

DETAILED INVITATION FOR BIDS (IFB)

FOR

“Hiring of Agency for Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website.”

ISSUED BY



2nd Floor, Core-III, SCOPE Complex,
Lodhi Road, New Delhi-110003

OPEN TENDER

April 2024



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

CONVERGENCE ENERGY SERVICES LIMITED
2nd Floor, Core-III, SCOPE Complex,
Lodhi Road, New Delhi-110003

CONTRACTS DEPARTMENT

OPEN TENDER

SECTION – 1: INVITATION FOR BIDS (IFB)

FOR

Name of the Package : Hiring of Agency for Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website.”

NIT/Bid Document No. : CESL/06/2024-25/IT/242504001

NIT/Bid Date : 08/04/2024

Convergence Energy Services Limited (CESL) invites e-Bids from interested Bidder(s) for the aforesaid work(s) under Single-Stage Three-Envelope Bidding Process through e-TENDERING*.

For details about the IFB, please refer to the details that follow in this Bid Document.

Any amendment(s)/corrigendum(s)/clarification(s) with respect to this Bid Document shall be uploaded on the e-Tendering website, only. The interested Bidder(s) should keep themselves updated by regularly visiting the e-Tendering website of CESL for any amendment/corrigendum/clarification in regards to this Bid.

For & on behalf of CESL

Contracts Department



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*The Bids for e-Tender will be submitted online on the website <https://cesl.eproc.in>. Oral, telephonic, telegraphic Bid(s) or those submitted in hard copy(ies)/physical form(s) will not be entertained. In case anything to this contrary mentioned anywhere in this Bid Document, the same should be ignored by the interested Bidder(s).

**The Bidders are advised to submit their bids well on time preferably one hour prior to bid closing time to cater to possible system slow down/requirement of assistance by bidders etc.. CESL shall not be responsible for late/non-submission of bids due to above scenario which are beyond CESL control during the closing minutes of the tender, though every effort will be made to keep the portal fully functional at all times during the bidding process.

***In case, anything to the contrary is mentioned anywhere in the Tender, the same should be ignored

****In the event of a technical support being sought from the support team during the bidding process, the bidder may exercise abundant caution while sharing details of their bid so that the bid confidentiality is not compromised. CESL shall not be liable for any lapse in the part of the bidders leading to a possible breach in confidentiality of their bid(s).



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BID DETAILS

S. No.	Project Summary	Details						
1.	Name of Package	Hiring of Agency for Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website						
2.	NIT/Bid Document No.	CESL/06/2024-25/IT/242504001						
3.	NIT/Bid Date	08/04/2024						
4.	Bid Document Fee	Rs. 2,000/- in form of DD/NEFT/RTGS as detailed in Section-4						
5.	Bid Security / Earnest Money Deposit (EMD)	<table> <tr> <th>S.no</th><th>Package Description</th><th>EMD Amount (INR)</th></tr> <tr> <td>1.</td><td>Package</td><td>Rs 15,293/-</td></tr> </table> <p>Bidder participating in Package is required to submit EMD of Rs. 15,293/- in the form of BG/DD/NEFT/RTGS</p> <p>Validity of EMD shall be calculated as Bid validity period + 45 days claim period</p>	S.no	Package Description	EMD Amount (INR)	1.	Package	Rs 15,293/-
S.no	Package Description	EMD Amount (INR)						
1.	Package	Rs 15,293/-						
6.	Bid Document Sale Date & Timing, i.e., Last date & time for downloading Bid from website	From 08/04/2024 to 29/04/2024 upto 1400 hrs (IST)						
7.	Pre-Bid Meeting	On 12-04-2024 at 1130 hrs (IST) at CESL office						
8.	Online Bid Submission Period	From 08/04/2024 to 29/04/2024 upto 1430 hrs (IST)						
9.	Technical e-Bid(s) Opening Date	On 29/04/2024 at 1500 hrs (IST)						
10.	Bid Validity	180 days from the date of opening of technical e-Bid						
11.	Commercial e-Bid(s) Opening Date	To be intimated by e-mail to Qualified Bidder(s).						
12.	Bidding Procedures	Single Stage Two Envelope Bidding (Domestic Competitive Bidding under e-procurement)						
13.	Publication	This invitation for bids follows the e-procurement notice (Invitation for Bids) for the subject package published on CESL Website and e-procurement portal and on Government of India's Central Public Procurement Portal (https://eprocure.gov.in). Any Corrigendum and/or amendments, etc. shall also be published only on the above website/portals.						
14.	E-procurement portal	CESL's e-Tendering portal is https://cesl.eproc.in (e-portal) Government of India's Central Public Procurement Portal is https://eprocure.gov.in (Refer Annexure-3 to this Section for Important Instruction for participation in the e-Bidding through e-portal).						
15.	Sections in this Bid Document	Section – 1: Invitation for Bids (IFB) Section – 2: Instructions to Bidder's (ITB) Section – 3: General Conditions of Contract (GCC) Section – 4: Special Conditions of Contract (SCC) Section – 5: Measurement & Verification (M&V) Section – 6: Forms & Procedures						
16.	Bid to be Addressed to	Chief General Manager (Contracts) Convergence Energy Services Limited						

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		2 nd Floor, Core-III, SCOPE Complex Lodhi Road, New Delhi-110003
17.	Email	Contact Person(s) for Bid related Queries: Mr. Kumar Saurabh (Addl. GM): ceslcontracts@eesl.co.in Mr. Nikhil Bhandari, AM-Contracts: nbhandari@eesl.co.in/ Contact Person(s) for Technical related Queries: (Copy of the query to be marked to Contracts Dept. as well) Mr. Rahul Kumar (Sr. Engineer-IT) email id: u_rkumar6@eesl.co.in Mr. Avneesh Vats, email: head-it.cesl@eesl.co.in
18.	Website	https://cesl.eproc.in

1. All the Bids must be accompanied by Bid Document Fee & Bid Security/EMD, as mentioned above. Bids not accompanying the Bid Document Fee & Bid Security/EMD, or those accompanied by these instruments of inadequate value, shall not be entertained and in such cases, the Bids shall not be opened.

2. The Bid Document Fee & Bid Security/EMD, in a sealed Envelope, superscribed "Bid Document Fee & Bid Security/EMD for NIT/Bid Document No.: _____", must reach the following address, before the technical e-Bid Opening Date & Time mentioned above or in subsequent amendment(s), if any:

Chief General Manager (Contracts)
Convergence Energy Services Limited
2nd Floor, Core-III, SCOPE Complex
Lodhi Road, New Delhi-110003

3. The details of the instruments of Bid Document Fee and Bid Security/EMD (DD/BG, etc. as applicable) have to be entered online, in relevant fields/columns of the module, while submitting the Bid. It must be ensured by the Bidder that the original instruments towards Bid Document Fee and Bid Security/EMD are received by CESL before Technical e-Bid Opening Date & Time, for verification of the details of the same as given online by the Bidder. Failure to comply with this would render the Bid liable for rejection and the Bid will not be opened online. CESL will not be responsible for any delay, loss or non-receipt of Bid Document Fee or Bid Security/EMD sent by post/courier.
4. Any relaxation/exemption sought by Bidder shall only be considered in accordance with relevant clauses regarding submission of Bid Document Fee and Bid Security/EMD and shall be subject to fulfilment of conditions defined in the said clauses. Kindly refer Annexure-2a of section-4 for Benefits & Exemptions to Bidder's FOR MSEs And Start-Ups (Applicable to This Tender). Since all the conditions explained in the said clauses for seeking exemption from submission of Bid Document Fee & Bid Security/EMD are self-explanatory, Bidder should ascertain about their fulfilment of all conditions and submit its Bid accordingly. If at any stage, it is found that false information is furnished or non-compliance of any of the conditions defined at the said clauses, the Bid shall be considered as non-responsive and would not be considered for further evaluation. Bidder seeking exemption from submission of the Bid Document Fee and Bid Security/EMD has to mandatorily submit/upload the scanned copy of their valid original registration certificate(s), as asked for in the relevant clause, along with other relevant documents as part of their online Bid.
5. For procedure for submission registration on CESL E-tendering portal, kindly refer Annexure-3 of Section-4.

The Bid Submission, Bid Closing and Bid Opening will be done electronically and online. CESL will



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not be responsible for any delay, loss or non-receipt of Bid Document Fee and Bid Security/EMD sent by post/courier. The instrument should reach in original to CESL office before the technical e-Bid Opening Date & Time. Bids not accompanied with the requisite Bid Security/EMD may not be opened.

6. CESL reserves the right to cancel / withdraw the IFB/Tender without assigning any reason whatsoever and in such a case, no Bidder / Intending Applicant shall have any claim arising out of such action.

7. INSTRUCTION FOR PARTICIPATION IN THE E-BIDDING THROUGH E-PORTAL

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

Bidder(s) are requested to visit "e-Tendering" section at CESL website, www.ceslindia.org for instructions and registration on e-Tendering portal.

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

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

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

Digital Signature Certificate:

It is mandatory for the Bidder / Intending Bidder to have class-III Digital Signature Certificate (DSC) with signing and Encryption certificate (in the name of person who will sign the Bid) from any of the licensed Certifying Agency (Bidder can see the list of licensed CAs from the link www.cca.gov.in) to participate in e-Tendering of CESL.

CESL Global Support Telephones and e-mail ID:

Contact Details: +91-124-4302033/36/37, +91-8826814007

ceslsupport@c1india.com, sandeep.bhandari@c1india.com



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SECTION – 2: INSTRUCTIONS TO BIDDER'S (ITB)



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SECTION-2

INSTRUCTIONS TO THE BIDDER (ITB) / CONSORTIUM OF BIDDERS

Name of Package: Hiring of Agency for Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website

NIT/Bid Document No. CESL/06/2024-25/IT/242504001

NIT/Bid Date 08/04/2024

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

THE BIDDING DOCUMENTS

1.1 The bidding documents include the following

Section-1	Invitation for Bids (IFB)
Section-2	Instructions to Bidder / Consortium of Bidders (ITB)
Section-3	General Conditions of Contract (GCC)
Section-4	Special Conditions of Contract explaining in detail technical specifications, scope of work for supply/supply and installation & Commissioning/Consultancy, drawings, documents in support of bidder's qualifications (Qualifying Requirement), and Online Price Bid format. (SCC)
Section -5	Measurement and Verification
Section-6	Forms and Procedure

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

Definitions

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

1. "Affiliate" shall mean a company that either directly or indirectly
 - i) controls or
 - ii) is controlled by or
 - iii) is under common control with a Bidding Company (in the case of a single company) and "control" means ownership by one company
2. "B.I.S" shall mean specifications of Bureau of Indian Standards (BIS);
3. "Bid / Tender" shall mean the Techno Commercial and the Price Bid submitted by the Bidder along with all documents/credentials/attachments, formats, etc., in response to this Bid Document, in accordance with the terms and conditions hereof.
4. "Bidder / Tenderer" shall mean Bidding Company submitting the Bid. Any reference to the Bidder includes Bidding Company including its successors, executors and permitted assigns jointly and severally, as the context may require";
5. "Bid Security" shall mean the unconditional and irrevocable bank guarantee/ demand draft/Insurance Surety bond to be submitted along with the Bid by the Bidder;
6. "Bidding Company" shall refer to such single/consortium company that has submitted the Bid in accordance with the provisions of this Bid;



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7. "Bid Deadline" shall mean the last date and time for submission of Bid in response to this Bid as specified in Bid Information Sheet and as specified in ITB Clause 3.2 of this Bid document including all amendments thereto;
8. "Bid Document" shall mean all Definitions, Sections, Layouts, Drawings, Photographs, Formats & Annexures etc. as provided in this bid including all the terms and conditions hereof.
9. "Chartered Accountant" shall mean a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949;
10. "Competent Authority" shall mean CEO & Managing Director (MD) of himself and/or a person or group of persons nominated by MD for the mentioned purpose herein;
11. "Company" shall mean a body incorporated in India under the Companies Act, 1956;
12. "Contract" means the agreement entered into between CESL and the Contractor, as recorded in the Contract Form signed by the parties, including all the attachments and appendices thereto and all documents incorporated by reference therein;
13. "Contract Price / Contract Value" shall mean the sum accepted or the sum calculated in accordance with the prices accepted in Bid and/or the Contract rates as payable to the Contractor for the entire execution and full completion of the Work (Price for Supply, Transportation (including loading, unloading and transfer to Site), Insurance including change order.
14. "Completion of Work" means that the Project/Works have been completed operationally and structurally and Commissioning has been attained as per Technical Specifications.
15. "Commissioning" means successful operation of the Project/Works by the Contractor, for the purpose of carrying out Guarantee Test(s).
16. "Contract Document" shall mean collectively the Bid Document, Design, Drawings, and Specifications, Annexures, agreed variations, if any, and such other documents consisting the bid and acceptance thereof;
17. "Contractor's Equipment" means all plant, Works, equipment, machinery, tools, apparatus, appliances or things of every kind required in or for installation, completion and maintenance of Works that are to be provided by the Contractor, but does not include plant and equipment, or other things intended to form or forming part of the Works.
18. "Day" means calendar day;
19. "Defect Liability Period" means the period of validity of the warranties given by the Contractor (commencing at Completion of the Project/Works, during which the Contractor is responsible for defects with respect to the Project/Works.
20. "CESL" or "CESL" shall mean Convergence Energy Services Limited, New Delhi.
21. "Eligibility Criteria" shall mean the Eligibility Criteria as set forth in Section 3: Technical & Special Conditions of Contract of this BID;
22. "Engineer-in-Charge" shall mean the person designated from time to time by CESL and shall include those who are expressly authorized by him to act for and on his behalf for operation of this Contract;
23. "Effective Date" means the date from which the Time for Completion shall be determined;
24. "GCC" means the General Conditions of Contract contained in this section;
25. "GHI" shall mean Global Horizontal Irradiation.
26. "Goods" means permanent plant, equipment, machinery, apparatus, articles and things of all kinds to be provided and incorporated in the Works by the Contractor under the Contract but does not include Contractor's Equipment;
27. "Guarantee Test(s)" means the test(s) specified in the Technical Specification to be carried out to ascertain whether the Project/Works is able to attain the functional requirements specified in the Technical Specifications.
28. "The Government" means the Government of India.
29. "IEC" shall mean specifications of International Electro-Technical Commission;
30. "CESL" shall mean Convergence Energy Services Limited;



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31. "Mobilization" shall mean establishment of adequate infrastructure by the Contractor at Site comprising of construction equipment's, aids, tools tackles, offices with facilities such as power, water, communication etc. including manpower comprising of Engineers, supervising personnel and an adequate strength of skilled, semi-skilled and un-skilled workers, who with the so established infrastructure shall be in a position to commence execution of Work at site(s), in accordance with the agreed Time Schedule of Completion of Work.
32. "O&M/ AMC" shall mean Operation & Maintenance (O& M)/ Annual Maintenance Contract (AMC) of the supplied equipment's;
33. "Parent Company" shall mean a company that holds paid-up equity capital directly or indirectly in the Bidding Company, as the case may be;
34. "Price Bid" shall mean separate Envelope, containing the Bidder's Quoted Price as per the format prescribed in Section-4 (Technical & Special Conditions of Contract) of this BID;
35. "Qualified Bidder" shall mean the Bidder(s) who, after evaluation of their Techno Commercial Bid as per Eligibility Criteria set forth in Section 3: Technical& Special Conditions of Contract of this BID stand qualified for opening and evaluation of their Price Bid;
36. "SNA" shall mean State Nodal Agency.
37. "SCC" means the Special Conditions of Contract.
38. "Statutory Auditor" shall mean the auditor of a Company appointed under the provisions of the Companies Act, 1956 or under the provisions of any other applicable governing law;
39. "Services" means all those services ancillary to the supply of the Works, to be provided by the Contractor under the Contract; e.g. transportation(including loading, unloading and transfer to Site) and provision of marine or other similar insurance, inspection, expediting, Site preparation works (including the provision and use of Contractor's Equipment and the supply of all civil, structural and construction materials required),installation,/Pre-commissioning, commissioning, carrying out guarantee tests, operations, maintenance, the provision of operations and maintenance manuals, training of CESL's personnel and one or two persons from the beneficiaries groups are imparted trainings etc.
40. "Successful Bidder(s) / Contractor(s)" shall mean the Bidder(s) selected by CESL pursuant to this Bid i.e. on whom award is made. They are also called as implementing partner which includes Consultants also.
41. "Site" means the Land and other places upon which the Works are to be installed, and such other land or places as may be specified in the Contract as forming part of the Site. The details of the Site are as contained in Section 3: Technical& Special Conditions of Contract of this BID.
42. "Sub-Contractor" means any person or firm or Company (other than the Contractor) to whom any part of the Work has been entrusted by the Contractor, with the written consent of the Engineer-in-Charge, and the legal representatives, successors and permitted assigns of such person, firm or company.
43. "Standards" shall mean the standards mentioned in the technical specification of the goods and equipment utilized for the Work or such other standard which ensure equal or higher quality and such standards shall be latest issued by the concerned institution like Bureau of Indian standards(BIS), MNRE, etc.
44. "Time for Completion" means the time within which Completion of the Project/Works is to be attained in accordance with the stipulations in the SCC and the relevant provisions of the Contract;
45. "Work" means the "Goods" to be supplied and installed, as well as all the "Services" to be carried out by the Contractor under the Contract;
46. "Wp" shall mean Watt Peak.
47. Third Parties means to which CESL has awarded some work and consultant may be required to co-ordinate with third parties as per scope of work.



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48. Agreed Remuneration means the fee to which consultant is entitled as per their quoted and agreed price according to the contract.

49. Consultant: The consultant shall be the professional undertaking or the professional individual named in the contract who is appointed by CESL to perform the services.

Interpretations

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

1.2 Clarification on Bidding Documents

A prospective Bidder requiring any clarification to the bidding documents may notify CESL in writing or email or by post or by telex or telefax at CESL's mailing address indicated below. CESL will respond in writing to any request for clarification or modification of the bidding documents that it receives no later than the date specified for pre-bid queries in the RfP. The response to the queries will be posted on the e-tender portal.

The address of CESL, for communication:

CGM(Contracts),
Convergence Energy Efficiency Limited,
C/o Floor 2nd Floor, Core 3
Scope Complex, Lodhi Road,
New Delhi-110003
Tel: +011-42259600

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

CESL will also facilitate the bidder and any of its personnel or agents for getting permission from the authorities, where actual work is to be executed, to enter upon its premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents will release and indemnify CESL and also the authorities, where work is to be executed, and its personnel and agents from and against all liability in respect thereof and will be responsible for death or personal injury, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of the inspection.

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

The Bidder shall be deemed to have examined the Bid document, to have obtained his own information in all matters whatsoever that might affect carrying out the Works in line with the

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

1.3 Amendment to bidding documents

At any time prior to the deadline for submission of bids, CESL may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the bidding documents. The amendment/clarification to the RfP will be notified in writing on its e-tendering portal.

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

1.4 Tender Fee

Interested bidder/consortium of bidders may download the RfP/ Tender documents from the website/e-portal (<http://convergence.co.in> or <https://cesl.eproc.in>)

While submitting the bid, bidder shall submit Tender Fee as mentioned in Section-1 in the form of DD/Pay Order/Banker's Cheque/NEFT/RTGS in favour of "Convergence Energy Services Limited" payable at New Delhi along with the bid.

Exemption from submitting Tender Fee is allowed to MSEs (Micro & Small Enterprises) registered under Udyam Registration. In case, exemption is sought by the bidder, valid document/certificate in support of exemption from payment of Bid Document Cost to be submitted by the bidder.

Note: Medium enterprises are not eligible for exemption.

B. PREPARATION OF BIDS

2.1 Procedure for Submission of Bid/RfP.

Single Stage Single Envelope Bidding Process:

The Bidder or Consortium of bidders should submit hard copy of the offer, i.e. Techno Commercial and Price Bid together in a single sealed envelope superscripted with Bid/RfP number and date, content of envelope, name of work and Bid opening date. Bid-Form, Power of Attorney, Certificate regarding acceptance of important terms and conditions, Deviations Statement, Form of acceptance of Fraud Prevention Policy, etc. as per format defined in Section-6 (Forms & Procedures) shall also be submitted in the same envelope.

Single Stage Two Envelope Bidding Process:

The Bidder shall submit their bid in Two Envelopes, it contain the details of the offer as follows:

Envelope-I should contain the documents mentioned under heading Envelope-I of Section-4 of tender document (This envelope appears ONLINE in dynamic form in case of E-tenders).

Physical copy of Tender Fee, Bid Security/EMD to be submitted to CESL office on or before the deadline for submission of the bid. Envelope containing these document should be super-scribed



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with Bid/RfP number and date, name of work and Bid opening date, content of envelope i.e. bid security/price bid etc.

Scanned copy also to be uploaded on the E-Procurement portal/website, and details to be entered therein, during bid submission.

Envelope-II should contain Price Bid in the format prescribed in the tender document. (In case of E-tender Price bid is to be submitted ONLINE).

Single Stage Three Envelope Bidding Process:

The Bidder shall submit their bid in three Envelopes, it contains the details of the offer as follows:

Envelope-I should contain the documents mentioned under heading Envelope-I of Section-4 of tender document (This envelope appear ONLINE in dynamic form in case of E-tenders).

Physical copy of Tender Fee, Bid Security/EMD to be submitted to CESL office on or before the deadline for submission of the bid. Envelope containing these document should be super-scribed with Bid/RfP number and date, name of work and Bid opening date, content of envelope i.e. bid security/price bid etc.

Scanned copy also to be uploaded on the E-Procurement portal/website, and details to be entered therein, during bid submission.

Envelope-II should contain Techno commercial Proposal of the bid. It should contains documents mentioned under heading Envelope-II of Section-4 of tender document. This envelope appear ONLINE in dynamic form in case of E-tenders.

Envelope-III should contain Price Bid in the format prescribed in the tender document. (In case of E-tender Price bid is to be submitted ONLINE).

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

Bids not accompanied by Tender Fee/ Bid Security Fees or EMD, or valid document in support of exemption, etc. shall be out-rightly rejected and treated as non-responsive. Further, their price-bid will not be opened.

In case of manual tender, for tenders received in unsealed/unstapled/open condition or without any superscription, resulting in opening of tender before due date, the risk and responsibility of losing confidentiality shall rest with the tenderer.

2.2 Cost of Bid/ RfP (To be submitted before bid submission time)

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

2.3 Language of Bids

The proposal prepared by the bidder/consortium of bidders and all correspondence and documents relating to the Bid/RfP exchanged by the bidder/consortium of bidders and CESL, shall be written in English language, provided that any printed literature furnished by the

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bidder/consortium of bidders may be written in another language so long the same is accompanied by an English translation in which case, for purposes of interpretation of the bid, the English translation shall govern.

2.4 Bid Security/Earnest Money Deposit (EMD) (To be submitted before bid submission time)- Not Applicable to this tender

Amount of Bid Security: Bid Security/Earnest Money Deposit as mentioned in Section-I of tender document is to be submitted.

The bidder shall furnish, as part of its bid, a bid security in a separate envelope (ITB Clause 2.1). The bid security shall, at the bidder's option, be in the form of a Banker's cheque/Demand Draft in favor of "Convergence Energy Services Limited" or a bank guarantee as per format in Section-6. Bid security/EMD shall remain valid for a period of 45 days beyond the original bid validity period. If there is any extension in bid validity period, then CESL may ask the bidder to extend the validity of bid security.

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

The bid securities of the bidders will be returned as per the provisions mentioned in Section-4.

The bid security may be forfeited if:

- a. If the bidder withdraws its bid during the period of bid validity as specified in the bid / RFP document.
- b. If the bidder fails within the specified time limit:
 - To sign the LOA acceptance and contract agreement within 10 days & 28 days respectively from placement of LoI/Award letter.
 - To furnish the required performance security, in accordance with the tender document.

Please note that:

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

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

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

1. For claiming the above exemption for Start-ups, a valid certificate of Start-up recognized by 'Department of Industrial Policy & Promotion (DIPP)' along with Business eligibility



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certificate or any other document issued by Govt/Recognized institute is required in support of product/ service item being tendered.

