

SECTION – II (ITB)

INSTRUCTIONS TO BIDDERS

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INSTRUCTIONS TO BIDDERS

A. INTRODUCTION

1. GENERAL

1.1 Adhunik Power & Natural Resources Ltd. (hereinafter referred to as "APNRL/ Owner/ EMPLOYER"), had set up a Thermal Power Station of 2X270 MW unit in Padampur, Jharkhand.

2.0 Eligible Plant, Equipment and Services

2.1 For the purposes of these bidding documents, the word "facilities" means the plant and equipment to be supplied and installed, together with the services to be carried out by the contractor under the contract. The words "plant and equipment", "installation services" etc., shall be construed in accordance with the respective definitions given to them in the General Conditions of Contract.

2.2 All countries and areas are eligible source countries for goods and services to be supplied under this contract and accordingly goods and services to be supplied under this contract may have their origin in any country and area subject to extant rules of Govt. of India for such supplies. It may be noted that the responsibility of compliance to such rules shall lie with the bidder.

2.3 For purposes of this clause, "origin" means the place where the plant and equipment or component parts thereof are mined, grown, or produced. Plant and equipment are produced when, through manufacturing, processing or substantial and major assembling of components, a commercially recognised product results that is substantially different in basic characteristics or in purpose or utility from its components.

2.4 The origin of the plant, equipment, and services is distinct from the nationality of the Bidder.

3.0 Cost of Bidding

3.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the EMPLOYER will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

B. The Bidding Documents

4.0 Content of Bidding Documents

4.1 The facilities required, bidding procedures, contract terms and technical requirements are prescribed in the bidding documents. The bidding documents include the following:

VOLUME-I	:	Conditions of Contract – Commercial & General
VOLUME-II	:	Technical Specification
VOLUME-III	:	Bid Proposal Sheets [Technical Part]
VOLUME-IV	:	Bid Proposal Sheets [Price Part]

- 4.2 The Bidder is expected to examine all instructions, forms, terms, conditions, specifications and other information in the bidding documents. Failure to furnish all information required as per 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 its bid.

5.0 Clarification on Bidding Documents

- 5.1 A prospective Bidder requiring any clarification to the bidding documents may notify the EMPLOYER in writing by post or by telefax or by e-mail at the EMPLOYER's address indicated in the **Clause I. of Section-I (NIT), Volume I of Bidding Document**. EMPLOYER may, if required, respond in writing by post or by telefax or by e-mail followed by post confirmation to any request for clarification or modification of the bidding documents that it receives no later than the date specified in Section-I (NIT), Volume I of Bidding Document. Written copies of the EMPLOYER's response (including an explanation on the query but not identification of its source) will be sent to all prospective Bidders that have purchased the bidding documents.
- 5.2 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.
- 5.3 The Bidder and any of its personnel or agents will be granted permission by the EMPLOYER 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 EMPLOYER 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.

6.0 Amendment to Bidding Documents

- 6.1 At any time prior to the deadline for submission of bids [Stage-II (Price) Bid], the Employer may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the bidding documents.
- 6.2 The amendment will be notified by email or on EMPLOYER's website and will be binding on all the prospective Bidders that have purchased the Bidding Document. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained therein will have been taken into account by the Bidder in its bid.

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

C. Preparation of Bids

7.0 Language

- 7.1 The bid prepared by the Bidder and all correspondence and documents related to the bid exchanged between the Bidder and the EMPLOYER shall be written in English language, provided that any printed literature furnished by the Bidder may be written in another language, as long as such literature is accompanied by a translation of its pertinent passages in English language in which case, for purposes of interpretation of the bid, the translation shall govern.

- 7.2 It is expressly agreed by the bidder that all the technical/ commercial/ all other kind of data including but not limited to technical documents, drawings, designs, manuals, maintenance schedules, display data on equipment, agreements, layouts, etc. (without limitation) shall be provided in ENGLISH language. Non-compliance of this clause shall be a material breach of the agreement to be signed between the parties and consequences shall be applicable accordingly.

8.0 Documents Comprising the Bid

- 8.1 Two Stage Bidding procedure shall be followed for the subject package as under:

Stage-I : Techno-Commercial Bid

Stage-II : Price Bid

8.2 Stage-I : Techno-Commercial Bid

The Techno-Commercial Bid submitted by the Bidder shall comprise of the following documents:

- (i) Bid Form (Techno-Commercial Bid), Section-VI duly completed and signed by the bidder together with following attachments:

(a) **Attachment 1 : Bid Security**

Bid security shall be furnished in accordance with ITB Clause 12 in a separate sealed envelope. Bids not accompanied by the requisite bid security in a separate sealed envelope, or bids accompanied by bid security of inadequate value, shall not be entertained and in such cases, bids shall be returned to the bidder without being opened pursuant to ITB Sub-Clause 12.3.

(b) **Attachment 2 : Power of Attorney**

A Power of Attorney along with Board Resolution authorising the

signatory, duly notarized by a Notary Public, indicating that the person(s) signing the bid has/have the authority to sign the bid and that the bid is binding upon the Bidder during the full period of its validity in accordance with ITB Clause 13.

(c) **Attachment 3 : Bidder's Qualifications**

Documentary evidence establishing that the Bidder is qualified to perform the contract, if its bid is accepted, shall be furnished in **Attachment-3** to bid.

The documentary evidence of the Bidder's qualifications to perform the contract, if its bid is accepted, shall establish to the EMPLOYER's satisfaction that the Bidder has the financial, technical, production, procurement, shipping, installation and other capacities and capabilities necessary to perform the contract and meets the experience and other criteria outlined in below:-

The Bidder shall provide satisfactory evidence that he and/or, where applicable, his collaborator/ Promoters to Joint Venture (JV) Company/ Promoters to Subsidiary Company:

- c.a.) is a manufacturer, who regularly manufactures equipment of the type specified and/or undertakes the type of work specified and has adequate technical knowledge and relevant experience.
- c.b.) does not anticipate a change in ownership during the proposed period of execution of work (If such a change is anticipated, the scope and effect thereof shall be defined).
- c.c.) has adequate financial stability and status to meet the financial obligations pursuant to the Works covered in the Bidding Documents. [The Bidders should submit Annual Reports with profit & loss account and balance sheet for the preceding three (3) financial years in line with Clause 2.1 of Section –I (NIT), Volume I of Bidding Document].
- c.d.) has adequate design, manufacturing and/or fabrication capability and capacity available to perform the work properly and expeditiously within the time period specified. The evidence shall specifically cover, with written details, the installed manufacturing and/or fabrication capacities and present commitments (excluding those anticipated under this specification). If the present commitments are such that the installed capacity results in an inadequacy of manufacturing and/or fabrication capacities to meet the requirements appropriate to the works covered in his bid, then the details of alternative arrangements to be organised by the Bidder and/or his Collaborator/Promoter to Indian Joint Venture (JV) Company/Promoter to Indian Subsidiary Company for this

purpose and which shall meet the EMPLOYER's approval, shall also be furnished.

- c.e.) has an adequate project management organisation covering the areas related to engineering of equipment/systems, interface engineering, procurement of equipment and the necessary field services required for successful construction, testing and commissioning of all the power plant equipment and systems covered in the scope of work for this package and as required by the Bidding Documents.
- c.f.) has established quality assurance systems and organisation designed to achieve high levels of equipment/system reliability, both during his manufacturing and/or fabrication and field installation activities.
- c.g.) a company formed by the merger of two or more companies or divisions of such companies engaged in supply and installation of power generation equipment can also participate provided the constituent companies or divisions before merger individually or jointly meet the stipulated qualification requirements fully.

