

# Karnataka Cooperative Milk Producers' Federation Limited (KMF)

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## **TENDER**

**Design, Finance, Installation, Commissioning, Synchronization with Operation & Maintenance for a period of 25 years of capacity 100 MW Solar Power Plant on Group Captive Mode for Karnataka Cooperative Milk Producers Federation Limited (KMF) & its member Milk Unions**

TENDER REFERENCE	: KMF/ENGG/Solar Group Captive/2022-23 Dt: 07.07.2022
PERIOD OF SALE OF TENDER DOCUMENT	: From 14/07/2022 To 16/08/2022
Pre-bid meeting date	: 20.07.2022 at 11.30 am
LAST DATE AND TIME FOR RECEIPT OF TENDERS	: 16/08/2022 at 4:00pm
TIME AND DATE OF OPENING OF COVER ONE OF TENDERS <sup>1</sup>	: 18/08/2022 at 11:30 am
PLACE OF Tender OPENING	: KMF Central Office
TIME AND DATE OF OPENING OF COVER TWO OF TENDERS	: Will be intimated to the Qualified Tenderers
ADDRESS FOR COMMUNICATION	: Director (Engineering-2) KMF Complex, P.B. No.2915, D.R.College Post Dr.M.H, Marigowda Rd, Bengaluru, Karnataka 560021

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**SECTION 1: INVITATION FOR TENDERS (IFT)**

Date:

IFT No.:

1. The Karnataka Cooperative Milk Producers' Federation Limited (KMF) invites tenders from eligible tenderers, for the establishment of Solar Power Plant on Group Captive Mode detailed in the Table below. The tenderers may submit tenders for any or all of the works given in the Table.
  - a) Two stage Tender procedure as per Rule28 of the KTPP Act shall be followed. The Tenders are required to submit through e-procurement portal as per the procedure needs to be followed.
  - b) However, the bidders are required to submit the hard copy of the documents - two separate sealed covers (Part-A & Part -B), to Director (Engg.-2), KMF at KMF Central Office
  - c) Earnest money deposit shall be furnished as mentioned
  - d) The details of their capability to undertake the tender (as detailed in ITT Clause 3 and 6), which will be opened first and the second cover containing the price tender which will be opened only if the Tenderer is found to be qualified to execute the tendered works. The Tenderers are advised to note the minimum qualification criteria specified in Clause 3 of the Instructions to Tenderers to qualify for award of the contract.
2. Tender documents may be downloaded from e-procurement portal of GOK. Interested tenders may obtain further information at KMF.
3. Tenders must be deposited earnest money deposit as specified for the work in the Table below. Earnest money deposit will have to be in any one of the forms as specified in the Tender document and shall have to be valid for 120 days beyond the validity of the tender.
4. Tenders must be uploaded / delivered to on or before 3:00 pm hours on 19/08/2022. First Cover Tenders will be opened on 22/08/2022 at 3:00pm hours, in the presence of the Tenderers who wish to attend. If the office happens to be closed on the date of receipt of the tenders as specified, the tenders will be received and opened on the next working day at the same time and venue.
5. A Pre-tender meeting will be held on 18/07/2022 at 11.30 am hours at the office of Director (Engineering) to clarify the issues if any, and to answer questions on any matter that may be raised at that stage as stated in Clause 8.2 of 'Instructions to Tenderers' of the tender document.
6. Other details can be seen in the tender documents.

**TABLE**

<u>Package No.</u>	<u>Name of work</u>	<u>Earnest Money Deposit (Rs.)</u>	<u>Period of completion</u>
1	2	3	4
<b>-One Package-</b>	<b>Design, Finance, Installation, Commissioning, Synchronization, with Operations &amp; Maintenance for a period of 25 years of 100 MW of Contracted AC Capacity Solar Power Plant for Karnataka Cooperative Milk Producers' Federation Limited (KMF) &amp; its member Milk Unions</b>	<b>4,31,00,000</b>	<b>18 months implementation Period &amp; 25 Years O&amp;M</b>

<b>Sl. No.</b>	<b>Union</b>	<b>Probable Lowest Solar Capacity (KW)</b>
1	Vijayapura & Bagalkot District Co-operative Milk Producers' Societies' Union Ltd.	771
2	Chamarajanagar District Co-operative Milk Producer's Societies Union Ltd.	1823
3	Dharwad Milk Union Ltd.	2636
4	Belagavi District Co-operative Milk Producers' Societies' Union Ltd	1243
5	Shivamogga Co-operative Milk Producers' Societies' Union Ltd.	2693
6	Raichur, Ballari & Koppal Districts Co-operative Milk Producers' Societies Union Ltd	1493
7	Mandya District Co-operative Milk Producers' Societies' Union Ltd	6184
8	Kolar Chikkaballapur District Co-operative Milk Producers' Societies' Union Ltd	7124
9	Hassan Co-operative Milk Producers' Societies Union Ltd	4584
10	Dakshina Kannada Co-operative Milk Producers' Union Ltd.	3563
11	Bengaluru Urban, Rural and Ramanagara District Co-operative Milk Producers Societies Union Ltd	14017
12	Mysuru District Co-operative Milk Producers' Societies' Union Ltd.	3121
13	Tumakuru Co-operative Milk Producers' Societies' Union Ltd	3330
14	Karnataka Cooperative Milk Producers' Federation Ltd. (consisting of various Dairies, Cattle feed Plants, Training Centres Pouch Film Plant, etc., at various locations in the State of Karnataka)	28311
15	Wheeling & Banking Charges / Transmission Losses	20,000
<b>Total</b>		<b>100,000</b>

Say 100 MW

**EMD (Earnest Money Deposit)**

Prescribed EMD amount equivalent to Rs. 4,31,00,000/- (Rupees Four Crore Thirty One Lakhs only) shall be submitted through following manner :

- a) Rs. 25 Lakhs (Rupees Twenty Five Lakhs only) shall be submitted through e-procurement portal only in the mode of Credit Card/ Debit Card/ NEFT (National Electronic, Fund Transfer) / OTC (Over the Counter) –ICICI BANK as per e-proc norms
- b) Balance Rs.4,06,00,000/- (Rupees Four Crore Six Lakhs only) through Bank Guarantee issued from Nationalized Bank/RBI Governed reputed banks- as per the format furnished. (The scanned copy of BG shall be uploaded and the original shall be handed over to KMF CO before the date of tender opening.) The Validity of Bank guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, and shall be extended as required by the Authority from time to time.

Earnest money deposited by unsuccessful Tenderers will be returned as soon as possible after the tender has been finalized.

Note: The EMD shall be in Indian currency only

**SECTION 2: INSTRUCTIONS TO TENDERERS (ITT)**

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## A. General

### Background:

Karnataka Cooperative Milk Producers' Federation Limited (KMF) & Milk Unions intend to avail supply of electricity from renewable sources through open access through Group captive generation mode in Karnataka for a majority of the electricity purchased by KMF and its member milk unions.

Vide Section 42 of the Electricity Act 2003 consumers of Electricity Distribution Utilities are permitted to procure electricity from private generators through the open access mode while utilizing the infrastructure of Electricity Transmission & Electricity Supply Companies through paying charges as notified, from time to time, by Electricity Regulatory Commission. The Funding of the Solar Group Captive Power Project on Open Access basis is envisaged as given below:

### Assumptions:

Sl. No.	Parameter	Unit	Amount
1	Cost for Solar Installations	Rs. Crores/MW	3.92
2	Solar Capacity including Transmission Losses & Wheeling & Banking Charges	MW	100
3	Total Project Cost for 100MW	Rs. Crores	392
4	Equity Investment Required	Rs. Crores	117.6
5	Debt Required	Rs. Crores	274.4
6	Equity Investment Required by KMF and its Milk Unions (26% of the Equity ownership as required by the Project as per Electricity Rules 2005)	Rs. Crores	30.6
7	Debt Guarantee of KMF (26% of the Debt as required by the Project as per Electricity Rules 2005)	Rs. Crores	71.3
8	Equity Investment by Private Developer (74% of the Equity & Debt as required by the Project as per Electricity Rules 2005)	Rs. Crores	87
9	Debt Guarantee of Private Developer (74% of the Debt as required by the Project as per Electricity Rules 2005)	Rs. Crores	203
10	Savings from purchasing electricity through Open Access Group Captive Unit	Rs. Crores	50
11	Simple Payback for Equity	Months	7

Karnataka Cooperative Milk Producers' Federation Limited (KMF) & Milk Unions intends to avail open access through Group Captive mode and required a comparison study to

recommend the most feasible option to carry out electricity procurement through open access Group Captive mode. The report proposed the following tariffs arising out of various open access engagements:

