

NTPC VIDYUT VYAPAR NIGAM LIMITED

(A wholly owned Subsidiary of NTPC Limited)



GLOBAL TENDER FOR SALE OF GYPSUM PRODUCED FROM FLUE GAS DESULPHURIZATION PLANT FROM NTPC SOLAPUR

BIDDING DOCUMENT NO.: NVVN/C&M/RE-360/2024-25

THROUGH <https://www.bharat-electronictender.com>

(This Document is meant for the exclusive purpose of bidding against this Bid Document No./ Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued)

For the detailed IFB and Bidding Documents please visit -ETS PORTAL <https://www.bharat-electronictender.com> or may contact Sr. Manager (Contracts), NTPC VIDYUT VYAPAR NIGAM LIMITED, Engineering Office Complex, Plot No. A-8A Sector 24, Block A, Noida, Uttar Pradesh 201301, Email: nvvncontracts@ntpc.co.in; Tel No: 0120-4947249, 0120-4947238

Registered office: NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodhi Road, New Delhi-110003, Corporate Identification Number: U40108DL2002GOI117584, Website: www.nvvn.co.in

SECTION - I
INVITATION FOR BIDS (IFB)

NTPC VIDYUT VYAPAR NIGAM LIMITED
INVITATION FOR
BIDS FOR
SALE OF GYPSUM PRODUCED FROM FLUE GAS DESULPHURIZATION PLANTS
FROM NTPC SOLAPUR THROUGH ETS PORTAL

Bidding Document No.: NVVN/C&M/RE-360/2024-25

Date: As per Bharat ETS

1.0 Introduction:

NTPC Vidyut Vyapar Nigam Limited (NVVN), a wholly owned subsidiary of NTPC Limited having its Registered Office at NTPC Bhawan, Core – 7, SCOPE Complex, 7, Institutional Area, Lodhi Road, New Delhi – 110003 (henceforth referred to as NVVN which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors and permitted assigns) intends to sell Gypsum generated from the FGD (Flue Gas Desulfurization unit) of NTPC Station (Name of Station: NTPC **SOLAPUR**). **Wherever NTPC station is mentioned in the document, it shall refer to NTPC SOLAPUR.**

To facilitate the sale of FGD Gypsum from NTPC STATION, NVVN invites Gypsum End users/Traders/Corporations/other interested buyers as potential bidders through this bid document.

2.0 Scope of Work:

Scope of work for Buyer

- i. The FGD Gypsum shall be sold to the interested buyers from the designated delivery point(s) i.e., gypsum storage facility of NTPC station (Name of Station: NTPC **SOLAPUR**) on as-is/where-is basis.
- ii. **Loading of gypsum in the trucks of the buyer shall be done by buyer through backhoe loader/JCB.**
- iii. The buyer shall make all other arrangements, including deployment of vehicles as per requirement, for taking delivery on his own.
- iv. The buyer shall adhere to the extant Gate entry/exit system being followed at NTPC station.
- v. The buyer shall take weighing of Gypsum in the designated weigh bridge of NTPC at the station premise.
- vi. Transportation of gypsum from the NTPC station to the destination shall be done by the Buyer at its own risk & cost. The risk shall pass from NTPC to the Buyer as soon as the materials is loaded into the vehicle. The title to the materials shall pass from NTPC to the Buyer only after NTPC received advance payment and loading of gypsum to the vehicle.
- vii. The Buyer shall be liable and responsible for payment of all statutory levies in the form of taxes, duties etc. on the sale of gypsum. Such statutory liabilities, if any, shall be in scope

of buyer and no reimbursement towards the same shall be made by NTPC/NVVN.

viii. The buyer shall also make necessary arrangement during transportation to prevent fugitive emission/ spillage of Gypsum as per the extant government norms at its own cost.

ix. Loading of Gypsum in the trucks of the buyer shall be in the scope of Buyer ~~done by NTPC~~ through backhoe loader/JCB/ other existing facility only. Gypsum will be loaded by Backhoe Loader/ JCB, and the trailers will be placed at the same level. If any other method of loading is desired by the buyer, the same has to be arranged by the buyer at his cost.

✕. Gypsum will be loaded in open Trucks/Trailers/Tippers only. Please note that Tippers/Trailers/Trucks having Extra Ribs will not be allowed to enter inside the plant for loading. {LOADING OF GYPSUM SHALL BE IN THE SCOPE OF BUYER}

Scope of work for NTPC

- i. Facilitate access of Rail loading facility at NTPC premises wherever whenever it become available.
- ii. Sale of FGD Gypsum is undertaken under short term contract, i.e; for a contract period of one year from the date of start of lifting (date of start of lifting shall be date of LOA or as decided by the Engineer-In-Charge) with prospective buyers at the rate discovered through transparent method by NVVN. However, in case of buyers who would be deploying customized transportation container / wagons etc., provision for sale of FGD Gypsum for period up to 3 years duration may be considered by NVVN/NTPC subject to matching the price with discovered sale rate (weighted average rate of the year in consideration, in case of price band or original awarded rate of that buyer in first year, whichever is higher) by such buyers. In such case, annual quantity for each subsequent year i.e subsequent period upto 3 years shall not exceed the awarded quantity wrt initial contract period on annual basis.

3.0 A. Bidding details:

| | |
|---------------------------------------|--|
| Bid Document Number | NVVN/C&M/RE-360/2024-25 |
| e-Tender / Auction Cataloguenumber | As per ETS PORTAL |
| Tender Methodology & Auction | Single Stage Two Envelope. <ul style="list-style-type: none">▪ <i>Technical-Envelope I</i>▪ <i>Financial-Envelope II</i> Followed by an 'e-Forward Auction' Bidder may please refer to Special instructions to Bidders for e-Tendering [ie Electronic Bidding Instructions (EBI)] (Appendix I) for complete |

| | | |
|---|----------------------------------|--|
| | | details about the tendering & auction methodology. |
| Period of supply | | period of one year from the date of start of lifting (date of start of lifting shall be date of LOA or as decided by the Engineer-In-Charge) |
| Period of availability of biddocument for | | As per ETS PORTAL |
| (i) | Registration with ETS PORTAL | To be done well in advance and before the last date of submission of Document |
| (ii) | ETS Bidding-Fee | <p>ETS Bid-Deposit Conditionally-Refundable (ETS BD-CR)'. Applicable ETS BD-CR = 0.75% (Start/ Reserve Price of NVVN) X (70% Qty in Metric Ton of the total Gypsum being offered during the e-Tender/ e-Auction) plus GST</p> <p>Bidder may please refer to Special instructions to Bidders for e-Tendering [ie Electronic Bidding Instructions (EBI)] (Appendix I) attached along with the bid document.</p> <p>Note: Failure to pay this amount will result in rejection of the bid.</p> |
| (iii) | Tender Fee | Rs. _____/ (Non Refundable) DELETED |
| (iv) | Submission of EMD/Bid Security | <p>2% of the reserve price of the quoted quantity. In case of Domestic buyer, EMD to be submitted in INR and in case of foreign buyer EMD to be deposited in USD.</p> <p>For e.g.: If the reserve price is Rs 1821 per MT and EMD submitted by bidder is Rs 3,64,200/-; then bidder can utmost bid for 10000 MT.</p> <p>If the reserve price is USD 20.82 per MT and EMD submitted by bidder is USD 4,164.67; then bidder can utmost bid for 10000 MT.</p> |
| (v) | Submission of Required documents | <p>As per ETS PORTAL / details mentioned in the tender documents.</p> <p>All the documents are to be submitted online at ETS PORTAL</p> |
| Submission of Bids | | As per ETS PORTAL |
| Quantity | | <p>50,000 MT (During contract period)</p> <p>Monthly Qty</p> <p>4167 MT (max)</p> |

| | |
|---|---|
| Minimum quantity for bidding | 5000 MT |
| Maximum quantity for bidding | 35,000 MT (70% of Auctioned Qty) |
| Minimum quantity for increment | 500 MT |
| Start Price / Floor Price/Reserve Price | INR 1821 per MT (for Domestic Bidder) & USD 20.82 per MT (for Foreign Bidder) Bids received with price bid below the Reserve Price shall be out rightly rejected. |
| Evaluation Criteria of Bids | Price Discovery and Quantity for allocation. FGD - Gypsum available is being auctioned on "BucketFilling" concept / forward auction process |

4.0 e-Forward Auction Details

e-Forward Auction would be conducted after the opening of the Financial-Part.

The following would be parameters for e-Forward Auction:

| S# | Parameter | Value |
|-----|---|--|
| 1 | Date and Time of e-Forward Auction Bidding Event | Tentative gap of hours/ day after opening of Price Bids/ Will be intimated to the responsive bidders later. |
| 2 | Duration of e-Forward Auction Bidding Event | 1 Hours |
| 3 | Automatic extension of the 'e-Forward Auction Closing Time', if last bid received is within a 'Pre-defined Time-Duration' before the 'e-Forward Auction Closing Time' | Yes |
| 3.1 | Pre-defined Time-Duration | 5 Minutes |
| 3.2 | Automatic extension Time-Duration | 5 Minutes |
| 3.2 | Maximum number of Auto-Extension | Unlimited |
| 4 | Criteria of Bid-Acceptance | A bidder can go on 'Increasing' his own bid value without taking into cognizance the Starting Price' or 'Rank-1' bid |
| 5 | Reserve Price/Entity Start Price | INR 1821 per MT (for Domestic Bidder) & USD 20.82 per MT (for Foreign Bidder) If bidder offers bid price less than the reserve price in the price bid, then the bid will be rejected and will not be considered for auction. |
| 6 | Individual Start-Price | Prices quoted by a Bidder in financial bid |
| 7 | Minimum Bid-Increment | 10 INR for Domestic buyers and USD 0.11 for foreign buyers |

5.0 Eligibility for Bid Participation:

Any buyer who

- is Indian or Foreign entity which shall not have been backlisted or banned by any Central/ State government agency(ies)/ Organization (s) on the date of submission of tender as per the Annexure-A
- has submitted the Bid Security /EMD as per the applicable terms

- Power of Attorney of the Authorized Person' signing and submitting the documents.

- Domestic Bidder shall submit the GST, PAN and Foreign bidder shall submit their detailed profile and address in the ETS portal, as may be applicable.

All the documents are to be submitted 'ONLINE' at ETS PORTAL ONLY.

Documents of any prospective bidders received offline / through e-Mail / Other means at NVN Location/s will not be entertained and considered by NVN for evaluation. However, in case of requirement of any documents, NVN at its sole discretion, may solicit the documents from the bidders who have uploaded the documents at Bharat ETS platform against the subject e-Auction.

6.0 Submission of Bids:

Bids are to be submitted by the buyer online in the ETS PORTAL <https://www.bharat-electronictender.com>, within the bid submission time as per time schedule indicated in the ETS PORTAL

Bidders shall be required to accept the following mandatory condition of the Tender at e- Tender Portal prior to the submission of Bid:

"Do you certify full compliance to all provisions of Bidding Document?"

By accepting above, Bidder shall certify their compliance to all provisions of Bidding Documents including but not limited to the following important provisions:

- (a) Full compliance on eligibility for Participation
- (b) Fraud Prevention Policy of NTPC/NVVN.
- (c) Policy for Debarment from Business Dealings of NTPC/NVVN.
- (d) All provisions of the Integrity Pact (if applicable as per Tender)
- (e) Anti-Bribery and Anti-Corruption (ABAC) Policy of NTPC
- (f) Conflict of Interest Clause of ITB

Acceptance of above condition shall be considered as Bidder's confirmation that any deviation to the any provision found anywhere in their Bid Proposal, implicit or explicit, shall stand unconditionally withdrawn, without any cost implication whatsoever to the Employer, failing which the bid shall be rejected and bid security shall be forfeited.

7.0 Bid Security / EMD:

7.1 The EMD amount shall be 2% of the reserve price of the quoted quantity.

For e.g.: If the reserve price is Rs 1821 per MT and EMD submitted by bidder is Rs 3,64,200/-; then bidder can utmost bid for 10000 MT.

If the reserve price is USD 20.82 per MT and EMD submitted by bidder is USD 4,164.67; then bidder can utmost bid for 10000 MT.

In case of Domestic buyer, EMD to be submitted in INR and in case of foreign buyer EMD to be deposited in USD..

All Bids must be accompanied by a Bid Security for an amount equivalent to 2% of the reserve price of the quoted quantity in the form as stipulated in the bidding documents, to be submitted offline (in a separate sealed cover) or online through EFT prior to date and time for online bid submission.

ANY BID NOT ACCOMPANIED BY THE REQUISITE BID SECURITY IN ACCEPTABLE FORM IN A SEPARATE SEALED ENVELOPE OR BIDS ACCOMPANIED BY BID SECURITY OF INADEQUATE VALUE SHALL BE REJECTED BY NVVN AS NON-RESPONSIVE AND SHALL BE RETURNED TO THE BIDDERS WITHOUT BEING OPENED. IN CASE, THE BID SECURITY IS SUBMITTED THROUGH ELECTRONIC FUND TRANSFER (EFT), BIDDER TO SUBMIT THE PROOF OF E-PAYMENT OF BID SECURITY IN THE E-TENDERING PORTAL.

In case of non-receipt of Bid Security / EMD before the deadline stipulated, on any account what-so-ever, the respective bidder shall not be allowed to bid under e-auction on online Portal and neither NVVN nor online Portal shall bear any responsibility on this account.

The EMD / Bid Security of successful Bidder (s) shall be returned by NVVN against the amount payable by the bidders for offtake quantities [only after submission of requisite amount of Contract Performance Guarantee (CPG) / Security Deposit].

7.2 EFT Details for Online Transfer of Cost of Bid Security

Bid Security shall be paid through NEFT/RTGS to NVVN's Bank account whose details are provided below **(the following account belongs to NVVN and to be used only for the purpose of remitting the EMD and not for payment of allocated quantity which shall be paid to respective NTPC station, whose account details shall be shared separately**

after award/along with Letter of Award)

- (i) Bank Name: ICICI Bank Limited
- (ii) Branch: CONNAUGHT PLACE BRANCH
- (iii) Bank Address: 9A, PHELPS BUILDING, CONNAUGHT PLACE,
NEW DELHI- 110001
- (iv) IFSC Code: ICIC0000007
- (v) Account No.: 000705008910

(ii) While carrying out online transfer, Bidders shall ensure to enter “EMD - Tender No.- Vendor Name” in the Text / Remarks / Reason field for Bid security payment. Bidder shall intimate the details of same through email to concerned C&M department and also upload the details in the “Fee Cover” in Online portal in the following format:

Declaration for EMD Deposit
Tender No:
Vendor Name:
UTR Reference:
Amount:
Transferor Bank:

8.0 Minimum quantity for bidding:

The minimum bid quantum shall be 5000 MT. Whereas the maximum bid quantity by single bidder shall be restricted to 70% of the available quantum.

9.0 Floor Price/Reserve Price:

The minimum Floor Price of Gypsum is **INR 1821/- per Metric Ton** (Rupees One Thousand Eight Hundred Twenty One per Metric Tonne) and /or

USD 20.82 per Metric Ton (US Dollar Twenty point Eight Two per Metric Tonne)

Exchange rate for the calculation of floor price in USD shall be the prevailing exchange rate (USD-INR) 7 working days before proposed bid submission date.

10.0 Evaluation Criteria of Bids [Price Discovery and Quantity for allocation]:

Gypsum available is being auctioned on “Bucket Filling” concept / forward auction process.

11.0 Award Criteria:

The bidder shall be awarded the quantity on the quoted price as bucket filling methodology.

12.0 Award price:

Quoted price by the bidders after auction shall be the award price and shall remain firm for the

period of supply.

13.0 Contract Performance Guarantee [CPG]:

- a. Successful bidders shall submit the Contract Performance Guarantee [CPG] for an amount equivalent to Five (5%) percent of value of allocated quantity.
- b. For commencement of supplies, submission of CPG is a precondition.
- c. Contract Performance Guarantee shall be submitted to the respective NTPC Station.

14.0 Payment Terms and Bank Charges:

- a. Delivery shall be made against advance payment. Payment shall be made in the form of Electronic Fund Transfer (EFT) in favour of NTPC station.
- b. The amount of advance/~~Letter of credit~~ shall be equivalent to value of 1 month of off-take quantity, and the same shall be deposited by 28th day of every month.
- c. The advance amount shall be adjusted against delivery.
- d. All bank charges shall be borne by the buyer
- e. NTPC shall under no circumstances be liable for any costs, charges, liabilities of whatsoever nature arising subsequent to the delivery / loading of the materials on vehicle at Ex-plant, such as freight, insurance charges, taxes including income tax, customs duties, unloading and handling charges, levies and fees, if any, of whatsoever nature and kind, payable or leviable at the time of or by reason for domestic sale or importation of the Gypsum in the country of import.
- f. Permission to start the work will be given for first month after deposition of CPG and one-month advance payment along with the applicable taxes/duties within 15 days of placement of award.
- g. Permission for next subsequent month will be given after depositing the advance payment for that month along with the taxes/duties before start of that month.

15.0 GST / Other Taxes and Duties, Levies etc:

- a. The Bidder shall be liable and responsible for payment of all statutory levies in the form of GST and all other taxes & duties applicable on the Sale of FGD - Gypsum. Such statutory liabilities, if any, shall be paid by bidder extra at actual. ("Goods and Services Tax" or "GST" means taxes 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 cess, if any under the laws in force (hereinafter referred to as relevant GST Laws).")
- b. All FGD Gypsum will be sold on Ex Silo / Ex Works basis. Regarding exports of FGD - Gypsum by the buyer, it is the responsibility of the buyer to fulfill their export obligations as may be required, and any shortfall in this regard shall be to the account of the buyer only. The buyer indemnifies the Owner against all such liabilities and losses on failure to fulfill the export obligations, if any.

16.0 Inspection/Site visit:

The Bidder is advised to visit and examine the site where the sale is to be executed 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 sale of Gypsum. The costs of visiting the site shall be borne by the bidder fully.

17.0 DELETED.

18.0 Issuance of bid documents to any Bidder shall not construe that such bidder is considered to be qualified.

19.0 Transfer of Bidding Documents purchased by one intending Bidder to another is not permissible.

20.0 NVVN/NTPC reserves the right to reject any or all bids or cancel / withdraw the Invitation for Bids without assigning any reason whatsoever and in such case no bidder / intending bidder shall have any claim arising out of such action.

21.0 Address for communication:

Sr. Manager (C&M)
NTPC VIDYUT VYAPAR NIGAM LIMITED
Engineering Office Complex, Plot No. A-8A Sector 24, Block A,
Noida, Uttar Pradesh 201301
Email: nvvncontracts@ntpc.co.in
Corporate Identification Number: U40108DL2002GOI117584,
Phone No: 0120-4947238

22.0 Registered Office

NTPC VIDYUT VYAPAR NIGAM LIMITED,
NTPC Bhawan, Core-7, SCOPE Complex,
7, Institutional Area, Lodhi Road,
New Delhi – 110003
Corporate Identification Number: U40108DL2002GOI117584.
Website: www.nvvn.co.in

23.0 Address of NTPC Station

SOLAPUR SUPER THERMAL POWER PROJECT,
At Village fatatewadi, Post – Hotgi Station,
District- Solapur, Maharashtra -413215

SECTION - II

DEFINITIONS

SECTION II - DEFINITIONS

In this contract, following terms shall be interpreted as:

“The Contract” shall mean the issuance of award letter including bid documents and amendment thereof which will constitute the formation of the Contract.

“The Contract Value” means the consideration payable to the NTPC Ltd under the Contract for the full and proper performance of its contractual obligations.

“Day” means calendar day.

“Effective Date” means the date on which this Contract becomes effective (i.e., issue date of LOA).

“GCC” means General Conditions of Contract contained in this document.

“SCC” means Special Conditions of Contract contained in this document.

“The Buyer” (i.e., successful bidder or awardee) which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors and permitted assigns.

“Seller / Supplier” (i.e., NTPC) which expression shall unless repugnant to the context or meaning thereof be deemed to include its successors and permitted assigns.

“Acceptable Bank” means any of the banks referred to in **Annexure – X** List of the Banks.

“Awarded Quantity / Contract Quantity / Allocated Quantity” – is the quantity of FGD Gypsum as finalized by NVVN/NTPC for award to a particular successful bidder and shall be expressed in Metric Tonne (MT) for the contract period.

“Arbitration Act” means the Indian Arbitration and Conciliation Act, 2016, as amended and modified from time to time, including any re-enactment thereof.

“Metric Tonne (MT)” means 1,000 Kilograms.

“Contract Term / Period” means duration of the contract.

“FGD – Gypsum” means the Gypsum generated from the FGD (Flue Gas Desulfurization unit /s) for sale from NTPC Thermal Power station (Name of Station: NTPC STATION)

“Delivery Point” means Gypsum storage facility or any other suitable locations inside NTPC stations as decided by Engineer-In-Charge for the contract.

“Dispute / Dispute Notice” Refer clause 05 of General Conditions of Contracts section [GCC]

“Engineer in charge (EIC)” means the officer appointed in writing by NTPC station from where delivery is made to act as an engineer from time to time.

“First Off take” means the date of first off take of Gypsum, by the buyer from Delivery Point and in

accordance with this Agreement.

“Force Majeure” shall have the meaning ascribed to it under General Conditions of Contracts section [GCC]

“Law(s)” means applicable laws, rules, regulations, judgments, decrees, or other legislative measures having the force of law or issued by any government agency, instrumentality, body or legislature, national, state or local authority or a court of competent Jurisdiction.

“Quarter” shall mean a period of 03 months and shall be calculated from the scheduled date of commencement of contract.

“Party” means the Seller or the Bidder, as the case may be, and “Parties” means both of them.

“Awarded Price / Prevailing Price” **“Awarded Price”** is the price mentioned in the Letter of Award.