In addition to the requirements stipulated above, the Bidder should also meet all the qualifying requirements stipulated in clause 1.0 and 2.0 of Section-I (NIT), Volume-I of Bidding Document.

In case Bidder, as per above, is permitted to offer to supply and/or install plant and equipment under the contract that the Bidder did not manufacture or otherwise produce and/or install, the Bidder shall (i) have the financial and other capabilities necessary to perform the contract; (ii) have been duly authorised by the manufacturer or producer of the related plant and equipment or component to supply and/or install that item in the EMPLOYER's country; (iii) be responsible for ensuring that the manufacturer or producer of the related item meets the minimum criteria listed for that item.

- (d) **Attachment 4 : Eligibility and Conformity of the Facilities**
Documentary evidence established in accordance with ITB Clause 2 that the facilities offered by the Bidder in its bid or in any alternative bid (if permitted) are eligible and conform to the bidding documents.

The documentary evidence of the eligibility of the facilities shall consist of a statement on the country of origin of the plant and equipment offered, which shall be confirmed by a certificate of origin issued at the time of shipment.

The documentary evidence of the conformity of the facilities to the

bidding documents may be in the form of literature, drawings and data, and shall include:

- (i) a detailed description of the essential technical and performance characteristics of the facilities;
- (ii) a list giving full particulars, including available sources, of all spare parts, special tools, etc., necessary for the proper and continuing functioning of the facilities following completion of facilities in accordance with provisions of contract; and
- (iii) a commentary on the EMPLOYER's Technical Specifications and adequate evidence demonstrating the substantial responsiveness of the facilities to those specifications. Bidders shall note that standards for workmanship, materials and equipment designated by the EMPLOYER in the bidding documents are intended to be descriptive (establishing standards of quality and performance) only and not restrictive. The Bidder may substitute alternative standards, brand names and/or catalog numbers in its bid, provided that it demonstrates to the EMPLOYER's satisfaction that the substitutions are substantially equivalent or superior to the standards designated in the Technical Specifications.

Attachment 4A: Special Tools and Tackles

The bidder shall provide the details regarding Special Maintenance Tools and Tackles. The cost of these Tools and Tackles shall be included in the Stage-II (Price) Bid.

(e) **Attachment 5: Subcontractors Proposed by the Bidder.**

The Bidder shall include in its bid details of all major items of supply or services that it proposes to purchase or sublet, and shall give details of the name and nationality of the proposed Subcontractor, including vendors, for each of those items. Bidders are free to list more than one Subcontractor against each item of the facilities. Quoted rates and prices in Stage-II (Price) Bid will be deemed to apply to whichever Subcontractor is appointed, and no adjustment of the rates and prices will be permitted.

The Bidder shall be responsible for ensuring that any plant, equipment or services to be provided by the Sub-Contractor comply with the requirements of ITB Sub-Clause 2.0.

The EMPLOYER reserves the right to delete any proposed Subcontractor from the list prior to award of contract, and after discussion between the EMPLOYER and the Contractor, Appendix 5 to the form of Contract Agreement shall be completed, listing the approved Subcontractors for each item.

- (f) **Attachment 6 : Deviations**
Deviations (Technical as well as Commercial), if any, from the terms, conditions and Technical Specifications of Bidding Documents and its amendments/ clarification/ addenda/ corrigenda/ errata shall be listed only in Attachment-6 to the Stage-I (Techno-Commercial) bid.
- Bidders may further note that except for deviations listed in Attachment-6, 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 terms condition and specification such requirements of bidding documents and technical specifications including all Amendments/ Addenda/ Corrigenda/ Errata/ Clarifications irrespective of any mention to the contrary, anywhere else in the bid.
- (g) **Attachment 7 : Details of Local Agent**
If a foreign bidder has engaged an Indian agent, it will be required to give the following details in its bid as per the format enclosed in the Bidding Documents:
- (i) The name and address of the local agent.
 - (ii) What Service the agent renders
- (h) **Attachment 8 : Declaration on Demonstration Parameter**
The Declaration on Demonstration Parameters as per EMPLOYER's Format enclosed.
- (i) **Attachment 9 : Erection Tools and Tackles**
List of Erection Tools and Equipment which the bidder proposes to bring to site in case the contract is awarded to him.
- (j) **Attachment 10 : Technical Data Sheets**
Technical Data Sheets duly filled in as per the EMPLOYER's format. The Bidder shall necessary fill the Essential Data identified in Volume II of Bidding Document.
- (k) **Attachment 11 : Quality Assurance Programme**
Details regarding the overall quality management & procedures/ system, which the bidder proposes, to follow during various phases of execution of the contract.
- (l) **Attachment 12 : Additional Information**
Additional Information which the bidder wishes to provide in his bid.
- (m) **Attachment 13 : Milestone Schedule**
Details regarding the timing & sequence of all key activities necessary for successful completion of the facilities and giving the important milestone as per EMPLOYER's format.
- (n) **Attachment 14 : EFT Authorisation Form**
Electronic Fund Transfer Authorisation Form duly filled in as per

EMPLOYER's format.

- (o) **Attachment 15 : Check List by the Bidder** as per the Employer's format.
- (ii) Copy of any amendments/ addenda/ corrigenda/ errata/ clarification to the Bidding Documents issued by EMPLOYER, duly signed on each pages by the Bidder as token of unequivocal acceptance to such documents.

Note : Techno-Commercial bid should not contain any price content entry.

8.3 STAGE-II: Price Bid

The Price Bid submitted by the Bidder shall comprise of the following documents:

- (i) Bid Form (Price Bid) [Section-VI] duly completed in all respects and signed by the Bidder together with all Price Schedules identified in Clause 10.3 and following Attachments.
 - (a) **Attachment 1(P) : Not Applicable**
 - (b) **Attachment 2(P) : Power of Attorney**
A Power of Attorney along with Board Resolution authorising the signatory, duly notarized by a Notary Public, indicating that the person(s) signing the bid has/have the authority to sign the Bid and that the bid is binding upon the Bidder during the full period of its validity in accordance with ITB Clause 13.
 - (c) **Attachment 3(P) : No Deviation Certificate**
Duly signed and stamped Attachment-3(P) confirming that the Bidder has not taken any deviation in Stage-II (Price Bid) Bid [to be submitted along with Stage-II (Price) Bid in a separate sealed envelope]. **Any bid not accompanied by Attachment-3(P) in a separate sealed envelope shall be rejected by the EMPLOYER and returned to the Bidder without being opened.**
 - (d) **Attachment 4(P) : Not Used**
 - (e) **Attachment 5(P) : Bought Out Items**
Details of bought out items to be directly dispatched by sub-vendor's / assignee's sub-vendor (applicable for foreign bidder) to site.
 - (f) **Attachment 6(P) : Functional Guarantees**
The declaration on guaranteed values of parameters as per EMPLOYER's format enclosed along with Price of Mandatory Spares for FGD system as per details in Annexure to Attachment 6(P) for Bid Evaluation.
 - (g) **Attachment 7(P): Equipment and Mandatory Spares to be imported from Associate/ Collaborator**
Details of Equipment (including type test) and Mandatory Spares to be

imported from Associate/ Collaborator by the Manufacturer or the bidder, as per EMPLOYER's format enclosed (indicating price).