2. Purchase Preference to MSEs: Subject to meeting terms and conditions stated in the tender document including but not limiting to prequalification criteria, 25% of the total quantity of the tender is earmarked for MSEs registered with above mentioned agencies/bodies for the tendered item. Out of the 25% target of annual procurement from micro and small enterprises 4% & 3% shall be earmarked for procurement from micro and small enterprises owned by Scheduled Caste (SC) & Scheduled Tribe (ST) entrepreneurs & Women entrepreneurs respectively. In the event of failure of such MSEs to participate in the tender process or meet the tender requirements and L1 price 4% & 3% sub targets so earmarked shall be met from other MSEs.

Type of tender	Price quoted by MSE	How the tender shall be finalized
Can be split	L1	Maximum quantity as per the split criteria on MSE subject to tender evaluation condition.
Can be split	Not L1 but within L1+15%	25% order on MSE subject to matching L1 price
Cannot be split	L1	Full Order on MSE
Cannot be split	Not L1 but within L1+15%	Full Order on MSE subject to matching L1 price

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

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

2.3 MSE owned by SC/ST is defined as:

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

2.4 MSE owned by Women is defined as:

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

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If bidder does not provide appropriate document or any evidence to substantiate the above, then it will be presumed that he does not qualify for any preference admissible under the Public Procurement Policy, 2012.

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

Category of tender	Past experience	Average Turn Over	Award Philosophy
Can be split as per tender conditions	25% of total experience as required for general bidders	25% of total ATO as required for general bidders	<p>(a) If MSE is L1, order will be given as per split criteria in order of ranking as defined in the tender document which could be greater than 25%. The treatment for award will be same for MSE as general bidder.</p> <p>(b) If MSE is other than L1 bidder, then the split criteria as per tender condition will be followed subject to price matching with L1 bidder in order of ranking treating the MSE bidder(s) at par with the general bidder. In such event also, order(s) going to MSE bidder(s) could be greater than 25%. If order(s) going to MSE bidder(s) is/are less than 25% after the matching of rates with L1 bidder by adopting the tender split criteria, then the clause of purchase preference for award to MSE bidder(s) up to 25% of the tendered quantity subject to matching L1 rates will be followed to make the total quantity going to MSE bidder(s) @ 25%; provided the rates are within L1+15% range. In such cases, remaining quantity after award of 25% to MSE bidder(s) shall be distributed amongst other eligible bidders in the pre-declared split ratio. If</p>

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order(s) going to MSE bidder(s) is less than 25% and also MSE bidder(s) not meeting the condition of purchase preference clause i.e. quoted rates not within L1+15% range, then the order(s) quantity going to MSE bidder(s) in such cases shall be less than 25% which will be in line with the tender conditions.

(c) If MSE is in the range of L1+15% and not getting the order after splitting and award is going to all non MSE bidder(s), then in such event 25% will be awarded to MSE bidder(s) who fall in the range of L1+15% subject to price matching and remaining 75% will be awarded as per the tender conditions to general bidders subject to matching L1 rates.

(d) If after splitting MSE bidder(s) are getting order for more than or equal to 25%, then other MSE bidder(s) will not be awarded any work under purchase preference clause even if they fall in the range of L1+15%. However, they will be considered for award of work as any other general bidder as per tender conditions subject to matching of rates in order of ranking.

(e) If MSE bidder is a single resultant vendor, then the quantity that would be considered for award to such bidder will be as defined in the pre-declared split ratio to L-1 bidder in the tender condition; provided the quoted rates of the bidder are found

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			reasonable by CESL. However, CESL reserves the right to award 100% quantity to such MSE bidder provided the MSE bidder has got ATO which is corresponding to the cumulative applicability for 100% order value. In case, where ATO of the MSE bidder is less than what is required for 100% cumulative order value, then work may be awarded to such MSE bidder in proportion to the ATO. For exp: If ATO of MSE bidder is 56% of the cumulative ATO requirement of 100% order value, then maximum 56% work may be awarded to the MSE bidder. However, in such case CESL reserves the right to award appropriate quantity based on the existing requirement and such decision will be taken by CESL which will be binding on the bidder. CESL may take consent from the bidder for award of such quantity (which is over and above the quantity to be allotted to L-1 bidder as per pre-declared split ratio) before award.
Cannot be split as per tender conditions	25% of total experience as required for general bidders	85% of total ATO as required for general bidders	<p>(a) If MSE is L1, 100% order will be given to MSE.</p> <p>(b) If MSE is within the range of L1 + 15%, 100% order will be given to MSE subject to price matching with L1 bidder.</p> <p>(c) If MSE is not L1 and not in range of L1 + 15%, no work will be given to MSE.</p>

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

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

i Not prior to ten years.

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- ii With annual turnover not exceeding INR 100 crore in any preceding financial year, and
- iii Working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation
- iv Provided that such entity is not formed by splitting up, or reconstruction, of a business already in existence. Provided also that an entity shall cease to be a Startup if its turnover for the any previous financial years has exceeded INR 100 crore or it has completed 10 years from the date of incorporation/ registration.

Note: For Start-up firms, Gazette Notifications dated: 19-Feb-2019, G.S.R. 127 (E), and subsequently issued notifications will be considered.

NOTES: -

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

2.5 Power of Attorney

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

2.6 Certificate Regarding Acceptance of Important Conditions

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

2.7 Deviations



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
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 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
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No deviation, other than mentioned in Deviation statement, is permitted by CESL, to the provisions of the bidding documents listed in ITB sub-clause 4.6.

The Bidders are advised that while making their bid proposals and quoting prices, these conditions may appropriately be taken into consideration. Bidders are required to furnish a certificate indicating their compliance to the provisions relating to the clauses listed in ITB sub-clause 4.6 in Attachment 4. Attachment 4 for acceptance of important conditions duly signed and stamped by the bidder is to be furnished in a separate sealed first envelope/Online.

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

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

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

2.8 Bid prices

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

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

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

2.9 Price Basis

Price basis of the price quoted shall be on F.O.R (Free on Road) destination basis for site. Price mentioned in the quotation must be firm. Hence prices in Letter of Award shall be firm and not

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subject to escalation till the execution of the complete order and its subsequent amendments accepted by the bidder even though the completion / execution of the order may take longer time than the delivery period specified and accepted in the Letter of Award.

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

2.10 Period of Validity of Bid

Bid shall normally remain valid for a period of 75 days for Open Tender and 90 days for Global Tender. However, a higher validity period shall be admissible depending upon the size and complexity of the tender and the same shall be specified in section-1 of the RfP.

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

2.11 Format and Signing of Bid

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

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

The above is not applicable for online bidding process.

2.12 Contents of the RfP/Bid

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

2.13 Conflict of Interest

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

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

- a) it, or any of its affiliates, has been engaged by CESL to provide consulting services for the preparation or implementation of a project, and participates in a bidding to provide goods,



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works, or non-consulting services resulting from or directly related to such consulting services. Or

- b) it submits more than one bid in a bidding process, either individually or as a partner in a joint venture, except for permitted alternative bids. This will result in the disqualification of all bids in which the bidder is involved. However, this does not limit the inclusion of a firm as a subcontractor in more than one bid and the participation of a bidder as a subcontractor in another bid in certain types of procurement/contract, if permitted by CESL's bidding documents; or
- c) it (including its personnel or sub-contractors) has a business or family relationship with a member of a CESL's staff (or of the project implementing staff, or of a recipient of a part of the loan) who: are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or would be involved in the implementation or supervision of such contract unless the authority inviting tenders shall be informed of the fact/ such relationship at the time of submission of the tender and the conflict stemming from such relationship has been resolved in a manner acceptable to CESL throughout the procurement process and execution of the contract. CESL may in its discretion reject the tender or rescind the contract.; or
- d) In addition to above the following provisions of Manual for Procurement of Goods (June, 2022) shall also apply:

A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:

- i) they have controlling partner (s) in common; or
- ii) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or
- iii) they have the same legal representative/agent for purposes of this bid; or
- iv) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
- v) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid.
- vi) In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:
 - 1. The principal manufacturer directly or through one Indian agent on his behalf; and
 - 2. Indian/foreign agent on behalf of only one principal.
- vii) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business.

2.14 Disclaimer

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

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2.15 Authorized Signatory (Bidder or Consortium of bidders)

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

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

2.16 Consortium related conditions

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

2.17 Contact details of the Bidder or Consortium of bidders

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

2.18 Inspection / Checking / Testing-Not Applicable to this tender

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

2.18.1 Inspections and Tests

- i. Inspection of Goods: CESL or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to CESL. (SCC and the Technical Specifications shall specify what inspections and tests



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the CESL requires and where they are to be conducted). CESL shall notify the Contractor in writing in a timely manner of the identity of any representatives retained for these purposes.

- ii. The inspections and tests may be conducted on the premises of the Contractor or its subcontractor(s), at point of delivery and/or at the Goods final destination. If conducted on the premises of the Contractor or its subcontractor(s), all reasonable Works and assistance, including access to drawings and production data shall be furnished to the inspectors at no cost to CESL.
- iii. Should any inspected or tested Goods fail to conform to the specifications, CESL may reject and the Contractor shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to CESL.
- iv. CESL's right to inspect, test and, where necessary, reject the Goods after the arrival at Site shall in no way be limited or waived by reason of the Goods having previously been inspected, tested and passed by CESL or its Representative prior to the Goods shipment.
- v. Nothing in GCC Clause 6 shall in any way release the Contractor from any warranty or other obligations under this Contract.

2.19 Removal of Rejected Goods and Replacement

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

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

2.20 Access to Bidders Premises

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

2.21 Taxes, Levies and Duties

Prices of items shall be quoted as per instruction contained in SCC. However, Bidders are required to quote their prices inclusive of all taxes and duties except applicable GST. The Input Tax Credit (ITC) available, if any, under the GST Law as per the relevant Government policies wherever applicable shall be taken into account by the Bidder while quoting bid price. CESL's liability shall be only for applicable GST. Bidder is to arrange on its own to deliver the material at site. No road permit shall be provided by CESL.

2.22 Terms of Payment

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



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2.23 Delivery Schedule

Time will be the essence of order and no variation shall be permitted in the delivery time/delivery schedule mentioned in the order unless agreed by CESL without levy of LD. Tentative time schedule is enclosed in the RfP/ bid document. Refer section-4 of tender document for delivery schedule. Delivery of the equipment/material described shall be deemed to constitute acceptance of this order and terms and conditions by the bidder at the price specified.

2.24 Source of Supply

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

2.25 Statutory Compliance/ Certification regarding Cyber Security Products

A certificate (as per the format present in Section-6) is to be submitted by the bidders that the items offered meet the definition of domestically manufactured/produced Cyber Security Products as per MeitY notification vide File no. I(10)/2017-CLES dt. 06.12.19 or subsequent notification. The above certificate shall be on Company's letterhead and signed by Statutory Auditor or Cost Auditor of the Company.

C. SUBMISSION OF BIDS

3.1 Sealing and Marking of Bids

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

3.2 Deadline for submission of bids

The Bidders are advised to submit their bids well on time preferably one hour prior to bid closing time to cater to possible system slow down/requirement of assistance by bidders etc.. CESL shall not be responsible for late/non-submission of bids due to above scenario which are beyond CESL control during the closing minutes of the tender, though every effort will be made to keep the portal fully functional at all times during the bidding process.

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

CGM (Contracts),
Convergence Energy Efficiency Limited,
C/o Floor 2nd, Core 3
Scope Complex, Lodhi Road,
New Delhi-110003
Email: ceslscm@eesl.co.in

Date of submission of bids : As mentioned in Section-I

Date of bid opening : As mentioned in Section-I



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

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

3.3 Late Bids:

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

In case of an online tender, if the hard copy (ies) of bid documents of the bid received by CESL prior to deadline stipulated in tender, but the bidder fails to submit its bid online within the stipulated time than in such case, their bid documents received in hard copies shall not be accepted and will be returned to them in unopened condition.

D. BID OPENING AND EVALUATION

4.1 Bid Opening Process

CESL will open all bids in the presence of bidders' representatives who choose to attend the opening at the time, on the date and at the place specified in the NIT. Bidders' representatives shall sign a format as proof of their attendance.

Bidders' names, bid prices, discounts, the presence or absence of requisite bid security and other such details as CESL, at its discretion, may consider appropriate, will be announced at the opening.

Late bids pursuant to ITB clause 3.2 and/or bids not accompanied by requisite Tender Fee, bid security/ or applicable document as specified in the RfP in a separate sealed envelope pursuant to ITB clause 1.4 & 2.4, will be rejected and returned unopened to the bidder.

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

CESL will prepare minutes of the bid opening.

4.2 Clarification on Bids

During bid evaluation, CESL may, at its discretion, ask the bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the price or substance of the bid shall be sought, offered or permitted. The address for communication will be same as ITB clause 1.2.

4.3 Preliminary Examination of Bids.

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

4.4. Arithmetical errors rectification process

Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or

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

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

4.5. Preliminary Evaluation

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

4.6. Acceptance of Important Condition

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

Governing Laws	-	Clause 07 of ITB
Settlement of Disputes	-	Clause 06 of GCC
Terms of payment	-	Clause 2.22 of ITB
Performance Security	-	Clause 5.6 of ITB
Taxes and Duties GCC	-	Clause 2.21 of ITB & 14 of
Completion Time Guarantee	-	Clause 26 of GCC
Defects Liability	-	Clause 27 of GCC
Functional Guarantee	-	Clause 28 of GCC
Patent Indemnity	-	Clause 29 of GCC
Limitations of Liability	-	Clause 30 of GCC
Statutory Compliance/ Certification regarding Cyber Security Products	-	Clause 2.25 of ITB
Project information, Estimation, Assumptions and conditions for Evaluation.	-	As per Tables in price bid

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

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

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

4.7. Technical Evaluation

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

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

4.8. Commercial Evaluation

The comparison shall be of the FOR site price of domestically manufactured plant and equipment including type test charges, if any and mandatory spares, warranty spares plus applicable sales tax & duties as well duties and taxes paid/payable on components and raw materials incorporated or to be incorporated in the plant and equipment including mandatory spares/warranty spares plus the cost of loading, unloading, local transportation, insurance covers, installation and commissioning, civil work other services required under the contract including service tax and surcharge, if any plus any survey cost, monitoring and verification cost, distribution cost, scrap disposal cost, annual maintenance cost, any services as per scope of work, administrative charges and statutory agencies cost including service tax and surcharge, if any. CESL's comparison will also include the costs resulting from application of the evaluation



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C=IN
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procedures described in ITB sub-clause 4.9. However, the price of recommended spare parts or optional spares or services, if asked in the bid, shall not be considered for evaluation of bids.

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

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

4.9. Evaluations of Deviations:

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

a) Technical and Commercial Deviations

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

b) Time schedule (program of performance)

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

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

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

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

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

c) Functional Guarantees of the facilities

Bidders shall state the functional guarantees (e.g. performance, efficiency, consumption) of the proposed facilities in response to the technical specifications. In case a minimum (or a maximum,

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as the case may be) level of functional guarantees is specified in the technical specifications for the bids to be considered responsive, bids offering plant and equipment with such functional guarantees less (or more) than the minimum (or maximum) specified shall be rejected.

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

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

4.10. Illustrative Method of Evaluation

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

4.11. Contacting CESL

Subject to ITB Clause 12, no Bidder shall contact CESL on any matter relating to its bid, from the time of the opening of bids to the time the contract is awarded.

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

E. AWARD OF CONTRACT



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5.1. Award criteria

Subject to ITB Clause 5.3, CESL will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and to be the lowest evaluated technically acceptable bid or bid offering highest return to CESL as the case may be as per tender documents and special conditions of contract, further provided that the Bidder is determined to be qualified to perform the contract satisfactorily.

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

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

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

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

5.2. Quantity Variation/Option Clause & Repeat Order

Clause 5.2.1 Quantity Variation/Option Clause:

CESL reserves the right to vary the quantity of supply/services items upto +/- 20% and/or delete any items of the above altogether during the validity of Contract. Successful bidder, on whom award is made, is to supply this quantity variation at same price and terms and conditions of contract.

5.2.2 Repeat Order CESL reserves the right to place repeat order upto 50% of original contract value in case of urgency for part quantity for similar work on same prices, terms and conditions. The date of repeat order will not beyond 3 months after the completion of earlier order.

5.2.3 Applicability of the above clause (cl. 5.2.1 and cl. 5.2.2) will be specified in Section-4 (SCC). The bidder should note that either one of these clauses may be applicable in the tender as specified in Section-4 (SCC)

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

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



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5.4. Letter of Intent / Letter of Award

Prior to the expiration of the period of bid validity, CESL will notify the successful bidder in writing by issuing Letter of Award (LOA) either through telefax/ e-mail or through registered/speed post/couriered letter, that its bid /offer has been accepted. The Letter of Award (LOA) will constitute the formation of the contract.

The bidder shall return duplicate copy of the LOA/contract and the other enclosed documents duly signed as a token of acknowledgement, within 10 days from the date of receipt of this order. Bidder is to make two original copies of Contract Agreement as per the format attached in the RfP Documents.

Upon the successful bidder's furnishing of the performance security pursuant to ITB Clause 5.6, CESL will promptly notify each unsuccessful bidder and will discharge its bid security/EMD.

5.5. Modifications

The contract agreement constitutes an entire agreement between the parties hereto. Any modifications to the contract agreement shall become binding only upon the same being confirmed in writing duly signed by both the parties.

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

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

5.5.1 Signing the Contract Agreement

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

Within twenty-eight (28) days of receipt of the contract agreement, the successful bidder shall sign and date the contract agreement and return it to CESL. Contract agreement will contain agreement on stamp paper, bid documents and bidder's offer etc.

5.6. Performance security

Within twenty-eight (28) days after receipt of the letter of award, the successful bidder shall furnish the performance security for three to ten percent (3% to 10%) of the contract price or as specified in tender documents and in the form provided in the section "Forms and Procedures" of the bidding documents or in another form acceptable to CESL.

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

Failure of the successful Bidder to comply with the requirements of ITB Clause 5.5 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event CESL may make the award to the next lowest evaluated bidder or call for new bids.



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5.7. Corrupt or Fraudulent practices:

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

- a) i) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of CESL, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive CESL of the benefits of free and open competition;
- b) will reject a proposal for award if it determines that the bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract of the CESL.

5.8 Ineligibility for Future Tenders

Notwithstanding the provisions specified in ITB sub clause 2.4 and ITB sub clause 5.8, if a bidder after having been issued and letter of award, either does not sign the contract agreement or does not submit an acceptable performance security pursuant to ITB clause 5.6, such bidder may be considered ineligible for participating in future tenders of CESL for a period as may be decided by CESL.

5.8.1 Interchangeability Certificate

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

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

6.0 Liquidated Damages

Liquidity damages (LD) shall be as specified in Section-4 (SCC).

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

Alternatively, CESL reserves the right to purchase and distribute equipment/ material from elsewhere at the sole risk at the cost of successful bidder/contractor and recover all such extra

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cost incurred by CESL in procuring the material from resources available including EMD/Bid Security/encashment of Bank Guarantee or any other sources etc. Further, if any extra cost is incurred by CESL due to delay in work completion by the party beyond the completion time as per P.O./L.O.A., the same shall also be recovered from party's invoice/EMD/BGs etc.

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

7.0 Governing Law

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

8.0 Inspections and Tests

- 8.1 Inspection of Goods: CESL or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to CESL. (SCC and the Technical Specifications shall specify what inspections and tests the CESL requires and where they are to be conducted). CESL shall notify the Contractor in writing in a timely manner of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the Contractor or its subcontractor(s), at point of delivery and/or at the Goods final destination. If conducted on the premises of the Contractor or its subcontractor(s), all reasonable Works and assistance, including access to drawings and production data shall be furnished to the inspectors at no cost to CESL.
- 8.3 Should any inspected or tested Goods fail to conform to the specifications, CESL may reject and the Contractor shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to CESL.
- 8.4 CESL's right to inspect, test and, where necessary, reject the Goods after the arrival at Site shall in no way be limited or waived by reason of the Goods having previously been inspected, tested and passed by CESL or its Representative prior to the Goods shipment.
- 8.5 Nothing in GCC Clause 6 shall in any way release the Contractor from any warranty or other obligations under this Contract.

8.6 Manuals and Drawings.

- 8.6.1 Before the Goods and Services are taken over by CESL, the Contractor shall supply operation and maintenance manuals together with drawings of the goods and equipment. These shall be in such detail as will enable CESL to operate, maintain, adjust and repair all parts of the equipment as stated in the specifications.
- 8.6.2 The manuals and drawings shall be in the English ruling language and in such form and numbers as stated in the contract.
- 8.6.3 Unless and otherwise agreed, the goods and equipment shall not be considered to be completed for the purpose of taking over until such manuals and drawings have been supplied to CESL.



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

9.0 Transportation, Demurrage Wharfage, Etc.

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

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

10.0 Warranty

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

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

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

OR

10.4 pay liquidated damages to CESL with respect to the failure to meet the contractual guarantees.

10.5 CESL shall notify the Contractor in writing of any claims arising under this warranty.

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

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

11.0 THIRD-PARTY CONSULTANCY SERVICES

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

12.1 SCOPE OF SERVICES

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

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

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

12.2 STANDARD AND SPECIAL SERVICES

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

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

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

12.3 DUE DILIGENCE

12.3.1 Except where otherwise stipulated in this Contract, or otherwise legally stipulated within the country or within another legal system (including the legal system in the Consultant's jurisdiction) by provisions that impose higher demands than this Contract, when performing its obligations under this Contract the Consultant shall exercise due diligence and provide the Services in compliance with professional practice and to the recognized quality standards, in accordance with current scientific and generally accepted engineering standards. The Consultant must document its work, the progress of the Project and the decisions it takes in an appropriate form that is acceptable to CESL, bearing in mind the requirements of tender/RfP/Letter of Award.

12.4 REPORTING

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

12.5 STAFFING

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

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



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

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

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

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

12.6 CONTACT PERSON OF THE CONSULTANT

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

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

12.7 INDEPENDENCE OF THE CONSULTANT

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

12.8 COMMENCEMENT AND COMPLETION

12.8.1 The Consultant shall begin performing the Services on the prescribed date on which execution of the Contract shall take place, but not earlier than and without undue delay after the Contract has come into force. The Consultant shall deliver the Services in accordance with the time schedule in the bid [Time Schedule for the Performance of the Services defined in SCC], and shall complete the Services within the Completion Period, subject to any further extensions to this Contract accorded by CESL.

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

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

12.9 FORCE MAJEURE

In addition to Force Majeure defined in clause 37 (GCC), following will also be applicable for consultancy work.



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

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

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

12.10 SUSPENSIONS OR TERMINATION

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

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

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

12.11 REMUNERATION OF THE CONSULTANT

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

12.12 TERMS OF PAYMENT

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

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

12.13 METHOD OF PAYMENT

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

12.14 INSURANCE AGAINST LIABILITY AND DAMAGES

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

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

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

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

LIST OF ACRONYMS

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



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SECTION-3 GENERAL CONDITIONS OF CONTRACT (GCC)



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A. Contract and Interpretation

1. Definitions

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

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

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

“GCC” means the General Conditions of Contract hereof.

“SCC” means the Special Conditions of Contract.

“Day” means calendar day of the Gregorian calendar.

“Month” means calendar month of the Gregorian calendar.

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

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

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

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

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

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

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

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

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

“Installation Services” means all those services ancillary to the supply of the Plant and Equipment for the Facilities, to be provided by the Implementing Partner under the Contract; e.g., transportation and provision of marine or other similar insurance, inspection, expediting, Site preparation works (including the provision and use of Implementing Partner’s Equipment and the supply of all construction materials required), installation, testing, pre-commissioning, commissioning, operations, maintenance, the provision of operations and maintenance manuals, training of CESL's Personnel etc.

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

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

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

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

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

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

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

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

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

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

2. Contract Documents

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

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

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

2.4 Subsequent to signing of the Contract, the Implementing Partner at his own cost shall provide the CESL with at least five (05) true copies of Contract Agreement within thirty (30) days after signing of the Contract.

