



DAMODAR VALLEY CORPORATION  
DVC Towers VIP Road  
Kolkata - 700 054

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General conditions OF CONTRACT
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**01. Definition**

The following terms and expressions used herein shall have the meaning as indicated therein :-

**Purchase Order/The Contract** : Shall mean the documents forming the tenders and acceptance thereof together with the documents referred to therein including the conditions, specifications, designs, drawings and instructions issued from time to time by the Purchaser and all these documents taken together shall be deemed to form one contract and shall be complementary to one another.

**Applicable Law** : This contract including all matters connected with this Contract shall be governed and construed in accordance with the Indian Law both substantive and procedural and shall be subject to the exclusive jurisdiction of Indian courts at Kolkata (India).

**Contract Price** : It means the total price to be paid for the supply of materials/goods to the consignee in accordance with the payment terms stipulated in the contract.

**Supplier/Vendors** : Shall mean the registered individual firm, Company or Corporation whether incorporated or otherwise to whom the Purchase Order is addressed and shall include its permitted assigns and successors.

**Purchaser/Owner** : Shall mean Damodar Valley Corporation, a statutory body established under Act No. XIV of 1948 of GOI having its Corporate Office at DVC Towers, VIP Road, Kolkata - 700 054.

**Party** : It means the owner or the bidder, as the case may be, and 'Parties' means both of them.

**Sub-Vendor** : Shall mean the person/organization/firm named in the Purchase Order for any part of the material to whom that part of the Purchase Order has been sublet by the vendor with the consent in writing of the 'Owner' and will include the legal representatives, successors and permitted assigns of such person.

**Equipment/Stores/Materials** : Shall mean and include equipment, stores & materials to be supplied by the vendor under the contract.

**Specification** : Shall mean the Specifications and Bidding documents forming a part of the contract and also such other schedules and drawings furnished by purchaser and or as may be mutually agreed upon.

**Guarantee/Warranty Period** : Shall mean the period during which the supplier shall remain liable to repair or replacement of any defective part of the Stores/Equipment/Materials supplied under the contract.

## **02. Reference**

The number of the concerned Purchase Order must appear on all correspondence, drawings, invoices, packing and shipping documents and on all documents or papers connected with Purchase Order.

## **03. Specifications and Drawings**

**03.1** Any information, details etc. called for in the specification and not shown in the drawings and vice-versa shall have the same effect and meaning as if called for and shown both in the specification and drawings. In case of conflict between the specifications and drawings, the decision of the Purchaser or his duly authorized representative shall be final and binding.

### **03.2 Standards :**

The goods/materials supplied under this contract shall conform to the standards mentioned in the Technical Specification, and, when no applicable standard is mentioned, the authoritative standard appropriate to the goods/materials issued by the concerned institution and such standard shall be the latest.

04. GENERAL INFORMATIONS :

Single Stage Bidding :

(a) For One Part Limited/Open Tender : Bidders are requested to submit their offer in sealed envelope superscribing on it Enquiry/Tender No. and Date. Also indicate the Name and Address of the firm; and date of opening on the envelope. In case, earnest money is required to be deposited, the above envelope should contain two smaller sealed envelopes marked 'A' & 'B'.

(i) Envelope 'A' superscribed on it "Earnest Money against Tender Notice No. and Date" should contain the Earnest Money in desired form and also the cost of tender documents in DD/Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, if the same is downloaded from website.

(ii) Envelope 'B' superscribed on it 'Techno-Commercial and Price Bid against Tender Notice No. and Date" should contain quotation with price and other details.

(b) For two part Limited/Open Tender : Bidders are requested to submit their offer in sealed envelope superscribing on it "Tender Notice No. and Date". Also indicate the Name and Address of the firm; and date of opening on the envelope. Above sealed envelope should contain three smaller sealed envelopes marked 'A', 'B' & 'C'.

(i) Envelope 'A' superscribed on it "Earnest Money against Tender Notice No. and Date" should contain Earnest Money in desired form and also the cost of tender documents in DD/Pay Order in favour of Chief Accounts Officer, DVC, Kolkata-54, if the same is downloaded from the website.

(ii) Envelope 'B' superscribed on it 'Quotation against Tender Notice No. and Date - Techno-Commercial Bid' should contain quotation with technical details and commercial terms along with Deviation Schedule as per format given in Annexure 'C'.

(iii) Envelope 'C' superscribed on it "Price Bid against Tender Notice No. and Date" should

contain the Price Bid along with the withdrawal prices for deviation as declared as per format given in Annexure 'D'. This envelope will be opened only for technically accepted Bidder at a date to be notified later on.

**For Two Stage Bidding :**

A two stage bidding process shall broadly comprise of the following two stages :

- (a) 1<sup>st</sup> Stage Bidding (Techno-Commercial Bids without prices but with Deviation Schedule).
- (b) 2<sup>nd</sup> Stage Bidding (Price Bids along with requisite EMD and cost of withdrawal of declared techno-commercial deviation)

- The owner will provide necessary inputs/information as considered necessary to the successful bidder for completion of the assignment.
- The cost on account of preparation of proposal, negotiation, discussion etc. as may be incurred by the Bidder in the process of finalisation of the contract are not reimbursable by the owner.
- The owner reserves the right to reject any or all proposals, wholly or partially, without assigning any reasons whatsoever.
- Sub contracting in part or full of the assignment awarded to the successful bidder without prior written consent of the owner is not permitted.

**05. BIDDING DOCUMENTS**

Each bidder shall submit with its bid the following attachments for single stage bidding :

Attachment 1 : EMD/BID SECURITY. An EMD to be furnished in accordance with GCC Clause No. 06 and cost of bid documents in DD if the same is downloaded from Website.