“Adjusted quantity” means final allocated quantity to the bidder after adjusting the quantity of Gypsum which NTPC station could not provide to the bidder for lifting for any reason whatsoever, but not attributable to the bidder.

SECTION – III
INSTRUCTION TO BIDDERS

INSTRUCTIONS TO BIDDER

1. Introduction

NTPC Vidyut Vyapar Nigam Limited, having its Registered Office at NTPC Bhawan, Core-7, SCOPE Complex, 7 Institutional Area, Lodhi Road, New Delhi – 110003 (hereinafter called NVVN) will sell FGD- Gypsum on behalf of NTPC, generated from the FGD (Flue Gas Desulfurization units) of NTPC STATION.

Throughout these Bidding Documents, the term “Bid” and “Tender” and their derivatives (Bidder /Tenderer, Bidding / Tendering, Bidding Document / Tender Document, etc.); Bill of Quantity / Schedule of Quantity / Schedule of Quantities / Bill of Quantities; Seller/NTPC; Bid Security / Earnest Money Deposit/Security Deposit ;Performance Security; Performance Guarantee / Contract Performance Guarantee; Engineer-in-Charge / Engineer, appearing anywhere in the Bidding Documents shall have the same meaning and are synonymous to each other.

The Bidder is advised to read carefully all instructions and conditions appearing in this document and understand them fully. All information and documents required as per the bid document must be furnished. Failure to provide the information and / or documents as required may render the bid technically unacceptable.

The bidder shall be deemed to have examined the bid document, to have obtained his own information in all matters whatsoever that might affect the carrying out the works in line with the scope of work specified elsewhere 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 works and requirement of materials, equipment, tools and labour 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.

The bidder shall be bound by the disclaimer given in these documents.

2. Conflict of Interest

Each Bidder shall submit only one bid either by himself, or as a partner in a joint venture or consortium, if so, permitted in the Bidding Documents. A Bidder who submits or participates in more than one bid in this bidding will be disqualified from the bidding.

3. Bidder’s Site Visit

- a. The Bidder is advised to visit and examine the site where the sale is to be executed 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 sale of Gypsum. The costs of visiting the site shall be borne by the bidder fully.
- b. The Bidder and any of its personnel or agents will be granted permission by the Seller to enter upon its premises and lands for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents will release and indemnify the Seller 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.
- c. For other details / procedure, refer clause 16 of Invitation for Bid [IFB]

4. The Bidding Documents

The Bidding Documents comprise of following:

- Invitation for Bid [IFB]
- Definitions
- Instructions to Bidders [ITB]
- Scope of Work and Special Conditions of Contract
- General Conditions of Contract
- Forms - Formats and Annexures

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

5. Validity of Bids

The Bidder shall keep the bid valid for a minimum period of one hundred and twenty (120) days from the date of opening of the bid. In exceptional circumstances the Owner may solicit the Bidder's consent for an extension of the bid validity period. When the validity period is extended by the Bidder, the same shall be done without any modification to the bid proposal by the Bidder.

6. Bid Security / EMD

- 6.1 The Bidder shall furnish, as part of its Bid, a Bid Security in a separate sealed envelope for the amount and currency as stipulated in the Invitation for Bid (IFB). In case bid security amount is deposited as EFT, Proof of e-payment of Bid Security, shall be submitted in the e-tendering portal or in a separate sealed envelope.
- 6.2 The Bid Security shall, at the Bidder's option, be in the form of Electronic Fund Transfer (EFT)/ irrevocable Letter of Credit or a bank guarantee from any of the banks specified in the Invitation for Bids or an Insurance Surety Bond from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI).

The format of the Bank Guarantee/ Insurance Surety Bond shall be in accordance with the form of bank guarantee/ Insurance Surety Bond towards bid security included in the Bidding Documents. Bid Security shall remain valid for a period of forty-five (45) days beyond the original Bid validity period and beyond any extension of bid validity subsequently requested under relevant clause of ITB.

6.3 Deleted

- 6.4 **Any bid not accompanied by an acceptable bid security in a separate sealed envelope shall be rejected by the employer as being non-responsive and shall not be opened. In case, the bid security is submitted as EFT, bidder to submit the proof of e-payment of bid security either in separate sealed envelope or in the e-tendering portal.**

- 6.5.1 In case of Bidders opting for Bank Guarantee as Bid Security but unable to submit the Original Bank Guarantee in physical form at the tender opening location, before the deadline for submission

of bids, following shall also be considered acceptable, subject to para 12.4.1(A) below:

(i) The issuing bank shall intimate through their own official e-mail id to concerned C&M department with a copy to Bidder regarding issuance /extension of Bank Guarantee (BG) along with following documents, before the deadline of submission of bids: -

- The scanned copy of the BG.
- SFMS / SWIFT message acknowledgement copy sent to NTPC/Employer's banker stating the date of sending
- An undertaking from the issuing Bank strictly as per format enclosed at Annexure-VI
- SFMS / SWIFT message must be sent to the NTPC/Employer's bank, details of which are mentioned in Bidding documents.

(ii) Bidders shall also be required to upload the scanned copy of the BG on e-tendering portal.

6.5.1(A) The bidder shall be required to submit all the documents in the manner as specified at para 6.4.1 above, to reach NVVN/Employer before the deadline for submission of bids, failing which its bid shall be rejected as being nonresponsive and not opened.

In such a case, Bidder shall also be required to submit the Original BG in physical form to reach NVVN at the address mentioned in Bidding Documents, not later than 10 days from the date of submission of Techno-Commercial bids or before the Price Bid opening, whichever is earlier, failing which its bid shall be rejected and not considered for further evaluation.

While issuing the physical BG, the Bidder's Bank shall also send electronic message to Employer's Beneficiary Bank whose details are provided in Invitation for Bids (IFB) through secure SFMS.

6.6 BG against Bid Security issued by a Bank outside India needs to bear stamp duty of appropriate value applicable to the place in NTPC where BG is to be submitted. The BG may be got adjudicated by the employer from Collector of Stamps, within 3 months of arrival of BG in India. Expenses incurred in this regard shall be borne by NVVN.

Insurance Surety Bond against Bid Security issued by an Indian Insurance company outside India needs to bear stamp duty of appropriate value applicable to the place in NTPC where Insurance Surety Bond is to be submitted. The Insurance Surety Bond may be got adjudicated by the employer from Collector of Stamps, within 3 months of arrival of Insurance Surety Bond in India. Expenses incurred in this regard shall be borne by NVVN.

6.7 Subject to clause 6.8 below, the Bid Security of the Bidder whose Techno-Commercial Bid has not been found acceptable or does not meet the Qualification Requirements set forth in the bidding documents or who are debarred under Employer's Policy for Debarment from Business Dealings relating to some other tender/contract, shall be returned along with letter communicating rejection of Techno-Commercial Bid. The Bid Security of the bidders who are unsuccessful after opening of Price Bids shall be returned expeditiously.

- 6.8 The Bid Security of successful Bidder to whom the Contract is awarded will be returned when the said Bidder has acknowledged the Letter of Award and has furnished the required Contract Performance Security.
- 6.9 The Bid Security shall be forfeited in any of the following circumstances by the employer/ Owner without any notice or proof of damage to the Owner, etc:
- a) If the Bidder withdraws or varies its Bid during the period of Bid validity;
 - b) If the Bidder does not accept the correction of its Bid Price pursuant to ITB Sub-Clause for Arithmetical Correction.
 - c) If the Bidder refuses to withdraw, without any cost to the Employer, any deviation, variation, additional condition or any other mention anywhere in the bid contrary to the provisions of bidding documents.
 - d) In the case of a successful Bidder, if the Bidder fails within the specified time limit to furnish the required Contract Performance Guarantee/Security Deposit in accordance with relevant clause of ITB.
 - e) If the bidder/his representatives commits any fraud while competing for this contract pursuant to Fraud Prevention Policy of NTPC.

6.10 **CONFIRMATION OF BGS THROUGH STRUCTURED FINANCIAL MESSAGING SYSTEM (SFMS)/SWIFT**

While issuing the physical BGs, the Bidder's Bank shall also send electronic message through secure SFMS (in case of BGs issued from within India) or SWIFT (in case of BGs issued from outside India) to NVVN's Beneficiary Bank whose details are provided herein below:

- (i) Bank Name: ICICI Bank Limited**
- (ii) Branch: CONNAUGHT PLACE BRANCH**
- (iii) Bank Address: 9A, PHELPS BUILDING, INNER CIRCLE, NEW DELHI-110001**
- (iv) IFSC Code: ICIC0000007**

BG issuing/amending bank must send the BG advice in the form of message format via SFMS (Structured Financial Messaging System) as provided by RBI. The format of the message for confirmation of the BG shall be as below:

BG advising message: IFN 760COV/ IFN 767COV via SFMS
Field Number: Particulars (to be mentioned in Row 1)
7037: NVVNBG8910 (unique identifier)

6.11 **Online Transfer of Cost of Bid Security**

Bid Security shall be paid through NEFT/RTGS to NVVN's Bank account whose details are provided below.

- (i) Bank Name: ICICI Bank Limited
- (ii) Branch: CONNAUGHT PLACE BRANCH
- (iii) Bank Address: 9A, PHELPS BUILDING, CONNAUGHT PLACE, NEW DELHI- 110001
- (iv) IFSC Code: ICIC0000007
- (v) Account No.: 000705008910

(ii) While carrying out online transfer, Bidders shall ensure to enter "EMD - Tender No.- Vendor Name" in the Text / Remarks / Reason field. Bidder shall intimate the details of

same through email to concerned C&M department and also upload the details in the “Fee Cover” in online portal in the following format:

Declaration for EMD Deposit
Tender No:
Vendor Name:
UTR Reference:
Amount:
Transferor Bank:

7. Procedure for registration and payment of bid security

All the customers registered with -ETS PORTAL e–Tendering/ e-Auction Platform can submit EMD / Bid security as per procedure outlined in bid documents.

8. Late Bids

Any Bid Security received after the bid submission deadline prescribed by the Employer, will be rejected and returned unopened to the Bidder.

9. Bidding Requirement

Only registered bidders will be allowed to participate subject to bidder meeting the bid requirements as per clause 04 of the Invitation for Bid.

10. Modification and Withdrawal of Bids

No bid can be withdrawn. However, during the auction process, bidders may increase their bid price and quantity any number of times as per the rules of the auction [only upward revision in the rate, once quoted / entered, is allowed]. Withdrawal of bids may result in the forfeiture of the Bidder’s bid security.

11. Bidding Schedule

The schedule for submitting the bids is as mentioned in the e tender catalogue / in the bid document at clause 03 of the Invitation for Bid [IFB] or as amended and informed to bidders from time to time on the E tender website.

12. Owner’s Right to accept any Bid or to reject any or all Bids

Notwithstanding anything mentioned above, the Owner reserves the right to accept or reject any bid, either in full or in part or to annul the bidding/auction process and reject all bids at any time prior to allocation of quantity without assigning any reason thereof.

No contract shall be awarded to a bidder against whom a Debarment Order has been issued as per Owner’s Policy for Debarment from Business Dealings.

13. Owner’s Right to adjust the quantity during sale period.

The Owner reserves the right to adjust/decrease the quantity at any point of time during

the period of sale which NTPC could not provide to the bidder for lifting for any reason whatsoever, but not attributable to the bidder.

14. Contract Performance Guarantee (CPG) / Security Deposit (SD)

- a. Within fifteen (15) days of the issue of award letter for allocation by the Owner, successful Bidders shall submit the Contract Performance Guarantee / Security Deposit for an amount equivalent to Five (5%) percent of value of allocated quantity in the form of EFT/RTGS in favour of NTPC Ltd or through an unconditional and irrevocable Bank Guarantee (**Annexure – VIII**) and verified as per checklist (**Annexure – IX**). CPG / SD submitted in the form of Bank Guarantee shall be valid for 90 days in addition to period of contract. List of Banks is available as **Annexure – X** of Bid Document.
- b. Failure of the successful Bidder to comply with the requirement of Submission of Contract Performance Guarantee within the prescribed time shall constitute sufficient grounds for the annulment of the allocation order and forfeiture of the Bid Security. In that event no damages or compensations shall be payable to the buyer. Further, such bidder / buyer shall also be dealt as per the provisions of policy for Debarment from Business Dealings.
- c. For commencement of supplies, submission of CPG / SD is a precondition.
- d. Contract Performance Guarantee (CPG) Security Deposit (SD) shall be released within 90 (Ninety) days after successful completion of contract in all respects.

15. Notice

Any notice, request, or consent sought pursuant to the tender shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Owner or Bidder to whom the communication is addressed, or when sent by e-Mail, speed post, telex, telegram, or facsimile to such Party i.e. Owner or Bidder.

16. Understanding and Clarification of Bid Documents

- a. The Bidder is expected to carefully examine the Bid documents and fully satisfy himself as to all the conditions and matters, which may in any way affect the work or the cost thereof. If any Bidder finds discrepancies or omissions in the Bid documents or is in doubt as to the true intent or meaning of any part thereof, he shall at once request in writing to the Owner for an interpretation / clarification of the Bid documents. The Employer will respond to any request for clarification or modification of the bidding documents that it receives not later than the date specified in IFB. NVVN will post the Clarifications at portal and Bidders can view these clarifications once they are posted at the e-portal. After receipt of such interpretation or clarifications, the Bidder shall submit his Bid but within the time and date as specified in the invitation to Bid. All such interpretation and clarification shall form a part of the Bid documents.
- b. Bidders shall be notified through system generated e-mail regarding posting of clarification at the e-portal. Bidders are also advised to regularly check e-tender portal regarding posting of clarification, if any.

Further, no queries from Bidders shall be entertained after last date of receipt of

Queries/ Pre-Bid Conference (if applicable) as specified in IFB. Accordingly, any query (ies) received from Bidders after the cut-off date shall be returned.

- c. Verbal clarifications and information given by Owner or its employees or representatives shall not be in any way binding on the Owner.

17. ADDENDA/ CORRIGENDA/ AMENDMENTS TO BIDDING DOCUMENTS

Addenda / Corrigenda / Amendment to the Bidding / Auction Documents may be issued prior to the date of opening of the e-Auction to clarify or effect modification in specification and / or Contract terms included in Bidding Documents. The bidder shall suitably take into consideration such Addenda / Corrigenda / Amendment while submitting his bid. The addenda corrigenda / amendment shall be posted at ETS PORTAL for viewing by the bidder. The addenda /corrigenda/ amendments will be binding on Bidders and it will be assumed that the information contained therein will have been taken into account by the Bidder in bid. Bidders are also advised to regularly check at ETS PORTAL regarding posting of addenda/ corrigenda / amendment if any.

18. Award for sale of Gypsum

- a. Prior to the expiration of the bid validity prescribed by the Seller, the Owner will issue a Letter of Award (LOA) [**Annexure – XIII**] to the successful Bidder containing reference of the documents which form the Contract, Scope of Work, Contract Price, period of completion of the Works, terms of payment, and other important aspects in consideration of the execution and completion of the works and the remedying of any defects therein by the Buyer as prescribed by the Contract.
- b. This Letter of Award will constitute the formation of the Contract.
- c. The successful bidder shall return a copy of the Letter of Award, duly signed and stamped, as token of their acknowledgement.
- d. Bidder would be required to comply with all requirements of the notification of allocation without any extra cost to the Owner, failing which his bid security may be forfeited.

19. Bid Proposal Schedule

Bidders are to quote **online** their Quantity and Price during the Auction Process as per the rules of Auction.

20. Uniform Bid quantity over the allocation period

The quoted annual quantity requirement shall be considered uniform per month after commencement of first off take for the remaining supply period.

21. Deleted

22. Deviation

Submission of a bid by a bidder at auction portal deems the acceptance to all the terms and conditions of the bidding document by them, without any deviations. Any deviation taken in the terms and conditions of the e tender catalogue / Bid Documents by the bidder in any of the submitted documents may result in forfeiture of bid security.

23. Price Basis

Prices quoted by the Bidder shall remain firm and fixed for the entire period of execution of the Contract.

24. Bid Currencies

Bidders shall indicate the entire Bid Price in Indian Rupees only.

25. Ineligibility for participation in re-tender/ future tenders

Notwithstanding the provisions specified in ITB Sub-Clause 12.8 and ITB Clause 18, if a bidder after having been issued the Notification of Award, either does not sign the Contract Agreement or does not submit an acceptable Performance Security pursuant, and which results in retendering of the package, then such bidder/contractor shall be treated ineligible for participation in re-tendering of this particular package. Further, such bidder/contractor shall also be dealt as per the provisions of policy for Debarment from Business Dealings.

26.0 INTEGRITY PACT: NOT APPLICABLE

~~Bidders are required to unconditionally accept all the conditions of the "Integrity Pact (IP)" as per the relevant attachment to the Bidding Documents which has been pre-signed by the Employer.~~

~~Bidders shall certify their compliance on "Integrity Pact " by **accepting full compliance to all provisions of Bidding Document?**~~

~~On Bidder's acceptance to the above, Bidder confirms to have read, understood and unconditionally accept & commit to all the contents, terms, conditions and undertakings mentioned in the Integrity Pact which has been pre-signed by the Employer and enclosed with the Bidding Documents. Where the Joint Venture(s) / Consortium are permitted to participate in the bid pursuant to ITB Clause 8.1.2(a), acceptance of above by bidder shall mean that all the JV Partner(s)/ Consortium members have read, understood and unconditionally accept & commit to all the contents, terms, conditions and undertakings mentioned in the Integrity Pact which has been pre-signed by the Employer and enclosed with the Bidding Documents.~~

~~On Acceptance of the above, Integrity Pact shall be considered signed by the Bidder / JV Partner(s)/ Consortium members and the same shall come into force from the date of submission of bid.~~

~~It may also be noted that subsequent to Employer's evaluation of Bids, resulting into award of Contract to a particular Bidder, the Integrity Pact so submitted shall form an integral part of the Contract.~~

~~Independent External Monitors (IEM)s~~

~~In respect of this package, the Independent External Monitors (IEMs) would be monitoring the bidding process and execution of Contract to oversee implementation and effectiveness of the Integrity Pact Program.~~

~~This panel is authorized to examine / consider all references made to it under this tender. The bidder(s), in case of any dispute(s) / complaint(s) pertaining to this package may raise the issue either with the designated 'Nodal Officer' in NTPC or directly with the IEMs address~~

~~The Independent External Monitors (IEMs) has the right to access without restriction to all Project documentations of the Employer including that provided by the Contractor. The Contractor will also grant the IEMs, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his Project Documentations. The same is applicable to Subcontractors. The IEMs are under contractual obligation to treat the information and documents of the Bidder/ Contractor/ Sub-Contractors/ JV partners/ Consortium member with confidentiality.~~

27.0 **Corrupt or Fraudulent Practices**

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

- (a) Defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition;
- (b) will reject a proposal for award if it determines that the Bidder 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 Employer.

27.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 42.2 of the General Conditions of Contract.

28.0 **Fraud Prevention Policy:**

28.1 The Bidder along with its associate/ collaborators/ sub-contractors/ sub-vendors/ consultants/ service providers shall strictly adhere to the Fraud Prevention Policy of EMPLOYER displayed on its tender website https://ntpc.tender.ntpc.co.in/Heading/Fraud_Prevention_Policy.pdf and/or <https://www.nvvn.co.in/> and shall immediately apprise Employer about any fraud or

suspected fraud as soon as it comes to their notice. If in terms of above policy, it is established that the bidder/his representatives have committed any fraud while competing for this contract then the bid shall be rejected.

Submission of a bid by a bidder at auction Portal shall be considered as the acceptance of Fraud Prevention Policy of NTPC

29.0 **Policy for Debarment from Business Dealings**

NTPC has in place a policy for withholding and Debarment of business Dealings as displayed at <https://nvn.co.in/assets/files/Debarment-Policy-Rev-04.pdf>. Business dealings may be withheld or banned with the Buyer on account of any default by the Buyer or any of the grounds detailed in the said Debarment Policy. Submission of a bid by a bidder at auction portal deems the acceptance to all the terms and conditions of the bidding document by them, without any deviations.

Submission of a bid by a bidder shall be considered as bidder's confirmation to the following conditions:

(1) Bidder has read the contents of Debarment Policy (version mentioned in BDS) displayed on the website www.ntpc.co.in / www.ntpctender.ntpc.co.in and agreed to abide by this policy.

- a) Bidder has not been Banned / Blacklisted as on date of submission of bid by Ministry of Power or Deptt. Of Expenditure, Ministry of Finance.
- b) Bidder has not employed any public servant dismissed / removed or person convicted for an offence involving corruption or abetment of such offences.
- c) Bidder's Director(s) / Owner(s) / Proprietor / Partner(s) have not been convicted by any court of law for offences involving corrupt and fraudulent practices including moral turpitude in relation to business dealings with Government of India or NTPC or NTPC's group companies during the last five years.

(2) Bidder further confirms as under:

that if at any point subsequent to award of Contract, the declarations given above are found to be incorrect, NTPC /Employer shall have the full right to terminate the Contract and take any action as per applicable laws for breach of contract including forfeiture of Bid Security/Performance Bank Guarantee.

The version of Policy for Debarment from Business Dealings presently followed by NTPC is Rev-4.