3. Interpretation

3.1 Language

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

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

3.2 Singular and Plural

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

3.3 Headings

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

3.4 Persons

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

3.5 Inco terms

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

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

3.6 Construction of the Contract (applicable only if specifically mandated in SCC)

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

Single Contract or in case of turnkey projects following mode of contract may be applicable.

i) First Contract: For Ex-works (India) supply of plant and equipment and accessories by bidder including mandatory spares and spares to be supplied during wharf

ii) Second Contract: for providing all services i.e. loading, inland/air/shipment transportation for delivery at site, inland/air/shipment transit insurance, unloading, storage, handling at site, installation, insurance covers other than inland transit insurance, testing, commissioning and conducting Guarantee tests in respect of all the equipment's supplied under the 'First Contract' and all other services including civil works, if any, as specified in the Contract Documents including sales tax and duties as asked in price bid in section IV. It will also cover cost for Repair and Maintenance and equipment's and/or additional warranty, where ever asked for ,supplied under the 'First Contract' and all other services including civil works, if any, as specified in the Contract Documents. All items in second contract must be quoted including service tax.

iii) Third Contract: For providing all services including Awareness programme for public/stake holders/workshops/printing brochure and other materials, Survey cost, Monitoring and verification cost, scrap disposal cost, arrangement of office at both sites and Statuary agencies cost including service tax.

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

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

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

General:

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

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

3.7 Entire Agreement

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



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3.8 Amendment

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

3.9 Independent Contractor or Implementing Partner

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

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

3.10 Joint Venture or Consortium

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

3.11 Non-Waiver

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

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

3.12 Severability

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

3.13 Country of Origin

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

4. Notices



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

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

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

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

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

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

5. Governing Law

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

6. Settlement of Disputes

6.1 Adjudicator

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

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

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

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twenty eight (28) days, the new retired judge of High Court/Supreme Court of India shall be appointed as the Adjudicator under the Contract at the request of either party by the Appointing Authority specified in the SCC. The adjudicator shall be paid fee plus reasonable expenditures incurred in the execution of its duties as adjudicator under the contract. This cost shall be divided equally between CESL and the Implementing Partner.

6.2 Arbitration

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

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

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

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

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

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

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

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



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

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

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

6.2.10 The arbitrator(s) shall give reasoned award.

Notwithstanding any reference to the Adjudicator or arbitration herein,

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

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

Arbitration:

1. Appointing authority for adjudicator: MD, CESL
2. The place of arbitration shall be: New Delhi

B. Subject Matter of Contract

7. Scope of Facilities

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

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

7.3 In addition to the supply of Mandatory Spare Parts if asked and warranty spares included in the Contract, the Implementing Partner agrees to supply spare parts required for the operation and maintenance of the Facilities. However, the identity, specifications and quantities of such spare parts



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and the terms and conditions relating to the supply thereof are to be agreed between CESL and the Implementing Partner, and the price of such if asked spare parts shall be that given in Price Schedule which shall be added to the Contract Price. The price of such spare parts shall include the purchase price there for and other costs and expenses (including the Implementing Partner's fees) relating to the supply of spare parts. The prices of spares covered under the Price Schedule shall be kept valid for a period as specified in SCC.

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

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

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

7.3.1.3 The Implementing Partner will provide CESL with the manufacturing drawings, catalogues, assembly drawings and any other document required by CESL so as to enable CESL to identify the recommended spares. Such details will be furnished to CESL as soon as they are prepared but in any case not later than six months prior to commencement of manufacture of the corresponding main equipment.

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

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

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

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



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

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

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

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

7.3.1.11 It is expressly understood that the final settlement between the parties in terms of relevant clauses of the Contract Documents shall not relieve the Implementing Partner of any of his obligations under the provision of long term availability of spares and such provisions shall continue to be enforced till the expiry of 5 years period reckoned from the scheduled date of Commissioning of the Plant and Equipment unless other-wise discharged expressly in writing by CESL. Further, the provisions pertaining to long term availability of spares shall be extended beyond 5 years applicability period mentioned hereinabove if so desired by CESL and at the mutually acceptable escalation formula.

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

- (i) For 3 years operational spares (both mandatory and recommended)
 - a) For any item of spares ordered or to be ordered by CESL for 3 years operational requirement of the plant which are manufactured as a continuous operation together with the corresponding main equipment/component, the Defect Liability Period will be twelve (12) months from the



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scheduled date of commercial operation of main equipment/ plant under the Contract. 'Commercial Operation' shall mean the conditions of operation in which the complete equipment covered under the Contract is officially declared by CESL to be available for continuous operation at different loads up to and including rated capacity. Such declaration by CESL, however, shall not relieve or prejudice the Implementing Partner any of his obligations under the Contract. In case of any failure in the original component/equipment's due to faulty designs, materials and workmanship, the corresponding spare parts, if any, supplied will be replaced without any extra cost to CESL unless a joint examination and analysis by CESL and the Implementing Partner of such spare parts prove that the defect found in the original part that failed, can safely be assumed not to be present in spare parts. Such replaced spare parts will have the same Defect Liability as applicable to the replacement made for the defective original part/component provided that such replacement for the original equipment and the spare replaced are again manufactured together. The discarded spare parts will become the property of the Implementing Partner as soon as they have been replaced by the Implementing Partner.

- b) For the item of spares ordered or to be ordered by CESL for 3 years operational requirement of the plant, which with the written approval of CESL, are not manufactured as a continuous operation will be warranted for 7000 hrs of trouble free operation if used within a period of eighteen (18) months reckoned from the date of delivery at site. However, if such spare parts are put to use after eighteen (18) months of the delivery at Site then the guarantee of such spares will stand valid till the expiry of thirty six (36) months from the scheduled date of Commissioning of equipment/plant covered under the contract or 7000 hrs of trouble free operation after such spares are put in service, whichever is earlier.

c) For long term requirement

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

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

8. Time for Commencement and Completion

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

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



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9. Contractor or Implementing Partner's Responsibilities

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

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

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

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

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

10. CESL's Responsibilities

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

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

10.3 The CESL shall acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located which such authorities or undertakings require CESL to obtain them in CESL's name, are necessary for the execution of the Contract (they include those required for the performance by both



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the Implementing Partner and CESL of their respective obligations under the Contract), including those specified in Appendix 6 (Scope of Works and Supply by CESL) to the Contract Agreement.

10.4 If requested by the Implementing Partner, CESL shall use its best endeavours to assist the Implementing Partner in obtaining in a timely and expeditious manner all permits, approvals and/or licenses necessary for the execution of the Contract from all local, state or national government authorities or public service undertakings that such authorities or undertakings require the Contractor or Implementing Partner or Subcontractor or Implementing Partners or the personnel of the Contractor or Implementing Partner or Sub Contractor or Implementing Partners, as the case may be, to obtain.

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

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

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

C. Payment

11. Contract Price

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


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

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

12. Terms of Payment

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

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

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

13. Securities

13.1 Issuance of Securities

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

13.2 Advance Payment Security

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

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

13.3 Contract Performance Security

13.3.1 The Implementing Partner shall, within twenty-eight (28) days of the Notification of Award, provide securities for the due performance of the Contract between three to ten percent (3% to 10%) of the Contract Price of all the Contracts, with an initial validity up to ninety (90) days beyond the end of scheduled Defect Liability Period of the last equipment covered under the package. If CESL accepts to enter into 'Second Contract' and/or 'Third Contract' with the Assignee of a foreign Implementing Partner, pursuant to GCC Sub-Clause 3.6, the said Assignee, in addition to the Contract Performance Securities to be provided by the foreign Implementing Partner between three to ten percent (3% to 10%) of the value of all the Contracts i.e. First Contract, Second Contract and Third Contract, shall provide within twenty-eight (28) days of the Notification of Award, separate Contract Performance Security(ies) equivalent to between three to ten percent (3% to 10%) of the value of Contract(s) entered into with the Assignee, for the due performance of Contract, with an initial validity up to ninety (90) days beyond the end of Scheduled Defect Liability period of the last equipment covered under the package. However, in case of delay in completion of the defect liability period, the validity of all the contract performance securities shall be extended by the period of such delay.

The actual value of Contract Performance Guarantee (CPG) will be as defined in Section-4 (SCC).



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

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

14. Taxes and Duties

- i. "Goods and Services Tax" or "GST" means taxes or cess levied under the Central Goods and Services Tax Act, Integrated Goods and Services Tax Act, Goods and Services Tax (Compensation to States) Act and various State/Union Territory Goods and Services Tax Laws and applicable cesses, if any under the laws in force (hereinafter referred to as relevant GST Laws), which shall be fully complied with by the Bidder.
- ii. The Bidder shall quote the prices giving breakup in the manner specified in the Price Schedule. The Bidder shall quote the applicable rate of GST in the Price Schedule.
- iii. For the purpose of Evaluation, GST quoted in the Bid shall only be considered.
- iv. The Bidder shall indicate the taxes and duties as applicable seven (7) days prior to last date of Bid Submission.
- v. The Bidder is required to quote the rate of GST applicable under GST Law in the Price Schedule while giving the breakup of prices.
- vi. In case GST registered Bidder has quoted GST rate as '0' (Zero), the quoted price shall be considered to be inclusive of GST as applicable.
- vii. In case of bid received from dealers who have opted for the composition scheme under GST Law, the Bidder shall specifically mention the same in his Bid. CESL shall not be liable to pay/reimburse any GST on the supplies made by such dealers under the Order/Contract.
- viii. In case of bid received from unregistered dealer, for evaluation their bid shall be cost compensated as per the GST rate applicable in view of Reverse Charge Mechanism (RCM) as per GST Law.
- ix. In case of all materials identified by the Supplier and CESL to be dispatched directly from the sub-vendor's work to CESL's site, the Supplier shall ensure that his sub-vendors raise Tax invoices as per the provisions of GST Law, billed to the Supplier and shipped to CESL's site. The Supplier shall further ensure that he raises his corresponding Tax Invoices in the name of CESL during transit of the materials before the delivery of materials is taken by CESL.
- x. For items not covered under GST, the Bidder is required to quote Excise Duty / VAT / CST as applicable in the Price Schedule while giving the breakup of prices.
- xi. Notwithstanding anything to contrary contained in the Purchase Order / Contract, the implementing partner right to payment under the Order / Contract is subject to issuance of valid tax invoice/bill of supply as the case may be, payment of applicable GST to the credit of appropriate Government and submission of valid particulars of tax invoice under GST returns in accordance with GST Law.
- xii. CESL shall deduct GST at source at the applicable rates in case transactions under the Order / Contract are liable to GST deduction at source.

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xiii. Unless expressly stated otherwise, a common mechanism for reconciliation of input credit mismatch, to be followed by both CESL and the implementing partner, shall be mutually agreed so that both parties follow the same procedure for disclosing the transactions in their respective returns. Notwithstanding anything in the Order / Contract, penalty / damages shall be recovered in case the implementing partner makes a default in following the agreed procedure.

xiv. The implications of GST on return of goods will be as per the provisions of the relevant GST Laws.

xv. The implementing partner shall issue tax invoices/bill of supply as applicable, file appropriate returns, and deposit the applicable GST to the account of appropriate government within the time limit prescribed under the GST Law. In the event of any default, Supplier shall be liable to pay the amount which may be imposed on CESL due to such default.

xvi. The implementing partner should comply with the provisions of e-way bill notified by appropriate authorities from time to time. The existing provisions regarding road permit will continue till such time if applicable.

xvii. CESL shall make necessary tax deductions under Income Tax Act or any other laws, if applicable.

xviii. Provisions of GST law in respect of Related Persons/Parties may appropriately be taken into consideration by Bidders while submitting the bid.

xix. If any rates of tax are increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of Order / Contract, which was or will be assessed on the Supplier in connection with performance of the Order/Contract, an equitable adjustment shall be made to take into account any such change.

xx. The payment / reimbursement of statutory variations in the rates of tax and/or of new tax, duty or levy imposed under statute or law in India as above would be restricted only to direct transactions between CESL and the Bidder.

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

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



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D. Intellectual Property

15. Copyright

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

the purpose of the contract including, if required, for operation and maintenance of the facilities.

16. Confidential Information

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

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

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

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

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

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

E. Work Execution

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17. Representatives

17.1 Project Manager

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

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

17.2 Contractor's representative & Construction Manager

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

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

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

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

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



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

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

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

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

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

18. Work Program

18.1 Contractor or Implementing Partner's Organization

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

18.2 Program of Performance

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



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18.3 Progress Report

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

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

18.4 Progress of Performance

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

18.5 Work Procedures

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

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

18.6 Maintenance of Records of Weekly Progress Review meeting at Site

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

19. Subcontracting

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



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approval by the CESL for any of the Sub Implementing Partners shall not relieve the Implementing Partner from any of its obligations, duties or responsibilities under the Contract.

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

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

20. Design and Engineering

20.1 Specifications and Drawings

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

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

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

20.2 Codes and Standards

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

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

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

Any part of the Facilities covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval thereof.

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

20.3.2 Within twenty one (21) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Sub-Clause 20.3.1, the Project Manager shall

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either return one copy thereof to the Implementing Partner with its approval endorsed thereon or shall notify the Implementing Partner in writing of its disapproval thereof and the reasons therefor and the modifications that the Project Manager proposes.

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

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

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

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

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

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

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

21. Procurement

21.1 Plant and Equipment

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

21.2 CESL-Supplied Plant, Equipment, and Materials



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

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

21.2.2 Upon receipt of such item, the Implementing Partner shall inspect the same visually and notify the Project Manager of any detected shortage, defect or default. CESL shall immediately remedy any shortage, defect or default, or the Implementing Partner shall, if practicable and possible, at the request of CESL, remedy such shortage, defect or default at CESL's cost and expense. After inspection, such item shall fall under the care, custody and control of the Implementing Partner.

The provision of this GCC Sub-Clause 21.2.2 shall apply to any item supplied to remedy any such shortage or default or to substitute for any defective item, or shall apply to defective items that have been repaired here onwards.

21.2.3 CESL shall have no liability for any shortage, defect or default, for which implementing partner shall be liable. For any such shortage, defect or default whether under GCC Clause 27 (Defect Liability) or under any other provision of Contract, implementing partner shall be held liable.

21.3 Transportation

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

Packing Material

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

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

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

21.3.4 The Implementing Partner shall be responsible for obtaining, if necessary, approvals from the authorities for transportation of the Plant and Equipment and the Implementing Partner's Equipment to the Site. CESL shall use its best endeavours in a timely and expeditious manner to assist the Implementing Partner in obtaining such approvals, if requested by the Implementing Partner. The

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Implementing Partner shall indemnify and hold harmless CESL from and against any claim for damage to roads, bridges or any other traffic facilities that may be caused by the transport of the Plant and Equipment and the Implementing Partner's Equipment to the Site.

21.4 Customs Clearance

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

22. Installation

22.1 Setting Out/Supervision/Labour

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

If, at any time during the progress of installation of the Facilities, any error shall appear in the position, level or alignment of the Facilities, the Implementing Partner shall forthwith notify the Project Manager of such error and, at its own expense, immediately rectify such error to the reasonable satisfaction of the Project Manager. If such error is based on incorrect data provided in writing by or on behalf of CESL, the expense of rectifying the same shall be borne by CESL.

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

22.1.3 Labour:

- (a) The Implementing Partner shall provide and employ on the Site in the installation of the Facilities such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Implementing Partner is encouraged to use local labor that has the necessary skills.
- (b) Unless otherwise provided in the Contract, the Implementing Partner shall be responsible for the recruitment, transportation, accommodation and catering of all labor, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.
- (c) The Implementing Partner shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the entry of all labor and personnel to be employed on the Site into the country where the Site is located.
- (d) The Implementing Partner shall at its own expense provide the means of repatriation to all of its and its SubImplementing Partner's personnel employed on the Contract at the Site to their

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various home countries. It shall also provide suitable temporary maintenance of all such persons from the cessation of their employment on the Contract to the date programmed for their departure. In the event that the Implementing Partner defaults in providing such means of transportation and temporary maintenance, CESL may provide the same to such personnel and recover the cost of doing so from the Implementing Partner.

- (e) The Implementing Partner shall at all times during the progress of the Contract use its best endeavours to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labor of its Sub-Implementing Partners.
- (f) The Implementing Partner shall, in all dealings with its labor and the labor of its Sub-Implementing Partners currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor.

22.2 Contractor,s Implementing Partner's Equipment

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

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

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

22.3 Site Regulations and Safety


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

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

22.4 Opportunities for Other Implementing Partners

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

22.4.2 If the Implementing Partner, upon written request from CESL or the Project Manager, makes available to other Implementing Partners any roads or ways the maintenance for which the Implementing Partner is responsible, permits the use by such other Implementing Partners of the


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Implementing Partner's Equipment, or provides any other service of whatsoever nature for such other Implementing Partners, CESL shall fully compensate the Implementing Partner for any loss or damage caused or occasioned by such other Implementing Partners in respect of any such use or service, and shall pay to the Implementing Partner reasonable remuneration for the use of such equipment or the provision of such services.

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

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

22.5 Emergency Work

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

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

22.6 Site Clearance

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

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

Disposal of Scrap

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

The ownership of such Scrap shall vest with the Contractor except in cases where the items have been issued by CESL from its stores for their installation only without any adjustment to the Contract Price.



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The removal of scrap shall be subject to the Contractor producing the necessary clearance from the relevant authorities (Custom, Excise etc.), if required by the law, in respect of disposal of the scrap. The liability for the payment of the applicable taxes/duties shall be that of the Contractor. Harmful scrap shall be disposed as per environmental statutory or other guidelines at contractor or implementing partner own cost.

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

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

22.7 Watching and Lighting

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

22.8 Work at Night and on Holidays

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

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

23. Test and Inspection

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

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

23.3 Whenever the Implementing Partner is ready to carry out any such test and/or inspection, the Implementing Partner shall give a reasonable advance notice of such test and/or inspection and of the place and time thereof to the Project Manager. The Implementing Partner shall obtain from any



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relevant third party or manufacturer any necessary permission or consent to enable CESL and the Project Manager (or their designated representatives) to attend the test and/or inspection

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

If CESL or Project Manager (or their designated representatives) fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Implementing Partner may proceed with the test and/or inspection in the absence of such persons, and may provide the Project Manager with a certified report of the results thereof.

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

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

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

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

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

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

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

If any part of the Facilities or foundations have been covered up at the Site after compliance with the requirement of GCC Sub-Clause 23.10 and are found to be executed in accordance with the Contract, the expenses of uncovering, making openings in or through, reinstating, and making good the same shall be



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borne by CESL, and the Time for Completion shall be reasonably adjusted to the extent that the Implementing Partner has thereby been delayed or impeded in the performance of any of its obligations under the Contract.

24. Completion of the Facilities

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

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

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

24.3 As soon as reasonably practicable after the operating and maintenance personnel have been supplied by CESL and the raw materials, utilities, lubricants, chemicals, catalysts, facilities, services and other matters, if so specified in Appendix 6 (Scope of Works and Supply by the CESL)/ Technical Specifications, have been provided by CESL in accordance with GCC Sub-Clause 24.2, the Implementing Partner shall commence Pre commissioning of the Facilities or the relevant part thereof in preparation for Commissioning.

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

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

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

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

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

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

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

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

25. Commissioning, Guarantee Test and Operational Acceptance

25.1 Commissioning

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

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

25.2 Guarantee Test (where ever applicable)

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

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

25.3 Operational Acceptance

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



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

(d) any minor items mentioned in GCC Sub-Clause 24.7 hereof relevant to the Facilities or that part thereof have been completed.

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

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

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

25.4 Partial Acceptance

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

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

F. Guarantees and Liabilities

26. Completion Time Guarantee

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

26.2 If the Implementing Partner fails to attain Completion of the Facilities or any part thereof within the Time for Completion or any extension thereof under GCC Clause 40 (Extension of Time for Completion), the Implementing Partner shall pay to CESL liquidated damages in the amount computed at the rates specified in the SCC. The aggregate amount of such liquidated damages shall in no event



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exceed the amount specified as “Maximum” in the SCC. Once the “Maximum” is reached, CESL may consider termination of the Contract, pursuant to GCC Sub-Clause 42.2.2.

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

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

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

27. Defect Liability

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

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

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

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

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

- (a) any materials that are supplied by CESL under GCC Sub- Clause 21.2 (CESL-Supplied Plant, Equipment and Materials), are normally consumed in operation, or have a normal life shorter than the Defect Liability Period stated herein.



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- (b) any designs, specifications or other data designed, supplied or specified by or on behalf of CESL or any matters for which the Implementing Partner has disclaimed responsibility herein.
- (c) any other materials supplied or any other work executed by or on behalf of the CESL, except for the work executed by CESL under GCC Sub-Clause 27.7.

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

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

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

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

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

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

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

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

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



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28. Functional Guarantees

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

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

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

28.3 In case CESL exercises its option to accept the equipment after levy of liquidated damages, the payment of liquidated damages under GCC Sub-Clause 28.2, up to the limitation of liability specified in the Appendix-8 (Functional Guarantees) to the Contract Agreement, shall completely satisfy the Implementing Partner's guarantees under GCC Sub-Clause 28.2, and the Implementing Partner shall have no further liability whatsoever to CESL in respect thereof. Upon the payment of such liquidated damages by the Implementing Partner, the Project Manager shall issue the Operational Acceptance Certificate for the Facilities or any part thereof in respect of which the liquidated damages have been so paid.

29. Patent Indemnity

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

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



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

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

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

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

30. Limitation of Liability

30.1 Except in cases of criminal negligence or wilful misconduct,

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

G. Risk Distribution

31. Transfer of Ownership

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

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



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

31.4 Disposal of surplus material

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

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

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

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

32 Care of Facilities

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

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be liable for any loss or damage to the Facilities or that part thereof caused by reason of any of the matters specified or referred to in paragraphs (a), (b) and (c) of GCC Sub-Clauses 32.2 and 38.1.

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

- (a) (insofar as they relate to the country where the Site is located) nuclear reaction, nuclear radiation, radioactive contamination, pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced Implementing Partner could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance, including War Risks and Political Risks, taken out under GCC Clause 34 (Insurance) hereof.
- (b) any use or occupation by CESL or any third party (other than a Sub Implementing Partner) authorized by CESL of any part of the Facilities.
- (c) Any use of or reliance upon any design, data or specification provided or designated by or on behalf of CESL, or any such matter for which the Implementing Partner has disclaimed responsibility herein,

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

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

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

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

33.1 Subject to GCC Sub - Clause 33.3, the Implementing Partner shall indemnify and hold harmless CESL and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, in respect of the death or injury of any person or loss of or damage

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to any property (other than the Facilities whether accepted or not), arising in connection with the supply and installation of the Facilities and by reason of the negligence of the Implementing Partner or its Sub-Implementing Partners, or their employees, officers or agents, except any injury, death or property damage caused by the negligence of CESL, its Implementing Partners, employees, officers or agents.

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

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

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

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

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

34 Insurance

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

(a) Cargo Insurance During Transport

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

(b) Installation All Risks Insurance

Covering physical loss or damage to the Facilities at the Site, occurring prior to Completion of the Facilities, with an extended maintenance coverage for the Implementing Partner's liability in respect



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of any loss or damage occurring during the Defect Liability Period while the Implementing Partner is on the Site for the purpose of performing its obligations during the Defect Liability Period.

(c) Third Party Liability Insurance

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

(d) Automobile Liability Insurance

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

(e) Workers' Compensation

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

(f) CESL's Liability

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

(g) Other Insurances

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


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

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

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

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

34.6 If the Implementing Partner fails to take out and/or maintain in effect the insurances referred to in GCC Sub-Clause 34.1, CESL may take out and maintain in effect any such insurances and may from time to time deduct from any amount due the Implementing Partner under the Contract any premium that CESL shall have paid to the insurer, or may otherwise recover such amount as a debt due from the Implementing Partner. If CESL fails to take out and/or maintain in effect the insurances referred to in GCC 34.5, the Implementing Partner may take out and maintain in effect any such insurances and may


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

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

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

(a) The amount paid to the Implementing Partner under the Contract in respect of equipment/material damaged/lost (excluding the pro-rata initial advance) but including the entire amount of escalation, if any, already paid to the Contractor.

