for reasons connected with the proper performance of the Contract. When-ever the Construction Manager is absent from the Site, a suitable person shall be appointed to act as his or her deputy.

17.2.5 The CESL may by notice to the Implementing Partner object to any representative or person employed by the Implementing Partner in the execution of the Contract who, in the reasonable opinion of the CESL, may behave inappropriately, may be incompetent or negligent, or may commit a serious breach of the Site regulations provided under GCC Sub-Clause 22.3. The CESL shall provide evidence of the same, whereupon the Implementing Partner shall remove such person from the Facilities.

17.2.6 If any representative or person employed by the Implementing Partner is removed in accordance with GCC Sub-Clause 17.2.5, the Contractor shall, where required, promptly appoint a replacement.

## 18. Work Program

### 18.1 Contractor or Implementing Partner's Organization

The Implementing Partner shall supply to the CESL and the Project Manager a chart showing the proposed organization to be established by the Implementing Partner for carrying out work on the Facilities. The chart shall include the identities of the key personnel together with the curricula vitae of such key personnel to be employed within twenty-one (21) days of the Effective Date. The Implementing Partner shall promptly inform the CESL and the Project Manager in writing of any revision or alteration of such an organization chart.

### 18.2 Program of Performance

Within twenty-eight (28) days after the date of notification of award of Contract, the Implementing Partner shall prepare and submit to the Project Manager a detailed program of performance of the Contract, made in the form of PERT Network and showing the sequence in which it proposes to design, manufacture, transport, assemble, install and pre-commission the Facilities, as well as the date by which the Implementing Partner reasonably requires that the CESL shall have fulfilled its obligations under the Contract so as to enable the Implementing Partner to execute the Contract in accordance with the program and to achieve Completion and Acceptance of the Facilities in accordance with the Contract. The program so submitted by the Implementing Partner shall accord with the Time Schedule included in Appendix 4 (Time Schedule) to the Contract Agreement and any other dates and periods specified in the Contract. The Implementing Partner shall update and revise the program as and when appropriate or when required by the Project Manager, but without modification in the Time for Completion given in the SCC and any extension granted in accordance with GCC Clause 40, and shall submit all such revisions to the Project Manager.

### 18.3 Progress Report

The Contractor or Implementing Partner shall monitor progress of all the activities specified in the program referred to in GCC Sub-Clause 18.2 (Program of Performance) above, and supply a progress report to the Project Manager every month.

The progress report shall be in a form acceptable to the Project Manager and shall also indicate: (a) percentage completion achieved compared with the planned percentage completion for each activity; and (b) where any activity is behind the program, giving comments and likely consequences and stating the corrective action being taken.

### 18.4 Progress of Performance

If at any time the Implementing Partner's actual progress falls behind the program referred to in GCC Sub-Clause 18.2 (Program of Performance), or it becomes apparent that it will so fall behind, the Implementing Partner shall, at the request of the CESL or the Project Manager, prepare and submit to the Project Manager a revised program, taking into account the prevailing circumstances, and shall notify the Project Manager of the steps being taken to expedite progress so as to attain Completion of the Facilities within the Time for Completion under GCC Sub-Clause 8.2 (Time for Commencement and Completion), any extension thereof entitled under GCC Sub-Clause 40.1 (Extension of Time for Completion), or any extended period as may otherwise be agreed upon between the CESL and the Implementing Partner.

### 18.5 Work Procedures

The Contract shall be executed in accordance with the Contract Documents and the procedures given in the section on Forms and Procedures of the Contract Documents.

If agreed between the CESL and the Implementing Partner, the Implementing Partner may execute the Contract in accordance with its own standard project execution plans and procedures to the extent that they do not conflict with





the provisions contained in the Contract.

#### **18.6 Maintenance of Records of Weekly Progress Review meeting at Site**

The Contractor shall be required to attend all weekly site progress review meetings organised by the 'Project Manager' or his authorised representative. The deliberations in the meetings shall inter alia include the weekly program, progress of work (including details of manpower, tools & plants deployed by the Contractor vis-a-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer. The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the Project Manager or his authorised representative. These representative and the Contractor and one copy of the signed records shall be handed over to the Contractor.

#### **19. Subcontracting**

19.1 Appendix 5 (List of Approved Sub-Implementing Partners) to the Contract Agreement specifies major items of supply or services and a list of approved Sub-Implementing Partners against each item, including vendors. Insofar as no Sub-Implementing Partners are listed against any such item, the Implementing Partner shall prepare a list of Sub-Implementing Partners for such item for inclusion in such list. The Implementing Partner may from time to time propose any addition to or deletion from any such list. The Implementing Partner shall submit any such list or any modification thereto to the CESL for its approval in sufficient time so as not to impede the progress of work on the Facilities. Such approval by the CESL for any of the Sub-Implementing Partners shall not relieve the Implementing Partner from any of its obligations, duties or responsibilities under the Contract.

19.2 The Implementing Partner shall select and employ its Sub-Implementing Partners for such major items from those listed in the lists referred to in GCC Sub-Clause 19.1.

19.3 For items or parts of the Facilities not specified in Appendix 5 (List of Approved Sub-Implementing Partners) to the Contract Agreement, the Implementing Partner may employ such Sub-Implementing Partners as it may select, at its discretion.

#### **20. Design and Engineering**

##### **20.1 Specifications and Drawings**

20.1.1 The Implementing Partner shall execute the basic and detailed design and the engineering work in compliance with the provisions of the Contract, or where not so specified, in accordance with good engineering practice.

The Implementing Partner shall be responsible for any discrepancies, errors or omissions in the specifications, drawings and other technical documents that it has prepared, whether such specifications, drawings and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors or omissions are not because of inaccurate information furnished in writing to the Implementing Partner by or on behalf of the CESL.

20.1.2 The Implementing Partner shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designated by or on behalf of the CESL, by giving a notice of such disclaimer to the Project Manager.

##### **20.2 Codes and Standards**

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply unless otherwise specified. During Contract execution, any changes in such codes and standards shall be applied after approval by the CESL and shall be treated in accordance with GCC Clause 39 (Changes Originating from Implementing Partner).

##### **20.3 Approval/Review of Technical Documents by Project Manager, where ever applicable**

20.3.1 The Implementing Partner shall prepare (or cause its Sub-Implementing Partners to prepare) and furnish to the Project Manager the documents listed in Appendix 7 (List of Documents for Approval or Review) to the Contract Agreement for its approval or review as specified and as in accordance with the requirements of GCC Sub-Clause 18.2 (Program of Performance).

Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be



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executed only after the Project Manager's approval thereof.

GCC Sub-Clauses 20.3.2 through 20.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

20.3.2 Within twenty one (21) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Sub-Clause 20.3.1, the Project Manager shall either return one copy thereof to the Implementing Partner with its approval endorsed thereon or shall notify the Implementing Partner in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.

20.3.3 The Project Manager shall not disapprove any document, except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good engineering practice.

20.3.4 If the Project Manager disapproves the document, the Implementing Partner shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Sub-Clause 20.3.2. If the Project Manager approves the document subject to modification(s), the Implementing Partner shall make the required modification(s), and upon resubmission with the required modifications the document shall be deemed to have been approved.

The procedure for submission of the documents by the Implementing Partner and their approval by the Project Manager shall be discussed and finalised with the Implementing Partner.

20.3.5 If any dispute or difference occurs between the CESL and the Implementing Partner in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) thereto that cannot be settled between the parties within a reasonable period, then such dispute or difference may be referred to an Adjudicator for determination in accordance with GCC Sub-Clause 6.1 (Adjudicator) hereof. If such dispute or difference is referred to an Adjudicator, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Implementing Partner shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Adjudicator upholds the Implementing Partner's view on the dispute and if the CESL has not given notice under GCC Sub-Clause 6.1.2 hereof, then the Implementing Partner shall be reimbursed by the CESL for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Completion shall be extended accordingly.

20.3.6 The Project Manager's approval, with or without modification of the document furnished by the Implementing Partner, shall not relieve the Implementing Partner of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager.

20.3.7 The Implementing Partner shall not depart from any approved document unless the Implementing Partner has first submitted to the Project Manager an amended document and obtained the Project Manager's approval thereof, pursuant to the provisions of this GCC Sub-Clause 20.3.

If the Project Manager requests any change in any already approved document and/or in any document based thereon, the provisions of GCC Clause 39 (Change in the Facilities) shall apply to such request.

## 21. Procurement

### 21.1 Plant and Equipment

Subject to GCC Sub-Clause 14.2, the Implementing Partner shall manufacture or procure and transport all the Plant and Equipment in an expeditious and orderly manner to the Site.

### 21.2 CESL-Supplied Plant, Equipment, and Materials

If Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement provides that the CESL shall furnish any specific items of machinery, equipment or materials to the Implementing Partner, the following provisions shall apply:

21.2.1 The CESL shall, at its own risk and expense, transport each item to the place on or near the Site as agreed upon by the parties and make such item available to the Implementing Partner at the time specified in the program furnished by the Implementing Partner, pursuant to GCC Sub-Clause 18.2 (Program of Performance), unless otherwise mutually agreed.



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21.2.2 Upon receipt of such item, the Implementing Partner shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. The CESL shall immediately remedy any shortage, defect or default, or the Implementing Partner shall, if practicable and possible, at the request of the CESL, remedy such shortage, defect or default at the CESL's cost and expense. After inspection, such item shall fall under the care, custody and control of the Implementing Partner. The provision of this GCC Sub-Clause 21.2.2 shall apply to any item supplied to remedy any such shortage or defect or to substitute for any defective item, or shall apply to defective items that have been repaired.

21.2.3 The foregoing responsibilities of the Implementing Partner and its obligations of care, custody and control shall not relieve the CESL of liability for any undetected shortage, defect or default, nor place the Implementing Partner under any liability for any such shortage, defect or default whether under GCC Clause 27 (Defect Liability) or under any other provision of Contract.

### 21.3 Transportation

21.3.1 The Implementing Partner shall at its own risk and expense transport all the Plant and Equipment and the Implementing Partner's Equipment to the Site by the mode of transport that the Implementing Partner judges most suitable under all the circumstances.

#### Packing Material

The Contractor shall ensure that all the plant and equipment are suitably packed and protected to prevent damage or deterioration during its transportation to site, handling and storage at site till the time of its installation. The ownership of all such packing material (except empty shipper's containers on which the customs duty has been paid by the Contractor) shall stand transferred to the Employer upon dispatch of the plant and equipment and endorsement of dispatch documents in favour of the Employer.

21.3.2 Unless otherwise provided in the Contract, the Implementing Partner shall be entitled to select any safe mode of transport operated by any person to carry the Plant and Equipment and the Implementing Partner's Equipment.

21.3.3 Upon despatch of each shipment of the Plant and Equipment and the Implementing Partner's Equipment, the Implementing Partner shall notify the CESL by telex, cable, facsimile or Electronic Data Interchange (EDI) of the description of the Plant and Equipment and of the Implementing Partner's Equipment, the point and means of dispatch, and the estimated time and point of arrival in the country where the Site is located, if applicable, and at the Site. The Implementing Partner shall furnish the CESL with relevant shipping documents to be agreed upon between the parties.

21.3.4 The Implementing Partner shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment and the Implementing Partner's Equipment to the Site. The CESL shall use its best endeavors in a timely and expeditious manner to assist the Implementing Partner in obtaining such approvals, if requested by the Implementing Partner. The Implementing Partner shall indemnify and hold harmless the CESL from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the Plant and Equipment and the Implementing Partner's Equipment to the Site.

### 21.4 Customs Clearance

The Implementing Partner shall, at its own expense, handle all imported Plant and Equipment and Implementing Partner's Equipment at the point(s) of import and shall handle any formalities for customs clearance, subject to the CESL's obligations under GCC Sub-Clause 14.2, provided that if applicable laws or regulations require any application or act to be made by or in the name of the CESL, the CESL shall take all necessary steps to comply with such laws or regulations. In the event of delays in customs clearance due to fault of the CESL, the Implementing Partner shall be entitled to an extension in the Time for Completion, pursuant to GCC Clause 40.

## 22. Installation

### 22.1 Setting Out/Supervision/Labour

22.1.1 Bench Mark: The Implementing Partner shall be responsible for the true and proper setting-out of the Facilities in relation to bench marks, reference marks and lines provided to it in writing by or on behalf of the CESL.

If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Implementing Partner shall forthwith notify the Project Manager of such error and, at



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its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of the CESL, the expense of rectifying the same shall be borne by the CESL.

22.1.2 Implementing Partner's Supervision: The Implementing Partner shall give or provide all necessary superintendence during the installation of the Facilities, and the Construction Manager or its deputy shall be constantly on the Site to provide full-time superintendence of the installation. The Implementing Partner shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.

#### 22.1.3 Labour:

- (a) The Implementing Partner shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Implementing Partner is encouraged to use local labor that has the necessary skills.
- (b) Unless otherwise provided in the Contract, the Implementing Partner shall be responsible for the recruitment, transportation, accommodation and catering of all labor, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.
- (c) The Implementing Partner shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labor and personnel to be employed on the Site into the country where the Site is located.
- (d) The Implementing Partner shall at its own expense provide the means of repatriation to all of its and its SubImplementing Partner's personnel employed on the Contract at the Site to their various home countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Implementing Partner defaults in providing such means of transportation and temporary maintenance, the CESL may provide the same to such personnel and recover the cost of doing so from the Implementing Partner.
- (e) The Implementing Partner shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its SubImplementing Partners.
- (f) The Implementing Partner shall, in all dealings with its labor and the labor of its SubImplementing Partners currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

## 22.2 Contractor, Implementing Partner's Equipment

22.2.1 All Contractors or Implementing Partners' Equipment brought by the Implementing Partner onto the Site shall be deemed to be intended to be used exclusively for the execution of the Contract. The Implementing Partner shall not remove the same from the Site without the Project Manager's consent that such Implementing Partner's Equipment is no longer required for the execution of the Contract.

22.2.2 Unless otherwise specified in the Contract, upon completion of the Facilities, the Implementing Partner shall remove from the Site all Equipment brought by the Implementing Partner onto the Site and any surplus materials remaining thereon.

22.2.3 The CESL will, if requested, use its best endeavours to assist the Implementing Partner in obtaining any local, state or national government permission required by the Implementing Partner for the export of the Implementing Partner's Equipment imported by the Implementing Partner for use in the execution of the Contract that is no longer required for the execution of the Contract.

## 22.3 Site Regulations and Safety



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The CESL and the Implementing Partner shall establish Site regulations setting out the rules to be observed in the execution of the Contract at the Site and shall comply therewith. The Implementing Partner shall prepare and submit to the CESL, with a copy to the Project Manager, proposed Site regulations for the CESL's approval, which approval shall not be unreasonably withheld.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Facilities, gate control, sanitation, medical care, and fire prevention.

#### **22.4 Opportunities for Other Implementing Partners**

22.4.1 The Implementing Partner shall, upon written request from the CESL or the Project Manager, give all reasonable opportunities for carrying out the work to any other Implementing Partners employed by the CESL on or near the Site.

22.4.2 If the Implementing Partner, upon written request from the CESL or the Project Manager, makes available to other Implementing Partners any roads or ways the maintenance for which the Implementing Partner is responsible, permits the use by such other Implementing Partners of the Implementing Partner's Equipment, or provides any other service of whatsoever nature for such other Implementing Partners, the CESL shall fully compensate the Implementing Partner for any loss or damage caused or occasioned by such other Implementing Partners in respect of any such use or service, and shall pay to the Implementing Partner reasonable remuneration for the use of such equipment or the provision of such services.

22.4.3 The Implementing Partner shall also so arrange to perform its work as to minimize, to the extent possible, interference with the work of other Implementing Partners. The Project Manager shall determine the resolution of any difference or conflict that may arise between the Implementing Partner and other Implementing Partners and the workers of the CESL in regard to their work.

22.4.4 The Implementing Partner shall notify the Project Manager promptly of any defects in the other Implementing Partners' work that come to its notice, and that could affect the Implementing Partner's work. The Project Manager shall determine the corrective measures, if any, required to rectify the situation after inspection of the Facilities. Decisions made by the Project Manager shall be binding on the Implementing Partner.

#### **22.5 Emergency Work**

If, by reason of an emergency arising in connection with and during the execution of the Contract, any protective or remedial work is necessary as a matter of urgency to prevent damage to the Facilities, the Implementing Partner shall immediately carry out such work.

If the Implementing Partner is unable or unwilling to do such work immediately, the CESL may do or cause such work to be done as the CESL may determine is necessary in order to prevent damage to the Facilities. In such event the CESL shall, as soon as practicable after the occurrence of any such emergency, notify the Implementing Partner in writing of such emergency, the work done and the reasons therefor. If the work done or caused to be done by the CESL is work that the Implementing Partner was liable to do at its own expense under the Contract, the reasonable costs incurred by the CESL in connection therewith shall be paid by the Implementing Partner to the CESL. Otherwise, the cost of such remedial work shall be borne by the CESL.

#### **22.6 Site Clearance**

22.6.1 Site Clearance in Course of Performance: In the course of carrying out the Contract, the Implementing Partner shall keep the Site reasonably free from all unnecessary obstruction, store or remove any surplus materials, clear away any wreckage, rubbish or temporary works from the Site, and remove any Implementing Partner's Equipment no longer required for execution of the Contract.

22.6.2 Clearance of Site after Completion: After Completion of all parts of the Facilities, the Implementing Partner shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site and Facilities clean and safe.

#### **Disposal of Scrap**

The Contractor shall with the agreement of the Employer promptly remove from the site any 'Scrap' generated during



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performance of any activities at site in pursuance of the Contract. The term 'Scrap' shall refer to scrap / waste / remnants arising out of the fabrication of structural steel work and piping work at the project site in the course of execution of the contract and shall also include any wastage of cables during the termination process while installing the cables.

The ownership of such Scrap shall vest with the Contractor except in cases where the items have been issued by the Employer from its stores for their installation only without any adjustment to the Contract Price. The removal of scrap shall be subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of disposal of the scrap. The liability for the payment of the applicable taxes/duties shall be that of the Contractor. Harmful scrap shall be disposed as per environmental statutory or other guidelines at contractor or implementing partner own cost.

The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal/disposal of scrap. The Indemnity Bond shall be furnished by Contractor as per proforma enclosed in Section-VII (Forms and Procedure) as Form No. 14. Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the scrap to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

However scrap generated in say replacement of pumps (i.e. old pumps as scrap) or any other scrap which is owned by CESL as per contract agreement, the same shall be disposed by CESL and CESL will get the payment. Contractor or Implementing Partner will co-ordinate with CESL and the agency picking up the scrap, for scrap disposal.

#### **22.7 Watching and Lighting**

The Implementing Partner shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper execution and the protection of the Facilities, or for the safety of the owners and occupiers of adjacent property and for the safety of the public.

#### **22.8 Work at Night and on Holidays**

22.8.1 Unless otherwise provided in the Contract, no work shall be carried out during the night and on public holidays of the country where the Site is located without prior written consent of the CESL, except where work is necessary or required to ensure safety of the Facilities or for the protection of life, or to prevent loss or damage to property, when the Implementing Partner shall immediately advise the Project Manager, provided that provisions of this GCC Sub-Clause 22.8.1 shall not apply to any work which is customarily carried out by rotary or double-shifts.

22.8.2 Notwithstanding GCC Sub-Clauses 22.8.1 or 22.1.3, if and when the Implementing Partner considers it necessary to carry out work at night or on public holidays so as to meet the Time for Completion and requests the CESL's consent thereto, the CESL shall not unreasonably withhold such consent.

### **23. Test and Inspection**

23.1 The Implementing Partner shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract.

23.2 The CESL and the Project Manager or their designated representatives shall be entitled to attend the aforesaid test and/or inspection, provided that the CESL shall bear all costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

23.3 Whenever the Implementing Partner is ready to carry out any such test and/or inspection, the Implementing Partner shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Implementing Partner shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the CESL and the Project Manager (or their designated representatives) to attend the test and/or inspection.

23.4 The Implementing Partner shall provide the Project Manager with a certified report of the results of any such test and/or inspection.

If the CESL or Project Manager (or their designated representatives) fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Implementing Partner may proceed



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with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.

23.5 The Project Manager may require the Implementing Partner to carry out any test and/or inspection not required by the Contract, provided that the Implementing Partner's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Implementing Partner's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.

23.6 If any Plant and Equipment or any part of the Facilities fails to pass any test and/or inspection, the Implementing Partner shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat the test and/or inspection upon giving a notice under GCC Sub-Clause 23.3.

23.7 If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant and Equipment or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred to the Adjudicator for determination in accordance with GCC Sub-Clause 6.1 (Adjudicator).

23.8 The Implementing Partner shall afford the CESL and the Project Manager, at the CESL's expense, access at any reasonable time to any place where the Plant and Equipment are being manufactured or the Facilities are being installed, in order to inspect the progress and the manner of manufacture or installation, provided that the Project Manager shall give the Implementing Partner a reasonable prior notice.

23.9 The Implementing Partner agrees that neither the execution of a test and/or inspection of Plant and Equipment or any part of the Facilities, nor the attendance by the CESL or the Project Manager, nor the issue of any test certificate pursuant to GCC Sub-Clause 23.4, shall release the Implementing Partner from any other responsibilities under the Contract.

23.10 No part of the Facilities or foundations shall be covered up on the Site without the Implementing Partner carrying out any test and/or inspection required under the Contract. The Implementing Partner shall give a reasonable notice to the Project Manager whenever any such part of the Facilities or foundations are ready or about to be ready for test and/or inspection; such test and/or inspection and notice thereof shall be subject to the requirements of the Contract.

23.11 The Implementing Partner shall uncover any part of the Facilities or foundations, or shall make openings in or through the same as the Project Manager may from time to time require at the Site, and shall reinstate and make good such part or parts.

If any part of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 23.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be borne by the CESL, and the Time for Completion shall be reasonably adjusted to the extent that the Implementing Partner has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

## 24. Completion of the Facilities

24.1 As soon as the Facilities or any part thereof has, in the opinion of the Implementing Partner, been completed operationally and structurally and put in a tight and clean condition as specified in the Technical Specifications, excluding minor items not materially affecting the operation or safety of the Facilities, the Implementing Partner shall so notify the CESL in writing.

24.2 Within seven (7) days after receipt of the notice from the Implementing Partner under GCC Sub-Clause 24.1, the CESL shall supply the operating and maintenance personnel specified in Appendix 6 (Scope of Work and Supply by the CESL) to the Contract Agreement, required for Precommissioning of the Facilities or any part thereof.

Unless otherwise specified in the Technical Specifications, the CESL shall also provide, within the said seven (7) day period, the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Precommissioning of the Facilities or any part thereof.

24.3 As soon as reasonably practicable after the operating and maintenance personnel have been supplied by the CESL and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters, if so specified in Appendix 6 (Scope of Work and Supply by the CESL) / Technical Specifications, have been provided



by the CESL in accordance with GCC Sub-Clause 24.2, the Implementing Partner shall commence Precommissioning of the Facilities or the relevant part thereof in preparation for Commissioning.

24.4 As soon as all works in respect of Precommissioning are completed and, in the opinion of the Implementing Partner, the Facilities or any part thereof is ready for Commissioning, the Implementing Partner shall commence Commissioning as per procedures stipulated in Technical Specifications, and as soon as Commissioning is satisfactorily completed, the Implementing Partner shall so notify the Project Manager in writing.

24.5 The Project Manager shall, within fourteen (14) days after receipt of the Implementing Partner's notice under GCC Sub-Clause 24.4, either issue a Completion Certificate in the form specified in the Forms and Procedures section in the bidding documents, stating that the Facilities or that part thereof have reached Completion as at the date of the Implementing Partner's notice under GCC Sub-Clause 24.4, or notify the Implementing Partner in writing of any defects and/or deficiencies.

If the Project Manager notifies the Implementing Partner of any defects and/or deficiencies, the Implementing Partner shall then correct such defects and/or deficiencies, and shall repeat the procedure described in GCC Sub Clause 24.4.

If the Project Manager is satisfied that the Facilities or that part thereof have reached Completion, the Project Manager shall, within seven (7) days after receipt of the Implementing Partner's repeated notice, issue a Completion Certificate stating that the Facilities or that part thereof have reached Completion as at the date of the Implementing Partner's repeated notice.

If the Project Manager is not so satisfied, then it shall notify the Implementing Partner in writing of any defects and/or deficiencies within seven (7) days after receipt of the Implementing Partner's repeated notice, and the above procedure shall be repeated.

24.6 If the Project Manager fails to issue the Completion Certificate and fails to inform the Implementing Partner of any defects and/or deficiencies within fourteen (14) days after receipt of the Implementing Partner's notice under GCC Sub-Clause 24.4 or within seven (7) days after receipt of the Implementing Partner's repeated notice under GCC Sub-Clause 24.5, or if the CESL makes use of the Facilities or part thereof, then the Facilities or that part thereof shall be deemed to have reached Completion as of the date of the Implementing Partner's notice or repeated notice, or as of the CESL's use of the Facilities, as the case may be.