Submission of a bid by a bidder at auction Portal shall be considered as the acceptance of Debarment from Business Dealings Policy of NTPC

30.0 **Deleted**

31.0 Pre-Bid Conference (Not Applicable)

32.0 **Deleted**

32.0 ~~“Restrictions on procurement from a Bidder of a country which shares a land border with India”~~

32.1 ~~Any Bidder (including its Collaborator/Associate/DJU Partner/JV partner/Consortium Member/Assignee, wherever applicable) from a country which shares a land border with India will be eligible to bid in this tender only if bidder is registered with the Competent Authority as mentioned in GCC/Special Conditions of Contract (SCC).
Such registration should be valid for the entire period of bid validity or any extension thereof. However, in case the validity period of registration is less than bid validity period, the Bidder shall be required to submit the extension of the validity period of registration before the opening of price bids, failing which the bid shall be rejected.
Further the successful bidder shall not be allowed to sub-contract supplies/ services /works to any “Sub-contractor” from a country which shares a land border with India unless such Sub-contractor is registered with the competent Authority as mentioned in GCC/SCC.
However, the said requirement of registration will not apply to bidders/sub-contractors from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects. Bidders may apprise themselves of the updated lists of such countries available in the website of the Ministry of External Affairs.~~

~~“Bidders from a country which shares a land border with India” / “Sub-contractor from a country which shares a land border with India” mentioned in para 40.1 above means;~~

- ~~a) An entity incorporated, established or registered in such a country; or~~
- ~~b) A subsidiary of an entity incorporated, established or registered in such a country; or~~
- ~~c) An entity substantially controlled through entities incorporated, established or registered in such a country; or~~
- ~~d) An entity whose beneficial owner is situated in such a country; or~~
- ~~e) An Indian (or other) agent of such an entity; or~~
- ~~f) A natural person who is a citizen of such a country; or~~
- ~~g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.~~

32.5 ~~The beneficial owner for the purpose of clause “42.4” above will be as under;~~

~~a) In case of company of 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 a controlling ownership interest or who exercises control through other means.~~

~~Explanation~~

- ~~i. “Controlling ownership interest” means ownership of or entitlement to more than twenty five per cent of shares or capital or profits of the company;~~
- ~~ii. “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholdings or management rights or shareholders agreements or voting agreements;~~

~~b) In case of a partnership firms, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more judicial person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;~~

~~c) In case of an unincorporated associations 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;~~

~~d) Where no natural person is identified under (a) or (b) or (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing officials;~~

~~e) In case of a trust, the identifications of beneficial owner(s) shall include identification of the author of 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.~~

33.0 Benefits to MSEs (Micro and Small Enterprises) - NOT APPLICABLE

34.0 CONFLICT OF INTEREST

34.1 A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Employer's interests. A bidder may be considered to have a conflict of interest with one or more parties in the bidding process, if:

- a) they directly or indirectly control, or are controlled by or are under common control of another entity; or
- b) they have the same legal representative/agent for purposes of their bids;
- c) they have relationship with each other, directly or through common third party(ies), that puts them in a position to have access to information about or influence on the bid of another Bidder; or
- d) Bidder and/or any of its allied entity(ies), which directly or indirectly control(s) or is(are) controlled by or is(are) under common control of another entity, has(ve) participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the tender; or
- e) Bidder participates in more than one bid in this bidding process.

For the purposes of this clause the term 'control' shall have the following meaning:

"Control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders' agreements or voting agreements or in any other manner.

Note: If two or more CPSEs/State PSEs participate in a tender, they will not be deemed to fall under the 'Conflict of Interest' provisions solely because they are under common control of Government of India / State Government.

34.2 Bidders shall certify their compliance to ITB Clause "Conflict of Interest" by accepting and submitting the NIL Deviation Certificate.

Acceptance of above shall be considered as Bidder's confirmation that Bidder has read and understood the ITB Clause regarding "Conflict of Interest and its bid is in compliance to this clause. In case it is established that Bidder has provided any false information in pursuance of the aforesaid ITB Clause, while competing for this contract, then its bid shall be rejected and bid security shall be forfeited.

In case of a successful bidder, if it is established that the Bidder has not complied with terms of aforesaid ITB Clause, during execution of contract, this would be considered as fraudulent practices as mentioned in para 5.1 (j) of "Policy for Debarment from Business Dealings" and shall be dealt accordingly.

35.0

Anti-Bribery and Anti-Corruption (ABAC) Policy:

The Bidder and its employees along with its Associate/ Collaborator/ Sub- Contractors / Sub-Vendors / Consultants / Service Providers and all other persons associated with business of Employer shall strictly adhere to Anti- Bribery and Anti-Corruption (ABAC) Policy of Employer displayed on tender website <https://ntpctender.ntpc.co.in/>.

Bidders shall certify their compliance on "Anti-Bribery and Anti-Corruption (ABAC) Policy" of Employer by accepting & submitting the NIL Deviation Certificate.

Acceptance of above, shall be considered as bidder's confirmation that they and their employees along with their associate / collaborator/ subcontractors / sub vendors / consultants / service providers shall strictly abide by "Anti-Bribery and Anti-Corruption (ABAC) Policy" of Employer as displayed on tender website at <https://ntpctender.ntpc.co.in/> under section 'policy docs' and undertake that they represent and confirm that they are aware of, understand, and will comply with all applicable laws and regulations relating to anticorruption and anti-bribery and the ABAC Policy of Employer.

SECTION IV SPECIAL CONDITIONS OF CONTRACT & SCOPE OF WORK

The following Special Conditions of Contract (SCC), Section-IV, shall supplement/amend the General Conditions of Contract (GCC), Section-V and Instruction to Bidders (ITB). Wherever there is a conflict, the provisions in SCC shall prevail over those in the GCC and ITB.

SCOPE OF WORK AND SPECIAL CONDITIONS OF CONTRACT

1. Introduction

NTPC Vidyut Vyapar Nigam Limited (NVVN) intends to sell Gypsum on behalf of NTPC generated from the FGD (Flue Gas Desulfurization units) of NTPC Thermal Power Stations (Name of Station: **NTPC SOLAPUR**).

The Employer is: NTPC Ltd.

Name of Station: NTPC SOLAPUR

Project Manager: Shall be intimated in the Letter of Award

- a. NTPC shall be in a position to make available allocated quantity of Gypsum subject to availability, Force Majeure conditions and unplanned outage of plant, etc.
- b. Tentative date of availability of FGD Gypsum: Schedule shall be provided by NTPC Station
- c. NTPC reserves the right to supply the quantity not lifted by the buyers to any other party at the sole discretion of the Owner.
- d. Quantity: **50,000 MT**
- e. Period: (one year from the date of start of lifting (date of start of lifting shall be date of LOA or as decided by the Engineer-In-Charge)

2. Scope of Supply: As per Clause 2.0 of IFB.

3. Working Hours

Issue of Gypsum is intended to be given on all days (on 24 x 7 basis), including national holidays, or as per directions of Engineer-in-charge.

4. Delivery Point

- a. NTPC station would deliver Gypsum from the designated delivery point(s) i.e., Gypsum storage facility of FGD plants inside NTPC station premises/other suitable locations as decided by Engineer-In-Charge for the contract on "As available" basis.
- b. Gypsum shall be considered to have been delivered as it passes into the buyer's vehicle at the loading point.

5. Loading Schedule/Working Hours

Loading schedule/working hours for lifting of Gypsum is intended to be given by the respective Nodal officer of the NTPC station. The buyer cannot claim any damages/demurrages from the NTPC station/NVVN for delay in loading/unloading the Gypsum in the transportation provided by the buyer.

6. Quality of Gypsum

NTPC station would deliver Gypsum at designated delivery point (s) on “As Available” basis with the following parameters:

| S.No | Description | Measurement (Tolerance Limit) |
|------|-----------------|-------------------------------|
| 1 | purity (%) | 90% (± 5%) |
| 2 | moisture (%) | 10% (± 5%) |
| 3 | chlorides (ppm) | 100 PPM (± 10 ppm) |

7. Methodology of Pricing

- a. Price chargeable to buyer (s) shall be the price obtained from the auction process received as per the methodology described in clause below in Rupees per MT
- b. All statutory duties/taxes/levies including GST shall be charged extra

8. Price Bidding Methodology

- a. Bidders may quote the quantity required against a price starting from price quoted by the bidder in the bid (quoted price shall be equal to or higher than the reserve price) and with a minimum bid increment of INR 10 for domestic and USD 0.11 for foreign buyers.
- b. Bidders may quote the quantity required against a price starting from the quantity quoted by the bidder in the bid (minimum quantity to be quoted is 5000 MT) with minimum increment of 500 MT (Five Hundred Metric Tonne).

9. Evaluation Criteria of Bids

Price Discovery and Quantity for allocation

Gypsum available is being auctioned through e-Auction portal on “Bucket filling” concept / auction process. The general methodology for Price Discovery and Quantity for allocation through sale/ auction process will be as under:

- a. Total quantities offered (Bucket quantity) is available for an auction. Allocation of quantities will be based on final ranking of the Bidders in the descending order of Rate (per MT) quoted by them during Sale / Auction process for lifting of the total quantities offered (Bucket quantity) by the Station for Sale.
- b. While bidding, Domestic Buyers shall quote their "Bid Price" per MT in Indian Rupee and Foreign buyers shall bid in USD for a price equal to or above the Floor Price / Reserve Price to secure consideration in the concerned e-Auction. Bidder quoting price lesser than the reserve price in price bid shall be rejected and shall not be considered for e-auction. Exchange rate for the bid evaluation shall be the prevailing exchange rate (USD-INR) 7 working days before proposed bid submission date.

- c. Bidder should quote the prices exclusive of all payable taxes. The applicable taxes and duties shall be paid by the buyer extra as per actual to the concerned authorities.
- d. The date, time and period of e-Auction as notified in advance including closing time on portal of **e-Auction portal** shall be adhered to. However, the closing time of e-Auction will be automatically extended up to last Bid time, plus 5 minutes, so that opportunity is given to other Bidders for making an improved Bid.
- e. Domestic bidder shall offer their Bid Price (Per MT) in the increment of INR 10/- (predefined) and foreign bidder shall offer their bid price in the increment of USD 0.11 during the normal e-Auction period and also during the extended period. The minimum quantity increment should be 500 MT.
- f. While maintaining the secrecy of Bidder's identity, the website shall register and display on screen the bid prices. The system will not allow a Bidder to Bid in excess of his entitled quantity as per his EMD.
- g. Following criteria would be adopted in deciding the successful bidders (allocation/deallocation criteria):
 - (i) Precedence will be accorded to the highest bid price in the descending order (H1, H2, H3 and so on) as long as the offered quantity is available for allocation.
 - (ii) If two or more buyers bid the same highest price, precedence for allotment will be accorded to the buyer who has placed the bid first as per time stamp.
 - (iii) In case, two or more buyers bid the same price at the same time, precedence will be accorded to the bidder who has bid for the highest quantity in the descending order as long as the offered quantity is available for allocation.
 - (iv) In case, two or more buyers bid for the same quantity, then NTPC reserves the right to award quantity to the bidders

10. Award Criteria

- a. The bidder shall be awarded the quantity on the quoted price as per clause 07 above. **No contract shall be awarded to a bidder against whom a Debarment Order has been issued as per Employer's Policy for Debarment from Business Dealings.**
- b. Once the contract for lifting Gypsum is allocated to a buyer, then it can be allocated/issued to any unit/plant of the same company at the same quoted price and terms and conditions, provided Gypsum is available.

11. Period of Supply

Duration of supply of Flue Gas Desulfurization Gypsum from NTPC Station will be for a period one year from the date of start of lifting (date of start of lifting shall be date of LOA or as decided by the Engineer-In-Charge or till the completion of supply of Bid Quantity, whichever is earlier.

12. Award Price:

Quoted price by the bidders shall be the award price and shall remain firm for the period of supply.

13. Consideration payable by the Buyer

Allocated quantity of FGD Gypsum for any period shall be divided into monthly quantity and amount payable based on the quantity for one month is to be deposited in advance (along with all taxes and duties as applicable) to NTPC for the quantity of FGD Gypsum to be lifted in next month.

14. Upward Quantity Flexibility

If requested by the buyer, NTPC station shall consider supply of additional quantity over and above the allocated quantity, within the contracted period, subject to availability and at the sole discretion of the NTPC station at the highest price quoted by any bidder during the auction process.

15. Payment Terms and Bank Charges

- a. Delivery shall be made against advance payment. Payment shall be made in the form of Electronic Fund Transfer (EFT) in favour of NTPC station.
- b. The amount of advance shall be equivalent to value of 1 month of off-take quantity, and the same shall be deposited by 28th day of every month.
- c. The advance amount shall be adjusted against delivery.
- d. All bank charges shall be borne by the buyer
- e. NTPC shall under no circumstances be liable for any costs, charges, liabilities of whatsoever nature arising subsequent to the delivery / loading of the materials on vehicle at Ex-plant, such as freight, insurance charges, port dues, taxes including income tax, customs duties, unloading and handling charges, levies and fees, if any, of whatsoever nature and kind, payable or leviable at the time of or by reason of importation of the Gypsum in the country of import.
- f. Permission to start the work will be given for first month after deposition of CPG and one-month advance payment along with the applicable taxes/duties within 15 days of placement of award.
- g. Permission for next subsequent month will be given after depositing the advance payment for that month along with the taxes/duties before start of that month.

16. Commencement of first off take

Commencement of first off take for buyers of Gypsum should not exceed beyond one month from the date of start/ Commencement of Sale, unless specifically agreed by NTPC.

17. Special Conditions of Sale

- a. The bidder shall consume/use the allocated quantity of Flue Gas Desulfurization Gypsum at their plants in India or abroad or may trade to other end users.
- b. FGD-Gypsum Sale orders will be issued to various vendors separately corresponding to their allocation by respective NTPC station.
- c. Bidder shall comply with all statutory environmental and safety norms during the period of contract.

- d. Buyer should cover its truck/vehicle with tarpaulin or any other means prior to exit of truck from the NTPC premises to avoid any fugitive dust emission.
- e. Gypsum is a by-product produced during desulfurization of flue gas generated from burning of coal in Power plant units for generation of electricity. The generation from power plant is mainly dependent on external factors like demand in national / regional power grid and availability of coal, which cannot be predicted with certainty. Unscheduled shutdowns of units also affect generation of electricity. Therefore, though all efforts will be made to make available the contracted quantity of Gypsum, NTPC/NVVN does not guarantee availability of Gypsum as per contracted quantity as per schedule and will not be liable for any compensation or damages for non-supply of required quantity of the Gypsum. However, NTPC/NVVN may offer additional quantity of Gypsum at a later date subject to availability.
- f. The total sale period will be counted from the first off take or delivery of Gypsum of each buyer.
- g. If Gypsum is not available from the designated unit due to any reason, then the seller/NVVN may offer Gypsum from other units / stations depending upon the availability but at the same price. This shall be subject to mutual agreement. It will form a part of the contracted quantity.
- h. NTPC reserves the right to allow the maximum time deviation up to one year after the completion period of sale if NTPC is not able to provide the allocated quantity. The time extension will be given subject to acceptance of the same by the bidder depending on the merit of the case.
- i. The NTPC/NVVN reserves the right to sell the quantity not lifted by the buyers to any other party.
- j. In case the buyer fails to lift the quantity as per agreed schedule, then for all deviation of off take beyond (-) 25% per month, NTPC reserves the right to sell it to any other party at the risk and cost of the buyer. The shortfall in the amount will be adjusted from the buyer's advance deposited amount.

18. Rail Transport of Gypsum

NTPC shall facilitate access of Rail loading facility at NTPC premises wherever is feasible, provided the saving on account of using the rail transport will be shared between NTPC and Buyer. The modalities of sharing of saving on account of using the rail transport will be decided before the transport of Gypsum by rail is allowed by NTPC. The savings amount so arrived at shall be adjusted from the advance payment deposited by Buyer.

19. Gypsum Delivery Conditions

- a. Transportation of Gypsum shall be in the scope of buyer.
- b. NTPC would deliver Gypsum from the Gypsum storage facility.
- c. Loading of Gypsum in the truck of the buyer shall **also be done by Buyer**.
- d. Quality parameters shall be checked and certified by NTPC periodically. Testing may be witnessed by Buyer at the NTPC site. Buyer can also check the quality parameter of Gypsum before loading in the truck at their cost.

- e. Gypsum shall be considered to have been delivered once loaded into the buyer's vehicle at the loading point.
- f. The buyer shall be solely responsible for excess loading of Gypsum in their trucks against the permitted quantity as per prevailing rules and guidelines.
- g. In case of any issue related to quality parameters of Gypsum, buyer can visit NTPC laboratory & witness the checking procedure & systems & be satisfied with the results. However, even then if issue is persisting, then a joint sample of Gypsum will be collected & will be sent to mutually agreed NABL laboratory in India. The result of Gypsum sample from NABL laboratory will then be binding & final for both seller & buyer.

20. Lifting Sequence and allocation after Auction Process

To be finalized by EIC depending upon site specific conditions with following general guidelines regarding Daily allocation of FGD – Gypsum

- a. All successful bidders shall submit a monthly requisition to NTPC station containing a list of their day wise requested quantities for each month by the 22nd of the previous month.
- b. Based on above, corresponding annual allocated quantity and availability. NTPC shall determine and intimate the day wise allocation for each month by 28th of the previous month.
- c. All allocated bidders (or transportation vendors) shall be expected to follow the above schedule and mobilize accordingly.
- d. In case of non-mobilization / inadequate mobilization, NTPC may, at its discretion, allocate such quantity to alternate bidder(s) / avenue(s). Decision of Engineer-In-Charge (EIC – NTPC shall be final and binding in this regard.
- e. Any deviation from the allocated monthly quantity will be considered subject to approval of NTPC station.

21. Delivery

- a. Loading & Transportation of Gypsum shall be in the scope of buyer. The buyer(s) shall make arrangements for taking delivery in their own trucks. Transportation of Gypsum in trucks from the delivery point to the destination shall be done by the Buyer at its own risk and cost.
- b. NTPC station would deliver Gypsum from the Gypsum storage facility of different units as per the contract for sale.
- c. Loading of Gypsum in the truck/vehicle of the buyer shall be done by NTPC through backhoe/JCB/ other vehicle. Gypsum will be loaded in open Trucks/Trailers/Tippers only. Please note that Tippers/Trailers/Trucks having Extra Ribs will not be allowed to enter inside the plant for loading
- d. Quality parameters shall be checked and certified by NTPC periodically at NTPC lab. Testing may be witnessed by buyer at the NTPC site. Buyer can also check the quality parameter of Gypsum before loading in the truck at their cost.

- e. Gypsum shall be considered to have been delivered once loaded into the buyer's vehicle at the loading point.
- f. Supplier has to ensure that no overloading of Gypsum is done in trucks/vehicles. The buyer shall be solely responsible for excess loading of Gypsum in their trucks against the permitted quantity as per prevailing rules and guidelines.
- g. In case of any issue related to quality parameters of Gypsum, buyer can visit NTPC laboratory and witness the checking procedure and systems and be satisfied with the results. However even then if issue is persisting, then a joint sample of Gypsum will be collected and will be tested at NTPC Lab.

22. Weighment for invoicing

- a. FGD Gypsum shall be issued based on actual weighment. Weighment of lifted Gypsum shall be done at nearest authorized weighment facility of NTPC. The weight so recorded shall be considered as final.
- b. Buyer should depute his authorized representative to the power station for coordination and taking delivery of Gypsum.
- c. NTPC has the right to suspend the delivery of Gypsum in case the advance payment is not available or is not made by the required date. Such suspension of delivery shall be to the account of buyer

23. Responsibility during Gypsum loading and transportation

- a. Buyer shall make their own arrangement for loading and transporting Gypsum.
- b. Buyer shall ensure that lifting of Gypsum, does not cause any damage to property belonging to NTPC. Buyer shall undertake to indemnify NTPC towards any loss or damage caused in this regard.
- c. Valid documents of vehicle and drivers shall be submitted to NTPC for approval before deployment. Above gate passes shall be issued during general shift office hours on working days only.
- d. Gypsum lifting shall be allowed through permitted vehicles only.
- e. Invariably with all the vehicles for lifting of Gypsum, a cleaner / helper shall accompany the driver from entry in the NTPC premises to the loading point and return for helping in positioning of the vehicle. In case of absence of cleaner / helper in this regard NTPC shall be at liberty to disallow entry of the vehicle into its premises.
- f. Buyer shall load Gypsum only up to the body level of the open trucks and NTPC may disallow trucks resorting to overfilling. Bidder shall provide with suitable tarpaulin covers to open trucks (if used) to avoid any dust emission from the trucks during transportation. Mechanically close truck shall be preferred for issue of Gypsum.
- g. Buyer shall ensure that their laborers, transporters, drivers and cleaner or our personnel shall only be present at the Gypsum issue / loading area and shall not stay / loiter unauthorized in any other location in the factory area. In case any of our persons are found

in unauthorized location except the designated places, NTPC may take suitable action as deemed fit and proper.

- h. The buyer will be responsible for any kind of injuries or accidents caused to their employees or labourers or any other person and NTPC will not be liable in the matter. If any action is brought against the seller for payment of damages or compensations on this account, the buyer shall indemnify the seller from all such action or claim from damages/compensation. If the seller is held liable for any compensation after expiry of the contract period, buyer shall forthwith compensate the seller, if any such claim arose.
- i. The Buyer's transporter(s) shall have valid license and meet the statutory compliance requirement of State Government / Central Government / Concerned Authorities for transportation of the specified goods.

24. Billing

NTPC will issue Challan/ Exit gate pass on daily basis for each truck of the buyer while making the delivery. Invoices shall be issued to buyers with each deliver with copy to NVVN before lifting of Gypsum. The invoice shall mention the value of Gypsum delivered for each day, along with applicable duty/ taxes/ cess etc. the invoice amount shall be adjusted against the advance payment made by the buyers. The invoice raised by NTPC to domestic bidder shall be in INR, and to foreign bidder shall be in USD.

25. Indemnities for Environment Clearance

All Regulatory and Statutory compliances to be ensured by the bidder while lifting / transportation / Disposal / Usage / Sale etc. Buyer will submit an indemnity bond as per prescribed format to keep NTPC indemnified against legal proceedings / paying damages arising out of non-compliances by the bidder, if any [**Annexure – XII**].