(b) Custom Duties and other taxes and duties which have already been paid by CESL.

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

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

35 Unforeseen Conditions

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

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- a) the physical conditions or artificial obstructions on the Site that could not have been reasonably foreseen.
- b) the additional work and/or Plant and Equipment and/or Implementing Partner's Equipment required, including the steps which the Implementing Partner will or proposes to take to overcome such conditions or obstructions.
- c) the extent of the anticipated delay.
- d) the additional cost and expense that the Implementing Partner is likely to incur.

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

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

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

36 Change in Laws and Regulations

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

37 Force Majeure



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 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

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

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

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

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

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

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

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

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

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

38 War Risks

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

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

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

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

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

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

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

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

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

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

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

H. Change in Contract Element

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39.1 Changes in the Facilities

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

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

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

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

39.2 Changes Originating from CESL

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

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

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

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

39.2.4 Upon receipt of the Change Proposal, CESL and the Implementing Partner shall mutually agree upon all matters therein contained including agreement on rates if such rates are not available in the Contract or if the limit of 15% set forth in Clause 39.2.3 has been exceeded. Within fourteen (14) days



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after such agreement, CESL shall, if it intends to proceed with the Change, issue the Implementing Partner with a Change Order.

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

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

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

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

39.3 Changes Originating from Implementing Partner

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

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

40. Extension of Time for Completion

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

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



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

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

40.3 The Implementing Partner shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

41. Suspension

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

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

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

41.2 If

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



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- b) the Implementing Partner is unable to carry out any of its obligations under the Contract for any reason attributable to CESL, including but not limited to CESL's failure to provide possession of or access to the Site or other areas in accordance with GCC Sub-Clause 10.2, or failure to obtain any governmental permit necessary for the execution and/or completion of the Facilities; then the Implementing Partner may by fourteen (14) days' notice to CESL suspend performance of all or any of its obligations under the Contract, or reduce the rate of progress.

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

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

42. Termination

42.1 Termination for CESL's Convenience

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

42.1.2 Upon receipt of the notice of termination under GCC Sub-Clause 42.1.1, the Implementing Partner shall either immediately or upon the date specified in the notice of termination

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

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

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

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

42.2 Termination for Contractor or Implementing Partner's Default

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

- (a) if the Implementing Partner becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Implementing Partner is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Implementing Partner takes or suffers any other analogous action in consequence of debt.
- (b) if the Implementing Partner assigns or transfers the Contract or any right or interest therein in violation of the provision of GCC Clause 43 (Assignment).
- (c) if the Implementing Partner, in the judgement of CESL has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-Clause:

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

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of CESL and includes collusive practice among Bidders



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(prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive CESL of the benefits of free and open competition.

42.2.2 If the Implementing Partner

- (a) has abandoned or repudiated the Contract
- (b) has without valid reason failed to commence work on the Facilities promptly or has suspended (other than pursuant to GCC Sub-Clause 41.2) the progress of Contract performance for more than twenty-eight (28) days after receiving a written instruction from CESL to proceed
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause
- (d) refuses or is unable to provide sufficient materials, services or labor to execute and complete the Facilities in the manner specified in the program furnished under GCC Clause 18 (Program of Performance) at rates of progress that give reasonable assurance to CESL that the Implementing Partner can attain Completion of the Facilities by the Time for Completion as extended then CESL may, without prejudice to any other rights it may possess under the Contract, give a notice to the Implementing Partner stating the nature of the default and requiring the Implementing Partner to remedy the same. If the Implementing Partner fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then CESL may terminate the Contract forthwith by giving a notice of termination to the Implementing Partner that refers to this GCC Sub-Clause 42.2.

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

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

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

42.2.4 CESL may enter upon the Site, expel the Implementing Partner, and complete the Facilities itself or by employing any third party. CESL may, to the exclusion of any right of the Implementing Partner over the same, take over and use with the payment of a fair rental rate to the Implementing Partner, with all the maintenance costs to the account of CESL and with an indemnification by CESL for all liability including damage or injury to persons arising out of CESL's use of such equipment, any Implementing Partner's Equipment owned by the Implementing Partner and on the Site in connection with the Facilities for such reasonable period as CESL considers expedient for the supply and installation of the Facilities.



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

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

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

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

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

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

42.3 Termination by Contractor or Implementing Partner

42.3.1 If

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

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



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attributable to CESL within twenty-eight (28) days of the said notice, the Implementing Partner may by a further notice to CESL referring to this GCC Sub-Clause 42.3.1, forthwith terminate the Contract.

42.3.2 The Implementing Partner may terminate the Contract forthwith by giving a notice to CESL to that effect, referring to this GCC Sub-Clause 42.3.2, if CESL becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if CESL takes or suffers any other analogous action in consequence of debt.

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

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Facilities already executed, or any work required to leave the Site in a clean and safe condition
- (b) terminate all subcontracts, except those to be assigned to CESL pursuant to paragraph (d)(ii)
- (c) remove all Implementing Partner's Equipment from the Site and repatriate the Implementing Partner's and its Sub Implementing Partner's personnel from the Site
- (d) In addition, the Implementing Partner, subject to the payment specified in GCC Sub-Clause

42.3.4, shall

- (i) deliver to CESL the parts of the Facilities executed by the Implementing Partner up to the date of termination
- (ii) to the extent legally possible, assign to CESL all right, title and benefit of the Implementing Partner to the Facilities and to the Plant and Equipment as of the date of termination, and, as may be required by CESL, in any subcontracts concluded between the Implementing Partner and its Sub Implementing Partners
- (iii) deliver to CESL all drawings, specifications and other documents prepared by the Implementing Partner or its Sub Implementing Partners as of the date of termination in connection with the Facilities.

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

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

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

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

43. Assignment



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

44. Bankruptcy

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

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

to terminate the contract forthwith by notice in writing to the liquidator or receiver or to any person in whom the contract may become vested & to act in the manner provided in GCC clause 42 entitled "Termination" as though the last mentioned notice has been the notice referred to in such clause and the equipment and materials have been taken out of the contractor's hands.

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

45. Contractor Performance & Feedback and Evaluation System

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

Financial Status

Project Execution & Project Management Capability

Engineering & QA Capability

Claims & Disputes.

46. Fraud Prevention Policy

The contractor along with their associate/collaborator/sub-contractors/sub-vendors/consultants/service providers shall strictly adhere to the Fraud Prevention Policy of EESL displayed on its tender website www.eeslindia.org

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

47. Fall Clause

This clause shall be applicable only if explicitly invoked in Section-4 (SCC). Nevertheless, Fall Clause shall be expressly applicable in case of Rate Contract:



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The price charged for the Goods supplied under the contract by the contractor shall in no event exceed the lowest price at which the contractor sells the Goods or offers to sell Goods of identical description, to any persons/ organisations including the CESL or any Department or Undertaking of the Central Government, as the case may be during the currency of the contract. Contractor shall forthwith notify such reduction or sale or offer of sale to the Procuring Entity and the price payable under the contract for the Goods supplied after the date of coming into force or such reduction or sale or offer of sale shall stand correspondingly reduced.

2. The above stipulation shall, however, not apply to:

- a. Exports by the contractor
- b. Sale of Goods as original equipment at prices lower than the prices charged for normal replacement
- c. Sale of perishable Goods having a limited shelf life, such as drugs that have expiry dates

3. the contractor shall furnish the following certificate to the concerned Accounts Officer with each bill for payment of supplies made against the contract.

* We certify that there has been no reduction in the sale price of the Goods of description identical to the Goods supplied to the Procuring Entity under the contract herein, and such Goods have not been offered/ sold by me/ us to any person/ organisation including any Ministry/ Department/ Attached and Subordinate Office/ Public Sector Undertaking of Central or State Government(s) as the case may be upto the date of bill/ the date of completion of Contract at a price lower than the price charged under this contract except for the quantity of Goods categories under (a), (b) and (c) of sub-clause (2) above, details of which are as follows:-"



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SECTION 4

Technical Specification and Special Conditions of Contract (SCC)

PART-A: General Information

Name of Package: Hiring of Agency for Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website

NIT/Bid Document No: CESL/06/2024-25/IT/242504001

NIT/Bid Date: 08/04/2024

A. MOST IMPORTANT:

- A.1. Any further information/ notice/ amendment, etc. in respect of this Tender shall be uploaded/made available only on CESL's E-Procurement portal/website, (<https://cesl.eproc.in>), and no separate information/notice shall be released either to any Bidder(s) or through Press advertisement for the corrigendum/ addendum/ amendment, etc. The interested Bidder(s) is, therefore, advised to regularly keep visiting and checking the e-Procurement portal/website for any further/ forthcoming/ last-minute information/ notice/ development/ amendment/ clarification regarding the subject Tender.
- A.2. The Bidder(s) is advised to submit its Bid well on time, preferably one hour prior to Bid closing time, to cater to possible system slowdown/requirement of assistance by Bidder(s) etc. CESL shall not be responsible for late/non-submission of Bid(s) due to the above scenario during the closing minutes of the Tender, though every effort will be made to always keep the portal fully functional during the Bidding process.
- A.3. The Terms & Conditions stipulated herein (i.e., in Section-4) supersedes any contradictory/similar/overlapping Terms & Conditions in any other Section/Part of the Tender.

B. BID SUBMISSION PROCESS

- B.1. Packet 1 of Envelope-I will appear online in dynamic form. No Manual/Hard Copy of documents needs to be submitted for these envelopes apart from below-mentioned documents. Envelope-I of the Bid should contain the duly filled/complete following

S. No.	Document Name	Validation	Mode of Submission
1	<u>Bidding Document Cost</u>	<u>In form of DD or NEFT/RTGS . Details provided in Section-1</u>	In form of DD or NEFT/RTGS . Details provided in Section-1. Scanned copy to be uploaded on CESL E-tendering Portal.
2	<u>Bid Submission Letter i.e Form</u>	<u>As per Bid Form at Attachment-1</u>	Scanned copy to be uploaded on CESL E-tendering Portal
3	<u>Format of Bank Guarantee (BG) against Bid Security / Earnest Money Deposit (EMD)</u>	<u>As per Bid form at Attachment-2</u>	In form of DD/BG or NEFT/RTGS . Details provided in Section-1. Scanned copy to be uploaded on CESL E-tendering Portal.



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S. No.	Document Name	Validation	Mode of Submission
4	<u>Power of Attorney</u>	<u>As per Bid Form at Attachment-3</u>	Scanned copy to be uploaded on CESL E-tendering Portal
5	<u>Acceptance to Important Terms and conditions</u>	<u>As per Bid Form at Attachment – 4</u>	Scanned copy to be uploaded on CESL E-tendering Portal
6	<u>Acceptance of EESL's fraud prevention policy and declaration</u>	<u>As per Bid Form at Attachment-5</u>	Scanned copy to be uploaded on CESL E-tendering Portal
7	<u>Proforma of Letter of Undertaking</u>	<u>As per Bid Form at Attachment-6</u>	Scanned copy to be uploaded on CESL E-tendering Portal
8	<u>NEFT/RTGS Bank details of Bidder</u>	<u>As per Bid Form at Attachment-7</u>	Scanned copy to be uploaded on CESL E-tendering Portal
9	<u>Certificate of not been blacklisted by Central/State/UT Government or any Public sector entities duly signed and stamped at company's Letter Head.</u>	<u>As per Bid Form at Attachment-8</u>	Scanned copy to be uploaded on CESL E-tendering Portal
10	<u>Compliance Matrix/ Check List</u>	<u>As per Bid Form at Attachment-9a</u>	Scanned copy to be uploaded on CESL E-tendering Portal
11	<u>Certificate regarding Declaration of Local Content</u>	<u>As per Bid Form at Attachment-10</u>	Scanned copy to be uploaded on CESL E-tendering Portal
12	<u>Self-Declaration regarding "Restrictions on procurement from a Bidder of a country which shares a land border with India"</u>	<u>As per Bid Form at Attachment-11</u>	Scanned copy to be uploaded on CESL E-tendering Portal
13	<u>CERTIFICATE for Declaration for Compliance to ITB clause 2.13 "Conflict of Interest"</u>	<u>As per Bid Form at Attachment – 14</u>	Scanned copy to be uploaded on CESL E-tendering Portal
14	<u>Self-Declaration duly signed and stamped at company's Letter Head for not being under debar list/undergoing debarment period on account of breach of the code of integrity under Rule 175(1)(i)(h) of the General Financial rules for giving false declarations of local content.</u>	<u>As per Bid Form at Attachment-16</u>	Scanned copy to be uploaded on CESL E-tendering Portal

B.2. Packet 2 of Envelope-I of the Bid should contain the duly filled/complete following:



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S. No.	Document Name	Validation	Mode of Submission
1	Deviation Certificate	As per Bid Form at Attachment-13 of Section-6, Forms & Procedures. CESL reserves the right to consider or disregard deviations and reject bids in case of non-compliance. Bids containing deviations from or reservations to the Terms & Conditions and specifications mentioned in the Tender will be treated as non-responsive & will not be considered further.	The scanned Copy is to be uploaded at the E-tendering portal
2	Copies of certificate of GST Certificate, PAN and Aadhar card	Enclosure with the Techno Commercial Bid	The scanned Copy is to be uploaded at the E-tendering portal
3	<u>Compliance Matrix/ Check List</u>	<u>As per Bid Form at Attachment-9b</u>	The scanned Copy is to be uploaded at the E-tendering portal
4	<u>Certificate regarding compliance of MEITY Notification</u>	<u>As per Bid Form at Attachment - 12</u>	Scanned copy to be uploaded on CESL E-tendering Portal
5	<u>Format for filling details related to Qualifying Requirement (QR)</u>	<u>As per Bid Form at Attachment - 15</u>	The scanned Copy is to be uploaded at the E-tendering portal
6	One complete set of the tender document and of all its subsequent amendments (if any, effected)), duly signed and stamped on each page by the bidder	Enclosure with the Techno-Commercial Bid	The scanned Copy is to be uploaded at the E-tendering portal



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S. No.	Document Name	Validation	Mode of Submission
7	<u>Bidder has not been blacklisted by any agency - government (Central / state), PSU or semi government entity during the last 3 financial years.</u>	<u>Undertaking on letterhead of bidder signed by Authorized Signatory.</u>	<u>The scanned Copy is to be uploaded at the E-tendering portal</u>

Note:

1. NEFT Details of CESL are:

Account Name	Convergence Energy Services Limited
Bank Name	ICICI Bank Limited
Account Number	000705051799
IFSC Code	ICIC0000007
MICR Code	110229002
Customer ID	578807920

- Tender Documents fee is non-refundable. The bid securities of unsuccessful bidder(s) will be returned as promptly as possible after the award is made. The bid security of the successful Bidder will be returned when it has signed the contract agreement and has furnished the required performance security or Contract Performance Guarantee (CPG).
- The Bid submission, Bid closing and Bid opening will be done electronically and online. CESL will not be responsible for any delay, loss or non-receipt of Bid Document Fee and Bid Security/EMD sent by post/courier. The instrument should reach in original to CESL office before the technical e-Bid Opening Date & Time. Bids not accompanied with the requisite Bid Security/EMD may not be opened. All the Bids must be accompanied by Bid Document Fee & Bid Security/EMD, as mentioned above. Bids not accompanying the Bid Document Fee & Bid Security/EMD, or those accompanied by these instruments of inadequate value, shall not be entertained and in such cases, the Bids shall be rejected.
- The details of EMD instrument have to be submitted in relevant field/column of online module. Tenders without Earnest Money Deposit is liable to be rejected. It should be ensured by the vendor that the original BG is received by CESL before opening time of techno-commercial bids for verification of the details of BG given online by the vendors.
- The tender submission, tender closing and opening will be done electronically and online.
- CESL shall not be responsible for any delay, loss or non-receipt of Tender Document Cost sent by post/courier. The instrument should reach in original to CESL office before the Bid Opening date.
- Bids not accompanied with the requisite tender document cost may not be opened.

C. OPENING & FURTHER PROCESSING OF BID(S)

- C.1. Initially, packet I of Envelope – I containing documents as stated above will be opened electronically. Packet II of Envelope-I will be opened on the same day for only those Bidder(s) who have submitted requisite documents under packet-1 of Envelope-I.



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- C.2. Envelope-II (price bid) shall be open for bidders who are techno commercially qualified from Envelope-I.
- C.3. Intimation of price bid opening date shall be carried out through e-tendering portal only wherein all qualified bidder shall be accordingly communicated about the price bid opening date.

On Behalf of CESL

Contracts Department



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PART-B:
Project Information, Technical Specifications, Scope of Work, SLAs, Eligibility Criteria and Qualification Requirements

(TECHNICAL SPECIFICATION) OF SECTION – 4

1. INTRODUCTION

Convergence Energy Services Limited (CESL) is a wholly owned subsidiary of Energy Efficiency Services Limited (EESL), under the administration of the Ministry of Power, Government of India headquartered in New Delhi. CESL is focused on delivering clean, affordable and reliable energy solutions that enables a faster energy transition.

Current Infrastructure:

In 2021, CESL successfully launched its official website through the collaborative efforts of an external vendor. The website, developed using PHP and supported by a MYSQL database, reflects CESL's commitment to a dynamic online presence. A robust Content Management System was meticulously developed to empower CESL in efficiently managing and updating its digital content.

The current hosting infrastructure, provided by the existing vendor, ensures a secure and reliable environment for the CESL website. Multiple layers of firewalls are strategically implemented to fortify the system against potential threats. Adhering to the established backup and restoration policy of CESL, routine backups of the application are systematically executed, ensuring data integrity and resilience against unforeseen events.

Notably, the server housing the website operates in High Availability (HA) mode, guaranteeing an impressive 99.89% uptime availability. This ensures that CESL's online platform remains accessible and operational, even in challenging circumstances.

This document outlines the scope of work for the upcoming website maintenance tender. It aims to secure a qualified and proficient partner who can not only preserve the current high standards but also contribute to the evolution and optimization of CESL's online platform.

OBJECTIVE

1.1. OBJECTIVE OF THE PROJECT

- Through this RFP, CESL seeks to select Managed Service Partner for the **Installation, Migration, Maintenance and Security** of CESL Website. This collaboration aims to leverage the expertise of the Selected Bidder in seamlessly managing the CESL Website and its managed services.



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2. Scope of Work

The project must be completed on a turn-key basis, and the contract's deadline must be met. The bidder remains accountable for ensuring that the solution performs optimally and meets the performance expectations, even if the specifications are merely followed. The cost of any other items (Infra-hosting, Migration data, Security, AMC etc.) required to make the system fully operational will be borne by the bidder.

The broad scope of work for procurement at CESL is detailed below:

1. Project requirement:

- The vendor has to maintain the website throughout the contract period by ensuring the proper management of all the content, keeping it up to date, managing the CMS of the website and any other enhancement/ change in the website. The following activities/features must not be compromised:
 - Least site opening time.
 - Clean and professional design
 - Search engine friendly website (SEO keywords must be registered). For each content page the admin should be able to specify the metadata Security of website.
 - Regular updation of the content on the site.
 - Regular maintenance of the server and infrastructure environment.
 - Regular monitoring of the malicious activity on the server.
 - Regular backup of the server and the database.
- Content updation must be managed through Content Management System.
- Overview of the website may be referred from **convergence.co.in**.
- The site must be responsive in nature as per the resolution type (desktop, laptop, mobile).

2. Functionality available in Website:

Refer CESL website (convergence.co.in)

3. Technology Used:

- The application was developed in php and database is in MySQL.

4. Expected Activities during the Support & Maintenance Period:

- Adding Notices, Tenders, documents etc. in respective sections.
- Updating Sitemap
- Bug Fixing
- Maintenance of Static pages information
- Checking of dead link
- Uploading Content as per requirement (Content will be provided by CESL)
- Content Modification on the existing website
- Content modification/links on the existing website
- Support for cross browser compatibility of website



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- Support for any functional problem of any module of website
- Database management
- Websites should be regularly checked for Security vulnerabilities and should be updated regularly.
- Updation would include regular upgradation of news, data, reports, tender announcements, recruitment, and other relevant information etc., on daily, weekly, fortnightly or monthly basis as may be required.
- Regular web promotion shall be a part of this activity and shall include activities such as search engine registration and linking to related web sites and home page improvements etc.
- Resolving all types of vulnerabilities (related to Security of the website) reported by various Government agencies/ bodies.
- Protection against defacement and hacking of the web application and implement security features to protect the site from session hijacking, SQL injection, Cross scripting, Denial of Service etc. In case of virus or hacking attack, the contractor shall have to re-create/restore the website within 4 hours when the hardware is ready.
- The vendor should ensure technical maintenance for the website which should essentially mean rectification of errors, addition, or up gradation of content/ basic design as & when required.
- The vendor shall be responsible for the support throughout the contract period from the date of award of the contract.
- The selected bidder needs to incorporate requested change throughout the contract period.
- Any other minor activity for successful integration and implementation of the new features or any enhancements.
- Handling of failure, emergency fixes or unexpected downtime.

5. Implementation Approach:

- On receipt of enhancement request the Developer should prepare few sample layouts (if required) and should be submitted CESL for approval. All changes suggestion for the layout would be done by the vendor.
- Further work should only be started after approval. Work should be done based on cyber security guidelines.

6. User Acceptance Testing:

- The User level testing shall be done by the business/ IT team.
- On basis test results, the inputs shall be documented and those issues shall be mitigated. The same process shall be followed till all the issues are cleared in the application/ module.
- UAT reports shall be signed by the stakeholder.

7. Deployment & Go-Live

- The website will be declared "Go Live" when the following tasks/activities are accomplished satisfactorily:
 - Installation and configuration **(Server set up)**
 - Migration of complete Website (old platform to new platform)



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 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
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- Security checks
- Hosting
- Final Go Live once the all above activities are achieved.
- The Cert In Security audit has to be performed by the vendor before hosting the application or as mutually agreed with CESL on production server to mitigate the vulnerabilities.
- The vendor should also comply IT Security Policies Standards and other rules & regulations as notified from time to time.
- CESL would conduct audits periodically, surprise checks can be conducted anytime and for any number of times. Any non-compliance observed during the surprise checks would also qualify the selected bidder/vendor for a penalty.
- Any issue/ flaw comes in during the audit period, then it is the sole responsibility of the selected bidder/vendor to resolve all the issues until all the issues are resolved by complying all the IT standards.

8. Infrastructure & Application:

- In case of hosting the site at Vendor's Data Centre, all the services (server arrangement, licensed software's, installations, configuration, hosting and monitoring) shall be taken care by vendor the till the Contract period.
- Database license to host the application shall be provided by CESL (if required).
- The selected bidder shall be responsible for hosting & managing the application onto Vendor's data Centre / Cloud.
- The responsibilities include configuring, monitoring, tuning, and troubleshooting (application and database level) the technical environment against the ongoing as well the schedules activities.
- The key area of responsibility is to document the configurational changes performed at the Server/ System level.
- The System administrator must possess the ability to analyze situations (non- working of the application) and provide problem resolution in coordination with the Data Centre team.
- Use of structured approach that minimizes risk and achieves high reliability, availability and performance of each instance.
- Monitor all the systems (work processes, users, system logs, short dumps, locks, developer traces, system traces, disk space, etc.) and perform necessary actions to ensure availability (24X365) of all system.
- Alert Mechanism must be there for application/ system unavailability, un authorized access, change password, new device login, suspicious login etc.
- The platform should support predefined security configuration to protect web and mobile applications resources as per OWASP and other standard as per the Industry best practices.
- The vendor shall be responsible for the regular updates on the server related to the configurations like at application level, timely backup of the transactional logs, flat files and database backup via scripts.



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- The Data Centre/ Infrastructure environment audit report (from CERT-IN or STQC) must be provided by the vendor to CESL before initiating the migration activities of the application. It is the vendor responsibility to get the desire audit done.
- Checking Security of the website on a regular interval and submit the reports periodically.