- (h) **Attachment 8(P)** : Not Applicable.
- (i) **Attachment 9(P)** : Not Applicable.
- (j) **Attachment 10 (P)** : Declaration by the Bidder regarding Service Tax scheme for calculation of service tax included in their quoted bid price for Civil & Structural works under Stage- II: Price Bid.
- (k) **Attachment 11 (P) : Check List of Documents to be submitted for Stage-II : Price Bid**

- (ii) Copy of any amendments/ addenda/ corrigenda/ errata/ clarification to the Bidding Documents/ minutes of meeting issued by EMPLOYER subsequent to Pre-bid conference before the due date of bid submission bidding duly signed on each pages by the bidder as token of unequivocal acceptance to such documents.

8.3.1 The Stage-II (Price) bid submitted by the bidder should be without any deviations and strictly in conformity with the provisions of all bidding documents and amendment/ addenda/ corrigenda/ errata/ clarification issued by Employer to the bidding documents prior to Stage-II bidding as mentioned at 8.3 (ii) above. **A conditional Price Bid shall run the risk of rejection.**

8.3.2 **Price Bid should not contain any matter in respect of Technical and / or Commercial aspects other than the details specifically sought by the Employer, while inviting the Stage-II (Price) Bid.**

9.0 Bid Forms and Price Schedules (To be submitted along with Stage-II Bid)

9.1 The Bidder shall complete the Bid Form and the appropriate Price Schedules furnished in the bidding documents as indicated therein following the requirements of ITB Clauses 10 and 11.

10.0 Bid Prices (To be Quoted in Stage-II (Price) Bid)

10.1 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 quoted in Price Bid 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, commissioning, Completion of the facilities and conductance of Guarantee tests for the facilities including supply of mandatory spares (if any) and Operation & Maintenance. This includes all requirements under the Contractor's responsibilities for testing, pre-commissioning and commissioning of the facilities, conducting Guarantee tests 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 Specifications.

10.2 Bidders are required to quote the price in Price Bid for the commercial, contractual and technical obligations outlined in the bidding documents.

10.3 Bidders shall give a breakdown of the prices in the manner and detail called for in the Price Schedules of Price Bid. The Bidders shall present their prices in the following manner:

Separate numbered Schedules shall be used for each of the following elements. The total amount from **Schedule 2, 3 & 4** shall be summarised in a **Grand Summary (Schedule 1)** giving the total bid price(s) to be entered in the Bid Form.

Schedule No. 1 - Grand Summary (Schedules Nos. 2, 3 & 4)

Schedule No. 2 - Plant & Equipment (including Special Tools & Tackle), Factory Fabricated Steel Structure & any other items and Mandatory Spares for FGD System.

Schedule No. 3 - Installation Services (Erection, Testing & Commissioning of Main Plant & Equipment including Factory Fabricated Steel Structural Works, Civil & Architectural Works, Structural Steel Works (Site Fabricated) & Allied Works) including Insurance (other than Transit Insurance and Other Services)

Schedule No. 4 - Operation and Maintenance Services for Three (3) Years Operation for FGD System

Schedule No. 5 - Mandatory Spares for FGD System

Schedule No. 6 - Recommended Spares for FGD System

Schedule No. 7 - Monthly Cash Flow Chart

Bidders shall note that the plant and equipment included in Schedule No. 1 and Schedule No. 2 above shall exclude all materials used in civil, structural, building and other construction works, if any. All such materials shall be included and priced under Schedule No. 3 (Installation Services).

10.4 In the Schedules, Bidders shall give the required details and a breakdown of their prices in Price Bid as follows:

(a) Plant and equipment (including type tests charges) and mandatory spares to be supplied from abroad (Schedule No. 2) shall be quoted on CIF (Indian port-of-entry) basis.

However, Custom Duty and other levies in respect of direct transactions between the EMPLOYER and the Bidder shall not be included in the CIF (Indian Port of Entry) price but shall be quoted separately in the Schedule No. 2. The taxes, duties and levies quoted by the bidder shall be as

applicable in the EMPLOYER's country on seven (7) days prior to the last date for submission of price bid.

Further, Bidders seeking qualification on the basis of association/ collaboration with manufacturer(s) of particular equipment(s) are required to quote the price of such equipment(s) including spares on CIF (Indian port-of-entry) basis, if the items are to be imported by the manufacturer or the bidder. In case, such equipment and spares are not quoted by the bidder on CIF (Indian port-of-entry) basis, then EMPLOYER shall assess the CIF (Indian port-of-entry) price of such equipment and mandatory spares for the purpose of evaluation.

- (b) Plant and equipment (including type tests charges) and mandatory spares manufactured or fabricated within the EMPLOYER's country (Schedule No. 2) shall be quoted on EXW (ex-factory, ex-works, ex-warehouse or off-the-shelf, as applicable) basis and shall be inclusive of all costs as well as duties and taxes paid or payable on components and raw materials incorporated or to be incorporated in the facilities. The taxes, duties and levies quoted by the bidder in Schedule No. 2 shall be as applicable in the EMPLOYER's country on seven (7) days prior to the last date for submission of price bid.
- (c) Local transportation, Inland transit insurance, port clearance, port handling, port charges and other local costs incidental to delivery of the Plant and Equipment including mandatory spares shall be quoted in Schedule No. 2. The price so quoted shall be inclusive of all taxes, duties, levies including Goods and Service Tax & cess and charges payable in the EMPLOYER's country as of 7 days prior to price bid opening.
- (d) Installation Services including Erection, Civil, Structural & Allied Works shall be quoted separately (Schedule No. 3) and shall include rates or prices for all labour, contractor's equipment, temporary works, materials, consumables and all matters and things of whatsoever nature, charges for insurance covers other than inland transit Insurance including operations and maintenance services, the provision of operations and maintenance manuals, training of EMPLOYER's personnel, etc., and other services, as identified in the Bidding Documents, and necessary for the proper execution of the Installation Services, including all taxes, duties, levies (including Goods and Service Tax) and charges payable in the EMPLOYER's country as of seven (7) days prior to the deadline for submission of price bids. Further, all Taxes, Duties, Levies & Charges (including Goods and Service Tax, if any) on the Materials incorporated in Civil, Structural & Allied Works and erection & commissioning shall also be included in the prices quoted in Schedule No. 3 and no Separate payment on this account, whatsoever, shall be made by EMPLOYER.

Financial implication if any on account of any change in the rate of services tax as applicable for direct transactions between the EMPLOYER and the bidder shall be to EMPLOYER's account in line with the provisions of GCC Clause 15.4.

- (e) Recommended spare parts shall be quoted separately in Schedule 6 on CIF/EXW basis in accordance with subparagraphs (a) or (b) above. Local

transportation charges, including inland transit insurance and port charges etc. including Goods and Service Tax for recommended spares shall also be quoted in Schedule-6 and shall not be included in Schedule No. 2 by the Bidder. The Custom Duty and other levies in respect of Recommended Spare parts shall be quoted separately in Schedule-6. The taxes, duties and levies quoted by the bidder in Schedule No. 6 shall be as applicable in the EMPLOYER's country on seven (7) days prior to the last date for submission of price bid.

- 10.5 The terms EXW, FOB, CIF, etc., shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce, 38, Cours Albert 1er, 75008, Paris, France.

10.6 Customs Duty

- 10.6.1 The customs duty including all the duties payable to the customs as on the date of clearance of materials/ equipment imported by the contractor in respect of direct transactions between the employer and the contractor/ assignee of foreign contractor (if applicable) shall be reimbursed to the contractor at actual against documentary evidence.