24.7 As soon as possible after Completion, the Implementing Partner shall complete all outstanding minor items so that the Facilities are fully in accordance with the requirements of the Contract, failing which the CESL will undertake such completion and deduct the costs thereof from any monies owing to the Implementing Partner.

24.8 Upon Completion, the CESL shall be responsible for the care and custody of the Facilities or the relevant part thereof, together with the risk of loss or damage thereto, and shall thereafter take over the Facilities or the relevant part thereof.

## **25. Commissioning, Guarantee Test and Operational Acceptance**

### **25.1 Commissioning**

25.1.1 Commissioning of the Facilities or any part thereof shall be completed by the Implementing Partner as per procedures detailed in the Technical Specifications.

The CESL shall, unless otherwise specified in Appendix 6 (Scope of Works and Supply by the CESL)/ Technical Specifications, supply the operating and maintenance personnel and all raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters required for Commissioning of the Facilities.

### **25.2 Guarantee Test (where ever applicable)**

25.2.1 The Guarantee Test (and repeats thereof) shall be conducted by the Implementing Partner after Commissioning of the Facilities or the relevant part thereof to ascertain whether the Facilities or the relevant part can attain the Functional Guarantees specified in the Contract Documents. The Implementing Partner's and Project Manager's advisory personnel shall attend the Guarantee Test. The CESL shall promptly provide the Implementing Partner with such





information as the Implementing Partner may reasonably require in relation to the conduct and results of the Guarantee Test (and any repeats thereof).

25.2.2 If for reasons not attributable to the Implementing Partner, the Guarantee Test of the Facilities or the relevant part thereof cannot be successfully completed within the period from the date of Completion specified in the SCC or any other period agreed upon by the CESL and the Implementing Partner, the Implementing Partner shall be deemed to have fulfilled its obligations with respect to the Functional Guarantees, and GCC Sub-Clauses 28.2 and 28.3 shall not apply.

### 25.3 Operational Acceptance

25.3.1 Subject to GCC Sub-Clause 25.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the Facilities or any part thereof when

- (a) the Guarantee Test has been successfully completed and the Functional Guarantees are met; or
- (b) the Guarantee Test has not been successfully completed or has not been carried out for reasons not attributable to the Implementing Partner within the period from the date of Completion specified in the SCC or any other agreed upon period as specified in GCC Sub-Clause 25.2.2 above, but successful Completion of the Facilities has been achieved; or
- (c) the Implementing Partner has paid the liquidated damages specified in GCC Sub-Clause 28.3 hereof; and
- (d) any minor items mentioned in GCC Sub-Clause 24.7 hereof relevant to the Facilities or that part thereof have been completed.

25.3.2 At any time after any of the events set out in GCC Sub-Clause 25.3.1 have occurred, the Implementing Partner may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate in the form provided in the Bidding Documents or in another form acceptable to the CESL in respect of the Facilities or the part thereof specified in such notice as at the date of such notice.

25.3.3 The Project Manager shall, after consultation with the CESL, and within forty five (45) days after receipt of the Implementing Partner's notice, issue an Operational Acceptance Certificate.

25.3.4 If within forty five (45) days after receipt of the Implementing Partner's notice, the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Implementing Partner in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the Facilities or the relevant part thereof shall be deemed to have been accepted as at the date of the Implementing Partner's said notice.

### 25.4 Partial Acceptance

25.4.1 If the Contract specifies that Completion and Commissioning shall be carried out in respect of parts of the Facilities, the provisions relating to Completion and Commissioning including the Guarantee Test shall apply to each such part of the Facilities individually, and the Operational Acceptance Certificate shall be issued accordingly for each such part of the Facilities.

25.4.2 If a part of the Facilities comprises facilities such as buildings, for which no Commissioning or Guarantee Test is required, then the Project Manager shall issue the Operational Acceptance Certificate for such facility when it attains Completion, provided that the Implementing Partner shall thereafter complete any outstanding minor items that are listed in the Operational Acceptance Certificate.

## F. Guarantees and Liabilities

### 26. Completion Time Guarantee

26.1 The Implementing Partner guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified in the SCC) within the Time for Completion specified in the SCC pursuant to GCC Sub-Clause 8.2, or within such extended time to which the Implementing Partner shall be entitled under GCC Clause 40 (Extension of Time for Completion) hereof.

26.2 If the Implementing Partner fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion), the Implementing



Partner shall pay to the CESL liquidated damages in the amount computed at the rates specified in the SCC. The aggregate amount of such liquidated damages shall in no event exceed the amount specified as "Maximum" in the SCC. Once the "Maximum" is reached, the CESL may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.

Such payment shall completely satisfy the Implementing Partner's obligation to attain Completion of the Facilities or the relevant part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion). The Implementing Partner shall have no further liability whatsoever to the CESL in respect thereof.

However, the payment of liquidated damages shall not in any way relieve the Implementing Partner from any of its obligations to complete the Facilities or from any other obligations and liabilities of the Implementing Partner under the Contract.

Save for liquidated damages payable under this GCC Sub-Clause 26.2, the failure by the Implementing Partner to attain any milestone or other act, matter or thing by any date specified in Appendix 4 (Time Schedule) to the Contract Agreement and/or other program of work prepared pursuant to GCC Clause 18 (Program of Performance) shall not render the Implementing Partner liable for any loss or damage thereby suffered by the CESL.

## 27. Defect Liability

27.1 The Implementing Partner warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed.

27.2 The Defect Liability Period shall be eighteen (18) months from the date of Completion of the Facilities (or any part thereof) or twelve (12) months from the date of Operational Acceptance of the Facilities (or any part thereof), whichever first occurs, unless specified otherwise in the SCC.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment supplied or of the work executed by the Implementing Partner, the Implementing Partner shall promptly, in consultation and agreement with the CESL regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Implementing Partner shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect. The Implementing Partner shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the Facilities by the CESL
- (b) operation of the Facilities outside specifications provided in the Contract.
- (c) Normal wear and tear.

27.3 The Implementing Partner's obligations under this GCC Clause 27 shall not apply to

- (a) any materials that are supplied by the CESL under GCC Sub-Clause 21.2 (CESL-Supplied Plant, Equipment and Materials), are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein.
- (b) any designs, specifications or other data designed, supplied or specified by or on behalf of the CESL or any matters for which the Implementing Partner has disclaimed responsibility herein.
- (c) any other materials supplied or any other work executed by or on behalf of the CESL, except for the work executed by the CESL under GCC Sub-Clause 27.7.

27.4 The CESL shall give the Implementing Partner a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The CESL shall afford all reasonable opportunity for the Implementing Partner to inspect any such defect.

27.5 The CESL shall afford the Implementing Partner all necessary access to the Facilities and the Site to enable the Implementing Partner to perform its obligations under this GCC Clause 27.

The Implementing Partner may, with the consent of the CESL, remove from the Site any Plant and Equipment or any



part of the Facilities that are defective if the nature of the defect, and/or any damage to the Facilities caused by the defect, is such that repairs cannot be expeditiously carried out at the Site.

27.6 If the repair, replacement or making good is of such a character that it may affect the efficiency of the Facilities or any part thereof, the CESL may give to the Implementing Partner a notice requiring that tests of the defective part of the Facilities shall be made by the Implementing Partner immediately upon completion of such remedial work, whereupon the Implementing Partner shall carry out such tests.

If such part fails the tests, the Implementing Partner shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests in character shall in any case be not less than what has already been agreed by the CESL and the Implementing Partner for the original equipment/part of the Facilities.

27.7 If the Implementing Partner fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the CESL may, following notice to the Implementing Partner, proceed to do such work, and the reasonable costs incurred by the CESL in connection therewith shall be paid to the CESL by the Implementing Partner or may be deducted by the CESL from any monies due to the Implementing Partner or claimed under the Performance Security.

27.8 If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the CESL because of any of the aforesaid reasons. Upon correction of the defects in the Facilities or any part thereof by repair/ replacement, such repair/replacement shall have the Defect Liability Period extended by a period of twelve (12) month from the time such replacement/ repair of the Facilities or any part thereof.

27.9 Except as provided in GCC Clauses 27 and 33 (Loss of or DamagetoProperty / Accident or Injury to Workers/Indemnification), the Implementing Partnershall be under no liability whatsoever and howsoever arising, and whetherunder the Contract or at law, in respect of defects in the Facilities or anypart thereof, the Plant and Equipment, design or engineering or workexecuted that appear after Completion of the Facilities or any part thereof, except where such defects are the result of the grossnegligence ,fraud, criminal or wilful action of the Implementing Partner.

27.10 In addition, the Implementing Partner shall also provide an extended warranty for any such component of the Facilities and during the period of time as may be specified in the SCC. Such obligation shall be in addition to the defect liability specified under GCC Sub-Clause 27.2.

## 28. Functional Guarantees

28.1 The Implementing Partner guarantees that during the Guarantee Test, the Facilities and all parts thereof shall attain the Functional Guarantees specified in Appendix 8 (Functional Guarantees) to the Contract Agreement, subject to and upon the conditions therein specified.

28.2 If, for reasons attributable to the Implementing Partner, the guaranteed level of the Functional Guarantees specified in Appendix 8 (Functional Guarantees) to the Contract Agreement are not met either in whole or in part, the Implementing Partner shall, within a mutually agreed time, at its cost and expense make such changes, modifications and/or additions to the Plant or any part thereof as may be necessary to meet such Guarantees. The Implementing Partner shall notify the CESL upon completion of the necessary changes, modifications and/or additions, and shall seek the CESL's consent to repeat the Guarantee Test. If the specified Functional Guarantees are not established even during the repeat of the Guarantee Test, the CESL may at its option, either

- (a) Reject the Equipment and recover the payments already made, or
- (b) Terminate the Contract pursuant to GCC Sub-Clause 42.2.2 and recover the payments already made, or
- (c) Accept the equipment after levy of liquidated damages in accordance with the provisions specified in Appendix-8(Functional Guarantees) to the Contract Agreement.

28.3 In case the CESL exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Sub-Clause 28.2, up to the limitation of liability specified in the Appendix-8 (Functional Guarantees) to the Contract Agreement, shall completely satisfy the Implementing Partner's guarantees



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under GCC Sub-Clause 28.2, and the Implementing Partner shall have no further liability whatsoever to the CESL in respect thereof. Upon the payment of such liquidated damages by the Implementing Partner, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

## 29. Patent Indemnity

29.1 The Implementing Partner shall, subject to the CESL's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the CESL and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the CESL may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract by reason of: (a) the installation of the Facilities by the Implementing Partner or the use of the Facilities in the country where the Site is located; and (b) the sale of the products produced by the Facilities in any country.

Such indemnity shall not cover any use of the Facilities or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the Facilities or any part thereof, or any products produced thereby in association or combination with any other equipment, plant or materials not supplied by the Implementing Partner, pursuant to the Contract Agreement.

29.2 If any proceedings are brought or any claim is made against the CESL arising out of the matters referred to in GCC Sub-Clause 29.1, the CESL shall promptly give the Implementing Partner a notice thereof, and the Implementing Partner may at its own expense and in the CESL's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Implementing Partner fails to notify the CESL within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the CESL shall be free to conduct the same on its own behalf. Unless the Implementing Partner has so failed to notify the CESL within the twenty-eight (28) day period, the CESL shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The CESL shall, at the Implementing Partner's request, afford all available assistance to the Implementing Partner in conducting such proceedings or claim, and shall be reimbursed by the Implementing Partner for all reasonable expenses incurred in so doing.

29.3 The CESL shall indemnify and hold harmless the Implementing Partner and its employees, officers and Sub-Implementing Partners from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Implementing Partner may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the CESL.

## 30. Limitation of Liability

30.1 Except in cases of criminal negligence or wilful misconduct,

- (a) the Implementing Partner shall not be liable to the CESL, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Implementing Partner to pay liquidated damages to the CESL and
- (b) the aggregate liability of the Implementing Partner to the CESL, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Implementing Partner to indemnify the CESL with respect to patent infringement or as specified in SCC.

## G. Risk Distribution

### 31. Transfer of Ownership

31.1 Ownership of the Plant and Equipment (including spare parts) procured in the country where the Site is located shall be transferred to the CESL when the Plant and Equipment are reached at site.



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31.2 Ownership of the Implementing Partner's Equipment used by the Implementing Partner and its SubImplementing Partners in connection with the Contract shall remain with the Implementing Partner or its SubImplementing Partners.

31.3 Ownership of any Plant and Equipment in excess of the requirements for the Facilities shall revert to the Implementing Partner upon Completion of the Facilities or at such earlier time when the CESL and the Implementing Partner agree that the Plant and Equipment in question are no longer required for the Facilities, provided quantity of any Plant and Equipment specifically stipulated in the Contract shall be the property of the CESL whether or not incorporated in the Facilities.

#### **31.4 Disposal of surplus material**

Ownership of any Plant and Equipment in excess of the requirements for the Facilities (i.e. surplus material) shall revert to the Contractor upon Completion of the Facilities and Guarantee Test or at such earlier time when the Employer and the Contractor agree that the Plant and Equipment in question are no longer required for the Facilities, provided quantity of any Plant and Equipment specifically stipulated in the Contract shall be the property of the Employer whether or not incorporated in the Facilities. The Contractor shall remove from the site such surplus material brought by him in pursuance of the Contract, subject to the Contractor producing the necessary clearance from the relevant authorities (Customs, Excise etc.), if required by law, in respect of re-export or disposal of the surplus material locally. The liability for the payment of the applicable taxes/ duties, if any, on the surplus material so re-exported and/or disposed locally shall be that of the Contractor.

The Contractor shall also indemnify to keep the Employer harmless from any act of omission or negligence on the part of the Contractor in following the statutory requirements with regard to removal / disposal of surplus material. The Indemnity Bond shall be furnished by contractor as per proforma enclosed in Section-VII (Forms and Procedure) as Form No. 14. Further, in case the laws require the Employer to take prior permission of the relevant Authorities before handing over the surplus material to the Contractor, the same shall be obtained by the Contractor on behalf of the Employer.

31.5 Notwithstanding the transfer of ownership of the Plant and Equipment, the responsibility for care and custody thereof together with the risk, of loss or damage thereto shall remain with the Implementing Partner pursuant to GCC Clause 32 (Care of Facilities) hereof until Completion of the Facilities or the part thereof in which such Plant and Equipment are incorporated.

**31.5** In case of two/three Contracts entered into between the CESL and the Implementing Partner as per GCC Sub-Clause 3.6 or where the CESL hands over his equipment to the Implementing Partner for executing the Contract, then the Implementing Partner shall at the time of taking delivery of the Equipment through Bill of Lading or other despatch documents furnish Trust Receipt for Plant, Equipment and Materials and also execute an Indemnity Bond in favour of the CESL in the form acceptable to CESL for keeping the equipment in safe custody and to utilise the same exclusively for the purpose of the said Contract. Proforma for the Trust Receipt and Indemnity bond. The CESL shall also issue a separate Authorisation Letter to the Implementing Partner to enable him to take physical delivery of plant, equipment and materials from the CESL.

## **32 Care of Facilities**

32.1 The Implementing Partner shall be responsible for the care and custody of the Facilities or any part thereof until the date of Completion of the Facilities pursuant to GCC Clause 24 (Completion of the Facilities) or, where the Contract provides for Completion of the Facilities in parts, until the date of Completion of the relevant part, and shall make good at its own cost any loss or damage that may occur to the Facilities or the relevant part thereof from any cause whatsoever during such period. The Implementing Partner shall also be responsible for any loss or damage to the Facilities caused by the Implementing Partner or its SubImplementing Partners in the course of any work carried out, pursuant to GCC Clause 27 (Defect Liability). Notwithstanding the foregoing, the Implementing Partner shall not be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clauses 32.2 and 38.1.

32.2 If any loss or damage occurs to the Facilities or any part thereof or to the Implementing Partner's temporary facilities by reason of

- (a) (insofar as they relate to the country where the Site is located) nuclear reaction, nuclear radiation,



radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced Implementing Partner could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under GCC Clause 34 (Insurance) hereof.

- (b) any use or occupation by the CESL or any third party (other than a SubImplementing Partner) authorized by the CESL of any part of the Facilities.
- (c) any use of or reliance upon any design, data or specification provided or designated by or on behalf of the CESL, or any such matter for which the Implementing Partner has disclaimed responsibility herein,

the CESL shall pay to the Implementing Partner all sums payable in respect of the Facilities executed, notwithstanding that the same be lost, destroyed or damaged, and will pay to the Implementing Partner the replacement value of all temporary facilities and all parts thereof lost, destroyed or damaged. If the CESL requests the Implementing Partner in writing to make good any loss or damage to the Facilities thereby occasioned, the Implementing Partner shall make good the same at the cost of the CESL in accordance with GCC Clause 39 (Change in the Facilities). If the CESL does not request the Implementing Partner in writing to make good any loss or damage to the Facilities thereby occasioned, the CESL shall either request a change in accordance with GCC Clause 39 (Change in the Facilities), excluding the performance of that part of the Facilities thereby lost, destroyed or damaged, or, where the loss or damage affects a substantial part of the Facilities, the CESL shall terminate the Contract pursuant to GCC Sub-Clause 42.1 (Termination for CESL's Convenience) hereof, except that the Implementing Partner shall have no entitlement to profit under paragraph (e) of GCC Sub-Clause 42.1.3 in respect of any unexecuted Facilities as at the date of termination.

32.3 The Implementing Partner shall be liable for any loss of or damage to any Implementing Partner's Equipment, or any other property of the Implementing Partner used or intended to be used for purposes of the Facilities, except (i) as mentioned in GCC Sub-Clause 32.2 (with respect to the Implementing Partner's temporary facilities), and (ii) where such loss or damage arises by reason of any of the matters specified in GCC Sub-Clauses 32.2(b) and (c) and 38.1.

32.3 With respect to any loss or damage caused to the Facilities or any part thereof or to the Implementing Partner's Equipment by reason of any of the matters specified in GCC Sub-Clause 38.1, the provisions of GCC Sub-Clause 38.3 shall apply.

### **33 Loss of or Damage to Property; Accident or Injury to workers; Indemnification**

33.1 Subject to GCC Sub - Clause 33.3, the Implementing Partner shall indemnify and hold harmless the CESL and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage to any property (other than the Facilities whether accepted or not), arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Implementing Partner or its SubImplementing Partners, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of the CESL, its Implementing Partners, employees, officers or agents.

33.2 If any proceedings are brought or any claim is made against the CESL that might subject the Implementing Partner to liability under GCC Sub-Clause 33.1, the CESL shall promptly give the Implementing Partner a notice thereof and the Implementing Partner may at its own expense and in the CESL's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Implementing Partner fails to notify the CESL within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the CESL shall be free to conduct the same on its own behalf. Unless the Implementing Partner has so failed to notify the CESL within the twenty-eight (28) day period, the CESL shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

The CESL shall, at the Implementing Partner's request, afford all available assistance to the Implementing Partner in conducting such proceedings or claim, and shall be reimbursed by the Implementing Partner for all reasonable expenses incurred in so doing.

33.3 The CESL shall indemnify and hold harmless the Implementing Partner and its employees, officers and SubImplementing Partners from any liability for loss of or damage to property of the CESL, other than the Facilities not yet taken over, that is caused by fire, explosion or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 34 (Insurances), provided that such fire, explosion or other perils were not caused by any act or failure of the Implementing Partner.



33.4 The party entitled to the benefit of an indemnity under this GCC Clause 33 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

## 34 Insurance

34.1 To the extent specified in Appendix 3 (Insurance Requirements) to the Contract Agreement, the Implementing Partner shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified in the said Appendix. The identity of the insurers and the form of the policies shall be subject to the approval of the CESL, who should not unreasonably withhold such approval.

### (a) Cargo Insurance During Transport

Covering loss or damage occurring while in transit from the Implementing Partner's or SubImplementing Partner's works or stores until arrival at the Site, to the Plant and Equipment (including spare parts therefor) and to the Implementing Partner's Equipment.

### (b) Installation All Risks Insurance

Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with an extended maintenance coverage for the Implementing Partner's liability in respect of any loss or damage occurring during the Defect Liability Period while the Implementing Partner is on the Site for the purpose of performing its obligations during the Defect Liability Period.

### (c) Third Party Liability Insurance

Covering bodily injury or death suffered by third parties (including the CESL's personnel) and loss of or damage to property occurring in connection with the supply and installation of the Facilities.

### (d) Automobile Liability Insurance

Covering use of all vehicles used by the Implementing Partner or its SubImplementing Partners (whether or not owned by them) in connection with the execution of the Contract.

### (e) Workers' Compensation

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

### (f) CESL's Liability

In accordance with the statutory requirements applicable in any country where the Contract or any part thereof is executed.

### (g) Other Insurances

Such other insurances as may be specifically agreed upon by the parties hereto as listed in the said Appendix 3.

34.2 The CESL shall be named as co-insured under all insurance policies taken out by the Implementing Partner pursuant to GCC Sub-Clause 34.1, except for the Third Party Liability, Workers' Compensation and CESL's Liability Insurances, and the Implementing Partner's SubImplementing Partners shall be named as co-insured's under all insurance policies taken out by the Implementing Partner pursuant to GCC Sub-Clause 34.1 except for the Cargo Insurance During Transport, Workers' Compensation and CESL's Liability Insurances. All insurers' rights of subrogation against such co-insured's for losses or claims arising out of the performance of the Contract shall be waived under such policies.

34.3 The Implementing Partner shall, in accordance with the provisions of Appendix 3 (Insurance Requirements) to the Contract Agreement, deliver to the CESL certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect. The certificates shall provide that no less than twenty-one (21) days' notice shall be given to the CESL by insurers prior to cancellation or material modification of a policy.

34.4 The Implementing Partner shall ensure that, where applicable, its SubImplementing Partner(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such SubImplementing Partners are covered by the policies taken out by the Implementing Partner.



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34.5 The CESL shall at its expense take out and maintain in effect during the performance of the Contract those insurances specified in Appendix 3 (Insurance Requirements) to the Contract Agreement.

34.6 If the Implementing Partner fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 34.1, the CESL may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Implementing Partner under the Contract any premium that the CESL shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Implementing Partner. If the CESL fails to take out and/or maintain in effect the insurances referred to in GCC 34.5, the Implementing Partner may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the CESL under the Contract any premium that the Implementing Partner shall have paid to the insurer, or may otherwise recover such amount as a debt due from the CESL. If the Implementing Partner fails to or is unable to take out and maintain in effect any such insurances, the Implementing Partner shall nevertheless have no liability or responsibility towards the CESL, and the Implementing Partner shall have full recourse against the CESL for any and all liabilities of the CESL herein.

34.7 Unless otherwise provided in the Contract, the Implementing Partner shall prepare and conduct all and any claims made under the policies effected by it pursuant to this GCC Clause 34, and all monies payable by any insurers shall be paid to the Implementing Partner as per the procedure outlined in GCC Sub- Clause 34.8 below. The CESL shall give to the Implementing Partner all such reasonable assistance as may be required by the Implementing Partner. With respect to insurance claims in which the CESL's interest is involved, the Implementing Partner shall not give any release or make any compromise with the insurer without the prior written consent of the CESL. With respect to insurance claims in which the Implementing Partner's interest is involved, the CESL shall not give any release or make any compromise with the insurer without the prior written consent of the Implementing Partner.

34.8 (i) wherever total damages/loss of equipment/material, would occur, the Implementing Partner will be entitled to payment of all payments received from the underwriters except the following amounts:

- (a) The amount paid to the Implementing Partner under the Contract in respect of equipment/material damaged/lost (excluding the pro-rata initial advance) but including the entire amount of escalation, if any, already paid to the Contractor.
- (b) Custom Duties and other taxes and duties which have already been paid by the CESL.

In the event the claim money settled, is less than the total of the amount in a & b above, then the entire claim money settled will be retained by the CESL and the Implementing Partner will forth-with pay the CESL the short fall amount between the claim money and the total of amounts as per a & b mentioned above. Subsequent payments, if any, due under the Contract shall be regulated by the relevant terms of payment.

(II) In case of damage to any equipment/material during any stage, the Implementing Partner upon rectification of the damaged equipment to the satisfaction of the CESL shall be paid to the extent of full claims settled by the underwriters.

## 35 Unforeseen Conditions

35.1 If, during the execution of the Contract, the Implementing Partner shall encounter on the Site any physical conditions (other than climatic conditions) or artificial obstructions that could not have been reasonably foreseen prior to the date of the Contract Agreement by an experienced Implementing Partner on the basis of reasonable examination of the data relating to the Facilities (including any data as to boring tests) provided by the CESL, and on the basis of information that it could have obtained from a visual inspection of the Site (if access thereto was available) or other data readily available to it relating to the Facilities, and if the Implementing Partner determines that it will in consequence of such conditions or obstructions incur additional cost and expense or require additional time to perform its obligations under the Contract that would not have been required if such physical conditions or artificial obstructions had not been encountered, the Implementing Partner shall promptly, and before performing additional work or using additional Plant and Equipment or Implementing Partner's Equipment, notify the Project Manager in writing of

- a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen.