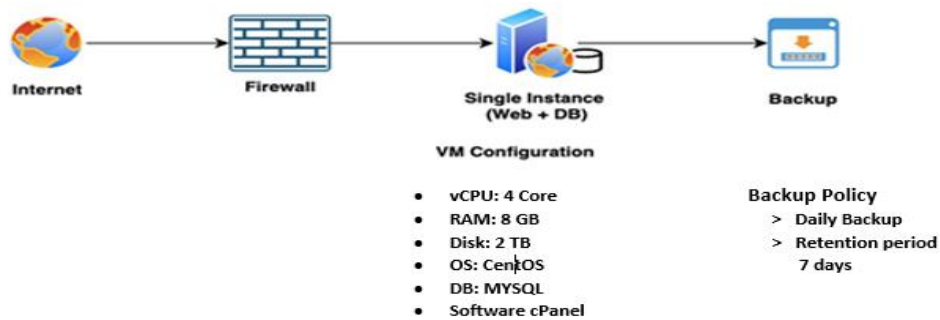
Migration of Complete Landscape from existing cloud to new cloud service provider.

Note: The above-mentioned list is not exhaustive. Best industry practices suitable for CESL to be followed in each and every aspect.

Architecture Diagram

Website shall be kept behind firewall to restrict SSH access only after VPN to avoid any unauthorized access. Daily backup at 11 pm IST with 7 days retention policy.

Convergence Website Hosting



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PART-C

SPECIAL CONDITIONS OF THE CONTRACT

1. Payment Terms: -

Sr. No.	Particulars	Payment Terms
1	Support & Maintenance (AMC)	Invoice will be raised on quarterly basis and will be paid within 30 days of completeness & acceptance of Invoice
2	End to end infra for Hosting Website and related security	From Go-Live of Website. Invoice will be raised on quarterly basis and within 30 days of completeness & acceptance of Invoice
3	Major Change Request (Optional)	Invoice will be raised as per consumption on quarterly and within 30 days of completeness & acceptance of Invoice
4	Migration of Infra & Data	Invoice will be raised after successful go-live with complete hosting and will be paid within 30 days of completeness & acceptance of Invoice

- a) All aspects of safe delivery of services shall be the exclusive responsibility of the Vendor. The schedule to be given for delivery/installation at site/cloud/remotely is to be strictly adhered to in view of the strict time schedule for implementation of various Projects.
- b) No invoice for extra work/change order on account of change order will be submitted by the Vendor, unless the said extra work /change order has been authorized/approved by CESL EIC, in writing.
- c) In case the submission of bills to CESL, along with the necessary documents, is delayed by the Vendor beyond 30 days from the date of issue of bill, the entire liability towards payment of interest/penalty to the tax authorities would be on the cost of Vendor. The entire amount will be deducted from the payment due to Vendor.
- d) All payments will be made through EFT only.
- e) GST / Applicable Taxes would be paid, as may be applicable from time to time.
- f) In case the submission of Quarterly bills to CESL is delayed by the agency beyond 15 days from the last day of the month in which the services have been provided, the entire liability towards payment of interest/penalty to the tax authorities would be borne by the Vendor; so that CESL is not burdened unnecessarily with this amount/penalty etc. The entire amount will be deducted from the payment due to respective agency.



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- g) All payments to agency will be made subject to deduction of applicable penalty and TDS (Tax deduction at Source) as per the Income Tax Act, 1961, and other taxes, if any, as per Government of India rules.

Failure in abiding by the scope of work, for reasons accountable to the Vendor, shall render the Vendor liable for penalty. Payments shall be subject to deductions of any amount for which the Vendor is liable under the empanelment or tender conditions.

Further, the payment shall be paid only up on fulfilment of following conditions:

- a) Acceptance of Letter of Award
- b) Submission of CPG and signing of contract agreement.

2. Delivery Timelines

Initial Setup and Implementation: Completion within 1-2 weeks from contract award, including supply, deployment, hosting, configuration. A detailed timeline will be provided upon contract signing.

Data Migration Plan and Integration Assessment: Clear plan development and assessment of integration capabilities to be finalized within 2 weeks from contract award. Migration timeline and integration schedule will be established accordingly.

Seamless Transition and Data Utilization: Migration process completion and seamless transition to be achieved within 3 weeks from contract award, ensuring immediate data utilization. A transition plan with milestones will be provided for tracking progress

3. Delivery of all the services related Website AMC & Hosting along with required licenses shall be made in accordance with the schedule as given in table below:

Sl. No.	Activity	To be completed by (all days are in reference to date of placement of order (D))
<u>Supply</u>		
1	Delivery +Setup	D+ 14 days
<u>Installation</u>		
2	■ Installation and operationalization, Migration of Old Server with seamless transitions.	D+21 days

- a. Start of warranty of all the software or validity of licenses shall be considered from the date of invoice (date of delivery).

4. Liquidity Damage (LD) & Penalty for Late Delivery Supply:

The timely delivery of the material is the essence of the contract. In the event of Supplier's failure to deliver the material/service of acceptable quality within the stipulated delivery period, the liquidated damages are payable by the Supplier @ 0.5% (one half of one percent) per week



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of delay or part thereof, of the unexecuted order value. However, the total liability of the Bidder under this clause shall not exceed 5% of the Order value as awarded

In case, the firm issued with the LOA is unable to complete the work as required, or falters in performance of the contract, CESL reserves the right to terminate the contract and approach other firms at the risk and cost of the defaulting supplier. Further, this right is without prejudice to the other available rights of CESL under the law.

5. Contract Period:

The Contract period for Service of Website AMC & Hosting and manageable services is valid for period of 1 year from date of issuance of LOA and may be extendable 2 years as per satisfactory services with same Price & terms and conditions.

6. Evaluation Criterion:

- ❖ Tender consist of Single Package. Bidder has to mandatorily quote for all items in the package
- ❖ Bidder has to mandatorily quote for full quantity in the package. Tender shall be evaluated for Total price exclusive of GST. Techno-commercially suitable bidder having the lowest price i.e. lowest price at Grand Total (G) in Price Bid table shall be L-1 bidder. Price bid should be unconditional, failing which the bid shall be summarily rejected. Price will remain firm till the execution of the contract.
- ❖ In case of a tie between the L1 price, CESL will compare the bidders based on the Av. Annual Turnover of last three years, calculated based on their respective balance-sheets and bidder with Higher Av. Annual turnover shall be determined as L1.
- ❖ CESL reserves the right to disqualify any bidder(s) or the tender based upon its discretion, if the selected bidder(s) has conducted any malpractice during the tender procedure.
- ❖ The illustrative format & notes for price bid shall be referred at Annexure-1
- ❖ If any other unforeseen situation/s arise apart from those mentioned above, decision of CESL shall be binding on the Bidders.

7. Action by CESL if L1 backs out:

After opening of price bid, if L1 bidder backs out, the bidder will be put on holiday list of CESL for a period of one year. During this tenure, the bidder will be barred from participation in CESL tendering process. However, bidder has to continue the unexecuted work of the other prevailing work if any under the current running contracts. Simultaneously, the EMD submitted by such bidder against the subject tender will be forfeited. If bidder is exempted from submission of EMD, then the EMD amount will be adjusted from the payments due to the contractor against other running contracts. If there is no running contract of the bidder/ no payment dues of the bidder, then CESL reserves the right to take any legal remedy as deemed fit to recover the penalty equivalent to EMD amount through legal means.



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8. Successful bidder(s), on whom letter of award is placed, is to ensure all safety guidelines, rules and regulations, labor laws, etc. Successful bidder(s) indemnify CESL for any accident, injury met by its labor, employee, or any other person working for him. Any compensation sought by its labor, employee or any other person working for him shall be paid by successful bidder(s) as per settlement solely. CESL has no role to play in this matter.
9. The Bidder(s) shall be deemed to have examined the Bid document, to have obtained its own information in all matters whatsoever that might affect carrying out the Works in line with the Scope of Work specified in the document at the offered rates and to have satisfied itself to the sufficiency of his Bid. The bidder(s) shall be deemed to know the scope, nature and magnitude of the work and requirement of materials, equipment, tools and labor involved, wage structures and as to what all works they have to complete in accordance with the Bid documents irrespective of any defects, omissions or errors that may be found in the Bid documents.
10. CESL reserves the right to accept or reject any quotation in full or in part without assigning any reason thereof. CESL also reserves the right to split and place order on more than one service provider.

If any bidder backs out after the issuance of LoA, CESL reserves the right to forfeit the Security Deposits / Contract Performance Security.

11. Period of Validity of Bid

Bids shall remain valid for a period of 180 days after the closing date prescribed by the CESL for the receipt of bids. A bid valid for a shorter period may be rejected by the CESL as being non-responsive. In exceptional circumstances, the CESL may solicit the bidder's consent to an extension of the bid validity period. The request and response thereto shall be made in writing thro' letters/ e-mails. If the bidder accepts to prolong the period of validity, the bid security/EMD shall also be suitably extended. A bidder may refuse the request for Bid Validity Extension without forfeiting its bid security. A bidder granting the request will not be required nor permitted to modify its bid.

*In case the L1 agency is not able to fulfill the services/ terms & conditions of the contract or unable to execute the work due to some unforeseen/ contingent circumstances, CESL may take up with L2 rates for the said work and all additional cost will be borne by the non- performing agency.

12. Taxes and Duties

All prices in contract are exclusive of GST. Successful Bidder should mandatorily register under GST act of Delhi. The bidder should ensure all the GST compliances are fulfilled for the GST collected from CESL and same should be reflected on GST portal (GSTR-2A) in credit of CESL. Any other charges/cost/TA/DA/manpower is also included in the contract price.

GST will be reimbursed on actual basis. If there is increase or decrease in the taxes and duties subsequent to Vendor's offer within the contract delivery schedule of supply due to change in rate



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or introduction of new tax or deletion of existing tax or interpretation/application of tax, etc. CESL will reimburse the actual tax.

In case of failure to achieve completion as per contract, CESL will not be liable to compensate for any increase in taxes and duties due to change in rate or introduction of new tax or interpretation/application of tax, etc.

Whereas taxes at actual rate shall be paid in case of decrease in taxes and duties due to change in rate or deletion of existing tax or interpretation/application of tax etc., in the event of late delivery after the contract delivery period.

13. Adherence to Specification

- a) Subsequent to an LOA being placed against bidders' quotation received in response to this Tender, if it is found that the services supplied are not in accordance with CESL requirement or not satisfactory owing to any reason of which CESL shall be the sole judge, CESL shall be entitled to reject the services, cancel the contract and procure the requirement from the open market / other sources and recover the loss, if any, from the bidder(s) reserving to ourselves the right to forfeit the security deposit, furnished by the bidder(s) against the contract.
- b) CESL reserves the right to accept or reject any quotation in full or in part without assigning any reason thereof. CESL also reserves the right to split and place order on more than one bidder.
- c) The bidder(s) should not be on a holiday list while submitting the bid. A self-declaration by the bidder should be provided to CESL. If at any stage of tendering process or during the currency of the contract, any suppression / falsification of such information is brought to the knowledge, CESL shall have the right to reject the proposal or terminate the contract without any compensation to the tenderer & forfeiture of bid security / CPG.
- d) The bidder(s) should not have been blacklisted by Central / State Government or Public Sector Undertakings. A self-declaration by the bidder should be provided to CESL. If at any stage of tendering process or during the currency of the contract, any suppression / falsification of such information is brought to the knowledge, CESL shall have the right to reject the proposal or terminate the contract without any compensation to the tenderer & forfeiture of bid security / CPG.

14. Cost of Tender Document, Bid Security

Cost of Tender Document shall be accepted in the form of Account Payee Demand Draft, Banker's Cheque, or online payment.

Bid Security and Performance Security shall be accepted in the form of Insurance Safety Bonds, Account Payee Demand Draft, Banker's Cheque, online payment, or Bank Guarantee from any Scheduled Commercial Bank authorized by RBI for transacting Government business.

Details of such instruments are as below:

1. Insurance Safety Bonds - As authorized by RBI
2. Details for Account Payee Demand Draft - In the name of "Convergence Energy Services Limited" payable at New Delhi



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3. Banker's Cheque - In the name of "Convergence Energy Services Limited" payable at New Delhi
4. Online Payment – Account Name: Convergence Energy Services Limited; Account Number: 000705051799; RTGS/NEFT IFS Code: ICIC0000007; MICR Code: 110229002; Customer ID: 578807920; Account Type: Current Account; Branch: 9A, Phelps, Connaught Place, New Delhi – 110001
5. Bank Guarantee - from any Scheduled Commercial Bank authorized by RBI for transacting Government business, in relevant format prescribed in Section VI of this Tender

15. Performance Security

The Successful Bidder has to provide a Performance Security for, within 28 days of issuance of Letter of Award (LoA) as detailed below:

RfP Packages	PBG Value (in INR)
Package	5% of contract value

Performance Security shall be accepted in the form of Insurance Safety Bonds, Account Payee Demand Draft, Banker's Cheque, online payment, or Bank Guarantee from any Scheduled Commercial Bank authorized by RBI for transacting Government business.

Details of such instruments are as below:

1. Insurance Safety Bonds - As authorized by RBI
2. Details for Account Payee Demand Draft - In the name of "Convergence Energy Services Limited" payable at New Delhi
3. Banker's Cheque - In the name of "Convergence Energy Services Limited" payable at New Delhi
4. Online Payment – Account Name: Convergence Energy Services Limited; Account Number: 000705051799; RTGS/NEFT IFS Code: ICIC0000007; MICR Code: 110229002; Customer ID: 578807920; Account Type: Current Account; Branch: 9A, Phelps, Connaught Place, New Delhi – 110001
5. Bank Guarantee - from any Scheduled Commercial Bank authorized by RBI for transacting Government business, in relevant format prescribed in Section VI of this Tender

Performance Security should remain valid for a period as below:

Total Period = 1 year + 90 days claim period

Any delay in submission of Performance Security would be deemed as accruing of financial benefit to the Selected Bidder(s) and CESL may take necessary interest penalty recovery action (interest @ SBI's MCLR + 2 %) from the payments due to Selected Bidder(s) for the period of delay. However, this provision does not bind CESL in any way from proceeding against the Selected Bidder (including forfeiture of Bid Security, cancellation of the LoA/PO, etc.) for non-compliance towards non-submission of the Performance Security.

In case Selected Bidder(s) provides Performance Security for shorter duration, it shall be for a minimum period of 3.5 years and CESL reserves the right to invoke Performance Security in case



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extended Performance Security/fresh Performance Security is not furnished at least 90 days prior to the expiry of original Performance Security. In this regard, further an undertaking must be submitted by the Selected Bidder(s) that if the Selected Bidder fails to provide second Performance Security, then CESL has right to impose penalty and forfeit the original Performance Security.

No interest on Performance Security will be payable to the Selected Bidder(s). Under no circumstance, exemption from Performance Security is permitted.

The Bank Guarantee for Performance Security shall be considered effective only when BG issuance message is transmitted by the issuing bank through SFMS to CESL's Bank as per below given details:

ICICI Bank include unique identifier CESL578807920 in the field 7037 of the SFMS cover message with IFSC Code ICIC0000007

BG Advancing Message - IFN 760COV / IFN 767 COV via SFMS	
Field Number	Particulars (to be mentioned in Row 1)
7037	CESL578807920

16. Adjudicator

Adjudicator under the contract shall be appointed by the Appointing Authority i.e., MD (EESL and/or CESL). If the bidder(s) does not accept the Adjudicator proposed by EESL and/or CESL, it should so state in its bid form and make a counter proposal of an adjudicator. If on the day the contract agreement is signed, the EESL and/or CESL and service provider have not agreed on the appointment of adjudicator, the adjudicator shall be appointed, at the request of either party, by the appointing authority specified.

17. Arbitration

Arbitration shall be carried out as per Arbitration Act 1996 and its subsequent amendment. The Contract shall be governed by and interpreted in accordance with the laws in force in India. The courts of DELHI shall have exclusive jurisdiction in all matters arising under the contract.

18. Compliance to CESL's EHSS Policy:

The BIDDER shall necessarily comply with CESL's EHSS (Environmental, Occupational Health & Social) policy as applicable to this tender and any further modification(s)/addition(s) to EHSS policy. The existing policy may be referred at <https://CESLindia.org/CESL-policies.html>

19. Safety, Labor Law, And Statutory Compliance

The Bidder selected through this bidding process is to ensure all safety guidelines, rules and regulations, labour laws, statutory compliances, etc. Successful bidder indemnifies CESL for any accident, injury met by its labour, employee or any other person working for him. Any compensation sought by its labour, employee or any other person working for him shall be paid by successful bidder as per settlement solely. CESL has no role to play in this matter.



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CESL would not be responsible for any lapse on the part of the supplier/contractor/agency in compliance of the provisions of any Labour Acts/Laws, viz. Payment of Wages Act, Minimum Wages Act, Contract Labour (Regulation & Abolition) Act, 1970 and (Central) Rules, 1971, Industrial Dispute Act, 1947 and (Central) Rules 1957, Employees' State Insurance Act, 1948 (ESI), Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (EPF), Gratuity, Bonus and any other provisions of the laws in force, etc. CESL will not assume any responsibility thereto. CESL shall not be responsible to bear any extra cost due to any statutory/other obligations arising during the currency of the contract.

The Bidder shall keep CESL indemnified from any liability that may arise on account of action of its staff because of the performance or non-performance by the contractor/supplier/agency of any of the terms and conditions of the LoA or any law in force.

The bidder shall be solely responsible for payment of wages/salaries and allowances to their personnel, and for any increase thereof that might become applicable under any applicable/new act or order of Government.

The bidder will be responsible for compliance with all Central and State laws as per rules/regulations/byelaws and order of the local authorities and statutory bodies as may be in force from time to time during the contract period. CESL at its discretion may ask for necessary proof for adherence of these statutory norms. PF and ESI challan shall be mandatorily submitted along invoices.

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

21. Signing the Contract Agreement:

The contractor/supplier shall submit Contract Agreement on a Rs.100/- denomination stamp paper (two original copies) within 28 days from the date of issuance of LOA, to Contracts Dept., CESL for execution. The date of purchase of stamp paper should be after the date of issuance of LoA. The purpose on stamp paper should be written as Contract Agreement.

22. Transportation, Demurrage Wharf age, etc.

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

23. Price Basis:



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Price quoted in the bid must be firm and shall remain firm during currency of the Contract.

24. Restrictions on Procurement from a Bidder of a Country which shares a land Border with India:

1. As per Order No.: F.7/10/2021-PPD (1) Dated 23.02.2023 issued by Department of Expenditure,

Any Bidder which shares a land Border with India shall be eligible to bid in any procurement whether of goods, services (including Consultancy and Non-Consultancy Services) or works (including Trunk projects) only if bidder is registered with Competent authority as specified in order.

AND

2. Any Bidder who has a Specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India will be eligible to be in any procurement whether, goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority as specified in the order

- (i) "Bidder" means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated herein before, including any agency branch or office controlled by such person, participating in a procurement process.
- (ii) "Bidder (or Entity) which shares land border with India" shall mean:
 - a) An Entity which incorporated, established or registered in such a country; or
 - b) A subsidiary of an entity incorporated, established or registered in such a country; or
 - c) An entity substantially Controlled through entities incorporated, established or registered in such a country; or
 - d) An entity whose beneficial Owner is situated in the country; or
 - e) An Indian (or other) agent of such an entity; or
 - f) Any natural person who is a citizen of such a country; or
 - g) A consortium or Joint venture where any member of consortium or Joint venture falls under any of the above.
- (iii) The beneficial owner for the purpose of (ii) (d) above will be under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has controlling ownership interests or who exercises control through other means.

Explanation

- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five percent of shares or capital or profits of the company.
- b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreement or voting rights;



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6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
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Serial No : 1629763

2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official
5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
6. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
 - a. A person who procures and supplies finished goods from an entity from a country which shares a land border with India will, regardless of the nature of his legal or commercial relationship with the producer of goods, be deemed to be an agent for the purpose of this Order,
 - b. However, a bidder who only procures raw material, components etc. from an entity from a country which shares a land borders with India and then manufactures or converts them into other goods will not be treated as an agent
7. Further, the successful Bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. This restriction on subcontracting shall not be applicable for procurement of raw materials, components, sub-assemblies etc. However, in case of finished goods procured directly/indirectly from the vendors from the countries sharing land border with India, such vendor will be required to be registered with the Competent Authority.

The above-mentioned order shall be applicable to this tender. The Bidder shall carefully go through the above mentioned order and ensure its eligibility in accordance with the same. Bidder should refer to the above mentioned order for clarification over definitions and clauses as applicable.

25. Declaration of Local Content

As per order No: P-45021/2/2017-PP (BE-II) dated: 16-Sept-2020 of Department of Promotion of Industry and Internal Trade-

- Only 'Class-I Local Suppliers' and 'Class-II Local Suppliers' are eligible to bid in this tender.
- Margin of purchase preference applicable to 'Class I Local Supplier' is 20%.

The Bidder shall in its bid submit a certificate in compliance to DoE order as per the given format. (Only Class-I and Class-II Local Suppliers with minimum local content of 50% and 20% respectively, are eligible to bid in this tender in conformance with the order for "Public



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procurement (Preference to make in India) to provide for Purchase preference (linked with local content in respect of Power sector)” issued vide ref no. A-1/2021-FSC-Part (5) GoI, MOP Dated 16.11.2021.)

The ‘Class-I or Class-II local supplier’ shall provide a certificate from statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of Local Content and shall give details of the location(s) at which value addition is made. Any false declaration regarding Local Content by the bidder shall be taken in line with provisions of the PPP MII Order.

Further, entities of countries which have been identified by the Nodal Ministry/Department identified under PPP-MII order, as not allowing Indian companies to participate in their Government procurement for any item related to that Nodal Ministry shall not be allowed to participate in bidding for all items related to that Nodal Ministry/Department, except for the list of items published by the Ministry/Department permitting their participation. The term ‘entity’ of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.

NON-LOCAL SUPPLIERS ARE NOT ELIGIBLE TO BID IN THIS TENDER

Note: Bidder shall carefully go through the above-mentioned order in order to understand the whole process and definition of various terms (e.g. Class-I Local supplier, Local content etc) pertaining to the said order which have also been used in this tender document. The defining percentage of Local Content shall be as mentioned in the above-mentioned order. By participating in this tender, the bidder shall comply with all the terms and conditions of the above-mentioned order.

NOTE: False declarations will be in breach of the code of integrity under Rule 175(1)(i)(h) of the General Financial rules for which a bidder or its successors can be debarred for up to 2 years as per Rule 151(iii) of the General Financial rules alongwith such other actions as may be permissible under law.

DEFINITIONS: -

“Local Content” means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent

“Class-I local supplier” means a supplier or service provider, whose goods, services or works offered for procurement, meet the minimum local content as prescribed for ‘Class-I local supplier’ under the Public Procurement (Preference to Make in India), Order 2017, Notified vide Order No. P-45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020;

‘Class-II local supplier’ but less than that prescribed for ‘Class-I local supplier’ under the Public Procurement (Preference to Make in India), Order 2017, Notified vide Order No. P-



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45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020;

“Non-Local supplier” means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for ‘Class II local supplier’ under the Public Procurement (Preference to Make in India), Order 2017, Notified vide Order No. P-45021/2/2017-PP (BE-II) issued by Department of Promotion of Industry and Internal Trade dated 16.09.2020.

26. Bid Security/Earnest Money Deposit (EMD):

Amount of Bid Security: As mentioned in Section-1.

The bidder shall furnish, as part of its bid, a bid security in a separate envelope. The bid security shall, at the bidder’s option, be in the form of a Banker’s cheque, Demand Draft in favour of “Convergence Energy Services Limited” or a bank guarantee as per format at Attachment-1 of Section-6. Bid security/EMD shall remain valid for a period of 45 days beyond the original bid validity period of 180 days, i.e., 120 days from date of techno-commercial bid opening. If there is any extension in bid validity period, then CESL may ask the bidder to extend the validity of bid security.