26. Termination of Contract

- a. In case, off take of Gypsum by vendor falls below 50% of the contracted or agreed quantity, whichever is lower, during two consecutive months, then NTPC/NVVN reserves the right to terminate the contract by giving 15 days' notice in writing of their intentions to do so and in such case the CPG of the vendor will be forfeited.
- b. The NTPC/NVVN also reserves the right to terminate the contract in the event of breach of contract by the buyer giving one month notice in writing of their intentions to do so and in such the CPG of the vendor will be forfeited.

Following will constitute breach of contract:

- i) Delay in Gypsum off-take / non - lifting of Gypsum by Buyer from committed start date by more than one month.
- ii) In case, Gypsum off take falls below 50% during two consecutive months of the contracted or agreed quantity (whichever is lower), during any month.
- iii) Buyer is not complying with operational and safety requirements.
- iv) Buyer has failed to discharge his obligations according to other terms & conditions of contract.

v) Non-payment / reimbursement of statutory taxes and duties by the Buyer.

- c. Contract for sale of Gypsum may be terminated at any time depending on the policy of the Government and / or other concerned authorities. NTPC/NVVN reserves the right for withdrawal of the contract in the interest and safety of the station and the Company by giving 15 days' notice in writing to the buyer.

27. Compliance by Buyers

Buyers to comply with all reasonable controls imposed by the NTPC station and to cooperate with the station and other operating buyers / contractors and to abide by the decision of EIC. In case of any dispute the decision of EIC shall be final and binding.

28. Order of Preference

- a. Special Condition of Contract
- b. General Conditions of Contract
- c. E-Auction website Terms & Conditions

29. Bidders are requested to submit all the documents, including qualifying requirement 'ONLINE' at **e-Auction portal**.

Qualifying Requirement documents/any other document of any prospective bidders received offline/through e-Mail/other means at NTPC location/s will not be entertained and considered by NTPC for evaluation. However, in case of shortfall documents from the bidders who have uploaded the documents at **e-Auction** portal against the subject e-Auction.

30. Settlement of Disputes

As per Clause 5.0 of General Conditions of Contract

31. Jurisdiction of Court:

Only Delhi Court shall have the exclusive jurisdiction in all the matters concerning the contract.

32. Inspection (for upcoming FGD plants)

Wherever the Flue Gas Desulfurization units are under erection and commissioning phase, NTPC shall not be in a position to provide any type of sample to the buyers. However, prospective bidder may contact the below concerned:

| Name | E Mail ID | Contact No |
|------|-----------|------------|
| | | |
| | | |

33.0 Multiple Units

Single company/firm having multiple units in different states wanting to submit single bid for the requirement of all its units together shall be allowed to submit single bid collectively for all its units located in a different states. Such company/firm shall submit the quantity requirement unit-wise in the techno-commercial bid/before issuance of LOA/sales order.

Further, Single company/firm having units in different states (i.e different GST numbers) wanting to bid separately for its units located in different states shall be allowed to participate as separate bidders & submit bids. In such case, Bid security shall be submitted separately.

However, if the company/firm has multiple units within the same state, then such company/firm shall submit single bid collectively for the requirements of all its units located within the same state and confirm the quantity requirement unit-wise (within the state) in the techno-commercial bid/before issuance of LOA/sales order.

SECTION – V

GENERAL CONDITIONS OF CONTRACT (GCC)

GENERAL CONDITIONS OF CONTRACT

1. Acquaintances of local conditions:

It will be imperative for the Bidder to fully inform himself of all local conditions, legal requirements and factors which shall have any effect on the execution of the agreement / Sale work covered under these documents and specifications.

2. Language of the Contract

All bids shall be submitted in English Language

3. Confidentiality

- a. Information relating to the examination, clarification, evaluation, and comparison of bids, and recommendations for allocation shall not be disclosed to bidders or any other person not officially concerned with such process.
- b. Any effort by the bidder to influence the Owner in the Owner's bid evaluation, bid comparison, or allocation decisions may result in the rejection of the Bidder's bid.
- c. From the time of bid opening to the time of allocation, if any Bidder wishes to contact the Supplier on any matter related to its bid, it should do so in writing.

4. Examination of Bids and Determination of Responsiveness

- a. The Owner will examine the bids to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the bids are generally in order.
- b. The Owner may waive any minor informality, nonconformity, or irregularity in a bid that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.

5. Settlement of Disputes

5.1 Mutual Consultation

If any dispute of any kind whatsoever shall arise between the Employer and the Contractor 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 work, whether during the progress of the work 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.

On reference of such a dispute by either party, the Employer shall invite the Contractor for mutual consultation, within seven (07) working days of such reference.

Without admitting the Employer's liability, the Employer may obtain, within 30 days of reference of the dispute, further details from the Contractor and examine it relating to the dispute. Such examination (if any) by the Employer shall not imply acceptance of the accuracy or completeness of the details. The Employer may hold discussions with Contractor with an effort to resolve the dispute.

If the parties fail to resolve such a dispute or difference by mutual consultation within a period of forty-five (45) days from the date of reference of such dispute or within such extended period as the parties shall agree in writing, then the dispute may be settled through Independent Engineer (if applicable) and/ or Mediation through Independent External Monitors (if applicable) and/or through Conciliation and/or Arbitration (if applicable) / other remedies available under the applicable laws.

Notwithstanding anything contained in any other law for the time being in force, the parties shall keep confidential all matters relating to the Mutual consultation proceedings. Confidentiality shall extend also to any agreement reached during Mutual consultation, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or introduce as evidence in Independent Engineer/ Mediation/ Conciliation/ Arbitral or Judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Mutual consultation proceedings-

- a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- b) admissions made by the other party in the course of the mutual consultation proceedings;
- c) the fact that the other party had indicated his willingness to accept a proposal for mutual settlement Resolution of Dispute through Expert Settlement Council

If the parties fail to resolve such a dispute or difference by mutual consultation, the dispute if the parties agree, may be referred to Conciliation in cases involving disputed amount up to INR 250 crores, which is to be arrived at considering the claim and counter claim of the parties to the dispute.

5.2 Resolution of Dispute through Conciliation

If the parties fail to resolve such a dispute or difference by mutual consultation and through Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period as specified at Cl. 5.1 and 5.2 above, the dispute if the parties agree, may be referred to Conciliation

- (i) For cases where the disputed amount (Claim/ Counter claim, whichever is higher) is upto Rs. 25 Cr. (excluding interest), the matter for conciliation shall be referred to Expert Settlement Council (ESC), constituted by Employer.
- (ii) For cases where the disputed amount (Claim/ Counter claim, whichever is higher) is above Rs. 25 Cr. (excluding interest), the matter for conciliation shall be referred to Conciliation Committee of Independent Experts (CCIE), constituted by Ministry of Power (MoP).

If the claim/Counter-claim is in foreign currency, the SBI Bills Selling Exchange rate prevailing on

the date of claim shall be used for the purpose of converting the claim in Indian Rupee.

The Conciliation process shall be conducted as per Part III of the Arbitration and Conciliation Act, 2016.

5.3.1. Resolution of Dispute through Expert Settlement Council (ESC), constituted by EMPLOYER {For cases with Disputed amount (Claim/ Counter claim, whichever is higher) upto Rs. 25 Crore excl. interest}

If the parties fail to resolve such a dispute or difference by mutual consultation and through Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period specified at Cl. 5.1 and 5.2 above, the dispute, if the parties agree, may be referred to Conciliation through Expert Settlement Council (ESC), in cases where the Disputed amount (Claim/ Counter claim, whichever is higher) is upto Rs.25crore (excl. interest).

5.3.1.1. Invitation for Conciliation through ESC:

5.3.1.1.1. A party shall notify the other party in writing about such a dispute it wishes to refer for Conciliation through ESC within a period of 15 days from the date of failure to resolve the dispute through Mutual Consultation and Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period as specified at Cl. 5.1 and 5.2 above. Such Invitation for Conciliation shall contain sufficient information as to the dispute to enable the other party to be fully informed as to the nature of the dispute, amount of the monetary claim, if any, and apparent cause of action.

5.3.1.1.2. Upon acceptance of the invitation to conciliate, the other party shall submit its counter claim, if any, within a period of 15 days from the date of the invitation to conciliate. If the other party rejects the invitation or Disputed amount (Claim/ Counter claim, whichever is higher) exceeds Rs 25crore (excl. Interest), there will be no Conciliation proceedings through ESC.

There shall be no Conciliation where disputed amount (Claim/ Counter claim, whichever is higher excl. interest) is only up to Rs 5 lakhs.

5.3.1.1.3. If the party initiating Conciliation does not receive a reply within fifteen (15) days from the date on which it sends the invitation, or within such other period of time as specified in the invitation, it shall treat this as a rejection of the invitation to conciliate from the other party.

5.3.1.2. Conciliation through ESC:

5.3.1.2.1. Where Invitation for Conciliation has been furnished under GCC sub clause 5.3.1.1, the parties shall attempt to settle such dispute through Expert Settlement Council (ESC) which shall be constituted by CMD/Chairman of Employer.

5.3.1.2.2. ESC will be formed from experts comprising three members from the panel of Conciliators maintained by EMPLOYER. However, there will be single member ESC for disputes involving disputed amount (Claim/ Counter claim, whichever is higher excl. interest) is up to Rs. 1 crore.

CMD/ Chairman of Employer shall have the authority to reconstitute the ESC to fill any vacancy.

5.3.1.2.3. The ESC shall be amongst Civil Servants of Govt. of India retired from the level of Joint Secretary and above, Retired Judges, Officers retired from the level of Executive Director and above of any Maharatna /Navratna company in India, other than NTPC Ltd, Retired Independent Directors who have served on the Board of any Maharatna / Navratna company in India, other than NTPC Ltd.

5.3.1.3. **Proceedings before ESC:**

5.3.1.3.1. The claimant shall submit its Statement of Claims (SOC) along with relevant documents to ESC members, and to the party(s) indicated in the appointment letter within 15 days of appointment of ESC. The respondent shall file its reply/Statement of Defence (SOD) and counter claim (if any) within 15 days of the receipt of the Statement of claims. Each party shall send a copy of such Statement along with relevant documents to the other party.

Parties may file their rejoinder/additional documents, if any in support of their Claim/Counterclaim within next 7 days. No documents shall be allowed thereafter, except with the permission of ESC.

5.3.1.3.2. The parties shall file their claim and counterclaim in the following format

- a. Chronology of the dispute
- b. Brief of the contract
- c. Brief history of the dispute
- d. Issues

| Sl. No. | Description of Claims/ Counter claims | Amount (in foreign currency/INR) | Relevant Contract Clause |
|---------|---------------------------------------|----------------------------------|--------------------------|
| | | | |
| | | | |
| | | | |

- e. Details of Claim(s)/Counter Claim(s)
- f. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

Note: Statement of claims shall be restricted to maximum limit of 20 pages

5.3.1.3.3. In case of 3 members ESC, 2 members will constitute a valid quorum and the meeting can take place to proceed in the matter after seeking consent from the member who is not available. However, ESC recommendations will be signed by all the members. If required, meetings can be conducted through video conferencing/other digital means subject to the agreement between the parties and the ESC.

5.3.1.3.4. The parties shall be represented by their in house employees. No party shall be allowed

to bring any advocate or outside consultant/advisor/agent to contest on their behalf. Ex-officers of Employer's Organization who have handled the subject matter in any capacity shall not be allowed to attend and present the case before ESC on behalf of contractor. However, ex-employees of parties may represent their respective organizations. Parties shall not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till execution of settlement agreement, if so arrived. In case, parties are unable to reach a settlement, no interest shall be claimed by either party for the period from the date of notice invoking Conciliation till the date of ESC recommendations and 30 days thereafter in any further proceeding.

5.3.1.3.5. ESC will conclude its proceedings in maximum 10 meetings, and give its recommendations within 90 days from the date of reference to ESC. ESC will give its recommendations to both the parties recommending possible terms of settlement. CMD/ Chairman of Employer may extend the time/number of meetings, in exceptional cases, if ESC requests for the same with sufficient reasons and as agreed by the parties.

5.3.1.3.5. Depending upon the location of ESC members and the parties, the venue of the ESC meeting shall be either Delhi/Mumbai/Kolkata/Chennai or any other city whichever is most economical from the point of view of travel and stay etc. All the expenditure incurred in ESC proceedings shall be shared by the parties in equal proportion.

5.3.1.4. **Fees & Facilities to the Members of the ESC**

The cost of Conciliation proceedings including but not limited to fees for Conciliator, Airfare, Local transport, Accommodation, cost towards conference facility etc shall be as provided herein below:

| Sl. No. | Fees/ Facility | Entitlement |
|---|---|--|
| 1 | Fees | Rs. 25,000 per meeting subject to max. of Rs. 2,50,000 per case per Conciliator. |
| 2 | Secretarial expenses | Rs. 10,000 lump sum (to 1 member only). |
| 3 | Transportation in the city of the meeting | Car as per entitlement or Rs. 2,000 per day |
| 4 | Venue for meeting | Employer's conference rooms |
| Facilities to be provided to the out-stationed member | | |

| | | |
|---|---|--|
| 5 | Travel from the city of residence to the city of meeting | As per entitlement of Independent Directors. Executive class air tickets/ first class AC train tickets/ Luxury car/ reimbursement of actual fare. However, entitlement of air travel by Business class shall be subject to austerity measures, if any, ordered by Govt of India. |
| 5 | Transport to and fro airport/railway station in the city of residence | Car as per entitlement or Rs. 3,000 |
| 7 | Stay for out stationed members | As per entitlement of Independent Directors. |
| 8 | Transport in the city of meeting | Car as per entitlement or Rs. 2000 per day |

Aforesaid fees is subject to revision by Employer from time to time and subject to government guidelines on austerity measures, if any. All the expenditure incurred in the ESC proceedings shall be shared by the parties in equal proportions. The Parties shall maintain the account of expenditure and present to the other for the purpose of sharing on conclusion of the ESC proceedings.

5.3.1.5. If recommendations/ report of ESC is acceptable to both the parties, a Settlement Agreement under Section 73 of the Arbitration and Conciliation Act, 2015 will be signed to the extent agreed by the parties within 15 days of acceptance by the parties and same shall be authenticated by all the ESC members.

Parties are free to terminate Conciliation proceedings at any stage as provided under the Arbitration and Conciliation Act 2015.

5.3.1.6. Notwithstanding anything contained in any other law for the time being in force, the Conciliator and the parties shall keep confidential all matters relating to the Conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or introduce as evidence in Arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Conciliation proceedings,—

- a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- b) admissions made by the other party in the course of the Conciliation proceedings;
- c) proposals made by the Conciliator; and

- d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the Conciliator.

5.3.2. Resolution of Dispute through Conciliation Committee of Independent Experts (CCIE), constituted by Ministry of Power (MoP) {For cases with Disputed amount (Claim/ Counter claim whichever is higher) above Rs. 25 Crore excl. interest}

If the parties fail to resolve such a dispute or difference by mutual consultation and through Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period specified at Cl. 5.1, 5.2 above, the dispute, if the parties agree, may be referred to Conciliation Committee of Independent Experts (CCIE), in cases where the Disputed amount (Claim/ Counter claim whichever is higher) is above Rs. 25 crore excl. interest. The option of Arbitration would not be available once the conciliation mechanism through CCIE has been exercised.

5.3.2.1. Invitation for Conciliation through CCIE:

5.3.2.1.1. A party shall notify the other party in writing about such a dispute it wishes to refer for CCIE within a period of 15 days from the date of failure to resolve the dispute through Mutual Consultation and Independent Engineer (if applicable) and/or through Mediation (if applicable) within a period as specified at Cl. 5.1 and 5.2 above. Such Invitation for Conciliation shall contain sufficient information as to the dispute to enable the other party to be fully informed as to the nature of the dispute, amount of the monetary claim, if any, and apparent cause of action.

5.3.2.1.2. If the party initiating Conciliation does not receive a reply within fifteen (15) days from the date on which it sends the invitation, or within such other period of time as specified in the invitation, it shall treat this as a rejection of the invitation to conciliate from the other party.

5.3.2.1.3. If the party initiating Conciliation does not receive a reply within fifteen (15) days from the date on which it sends the invitation, or within such other period of time as specified in the invitation, it shall treat this as a rejection of the invitation to conciliate from the other party.

5.3.2.2. Conciliation Committee of Independent Experts:

5.3.2.2.1. Where Invitation for Conciliation has been consented to under GCC sub clause 5.4.2.1, the same shall be referred to the Conciliation Committee of Independent Experts (CCIE) within 30 days.

Conciliation Committees of Independent Experts (CCIE) have been constituted and notified by MoP for settlement of disputes arising in the Contract. There are three CCIEs, as specified in Special Conditions of Contract.

5.3.2.2.2. The Contractor may select three CCIEs, in priority order, from the list of CCIEs enclosed with the Special Conditions of Contract, for finalization by Central Electricity Authority (CEA).

There shall not be any conflict of interest for the members of the CCIE due to their past

assignments. Individuals CCIE members shall submit an undertaking in this regard to the Employer, prior to appointment. It shall be ensured that they have not been engaged for providing any services to any of the parties i.e. either Employer or the Contractor in the last five years. An Undertaking in this regard, shall also be furnished by the Contractor for the purpose of avoiding any conflict of interest.

5.3.2.3. **Proceedings before CCIE:**

5.3.2.3.1. The procedure of CCIE shall not be treated as alternate arbitration proceedings where both parties come with Statement of claims/defense, arguments/counter arguments, rejoinders, written submissions etc., aided by their respective lawyers.

5.3.2.3.2. The parties shall be brief and to the point before the Committee with regard to their respective stance and view the exercise in the spirit of conciliation/settlement.

5.3.2.3.3. The possibility of non-availability of any one of the members of CCIE in any proceedings cannot be ruled out. As such, the Committee comprising the other two members shall be competent to proceed in the matter. The proceedings of the Committee shall not be vitiated if one of the three members of CCIE is not present in the deliberations of the Committee. When the parties sign the settlement agreement, at least two members of CCIE shall authenticate the same. Such conciliation proceedings shall be considered valid and the settlement agreement will be binding on the parties.

5.3.2.3.4. The parties shall be represented by their in house employees. No party shall be allowed to bring any advocate or outside consultant/advisor/agent to contest on their behalf. Ex-officers of Employer's Organization who have handled the subject matter in any capacity shall not be allowed to attend and present the case before CCIE on behalf of contractor. However, ex-employees of parties may represent their respective organizations.

5.3.2.3.5. The Conciliation proceedings shall be completed in each case through 5 sittings in a period of not more than three months from the date the reference made to the CCIE. In exceptional cases, if any dispute so merits, the time period may be extended at the discretion of Conciliation Committee (with reasons to be recorded in writing), for a further period of three months.

5.3.2.3.6. The CCIE shall hold day to day sitting at a suitable place (preferably the headquarter of the Employer or New Delhi) and may hold as many sittings every month as it deems appropriate keeping in view the volume of work.

5.3.2.4. **Fees & Facilities to the Members of the CCIE**

Each member of CCIE would be paid a sum of Rs. 50,000/- as sitting fee per sitting. In addition, Rs. 5,000/- per sitting will be paid for local transport charges for each day of proceeding.

In case, a particular dispute requires more than 5 sittings, the same may be held at the

discretion of the CCIE but with a cap on payment of fee for 5 sittings only. The local transport charges shall, however, be paid as provided for each day of sitting beyond the 5 sittings.

All expenditure incurred on the conciliation proceedings including payment of fees to the Conciliators, office space, logistic, secretarial assistance and other incidental expenses etc. shall be borne by the Employer initially. Thereafter it shall be shared equally by both parties on completion of the conciliation process.

- 5.3.2.5. The Parties shall maintain the account of expenditure and present to the other for the purpose of sharing on conclusion of the CCIE proceedings.

The Conciliation process shall be conducted under Part III of the Arbitration and Conciliation Act, 2015.

In case of failure of the conciliation process at the level of the Conciliation Committee, the parties may withdraw from conciliation process and take recourse to the laid down legal process of Courts. However, the option of Arbitration would not be available once the conciliation mechanism through CCIE has been exercised.

In the event of the conciliation proceedings being successful, the parties to the dispute would sign the written settlement agreement and the conciliators would authenticate the same. Such settlement agreement would then be binding on the parties in terms of Section 73 of the Arbitration and Conciliation Act, 2015.

After successful conclusion of proceedings, the Parties to the conciliation process, have to undertake and complete all necessary actions for implementation of the terms of settlement within a period of 30 days from execution of settlement agreement, unless a different timeline not exceeding 60 days is agreed upon in settlement agreement. All pending claims of parties, in connection with the dispute, before any other legal forum are to be withdrawn within the said 30 days in pursuance of the settlement agreement.

- 5.3.2.6. Notwithstanding anything contained in any other law for the time being in force, the Conciliator and the parties shall keep confidential all matters relating to the Conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

The parties shall not rely on or introduce as evidence in Arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the Conciliation proceedings,—

- a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
- b) admissions made by the other party in the course of the Conciliation proceedings;
- c) proposals made by the Conciliator; and

- d) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the Conciliator.

5.4. Arbitration

- 5.4.1. If the process of mutual consultation and IE (if applicable) and/or Mediation (if applicable) and/or ESC fails to arrive at a settlement between the parties and/or settlement of dispute through CCIE not exercised as mentioned at GCC Sub- Clauses 5.1, 5.2, 5.3 above, Employer or the Contractor may, within Thirty (30) days of such failure, give notice to the other party, 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. The mechanism of settling the disputes through arbitration shall be applicable only in cases where the disputed amount (i.e. Claim/ Counter claim, whichever is higher, excluding interest) does not exceed Rs. 25 crores.