Sl. No.	Project Type	Independent Power Producers	Indian Energy Exchange Trading	Group Captive	Stakeholder
1	Base Price	3.07	3	3.5	Power Producer
2	Cross Subsidy Surcharge	1.87	1.87	0	Karnataka Electricity Regulatory Commission
3	Wheeling Charges	5%	5%	5%	KERC
4	Banking Charges	2%	2%	2%	KERC
5	Transmission Charges	0.17	0.17	0.17	KERC
6	Technical Losses	17%	17%	17%	KERC
7	Electricity Cess	0.2	0.2	0.2	Government of Karnataka
8	Additional Surcharge	1.17	1.17		KERC
	<b>Total</b>	<b>7.45</b>	<b>7.35</b>	<b>4.97</b>	

Further, the report envisaged the savings as given below through the implementation of the project by KMF & its member Milk Unions:

Sl. No.	Unions	Total Units 2021 (MUs)	Total Bill 2021 (Rs. Crores)	Present Tariff (Rs. / kWh)	Solar Generation (MUs)	Solar Tariff (Rs. / kWh)	Solar Capacity (kW)	Solar Bill (Rs. Crores)	ESCOM Bill (Rs. Crores)	Total Bill after Solar (Rs. Crores)	Annual Savings (Rs. Crores)
1	VIMUL	1.8	1.54	8.40	1.3	5	771	1	0.4	1.1	0.5
2	CHAMUL	4.0	3.41	8.61	3.0	5	1823	1	0.7	2.2	1.2
3	DHAMUL	5.6	4.73	8.49	4.3	5	2636	2	0.9	3.1	1.6
4	BEMUL	2.3	1.97	8.63	2.0	5	1243	1	0.2	1.2	0.8
5	SHIMUL	6.0	5.15	8.55	5.7	5	2693	3	0.3	3.1	2.0
6	RBKMUL	3.2	2.71	8.58	2.7	5	1493	1	0.3	1.7	1.0
7	MANMUL	10.5	8.91	8.51	10.1	5	6184	5	0.3	5.3	3.6
8	KOMUL	14.8	12.48	8.42	11.6	5	7124	6	2.4	8.2	4.3
9	HAMUL	11.0	9.62	8.78	7.5	5	4584	4	2.6	6.3	3.3
10	DKMUL	7.8	6.66	8.51	5.8	5	3563	3	1.5	4.4	2.2
11	BAMUL	30.2	25.64	8.49	22.9	5	14017	11	5.5	16.9	8.7
12	MYMUL	6.8	6.05	8.85	5.1	5	3121	3	1.3	3.9	2.2
13	TUMUL	7.4	6.32	8.53	5.4	5	3330	3	1.5	4.2	2.1
14	KMF	61.3	51.78	8.44	46.3	5	28311	23	11.3	34.4	17.4
	<b>Total</b>	<b>173</b>	<b>147</b>					<b>67</b>	<b>29</b>	<b>96.1</b>	<b>50.9</b>

The report concludes as follows:

1. KMF and its Milk Unions are permitted under applicable law [Electricity Act 2003,



Electricity Rules 2005, KERC Open Access Regulations] to set up a Group Captive Power Project

2. Through the establishment of the Group Captive Solar Power Project KMF would save approximately Rs. 50,89,12,679 annually.
3. Since, KMF is involved in dairy development across Karnataka and is involved in directly or indirectly improving the livelihood of the farmers of the State of Karnataka the implementation of this Group Captive Renewable Power Project through open access mode can be considered being in the interest of the public at large.
4. Further, to ensure the above financial benefit is accrued and passed on to the farmers that supply milk to KMF throughout the term of the project [25 years] the Energy Department, GOK can be solicited to pass directions under Section 108 to the Karnataka Electricity Regulatory Commission in matters regarding public interest.
5. Through a transparent tendering process a private participant can be selected to invest along with KMF & its unions, establish and maintain the Group Captive Power Plant as per the applicable law [Electricity Act 2003, Electricity Rules 2005, KERC Open Access Regulations, Companies Act 2013]. The estimated power generation base price and other transmission losses wheeling charges, cess etc., are indicated in the below table.

Sl. No.	Project Type	Charges for Group Captive
1	Base Price	3.48
2	Electricity Units Required by KMF & its Member Milk Unions (Million kWh)	132.22
3	Wheeling Charges	5%
4	Banking Charges	2%
5	Transmission Charges (Rs. Per kWh)	0.17
6	Technical Losses	17%
7	Electricity Cess (Rs. Per kWh)	0.2
8	Solar Capacity to Generate 132.22 Million Units at Generation End (MW)	80
9	Solar Capacity after considering Wheeling & Banking Charges and Technical Losses totaling 22% (80/0.78) (MW)	100
10	Base Price of Electricity including Transmission Charges & Electricity Cess	3.85

Based on the above background, KMF has invited the following tender and has proposed a project capacity of 100 MW for its own consumption and its member Milk Unions. KMF has proposed that all charges applicable for generating the electricity and wheeling / banking the same to the drawl points of KMF & its member Milk Unions are to be quoted for by the prospective bidders in their financial bids. Additionally, the base capacity of the Power Plant may be approximately 100MW to ensure that after deducting all electricity charges (Wheeling & Banking Charges and Transmission Losses) to be paid to ESCOM & KPTCL in kind KMF & its member milk unions are able to draw 132.22 Million Units annually from the proposed Group Captive Solar Project.

Additionally, the tariff quoted by the prospective bidder should ensure to be sufficient to ensure the Group Captive Solar Power Project is bankable ie. for design, install, finance, operate & maintain as well as to include the prevalent Electricity Cess & Transmission Charges. The prospective bidder shall consider the existing charges as on the date of the bidding, if there are any changes to the same during the tenure of the power purchase agreement additional charges shall be borne by KMF & if there are any reductions during the course of the contract KMF shall reduce the overall tariff on a pro-rata basis.

Additionally, KMF has requested the Energy Department, Government of Karnataka for concessions for the Group Captive Solar Project with regard to the following:

1. Fixation of Wheeling & Banking Charges for a period of 25years
2. Exemption from application of Transmission Charges
3. Exemption from the Electricity Cess / Tax of Rs 0.20 per kWh
4. Allowing banking for a period of 6months

If the Government of Karnataka approves the above concessions and issue subsequent orders KMF shall alter the financial bids of the prospective bidder / winner of the bid to ensure the benefit of reduction in the charges due to government approved concessions are passed on to KMF and its member milk unions.

However, the project is considered feasible to KMF & its member milk unions if the savings being 30% or more of the existing power charges through the implementation of the project. Subsequently, if the final tariff discovered through this tender do not give the anticipated savings as envisaged a few milk unions may choose not to subscribe to this project and the capacity award may accordingly vary.

The Technical Proposals of the Bidders will be opened to test the responsiveness of the technical proposal of each prospective bidder. The bids which are adjudged to be responsive will have their financial bids opened. The Price Bids shall be evaluated as the Net Present Value of costs to be incurred from long term power purchase agreement and the project cost quoted by the Bidders. The Highest Net Present value of Savings to KMF will be adjudged the winner of the Bid.

The quantum of award may vary from 100MW and the award will depend on the acceptability of the tariff by the member unions and the savings arising out of adopting the Group Captive Open Access Solar Power Project under this Tender.

## **1. Scope of Tender**

- 1.1 The Karnataka Cooperative Milk Producers' Federation Limited (KMF) (Referred to as Employer in these documents) invites tenders following Two Cover tender procedure, from eligible Tenderers, for the construction of works (as defined in these

documents and referred to as "the works") detailed in the Table given in the Invitation for Tenders (IFT). The Tenderers may submit tenders for any or all of the works detailed in the table given in IFT.

## 2. Eligible Tenderers

2.1 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Karnataka

## 2.2 Tenders from Joint ventures are not acceptable.

## 3. Qualification of the Tenderer:

3.1 All Tenderers shall provide the requested information accurately and in sufficient detail in Section 3: Qualification information.

3.2 To qualify for award of this contract, each Tenderer in its name should have in the last five years i.e. 2017-18 to 2021-22

(a) achieved in at least two financial years a minimum financial turnover (through payment from all classes of operationalized Solar projects only) of Rs. 784,00,00,000 (Rupees Seven Hundred Eighty Four Crores);

(b) satisfactorily completed, as prime developer at least one similar work such as Design, Development & Installation of Solar Power of value not less than 80 MW.