The details of EMD instrument have to be submitted in relevant field/column of online module. Tenders without Earnest Money Deposit are liable to be rejected. It should be ensured by the vendor that the original DD/ BG is received by CESL before opening time of techno-commercial bids for verification of the details of DD/BG given online by the vendors.

The tender submission, tender closing and opening will be done electronically and online.

CESL will not be responsible for any delay, loss or non-receipt of Tender Document Cost sent by post/courier. The instrument should reach in original to CESL office before the Bid Opening date. Bids not accompanied with the requisite tender document cost may not be opened.

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

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

The bid security may be forfeited if:

- a. If the bidder withdraws its bid during the period of bid validity as specified in the bid.
- b. If the bidder does not accept computational/arithmetical error correction made by CESL and as explained in “Financial Evaluation” section of the Bid/ RfP document.
- c. If the bidder does not accept assumptions, estimations etc. used for evaluation of bids as specified by CESL in tender documents and revision of his bid accordingly,



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in case other assumptions are used. If the bidder does not accept the sharing as specified in the bid.

- d. If the Bidder refuses to withdraw, without any cost to the CESL, any deviation not listed in Attachment-5 but found elsewhere in the bid; or

In the case of successful bidder, if the bidder fails to sign the contract agreement within 15 days of placement of LoI/Award letter and to furnish the required contract performance guarantee, in accordance with the tender document.



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ANNEXURE – 1 (A)
PRICE BID FORMAT

(To be filled online on e-Tendering portal)

Name of Package: Hiring of Agency for Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website

NIT/Bid Document No: CESL/06/2024-25/IT/242504001

NIT/Bid Date: 08/04/2024

S. No.	Description of Package	Proposed Quantity	Unit of Measurement (UOM)	Base price per unit exclusive of GST (IGST/CGST/SGST/UTGST) (In Rs.) (in. Rs.)	Total cost exclusive of GST (IGST/CGST/SGST/UTGST) (In Rs.)
A	B	C	D	E	F=C*E
1	Support & Maintenance (AMC)	12	per month	Prices to be filled online	Calculated by the portal
2	End to end infra for Hosting Website and related security	12	per month	Prices to be filled online	Calculated by the portal
3	Major Change Request (Optional)	20 days	per man day	Prices to be filled online	Calculated by the portal
4	Migration of Infra & Data	1	one time	Prices to be filled online	Calculated by the portal

Calculation of Total Cost for Award of Work (LoA)= [Quoted Price at Line Item 1 x 12] + [Quoted Price at Line Item 2 x 12 Months] + [Quoted Price at Line Item 3 x 20 days] + [Quoted Price at line 4X1]

Note: In line no 3 Man days cost may consider as enhancement in the website (development).

L1 Calculation: L1 will be decided based on Grand Total.

- Price will remain firm and Exclusive of GST till the execution of the contract which is one year in this case.
- Bidder has to quote for all the items mentioned in the price bid. In case bidder didn't quote for all the items, bid will be rejected.
- However, the GST/taxes shall be payable on actual basis applicable from time to time.
- If required buyer can add additional items till the execution of the contract at the rates mentioned in price bid in above table without any other cost as the contract would be the Rate Contract.

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- The Bidder shall indicate in the Price Bid, the unit prices in Rs. (INR) and total Bid prices of the Goods & Services in the prescribed format only. Bidders shall quote for the complete requirement of Goods and Services specified under the Contract on a single responsibility basis, failing which such Bids will not be considered for evaluation and will not be considered for award.
- Successful bidder mandatorily to be registered with sales tax authority. Tax rates applicable will be paid only on production of necessary documents/ proofs.
- Prices to be quoted F.O.R to Destination Basis.
- The bidder should quote for all heads in the price-bid format for which separate analysis/ reasonable estimation of all heads should be done by the bidder before quoting the rates in the financial bid. Any contravention may lead to rejection of offer submitted. Bidder is to arrange on its own to deliver the material at site.
- The taxes will be paid on actual basis as per the locations of delivery on submission of documentary evidence.
- The bills shall be processed as per payment schedule as mentioned in the above table on submission of the documents list in the SoW or any other desired report.
- CESL officials will conduct timely quality inspection drives to monitor the infrastructure, technology and quality of manpower. Quality standards must be maintained to ensure that the performance in execution of work is not affected in any manner.
- Payment shall be made within 30 days from the date of submission of invoice along with the required reports.
- Price to be quoted in point no 3 of above table is Optional Services. CESL reserves the right to seek services from the bidder or not, as per the prices quoted in the aforesaid table. If not consumed, no charges will be paid.
- The total value of line no. 3 of above table will not exceed 20% of the total LoA cost.

.....
 I / We have read all the terms and conditions of the Tender / IFB / NIT and the Annexure(s) thereto and agree to accept and abide by the same in total. The above quotation has been prepared after taking into account all the terms and conditions of the Tender / IFB / NIT.

(SEAL)

Signature of Tenderer or

Their Authorized Representative:

Dated:

Name & Address of Tenderer:

Fax No:.....

Phone No:.....

Signature :-
 Subject: CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
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Annexure-2

1.0 Eligibility and Qualification Requirements:

This Invitation for Bids, issued by the Employer is in Open Tendering Mode. The Employer will ascertain to its satisfaction whether Bidders determined having submitted substantially responsive bids are qualified, as per the tender document to satisfactorily perform the contract. The Employer shall be the sole judge in this regard and the Employer's interpretation of the tender document which shall be final and binding. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder in the bid, as well as such other information as the Employer deems necessary and appropriate. This shall, however, be subject to assessment that may be carried out, if required, by the Employer. The Employer may waive any minor informality, nonconformity or irregularity in a bid that does not constitute a material deviation, affecting the capability of the Bidder to perform the Contract. An affirmative determination will be a prerequisite for the Employer to evaluate the Techno - Commercial Part and open the Second Envelope of the Bidder. A negative determination will result in rejection of the Bidder's bid.

1.1 Eligibility and Qualifying Requirements (QR)

A. Eligibility Criteria:

Sl. No.	Eligibility criteria	Documents to be Submitted for Compliance by the Bidders
1.	<p>Bidder should be a Single Entity means a limited company (as defined in the Companies Act, 1956 and any amendment thereof)</p> <p>OR</p> <p>Must be a natural Bidder (an individual entity)</p> <p>OR</p> <p>A registered partnership firm (registered under section 59 of the Partnership Act, 1932 and any amendment thereof)</p> <p>OR</p> <p>A limited liability partnership (under the Limited Liability Partnership Act, 2008 and any amendment thereof)</p> <p>OR</p> <p>Proprietorship firm</p> <p>(Consortium/JV is not allowed in the tender)</p>	<p>Copy of certificate of incorporation/ Memorandum of Association/Article of Association</p> <p>OR</p> <p>A registered Partnership Deed</p> <p>OR</p> <p>LLP registration certificate issued by registrar of Companies</p> <p>OR</p> <p>In Case of Proprietor, GST Registration and PAN Card copies are to be submitted.</p>
2	<p>PPP MII guidelines issued by Govt. of India shall be applicable for this tender.</p> <p><small>Signature :- Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd 29a28619b4f1597b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003, OID.2.5.4.20=222522a63d7534f2072b0a0a1e387d86383897d23a7aa592b 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN User ID : nikhil.bhandari Serial No : 1629763</small></p>	<p>The Bidder shall give a self-certification in his bid in the enclosed format, indicating the percentage of Local Content and certifying that the item offered meets the Local Content requirement for 'Class-I &</p>

Sl. No.	Eligibility criteria	Documents to be Submitted for Compliance by the Bidders
	<p>Only Class-I & Class-II Local Suppliers with Minimum Local Content as 50% for Class-I supplier and more than 20% but less than 50% for Class-II supplier are eligible to bid in this tender in conformance with the order for “Public procurement (Preference to make in India) to provide for Purchase preference (linked with local content) in respect of DPIIT”, issued vide Order ref. No. 45021/2/2017-PP(BE-II), GoI, MOP Dated 16.09.2020 and as notified by Ministry of Information & Technology(MeitY) for Electronics Products on their website https://www.meity.gov.in/esdm/ppo)</p> <p>NOTE: - Only Class-I & Class-II local suppliers as defined in the above tender are eligible to take part in this bidding process.</p>	<p>Class-II local supplier’ and shall give details of the location(s) at which value addition is made.</p> <p>Further, in case of tenders above Rs. 10 Cr, the ‘Class-I local Supplier & Class-II Local supplier’ shall provide a certificate from statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of Local Content as per the format in the RfP Documents.</p>
3	<p>Pursuant to Order No. F.7/10/2021-PPD (1) Dated 23.02.2023 from Department of Expenditure, Ministry of Finance, the applicant should be either of the following:</p> <ul style="list-style-type: none"> Not from a country which shares a land border with India <p>OR</p> <ul style="list-style-type: none"> Applicant from a country which shares a land border with India and registered with Competent Authority in accordance with order mentioned above. <p>AND</p> <p>Any Bidder who has a Specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India will be eligible to be in any procurement whether, goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority as specified in the order</p>	<p>Bidder to submit a Declaration as per the format enclosed in this RfP Document.</p>

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Sl. No.	Eligibility criteria	Documents to be Submitted for Compliance by the Bidders
	The definition of “Bidder” from a country which shares a land border with India shall be as in paragraph 8 of the above-mentioned order. Further, all the guidelines mentioned to this above order shall be applicable to this Tender. Bidder shall carefully go through the same and ensure its eligibility as per the said order.	
4	Must Not stand declared ineligible/ blacklisted/ banned/ debarred by CESL/EESL or its Ministry/ Department from participation in its procurement processes;	To submit Self Declaration on Company’s Letter Head.

B. Qualifying Requirements:

S. No.	Qualifying Requirements	Documents to be Submitted for Compliance by the Bidders
1	<p>QUALIFICATION OF THE BIDDER</p> <p>Qualification of bidder will be based on meeting the minimum pass/fail criteria specified below regarding the Bidder’s Technical Experience and Financial QR as demonstrated by the Bidder’s responses in its Bid.</p> <p>Subcontractors’ technical experience and financial resources shall not be taken into account in determining the Bidder’s compliance with the qualifying criteria. The bid can be submitted by an individual firm only (i.e., Sole bidder). Consortium/JV not allowed.</p>	
1.1	Technical Experience	
1.1.1	Bidder should have successfully executed / completed ‘Similar work’ in the last 3 years, as on the originally scheduled date of bid opening (i.e., date of bid opening as per NIT) in DISCOMS (private &/or Government Distribution Company) /Government Department/Public Sector Undertaking (PSU)/ Urban Local Body (ULB)/any other Govt. Organization /Private Company.	Documentary evidence shall be furnished along with the bid. Documentary evidence should be submitted in the form of copies of relevant work orders/ contract agreements/ purchase orders/LOAs/LOIs along with copies of any document in respect of satisfactory execution/ completion of each of those purchase orders/ work orders/contract agreements/LOAs/LOIs such as

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S. No.	Qualifying Requirements	Documents to be Submitted for Compliance by the Bidders
	<ul style="list-style-type: none"> Single Work Order valued not less than Rs. 6.11 /- Lakhs OR <ul style="list-style-type: none"> Two Work Orders each valued not less than Rs. 3.82 /-Lakhs OR <ul style="list-style-type: none"> Three Work Orders each valued not less than Rs 3.05 /-Lakhs <p>“Similar Work-. Supply of Development, Upgradation, Hosting, Migration, Maintenance (AMC), Integration of CESL Website.”</p> <p>The work “executed” mentioned above means the bidder should have achieved the criteria specified above even if the total contract is started earlier and/or is not completed / closed. However, the work executed /completed must include “Similar work” as above.</p> <p>In case of orders under execution, the value of work executed till the originally scheduled date of bid opening (as per NIT), as certified by the Client shall be considered. However, the work executed must include “Similar work” as above.</p>	<p>(i) Successful completion* certificate/s</p> <p>(OR)</p> <p>(ii) any other documentary evidences that can substantiate the successful execution of each of the purchase orders/ work orders/ contract agreements/LOAs/LOIs submitted.</p> <p>Work orders along with its evidence for successful completion / execution from DISCOMS (private &/or Government Distribution Company) /Government Department/Public Sector Undertaking (PSU)/ Urban Local Body (ULB)/any other Govt. Organization /Private Company shall only be considered for evaluation.</p> <p>“Successful means certificate issued by the client without any adverse remarks”.</p>
1.2 Financial QR:		
1.2.1	<p>Bidders should have an Minimal Average Annual Turnover (MAAT) of at least Rs. 2.29 lacs/- for immediately preceding last 3 Financial Years.</p> <p>Note:</p> <p>Further, in case of existence of bidder in operation is less than previous 3 financial years from bid opening date, MAAT shall be calculated for available years by averaging out for available years (for e.g. if year of existence is 2 years then MAAT shall be determined by dividing Total Turnover for 2 years by 2) for Financial QR compliance.</p>	<p>Duly authorized copies of audited financials for preceding last three Financial Years are to be submitted by the bidder. (i.e 2020-21, 2021-22 and 2022-23)</p> <p>ATO means revenue from operations.</p>

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S. No.	Qualifying Requirements	Documents to be Submitted for Compliance by the Bidders
1.2.2	<p>The net worth of the Bidder firm should not be negative on 'The Relevant Date' and also ii) should have not eroded by more than 30% (thirty percent) in the last three years, ending on 'The Relevant Date'.</p> <p>Relevant Date is 31st March, 2023.</p>	<p>Annual Report (audited balance sheet and profit & loss account of the last 3 Financial Years i.e 2020-21, 2021-22 and 2022-23</p> <p>In case of Proprietorship/partnership, ITR along with management signed accounts to be submitted if audited is not required</p>

C. Notes to the QR:

Sl. No.	
1.	<p>Financial QR:</p> <p>The Bidder shall also furnish documentary evidence/ declaration regarding Financial re-structuring of the company, if any. If the opening of the bids or the ascertainment of qualification is carried out after 30th September, the bidder shall be required to submit the complete annual reports together with Audited statement of accounts of the company for the immediately preceding Financial Year except in cases where the Board of the Company/ Registrar of Companies has granted extension of time for finalization of accounts, for which the bidder has to submit requisite documentary evidence. In case of Bidder's failure to submit the same along with the Bid or subsequently pursuant to Clarification, the Bid shall be rejected.</p> <ul style="list-style-type: none"> • In case of proprietorship/ partnership (as applicable as per sl.no-1 of Eligibility Criteria), ITR along with management signed accounts to be submitted, if audit is not required. • In case of Proprietor / Partnership firm, where auditing of Balance Sheet is not required, the date of ITR (if extended) to be considered. Proof of extension from the Income Tax Department to be submitted by the bidder.
2.	For Start-up firms as per Gazette Notifications dated 17-Feb-2016, G.S.R. 180 (E) and MSEs, relaxation will be given in this tender as per Clause No. 2.4 of Section-2 of this tender.
3.	<p><u>In case of holding company:</u> - The holding subsidiary relationship should be in existence for at least one year as on the date of submission of the bids.</p> <ul style="list-style-type: none"> • "In case bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the bidder can be considered acceptable provided the bidder furnishes the following further documents on substantiation of its qualification:

Signature :-
 Subject :- EN, Nikhil BHANDARI, SERIAL NUMBER - 927dd976a497e16a2ef64c67192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

Sl. No.	
	<ul style="list-style-type: none"> • Copies of the unaudited unconsolidated financial statements of the Bidder along with copies of the audited consolidated financial statements of the Holding Company with a letter of undertaking from holding company supported by Board pledging unconditional and financial support. Irrevocable in the format enclosed in Attachemnt-9 of Section-6, Forms & Procedures. • A certificate from the CEO/CFO of the holding company, stating that the unaudited consolidated financial statements form part of the Consolidated Annual Report of the Company. • In case a bidder does not satisfy the financial criteria, the holding company would be required to meet the stipulated turn over requirements, provided that the net worth of such holding company as on the last day of the preceding financial year is at least equal to or more than the paid-up share capital of the holding company. In such an event, the bidder would be required to furnish along with its bid, a letter of Undertaking from the holding company, supported by the Board Resolution, as per the format enclosed in the bid documents (Attachemnt-9 of Section-6, Forms & Procedures), pledging unconditional and irrevocable financial support for the execution of the Contract by the bidders in case of award. • In case the Bidder meets the requirement of Net worth based on the strength of its Subsidiary(ies) and/or Holding Company and/or Subsidiaries of its Holding Companies wherever applicable, the Net worth of the Bidder and its Subsidiary(ies) and/or Holding Company and/or Subsidiary(ies) of the Holding Company, in combined manner should not be less than 100% of their total paid up share capital. However individually, their Net worth should not be less than 75% of their respective paid up share capitals.” • All the required documents must be properly annexed and submitted as mentioned above with necessary details in brief

xxxxxxxxxxxxxxxx The End xxxxxxxxxxxx

Signature :-
 Subject: CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

- 2.0** During RFP Process, while original documents/ certificates are called for to authenticate the qualification claimed, the following may be kept in mind:
- 2.1** JV/Consortiums are not allowed.
 - 2.2** The Bidder shall submit the audited balance sheet and/or banking reference along with their RFP proposal. An authorized representative of the Vendor must-sign the statement.
- 3.0** Clarifications on Bidding documents -Supplement clause 4.2 of Instruction to Bidders, Section-2 with following:
- 3.1** During Bid evaluation, CESL may, at its discretion, ask the Bidder for a clarification of its Bid in case of erroneous / non-submission of following documents (as applicable):
 - 3.1.1** Online Payment Acknowledgement towards the Bid Document Fee (applicable only in cases where online Payment towards Bid Document Fee is paid, prior to deadline for submission of Bids)
 - 3.1.2** MSE certificate for the Tendered item / valid NSIC Certificate with the mention of Tendered item in the certificate. The issuance date for aforesaid certificates must be prior to deadline for submission of Bids.
 - 3.1.3** Formats and Attachments under Section – 6: Forms & Procedures
 - 3.1.4** Other documents/details of historical nature such as certificate of incorporation, complete Audited Annual Reports together with Audited Statement of Accounts, Experience Certificate issued by Utility/Employer for work completed/executed prior to deadline for submission of Bids, etc.
 - 3.1.5** Any other documents/details/information of historical nature.
 - 3.2** CESL may give the Bidder not more than 5 working days' notice to rectify/furnish such documents, failing which the Bid shall be rejected. 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.



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

SECTION – 5: MEASUREMENT & VERIFICATION (M&V)

Not Applicable for this Tender



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
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User ID : nikhil.bhandari
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SECTION – 6: FORMS & PROCEDURES

List of Contents

S. No.	Document Name	Validation	Page No. (Kindly indicate the Page No. of the Bid)
1	Bidding Document Cost	In form of DD or NEFT/RTGS . Details provided in Section-1	
2	Queries On Bid Document	Format-1	
3	Bidder's Expression of Interest	Format-2	
4	Bid Submission Letter i.e Form	As per Bid Form at Attachment-1	
5	Format of Bank Guarantee (BG) against Bid Security / Earnest Money Deposit (EMD)	As per Bid form at Attachment-2	
6	Power of Attorney	As per Bid Form at Attachment-3	
7	Acceptance to Important Terms and conditions	As per Bid Form at Attachment – 4	
8	Acceptance of EESL's fraud prevention policy and declaration	As per Bid Form at Attachment-5	
9	Proforma of Letter of Undertaking	As per Bid Form at Attachment-6	
10	NEFT/RTGS Bank details of Bidder	As per Bid Form at Attachment-7	
11	Certificate of not been blacklisted by Central/State/UT Government or any Public sector entities duly signed and stamped at company's Letter Head.	As per Bid Form at Attachment-8	
12	Compliance Matrix/ Check List	As per Bid Form at Attachment-9	
13	Certificate regarding Declaration of Local Content	As per Bid Form at Attachment-10	
14	Self-Declaration regarding "Restrictions on procurement from a Bidder of a country which shares a land border with India"	As per Bid Form at Attachment-11	
15	Certificate regarding compliance of MEITY Notification vide File No. 1(10)/2017-CLES Dt. 02.07.18	As per Bid Form at Attachment – 12	
16	Deviation Statement	As per Bid Form at Attachment-13	
17	CERTIFICATE for Declaration for Compliance to ITB clause 2.13 "Conflict of Interest"	As per Bid Form at Attachment – 14	
18	Format for filling details related to Qualifying Requirement (QR)	As per Bid Form at Attachment – 15	
19	Self-Declaration duly signed and stamped at company's Letter Head for not being under debar list/undergoing debarment period on account of breach of the code of integrity under Rule 175(1)(i)(h) of the General Financial rules for giving false declarations of local content.	As per Bid Form at Attachment-16	



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2ef4c87192bd
 29a28619b4f15f9b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=22522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

Format-1 FOR QUERIES ON BID DOCUMENT
(To be submitted on Intended Applicant Letter-Head)

To
CGM(Contracts)
Convergence Energy Services Limited
2nd Floor, Core-III, SCOPE Complex
Lodhi Road, New Delhi-110003

Dear Sir/Madam,

Name of Bid				
Bid Document No.				
Bid Issuance Date				
Pre-Bid Conference Date				
Bid Opening Date				
Intended Applicant's Name				
Contact person from Intended Applicant (with address, e-mail and contact no.)				
S. No.	Section No. Page No. Para No/Clause No.	Description as Per Bid	Queries/ Clarification of the Bidder	Remarks
1.	Section No. Page No. Para No/Clause No.			
2.	Section No. Page No. Para No/Clause No.			

Yours Sincerely,

Signature of the Bidder

[Full name of authorized signatory on behalf of Bidder]

[Designation of authorized signatory on behalf of Bidder]

Company Seal

Date:

Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

**Format – 2: Format for Bidder's Expression of Interest
(To be submitted on Bidder's Letter-Head)**

To
CGM(Contracts)
Convergence Energy Services Limited
2nd Floor, Core-III, SCOPE Complex
Lodhi Road, New Delhi-110003

Sub: Submission of Bid for (Name of Bid)

Dear Sir/Madam,

In response to the Bid Document No. issued on for the above purpose, we would like to express interest to provide the aforementioned services. The details mentioned below:

Name of the Owner:
Address of the Owner:
Address of registered office with telephone no. & fax:
GPS Coordinates:
PAN & Aadhaar No.
GST No.
Contact Person with telephone no. & e-mail ID

We agree to all terms and conditions as mentioned in the Terms of Reference of the Bid Document.

All the information provided herewith is genuine and accurate.

Yours Sincerely,

Signature of the Bidder
[Full name of authorized signatory on behalf of Bidder]
[Designation of authorized signatory on behalf of Bidder]
Company Seal
Date:

Enclosed: Documents as per Qualification Criteria & elsewhere mentioned in IFB
(List of attached documents to be given here)



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT – 1
BID FORM

To,
CGM(Contracts)
Convergence Energy Services Limited.
Core-III, 2nd Floor, SCOPE Complex,
Lodhi Road, New Delhi-110003

Subject: -

Date:-xx-xx-2024

Dear Sir,

1.0 With Reference to your subject IFB/RfP, we are pleased to submit our bid/proposal for “.....” in a sealed cover as detailed below:

1. Packet-1 of Envelope – I Bid Document Fee or Cost of Tender Documents, Bid Security Fee/Earnest Money Deposit or documentary evidence in support of exemption of Bid Security, Expression of Interest of the Bidder submitting the Bid in the form, as per Format – 2, Power of Attorney, Form for acceptance of EESL fraud prevention policy Proforma Of Letter Of Undertaking, NEFT/RTGS Bank details, Duly Filled Check List for Bidder’s for Envelope – I, as per Attachment – 9a) Self certification regarding Local Content in line with PPP-MII order and MoP Order, Self-Declaration regarding “Restrictions on procurement from a Bidder of a Country which shares a land border with India”, Certificate Regarding Non- Debarment for False Declaration of Local Content, Certificate regarding Non-Debarment/Blacklisting/Disqualification Certificate regarding compliance of MEITY Notification.
2. Packet-2 of Envelope – I (this Envelope appears Online in dynamic form); Deviation Statement as per, Self Attested Copy of GST, PAN Card & Aadhar Card, One complete set of the Bid Document and of all its subsequent amendments (if any, effected), Duly Filled Check List for Bidder’s for Envelope – II, Certificate for Declaration for Compliance to ITB clause 2.13 “Conflict of Interest”) Format for filling details related to Qualification Criteria, Covering Letter of the Bidder, one complete set of the Bid Document and of all its subsequent amendments (if any, effected), duly signed and stamped on each page by the Bidder.
3. Envelope – II (this Envelope appears Online in dynamic form): Price Bid (duly filled in electronic template as available on the e-portal)

2.0 We confirm that we have quoted as per instructions and terms and conditions of tender documents. We have submitted all the attachments as stated in “Instructions to Bidders”

3.0 We declare that the prices left blank in price schedule/price bid will be deemed to have been included in the prices of other items. We confirm that except as otherwise specifically provided, our bid prices include all applicable taxes except GST as may be assessed on us.