Attachment 2 : Techno-commercial Terms & Conditions as per Format given in Annexure "A" and Specification Booklet/Sheet .

Attachment 3 : Price schedule as per Annexure "B". The bidder shall also provide the withdrawal price, if any, for withdrawal of techno-commercial deviations as per format given in Annexure 'D' along with the price bid.

Attachment 4: Deviation sheet - Deviations, if any, from the commercial terms and conditions or Technical Specifications shall be listed ONLY as per format given in Annexure "C" and to be enclosed with the Techno-commercial offer.

Attachment 5 : Supporting Documents as asked in the qualifying requirements in accordance with this NIT.

Attachment 6 : Proforma and check list of Bank Guarantee against EMD.

Each bidders shall submit with its bids the following attachments for two stage bidding :

First Stage Bidding : Attachment 2, 4 & 5 as detailed above along with the cost of bid documents in DD if the same is downloaded from website.

Second Stage Bidding (if qualified after first stage bidding) : Attachment 1, 3 & 6 as detailed above.

Each bidder should respond for single stage bidding with

(i)3-envelope (Two part tendering): Attachment 1 & 6 in envelope A, Attachment 2,4&5 in envelope B and Attachment 3 in envelope C.

(ii)2- envelope (1 part tendering): Attachment 1 & 6 in envelope A and Attachment 2,3,4 & 5 in envelope 'B'.

06. EARNEST MONEY DEPOSIT (IF APPLICABLE) :

Every tender must accompany ' Earnest Money ' as mentioned in the Tender Notice/Enquiry in desired form as mentioned below without which the tender will not be accepted. The Earnest Money should be deposited in any of the following forms:-

- a) Pay Order or Demand Draft in favour of the Chief Accounts Officer, DVC, Kolkata-54 from any Nationalised or scheduled bank.
- b) Bank Guarantee from a Nationalised Bank/Scheduled Bank/Foreign Banks, irrevocable and operative till the validity of the offer as per standard Proforma.
- c) Fixed Deposit Receipt issued by Nationalised Bank endorsed in favour of DVC.
- d) DVC Bonds duly endorsed in favour of DVC.
- e) Post Office National Savings Certificate having face value equal to the EMD value and duly endorsed in favour of DVC.

No Bank Guarantee shall be accepted for EMD amount upto Rs. 10,000/-. However, EMD exceeding Rs. 10,000/- may be accepted in any of the above forms.

The offer accompanied by B.G. against EMD will only be considered valid on acceptance of the Bank Guarantee. The offer not accompanied by EMD or specified EMD in proper form as defined above shall not be considered as valid tender for opening provided necessary stipulations are made in the NIT.

- i) Earnest Money will only be refunded to the unsuccessful Tenderer within a month after finalisation of Tender and no interest will be paid for the same.
- ii) The amount of Earnest Money will be refunded to the successful tenderer, after acceptance of their Security Deposit-cum-Performance B.G./successful completion of the order.
- iii) Small Scale Industries registered with NSIC shall be exempted from the payment of Earnest Money. Small Scale Industries seeking such exemption must enclose valid registration certificate from the appropriate Govt. authority giving details such as validity, stores etc., failing which exemption will not be granted.

07. CONDITIONS FOR FORFEITURE OF EMD :

The EMD may be forfeited

- In case the purchase order is not executed by the vendor in full.
- In case a bidder withdraws his offer within the offer validity period specified by the bidder.
- If the bidder does not accept the arithmetical correction of its Bid Price.
- If the Bidder does not withdraw any deviation at the cost of withdrawal price indicated by him in deviation schedule.
- If the bidder refuses to withdraw, without any cost to the owner, any deviation not listed in deviation schedule but found elsewhere in the bid.
- In the case of a successful bidder, if the bidder fails within the specified time limit as mentioned in the purchase order to furnish the acceptance of contract.
- In case of a successful bidder, if the bidder fails to submit Security Deposit-cum-Performance BG within 30 days from last day of the stipulated period mentioned in the Purchase Order/Work Order/LOA/LOI.
- For those tenderers who are found to be indulging in changing /adding or deleting the contents of the downloaded tender documents.

#### 08. Price Basis

Price mentioned in the Purchase Order shall normally be firm till execution of the order with no escalation and will be subject to the following Price Fall Clause unless stated otherwise :-

- i) If at any point of time there is a downward trend in the market and price of the item under the order falls, the supplier should forthwith notify the Purchaser, and the price payable under the contract for the item shall stand correspondingly reduced from that date.
- ii) The supplier shall furnish the following certificate to the consignee along with invoice for the payment action for supply made for such items.

'I/we certify that there has been no reduction in the sale price of the stores of description identical to

this item, supplied to any person/organization and such stores have not been offered/sold by me/us to any person/organization at a price lower than the price charged under this contract upto the date of this bill.'

While asking for offers from bidders, price basis for the tender items should be clearly spelt in the NIT. It may be on '**firm price basis**' or '**variable price basis**' or both.

In case price quoted by a firm is a variable one, bidders are requested to mention the relevant price variation formula, base date and specific ceiling limit invariably. Bidders may note the following in case the price basis is variable.

- a. If variable, the extent of variable ceiling limit as indicated by the bidder will be loaded for evaluation for the purpose of ranking of offer and the price variation for the purpose of payment will be restricted to actual to be determined by the PV formula supplied by the bidder but not exceeding the ceiling limit indicated in the offer.
- b. In case neither 'firm' nor 'variable' indicated, the offered price will be taken as firm throughout the contractual period and evaluation to be done accordingly. If the bidder does not agree to this, his offer will be outrightly rejected.
- c. If the offer is on variable price basis but without any specific ceiling limit or acceptable PV formula the offer cannot be evaluated for determining its relative ranking.