(c) satisfactorily completed, as prime developer at least one similar work such as Design, Development & Installation of Solar Power of value not less than Rs. 198,00,00,000 (Rupees One Hundred and Ninety Eight Crores)

(d) The Tenderer or his identified sub-contractor should possess required valid Super Grade electrical contractor license for executing building electrification works and should have executed one similar electrical works totaling Rs. 140,00,00,000 (Rupees One Hundred & Forty Crores) in any one year;

(e) The Tenderer or his identified sub-contractor should possess valid PWD Class I Contractor license for executing Civil engineering works and should have executed one similar Civil engineering works totaling Rs. 37,50,00,000 (Rupees Thirty Seven Crores Fifty Lakhs) in any one year;

3.3 Each Tenderer should further demonstrate

(a) Availability by owning the following key and critical equipment for this work:

- Identified Land of at least 500 acres for this project with Village Maps
- KPTCL Evacuation Feasibility Approval for the Above parcel of Land along with Station Details
- Certified Statement from the Chartered Account certifying their Net Worth or Cash in Hand amounting to Rs. 87,00,00,000 Crores
- Letter of Comfort from Banks or Financial Institution stating the Developer would have access to debt financing amounting to Rs. 203,00,00,000 Crores if the Developer was to win this tender
- Term Sheet with Contractor whose qualification is being utilized for clause 3.2 (c), 3.2 (d) & 3.6

(b) liquid assets and /or availability of credit facilities of no less than Rs. 203,00,00,000 (Credit lines/letter of credit/ certificates from banks for meeting the fund requirement etc.

## 3.4 To qualify for a package of contracts made up of this and other contracts for which tenders are invited in this IFT, the Tenderer must demonstrate having experience and resources to meet the aggregate of the qualifying criteria for the

**individual contracts.**

- 3.5 Sub-contractors' experience and resources shall not be taken into account in determining the Tenderer's compliance with the qualifying criteria except to the extent stated in 3.2 (c), (d) above and 3.6 stated below.
- 3.6 Tenderers who meet the above specified minimum qualifying criteria, will only be qualified, if their available tender capacity is more than the total tender value. The available tender capacity will be calculated as under:

$$\text{Assessed available tender capacity} = ( A * N * 1.5 - B )$$

where

A = Maximum value of civil engineering works executed in any one year during the last five years (*updated to 2021 price level*) taking into account the completed as well as works in progress.

N = Number of years prescribed for completion of the works for which tenders are invited.

B = Value, at 2021 price level, of existing commitments and on-going works to be completed during the next 1.5 years

**Note:** *The statements showing the value of existing commitments and on-going works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by the Employer in charge, not below the rank of an Executive Engineer or equivalent.*

- 3.2 Even though the Tenderers meet the above criteria, they are subject to be disqualified if they have:
- made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements; and/or
  - record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.; and/or
  - participated in the previous Tender for the same work and had quoted unreasonably high tender prices and could not furnish rational justification.

**4. One Tender per Tenderer:**

- 4.1 Each tenderer shall submit only one tender for one package. A tenderer who submits or participates in more than one Tender (other than as a sub-contractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Tenderer's participation to be disqualified.

**5. Cost of Tendering:**

- 5.1 The tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible and liable for those costs.

**6. Site visit:**

- 6.1 The Tenderer at his own responsibility and risk is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for construction of

the Works. The cost of visiting the Site shall be at the Tenderer's own expense.

## **B. Tender documents**

### **7. Content of Tender documents**

- 7.1 The set of tender documents shall have all the Sections given in Page 2:
- 7.2 Both the sets should be completed and returned with the tender.

### **8. Clarification of Tender Documents**

- 8.1 A prospective tenderer requiring any clarification of the tender documents may notify the Employer in writing or by cable (hereinafter "cable" includes telex and facsimile) at the Employer's address indicated in the invitation to tender. The Employer will respond to any request for clarification which he receives earlier than 15 days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all purchasers of the tender documents, including a description of the enquiry but without identifying its source.

#### **8.2 Pre-tender meeting:**

- 8.2.1 The tenderer or his authorized representative is invited to attend a pre-tender meeting which will take place at Director (Engg.) KMF Complex, P.B. No.2915, D.R. College Post Dr.M.H, Marigowda Rd, Bengaluru, Karnataka 560029 on prescribed date.
- 8.2.2 The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage
- 8.2.3 The tenderer is requested to submit any questions in writing or by cable to reach the Employer not later than one week before the meeting.
- 8.2.4 Minutes of the meeting, including the text of the questions raised (without identifying the source of enquiry) and the responses given will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in Sub-Clause 7.1 which may become necessary as a result of the pre-tender meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to Clause 9 and not through the minutes of the pre-tender meeting.
- 8.2.5 Non-attendance at the pre-tender meeting will not be a cause for disqualification of a tenderer.

### **9. Amendment of Tender documents**

- 9.1 Before the deadline for submission of tenders, the Employer may modify the tender documents by issuing addenda.
- 9.2 Any addendum thus issued shall be part of the tender documents and shall be communicated in writing or by cable to all the purchasers of the tender documents.
- 9.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend as necessary the deadline for submission of tenders, in accordance with Sub-Clause 16.2 below.

## **C. Preparation of Tenders**

### **10. Documents comprising the Tender**

- 10.1 The tender submitted by the Tenderer shall be in two covers and shall contain the documents as follows:

**10.1.1 First Cover :**

- (a) Earnest Money Deposit;  
 (b) Qualification Information as per formats given in Section 3;

**10.1.2 Second Cover:**

- (a) The Tender (in the format indicated in Section 4)  
 (b) Priced Bill of Quantities (Section 9);

and any other materials required to be completed and submitted by Tenderers in accordance with these instructions. The documents listed under Sections 3, 4, 6 and 9 shall be filled in without exception.

- 10.2 Tenderers submitting tenders together with other contracts stated in the IFT to form a package will so indicate in the tender together with any discounts offered for the award of more than one contract.

**11. Tender prices**

- 11.1 The contract shall be for the whole works as described in Sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.
- 11.2 The Tenderer shall fill in rates and prices and line item total (both in figures and words) for all items of the Works described in the Bill of Quantities along with total tender price (both in figures and words). **Items for which no rate or price is entered by the Tenderer will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.** Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.
- 11.3 All duties, taxes, and other levies payable by the contractor under the contract, or for any other cause, shall be included in the rates, prices and total Tender Price submitted by the Tenderer.
- 11.4 The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract in accordance with the provisions of Clause of the Conditions of Contract

**12. Tender validity**

- 12.1 Tenders shall remain valid for a period not less than ninety days after the deadline date for tender submission specified in Clause 16. A tender valid for a shorter period shall be rejected by the Employer as non-responsive.
- 12.2 In exceptional circumstances, prior to expiry of the original time limit, the Employer may request that the Tenderers may extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable. A Tenderer may refuse the request without forfeiting his earnest money deposit. A Tenderer agreeing to the request will not be required or permitted to modify his tender, but will be required to extend the validity of his earnest money deposit for a period of the extension, and in compliance with Clause 13 in all respects.

**13. Earnest money deposit**

- 13.1 The Tenderer shall furnish, as part of his tender, earnest money deposit in the amount as shown in column 4 of the Table of IFT for this particular work. This earnest money deposit shall be in

favour of Managing Director, KMF and may be in the form of Demand draft, in favour of Managing Director, KMF payable at Bangalore

- 13.2 Instruments having fixed validity issued as earnest money deposit for the tender shall be valid for 45 days beyond the validity of the tender.
- 13.3 Any tender not accompanied by an acceptable earnest money deposit and not secured as indicated in Sub-Clauses 13.1 and 13.2 above shall be rejected by the Employer as non-responsive.
- 13.4 The earnest money deposit of unsuccessful Tenderers will be returned within 30 days of the end of the tender validity period specified in Sub-Clause 12.1.
- 13.5 The earnest money deposit of the successful Tenderer will be discharged when the Tenderer has signed the Agreement and furnished the required Performance Security.
- 13.6 The earnest money deposit may be forfeited: (a) if the Tenderer withdraws the Tender after tender opening during the period of tender validity; (b) if the Tenderer does not accept the correction of the Tender Price, pursuant to Clause 24; or (c) in the case of a successful Tenderer, if the Tenderer fails within the specified time limit to (i) sign the Agreement; or (ii) furnish the required Security deposit

#### **14. Format and signing of Tender**

- 14.1 The Tenderer shall prepare one original and a copy of the documents comprising the Tender as described in Clause 10 of these *Instructions to Tenderers*, and clearly marked "**ORIGINAL**" and "**COPY**" as appropriate. In the event of discrepancy between them, the original shall prevail.
- 14.2 The original and a copy of the Tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. All pages of the tender where entries or amendments have been made shall be initialed by the person signing the tender
- 14.3 The Tender shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Tenderer, in which case such corrections shall be initialed by the person signing the Tender.