4.0 We further declare that additional conditions, variations, deviations, if any, found in the proposal other than those listed in Attachment-5 save those pertaining to any rebates offered, shall not be given effect to.

5.0 We undertake, if our bid is accepted, we shall commence the work immediately upon your Letter of Intent /Letter of Award to us, to achieve completion of work within the time specified in the bidding documents.

6.0 If our bid is accepted, we undertake to provide contract performance securities and securities for Deed(s) of Joint Undertaking (as applicable) in the form and amounts and within the times specified in the bidding documents.

7.0 We agree to abide by this bid for a period 180 days from the date of opening of bids as stipulated in the bidding documents and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period. Further, the prices of recommended spares, if asked for; contained in our bid shall re-main valid for the entire project period after placement of LoI/LoA.

8.0 Until a formal contract is prepared and executed between the parties, this bid, together with your written acceptance thereof in the form of your Letter of Intent/ Letter of Award shall constitute a binding contract between parties.

Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2ef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

- 9.0 We understand that CESL reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to award of contract, without assigning any reason thereof and incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the CESL's action.
- 10.0 We declare that we are registered, as applicable, with ESIC, EPF and Miscellaneous Provisions Act 1952 and will comply with Employees Compensation Act, 1923 and Minimum Wages Act, 1948.
- 11.0 We declare that we will comply with Employees Compensation Act, 1923 (providing for Compensation against injury due to and during the course of employment).

We, hereby, declare that only the persons or firms interested in this proposal as principals are named here and that no other persons or firms other than those mentioned herein have any interest in this proposal or in the contract to be entered into, if the award is made on us, that this proposal is made any connection with any other person, firm or party likewise submitting a proposal, is in all respects for and in good faith, without collusion or fraud

Our correspondence details are:

1	Name of the Bidder	
2	Address of the Bidder	
3	Name of the contact person to whom all references shall be made regarding this Bid	
4	Designation of the person to whom all references shall be made regarding this Bid	
5	Address of the person to whom all references shall be made regarding this Bid	
6	Mobile number of the contact person	
7	Telephone (with STD code)	
8	E-Mail of the contact person	
9	Fax No. (with STD code)	
10	GST No. of the Bidder	

Yours Sincerely,
Signature of the Bidder
[Full name of authorized signatory on behalf of Bidder]
[Designation of authorized signatory on behalf of Bidder]
Company Seal
Date:



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

Attachment – 2: Format of Bank Guarantee (BG) against Bid Security / Earnest Money Deposit (EMD)
(To be stamped in accordance with Stamp Act, if any, of the country of the issuing Bank)

Bank Guarantee No.....

Date.....

To
Convergence Energy Services Limited
2nd Floor, Core-III, SCOPE Complex
Lodhi Road, New Delhi-110003

Subject: - Bank Guarantee for Bid Security / Earnest Money Deposit (EMD)

Ref:

Name of Bid: _____

Bid Document No.: _____

Bid Issuance Date: _____

Dear Sir/Madam,

In accordance with invitation for Bid under your Bid Document no. dated M/s (name of Bidder) having its registered/head office at (address of Bidder) (hereinafter called "Bidder") wish to participate in the said Bid for (name of package)

We, the (Name and address of the Bank), having our Head Office at (Head Office address of the Bank) guarantee and undertake to pay immediately on demand by Convergence Energy Services Limited (CESL), the amount of Rs. (Amount of Bid Security/EMD for the said Bid) without any reservation, protest, recourse. Any such demand made by Convergence Energy Services Limited (CESL) shall be conclusive and binding on us, irrespective of any dispute or difference raised by the Bidder.

The Guarantee shall be irrevocable and shall remain valid up to (date which is forty-five (45) days after the last date for which the Bid is valid). If any further extension of guarantee is required, the same shall be extended to such period (not exceeding one year) on receiving instructions from (name of Bidder), on whose behalf guarantee is issued.

In witness whereof the bank, through its authorized officer, has set its hand and stamp on this day of 20.... at

Witness:

Signature:

Signature:

Name:

Name:

Official address:

Designation with Bank Stamp

Authorized vide

Power of Attorney no.

Date



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

NOTE:

1. Bid Security amount shall be as specified in the Bid Document.
2. Complete mailing address of the Head Office of the Bank to be given. The Bank Guarantee (BG) validity date shall be forty-five (45) days after the last date for which the Bid is valid.
3. The Stamp Paper of appropriate value shall be purchased in the name of guarantee issuing Bank. The Bank Guarantee shall be issued on a stamp paper of value as applicable in the State of the issuing bank in India or the State of Delhi in India or the State of India from where the BG shall be operated, whichever is higher.
4. While getting the Bank Guarantee issued, Bidders are required to ensure compliance to the Bank Guarantee Verification Check List. Further, Bidders are required to fill up this Form 16 and enclose the same with the Bank Guarantee.

LIST OF BANKS ACCEPTABLE FOR SUBMISSION OF BANK GUARANTEE

S. No.	Name of Banks	S. No.	Name of Banks
SCHEDULED COMMERCIAL BANKS			
(A) SBI AND ASSOCIATES			
1.	State Bank of India	5.	State Bank of Mysore
2.	State Bank of Bikaner and Jaipur	6.	State Bank of Patiala
3.	State Bank of Hyderabad	7.	State Bank of Saurashtra
4.	State Bank of Indore	8.	State Bank of Travancore
(B) NATIONALISED BANKS			
9.	Allahabad Bank	13.	Canara Bank
10.	Andhra Bank	14.	Central Bank of India
11.	Bank of India	15.	Corporation Bank
12.	Bank of Maharashtra	16.	Dena Bank
17.	Indian Bank	18.	Indian Overseas Bank
19.	Oriental Bank of Commerce	20.	Punjab National Bank
21.	Punjab & Sind Bank	22.	Syndicate Bank
23.	Union Bank of India	24.	United Bank of India
25.	UCO Bank	26.	Vijaya Bank
27.	Bank of Baroda		
SCHEDULED PRIVATE BANKS (INDIAN BANKS)			
27.	Bank of Rajasthan	41.	Single Bank Ltd.
28.	Bharat Overseas Bank Ltd.	42.	South Indian Bank Ltd.
29.	Catholic Syrian Bank	43.	Tramlined Mercantile Bank Ltd.
30.	City Union Bank	44.	United Western Bank Ltd.
31.	Dhana Lakshmi Bank	45.	ING Vysya Bank Ltd.
32.	Federal Bank Ltd.	46.	UTI Bank Ltd.
33.	Jammu & Kashmir Bank Ltd.	47.	S.B.I. Commercial & International Bank Ltd.
34.	Karnataka Bank Ltd.	48.	Ganesh Bank of Karonda Ltd.
35.	KarurVysya Bank Ltd.	49.	INDUSIND Bank Ltd.
36.	Lakshmi Vilas Bank Ltd.	50.	ICICI Bank Ltd.
37.	Lord Krishna Bank Ltd.	51.	HDFC Bank Ltd.
38.	Nainital Bank Ltd.	52.	Centurion Bank of Punjab Limited
39.	Kotak Mahindra Bank	53.	Development Credit Bank Ltd.
40.	Ratnakar Bank Ltd.	54.	Yes Bank
SCHEDULED PRIVATE BANKS (FOREIGN BANKS)			
55.	Abu Dhabi Commercial Bank Ltd.	71.	Sonali Bank
56.	ABN Amro Bank Ltd.	72.	Standard Chartered Bank
57.	American Express Bank Ltd.	73.	J.P Morgan Chase Bank
58.	Bank of America NA	74.	State Bank of Mauritius
59.	Bank of Bahrain & Kuwait	75.	Development Bank of Singapore
60.	Mashreq Bank	76.	Bank of Ceylon
61.	Bank of Nova Scotia	77.	Bank International Indonesia
62.	The Bank of Tokyo-Mitsubishi UFJ Ltd.	78.	Arab Bangladesh Bank
63.	Calyon Bank	79.	Cho Hung Bank

Subject: C=NIKHIL BHANDARI, SERIALNUMBER=92700976a497e6a2efec87192bd
 20190101, 2019070553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 20190101, 2019070553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 603935268247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

64.	BNP Paribas	80.	China Trust Bank
65.	Barclays Bank	81.	Mizuho Corporate Bank Ltd.
66.	Citi Bank	82.	Krung Thai Bank
67.	Deutsche Bank	83.	Antwerp Diamond Bank N.V. Belgium
68.	The Hong Kong and Shanghai Banking Corporation Ltd.	84.	Internationale Nederlanden Bank N.V. (ING Bank)
69.	Oman International Bank	85.	Bank of China Ltd.
70.	Societe Generale		
PUBLIC SECTOR BANK			
86.	IDBI Ltd.		

BANK GUARANTEE CHECK LIST

1	Bank Guarantee No.	
2	Issuing Bank	
3	Nature of BG & No. of Pages	
4	Validity of BG	
5	Package Description	
6	Party & Contracts ref.	Name, Address, Tel, Fax, E—mail
7	Bank Reference	

CHECK LIST

S. No.	Details of Checks	YES / NO
a)	Is the BG on non-judicial Stamp Paper of appropriate value, as per Stamp Act?	
b)	Whether date, purpose of purchase of stamp paper and name of the purchaser are indicated on the back of Stamp paper under the Signature of Stamp vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued. Also, the Stamp Paper should not be older than six months from the date of execution of BG)	
c)	In case the BG has been executed on Letter-Head of the Bank, whether adhesive Stamp of appropriate value has been affixed thereon?	
d)	Has the executing Officer of BG indicated the name, designation, and Power of Attorney No. / Signing Power no. etc., on the BG?	
e)	Is each page of BG duly signed / initiated by executants and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed proforma?	
f)	Does the Bank Guarantees compare verbatim with the proforma prescribed in the Bid Documents?	
g)	In case of any changes in contents of text, whether changes are of minor/clerical nature (which in no way limits the right of CESL in any manner)?	
h)	In case of deviations in text of BG, which materially affect the right of CESL, whether the changes have been agreed based on the opinion by Legal Department or BG I considered acceptable on the basis of opinion of law Department already available on the similar issue.	
i)	Are the factual details such as Bid Document No. NOA/LOA/Contact No., Contract Price, Percentage of Advance, Amount of BG, and Validity of BG correctly mentioned in the BG?	
j)	Whether overwriting / cutting if any on the BG have been properly authenticated under signature and seal of executant?	

Signature : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2ef4c87192bd29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003, OID.2.5.4.20=22522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED, C=IN
User ID : nikhil.bhandari
Serial No : 1629763

k)	Whether the BG has been issued by a Bank in line with the provisions of Bid /Contract documents?	
l)	In case BG has been issued by a Bank other than those specified of Bid / Contract Documents, is the BG confirmed by a Bank in India acceptable as per Bid / Contract documents?	



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT – 3-FORMAT FOR POWER OF ATTORNEY TO AUTHORISED SIGNATORY

POWER OF ATTORNEY

(To be executed on non-judicial 100 Rupees stamp paper. The stamp paper to be in the name of the firm/company who is issuing the Power of Attorney).

We, M/s.____ (name of the firm/company with address of the registered office) hereby constitute, appoint and authorize Mr./Ms.____ (Name and residential address) who is presently employed with us and holding the position of ____ and whose signature is given below as our Attorney to do in our name and our behalf all or any of the acts, deeds or things necessary or incidental to our bid for the work/services ____ (name of work/services), including signing and submission of application / proposal, participating in the meetings, responding to queries, submission of information / documents and generally to represent us in all the dealings with CESL or any other Government Agency or any person, in connection with the works/services until culmination of the process of bidding, till the Contract Agreement is entered into with CESL and thereafter till the expiry of the Contract Agreement.

We hereby agree to ratify all acts, deeds and things lawfully done by our said Attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid Attorney shall always be deemed to have been done by us.

Dated this the ____ day of ____ 20

(Signature and name of authorized signatory being given Power of Attorney)

(Signature and name in block letters of *All the partners of the firm, * Authorized Signatory for the Company)

(* Strike out whichever is not applicable)

Seal of firm/ Company

Witness 1:

Name:

Address:

Occupation:

Witness 2:

Name:

Address:

Occupation:

Notes:

- In case the Firm/Company is a Member of a Consortium/Joint Venture, the authorized signatory has to be the one employed by the Lead Member.
- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT – 4 (CERTIFICATE REGARDING ACCEPTANCE OF IMPORTANT CONDITIONS)

Tender Document No/Package No: Dated:

Bidder's Name& Address

To,

CGM (CONTRACTS)

Convergence Energy Services Limited.

(A 100% EESL Owned Subsidiary)

Core-3, 2nd Floor, SCOPE Complex, Lodhi Road, New Delhi-110003

Sub:

1.0 With reference to our bid proposal no.....dated

for /Package no. Dated, we hereby confirm that we have read the following provisions of the following clauses and further confirm that notwithstanding anything stated elsewhere to the contrary, the stipulation of these clauses are acceptable to us and we have not taken any deviation to these clauses.

Governing Laws	-	Clause 07 of ITB
Settlement of Disputes	-	Clause 06 of GCC
Terms of payment	-	Clause 2.22 of ITB
Performance Security	-	Clause 5.6 of ITB
Taxes and Duties	-	Clause 2.21 of ITB & 14 of GCC
Completion Time Guarantee	-	Clause 26 of GCC
Defects Liability	-	Clause 27 of GCC
Functional Guarantee	-	Clause 28 of GCC
Patent Indemnity	-	Clause 29 of GCC
Limitations of Liability	-	Clause 30 of GCC
Project information, Estimation, and conditions for Evaluation	-	As per Tables in price bid Assumptions

We further confirm that any deviation to the above clauses found anywhere in our bid proposal, implicit or explicit, shall stand unconditionally withdrawn, without any implication to CESL.

Date:

Signature:

Place:

Printed Name:

Designation: Common Seal

Note: In the absence of this certificate, the bid shall be rejected and shall be returned unopened. Bidder can take a printout of it and sign.



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

**Attachment – 5: Form for Acceptance of Fraud Prevention Policy
(To be submitted on Bidder's Letter-Head)**

To
CGM(Contracts)
Convergence Energy Services Limited.
Core-III, 2nd Floor, SCOPE Complex,
Lodhi Road, New Delhi-110003

Subject: - Acceptance of Fraud Prevention Policy

Ref:
Name of Bid: _____
Bid Document No.: _____
Bid Issuance Date: _____

Dear Sir/Madam,

We have read the contents of the Fraud Prevention Policy of EESL and undertake that we along with our associate / collaborator / sub-contractors / sub-vendors / agencies/ service providers shall strictly abide by the provisions of the Fraud Prevention Policy of EESL.

Yours Sincerely,

Signature of the Bidder
[Full name of authorized signatory on behalf of Bidder]
[Designation of authorized signatory on behalf of Bidder]
Company Seal
Date:

FOR DETAILED POLICY, PLEASE VISIT www.eeslindia.org



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT – 6 : PROFORMA OF LETTER OF UNDERTAKING

(TO BE FURNISHED ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

[To be executed by the Holding Company Supported by Board Resolution and submitted by the Bidder along with the Bid, in case financial support is being extended by the Holding Company to the Bidder for meeting the stipulated Financial Qualifying]

Ref.: NIT/Bid Document No.:

Our Reference No Date:

Bidder's Name and Address:

To,
CGM (CONTRACTS)
Convergence Energy Services Limited.
(A 100% EESL Owned Subsidiary)
Core-3, 2nd Floor, SCOPE Complex, Lodhi Road, New Delhi-110003

Dear Sir,

- 1.0 We, M/s (Name of the Holding Company) declare that we are the holding company of M/s (Name of the Bidder) and have controlling interest therein.
M/s (Name of the Bidder) proposes to submit the bid for the package..... (Name of the package) for (Name of the Project) under bid reference no..... dated and have sought financial strength and support from us for meeting the stipulated Financial Qualifying Requirement as per Section 4 and its subsequent amendment.
- 2.0 We hereby undertake that we hereby pledge our unconditional & irrevocable financial support for the execution of the said package to M/s (Name of the Bidder), for the execution of the Contract, in case they are awarded the Contract for the said package at the end of the bidding process. We further agree that this undertaking shall be without prejudice to the various liabilities that M/s (Name of Bidder) would be required to undertake in terms of the Contract including the Performance Security as well as other obligations of M/s.. (Name of the Bidder).
- 3.0 This undertaking is irrevocable and unconditional, and shall remain in force till the successful execution and performance of the entire contract and/or till it is discharged by CESL.
- 4.0 *We are herewith enclosing a copy of the Board Resolution in support of this undertaking.

Witness:

Yours faithfully,

(1)

(2)

(Signature of Authorized Signatory) on behalf of the Holding Company\

Name & Designation

Name of the Holding Company

(Seal of Holding Company)

Note: Bidder may strike off point no. 4 above, if board meeting could not be scheduled before bid submission date. The undertaking may be signed by the CFO/Director of the Board of the parent company.

Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2ef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

Attachment – 7: RTGS / NEFT Details for Payments

From:

TO WHOMSOEVER IT MAY CONCERN

Dear Sir/Madam

Sub: Real Time Gross Settlement (RTGS) / National Electronic Fund Transfer (NEFT) Payments

We are agreeing to accept admissible payments through electronic mode viz RTGS/NEFT. For this, we are providing the requisite information herein below. The RTGS/NEFT charges for the above facility may be deducted/recovered from our admissible payment.

Name Of City	
Bank Code No.	
Branch Code No.	
Bank's Name	
Branch Address	
Branch Telephone/ Fax No.	
Supplier Account No.	
Type of Account	
IFSC Code for NEFT	
IFSC Code for RTGS	
Supplier's name as per Account	
Telephone No. of Supplier	
Supplier's E-mail ID	
GST No. of the supplier	

A cancelled cheque against above bank account number is also being enclosed.

Yours Sincerely,

Signature of the Bidder

[Full name of authorized signatory on behalf of Bidder]

[Designation of authorized signatory on behalf of Bidder]

Company Seal

Date:

Encl: As above: -

Confirmed by Banker Signature of supplier With Seal With stamp & Address



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=22522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

**ATTACHMENT-8 CERTIFICATE REGARDING NON-DEBARMENT /
BLACKLISTING/DISQUALIFICATION**

[On the Letter Head]

To,
CGM(Contracts)
Convergence Energy Services Limited.Core-III, 2nd Floor, SCOPE Complex,
Lodhi Road, New Delhi-110003

Sub: Certificate regarding non debarment / blacklisting/disqualification

Ref: NIT/Bid Document No:

Dear Sir/Madam,

We certify that we have not been black-listed/debarred/dis-qualified by any regulatory/ statutory body/ Central/State/UT Government or any Public sector entities for tendered services. We further certify that we have read the contents of the Fraud Prevention Policy of EESL (available on website of EESL i.e. www.eeslindia.org) and undertake that we along with our associate / collaborator /sub-contractors / sub-vendors / bidders/ service providers shall strictly abide by the provisions of the Fraud Prevention Policy of EESL.

Thanking You,
Yours faithfully,

Signature

.....

Printed Name.....

Seal.....

Date:

Place:



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

Attachment –9a Compliance Matrix/ CHECK – LIST FOR BIDDERS for Envelope-1

Please ensure these major Terms & Conditions before submitting you bids in order to avoid REJECTION of your offer.

Attachment No.	Detail/Terms & Conditions	Attached		Page no. & PDF reference name	Reasons for non-compliance/ remarks
		Yes	No		
Envelope-1 (Enclosures)	Bid Fee (If Applicable)				
	Bid Fee exempted for being MSE/Start-up				
Attachment No-1	Bid Form				
Attachment-2	EMD (If Applicable)				
	EMD exempted for being MSE/Start-up				
	In case of claiming exemption in submission of Bid Fee and EMD, Relevant Certificate of MSEs/Start-up certificate from DIPP (Refer Section-2) is required to be submitted (registration to be for item tendered in accordance with NIC codes defined under Clause 6 of SCC in Section-4)				
	In case of claiming exemption in submission of Bid Fee and EMD, enclose proof of being a manufacturer of tendered item or Declaration as per Attachment-15 of Section-6 (as applicable). Relevant document issued by competent Govt. Authority/Body shall be submitted. Refer Annexure-B in Section-4				
	In case of Start-up, Business Eligibility certificate (for item tendered) is also required to be submitted (Refer Annexure-B)				
	In case of SC/ST entrepreneurs belonging to MSE, documentary proof to be submitted				
	In case of Women entrepreneurs belonging to MSE, documentary proof to be submitted				
Attachment No-3	Power of Attorney				
Attachment No-4	Acceptance of important terms and conditions in line with ITB clause 4.6 as per format attached as Attachment-4,				



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=22522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

Attachment No.	Detail/Terms & Conditions	Attached		Page no. & PDF reference name	Reasons for non-compliance/ remarks
		Yes	No		
Attachment No-5	Form of acceptance of EESL fraud prevention policy and declaration as per Attachment- 6				
Attachment No-6	Performa of Letter of Undertaking (in case of holding companies (if applicable)				
Attachment No-7	Real time Gross Settlement (RTGS)/National Electronics Fund Transfer (NEFT)				
Attachment No-8	Certificate Regarding Non-Debarment / Blacklisting/ Disqualification				
Attachment No-10	Certificate Regarding Declaration Of Local Content in line with PPP-MII order and MOP Order, If applicable				
Attachment No-11	Certification by the Bidder as per order no. F.7/10/2021-PPD (1) Dated 23.02.2023 issued by Public Procurement Division, Department of Expenditure, Ministry of Finance, Government of India (DoE Order)				
Attachment No-12	Certificate regarding compliance of MEITY Notification vide File no. I(10)/2017-CLES dt. 06.12.19 or subsequent notification				
Attachment No- 16	Certificate regarding Non-Debarment for False Declaration of Local Content				
Attachment No-14	CERTIFICATE for Declaration for Compliance to ITB clause 2.13 "Conflict of Interest"				

NOT TO BE PRINTED ALONG WITH ABOVE TABLE

The above-mentioned points are major Terms & Conditions and are indicative in nature. Bidder shall carefully go through the detailed requirements, QR and other terms and conditions for better understanding and submit the bid accordingly.

NOT TO BE PRINTED ALONG WITH ABOVE TABLE

The above-mentioned points are major Terms & Conditions and are indicative in nature. Bidder shall carefully go through the detailed requirements, QR and other terms and conditions for better understanding and submit the bid accordingly.



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

ATTACHMENT - 9(B) COMPLIANCE MATRIX/ CHECK - LIST FOR BIDDERS FOR PACKET 2 OF ENVELOPE 1

Please ensure these major Terms & Conditions before submitting you bids in order to avoid REJECTION of your offer.