Such offer (variable price but without any PV formula or ceiling limit) to be considered as an offer with deviation in respect of firm price basis offer. The bidder must declare it in the deviation schedule (to be enclosed with the techno-commercial offer) along with the cost of withdrawal for such deviations. This cost will be taken into consideration for the purpose of bid evaluation. The offer with this type of deviation without cost of withdrawal price will be rejected.

#### **09. Taxes, Levies and Duties**

Bidders shall quote statutory taxes and duties (Sales Tax, Excise Duty, Customs Duty, Service Tax, Municipal Tax, Octroi, Levies and any other duties) as applicable on the date of bid opening and shall be shown separately

in the offer. This shall be to the account of the Purchaser/Owner against documentary evidence, unless otherwise mentioned in the Purchase Order. Any variation in statutory taxes and duties after bid opening and upto the scheduled delivery period shall be to the purchaser's account. However, any decrease in this respect shall be passed on to DVC. Any upward variation in statutory taxes and duties beyond the contractual delivery period will not be paid by DVC.

ED as applicable and paid by vendor will be reimbursed by DVC against documentary evidence only. For Sales Tax payment, vendor should furnish the notarized copy of Sales Tax Registration Certificate and latest copies of STCC.

**10. DISCREPANCIES IN THE BID & OFFER VALIDITY :**

The bids shall also be checked for computational error, if any, to arrive at the computed price, as per provisions in the following :

- In case of discrepancy between the original and copies of bid, the original bid will be considered correct.
- If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity of any item, or between sub-total and the total price, the unit or sub-total price shall prevail, and the total price shall be corrected accordingly.
- If there is a discrepancy between words and figures, the amount in words will prevail.
- If there is a discrepancy between the quantity specified by DVC in the bidding document and that indicated by the bidder in his bid, the former shall be taken to arrive at the computed price.
- In case the unit rate of an item is not quoted but the total price is indicated, the same shall be taken to arrive at the computed price. The computed price arrived at, as above, shall be considered for the purpose of award also.
- If the bidder does not accept the correction of errors as worked out by above methodology, its bid will be rejected.

Quotation must be kept valid for at least 90/180 days from the date of opening of the Enquiry/Tender as indicated in the NIT. If any bidder offers bid having validity shorter than that asked in the NIT, same will be considered as deviation and to be tackled in the manner as the other techno-commercial deviations are taken care of.

The materials which are to be procured on single tender propriety basis, the vendor must submit a Proprietary Article Certificate (PAC) and Price Reasonability Certificate (PRC) stating that the prices charged are reasonable and the same as being charged to all the Govt./semi Govt. Organizations/PSUs including D.G.S. & D. wherever applicable and shall be submitted along with the offer with documentary evidence. Where agency commission is involved, the same in percentage invariably be indicated and in such cases document required to be furnished.

11. Bidder may seek clarifications on the bidding documents (GCC + Technical Specification Booklet + NIT {Tender Notice} along with annexures + Proforma & Check List of BG against EMD), if required, upto 7 days before the scheduled bid opening date. Any clarification sought by the bidders must be sent in writing to the Tender Issuing Authority.

Besides this, a Pre-bid Conference may also be held at the tenderer's office at the discretion of Tender Inviting Authority. If agreed by Tender Inviting Authority, date, time and place for holding the Pre-bid Conference to be mentioned in the bidding document (NIT).

-12 AMENDMENT OF BIDDING DOCUMENTS :

At any time prior to the deadline for submission of bids, the owner may, for any reason, whether at its own initiative, or in response to a clarification requested by a prospective Bidder, amend the bidding documents.

The amendment will be notified in writing or by cable to all prospective Bidders that have received the bidding documents and will be binding on them. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the

information contained therein will have been taken into account by the Bidder in its bid.

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

-13 COST COMPENSATIONS FOR DEVIATIONS :

Deviations specifically declared by the bidders in the respective Deviation Schedules of as per Annexure C (to be submitted along with techno-commercial offer) and respective cost of withdrawal of such deviation as per Annexure D (to be submitted along with the price bid) only will be taken into account for the purpose of evaluation. The bidders are required to declare the prices for the withdrawal of the deviations declared by them in the Deviation Schedules. Such prices declared by the bidders for the withdrawal of the deviations in the Deviation Schedules shall be added to the bid price to compensate for these deviations. In case prices for the withdrawal for declared deviations are not furnished by the bidder, their offer will be considered as unresponsive and will be rejected. In case the bidder refuses to withdraw the deviations at the cost of withdrawal indicated by the bidder in the Deviation Schedules, the bid Security/EMD of the bidder may be forfeited.

Bidders may note that deviations, variations and additional conditions etc. found elsewhere in the bid other than those stated in the Deviation Schedules, save those pertaining to any rebates, shall not be given effect to in evaluation and it will be assumed that the bidder complies to all the conditions of Bidding Documents. In case bidder refuses to withdraw, without any cost to the Owner, those deviations which the bidder did not state in the Deviation Schedules, the bid security of the bidder may be forfeited.

- 14 (i) Bidders are requested to quote the technical parameters/guaranteed technical particulars of the quoted item as per enclosed specification sheet/booklet.

(ii) Bidders are requested to offer their commercial terms and conditions as per Annexure-A attached herewith.

(iii) Bidders are requested to offer their pricing as per Annexure-B attached herewith.