- 10.6.2 However, the contractor should note that any Indian customs duties or levies including the stamp duty & Import license fee levied by the Govt. of India or any State Governments in India on the equipment required for erection, testing and commissioning brought by the foreign Contractor on 'draw-back' basis i.e. 'brought to perform its works in India under the contract and to be taken back on completion of works' shall be borne by the contractor.

- 10.6.3 The contractor shall fully familiarize himself with the procedures and rates of customs duty applicable for such equipment and drawback of the same available, if any, for the same etc. The EMPLOYER shall not be liable for any financial implications on this account.

10.7 Not used

10.8 Good and Services Tax

Good and Services Tax (GST) chargeable by the contractor on goods manufactured/ services rendered and supplied against this contract shall be paid to the contractor at the rates applicable at the time of despatch of goods/ services against the tax invoice issued by the contractor.

10.9 Not used

10.10 Price Basis

- 10.10.1 Prices quoted by the Bidder shall be a fixed price quotation and no price adjustment shall be applicable.

11.0 Bid Currencies

- 11.1 Prices quoted by the bidders in Stage-II (Price) Bid shall be in the following currencies:
- a. The plant and equipment including type test charges and mandatory spares to be supplied from abroad (Schedule-2) shall be quoted in Indian Rupee (INR). If quoted in foreign currency, it should be in USD only. The conversion of the foreign currency to INR shall be done to bring all the bidders at par as per Clause 27 of ITB.
 - b. The plant and equipment including type test charges and mandatory spares to be supplied from Ex-works (India) (Schedule-2) shall be quoted in Indian Rupee (INR) only.
 - c. Local transportation, Inland transit insurance & other local cost including taxes and duties shall be quoted in Indian Rupee (INR) only.
 - d. Installation services including erection work, Civil, structure and allied work shall be quoted in Indian Rupee (INR) only.

12.0 Bid Security

- 12.1 The Bidder shall furnish, as part of its Bid, a Bid Security in a separate sealed envelope in the amount and currency as stipulated in the Clause C., Section-I (NIT), Volume-I of Bidding Document.
- 12.2 The Bid Security shall, at the Bidder's option, be in the form of Indian Banker's Cheque, Irrevocable Letter of Credit or a Bank Guarantee from any of the banks specified in the Item no. 4 of Section V (Bid Data Sheet (BDS)), Volume I of Bidding Document. In case of Foreign Bidders, the Bid Security can be from any other Bank also in addition to the Banks specified in the Section V (BDS), Volume I of Bidding Document and if the Bank Guarantee is from a Bank not specified in the Section V (BDS), Volume I of Bidding Document, then the Bank Guarantee shall be confirmed by any of the Banks specified in the Section V (BDS), Volume I of Bidding Document. The format of the Bank Guarantee or Letter of Credit shall be in accordance with the form of bid security included in the Bidding Documents. Bid security shall be initially valid for a period of one hundred eighty (180) days from the date of bid opening of Stage-I (Techno-Commercial) Bid.
- 12.3 The Bid Security shall be extended till the finalization of the award by Employer. **Any bid not accompanied by an acceptable Bid Security in a separate sealed envelope shall be rejected by the EMPLOYER as being non-responsive and returned to the Bidders without being opened.**
- 12.4 In case of Stage-I (Techno-Commercial) Bid, the Bid Security of the Bidders whose Stage-I (Techno-Commercial) Bid has not been found acceptable, shall be returned within four (4) weeks after opening of Stage-II (Price) Bid by the EMPLOYER.

The Bid Security of all the unsuccessful Bidders will be returned as promptly as possible, but not later than four (4) weeks after selection of the successful Bidder.

12.5 The Bid Security of the successful Bidder to whom the Award is placed will be returned when the said Bidder has signed the Contract Agreement pursuant to ITB Clause 34 and has furnished the required Performance Securities pursuant to ITB Clause 35.

12.6 Forfeiture of Bid Security:

- (i) if the Bidder withdraws or varies its Bid during the period of Bid Validity;
- (ii) The Bid Security may also be forfeited:
 - (a) If the Bidder does not accept the correction of its Bid Price pursuant to ITB Sub-Clause 26.2;
 - (b) In the case of a successful Bidder, if the Bidder fails within the specified time limit
 - (i) to sign the Contract Agreement, in accordance with ITB Clause 34, and / or
 - (ii) to furnish the required Contract Performance Guarantee/ Performance Security, in accordance with ITB Clause 35.

13.0 Period of Validity of Bid

13.1 Stage-I (Techno-Commercial) Bid initially shall remain valid and open for acceptance for a period of one hundred & eighty (180) days from the date of opening of Stage-I (Techno-Commercial) Bid. Stage-II (Price) Bid including Stage-I (Techno-Commercial) Bid to the extent not contrary to the bidding document read in conjunction with the amendment/errata/clarification issued, shall remain valid and open for acceptance for a period of one hundred eighty (180) days from the date of Opening of Stage-II (Price) Bid. The bid valid for shorter period shall be rejected by the EMPLOYER as being non-responsive.

13.1.1 The bidder is required to keep the prices of recommended spares covered under Price Schedule No.6 of Price Bid valid for a period of twelve (12) months after Notification of Award for Main Equipment and Mandatory Spares.

13.2 In exceptional circumstances, the EMPLOYER may solicit the Bidder's consent to an extension of the bid validity period. The request and responses thereto shall be made in writing by post or by telefax or by e-mail followed by post confirmation. If a Bidder accepts to extend the period of bid validity, the validity of bid security shall also be suitably extended. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request will not be required nor permitted to modify its bid.

14.0 Format and Signing of Bid [Stage-I (Techno-Commercial) Bid and Stage-II (Price) Bid]

14.1 The Bidder shall prepare one original and three (3) copies/ set of the bid clearly marking each one as "**Original Bid**", "**Copy No. 1**", "**Copy No. 2**" and "**Copy No.**

- 3"**, as appropriate. In the event of any discrepancy between them, the original shall govern.
- 14.2 The original and copies of the bid, each consisting of the documents listed in ITB Sub-Clause 8.2 for Techno-Commercial Bid (Stage-I) & 8.3 for Price Bid (Stage-II) shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorised to bind the Bidder to the contract. The authorisation shall be indicated by written Power of Attorney accompanying the bid and submitted as **Attachment-2/ Attachment-2P** to the Bid under ITB Sub-Clause 8.2 (i)(b) & 8.3 (i)(b). **All pages of the bid, except for unamended printed literature, shall be initialled by the person or persons signing the bid.**
- 14.3 Any interlineation, erasures or overwriting shall only be valid if they are initialled by the signatory (ies) to the bid.
- 14.4 The Bidder shall furnish information as described in the relevant paragraph of the Bid Form [Stage-II (Price) Bid] on commission or gratuities, if any, paid or to be paid to agents relating to this Bid, and/or to Contract execution if the Bidder is awarded the Contract.

D. Submission of Bids

15.0 Sealing and Marking of Bids

- 15.1 a) **Stage-I (Techno-Commercial) Bid: Procedure for sealing and marking of Bids shall be as under:**
- i) The Bidder shall seal the original and copy of the bid in separate envelopes, duly marking the envelopes as "**ORIGINAL BID**", "**COPY BID No. 1**", "**COPY BID No. 2**" and "**COPY BID No. 3**".
 - ii) The bid security furnished in accordance with ITB Clause 12 shall be sealed in a separate envelope, duly marking the envelope as "**ATTACHMENT-1, BID SECURITY**".
 - iii) Bidders are required to furnish a certificate as per the format enclosed at Annexure – A (ITB) in a separate sealed envelope super scribed "**Certificate Regarding Acceptance of Critical Provision**" as per **clause 21.3 of ITB**. Any bid not accompanied by such certificate shall be rejected by the EMPLOYER and shall not be opened.