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- b) the additional work and/or Plant and Equipment and/or Implementing Partner's Equipment required, including the steps which the Implementing Partner will or proposes to take to overcome such conditions or obstructions.
- c) the extent of the anticipated delay.
- d) the additional cost and expense that the Implementing Partner is likely to incur.

On receiving any notice from the Implementing Partner under this GCC Sub-Clause 35.1, the Project Manager shall promptly consult with the CESL and Implementing Partner and decide upon the actions to be taken to overcome the physical conditions or artificial obstructions encountered. Following such consultations, the Project Manager shall instruct the Implementing Partner, with a copy to the CESL, of the actions to be taken.

35.2 Any reasonable additional cost and expense incurred by the Implementing Partner in following the instructions from the Project Manager to overcome such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1 shall be paid by the CESL to the Implementing Partner as an addition to the Contract Price.

35.3 If the Implementing Partner is delayed or impeded in the performance of the Contract because of any such physical conditions or artificial obstructions referred to in GCC Sub-Clause 35.1, the Time for Completion shall be extended in accordance with GCC Clause 40 (Extension of Time for Completion).

### 36 Change in Laws and Regulations

36.1 If, after the date seven (7) days prior to the date of Bid submission, in the country where the Site is located, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the costs and expenses of the Implementing Partner and/or the Time for Completion, the Contract Price shall be correspondingly increased or decreased, and/or the Time for Completion shall be reasonably adjusted to the extent that the Implementing Partner has thereby been affected in the performance of any of its obligations under the Contract. However, these adjustments would be restricted to direct transactions between the CESL and the Implementing Partner/Assignee of Foreign Implementing Partner (if applicable). These adjustments shall not be applicable on procurement of raw materials, intermediary components etc. by the Implementing Partner/Assignee of Foreign Implementing Partner and shall also not be applicable on bought out items despatched directly from sub-vendor works to site. Further, no adjustment of the Contract Price and/or payment or reimbursement of taxes, duties or levies shall be made on account of variation in or withdrawal of Deemed Export benefits. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with the Appendix 2 to the Contract Agreement.

### 37 Force Majeure

37.1 "Force Majeure" shall mean any event beyond the reasonable control of the CESL or of the Implementing Partner, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected.

37.2 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within fourteen (14) days after the occurrence of such event.

37.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended in accordance with GCC Clause 40 (Extension of Time for Completion).

37.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfil its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Sub-Clauses 37.6 and 38.5.

37.5 No delay or non performance by either party hereto caused by the occurrence of any event of Force Majeure shall

- a) constitute a default or breach of the Contract
- b) (subject to GCC Sub-Clauses 32.2, 38.3 and 38.4) give rise to any claim for damages or additional cost or



expense occasioned thereby

If and to the extent that such delay or non performance is caused by the occurrence of an event of Force Majeure.

37.6 If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which the dispute shall be resolved in accordance with GCC Clause 6.

37.7 Notwithstanding GCC Sub-Clause 37.5, Force Majeure shall not apply to any obligation of the CESL to make payments to the Implementing Partner herein.

## 38 War Risks

38.1 "War Risks" shall mean any of the following events occurring or existing in or near the country (or countries) where the Site is located:

- a) war, hostilities or warlike operations (whether a state of war is declared or not), invasion, act of foreign enemy and civil war
- b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion and terrorist acts, and
- c) any explosion or impact of any mine, bomb, shell, grenade or other projectile, missile, munitions or explosive of war.

38.2 Notwithstanding anything contained in the Contract, the Implementing Partner shall have no liability whatsoever for or with respect to

- a) destruction of or damage to Facilities, Plant & Equipment, or any part thereof
- b) destruction of or damage to property of the CESL or any third party
- c) injury or loss of life

if such destruction, damage, injury or loss of life is caused by any War Risks, and the CESL shall indemnify and hold the Implementing Partner harmless from and against any and all claims, liabilities, actions, lawsuits, damages, costs, charges or expenses arising in consequence of or in connection with the same.

38.3 If the Facilities or any Plant and Equipment or Implementing Partner's Equipment or any other property of the Implementing Partner used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, the CESL shall pay the Implementing Partner for

- a) any part of the Facilities or the Plant and Equipment so destroyed or damaged (to the extent not already paid for by the CESL)
- b) replacing or making good any Implementing Partner's Equipment or other property of the Implementing Partner so destroyed or damaged so far as may be required by the CESL, and as may be necessary for completion of the Facilities,
- c) replacing or making good any such destruction or damage to the Facilities or the Plant and Equipment or any part thereof.

If the CESL does not require the Implementing Partner to replace or make good any such destruction or damage to the Facilities, the CESL shall either request a change in accordance with GCC Clause 39 (Change in the Facilities), excluding the performance of that part of the Facilities thereby destroyed or damaged or, where the loss, destruction or damage affects a substantial part of the Facilities, shall terminate the Contract, pursuant to GCC Sub-Clause 42.1 (Termination for CESL's Convenience).

38.4 Notwithstanding anything contained in the Contract, the CESL shall pay the Implementing Partner for any increased costs or incidentals to the execution of the Contract that are in any way attributable to, consequent on, resulting from, or in any way connected with any War Risks, provided that the Implementing Partner shall as soon as



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practicable notify the CESL in writing of any such increased cost.

38.5 If during the performance of the Contract any War Risks shall occur that financially or otherwise materially affect the execution of the Contract by the Implementing Partner, the Implementing Partner shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its SubImplementing Partners' personnel engaged in the work on the Facilities, provided, however, that if the execution of the work on the Facilities becomes impossible or is substantially prevented for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of any War Risks, the parties will attempt to develop a mutually satisfactory solution, failing which the dispute will be resolved in accordance with GCC Clause 6.

38.6 In the event of termination pursuant to GCC Sub-Clauses 38.3, the rights and obligations of the CESL and the Implementing Partner shall be specified in GCC Sub-Clauses 42.1.2 and 42.1.3, except that the Implementing Partner shall have no entitlement to profit under paragraph (e) of GCC Sub-Clause 42.1.3 in respect of any unexecuted Facilities as of the date of termination.

## H. Change in Contract Element

### 39.1 Changes in the Facilities

39.1.1 The CESL shall have the right to propose, and subsequently require, that the Project Manager order the Implementing Partner from time to time during the performance of the Contract to make any change, modification, addition or deletion to, in or from the Facilities (hereinafter called "Change"), provided that such Change falls within the general scope of the Facilities and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the Facilities and the technical compatibility of the Change envisaged with the nature of the Facilities as specified in the Contract .

39.1.2 The Implementing Partner may from time to time during its performance of the Contract propose to the CESL (with a copy to the Project Manager) any Change that the Implementing Partner considers necessary or desirable to improve the quality, efficiency or safety of the Facilities. The CESL may at its discretion approve or reject any Change proposed by the Implementing Partner.

39.1.3 Notwithstanding GCC Sub-Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Implementing Partner in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Completion.

39.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Sub-Clauses 39.2 and 39.3.

### 39.2 Changes Originating from CESL

If the CESL proposes a Change pursuant to GCC Sub-Clause 39.1.1, it shall send to the Implementing Partner a "Request for Change Proposal," requiring the Implementing Partner to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

- a) brief description of the Change
- b) effect on the Time for Completion
- c) estimated cost of the Change
- d) effect on Functional Guarantees (if any)
- e) effect on any other provisions of the Contract.

39.2.2 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the rates and prices of any change are in the Contract, the parties thereto shall agree on specific rates for the valuation of the Change.

39.2.3 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate effect of compliance therewith and with all other Change Orders that have already become binding upon the Implementing Partner under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Contract Agreement by more than fifteen (15) percent, the Implementing Partner may give a written notice of objection thereto prior to furnishing the Change Proposal as aforesaid. If the CESL accepts the Implementing Partner's objection, the CESL and the Implementing Partner shall agree on specific rates for valuation of the change.

39.2.4 Upon receipt of the Change Proposal, the CESL and the Implementing Partner shall mutually agree upon all matters therein contained including agreement on rates if such rates are not available in the Contract or if the limit of



15% set forth in Clause 39.2.3 has been exceeded. Within fourteen (14) days after such agreement, the CESL shall, if it intends to proceed with the Change, issue the Implementing Partner with a Change Order.

If the CESL is unable to reach a decision within fourteen (14) days, it shall notify the Implementing Partner with details of when the Implementing Partner can expect a decision.

If the CESL decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Implementing Partner accordingly.

39.2.5 If the CESL and the Implementing Partner cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Completion, or any other matters identified in the Change Proposal, the CESL may nevertheless instruct the Implementing Partner to proceed with the Change by issue of a "Pending Agreement Change Order."

Upon receipt of a Pending Agreement Change Order, the Implementing Partner shall immediately proceed with effecting the Changes covered by such Order. The parties shall thereafter attempt to reach agreement on the outstanding issues under the Change Proposal.

### 39.3 Changes Originating from Implementing Partner

39.3.1 If the Implementing Partner proposes a Change pursuant to GCC Sub-Clause 39.1.2, the Implementing Partner shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Sub-Clause 39.2.1.

Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Sub-Clauses 39.2.4 and 39.2.5

## 40. Extension of Time for Completion

40.1 The Time(s) for Completion specified in the SCC shall be extended if the Implementing Partner is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

- a) any Change in the Facilities as provided in GCC Clause 39 (Change in the Facilities)
- b) any occurrence of Force Majeure as provided in GCC Clause 37 (Force Majeure), unforeseen conditions as provided in GCC Clause 35 (Unforeseen Conditions), or other occurrence of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clause 32.2
- c) any suspension order given by the CESL under GCC Clause 41 (Suspension) hereof or reduction in the rate of progress pursuant to GCC Sub-Clause 41.2 or
- d) any changes in laws and regulations as provided in GCC Clause 36 (Change in Laws and Regulations) or
- e) any default or breach of the Contract by the CESL, specifically including failure to supply the items listed in Appendix 6 (Scope of Works and Supply by the CESL) to the Contract Agreement, or any activity, act or omission of any other Implementing Partners employed by the CESL or
- f) any other matter specifically mentioned in the Contract;

by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Implementing Partner.

40.2 Except where otherwise specifically provided in the Contract, the Implementing Partner shall submit to the Project Manager a notice of a claim for an extension of the Time for Completion, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the CESL and the Implementing Partner shall agree upon the period of such extension. In the event that the Implementing Partner does not accept the CESL's estimate of a fair and reasonable time extension, the Implementing Partner shall be entitled to refer the matter to the Adjudicator, pursuant to GCC Sub-Clause 6.1 (Adjudicator).

40.3 The Implementing Partner shall at all times use its reasonable efforts to minimize any delay in the performance



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of its obligations under the Contract.

## 41 Suspension

41.1 The CESL/ Project Manager may, by notice to the Implementing Partner, order the Implementing Partner to suspend performance of any or all of its obligations under the Contract. Such notice shall specify the obligation of which performance is to be suspended, the effective date of the suspension and the reasons therefore. The Implementing Partner shall thereupon suspend performance of such obligation (except those obligations necessary for the care or preservation of the Facilities) until ordered in writing to resume such performance by the Project Manager/ CESL.

If, by virtue of a suspension order given by the Project Manager/ CESL other than by reason of the Implementing Partner's default or breach of the Contract, the Implementing Partner's performance of any of its obligations is suspended for an aggregate period of more than ninety (90) days, then at any time thereafter and provided that at that time such performance is still suspended, the Implementing Partner may give a notice to the Project Manager requiring that the CESL shall, within twenty-eight (28) days of receipt of the notice, order the resumption of such performance or request and subsequently order a change in accordance with GCC Clause 39 (Change in the Facilities), excluding the performance of the suspended obligations from the Contract.

If the CESL fails to do so within such period, the Implementing Partner may, by a further notice to the Project Manager, elect to treat the suspension, where it affects a part only of the Facilities, as a deletion of such part in accordance with GCC Clause 39 (Change in the Facilities) or, where it affects the whole of the Facilities, as termination of the Contract under GCC Sub-Clause 42.1 (Termination for CESL's Convenience).

### 41.2 If

- a) the CESL has failed to pay the Implementing Partner any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement, or commits a substantial breach of the Contract, the Implementing Partner may give a notice to the CESL that requires payment of such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires the CESL to remedy the same, as the case may be. If the CESL fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, or fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Implementing Partner's notice or
- b) the Implementing Partner is unable to carry out any of its obligations under the Contract for any reason attributable to the CESL, including but not limited to the CESL's failure to provide possession of or access to the Site or other areas in accordance with GCC Sub-Clause 10.2, or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities; then the Implementing Partner may by fourteen (14) days' notice to the CESL suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.

41.3 If the Implementing Partner's performance of its obligations is suspended or the rate of progress is reduced pursuant to this GCC Clause 41, then the Time for Completion shall be extended in accordance with GCC Sub-Clause 40.1, and any and all additional costs or expenses incurred by the Implementing Partner as a result of such suspension or reduction shall be paid by the CESL to the Implementing Partner in addition to the Contract Price, except in the case of suspension order or reduction in the rate of progress by reason of the Implementing Partner's default or breach of the Contract.

41.4 During the period of suspension, the Implementing Partner shall not remove from the Site any Plant and Equipment, any part of the Facilities or any Implementing Partner's Equipment, without the prior written consent of the CESL.

## 42 Termination

### 42.1 Termination for CESL's Convenience

42.1.1 The CESL may at any time terminate the Contract for any reason by giving the Implementing Partner a notice of termination that refers to this GCC Sub-Clause 42.1.

42.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 42.1.1, the Implementing Partner shall either



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immediately or upon the date specified in the notice of termination

- (a) cease all further work, except for such work as the CESL may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- (b) terminate all subcontracts, except those to be assigned to the CESL pursuant to paragraph (d)(ii) below
- (c) remove all Implementing Partner's Equipment from the Site, repatriate the Implementing Partner's and its SubImplementing Partners' personnel from the Site, remove from the Site any wreckage, rubbish and debris of any kind, and leave the whole of the Site in a clean and safe condition.
- (d) In addition, the Implementing Partner, subject to the payment specified in GCC Sub-Clause 42.1.3, shall
  - (i) Deliver to the CESL the parts of the Facilities executed by the Implementing Partner up to the date of termination
  - (ii) to the extent legally possible, assign to the CESL all right, title and benefit of the Implementing Partner to the Facilities and to the Plant and Equipment as at the date of termination, and, as may be required by the CESL, in any subcontracts concluded between the Implementing Partner and its SubImplementing Partners
  - (iii) deliver to the CESL all non-proprietary drawings, specifications and other documents prepared by the Implementing Partner or its SubImplementing Partners as at the date of termination in connection with the Facilities.

42.1.3 In the event of termination of the Contract under GCC Sub-Clause 42.1.1, the CESL shall pay to the Implementing Partner the following amounts:

- (a) the Contract Price, properly attributable to the parts of the Facilities executed by the Implementing Partner as of the date of termination
- (b) the costs reasonably incurred by the Implementing Partner in the removal of the Implementing Partner's Equipment from the Site and in the repatriation of the Implementing Partner's and its SubImplementing Partners' personnel.
- (c) any amounts to be paid by the Implementing Partner to its SubImplementing Partners in connection with the termination of any subcontracts, including any cancellation charges.
- (d) costs incurred by the Implementing Partner in protecting the Facilities and leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.1.2
- (e) the cost of satisfying all other obligations, commitments and claims that the Implementing Partner may in good faith have undertaken with third parties in connection with the Contract and that are not covered by paragraphs (a) through (d) above.

## 42.2 Termination for Contractor or Implementing Partner's Default

42.2.1 The CESL, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefor to the Implementing Partner, referring to this GCC Sub-Clause 42.2:

- (a) if the Implementing Partner becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Implementing Partner is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Implementing Partner takes or suffers any other analogous action in consequence of debt.



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- (b) if the Implementing Partner assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 43 (Assignment).
- (c) if the Implementing Partner, in the judgement of the CESL has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause:

"corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the CESL and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the CESL of the benefits of free and open competition.

#### 42.2.2 If the Implementing Partner

- (a) has abandoned or repudiated the Contract
- (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 41.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from the CESL to proceed
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 18 (Program of Performance) at rates of progress that give reasonable assurance to the CESL that the Implementing Partner can attain Completion of the Facilities by the Time for Completion as extended

then the CESL may, without prejudice to any other rights it may possess under the Contract, give a notice to the Implementing Partner stating the nature of the default and requiring the Implementing Partner to remedy the same. If the Implementing Partner fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the CESL may terminate the Contract forthwith by giving a notice of termination to the Implementing Partner that refers to this GCC Sub-Clause 42.2.

42.2.3 Upon receipt of the notice of termination under GCC Sub-Clauses 42.2.1 or 42.2.2, the Implementing Partner shall, either immediately or upon such date as is specified in the notice of termination,

cease all further work, except for such work as the CESL may specify in the notice of termination for the sole purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition

- (a) terminate all subcontracts, except those to be assigned to the CESL pursuant to paragraph (d) below
- (b) deliver to the CESL the parts of the Facilities executed by the Implementing Partner up to the date of termination.
- (c) to the extent legally possible, assign to the CESL all right, title and benefit of the Implementing Partner to the Works. and to the Plant and Equipment as at the date of termination, and, as may be required by the CESL, in any subcontracts concluded between the Implementing Partner and its SubImplementing Partners.
- (d) deliver to the CESL all drawings, specifications and other documents prepared by the Implementing Partner or its SubImplementing Partners as at the date of termination in connection with the Facilities.

42.2.4 The CESL may enter upon the Site, expel the Implementing Partner, and complete the Facilities itself or by employing any third party. The CESL may, to the exclusion of any right of the Implementing Partner over the same, take over and use with the payment of a fair rental rate to the Implementing Partner, with all the maintenance costs



to the account of the CESL and with an indemnification by the CESL for all liability including damage or injury to persons arising out of the CESL's use of such equipment, any Implementing Partner's Equipment owned by the Implementing Partner and on the Site in connection with the Facilities for such reasonable period as the CESL considers expedient for the supply and installation of the Facilities.

Upon completion of the Facilities or at such earlier date as the CESL thinks appropriate, the CESL shall give notice to the Implementing Partner that such Implementing Partner's Equipment will be returned to the Implementing Partner at or near the Site and shall return such Implementing Partner's Equipment to the Implementing Partner in accordance with such notice. The Implementing Partner shall thereafter without delay and at its cost remove or arrange removal of the same from the Site.

42.2.5 Subject to GCC Sub-Clause 42.2.6, the Implementing Partner shall be entitled to be paid the Contract Price attributable to the Facilities executed as at the date of termination, the value of any unused or partially used Plant and Equipment on the Site, and the costs, if any, incurred in protecting the Facilities and in leaving the Site in a clean and safe condition pursuant to paragraph (a) of GCC Sub-Clause 42.2.3. Any sums due to the CESL from the Implementing Partner accruing prior to the date of termination shall be deducted from the amount to be paid to the Implementing Partner under this Contract.

42.2.6 If the CESL completes the Facilities, the cost of completing the Facilities by the CESL shall be determined.

If the sum that the Implementing Partner is entitled to be paid, pursuant to GCC Sub-Clause 42.2.5, plus the reasonable costs incurred by the CESL in completing the Facilities, exceeds the Contract Price, the Implementing Partner shall be liable for such excess.

If such excess is greater than the sums due to the Implementing Partner under GCC Sub-Clause 42.2.5, the Implementing Partner shall pay the balance to the CESL, and if such excess is less than the sums due to the Implementing Partner under GCC Sub-Clause 42.2.5, the CESL shall pay the balance to the Implementing Partner.

The CESL and the Implementing Partner shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

### 42.3 Termination by Contractor or Implementing Partner

#### 42.3.1 If

(a) the CESL has failed to pay the Implementing Partner any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to Appendix 1 (Terms and Procedures of Payment) of the Contract Agreement, or commits a substantial breach of the Contract, the Implementing Partner may give a notice to the CESL that requires payment of such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires the CESL to remedy the same, as the case may be. If the CESL fails to pay such sum, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the Implementing Partner's notice, or

(b) the Implementing Partner is unable to carry out any of its obligations under the Contract for any reason attributable to the CESL, including but not limited to the CESL's failure to provide possession of or access to the Site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities which the CESL is required to obtain as per provision of the Contract or as per relevant applicable laws of the country, then the Implementing Partner may give a notice to the CESL thereof, and if the CESL has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Implementing Partner is still unable to carry out any of its obligations under the Contract for any reason attributable to the CESL within twenty-eight (28) days of the said notice, the Implementing Partner may by a further notice to the CESL referring to this GCC Sub-Clause 42.3.1, forthwith terminate the Contract.

42.3.2 The Implementing Partner may terminate the Contract forthwith by giving a notice to the CESL to that effect, referring to this GCC Sub-Clause 42.3.2, if the CESL becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its





winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the CESL takes or suffers any other analogous action in consequence of debt.

42.3.3 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, then the Implementing Partner shall immediately

(a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition

(b) terminate all subcontracts, except those to be assigned to the CESL pursuant to paragraph (d)(ii)

(c) remove all Implementing Partner's Equipment from the Site and repatriate the Implementing Partner's and its SubImplementing Partner's personnel from the Site

(d) In addition, the Implementing Partner, subject to the payment specified in GCC Sub-Clause 42.3.4, shall

(i) deliver to the CESL the parts of the Facilities executed by the Implementing Partner up to the date of termination

(ii) to the extent legally possible, assign to the CESL all right, title and benefit of the Implementing Partner to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by the CESL, in any subcontracts concluded between the Implementing Partner and its SubImplementing Partners

(iii) deliver to the CESL all drawings, specifications and other documents prepared by the Implementing Partner or its SubImplementing Partners as of the date of termination in connection with the Facilities.

42.3.4 If the Contract is terminated under GCC Sub-Clauses 42.3.1 or 42.3.2, the CESL shall pay to the Implementing Partner all payments specified in GCC Sub-Clause 42.1.3, and reasonable compensation for all loss or damage sustained by the Implementing Partner arising out of, in connection with or in consequence of such termination.

42.3.5 Termination by the Implementing Partner pursuant to this GCC Sub-Clause 42.3 is without prejudice to any other rights or remedies of the Implementing Partner that may be exercised in lieu of or in addition to rights conferred by GCC Sub-Clause 42.3.

42.4 In this GCC Clause 42, the expression "Facilities executed" shall include all work executed, Installation Services provided, any or all Plant and Equipment acquired (or subject to a legally binding obligation to purchase by the Implementing Partner and used or intended to be used for the purpose of the Facilities, up to and including the date of termination.

42.5 In this GCC Clause 42, in calculating any monies due from the CESL to the Implementing Partner, account shall be taken of any sum previously paid by the CESL to the Implementing Partner under the Contract, including any advance payment paid pursuant to Appendix 1 (Terms and Procedures of Payment) to the Contract Agreement.

#### 43. Assignment

43.1 The Implementing Partner shall not, without the express prior written consent of the CESL, assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or thereunder, except that the Implementing Partner shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

#### 44. Bankruptcy

If the Contractor shall become bankrupt or have a receiving order made against him or compound with his creditors, or being a corporation commence to be wound up, not being a voluntary winding up for the purpose only of amalgamation

/ reconstruction, or carry on its business under a receiver for the benefit of its creditors or any of them, the Owner will be at liberty :

to terminate the contract forthwith by notice in writing to the liquidator or receiver or to any person in whom the



contract may become vested & to act in the manner provided in GCC clause 42 entitled "Termination" as though the last mentioned notice has been the notice referred to in such clause and the equipment and materials have been taken out of the contractor's hands.

to give such liquidator, receiver or other person, the option of carrying out the contract subject to his providing a guarantee, for the due and faithful performance of the contract up to an amount to be determined by the Owner.

#### **45. Contractor Performance & Feedback and Evaluation System**

The Employer has in place an established 'Contractor Performance & Feedback System' against which the contractors performance during the execution of contract shall be evaluated on a continuous basis at regular intervals. In case the performance of the contractor is found unsatisfactory on any of the following four parameters, the contractor shall be considered ineligible for participating in future tenders for a period as may be decided by the Employer.

Financial Status

Project Execution & Project Management Capability

Engineering & QA Capability

Claims & Disputes.

#### **46. Fraud Prevention Policy**

The contractor along with their associate/collaborator/sub-contractors/sub-vendors/ consultants/service providers shall strictly adhere to the Fraud Prevention Policy of CESL displayed on its tender website [www.CESLindia.org](http://www.CESLindia.org)

The Contractor alongwith their associate/collaborator/sub-contractors/sub-vendors/ consultants/service providers shall observe the highest standard of ethics and shall not indulge or allow anybody else working in their organisation to indulge in fraudulent activities during execution of the contract. The contractor shall immediately apprise the Employer about any fraud or suspected fraud as soon as it comes to their notice.