S.no	Detail/Terms & Conditions	Attached		Page no. & PDF reference name	Reasons for non-compliance/remarks
		Yes	No		
1.	Deviation Statement as per format at attachment 13(Section - 6: Forms & Procedures)				
2.	Self Attested Copy of GST, PAN Card & Aadhar Card				
3.	One complete set of the Bid Document and of all its subsequent amendments (if any, effected), duly signed and stamped on each page by the Bidder.				
4.	Duly Filled Check List for Bidder's for Envelope - II, as per Attachment - 9b) (Section - 6: Forms & Procedures)				
5.	CERTIFICATE for Declaration for Compliance to ITB clause 2.13 "Conflict of Interest" (as per attachment-18 of forms and procedure				
6.	Format for filling details related to Qualification Criteria, Attachment - 15 & 15 a (Section - 6: Forms & Procedures) (Duly filled and signed by authorized signatory Scanned Copy to be uploaded at e-Tendering portal)				
7.	Covering Letter of the Bidder, enclosing Technical Bid as indicated in Bid Document,i.e., documentary evidences regarding Bidder's eligibility and qualifications to perform the Contract, as required per the Eligibility Conditions/Criteria, Qualifying Requirements and Bid Evaluation Criteria, one complete set of the Bid Document and of all its subsequent amendments (if any, effected), duly signed and stamped on each page by the Bidder.				

The above-mentioned points are major Terms & Conditions and are indicative in nature. Bidder shall carefully go through the detailed requirements, QR and other terms and conditions for better understanding and submit the bid accordingly.

NOT TO BE PRINTED ALONG WITH ABOVE TABLE

The above-mentioned points are major Terms & Conditions and are indicative in nature. Bidder shall carefully go through the detailed requirements, QR and other terms and conditions for better understanding and submit the bid accordingly.



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

Attachment – 10: Certificate regarding Declaration of Local Content

To
CGM(Contracts)
Convergence Energy Services Limited
2nd Floor, Core-III, SCOPE Complex
Lodhi Road, New Delhi-110003

Subject: - Certificate regarding Compliance of Minimum Local Content Requirement as mentioned in Ministry of Commerce and Industry Trade and order no. P-45021/2/2017-PP(BE-II) dated 04th June 2020 and its subsequent amendment(s)

Ref:

Name of Bid: _____

Bid Document No.: _____

Bid Issuance Date: _____

Dear Sir/Madam,

This is to certify that following is the local content percentage being offered/quoted against aforementioned Bid by M/s _____, the same is in compliance with Ministry of Commerce and Industry order no: P-45021/2/2017-PP(BE-II) dated 04th June 2020 and its subsequent amendment(s) and the Bidder shall strictly abide by all provisions of the subject notification.

S. No	Item/s	Percentage of Local Content
1		

Thanking You,

Yours faithfully,

Signature (Statutory Auditor/ Cost Auditor/ Practicing CA – As applicable)

.....

Printed Name.....

Seal.....

UDIN No

Date.....

Place.....

Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT – 11 CERTIFICATION BY THE BIDDER AS PER ORDER NO. F.7/10/2021-PPD (1) DATED 23.02.2023 ISSUED BY PUBLIC PROCUREMENT DIVISION, DEPARTMENT OF EXPENDITURE, MINISTRY OF FINANCE, GOVERNMENT OF INDIA (DOE ORDER)

I have read and understood the provisions of order no. F.7/10/2021-PPD (1) Dated 23.02.2023 regarding “Exclusions from Restriction under Rule 144(xi) of General Financial Rules” issued by Public Procurement Division, Department of Expenditure, Ministry of Finance, Government of India [hereinafter collectively “DoE Order”].

AND

I have read and understood the clause regarding restrictions on procurement from a ‘Bidder of a country which shares a land border with India’ and on sub-contracting to contractors from such countries.

AND

I certify that this bidder is not from such a country or, if from such a country, has been registered as per provisions of the requisite Order/Circular/Document with the Competent Authority and will not subcontract any work to a subcontractor/sub vendor from such countries unless such contractor is registered with Competent Authority. I hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]

AND

I have read the clause regarding restrictions on procurement from a Bidder having Transfer of Technology (ToT) arrangement. I certify that this Bidder does not have any ToT arrangement registration with competent authority OR “ I have read the clause regarding restriction on procurement from a Bidder having transfer of Technology (ToT) arrangement. I certify that this Bidder has valid registration to participate in this procurement.”

AND

“I certify that the(Name of work)” for (scope of work) under this procurement would not be from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that the original developer of the website under this procurement fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]

AND

I further declare that any misrepresentation or submission of false/forged document/information in this regard shall be dealt with as per the provisions of RfP Documents and/or EESL’s policy and procedures.



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

**ATTACHMENT – 12: CERTIFICATE REGARDING COMPLIANCE OF MEITY NOTIFICATION VIDE FILE NO. L(10)/2017-CLES DT. 06.12.19 OR SUBSEQUENT NOTIFICATION
(To be submitted on Bidder's Letter-Head)**

To
CGM(Contracts)
Convergence Energy Services Limited
2nd Floor, Core-III, SCOPE Complex
Lodhi Road, New Delhi-110003

Subject: - Certificate regarding Compliance of MEITY notification vide File no. L(10)/2017-CLES dt. 06.12.19 or subsequent notification.

Ref:

Name of Bid: _____

Bid Document No.: _____

Bid Issuance Date: _____

Dear Sir/Madam,

This is to certify that the products/items being offered/ quoted against Bid Document No. _____ by M/s (Name of Bidder) meet the definition of domestically manufactured/produced Cyber Security Products as per Para 4 of MeitY notification vide File no. L(10)/2017-CLES dt. 06.12.19 or subsequent notification. and the Bidder shall strictly abide by all provisions of the subject notification.

Thanking You,

Yours faithfully,

Signature (Statutory Auditor or Cost Auditor)

Printed Name.....

Date:

Seal.....

Place Name:

UDIN No:

P.S. In case any complaint is received at CESL end against the Bidder regarding supply of domestically manufactured/produced Cyber Security Products, the same shall be referred to STQC, an attached office of MeitY



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383, Postal Address
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT – 13 : DEVIATIONS STATEMENT

(To be submitted on Bidder's Letter-Head)

To,
CGM(Contracts)
Convergence Energy Services Limited.Core-III, 2nd Floor, SCOPE Complex,
Lodhi Road, New Delhi-110003
Subject: - Deviations Statement

Ref:

Name of Bid: _____

Bid Document No.: _____

Bid Issuance Date: _____

Dear Sir/Madam,

The following are the deviations and variations from and exceptions to the terms, conditions and specification of the Bid Document for Bid Document No. _____. These deviations and variations are exhaustive. We are furnishing below the cost of withdrawal for the deviations and variations stated in this Attachment. We shall withdraw the deviations proposed by us in this Attachment at the cost of withdrawal indicated herein, failing which our Bid may be rejected and Bid security may be forfeited. We confirm that except for these deviations and variations, the entire work shall be performed as per your specifications and conditions of Bid Documents. Further, we agree that additional conditions, variations, deviations if any, found in the proposal documents other than those stated in this Attachment, save those pertaining to any rebates offered, shall not be given effect to:

Type of Deviation	Section/Part/Chapter	Clause No.	Page No.	Statement of Deviations/Variations	Cost of withdrawal
Commercial Deviations					
Technical Deviations					

Yours Sincerely,

Signature of the Bidder

[Full name of authorized signatory on behalf of Bidder]

[Designation of authorized signatory on behalf of Bidder]

Company Seal

Date:

Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383, Page 155 of 169
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763



Attachment - 14: CERTIFICATE for Declaration for Compliance to ITB clause 2.13 "Conflict of Interest"

[On the Letter Head]

Ref: NIT/Bid Document No:

Name of Package:

To,

CGM(Contracts)

Convergence Energy Services Limited.Core-III, 2nd Floor, SCOPE Complex,
Lodhi Road, New Delhi-110003

Subject: - Certificate for Declaration for Compliance to ITB clause 2.13 "Conflict of Interest"

Ref:

Name of Bid:

Bid Document No.:

Bid Issuance Date:

Dear Sir/Madam,

With reference to our Bid proposal for participation in your Bid Document No:
dated:,

We confirm that bid submitted by us is in compliance to the ITB Clause 2.13 "Conflict of Interest"

Date:

Seal of Organization & Signature

Place:

of Authorized Applicant



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383, cn=Mr. N. Bhandari,
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

Attachment-15

Format for filling details related to Qualifying Requirement (QR)

(This format is required to be submitted by the Bidder along with data/details/documents submitted in support of meeting criteria for QR)

Sl. No.	Details	Declaration by the Bidder (Declare/Tick (√) whichever is applicable)
1.	Status of the Bidder	
a.	Must be a natural person (an individual Bidder),	<input type="checkbox"/>
b.	a private entity (a Consulting Company/ LLP /Partnership firm/ Society registered under an applicable Act in India	<input type="checkbox"/>
c.	incorporated in India as per Companies Act, 1956),	<input type="checkbox"/>
d.	a public Entity (Government-owned enterprise or institution).	<input type="checkbox"/>
1.1	Details of Documents submitted as evidence for aforesaid status	(....fill in no. and date of Documentary evidence....)



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

Sl. No.	Details	Declaration by the Bidder (Declare/Tick (✓) whichever is applicable)
1.3	Certification by the Bidder as per order no. F.7/10/2021-PPD (1) Dated 23.02.2023 issued by Public Procurement Division, Department of Expenditure, Ministry of Finance, Government of India (DoE Order)	Attachment-11 is enclosed is enclosed duly signed and filled YES <input type="checkbox"/> NO <input type="checkbox"/>
1.4	<p>PPP MII guidelines issued by Govt. of India shall be applicable for this tender.</p> <p>Only Class-I & Class-II Local Suppliers with Minimum Local Content as 50% for Class-I supplier and more than 20% but less than 50% for Class-II supplier are eligible to bid in this tender in conformance with the order for “Public procurement (Preference to make in India) to provide for Purchase preference (linked with local content) in respect of DPIIT”, issued vide Order ref. No. 45021/2/2017-PP(BE-II), GoI, MOP Dated 16.09.2020 and as notified by Ministry of Information & Technology(MeitY) for Electronics Products on their website (https://www.meitv.gov.in/esdm/ppo)</p> <p>NOTE: - Only Class-I & Class-II local suppliers as defined in the above tender are eligible to take part in this bidding process. The Bidder shall give a self-certification in his bid in the enclosed format, indicating the percentage of Local Content and certifying that the item offered meets the Local Content requirement for ‘Class-I & Class-II local supplier’ and shall give details of the location(s) at which value addition is made.</p> <p>Further, in case of tenders above Rs. 10 Cr, the ‘Class-I local Supplier & Class-II Local supplier’ shall provide a certificate from statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of Local Content as per the format in the RfP Documents.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>
1.8	The bidder should not have been black-listed by Central/ State Government or Public Sector Undertakings.	Bidder to Submit Undertaking in this regard in the format provided as per Attachment -8 in Section-6, Forms and Procedures.



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

2.	Mention no. and date of Contract for which Documentary Evidence is attached in respect of work experience for 'Similar Assignments' in line with the QR	(....fill in Contract No. and its Date)
2.1	Mention Name and Address of Client along with Contact details of concerned person	(....fill in requisite details....)
2.2	Whether Scope of Work under above referred Contract at sl. no. 2 includes the below	Also Indicate the Particular segement if applicable
a	Initial setup, implementation <ul style="list-style-type: none"> ○ Installation and configuration (Server set up) ○ Migration of complete Website (old platform to new platform) ○ Security checks ○ Hosting 	Yes <input type="checkbox"/> No <input type="checkbox"/>
b	Seamless Transition and Data Utilization: <ul style="list-style-type: none"> - Migration of old website data. - Backup and restore data. 	Yes <input type="checkbox"/> No <input type="checkbox"/>
c	Support & Maintenance: <ul style="list-style-type: none"> -Technical support -Software updates -Proactive maintenance 	Yes <input type="checkbox"/> No <input type="checkbox"/>
2.3	Value of Work Order	INR.....
2.4	Date of execution/completionDD/MM/YYYY... (Completion certficate enclosed)

Note: Use separate sheets for each Contract to fill in details as per sl. no.2 above

Sl. No.	Details	Declaration by the Bidder (Declare/Tick (√) whichever is applicable)
---------	---------	--

Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763



3.	Average Annual Turnover (ATO) during the last 3 Financial Years (i) Financial Year 1 (ii) Financial Year 2 (iii) Financial Year 3	INR.....
3.1	Duly authorized copy of audited financial statements for preceding last three Financial Year is submitted	Yes <input type="checkbox"/> No <input type="checkbox"/>
3.2	In case of proprietorship/ partnership, ITR along with management signed accounts submitted, if audited is not available	Yes <input type="checkbox"/> No <input type="checkbox"/>
4.	a) The net worth of the Bidder firm (Participating bidder or principal of authorized representative) should not be negative on 'The Relevant Date' and also ii) should have not eroded by more than 30% (thirty percent) in the last three years, ending on 'The Relevant Date' Duly authorized copy of audited financials for preceding last Financial Year is to be submitted by bidder. (Balance Sheet of immediate last financial year would be considered for this calculation.)	Yes <input type="checkbox"/> No <input type="checkbox"/>

I hereby declare that data/details as filled-in hereinabove are true and correct, in case of any misrepresentation by us suitable action may be taken by CESL as per the provision of RfP Documents and CESL's Policy and Guidelines.

Signature:

Name:

Designation:

For and on behalf of M/s.....

Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763



Attachment – 16: CERTIFICATE REGARDING NON- DEBARMENT FOR FALSE DECLARATION OF LOCAL CONTENT

[On the Letter Head]

To,

CGM(Contracts)

Convergence

Energy

Services

Limited.

Core-III, 2nd Floor, SCOPE Complex,

Lodhi Road, New Delhi-110003

Sub: Certificate regarding non debarment for false declaration of Local Content

Ref: NIT/Bid Document No:

Dear Sir/Madam,

We certify that we are not under debar list/undergoing debarment period on account of breach of the code of integrity under rule 175(1)(i)(h) of General Financial Rules for giving false declaration of local content.

Thanking You,

Yours faithfully,

Signature

.....

Printed Name.....

Seal.....

Date:

Place:



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

ATTACHMENT - 17 PROFORMA OF BANK GUARANTEE FOR CONTRACT PERFORMANCE

(On Non – Judicial Stamp Paper of appropriate value and purchased in the name of executing Bank)

PROFORMA OF BANK GUARANTEE FOR CONTRACT PERFORMANCE

Ref.:

Bank Guarantee No.....

Date.....

To,

Convergence Energy Services Limited.
(A 100% EESL Owned Subsidiary)
Core-3, 2nd Floor, SCOPE Complex,
Lodhi Road, New Delhi-110003

Dear Sirs,

In consideration of the CESL, (hereinafter referred to as the 'Owner,' which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/s with its Registered / Head Office at

..... (hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns), a Contract by issue of Owner's Letter of Award No date
d

.....and the same having been unequivocally accepted by the Contractor and the contractor (Scope of Contract) having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to *% (percent) of the said value of the
Contract to the Owner.

We (Name & address) having its Head Office at
..... (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns) do hereby guarantee and undertake to pay the Owner, on demand any all money payable by the Contractor to the extent of

.....as aforesaid at any time up to
.....(days/months/year) without any demur, reservation, contest, recourse or protest and / or without any reference to the Contractor. Any such demand made by the Owner on the Bank shall be conclusive and binding notwithstanding any difference between the Owner and the Contractor or any dispute pending before any court, tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Owner and further agrees that the guarantee herein contained shall continue to be enforceable till the owner discharges this guarantee.

The owner shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee from time to time to extend the time for performance of the Contract by the Contractor. The owner shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the owner



Signature :
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2ef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

and Contractor or any other course of or remedy or security available to the owner. The Bank shall not be released of its obligations under these presents by any exercise by the owner of its liberty with reference to the matters aforesaid on any of other indulgence shown by the owner or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agree that the Owner at its option shall be entitled to enforce this Guarantee against the Bank as a Principal debtor, in the first instance without proceeding against the Contractor and not withstanding any security or other guarantee that the owner may have in relation to the Contractor's liabilities.

Notwithstanding anything contained herein above our liability under this guarantee is restricted to

..... and it shall remain in force up to and including**

.....and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s on whose behalf this guarantee has been given.

Witness

Dated thisday of.....at.....

Witness

.....

Signature

.....

Name

Signature

.....

Bank's Rubber Stamp

.....
Official Address

Name

.....

Designation with Bank Stamp

Attorney as per power of Attorney
No.....dated.....

Note: ** Validity of Bank Guarantee should be 90 days in excess of the period for which it is required.

BANK GUARANTEE CHECK LIST

1	Bank Guarantee No.	
2	Issuing Bank	
	Nature of BG & No. of Pages	
4		
5	Validity of BG	
6	Package Description	
7	Party & Contracts ref.	Name, Address, Tel, Fax, E—mail
8	Bank Reference	

CHECK LIST

S.No.	Details of Checks	YES / NO
-------	-------------------	----------



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

a)	Is the BG on non-judicial Stamp Paper of appropriate value, as per Stamp Act ?	
b)	Whether date, purpose of purchase of stamp paper and name of the purchaser are indicated on the back of Stamp paper under the Signature of Stamp vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued. Also the Stamp Paper should not be older than six months from the date of execution of BG)	
c)	In case the BG has been executed on Letter Head of the Bank, whether adhesive Stamp of appropriate value has been affixed thereon?	
d)	Has the executing Officer of BG indicated the name, designation and Power of Attorney No./ Signing Power no. etc., on the BG?	
e)	Is each page of BG duly signed / initiated by executants and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed proforma?	
f)	Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents?	
g)	In case of any changes in contents of text, whether changes are of minor / clerical nature (which in no way limits the right of CESL in any manner)?	
h)	In case of deviations in text of BG, which materially affect the right of CESL, whether the changes have been agreed based on the opinion by Legal Department or BG I considered acceptable on the basis of opinion of law Department already available on the similar issue.	
i)	Are the factual details such as Bid Document No./NOA/LOA / Contact No., Contract Price, Percentage of Advance, Amount of BG and Validity of BG correctly mentioned in the BG?	
j)	Whether overwriting / cutting if any on the BG have been properly authenticated under signature and seal of executant?	
k)	Whether the BG has been issued by a Bank in line with the provisions of Bid / Contract documents?	
l)	In case BG has been issued by a Bank other than those specified of Bid / Contract Documents, is the BG confirmed by a Bank in India acceptable as per Bid / Contract documents?	

LIST OF BANKS ACCEPTABLE FOR SUBMISSION OF BANK GUARANTEES FOR ADVANCE PAYMENTS, PERFORMANCE SECURITIES AND SECURITIES FOR DEED OF JOINT UNDERTAKING

SCHEDULED COMMERCIAL BANKS



SBI and Associates

Sl.No.	Name of Banks	Sl. No.	Name of Banks
1.	State Bank of India	5.	State Bank of Mysore
2.	State Bank of Bikaner and Jaipur	6.	State Bank of Patiala
3.	State Bank of Hyderabad	7.	State Bank of Saurashtra
4.	State Bank of Indore	8.	State Bank of Travancore

Nationalised Banks

Sl.No.	Name of Banks	Sl. No.	Name of Banks
9.	Allahabad Bank	18.	Indian Overseas Bank



Signature :-
 Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2ef4c87192bd
 29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
 OID.2.5.4.20=22522ab63d7534f2072b0aee1ee387d80383897d25a1aa592b
 6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
 C=IN
 User ID : nikhil.bhandari
 Serial No : 1629763

10.	Bank of India	19.	Oriental Bank of Commerce
11.	Bank of Maharashtra	20.	Punjab National Bank
12.	Canara Bank	21.	Punjab & Sind Bank
13.	Central Bank of India	22.	Syndicate Bank
14.	Corporation Bank	23.	Union Bank of India
15.	Dena Bank	24.	United Bank of India
16.	Indian Bank	25.	UCO Bank
17.	Vijaya Bank	26.	Bank of Baroda

A. Foreign Banks

Sl.No.	Name of Banks	Sl. No.	Name of Banks
27.	Bank of America NA	34.	Standard Chartered Bank
28.	The Bank of Tokyo-Mitsubishi UFJ Limited.	35.	Societe Generale
29.	BNP Paribas	36.	Barclays Bank
30.	Calyon Bank	37.	ABN Amro Bank N. V.
31.	Citi Bank N.A.	38.	Bank of Nova Scotia
32.	Deutsche Bank A. G.	39.	Development Bank of Singapore
33.	The Hong Kong and Shanghai Banking Corporation Ltd.		

B. SCHEDULED PRIVATE BANKS

Sl.No.	Name of Banks	Sl. No.	Name of Banks
40.	ING Vysya Bank Ltd.	43.	UTI Bank Ltd.
41.	ICICI Bank Ltd.	44.	YES Bank
42.	HDFC Bank Ltd.		

C. Other Public Sector Banks

Sl.No.	Name of Banks	Sl. No.	Name of Banks
45.	IDBI Ltd.		



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efef4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

Attachment-B

(Not to be filled during bid submission)

Contract Agreement No.

CESL/2024-25/COA_____

THIS CONTRACT AGREEMENT is made the _____ day of _____, 20__.

BETWEEN

(1) Convergence Energy Services Limited, A Wholly owned subsidiary of EESL, A JV of PSUs of Ministry of Power, Government of India incorporated under the laws of India and having its registered office at 5th & 6th Floor, CORE -III, Scope Complex, Lodhi Road, New Delhi -110003 (hereinafter called "the Employer"),

and

(2)a company incorporated under the laws of India and having its registered office at India (hereinafter called "the Contractor").

WHEREAS the Employer desires to engage the Contractor for _____ (Scope of Work).

NOW IT IS HEREBY AGREED as follows:

Article Documents 1

1.1 Contract

The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

1. Employer LoA No.
2. Employer RfP No.
3. Pre-Bid meeting held on at Employer Corporate Office, New Delhi.
4. Employer Amendment/ Clarification No....
5. Technical Bid Opening on ... at
6. Price Bid opening on at

1.2 Order of Precedence

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.

1.3 Definitions

Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the General Conditions of Contract.

Article 2. Contract Price and Payment

2.1 Contract Price

The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate

Signature :- _____
Date :- _____
Stamp :- _____
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763

contracts solely on its own behalf under the applicable laws of India and the general principles of Contract Law. The Contractor expressly agrees, acknowledges and understands that the Employer is not an Agent, Representative or Delegate of the Govt. of India. It is further understood and agreed 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, the Contractor 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 as to any manner, claim, cause of action or thing what so-ever arising of or under this Agreement.

Article 5.

Appendices

The Appendices listed in the attached list of Appendices shall be deemed to form an integral part of this Contract Agreement.

Reference in the Contract to any Appendix shall mean the Appendices attached hereto, and the Contract shall be read and construed accordingly.

IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above writ-ten.

Signed by for and on behalf of the Employer	(To be signed only by the authorized signatory to whom authorization is given in Power of Attorney)
Convergence Energy Services Limited New Delhi.	
Name and Signature of Witness-1	Name and Signature of Witness-2
Signature :	Signature :
Name :	Name :
Designation :	Designation :
Address :	Address :

CONTRACT AGREEMENT

dated the _____ day of _____, 20__.

BETWEEN

Convergence Energy Services Limited, New Delhi
(A Wholly Owned subsidiary of EESL)

[“the Employer”]

And

Company name
_____.

[“the Contractor”]

APPENDICES

Appendix 1: Term and Procedures of Payment – As per LoA

Appendix 2: Price Adjustment – As per LoA



- Appendix 3: Insurance – ON VENDOR'S ACCOUNT
- Appendix 4: Time Schedule – As per LoA
- Appendix 5: List of Approved Subcontractors, if any – NOT APPLICABLE
- Appendix 6: Scope of Works and Services – As per LoA
- Appendix 7: List of Documents for Approval or Review – AS per LoA
- Appendix 8: Functional Guarantees: As per LoA



Signature :-
Subject : CN=NIKHIL BHANDARI, SERIALNUMBER=927dd976a497ef6a2efe4c87192bd
29a28619b4f15f97b553a26453b9530a, ST=DELHI, OID.2.5.4.17=110003,
OID.2.5.4.20=222522ab63d7534f2072b0aeae1ee387d80383897d25a1aa592b
6b39352ea247, OU=CONTRACTS, O=ENERGY EFFICIENCY SERVICES LIMITED,
C=IN
User ID : nikhil.bhandari
Serial No : 1629763