The envelopes shall then be sealed in an outer envelope.

Note : The Bidder to ensure submission of documents as per check list (Attachment-15) for Stage-I : (Techno-Commercial) Bid.

- b) **Price Bid (Stage-II): Procedure for sealing and marking of Bids shall be as under:**

- i) The Bidder shall seal the original and each copy of the bid in **separate envelopes, duly marking the Envelopes as "ORIGINAL BID", "COPY BID NO. 1", "COPY BID NO. 2" and "COPY BID NO. 3"**.
- iii) Attachment-3(P) confirming that the Bidder has not taken any deviation in Stage-II (Price) Bid, duly signed and stamped by the Bidder, shall also be **sealed in a separate envelope marked as "ATTACHMENT-3(P)"**.

The envelope shall then be sealed in an outer envelope.

Note: The Bidder to ensure submission of documents as per check list [Attachment-11(P)] for Stage-II (Price) Bid.

- 15.2 The inner and outer envelopes shall:
- (a) be addressed to the EMPLOYER at the address given in the **Item no. 2 of Section V (BDS), Volume-I of Bidding Document.** and
 - (b) bear the Package name indicated in the **Item no. 2 of Section V (BDS), Volume-I of Bidding Document.**, the Notice Inviting Tender Title and number, and the statement **"DO NOT OPEN BEFORE [date],"** to be completed within the time and date specified in the NIT, pursuant to ITB clause 16.1
- 15.3 The inner envelopes shall also indicate the name and address of the Bidder so that the bid can be returned unopened in case it is declared "late" or is received without the requisite Bid Security and Certificate Regarding Acceptance of Critical Provisions (Annexure A-ITB) during Stage-I bid and/or extension of Bid Security & No Deviation Certificate during Stage-II bid by the EMPLOYER.
- 15.4 If the outer envelope is not sealed and marked as required by ITB Sub-Clause 15.2 above, the EMPLOYER will assume no responsibility for the bid's misplacement or premature opening. If the outer envelope discloses the Bidder's identity, the EMPLOYER will not guarantee the anonymity of the bid submission, but this disclosure will not constitute grounds for bid rejection.
- 15.5 **The Bidder shall also submit soft copy in MS office format of the Bid Proposal, including all the schedules of both the Techno-commercial Bid Proposal and Price Bid,** placed in the respective Sealed Covers, though the typed original copy of the Bid Proposal will be considered as the authentic copy and will be considered for evaluation of the Bid-Proposals. The soft copy shall not be made write-protected and can be copied and reformatted if required by the EMPLOYER. The soft copy of the Bid Proposal is asked only for the convenience of the EMPLOYER in preparation of the bid related documentation.
- 16.0 Deadline for Submission of Bids**
- 16.1 Bid Proposal must be received by the EMPLOYER at the address specified under ITB Sub-Clause 15.2 no later than the time and date stated in the NIT. In the event of the specified date for submission of bids being declared a holiday for the

EMPLOYER, the bids will be received up to the appointed time on the next working day.

16.2 The EMPLOYER may, at its discretion, extend this deadline for submission of bids by amending the bidding documents in accordance with ITB Sub-Clause 6, in which case all rights and obligations of EMPLOYER and Bidders will thereafter be subject to the deadline as extended.

16.3 Date for opening of Price Bid (Stage-II) shall be intimated separately after opening of Techno- Commercial Bid (Stage-I) to the qualified bidders of Stage-I.

17.0 Late Bids

17.1 Any bid received by the EMPLOYER after the bid submission deadline prescribed by the EMPLOYER, pursuant to ITB Clause 16, will be rejected and returned unopened to the Bidder.

18.0 Modification and Withdrawal of Bids

18.1 The Bidder may modify or withdraw its bid after submission, provided that written notice of the modification or withdrawal is received by the EMPLOYER prior to the deadline prescribed for bid submission.

18.2 The Bidder's modifications shall be prepared, sealed, marked and dispatched as follows:

- (a) The Bidders shall provide one original and one copy of any modifications to its bid, clearly identified as such, in two inner envelopes duly marked "**Bid Modifications-Original**", "**Bid Modifications-Copy No. 1**", "**Bid Modifications-Copy No. 2**" and "**Bid Modifications-Copy No. 3**". The inner envelopes shall be sealed in an outer envelope, which shall be duly marked "**Bid Modifications**"
- (b) Other provisions concerning the marking and dispatch of bid modifications shall be in accordance with ITB Sub-Clauses 15.2, 15.3 and 15.4.

18.3 A Bidder wishing to withdraw its bid shall notify the EMPLOYER in writing prior to the deadline prescribed for bid submission. A withdrawal notice may also be sent by post or by email Item no. 9, Section V (BDS), Volume I of Bidding Document not later than the deadline for submission of bids.

The notice of withdrawal shall:

- (a) be addressed to the EMPLOYER at the address named in **Item no. 2 of Section V (BDS), Volume-I of Bidding Document**, and
- (b) bear the Package name, the NIT number, and the words "**BID WITHDRAWAL NOTICE.**"

Bid withdrawal notices received after the bid submission deadline will be ignored, and the submitted bid will be deemed to be a validly submitted bid.

- 18.4 No bid may be withdrawn in the interval between the bids submission deadline and the expiration of the bid validity period specified in ITB Clause 13. Withdrawal of a bid or varying the bid during this interval may result in the Bidder's forfeiture of its bid security, pursuant to ITB Sub-Clause 12.6.

E. Bid Opening and Evaluation

19.0 Opening of Bids by EMPLOYER

- 19.1 The EMPLOYER will open all the Stage-I (Techno-Commercial) bid 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. In the event of the specified date for the opening of bids being declared a holiday for the Employer, the bids will be opened at the appointed time on the next working day.
- 19.2 First, envelopes marked "**WITHDRAWAL**" will be opened, read out, and recorded, and the envelope containing the Technical Bid shall not be opened, but returned to the Bidder. No Bid shall be withdrawn unless the corresponding Withdrawal Notice contains a valid authorization to request the withdrawal and is read out and recorded at bid opening.
- 19.3 All other envelopes holding the Technical Bid will be opened one at a time, and the following read out and recorded:
- (a) the name of the Bidder;
 - (b) the presence of the Bid Security,
 - (c) Certificate Regarding Acceptance of Critical Provisions [As per Annexure-A (ITB)]
 - (d) any other details as the EMPLOYER may consider appropriate.
- 19.4 **Stage-I (Techno-Commercial) Bids that are not opened and read out at bid opening will not be considered for further evaluation, regardless of the circumstances. Late bids pursuant to ITB clause 17, and / or bids not accompanied by requisite bid security in a separate sealed envelope pursuant to ITB Clause 12, and/or bids not accompanied by Certificate of Acceptance of Critical Provision (Annexure A-ITB) as per requirement of ITB clause 21.3 in a separate sealed envelope will be rejected and returned unopened to the bidder.**
- 19.5 Stage-I (Techno-Commercial) Bids which are generally responsive to the operating and performance requirements as laid out in Technical Specifications (Volume-II) of bidding documents will then be considered for evaluation.
- 19.6 After evaluation of Stage-I (Techno-Commercial) Bid, Employer may invite individual bidders for clarifications. Subsequently, Employer may issue amendments/ clarifications, if considered necessary and Invite for Stage-II (Price)