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Serial No : 131B466

#### **Section 4: Technical & Special Conditions of Contract**

**NOTE: THE TERMS & CONDITIONS STIPULATED HEREIN (I.E., IN SECTION-4) WILL SUPERSEDE ANY CONTRADICTORY/SIMILAR/OVERLAPPING TERMS & CONDITIONS IN ANY OTHER SECTION/PART OF THE TENDER.**

#### **PART-A: General Information**

**Name of the Work:** "Selection of Bidder(s) for Location Survey, Planning, Design, Engineering, Supply, Installation, Testing, Commissioning and on-site warranty and 3-year comprehensive on-site warranty and AMC (extendable up to 10 years) for 80 nos. of CCS2 50/60 kW Electric Vehicle Chargers across multiple locations in India".

**NIT/Bid Document No.:** CESL/06/2022-23/EVCI/CCS2 Charger/222307005 dated 22.07.2022

#### **THE BIDS TO BE SUBMITTED AS FOLLOWS: -**

Please note that, CESL has switched the tender system into E-tendering. Bidders shall submit their bid accordingly as per the terms and conditions of E-tendering mode. However, some documents are required to be submitted both online as well as physical mode as specified below.

Envelope 1, 2 and 3 will appear online in dynamic form. No Manual/Hard Copy of documents need to be submitted for these envelopes apart from below mentioned documents.

#### **Envelope-1 should contain the following:**

- i. **Physical copy to be submitted before Closing Date & Time: Bidding Document Cost** in the form of Banker's Cheque/Demand Draft/Pay Order/NEFT/RTGS drawn in favour of "Convergence Energy Services Limited", payable at New Delhi, OR copy(ies) of the relevant documents/certificates, etc. in case exemption is sought.
- ii. Letter of the bidder submitting the bid in the form as stipulated in the bid document i.e., as per Bid Form as **Attachment-1**, Forms & Procedures.
- iii. Bid Security Fee/Earnest Money Deposit as **Attachment-2** by Banker's Cheque / Demand Draft /RTGS/NEFT /Insurance Surety Bonds drawn in favor of "Convergence Energy Services Limited" or in the form of Bank Guarantee as per prescribed format . **(To be submitted in hard copy/manually in the tender-box on and before Technical E-Bid Opening Date & Time).**
- iv. **Power of Attorney to Sign the Bid** as per the Attachment-3 - Bidders to use their own format.
- v. **Acceptance of CESL's Fraud Prevention Policy** as per the format at Attachment-7
- vi. **Scanned Copy to be Uploaded: Proforma of Letter of Undertaking** as per Attachment-8.
- vii. **NEFT/RTGS Mandate Form duly attested by Bank** as per Attachment-9
- viii. Self-Declaration for not been blacklisted by Central/State/UT Government or any Public sector entities duly signed and stamped at company's Letter Head. Bidder shall clearly mention tender reference number and date of signing the self-declaration.
- ix. Duly Filled **Compliance Matrix/ CHECK - LIST FOR BIDDERS** as per **Attachment-10**, Forms & Procedure
- x. Self-Declaration regarding "Restrictions on procurement from a Bidder of a country which shares a land border with India" as per **Attachment-11**, Forms & Procedure
- xi. Self-Declaration duly signed and stamped at company's Letter Head for not being under debar list/undergoing debarment period on account of breach of the code of integrity under Rule 175(1)(i)(h) of the General Financial rules for giving false declarations of local content. (Scanned Copy to be uploaded at E-tendering portal. Bidder shall clearly mention tender reference number and date of signing the self-declaration)



- xii. Certificate regarding Declaration of Local Content as per **Attachment-12**, Forms & Procedure
- xiii. Certificate Regarding Compliance of Meity Notification Vide File No. 1(10)/2017-Cles Dt. 02.07.18 as per **Attachment-13** Forms & procedures Duly filled Signed by authorized signatory.
- xiv. Self-Declaration regarding not being debarred / blacklisted from any GoI agency at the time of bid submission and/or until such time financial bid is opened or until such time LoAs are issued.
- xv. Undertaking on all counts to be provided by the Bidder, including requesting to disclose anything related that is under litigation of subjudice.

**Envelope-II, i.e., Techno-Commercial Proposal of the bid should contain the following:**

**Scanned Copy to be uploaded:**

- a. **Deviation Statement** (as per format at Attachment-5).

**NOTE:** CESL reserves the right to consider or disregard deviations, and reject bids in case of non-compliance. Bids containing material deviations from or reservations to the Terms & Conditions and specifications mentioned in the Tender will be treated as non-responsive & will not be considered further.

- b. Covering Letter of the bidder, enclosing Techno-commercial bid as indicated in bid documents, i.e., documentary evidences regarding bidder's eligibility and qualifications to perform the Contract, as required per the Eligibility Conditions/Criteria, Qualifying Requirements and Bid Evaluation Criteria, **AND** Details of Service Provider team structure.
- c. One complete set of the Tender document and of all its subsequent amendments (if any, effected)), duly signed and stamped on each page by the bidder.
- d. Copy of GST certificate and PAN Card

**Opening & Further Processing of the Bids**

Initially, Envelope-I containing the documents (as stated above) will be opened electronically. Envelope-II will be opened electronically on the same day of only those bidders, who have submitted/paid Tender Fee and EMD (if exemption is not claimed and applicable) and the requisite documents of Envelope-I.

Documents found in Envelope-II shall be scrutinized by CESL w.r.t. the Tender's Eligibility Conditions/Criteria for Bidders, Qualifying Requirements and Bid Evaluation Criteria.

*On Behalf of CESL*

*SCM Department*

\*\*\*\*\*



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## **PART-B: Scope of Work/Supplies and Qualifying Requirements**

### **1. INTRODUCTION**

- (i). Convergence Energy Services Limited (CESL) is a newly established subsidiary of Energy Efficiency Services Limited (EESL), under the administration of Ministry of Power, Government of India headquartered at New Delhi. CESL is focussed in delivering clean, affordable, and reliable energy solutions that enable a faster energy transition. CESL presently owns and operates one of the largest EV fleets of ~1500 cars across all major states /cities in India. CESL also owns and operates a large EV charger network of ~1000 chargers installed across India. To enable commercialisation of these solutions at scale, Convergence employs business models that utilize blend of concessional and commercial capital, Carbon finance and grants as appropriate.
- (ii). Government of India has taken key initiatives on propelling maximum adoption of Electric Vehicles by 2030. The goal of such initiatives is to provide an impetus for Indian vehicle manufacturers, charging infrastructure companies, fleet operators, service providers, etc. to gain efficiencies of scale and drive down costs, create local manufacturing facilities, grow technical competencies for the long-term growth of the electric vehicle (EV) industry in India and to enable Indian EV manufacturers to emerge as major global players.
- (iii). Under this Electric Mobility program, EESL through its subsidiary organization CESL is focusing on developing an ecosystem led approach to EV Charging infrastructure. CESL is leveraging its demand aggregation business model to drive down the EVCI costs, operationalize the stations and investing in long-term management to promote the EVCI in India. CESL is one of the first organizations in India to deploy Public Electric Vehicle Charging Stations (PCS) on an impactful scale.

### **2. PROJECT DESCRIPTION**

Presently EESL / CESL has completed installation of 427 exclusive Public EV Charging Stations (PCS) of which more than 219 Public EV Charging Stations (PCS) are commissioned and operational. Apart from this, EESL / CESL has over 590 Captive Charging Stations. As on date, EESL / CESL has cumulative installations of over 2,173 charging points. Further, CESL has plans to develop 3000 Electric Vehicle Charging Stations including Battery Swapping Stations in eight cities (Ahmedabad, Bengaluru, Chennai, Delhi, Kolkata, Mumbai, Pune, and Surat) on Build, Own and Operate (BOO) Model through partnerships. Also, CESL has plans to establish 810 EV Chargers across 16 identified highways and expressway corridors under the GOI's FAME India Scheme Phase – II of Ministry of Heavy Industries (MHI), Government of India.

Through this RfP, CESL intends to undertake *“Selection of Bidder(s) for Location Survey, Planning, Design, Engineering, Supply, Installation, Testing, Commissioning and on-site warranty and 3-year comprehensive on-site warranty and AMC (extendable up to 10 years) for 80 nos. of CCS2 50/60 kW Electric Vehicle Chargers across multiple locations in India”*

The subject requirement of EV chargers shall cater to both Captive and Public Charging Stations to be installed by CESL. The majority of the subject requirement of EV chargers shall be set up for captive usage of Government Ministries / Departments / Authorities / PSU's / etc across India, where CESL shall be supplying 4W Electric Vehicles on monthly lease model.



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### 3. DEFINITIONS AND INTERPRETATIONS

Definitions: In this document, the following terms shall have the meanings set forth below:

EV	Electric Vehicle – vehicles that run solely on energy from battery installed in the vehicle and do not have any internal combustion engine
EVCI	Electric Vehicle Charging Infrastructure
PCS	EV Public Charging Stations
Charge Point Operator (CPO)	An Agency who owns and manages the EV charging infrastructure
electric Mobility Service Providers (eMSP)	An Agency with which the EV-driver has a contract for all services related to EV charging
Network Service Providers (NSP)	Integrate charging operation with end-to-end EV charging solution, for a robust and interconnected network
Agency(ies)	Agency(ies) referred in this document shall refer to prospective Bidder

### 4. BILL OF QUANTITY (BOQ)

Charger	Charger Connectors*	Rated Voltage (V)	No. of Charging Points/No. of Connector guns (CG)	Quantity	Location
<b>CCS 2.0 50kW (60kW)</b>  [as per Technical Specifications, Scope of Work and Warranty mentioned in this RfP]	CCS2 2.0 (Min 50 kW)	200V-750V or higher. Maximum range upgradeable to 1000V without any additional cost to CESL	2/2 CG	80 nos.	Pan-India

**Additional Items (only if required and a Confirmatory Purchase Order shall be issued for these items, upon requirement of CESL or by its clients on behalf of CESL)**

Material	Quantity	Location
Comprehensive on-site extended warranty and AMC for a period of seven years (from 4 <sup>th</sup> year to 10 <sup>th</sup> year)	80 nos.	Pan-India
Supply, Transportation, Installation & Commissioning of CCS2 connector/gun	10 nos.	Pan-India
Supply, Transportation, Installation & Commissioning of Replacement of Display Screen on the Charger	10 nos.	Pan-India



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Supply, Transportation, Installation & Commissioning of Required Cable	1000 Meters	Pan-India
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## 5. SCOPE OF WORK & PROJECT EXECUTION

The brief scope of work essentially consists of following:

### a. **Overview:**

- Location Survey, Planning, Design, Engineering, Manufacturing, Testing, Inspection, Packing, Supply, Transportation, Insurance (till delivery at site), Delivery to Project Site (the delivery location would be as CESL's confirmatory purchase order / release order / indent), Loading & Unloading, Handling and Storage, Installation, Erection & Commissioning of the charging equipment along with 3-year Comprehensive on-site warranty and AMC (extendable up to 10 years).
- The scope of the Selected Bidder(s) would be deemed to include all such items which although are not specifically mentioned in the bid documents and/or in the Selected Bidder(s) proposal, but are needed to make the system complete in all respects for its safe, reliable, and trouble-free operation and the same should be furnished and erected

### b. **Location Survey:**

- The Selected Bidder(s) should depute its team within 7 days at the Project Site from the date of confirmatory purchase order / release order / indent for carrying out the location survey and assessment. This has to be done in consultation with CESL and/or its clients or authorized representative.
- The location survey and assessment should cover the physical, electrical, civil aspects of setting up the equipment at the Project Site, such as GPS coordinates, measurements, earthing requirement, civil work requirement, load availability, electrical cable requirement, routing, site layout preparation, photographs, etc.
- The location survey and assessment should be able to earmark the exact location where the EV charging station has to be installed and commissioned.
- The location survey and assessment report should also contain the list of material to be used for installation and commissioning of the EV charger at site, including component details, make, model number, quantity, specifications, etc.
- The location survey and assessment report should be submitted within 10 days from the date of confirmatory purchase order / release order / indent, duly signed by CESL and/or its authorized representative.
- The format of location survey and assessment would be approved by CESL after award of work.

### c. **Charger Design, Engineering, Manufacturing, Testing and Inspection:**

- Selected Bidder(s) shall be completely responsible for design, engineering, manufacturing, testing and inspection of EV chargers including the related infrastructure, as per the terms and conditions mentioned in the RfP.
- Selected Bidder(s) to provide size/dimensions of EV charger, foundation size, photograph of EV charger, drawing of charger, layout, etc. after award of work.

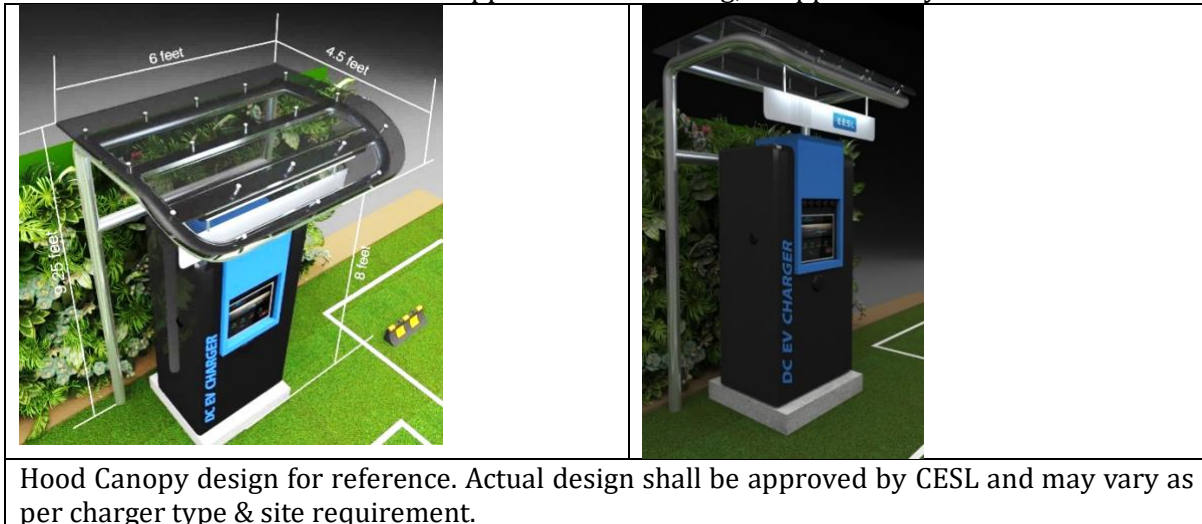
### d. **Civil Work:** The civil work associated with erection of charger is within the scope of the Selected Bidder(s). Civil work would include the following:

- Foundation for EV Charger of appropriate size, dimensions and quality, along with proper required paint to last 3 years.
- Hood canopy to protect EV charger from adverse weather conditions:
  - Hood Canopy structure on the top of the EV Charger with LED panel lights for illumination during evening hours. An auto day-light sensor-enabled or remotely through ON/OFF using GPRS has to be provided. LED panel lights should be 12V/24V

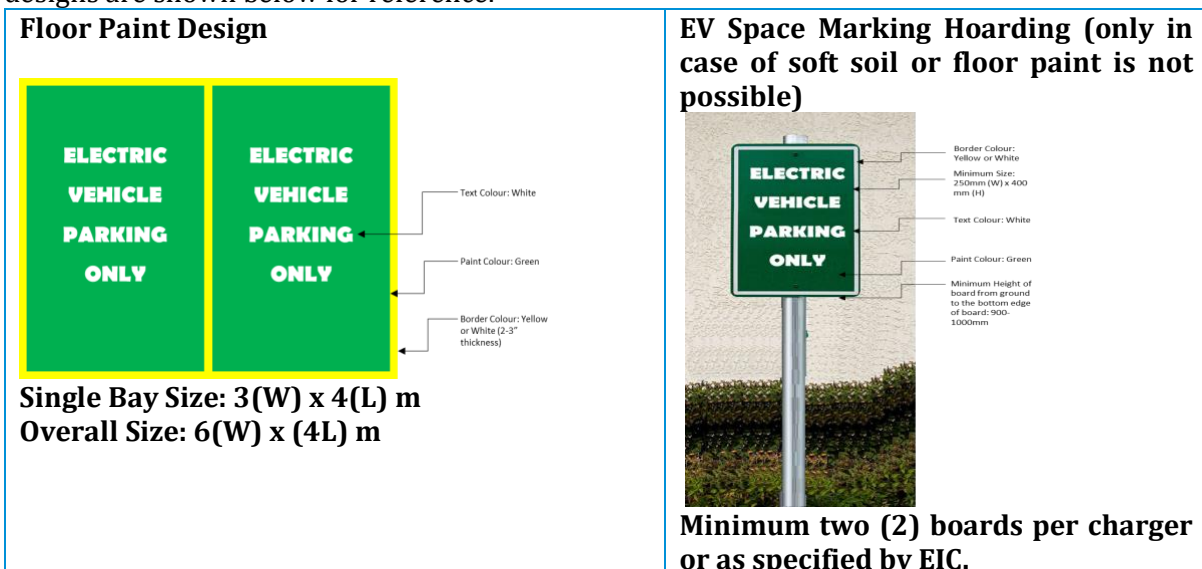


DC operated & will be powered from the EV charger.

- Hood canopy structure should be having three side walls (right, left and rear) of 8mm transparent polycarbonate sheet, a polycarbonate sheet on the top front side of hood structure.
- The hood canopy structure should be painted & rust free.
- Luminescent paint should be used to facilitate better visibility
- Proper wiring conduits or channels should be used to avoid the theft of electricity.
- Hood structure should be supplied with branding, as approved by CESL.



- Vehicle parking space marking for two (2) nos. of vehicles is in the scope of the Selected Bidder(s). The Selected Bidder(s) should paint the entire space of parking either with epoxy paint or rubber paint having life of minimum 3 years. In case of soft soil and floor paint is not possible, only then the Selected Bidder(s) should supply hoarding panel for marking the EV space. The Selected Bidder(s) should visit the sites during survey to ascertain the requirement of paint/hoarding board. The designs for vehicle space marking/hoarding design would be approved by CESL. The designs are shown below for reference.



- Bollards around each EV station to protect chargers from vehicle impacts, concrete/MS painted bollards as per site requirement should be used of appropriate thickness (at least 5 inches). Minimum four bollards should be used at the front/side/rear of charger.



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**e. Electrical Work:**

- Minimum 5 meters length of 4 core 35 sq mm armoured copper cable, suitable for 50kW EV charger. If the minimum length of cable is not consumed on site at each location, then the unused cable can be utilised in the other sites without any additional cost by CESL.
- Cable laying, proper routing keeping the aesthetic of the locations and safety, restoration, etc with necessary arrangements as per site requirements.
- Meter cum Distribution box to EV Charger
- Meter box with MCCB/MCB with necessary CTs, meter stand/wall & foundation works for meter box.
- Earthing:
  - Earthing must be per CEA guidelines/regulations (latest Amendments) and as per Indian Electricity Rule 1956 Section 61 and as per IS 3043 (1987) (Latest amendments), National Electricity Code – 1985 of BIS as per site requirement & nature.
  - The Selected Bidder(s) is bound to follow all regulations issued by state/central government.
  - 2 point or 2 terminal earthing has to be provided with separate earth pits for each charger.
  - After every 6 months, the earth resistance and neutral to earth voltage should be recorded by the Selected Bidder(s) with its own instruments and should submit the report to CESL.
  - The Selected Bidder(s) has to fulfil all requirements in this regard without any additional cost to CESL or its Client(s).
  - A record of every earth test made and the result thereof should be kept by the Selected Bidder(s) for a period of not less than two years after the day of testing and should be available to the Inspector or any officer appointed to assist the Inspector and authorised under sub-rule (2) of rule 4A when required Indian Electricity Rule.
  - A report should be submitted to CESL after every six months or whenever required by CESL.
- Electrical connection (including cable, lugs and other accessories with necessary civil work) from charger to designated meter cum distribution box (including single/multiple earthing's/earth pit construction as per above mentioned guidelines, rules and regulations), are in the scope of the Selected Bidder(s).
- Selected Bidder to use reputed brands/make of electrical cable, parts or components.

**f.** All the Tools and Plants, including Special T&P, testing and measuring instruments required for the implementation, operation and maintenance of the project is to be arranged by the Selected Bidder(s) and quoted price shall be inclusive of the same.

**g.** Storage for supplies, servicing warranty redemptions is in the scope of work of the Selected Bidder(s).

**h.** The Selected Bidder(s) shall ensure proper record of the material supplied. This shall also include the material serial number supplied.

**i. Project Management:**

- The Selected Bidder(s) shall plan and is required to carry out activities simultaneously across various States and at various locations, to achieve the completion period and implementation schedule.
- Selected Bidder(s) has to coordinate with CESL or its Client after confirmation by CESL for day-to-day activities related to supply, installation, commissioning, operation, & on-site warranty for the supplied EV chargers.
- Selected Bidder(s) has to maintain requisite number of field staff, before commencement of supply at field and adequate manpower at appropriate levels to coordinate with all agencies concerned and monitor supply, storage, accounting and warranty, as per the scope of work under the subject RfP, during the entire period of contract.
- This shall include complaint registration, attending complaints, fault/complaint management



activities and site management during repair and maintenance phase also.

- Selected Bidder(s) should intimate the details of NODAL Officer, within one week of issue of LOA, who would be the single point contact from their side for all communications (technical as well as contractual). CESL shall also intimate the details of Engineer-In-charge (EIC) who shall coordinate all the activities from the side of EESL.
- The NODAL officer would be responsible for interacting with CESL and all the other stakeholders such as system integrators, communication service providers etc. to ensure seamless implementation of the project.
- The Selected Bidder(s) to also provide name, address, mobile number, email addresses, designations of at least 1 senior nodal officer (regular employees of their organization), nominated by their top management (Director/MD/CEO), who are reachable through any means of modern communication and who shall be accountable to deliver the products and associated services to CESL as per the tender.
- The Selected Bidder(s) to also provide similar details of any one amongst the Chairman, MD, CEO, COO, Director and/or Owner.

**j. Reporting:** The Selected Bidder(s) shall submit Progress Report and Supply Completion Report, or as directed by CESL. Non-submission of Reports will be treated as breach of Contract and suitable actions may be taken against the Selected Bidder(s) in such a case.

**k. On-Site Warranty AMC:**

- The charging equipment should be with a comprehensive extended on-site warranty and AMC package of at least 3 years (extendable up to 10 years) from the date of commissioning of the charging equipment and design life of 10 years.
- The AMC package should cover technician visits, testing, diagnosis, fault identification, measurement, rectification, replacements of any or all component faults, component failures, replacement of SPDs, faulty/damaged components of charger, canopy hood, meter box, lock & key arrangements, MCBs, and all parts & equipment supplied by the Selected Bidder(s), at no additional cost to CESL.
- Selected Bidder(s) shall make proper arrangements for stocking up sufficient spares materials at their store during the contract period for ensuring that during downtime (excluding the period of non-availability of power supply) shall be rectified within a period mentioned in the SLA's. Selected Bidder(s) to ensure that material supplied by them should not be a constraint in fulfilling these conditions, failing which the Selected Bidder(s) shall be liable to be penalized.
- Provision for buffer stock of spare parts to be maintained for its replenishment, opening of a representative office during warranty period and mechanism to ensure warranty clause during the entire period of contract.
- The Selected Bidder should have a toll free number for reporting of faults in the EV charger.
- A complaint management system (web-based tool) to be utilized for complaint lodging, monitoring, action, attending and closure of complaints including warranty redemption requests. Bidder to provide login access to CESL project team for review of complaint handling process.
- Since supply, every Selected Bidder(s) must have dedicated officials to track the supply schedule along with resending the faulty material back to factory works of Selected Bidder(s). The cost of transportation of such material will be borne by the Selected Bidder(s).
- The Selected Bidder(s) to undertake routine and periodic maintenance and, preventive maintenance of the installed EV chargers.
- All the EV charger related complaints have to be attended by the Selected Bidder(s) and there shall be no additional payment for visit(s), part(s), replacement(s), etc. during the on-site warranty and AMC period.
- Annual Report to be filled and signed by the Selected Bidder(s) and CESL authorized representative or its client and submitted for release of annual due payment(s). Format of Annual Report shall be approved by CESL.

**i. Permits and Approvals:** All the necessary permits and approvals (except goods transport



vehicular movement), if any, required for successful commissioning of the EV charging station shall be in the scope of CESL. However, the Selected Bidder(s) shall provide full assistance and necessary documentation to CESL for obtaining the permits and approvals.

