

xxxi. Other Terms & Conditions:

- a. Compliance with Regulations and Indian Standard: - All works shall be carried out in accordance with relevant regulations, both statutory & those specified by the Indian standard related to the works covered by this specification. In particular the equipment and installation will comply with the following:-
- b. Work man's compensation act.
- c. Minimum wages Act.
- d. Payment wages Act.
- e. Contract Labour regulation & abolition Act.
- f. ESI, PF & Bonus Act.
- g. Regulation under Indian Electricity Rules,
- h. Safety & electrical Standard as applicable
- i. The Vendor shall supply material (including ITI SPV Modules) from his godown for installation work at site, shall continue to be responsible for their safe custody till they are installed in position, tested, commissioned and handed over to ITI.
- j. Vendor shall arrange for compliance with statutory provision of safety regulation and departmental requirements of safety codes in respect of labour employed on the work by the Vendor. Failure to provide such safety requirements would make the Vendor liable for penalty. IT I will make arrangement for the safety requirements at the cost of the Vendor & recover the cost thereof from him.

xxxii. All Vendors shall therefore, furnish declaration that their firm is not involved in any litigation that may have an impact of affecting or compromising the delivery if services as required under this assignment. It is also to be declared that their firm has not been black listed by any Central/State/ Public Sector Under takings in India. The declaration should be verified by the Notary Public.

2. AMENDMENT

Except as otherwise provided herein, no addition, amendment to or modification of the Contract shall be effective unless it is in writing and signed by and on behalf of both parties.

3. SEVERABILITY

In the event that any or any part of the terms conditions or provisions contained in the Contract shall be determined invalid, unlawful or unenforceable to any extent such term, condition or provision shall be served

from the remaining terms, conditions and provisions that shall continue to be valid and enforceable to the fullest extent permitted by law.

4. CONFIDENTIAL TREATMENT

It is understood and agreed that data, know-how and other such proprietary information that was provided or will be provided by either party, will remain confidential.

5. RELATIONSHIP OF THE PARTIES

ITI relationship with Vendor will be that of a Business Associate, and nothing in this Contract shall be construed to create a relationship, joint venture, partnership.

6. INDEMNITY

ITI and the Vendor will indemnify, defend, and hold harmless each other and its divisions, successors, subsidiaries and affiliates, the assigned of each and their directors, officers, agents and employees from and against all liabilities, claims, losses, and damages of any nature, including, without limitation, all expenses (including attorney's fees), cost, and judgments incident there to ITI and ITI's obligations under this indemnity will survive the expiration, termination, completion or cancellation of this Contract or an order hereunder.

7. RESTRICTION ON EMPLOYMENT

Both the parties have agreed that they will not recruit any members of staff of other party directly or indirectly.

8. ARBITRATION

- A.** Any dispute, difference or claim arising out of or relating to this Project shall be in the first instance, endeavor to be settled amicably within 30 days of communication thereof, by negotiation between the parties hereto and failing which the same shall be settled by following arbitration clause pursuant to the ICADR Arbitration Rules, 1996 and subsequent amendments thereto.
- a.** If a dispute arises out of or in connection with this Project, or in respect of any defined legal relationship associated therewith or derived there from, the parties agree to submit that dispute to arbitration under the ICADR Arbitration Rules, 1996.
- b.** The authority to appoint the Arbitrator(s) shall be International Center for Alternative Dispute Resolution (ICADR).

- c. The International Center for Alternative Dispute Resolution will provide administrative Services in accordance with the ICADR Arbitration Rules, 1996.
- d. The language of the Arbitration Proceedings shall be English.
- e. ***The place of Arbitration Proceedings shall be Bangalore, India.***
- f. The above clauses on Arbitration shall survive for five (05) years even after the expiry/termination of Project.
- g. It is expressly understood and agreed by and between BIDDER and ITI that BIDDER is entering into this Tender solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed between the Parties that the Government of India is not a party to this Project and has no liabilities, obligations or rights hereunder. It is hereby expressly understood and agreed that ITI is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable Laws of India and general principles of Contract Law. ITI represents and Bidder expressly agrees, acknowledges and understands that ITI is not an agent, representative or delegate of the Government of India. It is further understood and agreed between the Parties that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, Bidder hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this contract and covenants not to sue the Government of India in any manner, claim, and cause of action or thing whatsoever arising out of or under this Project.