-15 BID EVALUATION PROCEDURE :

Offered bids will be evaluated in the following methodology :

Original Basic Price : Ex-Works Price  
(Rs.)=...Rs.

+ \*Ceiling Limit as indicated by the bidder in case price is variable : ...% of Ex-works Price = ...Rs.

Basic Price = Ex-works Price + \*Variable component of price as indicated above = ...Rs.

+Packing & forwarding charges, if any : ..% on basic price only

{ +Excise Duty - ..% on (Basic Price + P & F)  
+ Education Cess - ..% on ED  
+Sales Tax - ..% on (Basic Price+ P & F + E.D + Cess)

+Freight - ..% on (Basic Price+ P & F) or any other value

+Insurance -..% on (Basic Price + P & F + E.D + S.T.) or any other value against documentary evidence or actual premium in case of DVC's Open Policy (presently it is .05% of basic price).

+Cost of withdrawal price - As declared by the bidder in the deviation schedule (Annexure D).\_\_

+Highest quoted price of \* - other bidders, in case the bidder fails to quote the

mandatory items or description  
of item not as per our specification

+Type test charge/3<sup>rd</sup> Party Inspection -  
Charge as per our QAP, if any \*

+Loss capitalization charges, if any\* -

+Any Other taxes and duties, such as TOT, Entry Tax,  
Municipal Tax etc. as applicable \*-

= Total Evaluated Price

The liability of DVC shall be as per actual ED applicable at the time of despatch, subject to production of Excise Invoice. Further the rate of ED shall be restricted to as applicable within the contractual delivery period only. Increase in ED rate, if any due to delay in supply beyond the contractual delivery period shall not be payable by DVC. However, the benefit of any decreases in ED shall be passed on to DVC.

\* The lines with \* mark may be deleted wherever  
{ not applicable.

Rate as on date of bid opening to be taken.

-16 Inspection/Checking Testing

All materials/equipments manufactured/supplied by the vendor himself against the Purchase Order shall be subject to inspection, check and/or test by the Purchaser or his authorised representative. All these tests shall be carried out in the presence of Owner and/or his authorized representative. Vendor shall notify the Purchaser at least 15 days in advance when the material/equipment is ready for inspection. If upon delivery the material/equipment does not meet the specifications/samples, the material/equipment/spares shall be rejected and returned to the vendor for repairs/modification etc. or for replacement. In such cases all expenses including to-and-fro freight, repacking charges etc. shall be to the account of the vendor.

Inspection by Purchaser and/or his authorized representative or failure by the Purchaser and/or his authorized representative to inspect the material/equipment shall neither relieve the Vendor of any responsibility or liability under this Purchase Order in respect of such material/equipment nor be interpreted in any way to imply acceptance thereof by the Owner.

Whenever specifically asked for by the Owner and/or his authorized representative, the Vendor shall arrange for inspection/testing by the Owner or third party authorised agencies as stipulated in the Purchase Order. In such cases Vendor shall adhere to the inspection/testing procedure laid down by such agencies. All expenses including inspection fees shall be to the Purchaser account unless agreed to the contrary and specified in the Purchase Order.

**-17 Access to Vendor's Premises**

The Owner and/or his authorized representative shall be provided access to Vendor's and/or his sub-vendor's premises at any time during the pendency of the Order for expediting inspection, checking etc. of work.

**-18 Transit Insurance & Removal of Rejected Goods and Replacement**

The items to be supplied have to be covered by Insurance during transit from vendors work site upto the consignee store. However, the vendor may have the option to avail DVC's Open Insurance Policy for this purpose. Alternatively, vendor may arrange transit insurance coverage at his own risk and cost. The insurance charge as claimed by the vendor will be payable by DVC on actuals against production of documentary evidence.

- 18.1** If upon delivery to consignee's godown, whether inspected and approved earlier or otherwise, the material/equipment is not found in conformity with the specifications, the same shall be rejected by the Purchaser or his duly authorized representative and notification to this effect will be issued to the Vendor normally within 30 days from the date of Receipt of the material at the Works/Site/Office.

The Vendor on receipt of notification shall arrange removal of the rejected items within 15 days from the date of notification at his own cost. In the event the Vendor fails to lift the materials within the said 15 days, the Owner without any further notice or information to the vendor, shall be at liberty to dispose of such rejected items in any manner as he may think fit. All expenses shall be recoverable from the Vendor.

**18.2** In the event, the equipment and materials or any portion thereof are damaged or lost during transit, the owner shall give notice to the Supplier detailing the particulars of such equipments & materials damaged or lost during transit. The replacement of such equipment and materials to be effected by the supplier free of costs including handling and transportation charges upto site, within a reasonable time.

**-19 Terms of Payment**

For purchase order involving supply only, payment terms will be as below :

100% payment alongwith full taxes & duties will normally be made by the Owner to the Vendor through A/C Payee Cheque within 30 days from the receipt of material at site and after inspection & acceptance thereof. The consignee would arrange for inspection of the items. All documents relating to payment would be checked and verified and to be passed by the concerned Accounts Office before effecting payment, with reference to the P.O./W.O./LOI/LOA.

Provision of part payment against part supply of consignment at consignee's end may be incorporated in Purchase order on the merit of the case(only if the part consignment can be used independently), provided necessary stipulation are made in the bid document.

The payment terms for supply and erection & commissioning for any Turnkey contracts/projects may be regulated as follows :

- 1) supply portion only:  
90% of the ordered value of supply after receipt of materials and inspection/acceptance at site. This

includes any initial advance, if any. Remaining 10% after commissioning & testing and handing over.

2) **Erection & Commissioning:**

90% of contract price for Erection & commissioning against RA bills. This also includes initial advance, if any. Remaining 10% after complete erection and commissioning & testing and handing over.