### **D. Submission of Tenders**

- 15. The tender shall be submitted through e-portal . However, the hard copy of the document shall be submitted to KMF CO, at the time of bid opening.**

#### **Sealing and marking of tenders**

- 15.1 The Tenderer shall seal the original and a copy of the Tender in separate envelopes, duly marking the envelopes as "**ORIGINAL**" and "**COPY**". These envelopes (called as inner envelopes) shall then be put inside one outer envelope.
- 15.2 The **inner and outer** envelopes shall
- (a) be addressed to the Employer at the following address:  
 Director ( Engineering-2) KMF Complex, P.B. No.2915,  
 D.R.College Post Dr.M.H, Marigowda Rd,  
 Bengaluru, Karnataka 560021 and
- (b) bear the following identification:

- Tender for selection of Developers to Design, Finance, Installation, Commissioning, Synchronization, with Operations & Maintenance for a period of

25 years of 100MW Solar Power Plant on Group Captive Mode for Karnataka Cooperative Milk Producers' Federation Limited (KMF) & its member Milk Unions

- Tender Reference No.....
- DO NOT OPEN BEFORE

- 15.3 In addition to the identification required in Sub-Clause 15.2, the inner envelopes shall indicate the name and address of the Tenderer to enable the tender to be returned unopened in case it is declared late, pursuant to Clause 17.
- 15.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Tender.

## **16. Deadline for submission of the Tenders**

- 16.1 Tenders must be received by the Employer at the address specified above no later than 16.08.2022 at 4:00pm. In the event of the specified date for the submission of tenders being declared a holiday for the Employer, the tenders will be received up to the appointed time on the next working day.
- 16.2 The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with Clause 9, in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

## **17. Late Tenders**

- 17.1 Any Tender received by the Employer after the deadline prescribed in Clause 16 will be returned unopened to the Tenderer.

## **18. Modification and Withdrawal of Tenders**

- 18.1 Tenderers may modify contents of First or Second Covers separately for each Cover or withdraw their Tenders by giving notice in writing before the deadline prescribed in Clause 16.
- 18.2 Each Tenderer's modification separately for each Cover or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 14 & 15, with the outer and inner envelopes additionally marked "**MODIFICATION FOR FIRST/SECOND COVER**" or "**WITHDRAWAL**", as appropriate.
- 18.3 No Tender may be modified after the deadline for submission of Tenders.
- 18.4 Withdrawal or modification of a Tender between the deadline for submission of Tenders and the expiration of the original period of Tender validity specified in Clause 12.1 above or as extended pursuant to Clause 12.2 may result in the forfeiture of the earnest money deposit pursuant to Clause 13.
- 18.5 Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this clause, or included in the original Tender submission.

## **E. Tender opening and evaluation**

### **19. Opening of First Cover of all Tenders and evaluation to determine qualified Tenderers:**

- 19.1 The Employer will open the First Covers of all the Tenders received (except those received late or withdrawn), including modifications for First Cover made pursuant to



Clause 18, in the presence of the Tenderers or their representatives who choose to attend at 3:00pm on the date and the place specified in Clause 16. In the event of the specified date of Tender opening being declared a holiday for the Employer, the Tenders will be opened at the appointed time and location on the next working day.

- 19.2 Envelopes marked "**WITHDRAWAL**" shall be opened and read out first. The First Cover of Tenders for which an acceptable notice of withdrawal has been submitted pursuant to Clause 18 shall not be opened.
- 19.3 The Tenderers names, the presence or absence of earnest money deposit (amount, format and validity), the submission of qualification information and such other information as the Employer may consider appropriate will be announced by the Employer at the opening. Late and withdrawn Tenders will be returned unopened to tenders.
- 19.4 The Employer shall prepare minutes of the Tender opening, including the information disclosed to those present in accordance with Sub-Clause 19.3.
- 19.5 The Second Cover of all the Tenderers including modifications for Second Cover shall be placed in a large cover and securely sealed in the presence of the tenderers or their representatives, who are present and also get the same signed by all those tenderers or their representatives. The large cover shall be kept in safe custody by the Employer.<sup>15</sup>
- 19.6 The Employer will evaluate and determine whether each tender (a) meets the eligibility criteria defined in ITT Clause 2; (b) is accompanied by the required earnest money deposit as per stipulations in ITT Clause and (c) meets the minimum qualification criteria stipulated in ITT Clause 3. The Employer will draw out a list of qualified Tenderers.<sup>16</sup>

## **20. Opening of Second Cover of qualified Tenders:**

- 20.1 The Employer will inform all the Qualified Tenderers the time, date and venue fixed for the opening of the Second Cover containing the priced Tenders. The Employer will open the Second Covers of Qualified Tenderers at the appointed time and date in the presence of the Tenders or their representatives who choose to attend. In the event of the specified date of Second Cover opening being declared a holiday for the Employer, the Second Covers will be opened at the appointed time and location on the next working day.
- 20.2 Envelopes marked "**MODIFICATION FOR SECOND COVER**" shall be opened and the submissions therein read out in appropriate detail.
- 20.3 The Tenderers' names, the Tender prices, the total amount of each Tender, any discounts, Tender modifications and withdrawals, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No Tender shall be rejected at Tender opening.
- 20.4 The Employer shall prepare minutes of the Second Cover Tender opening, including the information disclosed to those present in accordance with Sub-Clause 20.3.

## **21. Process to be confidential**

- 21.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's processing of Tenders or award decisions may result in the

rejection of his Tender.

## **22 Clarification of Tenders**

- 22.1 To assist in the examination, evaluation, and comparison of Tenders, the Employer may, at his discretion, ask any Tenderer for clarification of his Tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, but no change in the price or substance of the Tender shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Tenders in accordance with Clause 24.
- 22.2 Subject to sub-clause 22.1, no Tenderer shall contact the Employer on any matter relating to its Tender from the time of the Tender opening to the time the contract is awarded. If the Tenderer wishes to bring additional information to the notice of the Employer, it should do so in writing.
- 22.3 Any effort by the Tenderer to influence the Employer in the Employer's Tender evaluation, Tender comparison or contract award decisions may result in the rejection of the Tenderers' Tender.

## **23. Examination of Tenders and determination of responsiveness**

- 23.1 Prior to the detailed evaluation of Tenders, the Employer will determine whether each Tender; (a) has been properly signed; and; (b) is substantially responsive to the requirements of the Tender documents.
- 23.2 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tender documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Tender documents, the Employer's rights or the Tenderer's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.
- 23.3 If a Tender is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

## **24. Correction of errors**

- 24.1 Tenders determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:
- (a) where there is a discrepancy between the rates in figures and in words, the lower of the two will govern<sup>17</sup>; and
  - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.
- 24.2 The amount stated in the Tender will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount the Tender will be rejected, and the earnest money

deposit may be forfeited in accordance with Sub-Clause 13.6 (b).

## **25. Evaluation and comparison of Tenders**

- 25.1 The Employer will evaluate and compare only the Tenders determined to be substantially responsive in accordance with Clause 23.
- 25.2 In evaluating the Tenders, the Employer will determine for each Tender the evaluated Tender Price by adjusting the Tender Price as follows:
- (a) making any correction for errors pursuant to Clause 24; and
  - (b) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with Sub Clause 18.5.
- 25.3 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tender documents or otherwise result in unsolicited benefits for the Employer shall not be taken into account in Tender evaluation.
- 25.4 The estimated effect of the price adjustment conditions under Clause 41 of the Conditions of Contract, during the implementation of the Contract, will not be taken into account in tender Evaluation
- 25.5 If the tender of the successful tenderer is seriously unbalanced in relation to the Employer's estimate of the cost of the work to be performed under the contract, the Employer may require the Tenderer to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, the Employer may require that the amount of the performance security set forth in Clause 29 be increased at the expense of the successful Tenderer to a level sufficient to protect the Employer against financial loss in the event of default of the successful under the contract.

## **F. Award of Contract**

### **26. Award criteria**

- 26.1 Subject to Clause 27, the Employer will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tender documents and who has offered the highest evaluated Net Present Value of Savings to KMF and its member unions, provided that such Tenderer has been determined to be (a) eligible in accordance with the provisions of Clause 2, and (b) qualified in accordance with the provisions of Clause 3.

### **27. Employer's right to accept any Tender and to reject any or all Tenders**

- 27.1 Notwithstanding Clause 26, the Employer reserves the right to accept or reject any Tender, and to cancel the Tender process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the Employer's action.