9. FORCEMAJURE

If at any time, during the continuance of this Project, the performance in whole or part, by either Party, of any obligation under this is prevented or delayed, by reason of war, or hostility, acts of public enemy, civic commotion, sabotage, act of State or direction from Statutory Authority, explosion, epidemic, quarantine restriction, strikes and lockouts (as are not limited to the establishments and facilities of ITI), fire, floods, natural calamities or any act of God (hereinafter refer to as event), provided notice of happenings of any such event is given by the affected Party to the other, within 21 calendar days from the date of occurrence thereof, neither Party shall, by reason of such event, be entitled to terminate the Project, nor shall either Party have any such claims for damages against the other, in respect of such non-performance or delay in performance. Provided duties under the Scope of Work shall be resumed as soon as practicable, after such event

comes to an end or ceases to exist. However, the Force-Majeure events noted above will not in any way cause extension in the period of Project execution.

10. RISK AND COST

In the event of failure on the part of the contractor in the supply, installation and commissioning of goods and services, which is required in view of the pending orders, ITI shall be entitled to cancel the remaining order and procure the outstanding quantity through other sources at risk and costs of the contractor.

11. TERMINATION OF CONTRACT

ITI shall be entitled to terminate this Contract, in the event of any or all or any of the following events with a written notice of 15 days with due consent of the Vendor:-

- has abandoned the Contract
- has without valid reason failed to complete the projects in respect of the contract.
- persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just and proper cause.

12. DURATION OF CONTRACT

This contract shall take effect on the day of execution of this contract and shall endure until commissioning and hand over the Power Plant to ITI as per mutual agreement.

13. GOVERNING LAW

This contract and its validity, interpretation and performance will take effect and be governed under the laws of India. Venue in any action in law or equity arising from the terms and conditions of this contract shall be the court of appropriate jurisdiction in Bangalore (India).

14. CONTRACT

Before execution of the work, security deposit be submitted and a contract agreement for execution of the work shall be signed by the Vendor with ITI within 7 days of LOI from ITI. In case agreement is not executed within the stipulated time, earnest money will be forfeited.

15. COMMUNICATIONS

Wherever provision is made for the giving or issue of any notice, instruction, consent, approval, certificate or determination by any person, unless otherwise specified such

communication shall be in writing and shall not be unreasonably withheld or delayed.

Project review coordination meetings between the ITI's Representative and Contractor shall be conducted on a regular basis or as and when required by the ITI, at locations decided by the ITI, for Contractor's progress and plans for completing the remaining Works, to deal with matters affecting the progress of the Works, and to decide on responsibility for actions required to be taken. Decisions taken and instructions issued during the coordination meetings, as recorded in the Minutes, shall have the same force and effect as if they were written communications issued in this accordance.

16. MANNER OF EXECUTION

Execution of work shall be carried out in the approved manner as outlined in the technical specifications or where not outlined, in accordance with relevant MNRE/ BIS / Indian Standard Specifications, to the reasonable satisfaction of The Employer. The Contractor/Agency should successfully complete the project within timeframe set out by the employer and mutually agreed between Contractor / Agency and Employer.

ITI shall not be responsible for any loss or damage of any material when installing SPV power plants.

17. APPLICATION

These General Conditions shall apply to the extent that they are not superseded by provisions in other parts of the contract.

18. STANDARDS

The design, engineering, manufacture, supply, installation, testing and performance of the equipment shall be in accordance with latest appropriate IEC/ BIS/Indian Standards and as detailed in the Technical specifications Section as per the MNRE / ITI requirements of the bid document and Annexure- A. The goods supplied under this contract shall confirm to the Standards mentioned, where appropriate Standards and Codes are not available, other suitable standards and codes as approved by the authoritative Indian Standards shall be used.

19. INSPECTION

A. The projects will be inspected for quality at any time during commissioning or after the completion of the project by ITI Officials.

B. Bidder shall inform ITI in writing when any portion of the work is ready for inspection (site wise) giving sufficient notice to enable ITI to depute officials to inspect the same without affecting the further progress of the work. The work shall not be considered

in accordance with the terms of the contract until the competent person from ITI certifies in writing to that effect.

C. The cost of Inspection shall be borne by Bidder only.

D. Bidder has to strictly follow the specifications given in the work order while carrying out the execution of work. During inspection if it is found that Bidder has deviated from the specifications, Bidder has to do the alteration / modification / reconstructions as per the given specifications at his own cost & risk.

20. Transportation

Where the Contractor/Agency is required under the contract to transport the goods to specified locations defined as Project sites, transport to such places including insurance, as shall be specified in the contract, shall be arranged by the Contractor / Agency, and the contract price shall include transportation costs.

21. Assignment

The Contractor / Agency shall not assign, in whole or in part to any third party, its obligations to perform under the contract, except with ITI's prior written consent.