Payment in respect of imports will be regulated as below:

90% of FOB price less Indian Agency Commission in Rs, if any, shall be paid against proof of despatch documents by LC. The balance 10% of FOB price less Indian Agency Commission in Rs., if any, shall be paid within 30 days of receipt of material at the consignee end.

The payment of advance is normally discouraged. The advance payment, in exceptional cases, may be given to the extent of 10% of total order value only which will be interest bearing at prevailing DVC's Cash Credit rate against submission of a Bank Guarantee of equivalent amount (amount of advance plus interest burden on it) and the same should have sufficient validity covering the full delivery period of the consignment and final payment thereof.

-20 **Additions / Alterations / Modifications**

The Owner reserves the right to make additions/ alterations/ modifications to the quantity of the items in the Purchase Order. The Vendor shall supply such quantities also at the same rate as originally agreed to and incorporated in the Purchase Order. If, however, the additional supply is at variance with design, size and specifications and not already covered by the Purchase Order or the amendments therein, the rates for such additional supply shall be negotiated and mutually agreed upon.

-21 **Delivery Schedule**

Time is the essence of this contract and normally no variation shall be permitted in the delivery time/delivery schedule mentioned in the Order/contract unless an amendment in this regard is issued by DVC. Time extension may be issued on specific request/reason provided such request is communicated to the Order Issuing Authority at least 7 (seven) days before the

expiry of the stipulated delivery schedule. Such extension, however, can be accorded as per provisions in DFP. Date of delivery is to be reckoned as the date of receipt of materials/goods by the consignee.

-22 **Liquidated Damages for Delay in Delivery**

-22.1 The time remains the essence of all major contracts/purchase orders awarded by DVC and all supply under a Purchase Order needs to be completed within the stipulated time schedule. Therefore, the provision has been kept in the contract/Purchase Order that in case of delay in completion, for the reasons attributable to the contractor, Purchaser reserves the right to recover from the Vendor a sum equivalent to 0.5% of the value of the delayed materials / equipment/ spares for each week of delay and part thereof subject to maximum of 5% of the total value of the order as Liquidated Damage (LD). However, LD once deducted should not be refunded to the vendor again.

22.2 Alternatively, the Purchaser reserves the right to purchase the material/spares/equipment from elsewhere at the sole risk and cost of the Vendor and recover all such extra cost incurred by the Purchaser in procuring the material by the above procedure.

22.3 Alternatively, the Purchaser may cancel the Order completely or partly without prejudice to his right under the alternatives mentioned above.

22.4 In the event of recourse to alternative 22.2 and 22.3 above, the Purchaser will have the right to re-purchase the stores, to meet urgency in requirement caused by Vendor's failure to comply with the schedule of delivery irrespective of the fact whether the materials/equipments are similar or not.

-23 **SECURITY DEPOSIT-CUM-PERFORMANCE GUARANTEE :**

The successful tenderer will have to deposit as security, for satisfactory execution of the order, and for guaranteed performance of the supplied item for an amount equivalent to 10% of the ordered value in the form of Bank Guarantee (as per DVC format) within 30 days from the date of issuance of Purchase Order, from any Nationalised /Scheduled Bank and it should have validity initially for 18 months from the date of

execution of BG plus 6 months claim period thereafter. The said BG should be extended suitably covering the entire warranty period plus 6 months claim period after despatch of materials. No payment will be made till the acceptance of the said BG by DVC.

In case banks refuse to issue BGs having Claim Period separately, the validity period of those BGs may be taken as warranty period plus six months.

For ordered value upto Rs. 1 lakh, there should not be any Security Deposit if payment is made after inspection and acceptance of materials or satisfactory completion of the work.

Security Deposit in the form of Bank Guarantee/Advance Bank Draft/deduction of equivalent amount against running bill may be accepted for ordered value upto Rs. 5 lakhs. The amount so deducted as Security Deposit will only be released to the concerned supplier/vendor on expiry of warranty/guarantee period of the Purchase Order. However, for ordered value above Rs. 5 lakhs, Security Deposit in the form of Bank Guarantee shall only be acceptable.

SSI Units registered with NSIC, under its single point registration scheme, are exempted from depositing Security Deposit for ordering value upto the monetary limit for which the unit is registered. Small scale industries seeking such exemption must enclose valid registration certificate from appropriate Govt. Authority giving details such as validity, stores, monetary limit etc. failing which exemption will not be granted.

However, these SSI units will have to submit Performance Guarantee for the materials to be supplied as per DVC norms and to be submitted before the despatch of materials and no payment will be effected till the acceptance of the same.

After placement of the Purchase Order/Work Order/LOI/LOA there will be no waiver of Security Deposit amount.

Purchase Preference shall be given to Bidders as per the prevailing Govt. Guideline issued from time to time.

In the evaluation and comparison of bids, DVC reserves the right to allow purchase preference, as admissible under the existing policy of Govt. of India to bids from (a) Central Public Sector Enterprises (CPSEs) registered under Companies Act, 1956 and statutory CPSEs (b) Joint Venture companies where holding of Government and/or CPSEs is 51% or more and Joint Ventures which are subsidiaries of CPSEs with CPSEs holding 51% equity or more and (c) Those privatized CPSEs where specified Government approval has been accorded for the specific periods from the date of disinvestments.