- bid from the bidders who have been considered qualified and whose bid has been considered Techno-Commercially responsive.
- 19.7 The Employer will conduct the opening of the Stage-II (Price) Bids in the presence of the Bidders representatives who choose to attend at the address, date and time specified by the Employer. In the event of the specified date for the opening of bid is being holiday for the Employer, the Bids will be opened at the appointed time on the next working day.
- 19.8 First, envelopes marked "**WITHDRAWAL**", will be opened, read out, and recorded, and the envelopes containing the corresponding Price Bids shall not be opened, but returned to the Bidder. No Price Bids shall be withdrawn unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out and recorded at the opening of Price Bids.
- 19.9 All remaining envelopes holding Price Bids will be opened one at a time and the following read out and recorded:
- (a) the name of the Bidder
 - (b) Prices, including any discounts and
 - (c) any other details as the EMPLOYER may consider appropriate.
- 19.10 Price Bids (Stage-II Bid) that are not opened and read out at bid opening will not be considered for further evaluation, regardless of the circumstances. Late bids, pursuant ITB Clause 17, and/or bids not accompanied by requisite bid security extension in a separate sealed envelope pursuant to ITB Clause 12 and/or Bids not accompanied by the "No Deviation Certificate" as per Attachment-3(P) in a separate sealed envelope pursuant to ITB Clause 8.3(i)(c) will be rejected and returned unopened to the Bidder.**
- 19.11 The Employer will prepare minutes of the Stage-I & Stage-II Bid opening. This record shall be confirmed and signed by all the Bidder's representatives present at the opening of Stage-I & Stage-II Bids.
- 20.0 Clarification on Bids**
- 20.1 During bid evaluation, the EMPLOYER may, at its discretion, ask the Bidder for a clarification of its bid including documentary evidence pertaining to only the reference plants declared in the bid for the purpose of meeting Qualifying Requirement specified in Item no. 11 of Section V (BDS), Volume I of Bidding Document. The request for clarification and the response shall be in writing, and no change in the price or substance of the bid including substitution of reference plants in the bid by new/ additional plant for conforming to Qualifying Requirement shall be sought, offered or permitted.
- 21.0 Preliminary Examination of Stage-I (Techno-Commercial) Bids:**
- 21.1 The EMPLOYER will examine the bids to determine whether they are complete, whether required securities have been furnished, whether the documents have been properly signed and whether the bids are generally in order.

21.2 Prior to the detailed evaluation, the EMPLOYER will determine whether each bid is generally complete, acceptable 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 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 EMPLOYER'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.

21.3 Critical Provisions

Following provisions of the Bidding Documents are Critical Provisions and Bidders are not allowed to take deviations against these provisions:

- (a) Governing laws (Clause 6 of GCC, Section III).
- (b) Settlement of disputes (Clause 7 of GCC, Section III).
- (c) Terms of Payment (Clause 13 of GCC, Section III).
- (d) Performance Security (Clause 14.3 of GCC, Section III).
- (e) Performance Security for Deed(s) of Joint Undertaking (Cl. 14.4 of GCC, Section-III).
- (f) Taxes and Duties (Clause 15 of GCC, Section III)
- (g) Completion Time Guarantee (Clause 27 of GCC, Section III).
- (h) Defect Liability (Clause 28 of GCC, Section III).
- (i) Functional Guarantees (Clause 29 of GCC, Section III).
- (j) Patent Indemnity (Clause 30 of GCC, Section III).
- (k) Limitation of Liability (Clause 31 of GCC, Section III).

21.4 The EMPLOYER'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 EMPLOYER, and may not subsequently be made responsive by the Bidder by correction of the nonconformity.

Bidder has to submit the Acceptance of NO DEVIATION FROM THE CRITICAL PROVISION as per Annexure A of ITB, Volume I of Bidding Document.

22.0 Evaluation of Stage-I: Techno-Commercial Bids

Part-I (Techno-commercial) Bids, prepared and comprising details / documents in line with ITB Sub-Clause No. 8.2 & 8.3 will be evaluated as described below:

22.1 Stage-I (Techno-commercial) Bids, prepared and comprising details / documents in line with ITB Sub-Clause No. 8.2, will be evaluated as described below:

22.1 The Employer will carry out a detailed evaluation of the bids (Techno- Commercial) Stage-I 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 Employer 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-6** 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 acceptable standards of completeness, consistency and detail will be rejected for non- responsiveness.
- (b) achievement of specified performance criteria by the facilities
- (c) type, quantity and long-term availability of mandatory and recommended spare parts and maintenance services.
- (d) any other relevant factors, if any, listed in the Section V (BDS), Volume I of Bidding Document, or that the EMPLOYER deems necessary or prudent to take into consideration.
- (e) Deviation from Terms and Conditions of Bidding Documents as stated in **Attachment-6**.
- (f) Compliance with the time schedule as specified in the bidding documents.
- (g) Demonstration Parameters

Bidders shall state the demonstration parameters 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 guarantee 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 may be rejected.

23.0 QUALIFICATION

- 23.1 The EMPLOYER will ascertain to its satisfaction whether bidders determined as having submitted responsive Stage-I (Techno-Commercial) bids are qualified to satisfactorily perform the contract.
- 23.2 The determination will take into account the Bidder's financial, technical and production capabilities and past performance. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Sub-Clause 8.2(i) (c), as well as such other information as the EMPLOYER deems necessary and appropriate.
- 23.3 An affirmative determination will be a prerequisite for the EMPLOYER to invite the Bidder to a clarification meeting in accordance with ITB Clause 24. A negative determination will result in rejection of the Bidder's bid.

24.0 CLARIFICATION MEETING

- 24.1 The Employer may conduct clarification meetings with each or any Bidder to clarify any aspects of its Stage-I (Techno-Commercial) bid that require explanation at this stage of the evaluation. During these meetings, the Employer may bring to the attention of the Bidder any matters, technical or otherwise, where for whatever reason, it requires amendments or changes to be made to the Stage-I bid. All such amendments or changes required by the Employer will be formally notified to all the Bidders Qualified in Stage-I (Techno- Commercial) Evaluation as part of the invitation to submit the Stage-II (Price) bid.
- 24.2 The Employer will advise the Bidder of any exceptions or deviations in the Stage-I (Techno-Commercial) bid, that are unacceptable and that are to be withdrawn in the Stage-II (Price) bid.

25.0 INVITATION FOR STAGE-II (PRICE) BIDS

- 25.1 At the end of the Stage-I (Techno-Commercial) evaluation and after holding clarification meetings,
- (a) the Employer may issue an amendment to the bidding documents as considered necessary by the Employer based on the Stage-I (Techno-Commercial) evaluation and clarification meetings thereof and/or
 - (b) the Employer will either
 - (i) invite a Bidder to submit Stage-II (Price) bid based on the updated Technical Specifications and Drawings or
 - (ii) notify a Bidder that its bid has been rejected on the grounds of being substantially nonresponsive, or that the Bidder does not meet the minimum qualification requirements set forth in the bidding documents and return his bid security.
- 25.2 The Date & Time for submission of Stage - II (Price) bids will be specified in the invitation for Stage - II (Price) bids.
- 25.3 In case the Employer has issued amendments to the bidding documents pursuant to ITB Sub-Clause 25.1(a), the bidders shall be required to comply with the requirements of the amended bidding documents and no deviations/ variations/ exceptions to the amended bidding documents shall be permitted in the Stage-II (Price) bids. **An unconditional confirmation to this effect shall be mandatory to be submitted along with the Stage-II (Price) bid as per the format Attachment-3(P).**

26.0 PRELIMINARY EXAMINATION OF STAGE-II (PRICE) BIDS

- 26.1 The Employer will examine the Stage-II bids to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the bids are generally in order. The Employer 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.