If the claim/ counter claim is in foreign currency, the SBI Bills Selling Exchange rate prevailing on the date of claim shall be used for the purpose of converting the claim in Indian Rupee

In case the disputed amount (Claim/ Counter claim, whichever is higher, excl. interest) exceeds Rs. 25 Crores, the parties shall be within their rights to take recourse to remedies as may be available to them under the applicable laws other than Arbitration after prior intimation to the other party. There shall be no arbitration where the disputed amount (Claim/ counter claim, whichever is higher) is only up to Rs. 5 lakhs.

The parties at the time of invocation of arbitration shall submit all the details of the claims and the counter-claims including the Heads/Sub-heads of the Claims/Counter-Claims and the documents relied upon by the parties for their respective claims and counter-claims. The parties shall not file any documents/details of the claims and counter-claims thereafter.

The claims and the counter claims raised by the parties at the time of invocation of the arbitration shall be final and binding on the parties and no further change shall be allowed in the same at any stage during arbitration under any circumstances whatsoever.

The parties to the contract shall invoke arbitration within Six months from the date of completion of the Facilities under the contract or the termination of the contract as the case may be and the parties shall not invoke arbitration later on after expiry of the said period of six months.

In case, no claim is filed within this period of six months, it shall be presumed that there is no claim. Any claim filed after the aforesaid period of six months shall not be entertained.

- 5.4.2. Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Sub Clause 5.3.1, shall be finally settled by arbitration.
- 5.4.3. It is agreed between the parties that the Arbitration proceedings shall be conducted as per the provisions of Fast Track Procedure as provided under The Arbitration and Conciliation Act, 2016, as amended from time to time.

Any dispute raised by a party to arbitration shall be adjudicated by a Sole Arbitrator appointed by mutual consent from among the List of empanelled Arbitrators maintained by EMPLOYER, in the following manner:

- a) A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party.
- a) EMPLOYER, shall within 30 days from the receipt of such notice shall send a panel of at least four arbitrators from among its empanelled arbitrators to the Contractor for short listing two among them for such appointment, within 15 days from the date of receipt of the Panel of Arbitrators from EMPLOYER.
- b) CMD/ Chairman of Employer shall appoint the sole arbitrator from among the two names short listed by the Contractor, within 15 days from the receipt of such nomination. Notice to the Parties of the constitution of the arbitral tribunal shall be issued by EMPLOYER.

In case, the contractor fails to inform its shortlisted names for appointment of sole arbitrator from the panel of at least four arbitrators sent by the Employer or no response is received from the contractor, within 15 days from the date of receipt of the Panel of Arbitrators from EMPLOYER, CMD/ Chairman of Employer shall appoint the sole arbitrator from among the four names sent to the contractor earlier.

- c) If the Arbitrator so appointed dies, resigns, becomes incapacitated or withdraws for any reason from the proceedings or his mandate is terminated by the Court, it shall be lawful for CMD/ Chairman of Employer to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor had left.
- e) Arbitrator shall be paid fees as per the Fee Schedule (presently Fourth Schedule) provided in 'The Arbitration and Conciliation Act, 2016 as amended from time to time. If the claim/ counter claim is in foreign currency, the SBI Bills Selling Exchange rate prevailing on the date of claim shall be used for the purpose of converting the claim in Indian Rupee which may be used for determining the arbitration fee.
- d) If after commencement of the Arbitration proceedings, the parties agree to settle the dispute mutually or refer the dispute to mediation or Conciliation, the arbitrator shall put the proceedings in abeyance until such period as requested by the parties. Where the proceedings are put in abeyance or terminated on account of mutual settlement of dispute by the parties, the fees payable to the arbitrator shall be determined as under:
 - (i) 40% of the fees if the Pleadings are complete.
 - (ii) 60% of the fees if the Hearing has commenced.
 - (iii) 80% of the fees if the Hearing is concluded but the Award is yet to be passed.
- g) Each party shall pay its share of arbitrator's fees in stages as under or as per the directions of Arbitrator:

- (i) 40 % of the fees on Completion of Pleadings.
- (ii) 40% of the fees on Conclusion of the Final Hearing.
- (iii) 20% at the time when arbitrator notifies the date of final award.

- h) The Claimant shall be responsible for making all necessary arrangements for the travel/ stay of the Arbitrator including venue of arbitration, hearings. The parties shall share the expenses for the same equally.
- i) The Arbitration shall be held at Delhi only.
- j) The Arbitrator shall give reasoned and speaking award and it shall be final and binding on the parties.
- k) Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 2016 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

5.4.4. In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract (s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/ Organizations (excluding taxation matters), such disputes or difference shall be taken up by either party for resolution through Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) as mentioned in DPE Office Memorandum No. 4(1)/2013- DPE(GM)/FTS-1835 dated 22.05.201448 issued by Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises, Government of India and its further clarifications, modifications and amendments, issued from time to time.

The aforesaid limit of Rs 25 crore shall not be applicable and matter may be referred to AMRCD irrespective of the amount involved in dispute, if the dispute could not be resolved through Mutual Consultation and IE (if applicable) as brought out at GCC Sub Clause 5.1 above.

- 5.5. Notwithstanding any reference to the Independent Engineer or Mediation or Conciliation or Arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree.
 - (b) the Employer shall pay the Contractor any monies due to the Contractor.

Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.

6. Force Majeure

- 6.1. "Force Majeure" shall mean any event beyond the reasonable control of the Owner or of the Buyer, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected.
- 6.2. 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.
- 6.3. 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 accordingly.
 - 6.4. 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 fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract.
 - 6.5. No delay or nonperformance 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. give rise to any claim for damages or additional cost or expense occasioned thereby if and to the extent that such delay or nonperformance is caused by the occurrence of an event of Force Majeure.
 - 6.6. 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 Clause 05 above.
 - 6.7. Notwithstanding Sub Clause 5.5, Force Majeure shall not apply to any obligation of the Owner to make payments to the Buyer herein

War Risks

- (i) "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.
- (ii) Notwithstanding anything contained in the Contract, the Buyer shall have no liability whatsoever for or with respect to
 - a. destruction of or damage to Facilities, Plant and Equipment's, or any part thereof
 - b. destruction of or damage to property of the Owner or any third party
 - c. injury or loss of life

if such destruction, damage, injury or loss of life is caused by any War Risks, and the Owner shall indemnify and hold the Buyer 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.
- (iii) If the Facilities or any Plant and Equipment's or Buyer's Equipment's or any other property of the Buyer used or intended to be used for the purposes of the Facilities shall sustain destruction or damage by reason of any War Risks, the Owner shall

pay the Buyer for

- a. any part of the Facilities or the Plant and Equipment's so destroyed or damaged (to the extent not already paid for by the Owner)
- b. replacing or making good any Buyer's Equipment's or other property of the Buyer so destroyed or damaged so far as may be required by the Owner, 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's or any part thereof.

If the Owner does not require the Buyer to replace or make good any such destruction or damage to the Facilities, the Owner shall either request a change (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.

- (iv) Notwithstanding anything contained in the Contract, the Owner shall pay the Buyer 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 Buyer shall as soon as practicable notify the Owner in writing of any such increased cost.
- (v) 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 Buyer, the Buyer shall use its reasonable efforts to execute the Contract with due and proper consideration given to the safety of its and its subagencies' 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 relevant Clause.
- (vi) In the event of termination, the rights and obligations of the Owner and the Buyer shall be specified, except that the Buyer shall have no entitlement to profit in respect of any unexecuted Facilities as of the date of termination.

7. Insurance and Buyer's Liability

- a. The Buyer shall be fully responsible for maintaining all the insurances as per law of land at its cost.
- b. The Buyer shall at all times indemnify the Owner against all losses, claims, damages or compensation arising out of any accident or injury to any person (whether in employment of buyer or not) or property in or about the plant area (inside/outside the plant) which may arise out due to buyers act/negligence while carrying out the contract.
- c. **Buyer will submit an indemnity bond as per prescribed format (Annexure – XII) to keep NVVN indemnified against legal proceedings / paying damages arising out of non-compliances / action of the bidder, if any.**

8. Suspension of the supply

- a. The Owner reserves the right to suspend and reinstate execution of the whole or any part of the supply.
- b. The Owner shall not be responsible for any liabilities for suspension of issue of

Gypsum or issue of reduced quantity of Gypsum for any reason whatsoever.

9. Indemnity for defense of Suits

If any action in court is brought by third party against the Owner or an officer or agent of the Owner for the failure or neglect on the part of the buyer to perform any acts, matters, covenants or things under the Contract, or for damage or injury caused by the alleged omission or negligence on the part of the buyer, his agents, representatives or his Sub-buyers, workmen, suppliers, or representatives employees the buyer shall in such cases indemnify and keep the Owner and/or its representative harmless from all losses damages, claims, expenses or decrees arising out of such action.

10. Recovery of Sums Due

Whenever any claim for the payment of the sum of money arises against the buyer, the Owner shall be entitled to recover such sum by appropriating in whole or in part, from advance deposited against Gypsum and /or the Contract Performance Guarantee deposited by the buyer.

11. Safety

The Buyer, including his subagencies, while executing the Works, will strictly comply with the statutory requirements (including amendments thereof), as applicable, in respect of safety of his employees, equipment and materials. The Bidder will also comply with the provisions of NTPC/NVVN Safety Rules as issued from time to time and displayed on owner's tender website.

12. Disorderly Conduct

The buyer shall at all times take all reasonable precautions to prevent any unlawful, notorious or disorderly conduct by or amongst the buyer's staff and labor and for the preservation of peace and protection of persons and property in the neighborhood of the delivery site against the same.

13. No Breach of Contract

The failure of a party to fulfill any of its obligations under the Contract shall not be considered to be a breach of or default under the Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event:

- a. has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract and
- b. has informed the other party as soon as possible about the occurrence of such an event.

14. Limitation of Liability

Except in cases of criminal negligence or willful misconduct,

- a. neither Party shall be liable to the other Party, 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, which may be suffered by the other Party in connection with the Contract.

- b. the aggregate liability of the Buyer to the Seller, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price.
- c. the aggregate liability of the Seller to the Buyer, whether under the Contract, in tort or otherwise, at any point of time during the period of the Contract, shall not exceed the 'Paymentsreceived by the Seller'.

NTPC VIDYUT VYAPAR NIGAM LIMITED
(A wholly owned Subsidiary of NTPC Limited)



BIDDING DOCUMENTS (GLOBAL TENDER)

FOR

**SALE OF GYPSUM PRODUCED FROM FLUE GAS
DESULPHURIZATION PLANT
FROM NTPC SOLAPUR**

SECTION – VI

FORMS & PROCEDURES

BIDDING DOCUMENT NO.: NVVN/C&M/RE-360/2024-25

(This document is meant for the exclusive purpose of bidding against this Bid Document No. / Specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued).

TABLE OF FORMS AND PROCEDURES

| Sl.. No. | Description |
|----------|--|
| (a) | Annexure-A: |
| (b) | Annexure I : Bid Security |
| (c) | Annexure II: Bidder Details |
| (d) | Annexure III : Power of Attorney |
| (e) | Annexure IV: EFT form |
| (f) | Annexure V : Format of Bank Guarantee towards Bid Security |
| (g) | Annexure VI : Format of Undertaking to be given by Bank in case of BG |
| (h) | Annexure VII: Form of Insurance Surety Bond towards Bid Security |
| (i) | Annexure VIII: Contract Performance Guarantee [CPG] Format (to be submitted after award of contract to buyer) |
| (j) | Annexure IX : Bank Guarantee Verification List to be submitted with CPG |
| (k) | Annexure X: List of Banks whose Bank Guarantee is acceptable as Contract Performance Guarantee [CPG] |
| (l) | Annexure XI: Form of extension of Bank Guarantee attached as (to be submitted only for Bank Guarantee validity extension) |
| (m) | Annexure XII : Indemnity Bond attached as (to be submitted after award of contract) |
| (n) | Annexure XIII: Letter of Award format |
| (o) | Annexure XIV: Integrity Pact |
| (p) | Appendix I: SPECIAL INSTRUCTIONS TO BIDDERS FOR E- TENDERING [IE ELECTRONIC BIDDING INSTRUCTIONS (EBI)] |

CAUTION LIST

(Bidder may take note of the following points while submitting its bid)

- Power of attorney duly notarized by a notary public indicating that the person(s) signing the bid has/have the authority to sign the bid and the bid is binding upon the bidder during the full period of its validity backed by a copy of board resolution/ other relevant documents to demonstrate the authority of the person issuing the power of attorney. To be furnished along with the bid.

- Power of attorney to the authorized signatory of the bidder for signing of bid, wherever applicable, to be submitted along with bid and should be dated not later than the date of signing the bid.

- Bidder to ensure that bid security to be submitted in original strictly as per specified formats duly signed in original by authorized signatory and stamped on each page.

- Date of purchase of stamp paper of instruments should be on or before the date of execution of such instruments.

- Bidders To Submit This Techno-Commercial Bid Form Along With All Annexures In Pdf Format And No Physical Signatures Are Required Since Bid Shall Be Digitally Signed By The Bidder.

Annexure-A

Proforma of Declaration regarding Banning of Business Dealings

I hereby declare that neither I in my personal name or in the name of my proprietary concern M/s

...which is submitting the accompanying bid nor any other concern in which I am a proprietor nor any partnership firm in which I am or was involved as partner are not currently banned by Bharat ETS or by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce except as indicated below: (Give particulars of banning of business dealings, in absence thereof mention "NIL").

I hereby do further declare that the following notice(s) have hitherto been issued against proposed action for banning business dealings or the following action for banning business dealings by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce has been taken against the us.

| No & date of show cause notice or notice of banning the business dealings by Ministry of Commerce or Govt of India or any of the PSU under Ministry of Commerce | Period for which business dealing has been banned | Present Status |
|---|---|----------------|
| | | |

It is understood that if this declaration is found to be false, Bharat ETS shall have the right to reject my / our bid and if the bid has been resulted in contract, the contract is liable to be terminated.

Place : Signature of Bidder / Supplier

Date : Name & Designation of the Signatory.

NAME OF CONTRACT: SALE OF GYPSUM PRODUCED FROM NTPC SOLAPUR

BID DOCUMENT NO.: NVVN/C&M/RE-360/2024-25

Bidder to furnish Bid Security as per clause 5.0 of IFB and as per format of Bank Guarantee given at Annexure IX and X (whichever is applicable) of this section or through online payment.

For Online Transfer of Cost of Bid Security through NEFT

Bid Security shall also be paid through NEFT/RTGS to NVVN's Bank account whose details are provided below.

- (i) Bank Name: ICICI Bank Limited
- (ii) Branch: CONNAUGHT PLACE BRANCH
- (iii) Bank Address: 9A, PHELPS BUILDING, CONNAUGHT PLACE, NEW DELHI- 110001
- (iv) IFSC Code: ICIC0000007
- (v) Account No.: 000705008910

(ii) While carrying out online transfer, Bidders shall ensure to enter "EMD - Tender No.- Vendor Name" in the Text / Remarks / Reason field. Bidder shall intimate the details of same through email to concerned C&M department and also upload the details in the "Fee Cover" in tendering portal in the following format:

Declaration for EMD Deposit

Tender No:

Vendor Name:

UTR Reference:

Amount:

Transferor Bank

BIDDER DETAILS

| Sl. No | CONDITION | DETAILS |
|--------|--|---------------------------------------|
| 01 | Name of Bidder | |
| 02 | Status (Company/Individual/Partnership Firm) | |
| 03 | (a) | GST Number, as may be applicable |
| | (b) | PAN Number |
| | (d) | Nature of Business: |
| | | Name of Product/Service |
| | | Production/Service Capacity per Annum |
| | Whether capable of handling FGD Gypsum in environmentally friendly way as per extant regulation / law (Yes / No) | |
| 04 | Communication Address | |
| 05 | Address of the location where bidder proposes to transport FGD Gypsum if issued | |
| 06 | Details of the Person authorized to sign all documents including correspondence, etc. | |
| | Name of Authorized Person | |
| | Designation | |
| | Telephone Number | |
| | e-Mail id | |
| 07 | Any other relevant information | |

Date: _____

For M/s _____
(User Agency)

Place: _____

Signature _____

Printed Name _____
(Authorized person having Power of

Attorney)

Designation _____

Company Seal

NAME OF CONTRACT: SALE OF GYPSUM PRODUCED FROM NTPC SOLAPUR
BID DOCUMENT NO. : NVVN/C&M/RE-360/2024-25

POWER OF ATTORNEY

Bidder to Attach the Power of Attorney

(IN A SEPARATE SEALED ENVELOPE)

Bidders may note that no prescribed proforma has been enclosed for Annexure-3 (Power of Attorney). Bidders may use their own proforma for furnishing the required information with the Bid.

Format for Power of Attorney for signing of Bid (Sample Format)

Know all men by these presents, We,(name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms(Name), son/daughter/wife of and presently residing at, who is presently employed with us and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the (Name of the Project ******) invited by NVVN including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in Bidders' and other conferences and providing information / responses to NVVN, representing us in all matters before NVVN, signing and execution of all contracts including the Contract Agreement and undertakings consequent to acceptance of our Bid, and generally dealing with NVVN in all matters in connection with or relating to or arising out of our Bid for the said Project and/or upon award thereof to us and/or till the entering into of the contract agreement with NVVN.

AND we hereby agree to ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL
HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF,
20.....

For
(Signature, name, designation and address)
of person authorized by Board Resolution
(in case of Firms/Company)/Partner in case of
Partnership Firms

WITNESS:

- 1.
- 2

A) 11 DIGIT IFSC CODE OF THE BANK

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B) BANK ACCOUNT NUMBER

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C) BANK ACCOUNT TYPE (TICK ONE)

| SAVING | CURRENT | LOAN | CASH CREDIT | OTHERS |
|--------|---------|------|-------------|--------|
| | | | | |

IF OTHERS, SPECIFY

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5. PERMANENT ACCOUNT NUMBER (PAN)

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6. E-mail Address for Intimation regarding release of payments

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I / We hereby declare that the particulars given above are correct and complete. If the transaction is delayed or credit is not affected at all for reasons of incomplete or incorrect information, I / We would not hold the Owner responsible

SIGNATURE

(AUTHORISED SIGNATORY)

Name:

| | | | | | | | | | | | | | | | | | | | |
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[OFFICIAL STAMP]

DATE

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BANK CERTIFICATION:

It is certified that above mentioned beneficiary holds a bank account number

_____ with our branch and the Bank particulars mentioned above are correct.

SIGNATURE

(AUTHORISED SIGNATORY)

Authorization number: _____

Name:

| | | | | | | | | | | | | | | | | | | | |
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[OFFICIAL STAMP]

DATE

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ANNEXURE-V

Format of Bank Guarantee towards Bid Security
(To be stamped in accordance with Stamp Act of India)

Bank Guarantee
No. _____
Date. _____

To:
NTPC Vidyut Vyapar Nigam Ltd

Dear Sir,

In accordance with Invitation for Bids under your Bid Document No. _____, M/s _____ (***) _____ Having its Registered/Head Office at _____ hereafter called the "Bidder") wish to participate in the said bid for Sale of Gypsum from Flue Gas Desulfurization (FGD) units of **NTPC**

As an irrevocable bank guarantee against Bid Security for an amount of _____ (*) _____ valid for _____ days from _____ (**) _____ required to be submitted by the bidder as a condition precedent for participation in the said bid which amount is liable to be forfeited on the happening of any contingencies mentioned in the bidding documents.

We, the _____ [Name & Address of the Bank] _____ having our Head Office at _____ (#) _____ guarantee and undertake to pay immediately on demand by _____ NTPC Vidyut Vyapar Nigam Limited (NVTN)(hereinafter called the "NVTN") the amount of _____ (*) without any reservation, protest, demand and recourse. Any such demand made by NVTN shall be conclusive and binding on us irrespective of any dispute or difference raised by the bidder.

This Guarantee shall be irrevocable and shall remain valid up to (@) _____ If any further extension of this guarantee is required, the same shall be extended to such required period (not exceeding one year) on receiving instructions from M/s _____ (***) _____ [Bidder's Name] _____ on whose behalf this guarantee is issued.

In witness whereof the Bank, through its authorised officer, has set its hand and stamp on this _____ day of _____ 20 _____ at _____.

(Signature)

(Name)

(Designation with Bank Stamp)

Vide _____

No. _____

Date _____

Authorised
Power of Attorney

NOTE:

1. (*) The amount shall be as specified in the bidding documents.
(**) This shall be the date of opening of bids.
(#) Complete mailing address of the Head Office of the Bank to be given.
(@) This date shall be forty-five (45) days beyond the validity of bid.
(***) Write the name and addresses of all the Joint Venture partners, in case the bid is submitted by a Joint Venture in terms of Qualifying Requirements.
2. The Bank Guarantee (BG) shall be from a Bank as per provisions of the bidding documents.
3. The BG should be on non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the State(s) where the BG is submitted or is to be acted upon or the rate prevailing in the State where the BG is executed, whichever is higher. The Stamp Paper/e-Stamp paper shall be purchased in the name of Bidder/Bank issuing the guarantee.
4. While getting the Bank Guarantee issued, Bidders are required to ensure compliance to the points mentioned in Bank Guarantee Verification Check List in the bidding documents. Bidders are required to fill up this Check List and enclose the same along with the Bank Guarantee.
5. In case, Bank Guarantee is getting issued from State Bank of India, Bidder to take note of NTPC letter ref. NTPC/FC/CS/BG/01 dated 03.09.2014 and SBI letter ref. CAG-I/AMT-1/2014-15/370 dated 04.09.2014 (attached with Section-III of Bidding Documents).

Format of Undertaking
(To be sent by Issuing Bank through official email-ID)

From: xxxbank@xx.in

To: xxx@ntpc.co.in

We have issued BG No. dated for an amount of Rs. on behalf of.....[Name of Bidder] towards Bid Security / EMD for Tender No. in favour of [Name of Employer].

Please find enclosed the soft copy of the Bank Guarantee and SFMS acknowledgement. This SFMS is sent on (date).