-25 **Source of Supply**

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

-26 **Patent Rights**

Royalties and fees for patents covering materials/equipments/ spares or processes used in executing the work shall be to the account of the Vendor. The Vendor shall satisfy all demands that may be made at any time for such royalties and fees and he alone shall be liable for damages, infringement and shall keep the Purchaser indemnified in that regard in the event of any equipment/spares/material or part thereof supplied by the Vendor is involved any suit or other proceedings held to constitute infringement and its use is enjoyed, the Vendor shall, at his own expenses, either procure for the Purchaser the right to continue the use of such equipment/spares/material replace it with a non-infringing material/ spares/equipment or modify it so it become non-infringing.

-27 **Force Majeure**

Vendor shall not be considered in default if delay in delivery occurs due to causes beyond his control such as acts of God, natural calamities, civil wars, fire, strike, frost, floods, riot and acts of unsurpassed power. Only those causes which have duration of more than seven (7) days shall be considered cause of force / calendar majeure. A notification to this effect duly certified by the statutory authorities shall be given by the Vendor to the Owner within 10 days from the date of such Force Majeure condition by registered letter. In the event of delay due to such causes, the delivery schedule will be extended for a length of time equal to the period of force majeure or at the option of the Owner the order may be cancelled. Such cancellation would be without any liability whatsoever on the part of the Owner. In the event of such cancellation, the Vendor shall refund any amount advanced or paid to the Vendor by the Purchaser and deliver back any materials issued to him by the Purchaser and release facilities, if any, provided by the Purchaser.

-28 **Cancellation/Short Closure**

The Owner may terminate/short close this contract, by not less than 30 days' written notice to the bidder, to be given after occurrence any of the events specified in the Sl. No. (a) to (e) of this clause and 60 days in the case of the event referred to Sl. No. (f) below.

- (a) The Vendor fails to comply with any of the terms of the Order or the bidder do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Owner may have subsequently approved in writing.
- (b) The Vendor becomes bankrupt or goes into liquidation.
- (c) If as a result of Force Majeure, the Bidder is unable to supply a material for a period of not less than 60 days.
- (d) If the Bidder, in the judgment of the Owner has engaged in corrupt or fraudulent practices in competing or in executing the Contract. For the purpose of this clause :  
"Corrupt Practice" means the offering, giving, receiving or soliciting of any thing of value to

influence the action of a public official in the selection process or in contract execution.

"Fraudulent Practice" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Owner.

- (e) The vendor is otherwise precluded from complying with any of the terms of the order on account of any directives of any lawful authority.
- (f) If the Owner, at its sole discretion, decides to terminate this Contract.

-29 **Waiver**

Any waiver by the Owner of any breach of the terms and conditions of the Order shall not constitute any subsequent breach of the waiver of any other right or conditions.

-30 **Compliance of Regulations**

The Vendor shall warrant that all Goods and/or services covered by this Purchase Order shall have been produced, sold, dispatched, delivered, tested and commissioned in strict compliance with all applicable laws, regulations including industries (Development & Regulations) Act, 1951 & Industrial Dispute Act, 1947 and any amendments thereunder, labour agreements, working conditions and technical codes and requirement as applicable from time to time.

All laws, rules and regulations required to be followed in execution of the order, must be complied with. The Vendor should execute and deliver such documents as may be needed by the Purchaser in evidence of compliance. Any liability arising out of contravention of any of the laws on executing this order shall be the sole responsibility of the Vendor and the Owner shall not be responsible in any manner whatsoever.

-31 **Sub-Letting & Assignment**

The Vendor shall not sub-let or assign any part of this Purchase Order to any other vendor/agency without the prior written consent of the Purchaser. Such assignments or sub-letting or transfer shall not relieve the Vendor from any obligation, duty and responsibility under this

Purchase Order. Any assignment, transfer or sub-letting without the prior written approval of the Owner shall be void. The Purchaser shall have the right to cancel the order and to purchase the goods from elsewhere and the supplier shall be liable to the Purchaser for any loss or damage which the Purchaser may sustain in consequence or arising out of such purchase and the Vendor shall indemnify such loss or damage to the Owner.

-32 **Vendors Drawing & Data**

All Drawings, data and documentation in respect of the ordered items are an integral part of the Purchase Order. The Vendor will furnish all such drawings, data and documentation to the Purchaser. Purchaser will specify the schedule for submission of these documents by the Vendor and the required number of copies. The vendor shall ensure strict compliance to this schedule.

-33 **Information provided by the Purchaser**

All Drawings, data and documentation that are given to the vendor by the Purchaser for the execution of the Order shall be the property of the Purchaser and shall be returned by the Vendor on demand by the Purchaser. The Vendor shall not make use of any of the above documents for any purpose at any time except for the purpose of executing the Order of the Purchaser. The Vendor shall not disclose any of the information given by the Purchaser to any person, firm, corporate body or authority and shall make all endeavours to ensure that the above information is kept confidential. All such information shall also remain the absolute property of the Purchaser.

-34 **Spare Parts, Oils & Lubricants**

Wherever applicable, the Vendor shall furnish item wise price list of spare parts required for two years operation of the equipment ordered. The Vendor shall also provide the necessary instructions and drawings to identify the spare part numbers and their location as well as an interchangeability chart. The Vendor shall recommend the quality of oils and lubricants required to be used to the operation of the equipment supplied under

this Order for a continuous operation for a period of at least one year.

-35 **Vendors Liability**

Vendor hereby accepts full responsibility and indemnifies the Purchaser and shall hold the Purchaser harmless from all acts of omissions and commissions on the part of the vendor, his agents, his subcontractors and employees in execution of the Order. The Vendor also agrees to defend and hereby undertakes to indemnify the Purchaser and also hold him harmless from any and all claims of injury to or death of any and all persons including but not limited to employees and for damage to the property arising out of or in connection with the performance of the work under the Purchase Order.