26.2 Arithmetic errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, or between subtotals 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 forfeited in accordance with ITB Sub-Clause 12.6(ii) (a).

27.0 CONVERSION TO SINGLE CURRENCY

27.1 To facilitate evaluation and comparison, the EMPLOYER will convert all bid prices, expressed in the amounts in various currencies in which the bid price is payable, to a single currency. The currency selected for converting bid prices to a common base for the purpose of evaluation, along with the type of transaction, source and date of the exchange rate to be used, is specified in **Item no. 6, Section V (BDS), Volume I of Bidding Document**.

28.0 EVALUATION OF STAGE-II (PRICE BID)

28.1 The EMPLOYER's evaluation of a bid will take into account, in addition to the bid prices indicated in Schedule Nos. 1 through 4 (with summary in Schedule-5) and the corrections pursuant to ITB sub-clause 26.2, the following costs and factors that will be added to each Bidder's bid price in the evaluation, using pricing information available to the EMPLOYER, in the manner and to the extent indicated in ITB Sub-Clause 28.4 and in the Technical Specifications:

- (a) adjustment for the functional guarantees of the facilities offered
- (b) the extra cost of work, services, facilities, etc. required to be provided by the EMPLOYER or third parties
- (c) any other relevant factors listed in Price Bid, or factors that the EMPLOYER deems necessary or prudent to consider.

28.2 Pursuant to ITB Sub-Clause 28.1, the following evaluation methods will be followed:

- (a) Functional Guarantees of the Facilities
 - (i) Bidders shall state the functional guarantees (e.g., performance, efficiency, consumption) of the proposed facilities specified in Section V (BDS), Volume I of Bidding Document in response to the Technical Specifications. In case a minimum (or maximum, as the case may be) level of functional guarantees has been specified in the Section V (BDS), Volume I of Bidding Document to be considered responsive, Bids offering plant and equipment with functional guarantees less (or more) than the minimum (or maximum) specified shall be rejected.
 - (ii) For the purposes of evaluation, the adjustment specified in the Section V (BDS), Volume I of Bidding Document will be added to the bid price for each drop (or excess) in the responsive functional guarantees offered by the Bidder, below (or above) either a norm of one hundred (100) or the value committed in the responsive bid with the most

performing functional guarantees, as specified in the Section V (BDS),
Volume I of Bidding Document.

(b) Work, Services, Facilities, etc., to be Provided by the EMPLOYER

Where bids include the undertaking of work or the provision of services or facilities by the EMPLOYER in excess of the provisions allowed for in the bidding documents, the EMPLOYER 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.

28.3 The comparison shall be on the summation of the arithmetically corrected total price in Price Schedule No. 5 (Total of Schedule Nos. 1 to 4). The EMPLOYER's evaluation will also include the costs resulting from application of the evaluation procedures described in ITB Sub-Clause 28.1 and 28.2. Any adjustments in price that result from the above procedures as per ITB Sub-Clause 28.1 and 28.2 shall be added, for the purposes of comparative evaluation only.

28.4 The method of evaluation is illustrated below:

Illustrative Method of Evaluation		Any Bidder (Equivalent INR)
1.	Quoted Bid Price without taxes & duties (after considering arithmetical errors)	
(i)	CIF price including type tests charges + inland transportation including inland transit insurance for equipment and mandatory spares	N1
(ii)	Ex-works price including type test charges + inland transportation including inland transit insurance for equipment and mandatory spares	N2
(iii)	Price for Installation Services	N3
(iv)	Sum of Taxes and Duties as per Schedule-7	N4
(iv)	Total Price	N (N1+N2+N3+N4)
2.	Adjustment for Functional Guarantees	V
4.	Evaluated Bid Price	EP1 (N+V)

Note: Aforesaid method of evaluation shall be equally applicable for all bidders.

29.0 NOT USED

30.0 Contacting the EMPLOYER

30.1 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.

- 30.2 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.

F. Award of Contract

31.0 Award Criteria

- 31.1 Subject to ITB Clause 32, the EMPLOYER will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and evaluated in terms of ITB Clause 28, provided that the Bidder is determined to be qualified to perform the contract satisfactorily. The chosen bidder may not be necessarily be the L-1 bidder as timely and successful completion and operation of the project is the essence of the bidding process.
- 31.2 The Bidder will be required to comply with all the requirements of the Bidding Documents and subsequent amendments thereof, if any, as brought out at 25.1 above without any extra cost to EMPLOYER, failing which his bid security will be forfeited.
- 31.3 The employer reserves the right to vary the quantity of any of the spares and / or delete any item of spares altogether at the time of award of contract. Employer shall adjust the Contract price accordingly.
- 31.4 The mode of contracting with the successful bidder will be as per stipulation outlined in GCC Clause 4.5 and briefly indicated below:

In the case of successful Domestic Bidder, the award shall be made as follows:

- (i) **First Contract: For Ex-works (India)** supply of domestically manufactured plant and equipment including type test charges and mandatory spares.
- (iii) **Second Contract:** For providing all services i.e. loading, inland transportation for delivery at site, inland transit insurance, unloading, storage, handling at site, civil works, installation, insurance covers other than inland transit insurance, testing and commissioning including carrying out guarantee tests in respect of all the equipment supplied under the 'First Contract' and all other services as specified in the Contract Documents.

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.

In the case of successful Foreign Bidder, the award shall be made as follows:

- (i) **First Contract: For CIF (Indian port-of-entry)** supply of plant and equipment including type test charges and mandatory spares to be supplied from abroad.

- (ii) **Second Contract: For Ex-works (India)** supply of domestically manufactured plant and equipment including type test charges and mandatory spares.
- (iii) **Third Contract: For providing all services** i.e. port handling, port clearance and port charges for the imported goods, further loading, inland transportation for delivery at site, inland transit insurance, unloading, storage, handling at site, installation services including erection, civil, structural & allied works, insurance covers other than inland transit insurance, testing, commissioning and conducting Guarantee tests in respect of all the equipment supplied under the First Contract & the Second Contract and all other services as specified in the Contract Documents.

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.

The foreign bidder, however, has the option, to be exercised as a part of its bid proposal, to propose an Assignee in its bid to execute the Second Contract and/or the Third Contract. For the scope of work envisaged by the foreign bidder, in its bid, to be executed by Assignee, the Assignee should have relevant/required capacity and experience of executing similar job. The bidder shall substantiate with relevant/required documents in the bid to establish capacity and experience of the Assignee.

If the foreign bidder has proposed an Assignee in its bid to execute the Second Contract and/or the Third Contract and has also furnished written unequivocal consent of the proposed Assignee to work as an independent Contractor on the terms and conditions offered by the bidder and if the EMPLOYER is satisfied with the capacity and experience of the Assignee proposed in the bid, the EMPLOYER will enter into the 'Second Contract' and/or the 'Third Contract' with the Assignee. However, if the EMPLOYER in its judgement does not find acceptance of the Assignee proposed in the bid as its Contractor, then on the request of the EMPLOYER, the bidder shall have option to propose an alternate Assignee on the same terms and conditions and cost as offered in its bid. It is expressly understood and agreed that in case the option is not exercised by the Bidder or if the Assignee fails to enter into Contract(s) with the EMPLOYER or if the EMPLOYER in its judgement does not find acceptance of the Assignee as its Contractor, then the foreign bidder shall be obliged to enter into and execute all the three Contracts with the EMPLOYER covering the entire scope of work envisaged in the bidding documents on the same terms and conditions and cost as offered in its bid.