### **28. Notification of award and signing of Agreement**

- 28.1 The Tenderer whose Tender has been accepted will be notified of the award by the Employer prior to expiration of the Tender validity period by cable, telex, e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the *Conditions of Contract* called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 28.2 The notification of award will constitute the formation of the Contract, subject only to the furnishing of Security deposit in accordance with the provisions of Clause 29.
- 28.3 The Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be kept ready for signature of the successful Tenderer in the office of Employer within 30 days following the notification of award along with the Letter of Acceptance. Within 20 days of receipt, the successful Tenderer will sign the Agreement and deliver it to the Employer.
- 28.4 Upon the furnishing by the successful Tenderer of the Performance Security, the Employer will promptly notify the other Tenderers that their Tenders have been unsuccessful.

## **29. Security deposit**

- 29.1 Within 20 days of receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Security deposit in any of the forms given below for an amount equivalent to 7.8% of the Contract price plus additional security for unbalanced tenders in accordance with Clause 25.5 of ITT and Clause 44 of the Conditions of Contract. :
- Banker's cheque/Demand draft,/Pay Order in favour of payable at.....or
  - A bank guarantee in the form given in Section 10
- 29.2 If the security deposit is provided by the successful Tenderer in the form of a Bank Guarantee, it shall be issued either by a Nationalized/Scheduled bank.
- 29.3 The security deposit if furnished in cash or demand draft can, if requested, be converted to interest bearing securities at the cost of the contractor.
- 29.4 Failure of the successful Tenderer to comply with the requirements of Sub-Clause 29.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Earnest money deposit.

## **30 Advance Payment and Security:**

- 30.1 The Employer will provide an advance payment on the contract price as stipulated in the Conditions of Contract, subject to the maximum amount as stated in the Contract Data.

## **31. Corrupt or Fraudulent practices**

- 31.1 The GOK requires that the Tenderers/Suppliers/Contractors, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, GOK :
- (a) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in

- competing for the contract in question;
  - (b) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a GOK contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a GOK contract.
- 31.2 Furthermore, Tenderers shall be aware of the provision stated in sub-clause 50.2 of the Conditions of Contract.



Work	State		Address of Employer	(Rs. lakhs)	completion	completed (Rs. lakhs)	completion	(A) - <u>Existing</u>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	
<u>commitments and on-going works:</u>								

---

(B) Works for which Tenders already submitted:

Description of Work (1)	Place & State (2)	Name and Address of Employer (3)	Estimated value of works (Rs. lakhs) (4)	Stipulated period of completion (5)	Date when decision is expected (6)	Remarks if any (7)
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1.6. The following items of equipment are considered essential for successfully carrying out the works. The Tenderer should furnish all the information listed below.

## a. Survey Sketch of Land

Survey Nos.	Extent(Acres) (Y/N)	Kharab(Acres)	Net Extent (Acres)	Agreement Entered
-------------	------------------------	---------------	--------------------	-------------------

- 1.7 Reports on the financial standing of the tenderer, such as profit and loss statements and auditor's reports for the last five years;
- 1.8 Qualification and experience of the key technical and management personnel in permanent employment with the tenderer and those that are proposed to be deployed on this contract, if awarded.
- 1.9. Name, address, and telephone, telex, and fax numbers of the Tenderers' bankers who may provide references if contacted by the Employer.
- 1.10 Evidence of access to financial resources to meet the qualification requirement specified in ITT Clause 3.3 (b): Cash in hand, Letter of Credit etc. List them below and attach certificate from the Banker in the suggested format as under:

**BANKER'S CERTIFICATE**

This is to certify that M/s. .... is a reputed company with a good financial standing. If the contract for this work, namely..... (*name of the work*) is awarded to the above firm, we shall be able to provide overdraft/credit facilities to the extent of Rs. .... to meet the debt financing requirements for executing the above contract

Sd/-  
Name of the Bank, Senior Bank Manger  
Address:.....

1.11 Proposals for subcontracting components of works amounting to more than 20% of the contract price .

Item of Work	Value of Sub-Contract	Identified Sub-Contractor (Name and address)	Experience of similar work <sup>23</sup>
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## 1.12 Information on litigations in which the Tenderer is involved:

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Other Party (ies)	Employer	Details of dispute	Amount involved	Remarks showing present status
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- 1.13 The proposed methodology and program of construction, backed with equipment planning and deployment, duly supported with broad calculations and quality control procedures proposed to be adopted, justifying their capability of execution and completion of the work as per technical specifications within the stipulated period of completion as per milestones.

**SECTION 4: FORMS OF TENDER, LETTER OF ACCEPTANCE, NOTICE TO PROCEED WITH THE WORK AND AGREEMENT FORM**

**Form of Tender**

Description of the Works: Selection of Developers to Design, Finance, Installation, Commissioning, Synchronization, with Operations & Maintenance for a period of 25 years of 100MW Solar Power Plant on Group Captive Mode for Karnataka Cooperative Milk Producers' Federation Limited (KMF) & its member Milk Unions

To

Address : \_\_\_\_\_ 25

GENTLEMEN,

We offer to execute the Works described above in accordance with the Conditions of Contract accompanying this Tender for the Contract Price of \_\_\_\_\_ [in figures] ( \_\_\_\_\_ ) [in letters].<sup>26</sup>

This Tender and your written acceptance of it shall constitute a binding contract between us. We understand that you are not bound to accept the lowest or any Tender you receive.

The advance payment required is Rs.....

We undertake that, in competing for (and, if the award is made to us, in executing) the above contract, we will strictly observe the laws against fraud and corruption in force in India namely "Prevention of Corruption Act 1988".

We hereby confirm that this Tender complies with the Tender validity and Earnest money deposit required by the Tender documents.

We attach herewith our current income-tax clearance certificate.

Yours faithfully,

Authorized Signature:

Name & Title of Signatory: \_\_\_\_\_

Name of Tenderer \_\_\_\_\_

Address: \_\_\_\_\_  
-----  
-----

**Letter of Acceptance**  
**(letterhead paper of the Employer)**

\_\_\_\_\_ [date]

To: \_\_\_\_\_ [name and  
address of the Contractor]

Dear Sirs,

This is to notify you that your Tender dated \_\_\_\_\_ for execution of the

\_\_\_\_\_ [name of the contract and identification number, as given in the Instructions to Tenderers] for the Contract Price of Rupees \_\_\_\_\_ (\_\_\_\_\_) [amount in words and figures], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by our Agency.

You are hereby requested to furnish Security deposit plus additional security for unbalanced tenders in terms of Clause 25.5 of ITT, in the form detailed in Clause 29.1 of ITT for an amount of Rs. \_\_\_\_\_ within 20 days of the receipt of this letter of acceptance valid up to 30 days from the date of expiry of Defects Liability Period i.e. up to ..... and sign the contract, failing which action as stated in Para 29.4 of ITT will be taken.

Yours faithfully,

Authorized Signature

Name and Title of Signatory

Name of Agency

-----  
**Issue of Notice to proceed with the work**  
**(letterhead of the Employer)**

\_\_\_\_\_ (date)

To

\_\_\_\_\_ (name and address of the Contractor)

\_\_\_\_\_  
\_\_\_\_\_

Dear Sirs:

Pursuant to your furnishing the requisite security deposit as stipulated in ITT Clause 29.1 and signing of the contract agreement for the construction of \_\_\_\_\_<sup>27</sup>a Tender Price of Rs. \_\_\_\_\_, you are hereby instructed to proceed with the execution of the said works in accordance with the contract documents.

Yours faithfully,

(Signature, name and title of signatory authorized to sign on behalf of Employer)

\_\_\_\_\_  
<sup>27</sup> Name of the Contract

**Agreement Form**

**Agreement**

This agreement, made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_,  
between \_\_\_\_\_  
\_\_\_\_\_ [name and address of Employer]  
(hereinafter called “the Employer”) of the one part and \_\_\_\_\_  
\_\_\_\_\_ [name and address of contractor]  
(hereinafter called “the Contractor”) of the other part.

Whereas the Employer is desirous that the Contractor execute \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ [name and identification number of Contract] (hereinafter called “the Works”) and the Employer has accepted the Tender by the Contractor for the execution and completion of such Works and the remedying of any defects therein at a contract price of Rupees.....

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expression shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all aspects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying the defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
  - i) Letter of Acceptance;
  - ii) Notice to proceed with the works;
  - iii) Contractor’s Tender;
  - iv) Contract Data;
  - v) Conditions of contract (including Special Conditions of Contract);
  - vi) Specifications;
  - vii) Drawings;
  - viii) Bill of Quantities; and
  - ix) Any other document listed in the Contract Data as forming part of the contract.

In witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of \_\_\_\_\_  
was hereunto affixed in the presence of:  
Signed, Sealed and Delivered by the said \_\_\_\_\_

in the presence of:  
Binding Signature of Employer \_\_\_\_\_  
Binding Signature of Contractor \_\_\_\_\_

**SECTION 5: CONDITIONS OF CONTRACT**  
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## Conditions of Contract

### A. General

#### 1. Definitions

- 1.1 Terms which are defined in the Contract Data are not also defined in the Conditions of Contract but keep their defined meanings. Bold letters are used to identify defined terms.

**Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Tender. **Compensation events** are those defined in Clause 38 hereunder.

The **Completion Date** is the date of completion of the Works as certified by the Employer in accordance with Sub Clause 46.1.

The **Contract** is the contract between the Employer and the Contractor to execute, complete and maintain the Works. It consists of the documents listed in Clause 2.2 below.

The **Contract Data** defines the documents and other information which comprise the Contract.

The **Contractor / Developer** is a person or corporate body whose Tender to carry out the Works has been accepted by the Employer.

The **Contractor's Tender** is the completed Tender document submitted by the Contractor to the Employer.

The **Contract price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

**Days** are calendar days; **months** are calendar months.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects liability period** is the period named in the Contract Data and calculated from the Completion Date.

The **Employer** is the party who will employ the Contractor to carry out the Works.

**Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract price** is the Contract Price listed in the Employer's Letter of Acceptance.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Employer by issuing an extension of time.

**Materials** are all supplies, including consumables, used by the contractor for incorporation in the Works.

**Plant** is any integral part of the Works which is to have a mechanical, electrical, electronic or chemical or biological function.

The **Site** is the area defined as such in the Contract Data.

**Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Employer.

The **Start Date** is given in the Contract Data. It is the date when the Contractor shall commence execution of the works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract which includes work on the Site.

A **Variation** is an instruction given by the Employer which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and

turn over to the Employer, as defined in the Contract Data.

## **2. Interpretation**

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Employer will provide instructions clarifying queries about the Conditions of Contract.
- 2.2 The documents forming the Contract shall be interpreted in the following order of priority:
- (1) Agreement
  - (2) Letter of Acceptance, notice to proceed with the works
  - (3) Contractor's Tender
  - (4) Contract Data
  - (5) Conditions of Contract
  - (6) Specifications
  - (7) Drawings
  - (8) Bill of quantities and
  - (9) any other document listed in the Contract Data as forming part of the Contract.

## **3. Law governing contract**

- 3.1 The law governing the Contract is the Laws of India supplanted by the Karnataka Local Acts.

## **4. Employer's decisions**

- 4.1 Except where otherwise specifically stated, the Employer will decide contractual matters between the Employer and the Contractor .

## **5. Delegation**

- 5.1 The Employer may delegate any of his duties and responsibilities to other people after notifying the Contractor and may cancel any delegation after notifying the Contractor.

## **6. Communications**

- 6.1 Communications between parties which are referred to in the conditions are effective only when in writing. A notice shall be effective only when it is delivered (in terms of Indian Contract Act).

## **7. Subcontracting**

- 7.1 The Contractor may subcontract with the approval of the Employer but may not assign the Contract without the approval of the Employer in writing. Subcontracting does not alter the Contractor's obligations.

## **8. Other Contractors**

- 8.1 The Contractor shall cooperate and share the Site with other contractors, public



authorities, utilities, and the Employer.

## **9. Personnel**

- 9.1 The Contractor shall employ the technical personnel (of number and qualifications) as may be stipulated by GOK from time to time during the execution of the work. The technical staff so employed shall be available at site as may be stipulated by the Employer.
- 9.2 If the Employer asks the Contractor to remove a person who is a member of the Contractor's staff or his work force stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

## **10. Employer's and Contractor's risks**

- 10.1 The Employer carries the risks which this Contract states are Employer's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

## **11. Employer's risks**

- 11.1 The Employer is responsible for the excepted risks which are:
- (a) rebellion, riot, commotion or disorder unless solely restricted to employees of the Contractor or his Sub-Contractors arising from the conduct of the Works; or
  - (b) a cause due solely to the design of the Works, other than the Contractor's design; or
  - (c) any operation of the forces of nature (in so far as it occurs on the Site) which an experienced contractor:
    - (i) could not have reasonably foreseen; or
    - (ii) could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures;
      - (A) prevent loss or damage to physical property from occurring by taking appropriate measures or
      - (B) insure against such loss or damage

## **12. Contractor's risks**

- 12.1 All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks are the responsibility of the Contractor.

## **13. Insurance:**

- 13.1 The Contractor shall prior to commencing the works, effect and thereafter maintain insurances, in the joint names of the Employer and the Contractor, (cover from the first working day after the Start Date to the end of Defects Liability Period), in the amounts stated in the Contract Data:
- (a) for loss of or damage to the Works, Plants and Materials and the Contractor's equipment;
  - (b) for liability of both Parties for loss, damage, death and injury to third parties or

their property arising out of the Contractor's performance of the Contract including the Contractor's liability for damage to the Employer's property other than the Works and

- (c) for liability of both Parties and of any Employer's representative for death and injury to the Contractor's personnel except to the extent that liability arises from the negligence of the Employer, any Employer's representative or their Employees.
- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Employer for his approval before the Start Date. All such insurance shall provide for compensation to be payable to rectify the loss or damage incurred. All payments received from insurers relating to loss or damage shall be held jointly by the Parties and used for the repair of the loss or damage or as compensation for loss or damage that is not to be repaired.
- 13.3 If the Contractor fails to effect or keep in force any of the insurances referred to in the previous sub- clauses or fails to provide satisfactory evidence, policies or receipts, the Employer may without prejudice to any other right or remedy, effect insurance for the cover relevant to such default and pay the premiums due and recover the same as a deduction from any other monies due to the Contractor. If no payments is due, the payment of the premiums shall be a debt due.
- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Employer.
- 13.5 Both Parties shall comply with any conditions of the insurance policies.

#### **14. Site Investigation Reports:**

- 14.1 The Contractor, in preparing the tender, shall rely on any site investigation reports referred to in the Contract data, supplemented by any information available to the Tenderer.

#### **15. Queries about the Contract Data**

- 15.1 The Employer will clarify queries on the Contract Data.

#### **16. Contractor to construct the Works**

- 16.1 The Contractor shall construct the Works in accordance with the Specification and Drawings.

#### **17. The Works to be completed by the Intended Completion Date**

- 17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the program submitted by the Contractor, as updated with the approval of the Employer, and complete them by the Intended Completion Date.

#### **18. Approval by the Employer:**

- 18.1 The Contractor shall submit Specification and drawings showing the proposed Temporary Works to the Employer, who is to approve them if they comply with the Specifications and Drawings.
- 18.2 The Contractor shall be responsible for the design of Temporary Works
- 18.3 The Employer's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

- 18.4 The Contractor shall obtain approval of third parties to the design of third parties to the design of the temporary Works where required.
- 18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Employer before their use.

## **19. Safety**

- 19.1 The Contractor shall be responsible for the safety of all activities on the Site.

## **20. Discoveries**

- 20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site is the property of the Employer. The Contractor is to notify the Employer of such discoveries and carry out the Employer's instructions for dealing with them.

## **21. Possession of the Site**

- 21.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data the Employer is deemed to have delayed the start of the relevant activities and this will be Compensation Event.

## **22. Access to the Site**

- 22.1 The Contractor shall allow the Employer and any person authorized by the Employer access to the Site, to any place where work in connection with the Contract is being carried out or is intended to be carried out and to any place where materials or plant are being manufactured / fabricated / assembled for the works.

## **23. Instructions**

- 23.1 The Contractor shall carry out all instructions of the Employer which comply with the applicable laws where the Site is located.

## **24. Procedure for resolution of Disputes:**

- 24.1 If the Contractor is not satisfied with the decision taken by the Employer, the dispute shall be referred by either party to Arbitration within 30 days of the notification of the Employer's decision.
- 24.2 If neither party refers the dispute to Arbitration within the above 30 days, the Employer's decision will be final and binding.
- 24.3 The Arbitration shall be conducted in accordance with the arbitration procedure stated in the Special Conditions of Contract.

## **B. Time Control**

## **25. Program**

- 25.1 Within the time stated in the Contract Data the Contractor shall submit to the Employer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 25.2 The Employer's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Employer again at any time. A revised Program is to show the effect of Variations and Compensation Events.

## **26. Extension of the Intended Completion Date**

- 26.1 The Employer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date.
- 26.2 The Employer shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Employer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information.

## **27. Delays ordered by the Employer**

- 27.1 The Employer may instruct the Contractor to delay the start or progress of any activity within the Works.