**m. Branding:**

- CESL shall provide broad guidelines for branding on EV chargers and canopy.
- The co-branding shall be done considering proper representation of CESL and the Land Owner / Client along with Selected Bidder(s).
- Procedure to use the EV charger, the list of compatible vehicle models, contact details of its customer care service, etc. should be displayed at the EV charging station.
- The branding shall be either screen printed or decal type.
- Any stickers or branding used should be reflective in nature.
- The life expectancy of the branding should be 10 years.
- The branding design may change for each Lot or each EV charger, depending upon the CESL's Client's requirement.
- The Selected Bidder(s) needs to take approval from CESL for the branding design before each Lot or each EV charger.

**n. Keeping the Site Clear and Neat:** The Selected Bidder(s) shall remove and dispose of all excess construction material, waste material, unused fill or other debris left over from evacuation or construction, and upon completion of work.

**o. Testing and Commissioning:** The Selected Bidder(s) shall post installation, test the chargers installed by compatible EV.

**p. Documents to be submitted along with supply:** The Selected Bidder(s) should provide the following documents (both hard copy and soft copy) to CESL and/or CESL's Client for reference:

- Manual / Guide: User Manuals, FAQ, OEM Functional Manuals and Installation Guides, Business Process Guides and Troubleshooting Guides
- Certificates: Equipment Warranty, Insurance, Test

**q. Risk Mitigation:** The Selected Bidder(s) are expected to work with CESL for immediately resolving the following risks (non-exhaustive indicative list):

- Poor equipment performance
- Project scope creep
- Unavailability of internal and external resources
- Rectification of equipment faults as per agreed SLAs

**r. Minimum Use of Plastic:** The Selected Bidder(s) have to ensure that plastic in any form is not used (or used where entirely where necessary) during the manufacturing, packaging and transportation of the equipment and installation and commissioning of the EV charger and related infrastructure.

**s. Materials to use and not to use:** Materials used throughout the manufacturing, installation and commissioning of the EV chargers should reflect the eco-friendly nature of Electric Vehicles i.e., (i) Avoid using concrete as much as possible as material; (ii) Natural materials like bamboo and wood should be used as much as possible.

**t. Greenery:** It is recommended to plant at least 2 saplings or 2 potted plants on either side of the EV charger.

**u. Carbon Credits:** Any revenue generated through carbon credits accrued from the implementation of EV chargers (with or without renewable source of energy), shall be



incentivised by CESL and such revenue generated shall be property of CESL only.

**v. Compliance with all Statutory Regulations:**

- The Selected Bidder(s) must ensure that no labour below 18 years of age limit shall be employed on the work and labour employed must be able-bodied person.
- The Selected Bidder(s) shall not pay less than fair wages to laborers engaged by it on the work.
- The Selected Bidder(s) is bound to adhere to Factory Act, Payment of Minimum Wages Act, as applicable during the term of the Contract.
- If the Selected Bidder(s) fails to pay according to the minimum wages, CESL shall be at the liberty to pay to the workers directly and deduct the amount from the running bills of the Selected Bidder(s).
- The Selected Bidder(s) shall be responsible for observing all acts and Rules under the latest Factory Act/Wages Act, Workman Compensation Act and amendment of these from time to time. Any breach shall be deemed to be breach of the LoA/Contract.
- Compliance of all the statutory requirements as may be required, w.r.t. the activities to be performed to execute the scope of work under the subject tender, including all requirements under Contract Labour Acts, safety of the workmen deployed, etc., shall be the sole responsibility of the Selected Bidder(s), including all the expenditure incurred for the same.
- This includes all the requirements w.r.t. the workmen under Sub-Contractor(s) also.
- The Selected Bidder(s) shall submit the documentation to CESL, on a monthly basis, as required under the applicable statutory requirements.

**w. Training:** Training/ Refresher course to Project/Operation Team/Staff for carrying out operations, addressing common issues related to operation & Trouble Shooting of EV chargers, on an annual basis, up to completion of Contract. Training manuals / FAQ / Troubleshooting documents or manuals to be prepared and submitted to CESL.

## 6. TECHNICAL SPECIFICATIONS

The desired functional and technical specifications of charging equipment (as per all Indian conditions which includes hilly, coastal, plane and dessert areas) have been mentioned in the subsequent sections of this document. However, the intent is not to specify and capture all the aspects of design and installation associated with charging equipment mentioned herein. It would be the obligation of Selected Bidder(s) that all the systems, sub-systems and equipment/devices should conform in all respect to high standards of engineering, design and workmanship, and should be capable of performing continuous commercial operation as per best industry standards.

This section prescribes the definition, requirements and specifications for high voltage electric vehicle (EV) charging stations in India, herein also referred to as Fast Charger, for conductive connection to the vehicle, with an AC input voltage of 3-phase, 415 V. It also specifies the requirements for digital communication between PCS Charger and electric vehicle for control of charging.

### 6.1. BRIEF

- a) Energy transfer mode: Conductive
- b) EVSE type: CCS 2.0
- c) **No. of outputs: CCS2 2.0: 2 Output (Both CCS2 Connectors)**
- d) Operation sequence should be as follows
  - i. When One EV is connected, the CCS2 charger connector/gun should be able to dispense full 100% output of minimum 50kW to EV.



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- ii. When both CCS2 charger connectors/guns are in parallel operation, the charger should be able to do auto load sequencing with equal load sharing between the two connectors i.e., minimum 25kW from each CCS2 gun to charge two connected EVs simultaneously.
  - iii. Parallel operation of both CCS2 connectors is a must.
  - iv. Above shifting of load should be automatic based on engagement of guns/connectors to EVs.
- e) Charger CCS 2.0 (Min 50kW) should be a Compact Pillar charger.

## 6.2. SYSTEM STRUCTURE

The System requirement parameters are derived from Table D1 of Annex DD of IEC 61851-23.

- a) Regulation: Regulated DC EV Charging station with combination of the modes: controlled voltage charging (CVC) and controlled current charging (CCC)
- b) Isolation: Isolated DC EV charging station, according to the type of insulation between input and output: a) Double insulation
- c) Environmental conditions: Outdoor use. EVSEs classified for outdoor use can be used for indoor use, provided ventilation requirements are satisfied.
- d) Power supply: AC mains to EVSE charging station
- e) DC output voltage rating: 200-750V or higher (CCS2). Maximum range upgradeable to 1000V without any additional cost to CESL.
- f) Charge control communication: Communicate by digital and analog signals
- g) Output Current: 200A DC
- h) Interface Inter-operability: Interoperable with any EV supporting CCS2

## 6.3. INPUT REQUIREMENTS

- a) Rating of the AC supply voltage
  - 1. The AC supply system should be 3-Phase, 5 Wire AC system (3Ph+N+E) Nominal Input Voltage is 415V (+15% and -15%). There should be provision in the charger to set the input voltage range to  $\pm 20\%$  of nominal input voltage.
  - 2. The Rated value of the frequency is 50 Hz  $\pm$  1.5Hz.
- b) Battery back-up: The Input supply system should have a battery backup for minimum 1 hour for control and billing unit. The battery should be of high quality, and should have a life of 10 years. The data logs should be synced with CMS during back-up time, in case battery drains out.

## 6.4. OUTPUT REQUIREMENTS

The CCS 2.0 chargers should allow charging of vehicle with power 50 kW, maximum up to 60kW.

- a) DC Output voltage: 200-750V or higher. Maximum range upgradeable to 1000V without any additional cost to CESL.
- b) Output current: 200A
- c) Converter Efficiency:  $> 95\%$  (10-100% load) for Input Voltage Range (415V  $\pm$  15%)
- d) Power factor:  $> 0.98$  (Full Load) for Input Voltage Range (415V  $\pm$  15%)
- e) Current & Voltage THD  $< 5\%$  for Input Voltage Range (415V  $\pm$  15%)
- f) The standby power of charger should be  $< 50W$ .
- g) The service life of coupler and breaking capacity of the coupler as defined in Section 9 of IEC 61851- 23.
- h) The charger must support temperature based de-rating during charging. Charger will not disconnect the load upon rise in temperature above operating temperature range, rather, first will be able to deliver derated capacity based on increased temperature and will stop charging only after pre-defined elevated temperature point.

## 6.5. CABLE REQUIREMENTS

- a) Functional characteristics: The maximum usable cord length will be 5000mm, straight cable, armoured type
- b) Cable Connection Type: Supply cable with EVSE should be as per Case C, defined in section 6.3.1 of IEC61851-1.



- c) Connector must be in accordance with IEC 62196-3 with a voltage range up to 1000V (DC). DC connector must have **silver-plated power contact with replaceable mating frame for replacement of only plastic frame** and have **two temperature sensors** for measurement of **temperature for both the power contacts (DC+ and DC-)**. Connector must fulfil IATF 16949 automotive standard and ISO 9001 must be tested by **ARAI as Indian atmospheric condition or at an ambient temperature of 50degC**.
- d) The charging gun must have a feature to sound a loud alarm in case of any tampering done on the charging cable and the gun must be tamper proof.
- e) Cord Extension Set: No extension cord to be used
- f) Adaptors: No adaptors to be used
- g) Storage means of the cable assembly and vehicle connector: EVSE should have storage for cable and connector when not in use, at a height between 0.4m to 1.5m above ground level, as per IEC 61851-23 Section 101.1.3

## 6.6. INTERNAL CABLES

The functional characteristics are defined below

- a) The cables should be of FR grade
- b) Copper conductor has to be used in power cables & control cables. Conductors should be stranded.

## 6.7. ENVIRONMENTAL REQUIREMENTS

- a) Ambient Temperature Range: **-20°C to 55°C** (Charger unit must be tested by ARAI/ICAT at specified temperature range for 8 hours at full load CC at 200A, 415V -15% Voltage)
- b) Ambient Humidity: 5% to 95%
- c) Ambient Pressure: 86 kpa to 106 kpa
- d) Storage Temperature: **-20°C to 60°C** (Charger unit must be tested by ARAI/ICAT at specified temperature range)

## 6.8. MECHANICAL REQUIREMENTS

- a) Ingress Protection: The minimum IP degrees for ingress of objects is IP 54 or higher
- b) Mechanical Impact: As per IEC 61851-1 Section 11.11.2.
- c) Display Impact: As per IEC 60068-2-75:2014.
- d) Mechanical Stability: As per section 11.11.2 of IEC 61851-1
- e) Cooling: Air cooled or forced cool for protection and safety of equipment from any fire hazards.
- f) Floor Mount Pillar Type arrangement for stand-alone CCS2 (50kW) charger.
- g) Locking Arrangement: Three-point key lock key arrangement or better arrangement **AND** pad lock arrangement with supply of pad-lock of minimum 8mm shackle thickness with minimum 2-key arrangement.

## 6.9. PROTECTION REQUIREMENTS

- a) Surge Protection Device Class C  
The Sub-panel must be protected with Type-1 SPD based device in accordance with IEC 61643-12 standards. SPD should be pluggable type (both L-N & N-PE) for ease of maintenance and have optics indication for fault detection along with remote monitoring feature. SPD should have surge handling capacity of (10/350us) – 100kA nominal. Device must have third-party certification of KEMA-KEUR and UL.
- b) Protection against Electric Shock: As per IEC 61851
- c) Effective earth continuity between the enclosure and the external protective circuit, as per IEC 61851
- d) The requirement of external lightning protection and surge protection are as per IS/IEC 62305 (Part 01 to 04), IEC 61643-12 standards and in CEA regulations.



## 6.10. SPECIFIC REQUIREMENTS

- a) EVSE should have provision of emergency switching, protection against uncontrolled reverse power flow from vehicle, Output current regulation in CCC, Output voltage regulation in CVC, Controlled delay of charging current in CCC, limited periodic and random deviation (current ripple) and limited periodic and random deviation (voltage ripple in CVC), as per Section 102.2 of IEC 61851-23.
- b) The specific requirements defined in Section 102.2 of IEC 61851-23 except for the functions provided with descriptions:
- c) Rated outputs and maximum output power: The clause from Section 101.2.1.1 of IEC 61851- 23 is applicable except for the ambient temperature range to be -20 °C to 55 °C for Indian climatic conditions.
- d) Descending rate of charging current: In case of normal condition, EVSE should be able to reduce the descending current at a rate of 100A per second or more as per Section 101.2.1.4 IEC 61851-23.
- e) Load dump: In any case of load dump, voltage overshoot should not exceed 110% of the maximum voltage limit of the battery systems, as per Annex BB 3.8.3 of IEC61851-23.
- f) EMI/EMC as per IEC 61000 for the complete unit.
- g) The charger should have inbuilt functionality to store the charger down-time logs for at least 6 months. These logs should clearly specify the nature of down-time i.e., either due to mains power failure, SPD failure or emergency condition, or etc. The charger should be capable to transmit the same data to the CMS.

## 6.11. FUNCTIONAL REQUIREMENTS

The functional requirements should be as per Section 6.4.3 of IEC 61851-1 and Section 6.4.3 of IEC 61851-23 except for the following functions, to be implemented as follows.

- a) Measuring current and voltage: The accuracy of output measurement of system B should be within the following values:
  1. Voltage measurement:  $\pm 0.2\% > 50V$ ,  $\pm 0.5\% < 50V$
  2. Current measurement:  $\pm 1 A$
- b) The charger should have the power limiting option, settable from display UI and CMS also. This option should have function to set the power ranging from minimum 25kW for individual gun to minimum 50kW and both guns.

## 6.12. COMMUNICATION REQUIREMENTS

### EV – EVSE Communication

The EV-EVSE communication would be as follows:

- PLC Communication (CCS2)

### EVSE – CMS Communication

The EVSE should be able to communicate with CMS using Open Charge Point Protocol (OCPP) 1.6 or higher versions compatible to OCCP 1.6 & should be upgradable to OCPP 2.0 or any future protocol.

- Communication interface: Inbuilt modem, Reliable Internet connectivity & communication between charger & CMS should be over secure protocol.
- Should enable handshaking between EVSE and CMS for its discovery, firmware version, vendor Version, vendor etc. It should authorize the operation, before electric vehicle can start or stop charging. EVSE should respond to CMS for the queried parameters. Reservation, cancellation addition and deletion of EVSE should be possible from CMS.
- Metering: Grid responsive metering as per unit consumption of the vehicle(s). The monthly/quarterly total units consumed by EV charger and DISCOM meter should be measured. In case of deviation, the Selected Bidder(s) would coordinate with the Central Monitoring System (CMS), DISCOM and CESL and the Selected Bidder(s) should resolve the mismatching issue.



- Should be upgradable to next higher version of OCPP by the Selected Bidder(s), whenever it is released.
- WebSocket implementation should be compatible with OCPP 1.6 or higher,
- The charger should be equipped with a modem (with minimum one (1) SIM slot) to communicate with the CMS
  - Reliable Internet Connectivity
  - The SIM would be in CESL's scope and inbuilt modem is in the Selected Bidder(s) scope.
  - 2G, 3G and 4G cellular network support
  - Auto fall-back operation 4G to 3G or 2G and vice versa
  - SIM Make Support: Airtel, Vodafone Idea, Jio, BSNL, etc.
  - SIM Support: m2m type
  - SIM Size: Standard
  - Antenna band: As per Indian Standards
  - Auto-Reboot via SMS and Timing
  - In case of poor connectivity, modem should be capable of rebooting itself so as to re-establish charger-CMS communication.
- Other Requirements:
  - PCB/PCA/Card/rectifier replacement notification to be transmitted to CMS through Status Notification packet.
  - All charger related events/faults with valid fault code should be transmitted to CMS through Status Notification packet.
  - Smart Profile function required
  - Length of alpha-numeric charger ID: 25
  - Charger should have the capability to transmit all the transactional messages to the server in case of power fail event or modem/controller failure
  - Charger should transmit all the error codes with description for all the faults that may occur during operation. In case of failure to start a charging session or a trip session, error code should tell the reason for the trip/stopped session. The reason should not be generic but self-explanatory so that necessary action can be taken to rectify the issue.
  - Charger should support proper diagnostic logging so that any error in the charger can be easily analysed using diagnostics logs.
  - Apart from the complete OCPP profile some additional features might be required for public operations like:
    - VIN transfer from charger to vehicle during charging session (where supported in the hardware protocol)
    - One time OTP support for offline operation (remote area support). Charger should support storing of list of OTPs with expiry date (similar packet as supported in OCPP 1.6J for SendlocalList profile) with the only exception that the charger should allow charging only once for one OTP.

**6.13. INTEGRATION WITH CMS PLATFORM**

The charger should be compatible with interfacing with CESL's CMS and 'User App'

- a) metering for Billing: Based on grid responsive metering
- b) Metering: As per Indian metering standard
- c) Billing & Metering system should be separate for each of the 2 connectors/guns

**6.14. USER INTERFACE AND DISPLAY REQUIREMENTS**

1	ON- OFF (Start-Stop) switches	Mandatory - only touch/switch is preferred. Key type lock is not allowed.
2	Emergency stop switch	Mushroom headed Push button type, latchable type in Red Colour, visible and should be protected by freely floating transparent acrylic sheet



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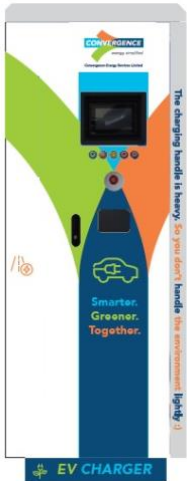
3	Visual Indicators	Error indication, Presence of input supply indication, State of charge process indication and other relevant information
4	Display	Minimum 7" inches with 720 x 480 pixels TFT LCD Screen, user interface with capacitive touch screen or keypad. The display screen should be clearly visible from a minimum distance of 10 meters in all climatic conditions. The Font should be visible from a minimum distance of 1 meter from the charger. Additional protective screen guard to be placed on the display. Toughened unbreakable glass to be used for display screen. Charger display should be able to display charging parameters of both the guns simultaneously.
5	Support Language	English (with provision for additional regional languages including Hindi and regional language).
6	Display Messages	EVSE should display appropriate messages for user during the various charging states like: Suggestive sequence of charger operation Vehicle plugged in / Vehicle plugged out Duration since start of charge, kWh consumed. User authorization status Idle / Charging in progress: SOC Fault conditions Metering Information: Consumption Units Standby losses: Consumption Units
7	User Authentication	As per OCPP (through mobile application). OCPP gives only a mandate field, media to be used is open. Authentication to be done. Charging starts only after user authentication is successful.
8	End of Charging	Once the charging stops, the connector should be released only after successful payment receipt / acknowledgement is received.

#### 6.15. MISCELLANEOUS REQUIREMENTS

1	Labels and Stickers	The labels and stickers should be UV and weather proof and should not be degraded with temperature. The life expectancy should be of 10 years.
2	AC Socket & 12/24VDC Terminal	3Pin 6A Indian Standard Socket inside the charge for maintenance and additional terminals for 12VDC/24VDC termination to power the display lights of shed having rating of 12V(24V)/20W
3	Modem	The modem should be kept inside the charger unit. The Selected Bidder(s) has to ensure the design to avoid signal losses inside the charger cabinet.
4	Smoke Sensor	In case of any fire/smoke condition, the controller should generate a fault and stop the charging and isolate the input power supply from the rest of charger. The Selected Bidder(s) has to make sure that the smoke sensor should not generate any false alarm due to external dust in case of weak IP protection of charger unit.
5	Meter Box cum Distribution box	The Selected Bidder(s) has to provide one all-terrain rust proof meter box cum power distribution box for housing energy meter and incomer MCB/MCCB/ with Display glass 5"x7" with inbuilt lock and key arrangement with additional provisioning of pad locking and one pad lock of minimum 6mm shackle

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		<p>thickness along with minimum 2 key arrangement. The meter box shall be of IP55 rating, duly power coated, GI or CRCA sheet 1.6mm minimum thickness.</p> <p>The meter box shall have the provision of fixing the unit with meter box stand</p> <p>The meter box shall have the provision of wall mount, pole mount and floor mount</p> <p>The size of meter may vary for the type of chargers.</p> <p>The Selected Bidder(s) has to ensure to provide necessary wall or stand type arrangement for meter box mounting.</p> <p>The Selected Bidder(s) has to fulfil above requirement as per local DISCOM or Client. The Selected Bidder(s) has to provide all necessary components e.g., CTs, mounting panels etc as per CEA guidelines/regulations.</p>
6	Anti-Theft Screws/bolts/nuts	The Selected Bidder(s) has to ensure anti-theft screws/bolts/nuts in the charger with anti-rust SS material
7	Labelling for Operational Charging Steps & Charger Branding	<p>The operational charging steps must have been listed on the charger on metallic plate in both English &amp; Hindi. The charger branding details should be approved by CESL after submission of charger drawings to CESL. Charger branding design for reference is given below. It is Selected Bidder(s) responsibility to get the final drawing approved from CESL before supply of charger.</p> 
8	Customer Care Toll Free Number Label & Specification Number label	It is mandatory to mention the customer care toll free number on the charger. It is also mandatory to mention the charger specification number on the charger (both inside & outside)
9	Fire Safety	Fire Safety as per CEA, Ministry of Power and applicable State guidelines/regulations (latest amendment).

## 6.16. SAFETY NORMS

All EV chargers should be manufactured with suitable protection and monitoring device(s) for safe and reliable operation of the EV chargers. All EV chargers must follow the following safety norms:

- a) Safety provisions for charging stations vide Schedule XVI of the CEA (Technical Standards for Connectivity of Distributed Generation Sources) Regulations, 2013



- b) Selected Bidder(s) shall keep the record(s) to an extent that the EV charger installation have been carried out and maintained in accordance with the safety norms as per the relevant CEA Regulation & manufacturer's installation and maintenance instructions.
- c) Use the armoured type cable from the EV charger to Electric Vehicle
- d) EV charger should be installed so that any socket-outlet of supply is at least 800 mm above the finished ground level.
- e) Protection against the overload of the charging supply and incoming supply fittings must be provided
- f) Shall be supplied from a sub-circuit protected by a voltage independent RCD providing personal protection that is compatible with a charging supply for an EV
- g) Shall be supplied from a dedicated final sub-circuit.

**6.17. DOCUMENTS REQUIRED**

The Selected Bidder(s) should submit the following documents post award of the work:

S. No.	Document Type	Remarks
1	Bill of Materials	As per Annexure B
2	Detailed Wiring Diagram	
3	Single Line Diagram	
4	Operational Flow Chart	
5	Site Earthing Diagram	
6	Technical Particulars of each type of chemical earth electrode along with Type test certificates	
7	Manufacturer test report for chemical earth electrodes along with Installation Manual; GA/GTP of each type chemical earthing electrodes offered	
8	Charger Dimensional Drawings	
9	Calibration Certificates	
10	Type Test, FAT, SAT Format Plan	To be approved by CESL
11	Trouble Shooting Procedure Guide	
12	Test Reports by Third Party /External Certification Lab	

**Annexure B: Bill of Material**

S. No.	Component Description/Detail	Make	Make /Model No.	Quantity	Make Indian or Imported (If Imported Specify the Country name)	Percentage cost of component w.r.t. to total cost of charger



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**7. QUALITY CONTROL AND INSPECTION BY CESL**

- i) The Selected Bidder(s) shall be wholly responsible for the quality and performance of the supplied charging equipment as per the tendered technical specifications.
- ii) Selected Bidder(s) has to compulsorily submit charger sample for charger to ARAI for conformance testing, as per CESL’s specifications. The cost of the testing shall be borne by the Selected Bidder(s). The Testing may be witnessed by the CESL officials.
- iii) CESL reserves the right to visit the manufacturing site or the supply chain for quality inspection at any time. CESL at its discretion may order the testing of random samples either at the implementation partner’s premises or at any other third-party laboratory at cost of the Selected Bidder(s).
- iv) After testing, if the charging equipment are found not matching the specifications at given test parameters, its discretion may order for cancellation of parital or complete order or cancellation of the complete lot of products. The complete loss shall be to the account of the Selected Bidder(s).
- v) The items will be supplied in proper packing (as per relevant IS, if any) to avoid any damage during transit, storage and delivery. The Selected Bidder(s) shall be responsible for transportation and insurance of the charging equipment, till their delivery at project site (locations shall be intimated along with Confirmatory Purchase Order / Release Order / Indent).

**I. Pre-Dispatch Inspection**

- a) All materials/equipment manufactured by the Selected Bidder(s) against the Letter of Award (LOA) shall be subject to inspection, check and/or test by the CESL or its authorized representative at all stages and place, before, during and after the manufacture.
- b) The Selected Bidder(s) shall maintain and provide statutory test certificates for each supplied batch, confirming compliance to the technical specifications and other tender/LOA requirements. The Test Certificate needs to be transmitted electronically to CESL at least 48 hours in advance of pre-dispatch inspection date. Only those batches meeting compliance shall be dispatched by the Selected Bidder(s).
- c) If upon delivery, the material / equipment does not meet the specifications, the material / equipment shall be rejected and returned to the Selected Bidder(s) for repairs / modification, etc. or for replacement. In such cases, all expenses including the to-and-fro freight, repacking charges, any other costs, etc. shall be to the account of the Selected Bidder(s).