However, for the above purpose, only one Assignee shall be permitted for both Second Contract and/or Third Contract.

32.0 EMPLOYER's Right to Accept Any Bid and to Reject Any or All Bids

- 32.1 The EMPLOYER 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 incurring any liability to the affected Bidder or bidders or any obligation to

inform the affected Bidder or bidders of the grounds for the EMPLOYER's action. Decision of EMPLOYER will be final and binding in this regard.

33.0 Notification of Award

33.1 Prior to the expiration of the period of bid validity, the EMPLOYER will notify the Bidder in writing by registered letter or by telefax or by email to be confirmed in writing by registered letter, that its bid has been accepted. The notification of award will constitute the formation of the contract.

33.2 Upon the successful Bidder's furnishing of the performance securities pursuant to ITB Clause 35, the EMPLOYER will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Sub-Clause 12.4.

34.0 Signing the Contract Agreement

34.1 At the same time as the EMPLOYER notifies the successful Bidder that its bid has been accepted, the EMPLOYER will send to the Bidder the Contract Agreement provided in the bidding documents, incorporating all agreements between the parties.

34.2 Within fifteen (15) days of receipt of the Contract Agreement, the successful Bidder / Assignee of foreign bidder (if applicable) shall sign and date the Contract Agreement and return it to the EMPLOYER.

35.0 Performance Security

35.1 Within fifteen (15) days after receipt of the Notification of Award, the successful Bidder shall furnish performance securities for ten percent (10%) of Contract Price for all the contracts and in the form provided in the section "Forms and Procedures" of the bidding documents.

35.2 In case Deed(s) of Joint Undertaking by the Contractor along with all the executants including associate(s)/ collaborator(s)/ promoter(s) form part of the Contract, then, unconditional Bank Guarantee(s) from such executants towards faithful performance of the Deed(s) of Joint Undertaking for amount(s) specified in Clause 14.5.1 of Section III (GCC), Volume I of Bidding Document shall be furnished within fifteen (15) days after Notification of Award. These Bank Guarantees shall be furnished in the form provided in the Section VI "Forms and Procedures" of the bidding documents and shall be valid till such period as specified in the corresponding format for Deed of Joint Undertaking.

35.3 In case of a successful foreign bidder, if the EMPLOYER accepts to enter into the Second Contract and / or Third Contract with the Assignee, pursuant to ITB Sub-Clause 31.4 above, then, within fifteen (15) days of Notification of Award, the Assignee shall furnish additional performance security(ies) for ten percent (10%) of the value of the Contract(s) entered into with the Assignee and in the form provided in the Section "Forms and Procedures" of the Bidding Documents.

35.4 Failure of the successful Bidder to comply with the requirements of ITB Clause 34 or Clause 35.1 to 35.3 shall constitute sufficient grounds for the annulment of the

award and forfeiture of his bid security, in which event the EMPLOYER may make the award to the next lowest evaluated Bidder or call for new bids.

36.0 Adjudicator

36.1 The Adjudicator under the Contract shall be appointed by the Appointing Authority as mentioned in the Section V (BDS), Volume I of Bidding Document.

36.2 The Adjudicator shall be paid fees plus reasonable expenditures incurred in the execution of its duties as Adjudicator under the Contract. These costs shall be divided equally between the EMPLOYER and the Contractor.

37.0 Corrupt and Fraudulent Practices

37.1 The EMPLOYER requires that Bidders, Contractors and Suppliers observe the highest standard of ethics during the procurement and execution of the contracts. In pursuance of this policy, the EMPLOYER:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (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 EMPLOYER, 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 EMPLOYER of the benefits of free and open competition;
- (b) will reject a proposal for award if it determines that the Bidder is 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 EMPLOYER.

38.0 NOT USED

39.0 Ineligibility for participation in Re-tender

"Notwithstanding the provisions specified in ITB Sub-clause 12.6 and ITB Sub-Clause 35, if a bidder after having been issued the Notification of Award, either does not sign the Contract Agreement pursuant to ITB clause 34 or does not submit an acceptable Performance Security pursuant to ITB Clause 35.1 to 35.3 which results in tender being annulled then such bidder shall be treated ineligible for participation in re-tendering of this particular package."

40.0 Time Schedule (Programme of Performance)

The plant and equipment covered by this bidding document are required to be shipped and installed, and the facilities are to be completed within the period named in the Section V (BDS), Volume I of Bidding Document, after the effective date specified in the Contract Agreement. Bidders are required to base their prices on the time schedule given in Appendix-4 to the form of Contract Agreement (Time Schedule) or, where no time schedule is given, on the completion date(s) given in the Section V (BDS), Volume I of Bidding Document. No credit will be given for earlier completion.

41.0 NOT USED

42.0 NOT USED

43.0 Pre-Bid Conference

The Bidder or his authorised representative is invited to attend pre-bid conference which will take place as per details stipulated in **Item no. 5 of Section V (BDC), Volume-I of Bidding Document.**

The purpose of the conference will be to clarify any issue regarding the Bidding Documents.

The Bidder is requested to submit questions in writing or by fax or by email as per Item no. 9, Section V (BDS), Volume I of Bidding Document to reach the EMPLOYER at the address indicated above, not later than one (1) day before the pre-bid conference.

Record notes of the pre-bid conference including the EMPLOYER's responses to the queries raised by the bidders in writing shall be transmitted to all the prospective bidders who have purchased the bidding documents. Further, any modifications of the Bidding Documents which may become necessary as a result of the pre-bid conference shall be made by the EMPLOYER exclusively through an amendment to the bidding documents and not through the record notes of the pre-bid conference.

Non-attendance at the pre-bid conference will not be a case for disqualification of a bidder.

44.0 NOT USED

ANNEXURE - A (ITB)

**PROFORMA FOR
CERTIFICATE REGARDING ACCEPTANCE OF CRITICAL PROVISION**

Bidder's Name & Address To

To,

1.0 With reference to our Bid proposal No..... dated for establishing 2 x 270 MW Thermal Power Plant at Padampur, Jharkhand against Bidding Document No. We hereby confirm that we have read the provisions of the following clauses and further confirm that notwithstanding anything stated elsewhere to the contrary, the stipulations of these clauses are acceptable to us and we have not taken any deviation to these clauses.

- (a) Governing laws (Clause 6 of GCC, Section III).
- (b) Settlement of disputes (Clause 7 of GCC, Section III).
- (c) Terms of Payment (Clause 13 of GCC, Section III).
- (d) Performance Security (Clause 14.3 of GCC, Section III).
- (e) Performance Security for Deed(s) of Joint Undertaking (Cl. 14.4 of GCC, Section-III).
- (f) Taxes and Duties (Clause 15 of GCC, Section III)
- (g) Completion Time Guarantee (Clause 27 of GCC, Section III).
- (h) Defect Liability (Clause 28 of GCC, Section III).
- (i) Functional Guarantees (Clause 29 of GCC, Section III).
- (j) Patent Indemnity (Clause 30 of GCC, Section III).
- (k) Limitation of Liability (Clause 31 of GCC, Section III).

2.0 We further confirm that any deviation to the above Clauses at Sl. No. (a) to (m) found anywhere in our bid proposal, implicit or explicit, shall stand unconditionally withdrawn, without any cost implication whatsoever to APNRL.

Signature

.....
(Signature of Person duly authorised to sign the
Tender on behalf of the Bidder)

Date : (Name)

.....
Place : (Designation)

.....
(Name of Bidding Company)

.....
(Seal of the Company)

.....