Any demand / claim made by the 'Employer' shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder till the validity period mentioned in the Bank Guarantee.

However, in absence of the physical copy of aforementioned BG with the Employer, we undertake that Employer's demand / claim will be binding and conclusive on us without the physical copy of aforementioned BG till fourteen (14) days from the due date of submission of Techno-Commercial bids.

We undertake not to cancel the afore mentioned BG No. without written consent / instruction from Employer.

(Name of Bank Official)
Authority No.

ANNEXURE-VII

Form of Insurance Surety Bond towards Bid Security
(To be stamped in accordance with Stamp Act of India)

Insurance Surety Bond No.

Date.....

To,

NTPC Vidyut Vyapar Nigam Ltd

In accordance with Invitation for Bids under your Bid Document No., M/s.....[Bidder's Name] having its Registered/Head Office at (hereinafter called the 'Bidder') wish to participate in the said bid for [Name of Package]

As an irrevocable Insurance Surety Bond against Bid Security for an amount of (*) valid for..... days from(**) required to be submitted by the Bidder as a condition precedent for participation in the said bid which amount is liable to be forfeited on the happening of any contingencies as mentioned under the Bidding Documents.

We, the [Name & address of the Insurer]having our Head Office at (#) guarantee and undertake to pay immediately on demand by NVVN Limited (hereinafter called the 'NVVN') the amount of(*).....without any reservation, protest, demand and recourse. Any such demand made by the 'NVVN' shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder and/or any right/remedy available to the bidder in terms thereof.

This Insurance Surety Bond shall be unconditional as well as irrevocable and shall remain valid up to(@) If any further extension of this Insurance Surety Bond is required, the same shall be extended to such required period (not exceeding one year) on receiving instructions from M/s[Bidder's Name] on whose behalf this Insurance Surety Bond is issued. In witness where of the Insurer, through its authorised officer, has set its hand and stamp on this.....day of.....20.....at.....

.....
(Signature)

.....
(Name)

.....
(Designation with Insurer Stamp)

Authorised Vide

Power of Attorney No.....

Date.....

**PROFORMA FOR BANK GUARANTEE FOR CONTRACT PERFORMANCE
(To be stamped in accordance with Stamp Act)**

Reference Number _____

Date: _____

Bank Guarantee No _____

To,

Dear Sirs,

In consideration of the NTPC LTD (hereinafter referred to as the "Owner", which expression shall unless repugnant to the context or meaning thereof includes its executors, administrators, successors, and assigns) having accepted offer of purchase of Gypsum Produced from Flue Gas Desulphurization Plant by M/s

_____ with its Registered / Head office at

_____ (hereinafter referred to as "Buyer", which expression shall unless repugnant to the context or meaning thereof includes its executors, administrators, successors and assigns) by issue of Owner's Letter of Award Number

Dated _____ and the same having been unequivocally accepted by the Buyer resulting in a "CONTRACT" bearing Number

_____ for _____ and the Buyer having agreed to provide a contract performance guarantee for the faithful performance of the entire contract equivalent to INR/USD _____ (in figure and words) to the Seller.

We _____ (Name and Address), having our Head office at _____

_____ and Branch office at _____

(hereinafter

referred to as "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 and all monies payable by the Buyer to the extent of as aforesaid at any time upto _____* [days/month/year] without any demur, reservation, contest, recourse or protest and/or without any reference to the Buyer. Any such demand made by the Owner on the Bank shall be conclusive and binding notwithstanding any difference between the Owner and the Buyer 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 be enforceable till ninety (90) days after expiry of its validity.

The Owner shall have the fullest liberty without affecting in anyway the liability of the bank under this guarantee from time to time to extend the time for performance of the contract by the Buyer. 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 might have against

the Buyer, and to exercise the same at any time any manner, and whether to enforce or to forbear or to enforce any covenants, contained or implied, in the contract between the owner and the Buyer or any other course of remedy or security available to the owner. The bank shall not be released of its obligation under these presents by any exercise by the owner of its liberty with reference to the matters aforesaid or any of them or by a reason of any other acts of omission or commission on the part of the Owner or any other indulgence shown by the Owner or by any other matters or thing whatsoever which under law would, but for this provision, have the effect of relieving the bank.

The bank also agrees 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 Buyer and notwithstanding any security or other guarantee that the Seller may have in relation to the Buyer's liabilities.

Notwithstanding anything contained hereinabove 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.

Dated this _____ day of _____ 20 _____ at _____

Witness

1. Signature
Name _____
Official Address _____

Signature
Name _____
Designation _____
Bank's Common Seal _____
Power of Attorney No _____

2. Signature
Name _____
Official Address _____

Date _____
Seal of Bank

NOTE:

1. (*) The Date will be Three Months beyond the expiry of the warranty period as specified in the order.
2. The Bank Guarantee shall be from a bank as per provisions of bidding documents.
3. While getting the Bank Guarantee issued, Bidders are required to ensure compliance to the points mentioned in the Bank Guarantee Verification Check List in the bidding documents. Bidders are required to fill up this check List and enclose the same along with the Bank Guarantee.

The Stamp paper of appropriate value shall be purchased in the name of guarantee issuing bank or the party on whose behalf the BG is being issued. The Bank Guarantee shall be issued on non-judicial Stamp paper of appropriate value as per Stamp act prevailing in the States where the BG is to be submitted or is to be acted upon or the rate prevailing in the state where the BG is executed, whichever is higher.

BANK GUARANTEE VERIFICATION CHECK LIST
(To be submitted with CPG)

1. Bank Guarantee Number _____
2. Issuing Bank _____
3. Amount of BG _____
4. Nature of BG and No. of Pages _____
5. Validity of BG _____
6. Package Description _____
7. Vendor Reference
 - Name _____
 - Address _____
 - Telephone _____
 - Fax _____
 - e-Mail _____
8. Bank Reference
 - Name _____
 - Address _____
 - Telephone _____
 - Fax _____
 - e-Mail _____

| Sl. No. | Details of Checks | Yes / No |
|---------|--|----------|
| 1. | Is the Bank Guarantee on non-judicial stamp paper / e-stamp paper of appropriate value, as per Stamp Act? | |
| 2. | Whether date, purpose of purchase and name of the purchaser are indicated on the stamp paper? (The date of purchase of stamp paper should be of any date on or before the date of execution of Bank Guarantee and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the Bank Guarantee has been issued. The stamp papers (other than e-stamp paper) should be duly signed by the stamp vendor.) | |
| 3. | In case of BGs from Banks abroad, has the BG been executed on Letter Head of the Bank? | |
| 4. | Has the executing Officer of Bank Guarantee indicated his name, designation, and Power of Attorney No./ Signing Power number, etc., on the Bank Guarantee? | |
| 5. | Is each page of Bank Guarantee duly signed /initiated by executant and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars under seal of Bank as required in the prescribed | |

| | | |
|-----|---|--|
| | proforma? | |
| 6. | Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents? | |
| 7. | Are the factual details such as Auction Documents / Bidding Document Number / Specification Number / Letter of Award Number, Amount of BG and Validity of Bank Guarantee correctly mentioned in the Bank Guarantee? | |
| 8. | Whether overwriting / cutting if any on the Bank Guarantee have been properly authenticated under signature and seal of executant? | |
| 9. | Whether the Bank Guarantee has been issued by a Bank in line with the provisions of Bidding documents? | |
| 10. | In case Bank Guarantee has been issued by a Bank other than those specified in Bidding Document, is the BG confirmed by a Bank in India acceptable as per Bidding documents? | |

Date: _____

Place: _____

For M/s _____
(User Agency)

Signature _____

Printed Name _____

(Authorized person having
Power of Attorney)

Designation _____

Company Seal

**LIST OF BANKS WHOSE BANK GUARANTEE IS ACCEPTABLE FOR CONTRACT
PERFORMANCE GUARANTEE**

SCHEDULED COMMERCIAL BANK LIST

A. SCHEDULED PUBLIC SECTOR BANKS

- 1 Bank of Baroda
- 2 Bank of India
- 3 Bank of Maharashtra
- 4 Canara Bank
- 5 Central Bank of India
- 6 Indian Overseas Bank
- 7 Indian Bank
- 8 Punjab National Bank
- 9 Punjab & Sind Bank
- 10 State Bank of India
- 11 UCO Bank
- 12 Union Bank of India

B. SCHEDULED PRIVATE BANKS (INDIAN BANKS)

- 1 Axis Bank Limited
- 2 Bandhan Bank Limited
- 3 CSB Bank Limited
- 4 City Union Bank Limited
- 5 DCB Bank Limited
- 6 Dhanlaxmi Bank Limited
- 7 Federal Bank Limited
- 8 HDFC Bank Limited
- 9 ICICI Bank Limited
- 10 IndusInd Bank Limited
- 11 IDFC FIRST Bank Limited
- 12 Jammu & Kashmir Bank Limited
- 13 Karnataka Bank Limited
- 14 Karur Vysya Bank Limited
- 15 Kotak Mahindra Bank Limited
- 16 Nainital Bank Limited
- 17 RBL Bank Limited
- 18 South Indian Bank Limited
- 19 Tamilnad Mercantile Bank Limited
- 20 Yes Bank Limited
- 21 IDBI Bank Limited

C. SCHEDULED FOREIGN BANKS

- 1 AB Bank PLC
- 2 American Express Banking Corporation
- 3 Australia & Newzealand Banking Group Limited
- 4 Barclays Bank Plc
- 5 Bank of America
- 6 Bank of Bahrain & Kuwait B.S.C.
- 7 Bank of Ceylon
- 8 Bank of China Limited
- 9 Bank of Nova Scotia
- 10 BNP Paribas
- 11 Citi Bank NA
- 12 Cooperatieve Rabobank U.A./ Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A.
- 13 Crédit Agricole Corporate and Investment Bank
- 14 CTBC Bank Co Ltd
- 15 DBS Bank India Limited (Subsidiary of DBS Bank Ltd.)

- 16 Deutsche Bank A.G.
- 17 Doha Bank Q.P.S.C
- 18 Emirates NBD Bank P.J.S.C.
- 19 First Abu Dhabi Bank PJSC
- 20 FirstRand Bank Ltd
- 21 Hong Kong and Shanghai Banking Corporation Limited
- 22 Industrial & Commercial Bank of China
- 23 Industrial Bank of Korea
- 24 J.P. Morgan Chase Bank N.A.
- 25 JSC VTB Bank
- 26 KEB Hana Bank
- 27 Kookmin Bank
- 28 Mashreqbank P.S.C.
- 29 Mizuho Bank Ltd
- 30 MUFG Bank, Ltd
- 31 NatWest Markets Plc
- 32 NongHyup Bank
- 33 PT Bank Maybank Indonesia TBK
- 34 Qatar National Bank (Q.P.S.C.)
- 35 Sberbank
- 36 SBM Bank (India) Limited (Subsidiary of SBM Group)
- 37 Shinhan Bank
- 38 Societe Generale
- 39 Sonali Bank PLC
- 40 Standard Chartered Bank
- 41 Sumitomo Mitsui Banking Corporation
- 42 United Overseas Bank Ltd
- 43 UBS AG
- 44 Woori Bank

D. SMALL FINANCE BANKS

- 1 AU Small Finance Bank Limited
- 2 Capital Small Finance Bank Limited
- 3 Equitas Small Finance Bank Limited
- 4 ESAF Small Finance Bank Limited
- 5 Suryoday Small Finance Bank Limited
- 6 Ujjivan Small Finance Bank Limited
- 7 Utkarsh Small Finance Bank Limited
- 8 North East Small Finance Bank Limited
- 9 Jana Small finance Bank Limited
- 10 Shivalik Small Finance Bank Limited
- 11 Unity Small Finance Bank Limited,

Note: Any Addition / Deletion / Modification in Bank list shall be as per changes in Second Schedule List by RBI from time to time

FORM OF EXTENSION OF BANK GUARANTEE
(On Non-judicial stamp paper of same value on which original BG was executed)

Reference Number _____

Date: _____

To,

Dear Sir,

Subject: Extension of Bank Guarantee Number _____ Dated _____

for _____ [indicate value of bank guarantee] _____ favouring
yourselves expiring on _____ on account of M/s _____

(Name of Bidder) _____ in respect of Contract for _____ (Insert Package name)

(hereinafter called original Bank Guarantee)

At the request of M/s _____ We
Bank branch office at _____ and having its head office at _____
do hereby extend our liability under the above-mentioned Guarantee number _____

Dated _____ for a further period of _____ years / months from _____ to
expire on _____.

Except as provided above, all other terms and conditions of the original Bank Guarantee number
_____ Dated _____ shall remain unaltered and binding.

Please treat this as an integral part of the original guarantee to which it would be deemed to have
been attached.

Signature

Name

Designation

Bank's Common Seal

Power of Attorney No_

Seal of Bank

Date _____

INDEMNITY BOND
(On non-judicial paper of appropriate value and to be stamped
in accordance with Stamp Act)

The stamp paper to be in the name of Gypsum Recipient

This bond of indemnity is made on this ___ day of _____ by _____
(Name and address) and _____ (details of the incorporation of the Gypsum Recipient)
hereinafter referred to as the 'Gypsum Recipient' which expression shall unless repugnant to the context
or meaning thereof, include its successors, administrators, executors and assigns) in favour of _____
NTPC Limited _____ hereinafter referred to as the 'NTPC (hereinafter called
NTPC)', which expression shall, unless repugnant to the context or meaning thereof include its
successors, administrators and assigns)

WHEREAS, NTPC has issued to the Gypsum Recipient, an order / permission letter / Letter of Award
Number _____ Dated _____ and in terms of the said order, NTPC has agreed to issue FGD -
Gypsum to Gypsum Recipient.

AND WHEREAS one of the conditions for the issue of the 'FGD – Gypsum' is that the Gypsum Recipient
shall furnish an Indemnity Bond in favour of the NTPC, indemnifying NTPC from any liability of
whatsoever nature, which may arise due to violation / Non – compliance of any applicable norms / rules
/ regulations / Guidelines / laws during the course of execution of order / permission letter / Letter of
Award Number _____
_____ by way of omission or commission by the Gypsum Recipient or its representatives/agents.

Now this Indemnity Bond witnesseth as follows:

- 1.0 The Gypsum Recipient hereby undertakes to fully and irrevocably indemnify and keep indemnified
NTPC against any and all of various liabilities of whatsoever nature, which may arise due to any
mistake / accident/ injury / death / actions / suits / proceedings / losses/ costs / damages / claim
and demands of any nature whatsoever associated or involved with the contract / buyer during the
contract period / violation / Non – compliance of any applicable norms / rules / regulations/
Guidelines / laws including MOEF&CC Guidelines during the course of lifting or handling of Gypsum
and for future obligations (if any), by way of omission or commission by the Gypsum Recipient or
its representatives / agents for FGD - Gypsum issued by the NTPC to the Gypsum Recipient vide
order / permission letter / Letter of Award Number _____
- 2.0 This Indemnity Bond shall be valid till six (6) calendar months after the scheduled date / actual date
of complete lifting of allocated FGD - Gypsum Quantity, whichever is later.
- 3.0 It is clearly understood and agreed to by the Gypsum Recipient that non-observance of the
obligations under this Indemnity Bond by the Gypsum Recipient shall Inter-alia constitute a criminal
breach of trust on the part of the Gypsum Recipient, and they shall be liable for all legal / penal
consequences thereof as decided by NTPC.
- 4.0 Now the condition of this Bond is that the Gypsum Recipient shall duly and punctually comply with
all the terms and conditions of this bond to the satisfaction of NTPC, then, the above bond shall be
void, but otherwise, it shall remain in full force.
- 5.0 That this bond shall be irrevocable during its validity period and the Gypsum Recipient shall not
revoke this bond till it is discharged by NTPC in writing.

WITNESS:

For M/s _____
Signature _____
(Gypsum Recipient)

Signature _____
Printed Name _____
Address _____

Printed Name _____
*(Authorized person having Power of
Attorney)* Designation _____
Company Seal

DRAFT MODEL AWARD LETTER FOR SALE OF GYPSUM PRODUCED FROM FLUE GASDESULPHURIZATION PLANT AT NTPC STATIONS

LETTER OF AWARD

Reference Number: _____

Date:

To,

Kind Attention:_____

Subject: Letter of Award for “Sale of Gypsum Produced from Flue Gas Desulphurization Plant at NTPC SOLAPUR TPS”

Dear Madam / Sir,

This has reference to the following:

1. Bid document Reference Number _____ Containing:
 - a. Invitation for Bid [IFB]
 - b. Definitions
 - c. Instructions to Bidders [ITB]
 - d. Scope of Work and Special Conditions of Contract
 - e. General Conditions of Contract
 - f. Forms, Formats and Annexures
 - g. NTPC Debarment Policy
 - h. NTPC Fraud Prevention Policy
 - i. NTPC Customer Receipt Portal Help Manual
 - j. e-Auction / Tender document / catalogue
2. Online Portal Auction Number _____
3. Online Portal Auction Date: _____ hours of __ to _____ hours of _
4. Your bid submitted against the e-Auction mentioned above at serial number 02 at M/s ETS Portal

We are pleased to accept your above-mentioned offer and allocate you _ _____ MT [XXXXXXXXXXXXXXXXXXXXXXX XXXXXX Metric Tonne] of Flue Gas Desulphurization Gypsum from NTPC _____ NTPC for a period of

1. Scope of Supply

Scope of work for M/s _____ (Selected Buyer) Scope of work for Buyer

i. The FGD Gypsum shall be sold to the interested buyers from the designated delivery point(s) i.e., gypsum storage facility of NTPC station (Name of Station: NTPC SOLAPUR) on as-is-where-is basis.

ii. Loading of gypsum in the trucks of the buyer shall be done by buyer through backhoe loader/JCB.

iii. The buyer shall make all other arrangements, including deployment of vehicles as per requirement, for taking delivery on his own.

iv. The buyer shall adhere to the extant Gate entry/exit system being followed at NTPC station.

v. The buyer shall take weighment of Gypsum in the designated weigh bridge of NTPC at the station premise.

vi. Transportation of gypsum from the NTPC station to the destination shall be done by the Buyer at its own risk & cost. The risk shall pass from NTPC to the Buyer as soon as the materials is loaded into the vehicle. The title to the materials shall pass from NTPC to the Buyer only after NTPC received advance payment and loading of gypsum to the vehicle.

vii. The Buyer shall be liable and responsible for payment of all statutory levies in the form of taxes, duties etc. on the sale of gypsum. Such statutory liabilities, if any, shall be in scope of buyer and no reimbursement towards the same shall be made by NTPC/NVVN.

viii. The buyer shall also make necessary arrangement during transportation to prevent fugitive emission/ spillage of Gypsum as per the extant government norms at its own cost.

ix. Loading of Gypsum in the trucks of the buyer shall be in the scope of Buyer ~~done by NTPC~~ through backhoe loader/JCB/ other existing facility only. Gypsum will be loaded by Backhoe Loader/ JCB, and the trailers will be placed at the same level. If any other method of loading is desired by the buyer, the same has to be arranged by the buyer at his cost.

x. Gypsum will be loaded in open Trucks/Trailers/Tippers only. Please note that Tippers/Trailers/Trucks having Extra Ribs will not be allowed to enter inside the plant for loading. {LOADING OF GYPSUM SHALL BE IN THE SCOPE OF BUYER}

Scope of work for NTPC

i. Facilitate access of Rail loading facility at NTPC premises wherever whenever it become available.

ii. Sale of FGD Gypsum is undertaken under short term contract, i.e; for a contract period of one year from the date of start of lifting (date of start of lifting shall be date of LOA or as decided by the Engineer-In-Charge) with prospective buyers at the rate discovered through transparent method by NVVN. However, in case of buyers who would be deploying customized transportation container / wagons etc., provision for sale of FGD Gypsum for period up to 3 years duration may be considered by

NVVN/NTPC subject to matching the price with discovered sale rate (weighted average rate of the year in consideration, in case of price band or original awarded rate of that buyer in first year, whichever is higher) by such buyers. In such case, annual quantity for each subsequent year i.e subsequent period upto 3 years shall not exceed the awarded quantity wrt initial contract period on annual basis.

2. Terms and Conditions of FGD Gypsum:

The contract shall be performed by you strictly in accordance with the terms and conditions contained in bidding documents for the subject e-Auction / Scope of work and Special Conditions of Contract / General Conditions of Contract and / Auction catalogue / definitions, its amendments, deletions and additions to the same attached herewith, except amendments / modifications specifically brought in this award letter.

All the deviations whether implicit or explicit, contained in your offer stand unconditionally withdrawn, without any cost implications to NTPC ___ station

3. Contract Period:

- a. The contract period shall be one year from the date of start of lifting (date of start of lifting shall be date of LOA or as decided by the Engineer-In-Charge) .
- b. The Date of Start / Commencement of Sale shall be _____, or as per the instructions of NTPC's Engineer-In-Charge, for the quantity mentioned above.
- c. The completion date of contract period / Sale Period is from the Date of Start / Commencement of Sale for _____, or till the completion of supply of bid quantity, whichever is earlier.

4. Price:

The price of FGD Gypsum is INR/USD ____/- per MT [Rupees _____ Only, per Metric Tonne], exclusive of all taxes and duties and the total contract value is INR/USD _____ /-[Rupees _____], exclusive of all taxes and duties.

5. Price Adjustment:

The price of FGD Gypsum indicated at clause 04 above, shall remain firm for the contract period or till the completion of supply of bid quantity, whichever is earlier.

However, in case of buyers who would be deploying customized transportation container / wagons etc., NVVN/NTPC reserves the right and may consider sale of FGD Gypsum for period up to 3 years duration subject to matching with discovered sale rate (weighted average rate of the year in consideration, in case of price band or original awarded rate of that buyer in first year, whichever is higher) by such buyers.