**II. Tests**

The Selected Bidder(s) should comply with the following:

- a) The equipment should comply with Electromagnetic Compatibility EMC Directive 89/336/EEC or later or any other legislation regarding electric supply installations open to public access and use and all Global EVC laws.
- b) The equipment should carry the CE Mark in accordance with Direction 93/465/EEC
- c) There should be compliance with the provisions of all relevant Directives of the European Communities relating to work equipment, i.e., in regard to safety of personnel who operate and maintain the equipment.
- d) If a particular subject is not covered by one of the above standards, then a recognized national standard would apply.

Documentary proof must include the type test certificates, interoperability testing certificate at the time of bid submission brochures, catalogues etc. The Selected Bidder(s) must submit appropriate certifications at the time of bidding. In the case of non-availability of the required certifications at the time of bid. the bid shall be outrightly rejected and no self-certifications will be accepted.

S. No	Criteria	Parameter	Compliance Standards
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Signature :  
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1	Safety functions Verification	Earth Presence Detection (Socket - EVSE)	As per IEC 61851 and As per AIS 138 Part-1: 6.4.1.1
		Earth Continuity Check (EVSE-EV)	As per IEC 61851 and As per AIS 138 Part-1: 6.4.1.2
		Over Current and Short- Circuit Protection	As per IEC 61851 and As per AIS 138 Part-1: 6.4.1.5
		Leakage Current (RCD)	As per IEC 61851 and As per AIS 138 Part-1: 6.4.1.6
		Dielectric withstand voltage	As per IEC 61851 and As per AIS 138 Part-1: 11.6.1
2	Mechanical Stability	Mechanical impact	As per IEC 61851 and As per AIS 138 Part-1: 11.11.2.2
		Screen	As per IEC 60068-2-75:2014
		IP TESTING	As per IEC 61851 and As per AIS 138 Part-1: 11.11.2.4
3	Climatic environmental tests	Ambient air temperature	As per IEC 61851 and As per AIS 138 Part-1: 11.11.1.2
		Ambient humidity	As per IEC 61851 and As per AIS 138 Part-1: 11.11.1.4
4	EMC Verification	General Compliance	As per IEC 61000 and As per AIS 138 Part-1: 11.11.3.2
		Immunity to electrostatic Discharges	As per IEC 61000-4-2 and As per AIS 138 Part-1: 11.11.3.2
		Electrical Fast Transient/Burst Immunity Test	As per IEC 61000-4-4 and As per AIS 138 Part-1: 11.11.3.2
		Surge Immunity Test	As per IEC 61000-4-5 and As per AIS 138 Part-1: 11.11.3.2
		Limitation of voltage changes, voltage fluctuations and flicker in public low voltage supply system. Limitation for harmonic currents produced by equipment connected to public low voltage charging systems	As per IEC 61000

## 8. APPOINTMENT OF NODAL OFFICER BY SUCCESSFUL BIDDER:

For the purpose of this tender, within one week of issue of LOA, successful bidder needs to provide name, address, mobile no, email addresses, designations of at least 3 Senior Nodal Officers



(Regular Employees of their organization), nominated by their top management (Director/ MD/ CEO), who are reachable through any means of modern communication and who shall be accountable to deliver the products and associated services to CESL as per the tender.

Nodal Officer shall be the single point contact from their side for all communications (technical as well as contractual). CESL also shall intimate the details of Engineering In-charge (EIC) who shall coordinate all the activities from the side of CESL.

## **9. ELIGIBILITY & QUALIFYING REQUIREMENTS**

*The Bidding entity must be fully compliant with the following criteria as mentioned in annexure-II of this document.*

## **10. VALIDITY OF RFP**

The RfP shall be valid for a period of 180 days.

## **11. CONDITION UNDER WHICH RFP IS ISSUED**

The RfP is not an offer and is issued with no commitment. CESL reserves the right to withdraw RfP or vary any part thereof at any stage. CESL further reserves the right to disqualify any Bidder, should it be so necessary at any stage.

## **12. GENERAL CONDITIONS OF THE RFP**

Unless otherwise specifically stated in the RfP, all listed conditions constitute minimum requirements. All quotes must meet or exceed stated requirements. All pricing submitted in response to this RfP are open to negotiation by CESL.

## **13. DELIVERY PERIOD**

1. The Selected Bidder(s) will have to supply at Pan India basis at same cost, terms & conditions.
2. Delivery has to be done within 30days from the date of Confirmatory Purchase Order / Release Order / Indent issued by Engineer-In-Charge of CESL for each project location PAN India.
3. Overall quantity of the chargers has to be supplied and commissioned within 12 months from the date of LOA or extended period as decided by CESL.
4. There is no confirmed and committed quantity that shall be procured from CESL and supply shall be based on the actual demand received by CESL from its clients. CESL reserves the right to partially or fully close the contract at any time during the contract period.

## **PART-C: SPECIAL CONDITIONS OF CONTRACT**



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## 1. PAYMENT TERMS

### i) Terms:

- The Selected Bidder(s) needs to ensure delivery and acceptance, installation & commissioning of the complete lot of charging equipment, as per the Confirmatory Purchase Order / Release Order / Indent, before submitting the Tax Invoice. This includes supply, installation & commissioning of required charging equipment and acceptance from the concerned officer.
- The payments for different cost heads/components shall be released to the vendor as tabulated below, within 30 days of receipt of Selected Bidder(s) Tax Invoice at CESL office, with all requisite documents signed and stamped by CESL's EIC or authorized representative at designated delivery, installation & commissioning location/site. Each Invoice shall have the Tax, etc. registration document's photocopy annexed to it.
- Power to withhold: Notwithstanding anything contained in the payment scheduled mentioned below, if in the opinion of CESL, any work done or supply made or service rendered by the Selected Bidder(s) is deficient in any manner in comparison to the prescribed standards, EESL shall be at liberty to withhold a reasonable portion of the payments due to the Selected Bidder(s), till such work / supply / service is made conforming to the prescribed standards. These powers to withhold payments shall be without prejudice to any other power / right of CESL under this tender.
- All payment shall be made by CESL, no later than thirty (30) days after submission of original invoice and acceptance from CESL, in favor of the Selected Bidder(s).
- The release of payments shall be progressive and performance / output-based as per the given Payment Schedule, where the payments shall be made for measured deliverables and outputs on acceptance by CESL.
- The currency in which payment shall be made to the Selected Bidder(s) is Indian Rupees (INR). At the time of payment of bills, the income tax, if any, shall be deducted at source as per Government rules and guidelines as may be prevailing at the time of payment.

### ii) Payment Schedule:

Payment Milestone	Payment Terms	Conditions
Stage I	<p><u>Part A of Schedule 1</u>: 70% of the component A along with 100% of GST of the supply value, on pro-rata basis, on receipt of material at site.</p> <p><u>Part B of Schedule 1</u>: 85% of the component B along with 100% of GST of the supply value, on pro-rata basis, on receipt of material at site.</p>	Payment shall be released within 30 days after receipt of original invoice at CESL, with receipt of material at site, duly signed & stamped by CESL or its authorized representative.
Stage II	<p>Part A of Schedule 1: 15% of the component A on pro-rata basis after successful installation &amp; commissioning</p> <p><u>Part C of Schedule 1</u>: 85% of the component C along with</p>	Payment shall be released within 30 days after receipt of original invoice at CESL, with Installation & Commissioning Report(s), duly signed & stamped by CESL or its authorized representative.



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Payment Milestone	Payment Terms	Conditions
	100% of GST, on pro-rata basis after successful installation & commissioning.	
Stage III	<u>Part A, B &amp; C of Price Schedule 1:</u> Balance 15% of component A, B, C shall be released in 3 equal instalment i.e., 5% per year on annual basis at the end of each year over the next 3 years after installation and commissioning and satisfactory performance of charging equipment on pro-rata basis as per the awarded contract value.	Performance Report duly signed by CESL or its authorized representative to be submitted, on annual basis.
Stage IV	<u>Part A of Schedule 2:</u> Payment of component A of schedule (2) shall be on pro-rata basis over the period of comprehensive on-site warranty and AMC periods as applicable, in equal instalment on half yearly basis at the end of corresponding half year.	Performance Report duly signed by CESL or its authorized representative to be submitted, on annual basis.
Stage V	<u>Part B, C &amp; D of Schedule 2:</u> 100% of component B, C & D along with 100% GST on pro-rata basis after supply at site, installation, testing & commissioning.  Component B, C & D shall be construed as a rate contract item for the contract period of 10 years. Based on the actual site requirement these items shall be supplied by selected bidder.	Payment shall be released within 30 days after receipt of original invoice at EESL, with Installation & Commissioning Report(s), duly signed & stamped by CESL or its authorized representative.

The payment shall be processed upon receipt of all the documents mentioned:

- i. Acceptance of LOA and signing of Contract Agreement
- ii. Submission of Contract Performance Guarantee (CPG) equivalent to 3% of the Order Value to CESL, within twenty-eight (28) days of issue of LoA

Invoice in Original duly signed and stamped along with all the supporting documents as mentioned in the payment schedule.



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## 2. CONTRACT PERIOD

10 years from the date of issuance of LoA.

## 3. LIQUIDATED DAMAGES

- In case of delays in completion of deliverables as per LoA, liquidated damages shall be applicable at the rate of 0.5 % per week or part thereof of the delayed supplies, beyond the scheduled delivery, limited to maximum 5 % of LoA value for that particular corridor. However, LD will not be applicable for the period if delay is not on supplier's part.
- CESL reserves the right to encash bank guarantee or impose penalty or terminate contract or transfer some/entire quantity from one supplier to the other supplier or any other action as per CESL policy will be taken against the supplier to compensate the damages/delay, if the terms and conditions of the LoA, scope of work/supply, etc. Are not complied with.
- Penalty provision: CESL deserve the right to impose penalty on performance ground only if negligence is established from bidder's end. 0.5% of survey value against, limited to maximum 5% of the LoA value.

## 4. PRICE QUOTATION

The price shall be quoted as indicated in the Annex-A. Selected Bidder(s) should ensure supply should be possible in 30 days (with complete scope of work) of award of the project. Not meeting this criterion can result in blacklisting of the firm.

## 5. PRICE BASIS

The prices/rates should be inclusive of cost of finished product, including the following:

- a) Packaging and forwarding charges
- b) Freight and transit insurance charges covering transportation up to CESL's designated location
- c) Unloading, Installation & Commissioning of the EVSE at CESL's designated location
- d) Any other charges/cost/TA/DA is also included in the above contract price.
- e) All applicable duties and taxes except GST (IGST, CGST, SGST and UGST)
- f) Prices once quoted shall remain firm, and not be subject to any escalation, till completion/execution of the contractual assignments/work and till the contract's validity extension, if any.
- g) Bid price shall mean all-inclusive price quoted by Bidder for the complete scope of works.
- h) The cost indicated in the commercial bid shall be deemed as final and reflecting the total cost of supply and services.

## 6. TAXES AND DUTIES

Selected Bidder(s) should mandatorily register under GST act of the State where supply is to be made. The Bidder should ensure all the GST compliances are fulfilled for the GST collected from CESL and same should be reflected on GST portal (GSTR-2A) in credit of CESL. GST will be reimbursed on actual basis.

If there is increase or decrease in the taxes and duties after Selected Bidder(s) offer within the contract delivery schedule of supply due to change in rate or introduction of new tax or deletion of existing tax or interpretation/ application of tax etc., CESL will reimburse the actual tax.



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In case of failure to achieve completion as per contract delivery schedule of supply, CESL will not be liable to compensate for any increase in taxes and duties due to change in rate or introduction of new tax or interpretation/application of tax etc.

Whereas taxes at actual rate shall be paid in case of decrease in taxes and duties due to change in rate or deletion of existing tax or interpretation/application of tax etc., in the event of late delivery after the contract delivery period.

## 7. SERVICE LEVEL AGREEMENT (SLA)

- i. In case of delays in completion of work for the respective Confirmatory Purchase Order / Release Order / Indent, Liquidated Damages (LD) / Penalty shall be applicable.
- ii. However, LD / Penalty shall not be applicable for the period if delay is not attributable to the Selected Bidder(s) part. In other words, CESL reserves the right to impose LD / penalty on performance ground only if negligence is established against Selected Bidder(s).
- iii. CESL reserves the right to encash Contract Performance Guarantee (CPG) or impose penalty or terminate contract or close LoA or any other action, as per CESL policy may be taken against the Selected Bidder(s) to compensate the damage/delay, if the terms and conditions of the LoA, scope of work/supply, technical specifications, etc. are not complied with.

S. No.	Defined Parameter	Service Level Requirement	Validation Procedure	Penalty
1	Supply of charging equipment: Selected Bidder(s) must ensure that charging equipment Confirmatory Purchase Order / Release Order / Indent placed pursuant to issuance of LOA are supplied on site as per the scheduled date(s) set out in the order at the designated place, as agreed.	Within 30 days of issuance of Confirmatory Purchase Order / Release Order / Indent.	Delivery challan signed by representative of CESL or CESL's authorized representative / client.	0.5% penalty on pro rata basis on the supply value and its applicable GST ( <b>Price Schedule 1: Component A</b> ) of the delayed quantity, for every one week's late delivery or part thereof, subject to a maximum cap of 5% of the value of the Confirmatory Purchase Order / Release Order / Indent.
2	Installation and Commissioning of Charging equipment: Selected Bidder(s) must ensure that charging equipment Confirmatory Purchase Order / Release Order / Indent placed pursuant to issuance of LOA are supplied, installed &	Within 40 days of issuance of Confirmatory Purchase Order / Release Order / Indent.	Installation and Commissioning Report must be submitted to CESL after it is duly signed by the authorized representative from CESL and by Client / DISCOM / Local Land authority	0.5% penalty on pro rata basis on the supply value and its applicable GST ( <b>Price Schedule 1: Component, 2, 3 &amp; 4</b> ) of the delayed quantity, for every one week's late delivery or part thereof, subject to a maximum cap of 5% of the value of the Confirmatory

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	commissioned as per the scheduled date(s) set out in the order at the designated place, as agreed.			Purchase Order / Release Order / Indent.
3	Repair and Maintenance of Charging equipment: Non-functional or faulty or failed charging equipment's or components or systems to be replaced or repaired or rectified by the Selected Bidder(s) within defined duration.	The faulty charging equipment should be repaired and/or replaced within 8 hours of the complaint.	Acknowledgment by the charging station operator or CESL officer in writing.	<u>More than 12 hours:</u> Rs. 100 per EV charger per day
4	<b>Firmware support:</b> Charger manufacturer shall provide respective firmware in case of a malfunctioning or a feature request, at no extra cost to CESL.	5 days within receipt of charging equipment.	Date of written request by System Integrator	<u>More than 12 hours:</u> Rs. 100 per EV charger per day

Notwithstanding the above, in case of regular and repeated complaints against the Selected Bidder(s) and the Selected Bidder(s) failure in providing satisfactory after-sales replacement warranty and maintenance services, EESL reserves the right to forfeit the SD/CPG submitted against the LOA towards non-performance of the contract.

Alternatively, CESL reserves the right to purchase the material and have it installed & commissioned from elsewhere at the sole risk and cost of the defaulting Selected Bidder(s) and to recover all such extra costs incurred by CESL in procuring the material from resources available including EMD/Bid Security/encashment of Bank Guarantee or any other sources, etc. Further, if any extra cost is incurred by CESL due to delay in work completion by the Selected Bidder(s) beyond the completion time as per PO, the same shall also be recovered from Selected Bidder(s) invoice/EMD/BGs, etc.

The performance of the Selected Bidder(s) will be continuously assessed throughout the tenure and if it is perceived that the Selected Bidder(s) might not be able to meet the project timelines based on pro-rata performance and/or its performance is not up to the mark, CESL may cancel the order completely or partly, without prejudice to its right, at the sole risk and cost of the Selected Bidder(s).

Alternatively, CESL may cancel the order completely or partly without prejudice to its right under the alternatives mentioned above.

CESL also reserves the right to disqualify the Selected Bidder(s) from participating in the subsequent tenders, based on the performance rating assessed by CESL.



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## 8. SUB-CONTRACTING

The Selected Bidder(s) shall not unreasonably withhold, assign or sub-contract the contract or any substantial part thereof, without the written consent of CESL. Such sub-contracting shall not in any way be interpreted as releasing the contract or from its liability & obligations under the contract.

## 9. TRANSPORTATION, STORAGE, DEMURRAGE/WHARFAGE, ETC.

The Selected Bidder(s) are required to transport the Goods to place of destination defined as Site and storage of the material till the same are installed at designated locations. Transport to such place of destination in India including Insurance, as specified in the Contract, shall be arranged by the Selected Bidder(s), and the related cost should be included in the Price Schedule. The Selected Bidder(s) has to arrange necessary approvals from local area respective authorities to get the permission of vehicle movements.

## 10. BID SECURITY/EARNEST MONEY DEPOSIT (EMD)

Amount of Bid Security: **As mentioned in Bid Sheet.**

The Bidder should furnish, as part of its bid, a bid security in a separate envelope. The bid security should, at the Bidder(s) option, be in the form of a Banker's cheque, Demand Draft, Insurance Surety Bonds, NEFT/RTGS in favour of "Convergence Energy Services Limited" or a bank guarantee as per format at Attachment-1 of Section-6. Bid security/EMD should remain valid for a period of 45 days beyond the original bid validity period of 180 days, i.e., 225 days from date of techno-commercial bid opening. If there is any extension in bid validity period, then CESL shall ask the Bidder to extend the validity of bid security.

The details of EMD instrument must be submitted in relevant field/column of online module. Tenders without Earnest Money Deposit is liable to be rejected. It should be ensured by the vendor that the original DD/ BG is received by CESL before opening time of techno-commercial bids for verification of the details of DD/BG given online by the vendors.

The tender submission, tender closing and opening will be done electronically and online. CESL will not be responsible for any delay, loss or non-receipt of Tender Document Cost sent by post/courier. The instrument should reach in original to CESL office before the Bid Opening date. Bids not accompanied with the requisite tender document cost may not be opened.

The bid securities of unsuccessful Bidders will be returned as promptly as possible after the award is made to lowest evaluated technically acceptable Bidder.

The bid security of the Selected Bidder(s) will be returned when the Bidder has signed the contract agreement and has furnished the required performance security.

The bid security may be forfeited if:

- a. If the Bidder withdraws its bid during the period of bid validity as specified in the bid.
- b. If the Bidder does not accept computational/arithmetical error correction made by CESL and as explained in "Financial Evaluation" section of the Bid/ RfP document.
- c. If the Bidder does not accept assumptions, estimations etc. used for evaluation of bids as specified by CESL in tender documents and revision of his bid accordingly in case other assumptions are used. If the Bidder does not accept the sharing as specified in the bid.
- d. If the Bidder refuses to withdraw, without any cost to the CESL, any deviation not listed in Attachment-5 but found elsewhere in the bid; or
- e. In the case of Selected Bidder(s), if the Bidder fails to sign the contract agreement within 28 days of placement of LoI/Award letter and to furnish the required contract performance guarantee, in accordance with the tender document.



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## 11. RESTRICTIONS ON PROCUREMENT FROM A BIDDER OF A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA

Order No: F. No 6/18/2019-PPD dated: 23-July-2020 from Department of Expenditure, Ministry of Finance, mentions that any Bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the Bidder is registered with the Competent Authority as specified in the order.

“Bidder from a country which shares a land border with India” for the purpose of the order means-

- a) An entity incorporated, established, or registered in such a country; or
- b) A subsidiary of an entity incorporated, established, or registered in such a country; or
- c) An entity substantially controlled through entities incorporated, established, or registered in such a country; or
- d) An entity whose beneficial owner is situated in such a country; or
- e) An Indian (or other) agent of such an entity; or
- f) A natural person who is a citizen of such a country; or
- g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

**The above-mentioned order would be applicable to this tender. The Bidder should carefully go through the above-mentioned order and ensure its eligibility in accordance with the same. Bidder should refer to above mentioned order for clarification over definitions and clauses as applicable.**

The Bidder should submit a Self-Declaration regarding “Restrictions on procurement from a Bidder of a country which shares a land border with India” as per **Attachment-11** of Section-6, Forms & Procedure.

## 12. DECLARATION OF LOCAL CONTENT

As per order No: P-45021/2/2017-PP (BE-II) dated: 16-Sept-2020 of Department of Promotion of Industry and Internal Trade-

*NON-LOCAL SUPPLIERS ARE NOT ELIGIBLE TO BID IN THIS TENDER*

**Note: Bidder should carefully go through the above-mentioned order to understand the whole process and definition of various terms (e.g., Class-I Local supplier, Local content etc) pertaining to the said order which have also been used in this tender document. The defining percentage of Local**

Bidder should submit a certificate stating the minimum percentage of local content as per the format given in **Attachment-12 of Section-6 of Tender Document**. The certificate should be from the statutory auditor or cost auditor of the company (in case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content. It is mandatory to mention UDIN No in the certificate.



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**NOTE: False declarations will be in breach of the code of integrity under Rule 175(1)(i)(h) of the General Financial rules for which a Bidder or its successors can be debarred for up to 2 years as per Rule 151(iii) of the General Financial rules along with such other actions as may be permissible under law.**

### 13. COMPLIANCE TO CESL'S EHSS POLICY

The Selected Bidder(s) should necessarily comply with CESL's EHSS (Environmental, Occupational Health & Social) policy as applicable to this tender and any further modification(s)/addition(s) to EHSS policy. The existing policy may be referred at <https://eeslindia.org/eesl-policies.html>

### 14. EVALUATION CRITERIA

- a) Tender will be evaluated L1 basis. The Bidder with the Lowest Cost will be termed as L1 bidder.
- b) CESL may split the total order quantity amongst more than one Bidder.
- c) The allocation of quantity among Bidders in case of order to be split other than L-1 (who matches the L-1 price) shall be based on the price bid hierarchy, i.e. L2 & L3 subject to matching the L-1 price for complete scope of work.
- d) The award to L2, L3 shall be subject to their acceptance of L1 rates with all other terms and conditions as per tender.
- e) In case of Distribution between:

In case of Distribution between	Ratio in percentage
Two Parties (L1 : L2)	60% : 40%
Three Parties (L1 : L2 : L3)	50% : 30% : 20%

- f) Further, in case a party is not able to supply quantity allocated to them as per scheduled timelines, CESL reserves the right to shift the part/full quantity to other bidder who has matched the price on the risk and cost of such non-performing bidder. In case of single vendor situation, award may be given for the 60% quantity after establishing rate reasonability by CESL. However, CESL reserves the right to award more quantity award more quantity in proportion to the experience & qualification requirement (ATO), after obtaining consent from the bidder.

In the event of tie in prices between two or more Bidder(s), the Bidder with higher turnover will be given preference in ranking and award.

### 15. ACTION BY CESL IF L1 BACKS OUT

After opening of price bid, if L1 Bidder backs out, the Bidder will be put on holiday list of CESL for a period of one year from the date of backing out. During this tenure, the Bidder will be barred from participation in CESL tendering process. However, Bidder must continue the unexecuted work of the other prevailing work if any under the current running contracts. Simultaneously, the EMD submitted by such Bidder against the subject tender will be forfeited. If Bidder is exempted from submission of EMD, then the EMD amount will be adjusted from the payments due to the Bidder against other running contracts. If there is no running contract of the Bidder/ no payment dues of the Bidder, then CESL reserves the right to take any legal remedy as deemed fit to recover the penalty equivalent to EMD amount through legal means.



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16. The Bidder would be deemed to have examined the bid document, to have obtained his own information in all matters whatsoever that might affect carrying out the works in line with the technical specifications and scope of work specified in the document at the offered rates and to have satisfied itself to the sufficiency of his bid. The Bidder would be deemed to know the scope, nature and magnitude of the work and requirement of materials, equipment, tools and labour involved, wage structures and as to what all works, he must complete in accordance with the bid documents irrespective of any defects, omissions or errors that may be found in the bid documents.
17. CESL reserves the right for quantity variation up to +/-20%. Further, CESL reserves the right to place a repeat order (max up to 50%) in case of urgency for part quantity in the letter of award for similar work on same prices, terms, and conditions.
18. CESL reserves the right to accept or reject any quotation in full or in part without assigning any reason thereof. CESL also reserves the right to split and place order on more than one Bidder.
19. The Bidder should not have been blacklisted by central/ state government or public sector undertakings. if at any stage of tendering process or during the currency of the contract, any suppression / falsification of such information is brought to the knowledge, CESL shall have the right to reject the proposal or terminate the contract without any compensation to the tenderer & forfeiture of bid security/EMD/CPG.

## 20. SIGNING THE CONTRACT AGREEMENT

The Selected Bidder(s) should submit Contract Agreement on a Rs. 100/- denomination stamp paper (two original copies) within 28 days from the date of issuance of LOA, to SCM Dept., CESL for execution. The date of purchase of stamp paper should be after the date of issuance of LoA. The purpose on stamp paper should be written as Contract Agreement.