## **28. Management meetings**

- 28.1 The Employer may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the progress achieved and the plans for remaining work.
- 28.2 The responsibility of the parties for actions to be taken is to be decided by the Employer either at the management meeting or after the management meeting and stated in writing to be distributed to all who attended the meeting.

## **C. Quality Control**

### **29. Identifying defects**

- 29.1 The Employer shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Employer may instruct the Contractor to search for a Defect and to uncover and test any work that the Employer considers may have a Defect

### **30. Tests**

- 30.1 If the Employer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect the test shall be a Compensation Event.

### **31. Correction of defects**

- 31.1 The Employer shall give notice to the Contractor of any Defects before the end of the

Defects Liability Period, which begins at Completion and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

- 31.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Employer's notice.

### **32. Uncorrected defects**

- 32.1 If the Contractor has not corrected a Defect within the time specified in the Employer's notice, the Employer will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

## **D. Cost Control**

### **33. Bill of Quantities (BOQ)**

- 33.1 The BOQ shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 33.2 The BOQ is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the BOQ for each item

### **34. Variations**

- 34.1 The Employer shall have power to order the Contractor to do any or all of the following as considered necessary or advisable during the progress of the work by him
- (a) Increase or decrease of any item of work included in the Bill of Quantities (BOQ);
  - (b) Omit any item of work;
  - (c) Change the character or quality or kind of any item of work;
  - (d) Change the levels, lines, positions and dimensions of any part of the work;
  - (e) Execute additional items of work of any kind necessary for the completion of the works; and
  - (f) Change in any specified sequence, methods or timing of construction of any part of the work.
- 34.2 The Contractor shall be bound to carry out the work in accordance with any instructions in this connection, which may be given to him in writing by the Employer and such alteration shall not vitiate or invalidate the contract.
- 34.3 Variations shall not be made by the Contractor without an order in writing by the Employer, provided that no order in writing shall be required for increase or decrease in the quantity of an item appearing in the BOQ so long as the work executed conforms to the approved drawings.
- 34.4 The Contractor shall promptly request in writing the Employer to confirm verbal orders and if no such confirmation is received within 15 days of request, it shall be deemed to be an order in writing by the Employer.

### **35. Payments for Variations**

- 35.1 Payment for increase in the quantities of an item in the BOQ up to 25% of that provided in the Bill of Quantities shall be made at the rates quoted by the Contractor.
- 35.2 For quantities in excess of 125% of the tendered quantity of an item as given in the BOQ, the Contractor shall be paid at the rate entered in or derived from in the Schedule of Rates (applicable for the area of the work and current at the time of

- award of contract) plus or minus the overall percentage of the original tendered rates over the current Schedule of Rates prevalent at the time of award of contract.
- 35.3 If there is no rate for the additional, substituted or altered item of the work in the BOQ, efforts would be made to derive the rates from those given in the BOQ or the Schedule of Rates (applicable for the area of the work and current at the time of award of contract) and if found feasible the payment would be made at the derived rate for the item plus or minus the overall percentage of the original tendered rates over the current Schedule of Rates prevalent at the time of award of contract
- 35.4 If the rates for additional, substituted or altered item of work cannot be determined either as at 35.1 or 35.2 or 35.3 above, the Contractor shall be requested to submit his quotation for the items supported by analysis of the rate or rates claimed, within 7 days.
- 35.5 If the Contractor's quotation is determined unreasonable, the Employer may order the Variation and make a change to the Contract Price which shall be based on Employer's own forecast of the effects of the Variation on the Contractor's costs.
- 35.6 If the Employer decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 35.7 Under no circumstances the Contractor shall suspend the work on the plea of non-settlement of rates for items falling under this Clause.

### **36. Submission of bills for payment**

- 36.1 The Contractor shall submit to the Employer monthly bills of the value of the work completed less the cumulative amount paid previously.
- 36.2 The Employer shall check the Contractor's bill and determine the value of the work executed which shall comprise of (i) value of the quantities of the items in the BOQ completed and (ii) valuation of Variations and Compensation Events.
- 36.3 The Employer may exclude any item paid in a previous bill or reduce the proportion of any item previously paid in the light of later information.

### **37. Payments**

- 37.1 Payments shall be adjusted for deductions for advance payments, other recoveries in terms of the contract and taxes, at source, as applicable under the law. The Employer shall pay the Contractor the within 60 days of submission of bill.
- 37.2 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

### **38. Compensation events**

- 38.1 The following are Compensation events unless they are caused by the Contractor:
- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
  - (b) The Employer orders a delay or does not issue drawings, specifications or instructions required for execution of works on time.
  - (c) The Employer instructs the Contractor to uncover or to carry out additional tests upon work which is then found to have no Defects.
  - (d) The Employer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or

other reasons.

- (e) The effect on the Contractor of any of the Employer's Risks.
- (f) The Employer unreasonably delays issuing a Certificate of Completion.
- (g) Other Compensation Events listed in the Contract Data or mentioned in the Contract.

38.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date is extended. The Employer shall decide whether and by how much the Contract Prices shall be increased and whether and by how much the Intended Completion Date shall be extended.

38.3 As soon as information demonstrating the effect of each Compensation event upon the Contractor's forecast cost has been provided by the Contractor, it is to be assessed by the Employer and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Employer shall adjust the Contract Price based on Employer's own forecast. The Employer will assume that the Contractor will react competently and promptly to the event.

38.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor not having given early warning or not having cooperated with the Employer.

### **39. Tax**

39.1 The rates quoted by the Contractor shall be deemed to be inclusive of the sales and other taxes that the Contractor will have to pay for the performance of this Contract. The Employer will perform such duties in regard to the deduction of such taxes at source as per applicable law.

### **40. Price Adjustment:**

40.1 Deleted.

### **41. Liquidated damages**

41.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the Contract Data for each day that the Completion Date is later than the Intended Completion Date (for the whole of the works or the milestone as stated in the Contract Data). The total amount of liquidated damages shall not exceed the amount defined in the Contract Data. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages does not affect the Contractor's liabilities.

41.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment of bill.

### **42. Advance Payments:**

42.1 The Employer shall make payment to the Contractor of the amounts stated in the Contract Data by the date stated in the Contract Data, against provision by the Contractor of an unconditional bank guarantee in a form acceptable to the Employer issued by a Nationalized/Scheduled Bank in amounts equal to the advance payment. The guarantee shall remain effective until the advance payment has been repaid, but

the amount of the guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.

42.2 The Contractor is to use the advance payment only to pay for Mobilization expenses required specifically for execution of the Works. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Employer.

42.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuation of the work done, variations, price adjustments, compensation events or liquidated damages.

#### **43. Securities:**

43.1 The Security deposit (including additional security for unbalanced tenders) shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and type of instrument acceptable to the Employer. The Security deposit shall be valid until a date 30 days from the date of expiry of Defects Liability Period and the additional security for unbalanced tenders shall be valid until a date 30 days from the date of issue of the certificate of completion.

#### **44. Cost of Repairs:**

44.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

### **E. Finishing the Contract**

#### **45. Completion**

45.1 The Contractor shall request the Employer to issue a Certificate of Completion of the Works and the Employer will do so upon deciding that the Work is completed.

#### **46. Taking over**

46.1 The Employer shall take over the Site and the Works within seven days of issuing a certificate of Completion.

46.2

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<sup>29</sup> Refer GOK Order No.FD 59 Pro.Cell 2004, Bangalore Dated 26<sup>th</sup> November 2004

#### 47. **Final account**

- 47.1 The Contractor shall supply to the Employer a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 90 days of receiving the Contractor's account if it is correct and complete. If it is not, the Employer shall issue within 90 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Employer shall decide on the amount payable to the Contractor and make payment within 60 days of receiving the Contractor's revised account.

#### 48. **As built drawings and /or Operating and Maintenance Manuals**

- 48.1 If "as built"<sup>30</sup> Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the Contract Data.
- 48.2 If the Contractor does not supply the Drawings by the dates stated in the Contract Data, or they do not receive the Employer's approval, the Employer shall withhold the amount stated in the Contract Data from payments due to the Contractor.

#### 49. **Termination**

- 49.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 49.2 Fundamental breaches of Contract include, but shall not be limited to the following:
- (a) the Contractor stops work for 45 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Employer;
  - (b) the Employer instructs the Contractor to delay the progress of the Works and the instruction is not withdrawn within 60 days;
  - (c) The Contractor becomes bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
  - (d) a payment due to the Contractor is not paid by the Employer within 90 days of the date of the submission of the Bill by Contractor;
  - (e) the Employer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Employer;
  - (f) the Contractor does not maintain a security which is required;
  - (g) the Contractor has delayed the completion of works by the number of days for which the maximum amount of liquidated damages can be paid as defined in the Contract data; and
  - (h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in the executing the Contract.