-36 **Packing and Marking**

All goods shall be securely packed in cases, bundles, crates etc. suitable for Rail/Road/Air/Sea transport. All exposed services/connections, protrusions shall be properly protected. All unexposed parts shall be packed with due care and the packages should bear the words "Handle with Care". The packing of the goods to be transported by Rail/Road/Air/Sea shall be as per the conditions laid down by the appropriate authorities and the Vendor shall obtain clean railway / goods receipts without any qualifying remark.

All packages and unpacked materials shall be marked on at least two places indicating the name of the Purchaser/Consignee, Purchase Order No., gross & net weights and dimensions with indelible paint in English. In case of bundles, metallic plates marked with the above details shall be tagged.

All goods should be despatched as per the relevant terms of the Purchase Order. In case any mode of transports has to be resorted to other than that mentioned in the Purchaser Order, the same shall be done only after obtaining prior approval in writing from the Purchaser. All movement sanctions, loading permissions etc. from the railway or other authorities shall be obtained by the Vendor. The Vendor shall communicate the relevant dispatch particulars immediately on dispatch by telex/telegram to the consignee as specified in the Purchase Order.

The Vendor shall also forward original and copies of dispatch documents to the concerned authorities as required in the Purchase Order within two days from the date of despatch, failing which the Vendor shall be responsible for any delay in payments of consignment for want of documents and consequent demurrage, detention charges, etc.

-37 **Modifications**

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

-38 **Guarantee/Warranty**

38.1. The Vendor shall warrant that all material/equipment/services supplied under this Order shall be new, unused and conform to the Purchasers requirements and specifications. The Vendor shall guarantee the material/ equipment/services under this Order for a period of 18 months from the date of delivery or 12 months from the date of commissioning whichever is earlier. The date of delivery to be reckoned as the date of receipt of the material by the consignee. The Vendor shall agree to replace any material, which has been proved defective or fails to conform to the desired specifications free of cost to the Purchaser within the Guarantee/Warranty Period. The guarantee period for such replaced part shall be the same as that of equipments/materials specified earlier.

For turnkey contracts/projects/R&M work, guarantee/warranty Clause to be considered as 12 months from the date of commissioning of the same irrespective of date of delivery.

38.2 Checking/approval of vendors drawings, inspection and acceptance of material/spares/equipment/furnishing to effect shipment and/or work done for erection, installation and commissioning of the equipment by the Purchaser or any other agency on behalf of the Purchaser shall not in any way relieve the Vendor from the responsibility for proper performance during the guarantee period.

-39 **Mode of Despatch**

Vendor shall despatch the materials as per schedule mode of despatch as indicated in the purchase order and any violations to this effect without taking prior written approval from the purchaser is not permissible.

-40 **Demurrage / Wharfage**

In cases where documents are negotiated through Bank, any consequential charges e.g. demurrage/wharfage charges, due to late retirement of documents on account of (i) violation of the inspection clause, (ii) material despatched after expiry of delivery period without obtaining approval in advance for extension of delivery period (iii) despatch of materials not as per schedule mode of despatch by approved transporter as per P.O. (iv) late receipt of invoice or due to violation of any other clause/clauses of the purchase order will be to the Vendors account. Supplier would also be responsible for all such payment due to late receipt of RR/LR and other documents.

-41 **Grafts/Commission**

Any graft, commission, gift or advantage given, promised or offered by or on behalf of the Supplier or his partner, agent officers, director, employee or servant or any one on his or their behalf in relation to the obtaining or to the execution of this or any other Contract with the Owner, shall in addition to any criminal liability which it may incur, subject the Supplier to the cancellation of this and all other Contracts and also to pay for any loss or damage to the Owner resulting from such cancellation. The Owner shall then be entitled to deduct the amount so payable from any money otherwise due to supplier.

-42 **Acceptances**

The Vendor shall return the duplicate copy of the Purchase Order and the other enclosed documents duly signed with seal and date as a mark of acceptance, within 15 days from the date of issuance of this order to the Purchase Order Issuing Authority.

-43 **Settlement of disputes & Arbitration**

Any dispute(s) or difference(s) arising out of or in connection with the contract shall, to the extent possible, be settled amicably between the owner and supplier.

In the event of any dispute or difference whatsoever arising under the contract or in connection therewith including any question relating to existence, meaning and interpretation of the contract or any alleged breach thereof, the same shall be referred to the sole Arbitration of the Secretary, CEO of Damodar Valley Corporation, Kolkata-54 or to a person appointed by him for that purpose. The Arbitration shall be conducted in accordance with the provisions of arbitration and conciliation law 1996 and the decision/judgment of Arbitrator shall be final and binding on both the parties.

All suits arising out of this enquiry and subsequent purchase order, If any, are subject jurisdiction of Court in the City of Kolkata only and no other Court, when resolution/settlement through mutual discussion and arbitration fails.

**STRIKE OUT WHICHEVER IS NOT APPLICABLE**



FORMAT FOR COMMERCIAL TERMS & CONDITIONS  
DAMODAR VALLEY CORPORATION

NAME OF THE PROJECT

:.....

1. Enquiry/NIT No..... Date.....

Date of Opening :

2. Name of the firm : M/s.....  
Phone No..... Fax NO..... E-mail  
.....

3. Address of the firm :  
(a) Head Office :  
(b) Registered Office :  
© Local/ Branch Office :  
(d) Works :  
(e) Auth. Distributor/ Autho. Agent, if any :

4. Registered with :.....

5. Manufacturer/Make of the item(s) : M/s.  
.....

(In case of Distributor or Agent, relevant document shall be attached)

6. (a) Specify relevant Specification No.....

(b) Whether Certified by BIS or any other International Standard : YES/NO

© Whether Certified by ISO : YES/NO

7. To be furnished

(a) Relevant Drawing within .....days of date of the P.O.

(b) Sample to be furnished within.....days of date of the P.O.

8. Delivery : i) Delivery period .....days of PO/  
ii) Delivery period...days of date of drawing approval.
9. Guarantee/Warranty Period : .....months of date of despatch/ .....months of date of commissioning whichever is earlier.
10. Agreed to accept DVC's Security Deposit-cum-Performance Guarantee Clause : YES
11. Agreed to accept DVC's LD Clause : YES
12. (A) Basis of Price :  
Firm/Variable  
(B) If the price is variable, mention :.....  
relevant PV Formula,  
..... base date  
& .....Ceiling Limit
13. Price Based on :EX-WORKS .....
14. Packing & Forwarding (if any) : ..% on quoted EX-WORKS price/NA.
15. Basis of Freight Charge : Freight Charge based on By Road/Rail/Sea/Air.
16. Quantum of Freight Charge : ...% of Ex-works of price or ..(lumpsum) on actuals against doc. Evidence or free delivery at consignee store.
17. Payment Terms : DVC's payment term/any other
18. Insurance : By DVC's Open Policy/by the firm.
19. Excise Duty : Extra @ as on the date of bid opening/not applicable.
20. Customs duty on imports : extra as applicable on the date of bid opening/NA
21. Sales Tax : Concessional Sales Tax as on the date of bid opening extra/Not applicable.
22. Whether type test/inspection

charge by 3<sup>rd</sup> party attracts any statutory taxes and duties

(like ED/Cess/ST/Service Charge etc.) ? : ..Actual quantum as on the date of bid opening to be specified/NA

23. Any other Statutory : Extra as applicable at the time of delivery, if any/ Taxes or Duties not applicable.

SIGNATURE OF THE BIDDER ALONG WITH SEAL

DATE :

NAME OF THE PLANT .....  
 ADDRESS.....  
 Enquiry/NIT No.....  
 Date .....

ANNEXURE - B

PRICE PART

ITEM SL. NO.	MATERIAL DESCRIPTION	QUANTITY	UNIT EX- WORKS PRICE(RS . )	UNIT F&I CHARGE OR UNIT FREIGHT CHARGE * (RS. )	UNIT F O R DESTINATIO N PRICE (RS. )	TOTAL F O R DESTINATI ON PRICE (RS. )

(1)	(2)	(3)	(4)	(5)	(6)	(7)

\* if the bidder opts for DVC's Open Insurance Policy.

Besides above, the following items to be quantified, if applicable.

- i) Packing & Forwarding charges, if any:.....
- ii) Excise Duty :.....
- iii) Education Cess :.....
- iv) Customs Duty, if any :.....
- v) Sales Tax :.....
- vi) Octroi/any other taxes & duties, if any :.....
- vii) Type test charge, including  
any taxes and duties, if any :.....
- viii) 3<sup>rd</sup> Party Inspection Charge as per QAP  
including taxes & duties, if any :.....
- ix) Ex-works Cost of mandatory/  
recommended spares (enclose  
separate sheet if required) :.....
- x) Freight & Insurance Charge in respect of Sl. No.(ix)  
:.....
- xi) Statutory Taxes & Duties as applicable  
on item described at Sl. No. (ix) : .....

SIGNATURE OF THE BIDDER ALON

**ANNEXURE - C**

DATE

**Techno-Commercial Deviation Schedule**

Bidder should agree to all the techno-commercial terms and conditions of the bid documents. However, deviation, if any, should be stated as per the following schedule and to be submitted along with the techno-commercial bid failing which it will be presumed that all terms and conditions are acceptable to them. Deviations taken elsewhere and not brought out in the following deviation schedule, the same will not be accepted. The owner reserves the right to reject the offer on account of such deviations if the bidder, on advice of owner, does not withdraw the deviations.

Name of the Project)

Your NIT No. ....

(Bidder's Name & Address) :.....

To :.....

(Purchaser's Name & Address)

Dear Sir,

Following are the deviations proposed by us relating to techno-commercial terms and conditions. We confirm that we shall withdraw the deviations proposed by us at the cost of withdrawal indicated in the price bid falling which our bid may be rejected and Bid Security forfeited.

Sl. No.	Clause No.	Deviation

Date :..... (Signature).....

Place : ..... Name).....

(Designation) .....

(Common Seal) .....

NOTE :If there are no deviation, this deviation schedule shall be submitted along with the techno-commercial bid duly signed and stamped after stating "NIL DEVIATIONS".

Cost of withdrawal of deviations

**ANNEXURE - D**

Name of the Project)

Your NIT No. ....

(Bidder's Name & Address) :.....

To :.....

(Purchaser's Name & Address)

Dear Sir,

Following are the deviations as proposed by us relating to techno-commercial terms and conditions. We are also furnishing below the cost of withdrawal for the deviations proposed by us. We confirm that we shall withdraw the deviations proposed by us at the cost of withdrawal indicated in this attachment falling which our bid may be rejected and Bid Security forfeited.

Sl. No.	Clause No.	Deviation	Cost of Withdrawal in Rs.

Date : ..... (Signature).....

Place : ..... Name).....  
 (Designation) .....

(Common Seal) .....

NOTE : Bidders may note that bids containing deviations without the cost of withdrawal price shall be considered as unresponsive offer and will be out rightly rejected. This schedule indicating the cost of withdrawal price for such deviations should be submitted along with the price bid only and will be taken into consideration for the purpose of bid evaluations.