6. Working Hours:

Issue of Gypsum is intended to be given on all days (on 24 x 7 basis), including national holidays, or as per directions of Engineer-in-charge.

7. Quality of Gypsum:

Owner would deliver Gypsum at designated delivery point(s) on "As Available" basis with the following parameters:

- a. Purity: _____% (Min)
- b. Moisture: ___ % (Max)
- c. Chloride: ___PPM (Max)

8. Consideration payable by the Buyer:

Allocated quantity of FGD Gypsum for any period shall be divided into monthly quantity and amount payable based on the quantity for one month is to be deposited in advance (along with all taxes and duties as applicable) to NTPC for the quantity of FGD Gypsum to be lifted in next month.

9. Delivery Point:

- a. Owner would deliver Gypsum from the designated delivery point(s) i.e., Gypsum storage facility of FGD plants under commissioning / installed at NTPC station/ Other Suitable Locations as decided by Engineer-In-Charge for the contract on "As Available" basis.
- b. Gypsum shall be considered to have been delivered as it passes into the buyer's vehicle at the loading point.

10. Payment Terms:

- a. Delivery shall be made against advance payment in conformity with NTPC Policy for collecting advance. The amount of advance shall be equivalent to value of one (01) month of off-take quantity and the same shall be deposited by 28th day of every month.
- b. The advance amount shall be adjusted against delivery.
- c. Buyer to pay any taxes / duties extra on the applicable rates.
- d. Buyer to deposit the CPG @ 5 % of award value, in addition to advance mentioned above at clause (a) before start of work.
- e. Permission to start the work will be given for first month after deposition of CPG and one-month advance payment along with the applicable taxes / duties within 15 Days of placement of award.
- f. Permission for next subsequent month will be given after depositing the advance payment for that month along with the taxes / duties before start of the that month.
- g. All bank charges shall be borne by the buyer.

11. Contract Performance Guarantee (CPG) / Security Deposit (SD):

- a. Contract Performance Guarantee (CPG) / Security Deposit (SD) of INR/USD _/- [Rupees _____ Only] i.e., @ 5 % of the value [INR/USD _/-] of annual allocated quantity of ___MT, has to be submitted within fifteen (15) days of issue of this award through electronic transfer (in NTPC Account which shall be shared after award of contract / through NTPC Customer Payments Portal) or unconditional and irrevocable Bank Guarantee.
- b. CPG / SD submitted in the form of Bank Guarantee shall be valid for 3 months in addition to period of contract.
- c. For commencement of supplies, submission of CPG / SD is a precondition.
- d. Failure to comply with the requirement of Submission of Contract Performance Guarantee / Security Deposit within the prescribed time shall constitute sufficient grounds for the annulment of the allocation order and forfeiture of the Bid Security (EMD). In that event no damages or compensations shall be payable to the buyer.

- e. Contract Performance Guarantee (CPG) / Security Deposit (SD) shall be released within Ninety (90) days after successful completion of contract in all respects

12. Taxes and Duties:

- a. The Bidder shall be liable and responsible for payment of all statutory levies in the form of GST and all other taxes & duties applicable on the Sale of FGD Gypsum. Such statutory liabilities, if any, shall be paid by bidder extra at actual. ("Goods and Services Tax" or "GST" means taxes 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 cess, if any under the laws in force (hereinafter referred to as relevant GST Laws).")
- b. All FGD Gypsum will be sold on Ex Gypsum Storage Facility / Ex Works basis. Regarding exports of FGD Gypsum by the buyer, it is the responsibility of the buyer to fulfil their export obligations as may be required, and any shortfall in this regard shall be to the account of the buyer only. The buyer indemnifies the Owner against all such liabilities and losses on failure to fulfil the export obligations, if any.

13. Commencement of first off take:

Commencement of first off take for buyers of Gypsum should not exceed beyond one month from the date of start / Commencement of Sale, unless specifically agreed to by the Owner.

14. Special Conditions of Sale:

- a. The bidder shall consume/use the allocated quantity of Flue Gas Desulfurization Gypsum at their plants in India or abroad or may trade to other end users.
- b. FGD-Gypsum Sale orders will be issued to various vendors separately corresponding to their allocation by respective NTPC station (i.e NTPC STATION).
- c. Bidder shall comply with all statutory environmental and safety norms during the period of contract.
- d. Buyer should cover its truck/vehicle with tarpaulin or any other means prior to exit of truck from the NTPC premises to avoid any fugitive dust emission.
- e. Gypsum is a by-product produced during desulfurization of flue gas generated from burning of coal in Power plant units for generation of electricity. The generation from power plant is mainly dependent on external factors like demand in national / regional power grid and availability of coal, which cannot be predicted with certainty. Unscheduled shutdowns of units also affect generation of electricity. Therefore, though all efforts will be made to make available the contracted quantity of Gypsum, NTPC/NVVN does not guarantee availability of Gypsum as per contracted quantity as per schedule and will not be liable for any compensation or damages for non-supply of required quantity of the Gypsum. However, NTPC/NVVN may offer additional quantity of Gypsum at a later date subject to availability.
- f. The total sale period will be counted from the first off take or delivery of Gypsum of each buyer.
- g. If Gypsum is not available from the designated unit due to any reason, then the seller/NVVN may offer Gypsum from other units / stations depending upon the availability but at the same price. This shall be subject to mutual agreement. It will form a part of the contracted quantity.

- h. The maximum time deviation will be allowed up to one year after the completion period of sale if the allocated quantity could not be generated by NTPC. The time extension will be given subject to acceptance of the same by the Bidder. In case, if the allocated quantity could not be lifted by Bidder, then NTPC at its discretion can extend the duration upto one year based on the request from the vendor and merit of the case.
- i. The NTPC/NVVN reserves the right to sell the quantity not lifted by the buyers to any other party.
- j. In case the buyer fails to lift the quantity as per agreed schedule, then for all deviation of off take beyond (-) 25% per month, NTPC reserves the right to sell it to any other party at the risk and cost of the buyer. The shortfall in the amount will be adjusted from the buyer's advance deposited amount.

15. Gypsum Delivery Conditions

- 15.1** Transportation of Gypsum shall be in the scope of buyer.
- 15.2** NTPC would deliver Gypsum from the Gypsum storage facility.
- 15.3** Loading of Gypsum in the truck of the buyer shall also be done by buyer.
- 15.4** Quality parameters shall be checked and certified by NTPC periodically. Testing may be witnessed by Buyer at the NTPC site. Buyer can also check the quality parameter of Gypsum before loading in the truck at their cost.
- 15.5** Gypsum shall be considered to have been delivered once loaded into the buyer's vehicle at the loading point.
- 15.6** The buyer shall be solely responsible for excess loading of Gypsum in their trucks against the permitted quantity as per prevailing rules and guidelines.
- 15.7** In case of any issue related to quality parameters of Gypsum, buyer can visit NTPC laboratory & witness the checking procedure & systems & be satisfied with the results. However even then if issue is persisting, then a joint sample of Gypsum will be collected & will be sent to mutually agreed NABL laboratory in India. The result of Gypsum sample from NABL laboratory will then be binding & final for both seller & buyer.

16. Lifting Sequence and allocation after Auction Process

To be finalized by EIC depending upon site specific conditions with following general guidelines regarding Daily allocation of FGD – Gypsum

- 16.1** All successful bidders shall submit a monthly requisition to NTPC containing a list of their day wise requested quantities for each month by the 22nd of the previous month.
- 16.2** Based on above, corresponding annual allocated quantity and availability. NTPC shall determine and intimate the day wise allocation for each month by 28th of the previous month.
- 16.3** All allocated bidders (or transportation vendors) shall be expected to follow the above schedule and mobilize accordingly.

- 16.4** In case of non-mobilization / inadequate mobilization, NTPC may, at its discretion, allocate such quantity to alternate bidder(s) / avenue(s). Decision of Engineer-In-Charge (EIC – NTPC shall be final and binding in this regard.
- 16.5** Any deviation from the allocated monthly quantity will be considered subject to approval of NTPC station.

17. Delivery

- 17.1** Transportation of Gypsum shall be in the scope of buyer. The buyer(s) shall make arrangements for taking delivery in their own trucks. Transportation of Gypsum in trucks from the delivery point to the destination shall be done by the Buyer at its own risk and cost.
- 17.2** NTPC station would deliver Gypsum from the Gypsum storage facility of different units as per the contract for sale.
- 17.3** Loading of Gypsum in the truck/vehicle of the buyer shall be done by Buyer itself ~~NTPC~~ through backhoe/JCB/ other vehicle. Gypsum will be loaded by Backhoe Loader/ JCB, and the trailers will be placed at the same level. If any other method of loading is desired by the buyer, the same has to be arranged by the buyer at his cost. Gypsum will be loaded in open Trucks/Trailers/Tippers only. Please note that Tippers/Trailers/Trucks having Extra Ribs will not be allowed to enter inside the plant for loading.
- 17.4** Quality parameters shall be checked and certified by NTPC periodically at NTPC lab. Testing may be witnessed by buyer at the NTPC site. Buyer can also check the quality parameter of Gypsum before loading in the truck at their cost.
- 17.5** Gypsum shall be considered to have been delivered once loaded into the buyer's vehicle at the loading point.
- 17.6** Supplier has to ensure that no overloading of Gypsum is done in trucks/vehicles. The buyer shall be solely responsible for excess loading of Gypsum in their trucks against the permitted quantity as per prevailing rules and guidelines.
- 17.7** In case of any issue related to quality parameters of Gypsum, buyer can visit NTPC laboratory and witness the checking procedure and systems and be satisfied with the results. However even then if issue is persisting, then a joint sample of Gypsum will be collected and will be tested at NTPC Lab.

18. Weighment for invoicing

- 18.1** FGD Gypsum shall be issued based on actual weight at NTPC premises. Weighment shall be done on the weigh bridge installed in NTPC and the Weight so recorded shall be considered as final.
- 18.2** Buyer should depute his authorized representative to the power station for coordination and taking delivery of Gypsum.
- 18.3** NTPC has the right to suspend the delivery of Gypsum in case the advance payment is not available or is not made by the required date. Such suspension of delivery shall be to the account of buyer.

19. Responsibility during Gypsum loading and transportation

- 19.1** Buyer shall make their own arrangement for loading and transporting Gypsum.
- 19.2** Buyer shall ensure that lifting of Gypsum, does not cause any damage to property belonging to NTPC. Buyer shall undertake to indemnify NTPC towards any loss or damage caused in this regard.
- 19.3** Valid documents of vehicle and drivers shall be submitted to NTPC for approval before deployment. Above gate passes shall be issued during general shift office hours on working days only.
- 19.4** Gypsum lifting shall be allowed through permitted vehicles only.
- 19.5** Invariably with all the vehicles for lifting of Gypsum, a cleaner / helper shall accompany the driver from entry in the NTPC premises to the loading point and return for helping in positioning of the vehicle. In case of absence of cleaner / helper in this regard NTPC shall be at liberty to disallow entry of the vehicle into its premises.
- 19.6** Buyer shall load Gypsum only up to the body level of the open trucks and NTPC may disallow trucks resorting to overfilling. Bidder shall provide with suitable tarpaulin covers to open trucks (if used) to avoid any dust emission from the trucks during transportation. Mechanically close truck shall be preferred for issue of Gypsum.
- 19.7** Buyer shall ensure that their laborers, transporters, drivers and cleaner or our personnel shall only be present at the Gypsum issue / loading area and shall not stay / loiter unauthorized in any other location in the factory area. In case any of our persons are found in unauthorized location except the designated places, NTPC may take suitable action as deemed fit and proper.
- 19.8** The buyer will be responsible for any kind of injuries or accidents caused to their employees or labourers or any other person and NTPC will not be liable in the matter. If any action is brought against the seller for payment of damages or compensations on this account, the buyer shall indemnify the seller from all such action or claim from damages/compensation. If the seller is held liable for any compensation after expiry of the contract period, buyer shall forthwith compensate the seller, if any such claim arose.
- 19.9** The Buyer's transporter(s) shall have valid license and meet the statutory compliance requirement of State Government / Central Government / Concerned Authorities for transportation of the specified goods.

20. Billing

NTPC will issue Challan/Exit gate pass for each truck of the buyer while making the delivery. Invoices shall be issued by NTPC showing the value of the Gypsum delivered for each day, along with applicable duty/taxes/cess etc. The invoiced amount shall be adjusted against the advance payment made by the buyer(s). The invoice raised by NTPC to domestic bidder shall be in INR, and to foreign bidder shall be in USD.

21. Termination of Contract

- 21.1** In case, off take of Gypsum by vendor falls below 50% of the contracted or agreed quantity, whichever is lower, during two consecutive months, then NTPC/NVVN reserves the right to terminate the contract by giving 15 days' notice in writing of their intentions to do so and in such case the CPG of the vendor will be forfeited.

21.2 The NTPC/NVVN also reserves the right to terminate the contract in the event of breach of contract by the buyer giving one month notice in writing of their intentions to do so and in such the CPG of the vendor will be forfeited.

Following will constitute breach of contract:

- a. Delay in Gypsum off-take / non - lifting of Gypsum by Buyer from committed start date by more than one month.
- b. In case, Gypsum off take falls below 50% during two consecutive months of the contracted or agreed quantity (whichever is lower), during any month.
- c. Buyer is not complying with operational and safety requirements.
- d. Buyer has failed to discharge his obligations according to other terms & conditions of contract.
- e. Non-payment / reimbursement of statutory taxes and duties by the Buyer.

21.3 Contract for sale of Gypsum may be terminated at any time depending on the policy of the Government and / or other concerned authorities. NTPC/NVVN reserves the right for withdrawal of the contract in the interest and safety of the station and the Company by giving 15 days' notice in writing to the buyer.

22. Compliance by Buyers

Buyers to comply with all reasonable controls imposed by the NTPC station and to cooperate with the station and other operating buyers / contractors and to abide by the decision of EIC. In case of any dispute the decision of EIC shall be final and binding.

23. Settlement of Disputes

Amicable Settlement

23.1 In the event of any dispute or claim of any kind whatsoever that may arise between the parties as a result of construction, interpretation, or application of any of the terms and conditions of this agreement or performance of it ("Dispute"), either party may by written notice inform the other party of a Dispute ("Dispute Notice").

23.2 The parties shall within a period of 30 days from the date of receipt of Dispute Notice by such other party meet and endeavour to settle dispute in an amicable manner through good faith and negotiations. In the event of the failure of the parties to settle dispute amicably within such 30-days period, either party may settle dispute as per clause 5.0 of GCC.

24. Jurisdiction of Court:

Only Delhi Court shall have exclusive jurisdiction in all the matters concerning the contract.

Name of the Package.....

BIDDING DOCUMENT NO. NVVN/C&M/RE-360/2024-25

INTEGRITY PACT- NOT APPLICABLE

Between

NVVN Ltd., a Govt. of India Enterprise (hereinafter referred to as "The Employer")and

..... (hereinafter referred to as "The Bidder/Contractor ")and

..... (herein after referred to as "JV Partner/ Consortium Members"
(if applicable)

Preamble

~~The Employer invites the bids from all eligible bidders and intends to enter into Contract for with the successful bidder(s), as per organizational systems and procedures. The Employer values full compliance with all relevant laws and regulations, and the principles of economical use of resources, and of fairness and transparency in its relations with its Bidder(s) and/or Contractor(s).~~

~~In order to achieve these goals, the Employer will appoint Independent External Monitor(s) (IEM), who will monitor the bidding process and the execution of the Contract for compliance with the principles mentioned above.~~

Section 1 — Commitments of the Employer

1. ~~The Employer Commits itself to take all measures necessary to prevent corruption and to observe the following principles in this regard:-~~
 - a) ~~No employee of the Employer, either in person or through family members including relatives, will in connection with the bidding for or the execution of a Contract, demand or accept a promise for or accept for him/herself or for a third person, any material or immaterial benefit to which he/she is not legally entitled to.~~
 - b) ~~The Employer shall, during the bidding process treat all Bidders with equity and reason. The Employer will, in particular, before and during the bidding process, provide to all Bidders the same information and will not provide to any Bidder confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the bidding process or the Contract execution.~~
 - c) ~~The Employer will exclude from the process all known prejudiced persons.~~
2. ~~If the Employer obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act or if there be a substantive suspicion in this regard, the Employer will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.~~

Section 2 — Commitments and Undertakings by the Bidder/Contractor

1. — The Bidder/Contractor commits and undertakes to take all measures necessary to prevent malpractices & corruption. He commits himself to observe the following principles during his participation in the bidding process and during the execution of the contract:
 - a) — The Bidder/ Contractor undertakes not to, directly or through any other person or firm offer, promise or give or influence to any employee of the Employer associated with the bidding process or the execution of the contract or to any third person on their behalf any material or immaterial benefit which he/she is not legally entitled, in order to obtain in exchange any advantage of any kind whatsoever during the bidding process or during the execution of the contract.
 - b) — The Bidder/ Contractor undertake not to enter into any undisclosed agreement or understanding, whether formal or informal with other Bidders. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other action to restrict competitiveness or to introduce cartelization in the bidding process.
 - c) — The Bidder/Contractor undertakes not to commit any offence under the relevant Anti-corruption Laws of India; further the Bidder/Contractor will not use improperly, any information or document provided by the Employer as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically for purposes of competition or personal gain and will not pass the information so acquired on to others.
 - d) — The Bidder/ Contractor, when presenting his bid, undertakes to disclose any and all payments made, or is committed to or intends to make to agents, brokers or any other intermediaries in connection with the bidding process and / or award of the contract.
 - e) — The Foreign Bidder/ Contractor, when presenting his bid, undertakes to disclose the name and address of agents and representative in India. Further, Indian Bidder/ Contractor when presenting his bid, undertakes to disclose the name and address of its foreign principals or associates.
2. — The Bidder/ Contractor will not instigate and allure third persons/parties to commit offences outlined above or be an accessory to such offences.

Section 3 — Disqualification from Bidding Process and Exclusion from Future Contracts

1. — If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of any provisions of Section 2 so as to put his reliability or credibility as Bidder into question, the Employer shall be entitled to disqualify the Bidder(s)/ Contractor(s) from the bidding process or to terminate the contract, if signed on that ground.
2. — If the Bidder/ Contractor has committed a transgression through a violation of

~~Section 2 such as to put his reliability or credibility into question, the Employer shall be entitled to exclude including blacklist and put on holiday the Bidder/ Contractor for any future tenders/contract award process. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the Employer taking into consideration the full facts and circumstances of each case particularly taking into account the number of transgressions, the position of the transgressors within the company hierarchy of the Bidder and the amount of the damage. The exclusion will be imposed for a period not exceeding two (02) years.~~

- ~~3. A transgression is considered to have occurred if the Employer after due consideration of the available evidence concludes that no reasonable doubt is possible.~~
- ~~4. The Bidder with its free consent and without any influence agrees and undertakes to respect and uphold the Employer's absolute rights to resort to and impose such exclusion and further accepts and undertakes not to challenge or question such exclusion on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.~~
- ~~5. Subject to full satisfaction of the Employer, the exclusion of Bidder/ Contractor could be revoked by the Employer if the Bidder/ Contractor can prove that he has restored/ recouped the damage caused by him and has installed a suitable corruption prevention system in his organization.~~

Section 4 — Compensation for Damages including Forfeiture of Earnest Money Deposit/ Security Deposit/ Performance & Advance Bank Guarantees

- ~~1. If the Employer has disqualified the Bidder/ Contractor from the bidding processor has terminated the contract pursuant to Section 3, the Employer shall forfeit the Earnest Money Deposit/Bid Security, encash Contract Performance Bank Guarantees in addition to excluding the bidder from the future award process and terminating the contract.~~
- ~~2. In addition to 1 above, the Employer shall be entitled to take recourse to the relevant provisions of the contract related to Termination of Contract due to Contractor's Default.~~

Section 5 — Previous Transgressions

- ~~1. The Bidder swears on oath that no previous transgression impinging on anti-corruption principles / any malpractice as mentioned in Section 2 has occurred in the last three years immediately before signing of this Integrity Pact, with any other company / any Public Sector Enterprise/ Undertaking in India / any Government Department in India.~~
- ~~2. If the Bidder makes incorrect statement on previous transgression as mentioned above in para 1, Bidder can be disqualified from the bidding processor the contract, if already awarded, can be terminated on this ground~~

Section 6 — Company Code of Conduct

~~Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for~~

the implementation of the code of conduct throughout the company.

Section 7 — Independent External Monitors (IEM)

1. — ~~The Employer will appoint competent and credible Independent External Monitor for this Pact. The task of the IEMs is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.~~
2. — ~~The IEMs are not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He shall report to CMD of the Employer or a person authorized by him.~~
3. — ~~The Bidder/Contractor accepts that the IEMs have the right to access without restriction to all Project documentations of the Employer including that provided by the Contractor. The Contractor will also grant the IEMs, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his Project Documentations. The same is applicable to Subcontractors. The IEMs are under contractual obligation to treat the information and documents of the Bidder / Contractor / Sub-Contractors/ JV partners/ Consortium member with confidentiality.~~
4. — ~~The Employer will provide to the IEMs sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Employer and the Contractor. The parties offer to the IEMs the option to participate in such meetings.~~
5. — ~~As soon as the IEMs notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Employer (CMD of the Employer or a person authorized by him) and request to discontinue or to take corrective action, or to take other relevant action. The IEMs can in this regard submit non-binding recommendations. Beyond this, the IEMs has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action. However, Independent External Monitor shall give an opportunity to the bidder/contractor to present its case before making its recommendations to the Employer.~~
6. — ~~The IEMs will submit a written report to CMD of the Employer or a person authorized by him within 30 days from the date of reference or intimation to him by the Employer and, should the occasion arise, submit proposals for correcting problematic situations.~~
7. — ~~The Bidder / Contractor accepts that they shall not approach courts while the matter / complaint / dispute has been referred to the IEM in terms of this pact and they shall await IEM's decision before approaching any Court.~~
8. — ~~If the IEMs have reported to CMD of the Employer or a person authorized by him a substantiated suspicion of an offence under relevant IPC/ PC Act, and he has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the IEMs may also transmit this information directly to the Central Vigilance Commissioner, Government of India.~~
9. — ~~The word " IEM" will include Singular or Plural.~~

Section 8 — Pact Duration

This Pact comes into force from the date of signing by all the parties. It shall expire for the Contractor 12 months after the last payment under the respective Contract, and for all other unsuccessful bidders 6 months after the Contract has been awarded.