22. Sub-contracts

Sub contract is strictly prohibited.

23. Termination for Default

ITI without prejudice to any other remedy for breach of contract, by written notice of default sent to the Contractor/ Agency, terminate the contract in whole or part:

A. If the Contractor / Agency fails to deliver any or all the goods within the period(s) or within any extension thereof granted by the ITI or

B. If the Contractor/Agency, in the judgment of ITI has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

In the event ITI terminates the contract in whole or in part, ITI may procure, upon such terms and in such manner as it deems. Appropriate goods or services similar to those undelivered and the Contractor/Agency shall be liable to ITI for any excess costs for such similar goods or services. However, the Contractor/Agency shall continue the performance of the contract to the extent not terminated.

24. Applicable Law

The contract shall be interpreted in accordance with the laws of the Union of India.

25. Notices

Any notice given by one party to the other pursuant to this contract shall be sent to other party in writing or by cable, telex or facsimile and confirmed in writing to the other party's address specified. A notice shall be effective when delivered or on the notice's effective date, whichever is later.

26. Packing

- A.** The Bidder shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination as indicated in the contract.
- B.** The packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures during transit and open storage.
- C.** Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods final destination and the absence of heavy handlings facilities at all points in transit.
- D.** The packing, marking and documentation within and outside the item shall comply strictly with such special requirements as shall be provided for in the contract including additional requirements, if any and in any subsequent instructions ordered by the ITI.

27. Danger plates

The bidder shall provide Danger Notice Plates at each project site near Inverter and Panel of 200 mm X 150 mm made of mild steel sheet, minimum 2 mm thick and vitreous enameled white on both sides and with inscription in signal red colour on front side as required. The inscription shall be in English and local language.

28. Insurance

- i.** The Bidder shall be responsible and take an Insurance Policy for transit-cum-storage-cum-erection for all the materials to cover all risks and liabilities for supply of materials on site basis, storage of materials at site, erection, testing and commissioning. The bidder shall also take appropriate insurance during O&M period, if required.
- ii.** The Bidder shall also take insurance for Third Party Liability covering loss of human life, engineers and workmen and also covering the risks of damage to the third party/ material/ equipment/ properties during execution of the Contract. Before commencement of the work, the Bidder will ensure that all its employees and

representatives are covered by suitable insurance against any damage, loss, injury or death arising out of the execution of the work or in carrying out the Contract. Liquidation, Death, Bankruptcy etc., shall be the responsibility of bidder.

- iii. The bidder shall provide insurance coverage ex-factory until commissioning and acceptance for replacement or repair of any part of the consignment due to damage or loss.
- iv. The bidder shall provide insurance coverage of Complete Project documents effective from date of commissioning of the project for period of 05 years covering damage by force majeure, fire, forceful damage of project, theft, etc.

29. Warranties and Guarantees

The Bidder shall warrant that the goods supplied under this contract are new, unused, of the most recent or latest technology and incorporate all recent improvements in design and materials. The bidder shall provide warrantee covering the rectification of any and all defects in the design of equipment, materials and workmanship including spare parts for a period of 5 years from the date of commissioning of project. The successful bidder has to transfer all the Guarantees/ Warrantees of the different components to the Owner of the project. The responsibility of operation of Warrantee and Guarantee clauses and Claims/ Settlement of issues arising out of said clauses shall be joint responsibility of the Successful bidder and the owner of the project and ITI will not be responsible in any way for any claims whatsoever on account of the above.

30. Safety Equipment

The awarded bidder must provide fire extinguisher and other safety equipment as per tender/asked by ITI official.

Undertaking

(On Rs.100/- Stamp Paper)

I..... Age years Occup.Address the Authorized Signatory of M/S (Company) hereby state that, I/my company is intending to participate for TENDER NO. Survey, Design, Fabrication, Supply, Installation, Testing and Commissioning of 100 KWp Grid Connected Solar PV Power Plant under ROOFTOP/GROUND MOUNTED Net-Metering Policy with 05 Years of Comprehensive Operation & Maintenance Contract at ITI LIMITED, CORPORATE OFFICE ITI BHAVAN, DOORAVANINAGAR, BANGALORE, KARNATAKA - 560016, INDIA.

I have read all the terms & conditions mentioned in the Tender document of the ITI. I hereby further undertake and declare that all the terms & conditions mentioned in each and every page of the said tender document along with the clarifications released, if any, are binding on me / my company and I am fully aware that, in case of breach of any term or condition of the said Tender document, I am/my company is liable to be disqualified from the said tender process.

Sign:

Name of authorized Signatory:

Name of Company with Stamp: