

I. TERMS AND CONDITIONS

SUBJECT: CONTRACT FOR PROVIDING 06 NOS SECURITY GUARDS, 7 NOS UNSKILLED & 1 No. Semi-Skilled AT OUR DISTRICT OFFICE ASANSOL, BEML LIMITED, 3, Burnpur Road, Asansol, WEST BENGAL - 713304

1. The Successful Bidder or his authorized representative should visit the posted places of his personnel at-least once in a day and meet the concerned to give/get feedback/report/review the performance of the work.
2. The Contractor shall not assign or make over the contract to any other person or underlet it or make a subcontract with any workmen for the execution of any of work.
3. The Bidder shall be deemed to have studied the scope of work thoroughly before offering of his unit rates to ensure that the complete work is carried out as per specifications in accordance with the Indian standards. The Bidder must visit the site i.e Plant before offering his unit rates for better understanding the requirement.
4. The Bidder shall agree, not to petition for revision of rates tendered by him under any circumstances at any stage of work either during execution or when the final claim is settled.
5. Late tenders and conditional tenders are liable for rejection. BEML reserves the right to cancel the tender at any point of time with/without assigning any reason whatsoever.
6. Quotations without the EMD or insufficient EMD will be rejected out rightly and such bidders will not be allowed to participate in the tender opening.
7. The agency shall provide all personnel within the age of 60 Years. The agency is required to provide all safety appliances to their deployed manpower without fail and shall be solely responsible for safety of their personnel and will indemnify BEML for any lapses/loses arising out of the same. Appropriate penalty ,as may be decided by BEML Limited, will be levied for non-performance of personnel engaged by the agency& on the basis of complaints, the amount so levied as penalty will be deducted out of agency's corresponding monthly bill.
8. **PERIOD OF CONTRACT:**
The period of contract shall be for **TWO YEAR** from the date of commencement as per the work order, with an option for the company to extend for a further period or part thereof on the same terms and conditions with the mutual consent of the contractor. Notwithstanding anything contained herein the company reserves the right to terminate the contract by giving one month notice to the contractor. The contractor shall not be entitled to claim any compensation or any damages for such termination.
9. Contractor shall employ Contract Labourers only who are covered under ESI. Contract Labourers without ESI registration will not be allowed to enter the premises of the factory and to carryout any work.
10. The contractor will assist RPFC in settlement of the claims of their contract labour engaged by him in case of terminations, discontinuance or death etc,
11. The extension of ESI & PF benefits to the contract labour of the contractor will be available only during the contract period. After the contract period is completed contract laborers may in accordance with the PF rules withdraw the PF amount or get the amount transferred to their PF account with the new Contractor if any.

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- 12 The contractor shall maintain all registers, returns and records required for the payment made towards ESI/PF & EPS, payment of wages , minimum wages Act, payment of Bonus Act and all other statutory legislations etc. and produce them for verification as and when called for by the company or by the Inspecting Authorities.
- 13 The Tenderer shall read and understand the Scope of work, Special terms and conditions, General terms and conditions and other conditions of the tender before submitting the tender for this work and shall agree to abide by the terms and conditions outlined above and these documents shall form part and parcel of the contract awarded to the Contractor.
- 14 **SECURITY DEPOSIT:** The Successful bidder have to submit a DD towards Security deposit (adjusting the EMD amount) OR to execute a Bank Guarantee for a value equal to one month's bill amount which should be valid up to 6 months after completion of contract Period.

The DD shall be made on BEML Ltd., payable at **Asansol**. In case of Bank Guarantee, the same shall be submitted from any Public Sector bank in the standard format which shall be provided by BEML.

In case of extending the Contract, the Contractor is required to renew the bank guarantee before one month of its expiry with same validity failing which same will be realized by the BEML Management. The Bank Guarantee should provide for indemnifying BEML from all losses arising out of this contract directly or indirectly during the validity of this contract apart from adjusting any due from the contractor at any time.

II. General Terms & Conditions:

(*'Purchaser'* refers to BEML and *'Supplier'* refers to 'Service Provider/Agency/successful bidder' under this General Terms & Conditions)

(i) ARBITRATION :

For PSUs : In the event of any dispute or difference relating to the interpretation and application of the provisions of this Agreement, such dispute or difference shall be referred by either party for Arbitration to the Sole Arbitrator in Department of Public Enterprises to be nominated by the Secretary to the Government of India, in charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to the arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such Award may make further reference for setting aside or revision of the Award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference, the dispute shall be decided by the Law Secretary or the Special Secretary/Addl. Secretary, when so authorized by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of Arbitration as intimated by the Arbitrator.

For firms other than PSUs: In the event of any dispute or difference relating to the interpretation and application of the provisions of this Agreement, such dispute or difference shall be referred by either party for Arbitration to the Sole Arbitrator to be appointed by BEML. The Arbitration proceedings shall be in accordance with the provisions of Arbitration and Conciliation Act, 1996 and Rules framed thereunder. The place of Arbitration shall be at **Asansol** and all Arbitration proceedings shall be conducted in English language and governed by the above said Act and Rules. Courts at **Asansol** shall alone have sole jurisdiction to decide any issue arising out of the Arbitration.

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(ii) FORCE MAJEURE CLAUSE:

Notwithstanding anything contained in the Contract, neither the Supplier nor the Purchaser shall be held responsible for total or partial non-execution of any of the contractual obligations, should the obligation become unreasonably onerous or impossible due to occurrence of a 'Force Majeure' conditions which directly affect the obligations to be performed by the Purchaser or the Supplier. Such events include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotions, insurgency, sabotage, acts of public enemy, fires, explosion, epidemics, quarantine restrictions, floods, earthquake, or acts of God, restrictions by Govt. authorities over which the Supplier or the acts on which the Purchaser has no control.

The party claiming to be affected by Force Majeure shall notify the other party in writing without delay, within two weeks on the intervention and on the cessation of such circumstance. Extension of time sought by the Supplier along with supporting evidence and so granted by the Purchaser for the supply/ work affected, if any, shall not be construed as waiver in respect of remaining deliveries.

Notwithstanding above provisions, Purchaser shall reserve the right to cancel the order/ Contract, wholly or partly, in order to meet the overall delivery schedule and make alternative arrangements including arrangements with third party for completion of deliveries and other schedules. Purchaser may takeover partly processed material at a mutually agreed price.

(iii) APPLICABLE LAWS AND JURISDICTION OF COURTS:

Indian laws both substantive and procedural, for the time being in force including modifications thereto, shall govern Contract. The competent Indian courts shall have sole jurisdiction over disputes between purchaser and the Supplier.

(iv) INTELLECTUAL PROPERTY RIGHTS; LICENSES :

If any Patent design, trademark or any other intellectual property rights apply to the delivery or accompanying documentation, Purchaser shall be entitled to the legal use thereof free of charge by means of a non-exclusive, worldwide, perpetual license. All intellectual property rights that arise due to the execution of the delivery by the Supplier and by its employees or third parties involved by the Supplier for performance of the agreement belong to Purchaser.

The Supplier shall be obligated to do everything necessary to obtain or establish the above mentioned rights. The Supplier guarantees that the delivery does not infringe on any of the intellectual property rights of third parties. The Supplier shall also be obligated to do everything necessary to obtain or establish the alternate acceptable arrangement pending resolution of any (alleged) claims by third parties. The Supplier shall indemnify the Purchaser against any (alleged) claims by third parties in this regard and shall reimburse Purchaser for any damages suffered as a result thereof. "The Supplier shall comply with all applicable Labor Laws, particularly Contract Labor (Regulation & Abolition) Act, 1970, ESI Act, Gratuity Act, Payment of Bonus Act, Payment of Minimum Wages Act, Provident Fund Act etc., and Rules framed therein from time – to- time and the Supplier shall indemnify the Company for any loss caused to it by reason of inaction, non-compliance etc., of the provisions of any Law by the Supplier".

(v) BRIBES AND GIFTS

Any bribe, commissions, gift or advantage given, promised or offered by or on behalf of the supplier or his partner, agent or servant or anyone on his or on their behalf to any officer, servant, representative or agent of BEML or any person on his or their behalf in relation to the obtaining or to the execution of or any other contract with BEML Ltd., shall in addition to any criminal liability which the supplier , may incur, subject the supplier to the cancellation of this and all other contracts with BEML and also for payment of any loss or damage resulting from any such cancellation to like extent, the supplier shall be liable for any loss which BEML may sustain on that account. Any question or dispute as to the commissions of any offence under the present clause shall be settled by BEML in such manner and on such evidence of information as they may think fit and sufficient and their decision shall be final and conclusive.

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(vi) JURISDICTION

Courts at **Asansol** alone shall have jurisdiction to decide any issue/dispute arising out of the Arbitration or this Purchase Order in exclusion of all other Courts. However, jurisdiction of any other court may be accepted by mutual discussion and agreement by and between the Company and the Supplier.

(vii) DRAWINGS AND DOCUMENTS:

Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to third parties.

The Supplier shall, as per agreed date/s but not later than the date of delivery, provide free of charge information and drawings which are necessary to permit the Purchaser to erect, commission, operate and maintain the product. All intellectual properties, including designs, drawings and product information etc. exchanged during the formation and execution of the Contract shall continue to be the property of the submitting party.

(viii) NON-DISCLOSURE AND INFORMATION OBLIGATIONS:

The Supplier shall provide Purchaser with all information pertaining to the delivery in so far as it could be of importance to Purchaser. The Supplier shall not reveal confidential information to its own employees not involved with the tender / Contract & its execution and delivery or to third parties. The Supplier shall not be entitled to use the Purchaser's name in advertisements and other commercial publications without prior written permission from Purchaser.

Further to above, the supplier shall not divulge/share any data/information collected through the survey/findings of the survey to any person /firm. The complete process/assignment shall be treated as confidential.

(ix) DURING ARBITRATION

“Supplies under this Purchase Order, if reasonably possible, may continue by mutual agreement during the dispute / Arbitration proceedings”.

(x) PROGRESS REPORT:

The supplier shall regularly inform the progress of work and in such form as may be called for by the Purchaser from time to time. The submission and acceptance of such reports shall not prejudice the rights of the Purchaser in any manner.

(xi) CONTRACT VARIATIONS: INCREASE OR DECREASE IN THE SCOPE OF SUPPLY:

Purchaser may vary the contracted scope. If the supplier is of the opinion that the variation in scope has an effect on the agreed price or delivery period, purchaser shall be informed of this immediately in writing along with technical details, and in the event of additional work, submit a quotation with regards to the price and delivery period and the effect this scope will have on the other contracts under execution by the supplier. The supplier shall not perform additional work/ altered scope of work without the written instructions/amendment to the Purchase Order to that effect. The Purchaser also reserves its rights to decrease the scope of supply placed against Purchase Orders under due intimation to the supplier. Such decrease may be warranted due to defective goods or Policy Decisions of the Management of the Purchaser. And in such an event, the Supplier shall not have any claims or right against the Purchaser.

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(xii) NON-WAIVER OF DEFAULTS

If any individual provision of the Contract is invalid the other provisions shall not be affected. The failure of BEML to insist upon performance of the Contract, to enforce any of the terms and conditions of this Contract or to exercise any right or privilege granted to BEML under this Contract or under law, shall not be construed as a waiver and the same shall continue in full force and effect.

(xiii) ASSIGNMENT OF RIGHTS AND OBLIGATIONS; SUBCONTRACTING:

The supplier is not permitted to subcontract the delivery or any part thereof to third parties or to assign the rights and obligations resulting from this agreement in whole or in part to third parties without prior written permission from Purchaser. Any permission or approval given by the Purchaser shall, however, not absolve the supplier of the responsibility of his obligations under the contract.

(xiv) INTEGRITY COMMITMENT IN THE EXECUTION OF CONTRACTS:

Commitment by Purchaser:

Purchaser commits to take all necessary steps to prevent corruption in connection with the execution of the Contract.

Commitment by the Contractor:

The Contractor (s) commit (s) to take all measures to prevent corruption and will not directly or indirectly try to influence any decision for the benefit for which he is not legally entitled. The contractor (s) will not commit any offence under the relevant Acts. The Contractor (s) will not use improperly, for purpose of competition or personal gain or pass on to others, any information or documents provided by Purchaser as part of business relationship.

The Consultant (s) will not enter with other Firm (s) / Consultant(s) into any undisclosed agreement or understanding or any actions to restrict competition. If the Consultant(s), before award or during execution of the consultancy Contract commit(s) a transgression of the above or in any other manner such as to put his reliability or credibility in question, Purchaser is entitled to disqualify the consultancy contractor(s) from the consultancy process or terminate the contract and / or take suitable actions as deemed fit.

**Thanking you,
For BEML Limited**

**District Manager
Asansol**

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