## 21. ADJUDICATOR

Adjudicator under the Contract Agreement would be appointed by the Appointing Authority i.e., MD/CEO (CESL). If the Bidder does not accept the Adjudicator proposed by CESL, it should so state in its bid form and make a counter proposal of an adjudicator. If on the day the Contract Agreement is signed, CESL and Bidder have not agreed on the appointment of adjudicator, the adjudicator would be appointed, at the request of either party, by the appointing authority specified.

## 22. ARBITRATION

Arbitration would be carried out as per Arbitration Act 1996 and its subsequent amendment. The Contract would be governed by and interpreted in accordance with the laws in force in India. The courts of Delhi would have exclusive jurisdiction in all matters arising under the contract.

## 23. CONTRACT PERFORMANCE GUARANTEE

Within twenty-eight (28) days of the receipt of notification of award (P.O./L.O.A.) from CESL, the Bidder should furnish the Contract Performance Guarantee(s) only in the form of Bank Guarantee/DD/Pay Order/Insurance Surety Bonds of 3% of Total Contract Value.



Signature :-  
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ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

The CPG should be valid for a period of 10 years + 3 months claim period.

The Performance Security(ies) should be denominated in INR.

Any delay in submission of CPG's would be deemed as accruing of financial benefit to the Bidder and CESL may take necessary interest penalty recovery action (interest @ SBI's MCLR + 2 %) from the payments due to Bidder for the period of delay. However, this provision does not bind CESL in any way from proceeding against the Bidder (including forfeiture of EMD, cancellation of the empanelment/LOA, etc.) for non-compliance towards non-submission of the CPG's.

In case Selected Bidder(s) provides CPG for shorter duration, it shall be for a minimum period of 3.5 years and CESL reserves the right to invoke CPG in case extended CPG/fresh CPG is not furnished at least 90 days prior to expiry of original CPG. In this regard, further an undertaking has to be submitted by the Selected Bidder(s) that if the Selected Bidder fails to provide second BG, then CESL has right to impose penalty and forfeit the CPG.

No interest on CPG's will be payable to the Selected Bidder(s). Under no circumstance, exemption from CPG is permitted.

Bank guarantee(ies) should be from any Nationalized Banks/other scheduled private banks as per list given in Section 6. CESL shall at his discretion have recourse to the said Bank Guarantee for the recovery of any or all amount due from the Bidder in connection with the contract including of guaranteed obligations.

Failure of the Selected Bidder(s) to comply with the requirements of RfP would constitute sufficient grounds for the annulment of the award and forfeiture of the Contract Performance Guarantee.

The Bank Guarantee would be effective only when BG issuance message is transmitted by the issuing bank through SFMS to ICICI bank include unique identifier CESL578807920 in field 7037 of the SFMS cover message with IFSC code ICIC0000007.

<b>BG Advancing message -IFN 760COV / IFN 767 COV via SFMS</b>	
Field Number	Particulars (To be mentioned in Row -1)
7037	CESL578807920

CESL encourages Bidder to submit the CPG in the form of DD to avoid any delay in confirmation process of banks.

.....



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## PRE-BID CONFERENCE

**(No registration/fee deposition/separate invitation, etc. is required for the interested firms for attending the Pre-bid meeting)**

The official representative of the bidder may attend the Pre-bid Conference as mentioned in Summary Sheet, which shall take place through WebEx.

***(Bidders are requested to send their queries before the schedule date of Pre-bid meeting only in the prescribed format as given below on email id provided in Section-1 of tender document:***

<b>Name of Tender</b>				
<b>Tender No.</b>				
<b>Tender ID (in case of e-tender)</b>				
<b>Bid Opening Date</b>				
<b>Bidder's Name</b>				
<b>Contact person from Bidder with address, mail and Contact No.</b>				
Sr.No.	Section No.	Description as Per RfP	Queries/ Clarification of the bidder	Remarks
	Page No.			
	Para No/Clause No.			
1.	Section No.			
	Page No.			
	Para No/Clause No.			
2.	Section No.			
	Page No.			
	Para No/Clause No.			

- The purpose of the meeting shall be to clarify any issues regarding the bid process.
- Record notes of the meeting including the text of the questions raised and responses given shall be transmitted to all the bidders who were present at the meeting. Based on that, amendment can be issued in the tender documents.
- The clarifications that could not be furnished during pre-bid conference shall be separately communicated to all the bidders.
- Non-attendance at the pre-bid meeting shall not be a cause for rejection of a Bidder(s).
- Based on the discussion in pre-bid meeting, CESL reserves the right for modification/change in tender



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## ANNEXURE-II

1. This RFP is open **only** to the manufacturers of EV chargers.
2. The Bidders participating in the RFP should be registered in India.
3. Consortiums/JVs are not allowed to participate.

### Eligibility & Qualifying Requirements

S. No.	Parameter	Supporting Documents Required	Documents attached (Yes/No)	Enclosure number
1)	<p>Bidder should be a Single Entity means a limited company (as defined in the Companies Act, 1956 or further amendments thereof)</p> <p>OR</p> <p>A limited liability partnership (under the Limited Liability Partnership Act, 2002 or further amendments thereof)</p> <p>If the Bidding Entity(ies) is applying as a start-up, they should submit valid DIPP certification.</p>	<p>Copy of certificate of incorporation/Memorandum of Association/Article of Association</p> <p>OR</p> <p>LLP registration certificate issued by Registrar of Companies</p> <p>DIPP certification, if applicable</p>		
2)	<p>Bidder should be a manufacturer of <b>EV chargers</b> for at least 3 years (as on the date of publication of the tender).</p> <p>For start-ups, it should be in existence from last financial year i.e., FY 2021-22.</p>	<p>The Bidder should submit an Excise Registration Documents/ GST to support that they are Manufacturers of <b>EV chargers</b> and valid factory license under Indian Factories Act, 1948 or any amendment thereof.</p> <p>Or</p> <p>MSME registration certificate (issued as Manufacturer) with supporting document for being a manufacturer of <b>EV chargers</b>.</p>		
3)	<p>Bidder should have successfully supplied at least <b>24 CCS2 EV Chargers of 50KW or above</b> in the last 3 years in any Government Dept./ PSU/ ULB/ DISCOMS/ Private Limited Companies (as on the date of publication of the tender).</p>	<p>Documentary evidence shall be furnished along with the bid. Documentary evidence should be submitted in the form of copies of relevant purchase orders along with copies of any document in respect of satisfactory execution of each of those purchase orders such as i) Satisfactory inspection report (OR) ii) Satisfactory supply completion (OR) iii) consignee received delivery</p>		

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S. No.	Parameter	Supporting Documents Required	Documents attached (Yes/No)	Enclosure number
		<p>challan (OR) (iv) any other documentary evidences that can substantiate the satisfactory execution of each of the purchase order submitted.</p> <p><b><i>Work orders along with its evidence for successful completion shall be from any Government Dept./ PSU/ ULB/ DISCOMS which will only will be considered for evaluation.</i></b></p> <p>In addition to above, in case of private limited companies copy of e-way bill/ challan/ GST return may be sought for the proof of evidence</p>		
4)	<p>The Bidding Entity(ies) should have an average Annual Turnover (ATO) of INR <b>5,24,70,000</b> in last three financial years i.e., FY 2019-20, FY 2020-21 &amp; FY 2021-22.</p> <p>In case Audited Financial statement of FY 2021-22 is not available, then Bidding Agency(ies) may alternatively provide Audited Financial statement of FY 2018-19, FY-2019-20, FY-2020-21. In this case, Avg. ATO for the Financial year FY 2018-19, FY-2019-20, FY-2020-21 shall be considered.</p>	<p>Duly authorized copy of audited financials for preceding last three Financial Year is to be submitted by bidder.</p> <p>ATO means revenue from operations.</p>		
5)	<p>The net worth of the Bidder in immediate last financial year i.e., FY 2021-22 should not be less than 100% of paid-up share capital.</p> <p>In case Audited Financial statement of FY 2021-22 is not available then Bidder may alternatively provide Audited Financial statement of FY 2018-19, FY-2019-20, FY-2020-21. In this case, financial year FY-2020-21 shall be considered.</p>	<p>Duly authorized copy of audited financials for preceding last three Financial Year is to be submitted by Bidder.</p>		
6)	Type Test Reports of minimum 50kW CCS2 Electric Vehicle Chargers	The Bidder(s) must compulsorily submit type test reports from the		



S. No.	Parameter	Supporting Documents Required	Documents attached (Yes/No)	Enclosure number
		recognized certification agencies such as ARAI or ICAT or equivalent certification agencies in India, at the time of bidding.		

**\*\* Consortium is not allowed in the tender.**

CESL reserves the right not to seek any deficient document/clarifications from the Bidders after opening of techno-commercial bid, if any bid is found to be in non-conformance to the tender conditions or deviating from the tenders, CESL reserves the right to reject such bid outrightly without seeking any clarification. Bidder to take cognizance of the same and submit their bid accordingly.

CESL reserve the right to use the in-house available data, if required, to evaluate the tender including the data/documents submitted by the vendor in their previous tender(s). However, this should not be understood that relevant documents /certificates or any other requirement as required in the instant RFP is not to be provided by any vendor participating in the tender who has earlier participated in any of the earlier tenders by CESL.

**In case of holding company, the holding subsidiary relationship should be in existence for at least one year as on the date of submission of bids.**

“In case Bidder(s) is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the Bidder can be considered acceptable provided the Bidder furnishes the following further documents on substantiation of its qualification:

- (a) Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of the Holding Company with a letter of undertaking from holding company supported by Board pledging unconditional and financial support. Irrevocable in the format enclosed in Attachemnt-9 of Section-6, Forms & Procedures.
- (b) A Certificate from the CEO/CFO of the Holding Company, stating that the unaudited unconsolidated financial statements form part of the Consolidated Annual Report of the Company.
- (c) In case a Bidder does not satisfy the financial criteria, the holding company would be required to meet the stipulated turn over requirements, provided that the net worth of such holding company as on the last day of the preceding financial year is at least equal to or more than the paid-up share capital of the holding company. In such an event, the Bidder would be required to furnish along with its bid, a letter of Undertaking from the holding company, supported by the Board Resolution, as per the format enclosed in the bid documents (Attachemnt-9 of Section-6, Forms & Procedures), pledging unconditional and irrevocable financial support for the execution of the Contract by the Bidders in case of award.
- (d) In case the Bidder meets the requirement of Net worth based on the strength of its Subsidiary(ies) and/or Holding Company and/or Subsidiaries of its Holding Companies wherever applicable, the Net worth of the Bidder and its Subsidiary(ies) and/or Holding Company and/or Subsidiary(ies) of the Holding Company, in combined manner should not be less than 100% of their total paid up share capital. However individually, their Net worth should not be less than 75% of their respective paid-up share capitals.”



# Whereas start-up means an entity, incorporated, or registered in India:

- i Not prior to ten years,
- ii With annual turnover not exceeding INR 100 crore in any preceding financial year, and
- iii Working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation
- iv Provided that such entity is not formed by splitting up, or reconstruction, of a business already in existence. Provided also that an entity shall cease to be a Start-up if its turnover for the previous financial years has exceeded INR 100 crore or it has completed 10 years from the date of incorporation/ registration.

Note: For Start-up firms, Gazette Notifications dated: 17-Feb-2016, G.S.R. 180 (E), and subsequently issued notifications will be considered.

**IMPORTANT NOTE:**

**The benefits to MSEs as mentioned in Section 2, shall be available only for Goods/Services produced & provided by MSEs.**

**Bidder shall carefully go through the revised criteria for classification of MSEs as per Gazette ID Number CG-DL-E-01062020-219680 dated: 01-06-2020 and notifications/orders issued by Ministry of MSME from time to time.**

As per answer to FAQ no. 18 circulated vide Office Memorandum F. No. 22(1)/2012-MA dated 24.10.2016 "Policy is meant for procurement of goods produced and services rendered by MSEs. However, traders are excluded from the purview of Public Procurement Policy."

MSEs seeking exemption and benefits should enclose an attested/self-certified copy of registration certificate as a part of their bid in Envelope-I, giving details such as stores/services, validity (if applicable) etc. failing which they run the risk of their bid being passed over as ineligible for the benefits applicable to MSEs.

Bidder may refer to Notes Point (c) and (g) at Page 16 of Section-2 and shall carefully go through all the guidelines mentioned in Section-2 and ensure fulfilment of all the requirements for seeking exemptions and benefits applicable to MSEs.

**Note:** In case of submission of Udyog Aadhar Memorandum/Udyam Registration to claim benefits applicable to MSEs and/or Start-Ups, NIC (National Industrial Classification) code mentioned in below table shall be acceptable as a proof of the fact that the Bidder is registered as MSE and/or Start-Up for the 'Tendered Item'.

S. No.	5 Digit NIC Code	Description
1	27104	Manufacture of electricity distribution and control apparatus
2	27201	Manufacture of primary cells and primary batteries and rechargeable batteries, cells containing manganese oxide, mercuric oxide silver oxide or other material
3	27900	Manufacture of other electrical equipment
4	28299	Manufacture of other special-purpose machinery
5	35107	Transmission of electric energy
6	35109	Collection and distribution of electrical energy to households, industrial, commercial and other users

**Note:** If NIC codes as mentioned at above are not found in the submitted Udyog Aadhar Memorandum/Udyam Registration, then in such a case, the benefits applicable to MSEs and/or Start-Ups shall NOT be given to that Bidder.



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User ID : divyang.suri  
Serial No : 131B466

## ANNEXURE A

## PRICE SCHEDULE

## TO BE OFFERED FROM WITHIN INDIA

(Produced here for illustration purpose; to be filled-up ONLINE only)

**PRICE SCHEDULE 1**

Sl. No.	Goods / Services description	Qty.	UoM	Quote Unit Price	Total Price for (Excl. GST)
				(In Rs./Unit)	INR
	Location survey, Planning, Supply, Installation & Commissioning along with 3-year comprehensive on-site warranty and AMC (extendable up to 10 years) of Stand-Alone Fast Charger PCS - (50kW CCS2) [as per Technical Specifications defined in Scope of Work]				
A	Stand-Alone Fast Charger PCS - (Min. 50kW with Dual CCS2 Guns) [as per Technical Specifications defined in Scope of Work]	80	Nos.	To be filled with up no decimals allowed.	Automatically generated
B	Inland transportation (within India) including loading, unloading, transfer to Designated Location, insurance and other costs incidental to delivery	80	Nos.	To be filled with up no decimals allowed.	Automatically generated
C	Installation and Commissioning - PCS - including electrical & civil works (as defined in Scope of Work)	80	Nos.	To be filled with up no decimals allowed.	Automatically generated
<b>TOTAL of Price Schedule 1</b>					

**PRICE SCHEDULE 2**

Sl. No.	Goods / Services description	Qty.	UoM	Quote Unit Price	Total Price for (Excl. GST)
				(In Rs./Unit)	INR
	Location survey, Planning, Supply, Installation & Commissioning along with 3-year comprehensive on-site warranty and AMC (extendable up to 10 years) of Stand-Alone Fast Charger PCS - (50kW CCS2) [as per Technical Specifications defined in Scope of Work]				
A	Comprehensive on-site extended warranty and AMC for a period of seven years (from 4 <sup>th</sup> year to 10 <sup>th</sup> year).	80	Nos.	To be filled with up no decimals allowed.	Automatically generated
B	Supply, Transportation, Installation & Commissioning of CCS2 connector/gun - Rate contract.	10	Nos.	To be filled with up no decimals allowed.	Automatically generated
C	Supply, Transportation, Installation & Commissioning of Replacement of Display	10	Nos.	To be filled with up no decimals allowed.	Automatically generated

Signature :-  
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	Screen on the Charger - Rate contract.				
D	Supply, Transportation, Installation & Commissioning of Required Cable - Rate contract.	1000	Meters	To be filled with up no decimals allowed.	Automatically generated
	<b>TOTAL of Price Schedule 2</b>				

**Final Evaluation** = Total of Price Schedule 1 + Total of Price Schedule 2

**Note:** As applicable to above table:

1. The quantity taken in the Price Bid is indicative in nature and the payments would be made for actual number of EV chargers and accessories required.
2. The quotes for Price Schedule 1 should be FIRM and should remain valid for a period of 01 year (further extendable up to another 01 year) from the date of issuance of LOA.
3. The quotes for Price Schedule 2 should be FIRM and should remain valid for a period of 10 years from the date of issuance of LOA.
4. The Bidder must mandatorily quote for all the line items/services/enlisted in the Price Bid table. Else, the quotation shall be liable for outright rejection.
5. Quotation with variable price(s) would not be accepted.
6. Prices once quoted should remain firm, and not be subject to any escalation, till completion/execution of the contractual assignments/work and till the contract's validity's extension, if any.
7. The Bidder would need to be mandatorily registered with the relevant Tax Authority(ies) for the LOA items (services, where applicable), and furnish photocopy of their tax registration certificate(s) and PAN along with each Tax invoice.
8. Deposit of all statutory taxes, duties, levies, etc. to government authorities would be the sole responsibility of the Bidder and the Bidder would indemnify CESL for any tax claims/problems, etc. with the statutory authority/Government or State authorities.
9. Income tax, TDS, statutory taxes etc. would be deducted at source by CESL as per government policies.
10. Benefit of any reduction in taxes & duties during the execution of contract would be passed on to CESL by the Bidder.
11. Benefit of any incentives or subsidies issued by State or Central Government/Department during the execution of contract should be passed on to CESL.
12. Applicable taxes, duties, cess, etc. shall be paid on actuals as applicable in the state where the products are delivered, provided that the Bidder is registered with the relevant tax authorities.
13. CESL shall have the rights to accept or reject any quotation or part without assigning any reason.
14. CESL shall reserve the right to seek details on cost, overheads, etc. Such information will be treated confidentially.

I/We have read all the terms and conditions of the RfP/Tender/IFB/NIT and the Annexure(s) thereto and agree to accept and abide by the same in total. The above quotation has been prepared after considering all the terms and conditions of the RfP/Tender/IFB/NIT.

(SEAL)

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Quotation for and on behalf of \_\_\_\_\_

Date \_\_\_\_\_

Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466



## SECTION 5

### 1. Measurement and Verification (M&V)

Not Applicable for this tender

**NIT/BID Document No.:- CESL/06/2022-23/EVCI/CCS2**

**Charger/222307005 dated 22.07.2022**

Signature  
Subject: CN=DIVYANG SURJ, ST=DELHI, O=2.5.4.17=110003, OU=SUPPLY CHAIN M  
D=O=2.5.4.17=110003, OU=SUPPLY CHAIN M, C=IN  
Name: [D=Divyang Surj  
Serial No : 131B466

SECTION - 5 (M & V)

Page 1 of 1





**SECTION-6**

**Forms & Procedures**

**ATTACHMENT – 1**

**BID FORM**

To,  
CGM (SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Subject: - NIT/Bid Document No.: - ..... Date: .....

Dear Sir,  
With Reference to your subject IFB/RfP, we are pleased to submit our bid for “ .....  
.....” in a sealed cover as detailed below:

Envelope 1: Bid document fee/cost of tender documents [wherever applicable], Bid Security Declaration, Bid Form, Power of attorney, Certificate regarding acceptance of important terms and conditions, Form of acceptance of EESL fraud prevention policy.

**Envelope 2: Price Bid**

We confirm that we have quoted as per instructions and terms and conditions of tender documents. We have submitted all the four attachments as stated in “Instructions to Bidders”

We declare that the prices left blank in price schedule/price bid will be deemed to have been included in the prices of other items. We confirm that except as otherwise specifically provided, our bid prices include all applicable taxes including service tax, entry tax (if any), duties, levies, charges as may be assessed on us.

We further declare that additional conditions, variations, deviations, if any, found in the proposal other than those listed in Attachment-5 save those pertaining to any rebates offered, shall not be given effect to.

We undertake, if our bid is accepted, we shall commence the work immediately upon your Letter of Intent /Letter of Award to us, to achieve completion of work within the time specified in the bidding documents.

If our bid is accepted, we undertake to provide contract performance securities and securities for Deed(s) of Joint Undertaking (as applicable) in the form and amounts and within the times specified in the bidding documents.

We agree to abide by this bid for a period 180 days from the date of opening of bids as stipulated in the bidding documents and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period. Further, the prices of recommended spares, if asked for; contained in our bid shall re-main valid for the entire project period after placement of LoI/LoA.

Until a formal contract is prepared and executed between us, this bid, together with your written acceptance thereof in the form of your Letter of Intent/ Letter of Award shall constitute a binding contract between us.

We understand that you are not bound to accept the lowest or any other bid you may receive.

We, hereby, declare that only the persons or firms interested in this proposal as principals are named here and that no other persons or firms other than those mentioned herein have any interest in this proposal or in the contract to be entered into, if the award is made on us, that this proposal is made



Signature :-  
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User ID : divyang.suri  
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without any connection with any other person, firm or party likewise submitting a proposal, is in all respects for and in good faith, without collusion or fraud.

Dated -----

NAME/S & AUTHORIZED  
SIGNATORIES ADDRESS:  
MOBILE NO.:  
LAND LINE NO.:

**Our correspondence details are:**

1	Name of the bidder	
2	Address of the bidder	
3	Name of the contact person to whom all references shall be made regarding this tender	
4	Designation of the person to whom all references shall be made regarding this tender	
5	Address of the person to whom all references shall be made regarding this tender	
6	Telephone (with STD code)	
7	E-Mail of the contact person	
8	Fax No. (with STD code)	
9	GST No. of the bidder	



Signature :  
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User ID : divyang.suri  
Serial No : 131B466

**Bank Guarantee**

(To be stamped in accordance with Stamp Act, if any, of the country of the issuing Bank)

Bank Guarantee No. ....  
Date.....

To:  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Dear Sir(s),

In accordance with invitation for bids under your bidding document/package no.....dated.....M/s.....having its registered/head office at.....(here in after called "Bidder") wish to participate in the said bid for (name of package)

We, the ..... (Name and address of the bank), having our head office at ..... guarantee and undertake to pay immediately on demand by Convergence Energy services Limited, the amount of .....without any reservation, protest, recourse. Any such demand made by the employer shall be conclusive and binding on us irrespective of any dispute or difference raised by the bidder.

The Guarantee shall be irrevocable and shall remain valid upto ..... If any further extension of guarantee is required, the same shall be extended to such period (not exceeding one year) on receiving instructions from..... (Bidder's Name)....., on whose behalf guarantee is issued.

In witness whereof the bank, through its authorized officer, has set its hand and stamp on this.....day of .....20.....at.....

Witness:

Signature:

Name:

Official address:

Signature:

Name:

Designation with Bank Stamp

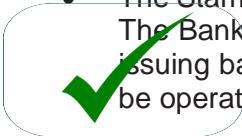
Authorized vide

Power of Attorney no.

Date

NOTE:

- Bid Security amount shall be as specified in the IFB/ITB. Complete mailing address of the Head Office of the Bank to be given. The bank guarantee validity date shall be forty five (45) days after the last date for which the bid is valid.
- The Stamp Paper of appropriate value shall be purchased in the name of guarantee issuing Bank. The Bank Guarantee shall be issued on a stamp paper of value as applicable in the State of the issuing bank in India or the State of Delhi in India or the State of India from where the BG shall be operated, whichever is higher.



Signature : .....  
Subject : CH-DIVYANG SURI (ITL-DELHI-CHD 3 5 17-110003)-GU-SHRIY CHANAM  
User ID : divyang.suri  
Serial No : 133826

- While getting the Bank Guarantee issued, Bidders are required to ensure compliance to the Bank Guarantee Verification Check List. Further, Bidders are required to fill up this Form 16 and enclose the same with the Bank Guarantee.

### **BANK GUARANTEE CHECK LIST**

1	Bank Guarantee No.	
2	Issuing Bank	
3	Nature of BG & No. of Pages	
4	Validity of BG	
5	Package Description	
6	Party & Contracts ref.	Name, Address, Tel, Fax, E—mail
7	Bank Reference	

### **CHECK LIST**

Sl. No.	Details of Checks	YES / NO
a)	Is the BG on non-judicial Stamp Paper of appropriate value, as per Stamp Act ?	
b)	Whether date, purpose of purchase of stamp paper and name of the purchaser are indicated on the back of Stamp paper under the Signature of Stamp vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued. Also the Stamp Paper should not be older than six months from the date of execution of BG)	
c)	In case the BG has been executed on Letter Head of the Bank, whether adhesive Stamp of appropriate value has been affixed thereon?	
d)	Has the executing Officer of BG indicated the name, designation and Power of Attorney No. / Signing Power no. etc., on the BG ?	
e)	Is each page of BG duly signed / initiated by executants and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed proforma?	
f)	Does the Bank Guarantees compare verbatim with the proforma prescribed in the bid documents ?	
g)	In case of any changes in contents of text, whether changes are of minor/clerical nature (which in no way limits the right of CESL in any manner) ?	
h)	In case of deviations in text of BG, which materially affect the right of CESL, whether the changes have been agreed based on the opinion by Legal Department or BG I considered acceptable on the basis of opinion of law Department already available on the similar issue.	
i)	Are the factual details such as Bid Document No. NOA/LOA/Contact No., Contract Price, Percentage of Advance, Amount of BG and Validity of BG correctly mentioned in the BG ?	
j)	Whether overwriting / cutting if any on the BG have been properly authenticated under signature and seal of executant ?	
k)	Whether the BG has been issued by a Bank in line with the provisions of Bid /Contract documents ?	
l)	In case BG has been issued by a Bank other than those specified of Bid / Contract Documents, is the BG confirmed by a Bank in India acceptable as per Bid / Contract documents?	