Section 9 — Miscellaneous Provisions

- 1. This Pact is subject to Indian Law. The place of performance and jurisdiction shall be New Delhi.
- 2. Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 3. The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.
- 4. If the Contractor is a JV partnership / Consortium, this agreement must be signed by all the partners of JV / Consortium Partners as the case may be.

The Parties hereby sign this Integrity Pact aton this day of.....20....

| | | | |
|----------------|--------------------------|-------------|----------------|
| Employer _____ | Bidder/ Contractor _____ | Joint _____ | Venture _____ |
| Partner(s)/ | | | |
| member(s) | | | Consortium (As |
| | | | Applicable) |

| | | |
|---------------|---------------|---------------|
| Witness _____ | Witness _____ | Witness _____ |
|---------------|---------------|---------------|

| | | |
|----------|----------|----------|
| 1. _____ | 1. _____ | 1. _____ |
|----------|----------|----------|

CHECK LIST FOR SUBMISSION ALONG WITH DOCUMENTS

To,
NTPC Vidyut Vyapar Nigam Limited,
Engineering Office Complex, Plot No. A-8A Sector 24,
Block A, Noida, Uttar Pradesh 201301

Name of the Work / Package: Sale of Gypsum Produced from Flue Gas Desulphurization Plant at **NTPC SOLAPUR**

| Sl. No | Description of Check Points | Submitted [Yes/No] | Remarks |
|--|---|--------------------|---|
| 01 | Whether the Bid Security has been prepared/submitted | | |
| 02 | Whether submitted Bid Security of required value as per requirement of the bid document | | |
| 03 | Whether the copy of 'Power of Attorney of the Authorized Person signing and submitting the documents' submitted | | |
| 04 | Whether the Duly filled EFT Form along with cancelled cheque has been submitted | | (Documents required for timely return of EMD) |
| 05 | Whether the copy of GST certificate and copy of PAN card has been submitted | | |
| 06 | Whether the bidder has registered and completed the formalities for registration with e-Auction Portal | | |
| 07 | Submitted documents related to requirements supporting your eligibility, complete in all respects | | |
| It is clear from the Scope of work/Bid Documents that loading of Gypsum is in Buyers scope. | | | |
| We further confirm that we have not taken any deviation to the provisions of the Bidding Documents anywhere in our bid | | | |

Date: _____
M/s _____

For
(user agency)
Signature _____

Printed
Name _____
*(Authorized person having
Power of Attorney)*
Designation _____

Appendix - I

SPECIAL INSTRUCTIONS TO BIDDERS FOR E-TENDERING [IE ELECTRONIC BIDDING INSTRUCTIONS (EBI)]

The following Special Instructions to Bidders for e-tendering, shall supplement the provisions of the bidding document. Wherever there is a conflict with regard to tendering/auction, the provisions in this special instructions to bidders for e-tendering shall prevail over those specified elsewhere in the bidding document

Special instructions to Bidders for e-Tendering [ie Electronic Bidding Instructions (EBI)]

General

The Special Instructions (for e-Tendering) supplement 'Instruction to Bidders', as given in these Tender Documents. Submission of Online Bids is mandatory for this Tender.

E-Tendering is a new methodology for conducting Public Procurement in a transparent and secured manner. Now, the Government of India has made e-tendering mandatory. Bidder will be the biggest beneficiaries of this new system of procurement. For conducting electronic bidding, NVVN has decided to use the portal <https://www.bharat-electronictender.com> through ISN ElectronicTender Services Private Limited (referred as ISN-ETS). This portal is based on the world's most 'secure' and 'user friendly' software from ElectronicTender®. A portal built using ElectronicTender's software is also referred to as ElectronicTender System® (ETS).

Benefits to Bidders are outlined on the Home-page of the portal.

Instructions

Tender Bidding Methodology:

Sealed Bid System

- *Single Stage Two Envelope*

Auction

The sealed bid system would be followed by an 'e-Forward Auction'

Broad Outline of Activities from Bidder's Perspective:

1. Procure a Class-III Digital Signing Certificate (DSC)
2. Register on ElectronicTender System® (ETS)
3. Create Marketing Authorities (MAs), Create Forward Auction Authorities (FAs) Users and assign roles on ETS. It is mandatory to create at least one MA and create at least one FA.

4. View Notice Inviting Tender (NIT) on ETS
5. For this tender -- Assign Tender Search Code (TSC) to an MA
6. Download Official Copy of Tender Documents from ETS. Note: Official copy of Tender Documents is distinct from downloading 'Free Copy of Tender Documents'. To participate in a tender, it is mandatory to procure official copy of Tender Documents for that tender.
7. Clarification to Tender Documents on ETS
 - Query to *NVVN* (Optional)
 - View response to queries posted by *NVVN*
8. Bid-Submission on ETS
 - Respond to *NVVN* Post-TOE queries
9. Bid Submission on ETS Query
10. Participate in e-Forward Auction on ETS

For participating in this tender online, the following instructions are to be read carefully. These instructions are **supplemented with more detailed guidelines on the relevant screens of the ETS.**

Digital Certificates

For integrity of data and authenticity/ non-repudiation of electronic records, and to be compliant with IT Act 2000, it is necessary for each user to have a Digital Certificate (DC), also referred to as Digital Signature Certificate (DSC), of Class-III, issued by a Certifying Authority (CA) licensed by Controller of Certifying Authorities (CCA) [refer <http://www.cca.gov.in>].

Registration

To use the ElectronicTender® portal <https://www.bharat-electronictender.com>, vendors need to register on the portal. Registration of each organization is to be done by one of its senior persons who will be the main person coordinating for the e-tendering activities. In ETS terminology, this person will be referred to as the Super User (SU) of that organization. For further details, please visit the website/portal, and click on the 'Bidder Organization' link under 'Registration' (on the Home Page), and follow further instructions as given on the site, and special instruction given in the RFP in this regard. Pay Annual Registration Fee as applicable.

After successful submission of Registration details and Annual Registration Fee, please contact ISN-ETS/ ETS Helpdesk (as given below), to get your registration accepted/activated

Important Note: To minimize teething problems during the use of ETS (including the Registration process), it is recommended that the user should peruse the instructions given under 'ETS User-Guidance Center' located on ETS Home Page, including instructions for timely registration on ETS. The instructions relating to 'Essential Computer Security Settings for Use of ETS' and 'Important Functionality Checks' should be especially taken into cognizance.

Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of users, assigning roles to them, etc.

| | |
|-----------------------|--|
| ISN-ETS/ ETS Helpdesk | |
| Telephone/ Mobile | Customer Support: +91-124 - 4229071, 4229072 [Between 9:00 am to 6:00 pm IST on all working days] |
| E-mail ID | support@isn-ets.com |

Bidding related Information for this Tender (Sealed Bid)

The entire bid-submission would be online on ETS (unless specified for Offline Submissions in bidding documents). Broad outline of submissions are as follows:

- Online Payment of Applicable ETS BD-CR
Note: Failure to pay this amount will result in rejection of the bid.
- Submission of Bid-Parts/ Envelopes
 - *Technical-Part*
 - *Financial-Part*
- Submission of information pertaining Bid Security/ Earnest Money Deposit (EMD)
- Submission of digitally signed copy of Tender Documents/ Addendum

Instructions for Payment of ETS Bid-Deposit Conditionally-Refundable (ETS BD-CR):

In order to participate in the Gypsum e-Tender/e-Auction on the Bharat-ElectronicTender Portal (ETS), each Bidder would have to deposit an amount towards 'Application Charges for Bidders' to the Service Provider as per instructions provided on ETS Portal. This payment is referred to as 'ETS Bid-Deposit Conditionally-Refundable (ETS BD-CR)'.

1. **Calculation of BD-CR:** The BD-CR is calculated based on the quantity for which the bidder intends to bid in the e-tender/e-auction. Additionally, the bidder must adhere to the maximum bidding quantity allowed as per the conditions outlined in the tender document.

Applicable ETS BD-CR = 0.75% (Start/ Reserve Price of NVVN) X (Total quantity quoted by the bidder in Metric Ton) plus GST

2. **Payment Methods:** Bidder can pay the BD-CR amount online through two methods:

Option-1: Payment Gateway facility available on the ETS portal.

Option-2: NEFT/RTGS payment to the following account:

Beneficiary Name: ISN ElectronicTender Services Pvt. Ltd.

Current A/C No.: 661405601452

Branch: ICICI Bank, Central Arcade, DLF City, Phase-II, Gurgaon - 122002

IFSC Code: ICIC0006614

3. Refund Process:

- On the 'Date of Bid Finalization,' ie. when the Service Provider receives written communication from the Auctioneer (NVVN Ltd.) regarding successful/unsuccessful Bidders, the BD-CR amount corresponding to the quantity allocated/awarded to the successful Bidder will be retained as 'ETS Bidding-Fee.' The balance amount will be refunded without interest.
- For unsuccessful Bidders, the full BD-CR amount will be refunded (without any interest) within ten (10) working days from the date of receipt of written communication from the Buyer Organization/Auctioneer (NVVN Ltd.).

4. Invoicing:

- **Case-1 (Unsuccessful Bidder):** If the bidder doesn't secure any quantity, the full BD-CR amount will be refunded, and no invoice will be raised and will not be subject to TDS.
- **Case-2 (Successful Bidder):** If the bidder wins a particular quantity, a GST invoice will be generated. Any balance BD-CR amount will be refunded accordingly. The bidder must deposit the applicable TDS, which will be refunded upon submission of the TDS Certificate to the ETS Service Provider.

By following these instructions, Bidders can effectively manage their payment and refund processes throughout the bidding journey on the ETS platform.

Special Note on Security and Transparency of Bids

Security related functionality has been rigorously implemented in ETS in a multi-dimensional manner. Starting with 'Acceptance of Registration by the Service Provider', provision for security has been made at various stages in ElectronicTender's software. Specifically, for Bid Submission some security related aspects are outlined below:

As part of the ElectronicEncrypter® functionality, the contents of both the 'ElectronicForms®' and the 'Main-Bid' are securely encrypted using a Pass-Phrase created by the Bidder himself. Unlike a 'password', a Pass-Phrase can be a multi-word sentence with spaces between words (eg I love this World). A Pass-Phrase is easier to remember, and more difficult to break. It is mandatory that a separate Pass-Phrase be created for each Bid-Part. This method of bid-encryption does not have the security and data-integrity related vulnerabilities which are inherent in e-tendering systems which use Public-Key of the specified officer of a Buyer organization for bid-encryption. Bid-encryption in ETS is such that the Bids cannot be decrypted before the Public Online Tender Opening Event (TOE), even if there is connivance between the concerned tender-opening officers of the Buyer organization and the personnel of e-tendering service provider. This is an additional reason why a Bidder using ETS need not take the risk of trying to submit his bid near the 'Last Date and Time of Receipt of Bids', and can comfortably do so well in advance.

CAUTION: All bidders must fill ElectronicForms® for each bid-part sincerely and carefully, and avoid any discrepancy between information given in the ElectronicForms® and the corresponding Main-Bid. For transparency, the information submitted by a bidder in the ElectronicForms® is made available to other bidders during the Online Public TOE. If it is found during the Online Public TOE that a bidder has not filled in the complete information in the ElectronicForms®, the TOE officer may make available for downloading the corresponding Main-Bid of that bidder at the risk of the bidder. **If variation is noted between the information contained in the ElectronicForms® and the 'Main-Bid', the**

contents of the Electronic Forms® shall prevail. Alternatively, the Buyer organization reserves the right to consider the higher of the two pieces of information (eg the higher price) for the purpose of short-listing, and the lower of the two pieces of information (eg the lower price) for the purpose of payment in case that bidder is an awardee in that tender.

The bidder shall make sure that the Pass-Phrase to decrypt the relevant Bid-Part is submitted to NVVN in a sealed envelope/email before the start date and time of the Tender Opening Event (TOE).

There is an additional protection with SSL Encryption during transit from the client-end computer of a Bidder organization to the e-tendering server/ portal.

Bidding related Information for this Tender (e-Forward Auction)

e-Forward Auction would be conducted after the opening of the Financial-Part.

The following would be parameters for e-Forward Auction:

| S# | Parameter | Value |
|-----------|---|--|
| 1 | Date and Time of e-Forward Auction Bidding Event | Tentative gap of hours/ day after opening of Sealed Bids/ Will be intimated to the responsive bidders later. |
| 2 | Duration of e-Forward Auction Bidding Event | 1 Hours |
| 3 | Automatic extension of the 'e-Forward Auction Closing Time', if last bid received is within a 'Pre-defined Time-Duration' before the 'e-Forward Auction Closing Time' | Yes |
| 3.1 | Pre-defined Time-Duration | <i>5 Minutes</i> |
| 3.2 | Automatic extension Time-Duration | <i>5 Minutes</i> |
| 3.2 | Maximum number of Auto-Extension | <i>Unlimited</i> |
| 4 | Criteria of Bid-Acceptance | A bidder can go on 'Increasing' his own bid value without taking into cognizance the Starting Price' or 'Rank-1' bid |
| 5 | Reserve Price/Entity Start Price | INR 1821 per MT (for Domestic Bidder) & USD 20.82 per MT (for Foreign Bidder) If bidder offers bid price less than the reserve price in the price bid, then the bid will be rejected and will not be considered for auction. |

| | | |
|---|------------------------|--|
| 6 | Individual Start-Price | Prices quoted by a Bidder in financial bid |
| 7 | Minimum Bid-Increment | 10 INR for Domestic buyers and USD 0.11 for foreign buyers |

Other Instructions

For further instructions, the vendor should visit the home-page of the portal <https://www.bharat-electronictender.com>, and go to the **User-Guidance Center**

The help information provided through 'ETS User-Guidance Center' is available in three categories – Users intending to Register / First-Time Users, Logged-in users of Buyer organizations, and Logged-in users of Bidder organizations. Various links (including links for User Manuals) are provided under each of the three categories.

Important Note: It is strongly recommended that all authorized users of Bidder organizations should thoroughly peruse the information provided under the relevant links, and take appropriate action. This will prevent hiccups, and minimize teething problems during the use of ETS.

SEVEN CRITICAL DO'S AND DON'TS FOR BIDDERS

Specifically, for Bidder organizations, the following '**SEVEN KEY INSTRUCTIONS for BIDDERS**' must be assiduously adhered to:

1. Obtain individual Digital Signing Certificate (DSC or DC) of Class-III, well in advance of your first tender submission deadline on ETS
2. Register your organization on ETS well in advance of the important deadlines for your first tender on ETS viz 'Date and Time of Closure of Procurement of Tender Documents' and 'Last Date and Time of Receipt of Bids'. Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of -- Marketing Authority (MA) [ie a department within the Bidder Organization responsible for responding to tenders], users for one or more such MAs, assigning roles to them, etc. It is mandatory to create at least one MA. This unique feature of creating an MA enhances security and accountability within the Bidder Organization.
3. Get your organization's concerned executives trained on ETS well in advance of your first tender submission deadline on ETS
4. For responding to any particular tender, the tender (ie its Tender Search Code or TSC) has to be assigned to an MA. Further, an 'Official Copy of Tender Documents' should be procured/ downloaded before the expiry of Date and Time of Closure of Procurement of Tender Documents. Note: Official copy of Tender Documents is distinct from downloading 'Free Copy of Tender Documents'. Official copy of Tender Documents is the equivalent of procuring physical copy of Tender Documents with official receipt in the paper-based manual tendering system.

5. Submit your bids well in advance of tender submission deadline on ETS (There could be last minute problems due to internet timeout, breakdown, et al)

Note: Bid-submission in ETS can consist of submission of multiple bid-components, which vary depending upon the situation and requirements of the Buyer. Successful receipt of a bid in an e-tendering scenario takes place if all the required bid-components are successfully 'received and validated' in the system (ETS) within the scheduled date and time of closure of bidding (On some ETS screens, this is also referred to as 'Last Date and Time of Receipt of Bids'). ETS/ Service Provider is not responsible for what happens at an end-user's end, or while a submission made by an end-user is in transit, until the submission is successfully 'received and validated' in ETS. When a bid-component receipt and validation is successful, it is recorded in the ETS Audit Trail Report, which is generated by ETS. In case of any uncertainty, the application audit trail generated by ETS (ETS Audit Trail Report) shall be the final record/evidence for reference regarding the 'successful bid receipt'.

6. It is the responsibility of each bidder to remember and securely store the Pass-Phrase for each Bid-Part submitted by that bidder. In the event of a bidder forgetting the Pass-Phrase before the expiry of deadline for Bid-Submission, facility is provided to the bidder to 'Annul Previous Submission' from the Bid-Submission Overview page and start afresh with new Pass-Phrase(s)
7. ETS will make your bid available for opening during the Online Public Tender Opening Event (TOE) 'ONLY IF' your 'Status pertaining Overall Bid-Submission' is 'Complete'. For your record, you can generate and save a copy of 'Final Submission Receipt'. This receipt can be generated from 'Bid-Submission Overview Page' only if the 'Status pertaining overall Bid-Submission' is 'Complete'.

NOTE: While the first three instructions mentioned above are especially relevant to first-time users of ETS, the fourth, fifth, sixth and seventh instructions are relevant at all times.

Additional DO'S AND DON'TS FOR BIDDERS Participating in e-ForwardAuction

1. Get your organization's concerned executives trained for e-Forward Auction related processes on ETS well in advance of the start of e-Forward Auction.
2. For responding to any particular e-ForwardAuction, the e-ForwardAuction (ie its ForwardAuction Search Code or FASC) has to be assigned to an FA.
3. It is important for each bidder to thoroughly read the 'rules and related criterion' for the e-ForwardAuction as defined by the Buyer organization/ Auctioneer.
4. Pay your EMD for e-ForwardAuction on ETS well in advance of the start of e-ForwardAuction Bidding Event.
5. Pay the ETS BD-CR for e-ForwardAuction well in advance of the start of e-ForwardAuction Bidding Event.

Note: To participate in e-ForwardAuction, the applicable ETS BD-CR for e-ForwardAuction should be paid before the 'Date and Time of Start of Forward-Auction'.

In case ETS BD-CR for e-ForwardAuction is sent offline to the Auctioneer or ETS Service Provider, it is important for the bidder to ensure that the Auctioneer/ ETS Service Provider has received the ETS BD-CR for e-ForwardAuction and also entered the related details in ETS. When the Auctioneer/ ETS Service Provider enters the details, the bidder should receive an e-mail acknowledgement. If ETS BD-CR for e-ForwardAuction status of the bidder is not updated as outlined above, the bidder would not be able to participate in the Auction.

6. During an e-auction, it is recommended that a bidder submits a bid well before the scheduled time of 'Date and Time of Closure of Forward-Auction'. Submission of a bid near the closing time of an auction may result in failure due to any of the various factors at that instant, such as – slow internet speed at the bidder's end, slow running of computer at bidder's end, nervousness of the bidder in the last few seconds, etc. This could lead to delay in submission of data from the bidder's computer to the server. Even if the delay is of a fraction of second after the scheduled closing time, it will result in failure of bid submission. Further, please note that a bid can be submitted even if the bidding-page has not been refreshed manually, or otherwise depending on the conditions of the e-auction.

Note: Successful receipt of Bid in an e-auction scenario takes place if the bid is successfully 'received and validated' in the system (ETS) within the scheduled date and time of closure of bidding (On some ETS screens, this is also referred to as 'Date and Time of Closure of Forward-Auction'). End Users shall be solely responsible for ensuring timely submission of their respective bids such that the bids are successfully received in ETS as stated above. ETS/ Service Provider is not responsible for what happens at an end-user's end, or while a submission made by an end-user is in transit, until the submission is successfully 'received and validated' in ETS. When a bid is successfully 'received and validated', it is recorded in the ETS Audit Trail Report, which is generated by ETS. In case of any uncertainty, the application audit trail generated by ETS (ETS Audit Trail Report) shall be the final record/evidence for reference regarding the 'successful bid receipt'.

7. It is important to digitally-sign your 'Final bid' after the end of e-Forward Auction bidding event.

Minimum Requirements at Bidder's End

- Computer System having configuration with minimum Windows 7 or above, and Broadband connectivity
- Microsoft Internet Explorer 7.0 or above, or Edge with Internet Explorer mode
- Digital Certificate(s)

Vendors Training Program

One day online training (10:00 to 17:00) is provided by ISN-ETS. Training is optional. In case, any bidder is interested, he may send a request to support@isn-ets.com Vendors are requested to arrange their own Laptop, Digital Certificate and Wireless Connectivity to Internet.

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| Vendors Training Charges (Per Participant) | Rs. 5,000/- (plus GST @ 18.00 %) |
|--|----------------------------------|

Description of Zones in Bucket-Filling Auction on ETS

- **Green Zone:** This zone consists of the Bidders who may be allocated their full quoted capacity if the auction is closed at that instant.
- **Orange Zone:** This zone consists of the Bidders who may be allocated a part of their full quoted capacity if the auction is closed at that instant.
- **Red Zone:** This zone consists of the Bidders who will not be awarded any capacity if the auction is closed at that instant.

Note: **Bidders in Blue Color:** If the 'Price' and 'Date and Time of Bid Submission' of more than one Bidder are same, the details would be displayed in Blue Color. Such bidders may or may not be awarded their quoted capacity and it will depend upon the decision of the Auctioneer.