## LIST OF BANKS ACCEPTABLE FOR SUBMISSION OF BANK GUARANTEE FOR BID SECURITY

### SCHEDULED COMMERCIAL BANKS

- SBI AND ASSOCIATES**

Sl. No.	Name of Banks	Sl. No.	Name of Banks
1.	State Bank of India	5.	State Bank of Mysore
2.	State Bank of Bikaner and Jaipur	6.	State Bank of Patiala
3.	State Bank of Hyderabad	7.	State Bank of Saurashtra
4.	State Bank of Indore	8.	State Bank of Travancore

- NATIONALISED BANKS**

Sl. No.	Name of Banks	Sl. No.	Name of Banks
9.	Allahabad Bank	13.	Canara Bank
10.	Andhra Bank	14.	Central Bank of India
11.	Bank of India	15.	Corporation Bank
12.	Bank of Maharashtra	16.	Dena Bank
17.	Indian Bank	18.	Indian Overseas Bank
19.	Oriental Bank of Commerce	20.	Punjab National Bank
21.	Punjab & Sind Bank	22.	Syndicate Bank
23.	Union Bank of India	24.	United Bank of India
25.	UCO Bank	26.	Vijaya Bank
27.	Bank of Baroda		

- SCHEDULED PRIVATE BANKS (INDIAN BANKS)**

Sl. No.	Name of Banks	Sl. No.	Name of Banks
27.	Bank of Rajasthan	41.	Sangli Bank Ltd.
28.	Bharat Overseas Bank Ltd.	42.	South Indian Bank Ltd.
29.	Catholic Syrian Bank	43.	Tamilnad Mercantile Bank Ltd.
30.	City Union Bank	44.	United Western Bank Ltd.
31.	Dhanalakshmi Bank	45.	ING Vysya Bank Ltd.
32.	Federal Bank Ltd.	46.	UTI Bank Ltd.
33.	Jammu & Kashmir Bank Ltd.	47.	S.B.I. Commercial & International Bank Ltd.
34.	Karnataka Bank Ltd.	48.	Ganesh Bank of Kurundwad Ltd.
35.	KarurVysya Bank Ltd.	49.	INDUSIND Bank Ltd.
36.	Lakshmi Vilas Bank Ltd.	50.	ICICI Bank Ltd.
37.	Lord Krishna Bank Ltd.	51.	HDFC Bank Ltd.
38.	Nainital Bank Ltd.	52.	Centurion Bank of Punjab Limited
39.	Kotak Mahindra Bank	53.	Development Credit Bank Ltd.
40.	Ratnakar Bank Ltd.	54.	Yes Bank

- SCHEDULED PRIVATE BANKS (FOREIGN BANKS)**

Sl. No.	Name of Banks	Sl. No.	Name of Banks
55.	Abu Dhabi Commercial Bank Ltd.	71.	Sonali Bank
56.	ABN Amro Bank Ltd.	72.	Standard Chartered Bank
57.	American Express Bank Ltd.	73.	J.P Morgan Chase Bank
58.	Bank of America NA	74.	State Bank of Mauritus
59.	Bank of Bahrain & Kuwait	75.	Development Bank of Singapore
60.	Mashreq Bank	76.	Bank of Ceylon
61.	Bank of Nova Scotia	77.	Bank International Indonesia
62.	The Bank of Tokyo-Mitsubishi UFJ	78.	Arab Bangladesh Bank



Sl. No. 59 - BIDDING - SUPPLY OF BEHIND-GIR-23-4-17-110003-00-SUPPLY-GHANN  
 AGREEMENT ON ENERGY EFFICIENCY SERVICES LIMITED-IC-IN  
 User: jayalaxmi  
 Serial No.: 1318466

	Limited.		
63.	Calyon Bank	79.	Cho Hung Bank
64.	BNP Paribas	80.	China Trust Bank
65.	Barclays Bank	81.	Mizuho Corporate Bank Ltd.
66.	Citi Bank	82.	Krung Thai Bank
67.	Deutsche Bank	83.	Antwerp Diamond Bank N.V. Belgium
68.	The Hong Kong and Shanghai Banking Corporation Ltd.	84.	Internationale Netherlanden Bank N.V. (ING Bank)
69.	Oman International Bank	85.	Bank of China Ltd.
70.	Societe Generale		

- **PUBLIC SECTOR BANK**

Sl. No.	Name of Banks	Sl. No.	Name of Banks
86.	IDBI Ltd.		



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

Tender Document No/Package No:

Dated:

Package Details.....

**POWER OF ATTORNEY**

**BIDDER TO ATTACH THE POWER OF ATTORNEY IN THEIR OWN FORMAT on 100Rs Stamp Paper**



Signature :  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

Tender Document No/Package No:

Dated:

**(CERTIFICATE REGARDING ACCEPTANCE OF IMPORTANT CONDITIONS)**

Bidder's Name& Address

To,  
CGM(SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Sub: .....

1.0 With reference to our bid proposal no.....dated for  
..... / **Package no Dated**....., we hereby confirm that we have  
read the following provisions of the following clauses and further confirm that notwithstanding anything stated  
elsewhere to the contrary, the stipulation of these clauses are acceptable to us and we have not taken any  
deviation to these clauses.

- Governing Laws - Clause 7 of ITB
- Settlement of Disputes - Clause 17 of ITB
- Terms of payment - Clause 2.0 of SCC
- Performance Security - Clause 5.9 of ITB
- Taxes and Duties - Clause 8 of ITB
- Completion Time Guarantee - Clause 9 of ITB
- Defects Liability - Clause 10 of ITB
- Functional Guarantee - Clause 11 of ITB
- Patent Indemnity - Clause 2.25 of ITB
- Limitations of Liability - Clause 2.27 of ITB
- Project information, Estimation, - As per Tables
- in price bid Assumptions and conditions for Evaluation

We further confirm that any deviation to the above clauses found anywhere in our bid proposal, implicit or explicit, shall stand unconditionally withdrawn, without any implication to CESL.

Date:

Signature:

Place:

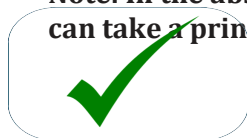
Printed Name:

Designation:

Common Seal

**Note: In the absence of this certificate, the bid shall be rejected and shall be returned unopened. Bidder can take a print out of it and sign**

Signature of Divyang Suri, DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, C=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466





**ATTACHMENT – 5**

**NAME OF WORK:**.....  
**BIDDING DOCUMENT NO** .....

**(Deviations Statement)**

Bidder's Name and Address:

To,

CGM(SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Dear Sir,

The following are the deviations and variations from and exceptions to the terms, conditions and specification of the bidding documents for IFB/RfP No.\_\_\_\_\_. These deviations and variations are exhaustive. We are furnishing below the cost of withdrawal for the deviations and variations stated in this Attachment. We shall withdraw the deviations proposed by us in this Attachment at the cost of withdrawal indicated herein, failing which our bid may be rejected and bid security may be forfeited. We confirm that except for these deviations and variations, the entire work shall be performed as per your specifications and conditions of bidding documents. Further, we agree that additional conditions, variations, deviations if any, found in the proposal documents other than those stated in this Attachment, save those pertaining to any rebates offered, shall not be given effect to:

Section/ Part/ Chapter	Clause No.	Page No.	Statement of Deviations/ Variations	Cost of withdrawal
------------------------------	---------------	-------------	---	--------------------

- A. COMMERCIAL DEVIATIONS:
- B. TECHNICAL DEVIATIONS:

Date : (Signature).....  
Place : (Printed Name).....  
  
(Designation).....  
(Common Seal) .....

Note: Continuations sheets of like size and format may be used as per Bidder's requirement.



Signature :  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

(On Non – Judicial Stamp Paper of appropriate value and purchased in the name of executing Bank)

**PROFORMA OF BANK GUARANTEE FOR CONTRACT PERFORMANCE**

Ref: .....  
Bank Guarantee No.....  
Date.....

To,

Convergence Energy Services Limited  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor,  
SCOPE Complex,  
Lodhi Road, New Delhi-110003

Dear Sirs,

In consideration of the CESL, (hereinafter referred to as the 'Owner,' which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/s.....with its Registered / Head Office at

..... ( hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns ), a Contract by issue of Owner's Letter of Award No..... dated .....and the same having been unequivocally accepted by the Contractor and the contractor (Scope of Contract ) having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to \*.....% (percent) of the said value of the Contract to the Owner.

We ..... (Name & address ) having its Head Office at ..... (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns) do hereby guarantee and undertake to pay the Owner, on demand any all money payable by the Contractor to the extent of .....as aforesaid at any time up to .....(days/months/year) without any demur, reservation, contest, recourse or protest and / or without any reference to the Contractor. Any such demand made by the Owner on the Bank shall be conclusive and binding notwithstanding any difference between the Owner and the Contractor or any dispute pending before any court, tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Owner and further agrees that the guarantee herein contained shall continue to be enforceable till the owner discharges this guarantee.

The owner shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee from time to time to extend the time for performance of the Contract by the Contractor. The owner shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the owner and Contractor or any other course of or remedy or security available to the owner. The Bank shall not be released of its obligations under these presents by any exercise by the owner of its liberty with reference to the matters aforesaid on any of other indulgence shown by the owner or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agree that the Owner at its option shall be entitled to enforce this Guarantee against the Bank as a Principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the owner may have in relation to the Contractor's liabilities.



SUBJECT: C=DIVYANG SURT, ST=DELHI, ORD: 2, SA: 17=110003, CO=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
Serial No: 131B466

Notwithstanding anything contained herein above our liability under this guarantee is restricted to.....and it shall remain in force up to and including\*\*  
 .....and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s.....on whose behalf this guarantee has been given.

Witness

Dated this .....day of.....at.....

Witness

Signature

Name

Official Address

Signature

Bank's Rubber Stamp

Name

Designation with Bank Stamp

Attorney as per power of Attorney

No.....dated.....

**Note: \*\* Validity of Bank Guarantee should be 90 days in excess of the period for which it is required.**

**BANK GUARANTEE CHECK LIST**

1	Bank Guarantee No.	
2	Issuing Bank	
	Nature of BG & No. of Pages	
4		
5	Validity of BG	
6	Package Description	
7	Party & Contracts ref.	Name, Address, Tel, Fax, E—mail
8	Bank Reference	

**CHECK LIST**

S.No.	Details of Checks	YES / NO
a)	Is the BG on non-judicial Stamp Paper of appropriate value, as per Stamp Act ?	
b)	Whether date, purpose of purchase of stamp paper and name of the purchaser are indicated on the back of Stamp paper under the Signature of Stamp vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued. Also the Stamp Paper should not be older than six months from the date of execution of BG)	
c)	In case the BG has been executed on Letter Head of the Bank, whether adhesive Stamp of appropriate value has been affixed thereon?	
d)	Has the executing Officer of BG indicated the name, designation and Power of Attorney No./ Signing Power no. etc., on the BG?	
e)	Signature on each page of BG duly signed / initialed by executants and whether Stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed proforma?	



Signature of  
Sub-Manager, S. DEBBI, INDIA-2-5/PP/10/11  
ANAGEMENT, OPENING EFFICIENCY SERVICES LIMITED, AIR  
User ID : diwang.su  
Serial No : 104

f)	Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents?	
g)	In case of any changes in contents of text, whether changes are of minor / clerical nature (which in no way limits the right of CESL in any manner)?	
h)	In case of deviations in text of BG, which materially affect the right of CESL, whether the changes have been agreed based on the opinion by Legal Department or BG I considered acceptable on the basis of opinion of law Department already available on the similar issue.	
i)	Are the factual details such as Bid Document No.NOA/LOA / Contact No., Contract Price, Percentage of Advance, Amount of BG and Validity of BG correctly mentioned in the BG?	
j)	Whether overwriting / cutting if any on the BG have been properly authenticated under signature and seal of executant?	
k)	Whether the BG has been issued by a Bank in line with the provisions of Bid /Contract documents?	



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

l)	In case BG has been issued by a Bank other than those specified of Bid / Contract Documents, is the BG confirmed by a Bank in India acceptable as per Bid / Contract documents?	
----	---	--

**LIST OF BANKS ACCEPTABLE FOR SUBMISSION OF BANK GUARANTEES FOR ADVANCE PAYMENTS, PERFORMANCE SECURITIES AND SECURITIES FOR DEED OF JOINT UNDERTAKING SCHEDULED COMMERCIAL BANKS**

**l) SBI and Associates**

Sl.No.	Name of Banks	Sl. No.	Name of Banks
1.	State Bank of India	5.	State Bank of Mysore
2.	State Bank of Bikaner and Jaipur	6.	State Bank of Patiala
3.	State Bank of Hyderabad	7.	State Bank of Saurashtra
4.	State Bank of Indore	8.	State Bank of Travancore

**l) Nationalised Banks**

Sl.No.	Name of Banks	Sl. No.	Name of Banks
9.	Allahabad Bank	18.	Indian Overseas Bank
10.	Bank of India	19.	Oriental Bank of Commerce
11.	Bank of Maharashtra	20.	Punjab National Bank
12.	Canara Bank	21.	Punjab & Sind Bank
13.	Central Bank of India	22.	Syndicate Bank
14.	Corporation Bank	23.	Union Bank of India
15.	Dena Bank	24.	United Bank of India
16.	Indian Bank	25.	UCO Bank
17.	Vijaya Bank	26.	Bank of Baroda

**C. Foreign Banks**

Sl.No.	Name of Banks	Sl. No.	Name of Banks
27.	Bank of America NA	34.	Standard Chartered Bank
28.	The Bank of Tokyo-Mitsubishi UFJ Limited.	35.	SocieteGenerale
29.	BNP Paribas	36.	Barclays Bank
30.	Calyon Bank	37.	ABN Amro Bank N. V.
31.	Citi Bank N.A.	38.	Bank of Nova Scotia
32.	Deutsche Bank A. G.	39.	Development Bank of Singapore
33.	The Hong Kong and Shanghai Banking Corporation Ltd.		

**D. SCHEDULED PRIVATE BANKS**

Sl.No.	Name of Banks	Sl. No.	Name of Banks
40.	ING Vysya Bank Ltd.	43.	UTI Bank Ltd.
41.	ICICI Bank Ltd.	44.	YES Bank
42.	HDFC Bank Ltd.		

**E. Other Public Sector Banks**

Sl.No.	Name of Banks	Sl. No.	Name of Banks
45.	IDBI Ltd.		



**FORM OF ACCEPTANCE OF FRAUD PREVENTION POLICY  
(On the letter head)**

To,

CGM(SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Sub: Letter of Acceptance of EESL Fraud Policy Ref: NIT/BID Document No.:-

Dear Sir/Madam,

We have read the contents of the Fraud Prevention Policy of EESL and undertake that we along with our associate / collaborator / sub-contractors / sub-vendors / bidders/ service providers shall strictly abide by the provisions of the Fraud Prevention Policy of EESL.

Thanking You,

Yours faithfully,

Signature .....

Printed Name .....

Designation.....

Common Seal.....

Date:

Place:



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

**PROFORMA OF LETTER OF UNDERTAKING  
(TO BE FURNISHED ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

**[To be executed by the Holding Company Supported by Board Resolution and submitted by the Bidder along with the Bid, in case financial support is being extended by the Holding Company to the Bidder for meeting the stipulated Financial Qualifying]**

Ref.: NIT/Bid Document No.:  
Our Reference No .....Date: .....

Bidder's Name and Address:

To,

CGM (SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2nd Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Dear Sir,

1.0 We, M/s. (Name of the Holding Company) declare that we are the holding company of M/s (Name of the Bidder) and have controlling interest therein. M/s..... (Name of the Bidder) proposes to submit the bid for the package ..... (Name of the package) for (Name of the Project) under bid reference no..... dated ..... and have sought financial strength and support from us for meeting the stipulated Financial Qualifying Requirement as per Clause Section 3 and its subsequent amendment.

2.0 We hereby undertake that we hereby pledge our unconditional & irrevocable financial support for the execution of the said package to M/s..... (Name of the Bidder), for the execution of the Contract, in case they are awarded the Contract for the said package at the end of the bidding process. We further agree that this undertaking shall be without prejudice to the various liabilities that M/s.....(Name of Bidder) would be required to undertake in terms of the Contract including the Performance Security as well as other obligations of M/s..... (Name of the Bidder).

3.0 This undertaking is irrevocable and unconditional, and shall remain in force till the successful execution and performance of the entire contract and/or till it is discharged by CESL.

4.0 We are herewith enclosing a copy of the Board Resolution in support of this undertaking.

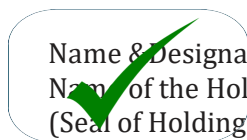
**Witness:**

**Yours faithfully,**

(1) .....

(2) .....

(Signature of Authorized Signatory) on behalf of the Holding Company



Signature :  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
ID : divyang.suri  
Serial No : 1318468

Name & Designation  
Name of the Holding Company .....  
(Seal of Holding Company)

**REAL TIME GROSS SETTLEMENT (RTGS)/ NATIONAL ELECTRONIC FUND TRANSFER (NEFT)**

From: M/s \_\_\_\_\_

Sub: RTGS/NEFT Payments

We are agree to accept admissible payments through electronic mode viz RTGS/NEFT. For this, we are providing the requisite information herein below. The RTGS/NEFT charges for the above facility may be deducted/Recovered from our admissible payment.

Name Of City	
Bank Code No.	
Branch Code No.	
Bank's Name	
Branch Address	
Branch Telephone/ Fax No.	
Supplier Account No.	
Type of Account	
IFSC Code for NEFT	
IFSC Code for RTGS	
Supplier's name as per Account	
Telephone No. of Supplier	
Supplier's E-mail ID	
GST No. of the supplier	

A cancelled cheque against above bank account number is also being enclosed.

Encl: As above: -

Confirmed by Banker

Signature of supplier

With Seal

with stamp & Address



Signature :-  
 Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
 ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
 User ID : divyang.suri  
 Serial No : 131B466



**Compliance Matrix/ CHECK - LIST FOR BIDDERS**

**Please ensure these major Terms & Conditions before submitting you bids in order to avoid REJECTION of your offer.**

Sl	Details / Terms & Conditions	Applicable for	Yes / Attached	No	Reasons for non-compliance/ Remarks
1	EMD, If applicable	Indian Bidders			
2	EMD Exempted for being MSEs / Start-up	Indian Bidders			
	Relevant Certificate of MSEs / Start-up Certificate from DIPP is required to be submitted	Indian Bidders			
	In case of SC/ST entrepreneurs belonging to MSE, documentary proof submitted	Indian Bidders			
	In case of Women entrepreneurs belonging to MSE, documentary proof submitted	Indian Bidders			
	Declaration & Undertaking By Micro & Small Scale Enterprises / Start-up Companies	Indian Bidders			
3	Duly signed and company sealed copy of whole tender document	Indian Bidders			
4	Duly filled up and attached Technical (Unpriced) Bid & all applicable formats of Tender Document	Indian Bidders			
5	Separate sheet(s) for Deviation if any, from the tender conditions with seal and signature of authorized personnel	Indian Bidders			
6	GST Registration Certificate and PAN Card Copy.	Indian Bidders			



## Compliance Matrix/Check-List for Bid Evaluation Criteria

[To be submitted on Letter Head]

Please ensure these major Terms & Conditions before submitting your bid in order to avoid  
REJECTION of your offer

<b>Technical QR</b>	<b>Bidder qualification criteria for as per Tender terms and conditions. The relevant documentary evidence like work order copies, completion certificates etc. are required to be furnished along with technical bid substantiating the qualification towards relevant experience/technical criteria (Documentary proof to be attached along with the technical bid)</b>			
Order/Award Nos	Order date and completion date	Order/Award Amount	Client Name	Description of Order/Award
<b>Financial QR</b>	<b>Average Annual turnover of the bidder shall be as specified in tender documents in three preceding financial years. Copy of latest audited balance sheet, profit and loss account and copy of IT returns required to be furnished as asked in the tender.</b>			
Financial Year	Annual Turnover	Net Worth	Profitability	
<b>Other Mandatory Requirements</b>				
Confirmation for Tender Terms and Conditions/EMD [Please tick (√) as applicable]				
1	Confirm that your bid is valid as per tender terms and conditions as on the last date of submission of the bid			
2	Confirm your compliance to TERMS AND CONDITIONS of bidding document			
Note: Documentary evidence is attached for experience criteria as per QR is attached along with technical unpriced bid. Non-compliance to any of the QR will lead to outright rejection of the bid without any further reference to the bidders.				

The above-mentioned points are major Terms & Conditions and are indicative in nature. Bidder shall carefully go through the detailed requirements, QR and other terms and conditions for better understanding and submit the bid accordingly.



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

**ATTACHMENT-11**

**Declaration regarding "Restrictions on procurement from a Bidder of a country which shares a land border with India"  
(To be submitted on Applicant's Letter Head)**

To,  
CGM(SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

Dear Sir,

With reference to our bid proposal for participation in CESL tender NIT/Bid Document No : \_\_\_\_\_ dated : \_\_\_\_\_, I/we hereby confirm that, I/We have read the clause as mentioned in the tender document mentioned above regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries.

I/We certify that we/our Collaborator/JV Partner/Consortium member/Assignee are/is not from such a country or, if from such a country, have/has been registered with the Competent Authority and we will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority.

We hereby certify that we fulfil all requirements in this regard and are eligible to be considered.

We further confirm that evidence of valid registration by the Competent Authority for us/our Collaborator/JV Partner/Consortium member/Assignee, as applicable, is enclosed as Annexure...

\*Bidder to strike-off, if not applicable.

\*\*Bidder to mention the Annexure no.

Date: \_\_\_\_\_

\_\_\_\_\_  
Seal of Organization & Signature

Place: \_\_\_\_\_

of Authorized Applicant



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

**CERTIFICATE REGARDING DECLARATION OF LOCAL CONTENT  
[On the Letter Head]**

To,  
CGM(SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

**Sub: Compliance of Minimum Local Content Requirement as mentioned in Ministry of Commerce and Industry Trade and order no. P-45021/2/2017-PP(BE-II) dated 04<sup>th</sup> June 2020**

Ref: NIT/Bid Document No: .....

Dear Sir/Madam,

This is to certify that following is the local content percentage being offered/quoted against aforementioned tender by M/s....., the same is in compliance with Ministry of Commerce and Industry order no: **P-45021/2/2017-PP(BE-II) dated 04<sup>th</sup> June 2020** and the bidder shall strictly abide by all provisions of the subject notification.

Sr. No	Item/s	Percentage of Local Content
1		

Thanking You,

Yours faithfully,

Signature (Statutory Auditor/ Cost Auditor/ Practicing CA – As applicable)

.....  
Printed Name.....  
Seal.....  
UDIN No .....  
Date.....  
Place.....



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466

**CERTIFICATE REGARDING COMPLIANCE OF MeitY NOTIFICATION VIDE FILE NO.  
1(10)/2017-CLESdt. 02.07.18**

**(To be submitted on Applicant's letter head)**

To,

CGM(SCM)  
Convergence Energy Services Limited.  
(A 100% EESL Owned Subsidiary)  
Core-3, 2<sup>nd</sup> Floor, SCOPE Complex,  
Lodhi Road, New Delhi-110003

**Sub: Compliance of MeitY notification vide File No. 1(10)/2017-CLES dt. 02.07.18**

Ref No :

Dear Sir/Madam,

This is to certify that the products/items being offered/ quoted against ref. Empanelment Document Number by M/s..... meet the definition of domestically manufactured/produced **Cyber Security Products** as per Para 4 of MeitY notification vide File no. 1(10)/2017-CLES dt. 02.07.18 and the bidder shall strictly abide by all provisions of the subject notification.

Thanking You,

Yours faithfully,

Signature (Statutory Auditor or Cost Auditor)

.....

Printed Name.....

Seal.....

UDIN No: .....

Date: .....

Place: .....

**P.S. In case any complaint is received at CESL end against the bidder regarding supply of domestically manufactured/produced Cyber Security Products, the same shall be referred to STQC, an attached office of MeitY.**



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466



Signature :-  
Subject : CN=DIVYANG SURI, ST=DELHI, OID.2.5.4.17=110003, OU=SUPPLY CHAIN M  
ANAGEMENT, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN  
User ID : divyang.suri  
Serial No : 131B466