For the purpose of this paragraph : "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution. "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the

detriment of the Borrower, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.”

- 49.3 When either party to the Contract gives notice of a breach of contract to the Employer for a cause other than those listed under Sub Clause 49.2 above, the Employer shall decide whether the breach is fundamental or not.
- 49.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 49.5 If the Contract is terminated the Contractor shall stop work immediately, make the Site safe and secure and leave the Site as soon as reasonably possible.

## **50. Payment upon Termination**

- 50.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Employer shall prepare bill for the value of the work done less advance payments received up to the date of the bill, less other recoveries due in terms of the contract, less taxes due to be deducted at source as per applicable law and less the percentage to apply to the work not completed as indicated in the Contract Data. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor the difference shall be a debt payable to the Employer.
- 50.2 If the Contract is terminated at the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Employer shall prepare bill for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the contract, and less taxes due to be deducted at source as per applicable law and make payment accordingly.

## **51. Property**

- 51.1 All materials on the Site, Plant, Equipment, Temporary Works and Works are deemed to be the property of the Employer, if the Contract is terminated because of a Contractor's default.

## **52. Release from performance**

- 52.1 If the Contract is frustrated by any event entirely outside the control of either the Employer or the Contractor the Employer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which commitment was made

## **F. Special Conditions of Contract**

### **1. Labour :**

The Contractor shall, unless otherwise provided in the Contract, make his own

arrangements for the engagement of all staff and labour, local or other, and for their payment, housing, feeding and transport.

The Contractor shall, if required by the Employer, deliver to the Employer a return in detail, in such form and at such intervals as the Employer may prescribe, showing the staff and the numbers of the several classes of labour from time to time employed by the Contractor on the Site and such other information as the Employer may require.

## **2. Compliance with labour regulations :**

During continuance of the contract, the Contractor and his sub contractors shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, Employer shall have the right to deduct any money due to the Contractor including his amount of security deposit. The Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

## **3. Protection of Environment:**

The contractor shall take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation. During continuance of the contract, the contractor and his sub-contractors shall abide at all times by all existing enactments on environmental protection and rules made there under, regulations, notifications and bye-laws of the State or Central Government, or local authorities and any other law, bye-law, regulations that may be passed or notification that may be issued in this respect in future by the State or Central Government or the local authority.

## **4. Arbitration (Clause 24 )**

### **4.1 The procedure for arbitration shall be as follows:**

- (a) In case of dispute or difference arising between the Employer and the Contractor relating to any matter arising out of or connected with this agreement it shall be settled in accordance with the Arbitration and Conciliation Act 1996. The disputes

or differences shall be referred to a Sole Arbitrator. The Sole Arbitrator shall be appointed by agreement between the parties; failing such agreement, by the Appointing Authority (any one of the Organizations as per list enclosed in Annexure)

- (b) Arbitration proceedings shall be held at Bengaluru, Karnataka, India
- (c) The cost and expenses of arbitration proceedings will be paid as determined by the Arbitrator. However the expenses incurred by each party in connection with the preparation, presentation, etc., shall be borne by each party itself.
- (d) **Performance under the contract shall continue during the arbitration proceedings and payments due the Contractor by the Employer shall not be withheld, unless they are the subject matter of the arbitration proceedings.**

## 5. **Scope of Work**

- 5.1 Notwithstanding anything stated in the GCC or SCC the following clauses shall be only considered if there is a difference in meaning / interpretation between the GCC & SCC and the following clauses.
- 5.2 The Developer along with the Sub-Contractor shall form a Special Purpose Vehicle (SPV for implementation of this project.
- 5.3 The Articles of Association & Memorandum of Association adopted for the SPV shall be as uploaded with the tender documents
- 5.4 Employer's Advance Payment shall be considered as equity payment Investment equivalent to 26% of ownership of the SPV and the Developer shall initiate Share Transfers accordingly to the Employer.
- 5.5 The Advance Payment shall be calculated at pro-rata basis as 26% of 30% of the Overall Project Cost / Contract Price as quoted by the Developer during the tendering process
- 5.6 The SPV will execute a Power Purchase Agreement with the Employer as per the draft uploaded during the tendering process. The quoted tariff of the Power Purchase Agreement shall be as quoted by the Contractor upto his evacuation bus bar and other transmission and distribution charges shall be borne by the Employer as per the Wheeling & Banking Agreement and applicable regulations
- 5.7 The SPV will maintain the operations of the Solar Plant for period of 25years and supply the minimum contracted capacity of electricity at all times. The Employer shall procure the minimum contracted capacity of electricity generated for the 25year period.
- 5.8 On Completion of the 25 year period, the Developer / Employer may procure the Project from the other party based on valuation report produced at that time.

## 6. ***Obligation of the Developer during the tenure of the Project including operation & maintenance of the project***

- 6.1 Provide Sample Drawings & Bill of Quantities including all details for executing the power plant according to the contract prices.
- 6.2 Formation of SPV while assigning 26% ownership to Employer and its member milk unions as per the Electricity Rules 2005 on payment of 26% of 30% of Equity of Employer. The Developer shall issue Bank Guarantee against the Equity Payment made by the Employer as a performance guarantee. The guarantee shall be returned to the Developer after 12months of successful commissioning & synchronization of the project. The term of the Bank Guarantee shall be extended by the Developer accordingly.
- 6.3 The Article of Association & the Memorandum of Association shall be executed as per the tender documents uploaded by the KMF during the tender stage by the Developer

- 6.4 Enter into Power Purchase Agreement between the SPV & Employer (Power Purchase Agreement is attached)
- 6.5 Procure / Transfer of Government Order onto SPV formed for implementing Group Captive Project. The land shall include land for the right of way for evacuation of power to the closest substation, which the contractor had procured & submitted KPTCL evacuation approval during the tender stage
- 6.6 Transfer title of Land wherein the Solar Project is to be developed (including / not including Right of Way for Transmission Towers) to the SPV if the land is within the extent of Section 63 of the Karnataka Land Reforms Act. If land extent is beyond the ceiling limit as defined by the Karnataka Land Reforms Act, for holding and the SPV shall apply through the Single Window Agency & the State High Level Committee for approval entering sale deed for that extent of land. The transfer of land should be done within 12months of the executing the Power Purchase Agreement
- 6.7 The land required for the Right of Way for the Transmission Towers shall be leased / procured by the Contractor & transferred to the SPV. The SPV shall be responsible for the construction of the High Voltage / Extra High Voltage Towers & lines with accessories to ensure evacuation of the power generated at the power plant is fed to the State Grid or Central Grid as the case maybe.
- 6.8 Provide filled draft of the Wheeling & Banking Agreement to Employer for its approval
- 6.9 Begin & complete execution of the Project with 18months time after Employer invests the requisite Equity capital by the SPV through the listed contractor
- 6.10 Procure Loan Sanction and subsequent disbursement from the Scheduled Banks or Financial Institutions sufficient to meet the debt component of the project. The financial closure of the project should be done within 7months of executing the Power Purchase Agreement. The financing document shall be approved by the Project Management Consultant (PMC) prior to executing the same by the SPV.
- 6.11 The SPV shall ensure all quality materials are procured in line with the Technical Specifications agreed to supply during the tendering process
- 6.12 The SPV shall allow for Employer's PMC to inspect the project site and furnish all documents requested by the PMC as specified in this tender document. The SPV shall produce any / all documents requested by the PMC and allow unencumbered access to the site to ensure the amount being drawn by the SPV is reflected in execution on the site. The Developer shall pay the consultancy fees to the PMC of KMF as per the agreement entered into between KMF & its PMC.
- 6.13 The SPV shall notify Employer for any cost escalation along with proof that cost increase is attributable to the change of law which was prevalent prior to letter of award. The cost escalation shall be allowed only if the cost increase is attributable to change in law as per documents provided by the SPV. The cost escalation shall be allowed by the Employer after approval of the same by the Project Management Consultant as engaged by the Employer during the tenure of the project. Subsequently, the Employer shall facilitate the enactment of Section 13 read along with Section 61 & Section 62 of the Companies Act 2013 for share capital enhancement.
- 6.14 The SPV shall be solvent and operational at all times and the Developer shall ensure the same.
- 6.15 The SPV request all necessary approvals with regard to install, commission, synchronize and operate the plant for the period of 25years from all government instrumentalities including Karnataka State Chief Electrical Inspector along with Karnataka Power Transmission Corporation Limited, Bangalore Electricity Supply Company, etc. and submit a copy to the Employer

- 6.16 The SPV shall execute wheeling and banking agreement with all ESCOMs, KPTCL, SLDC & the Employer and its member milk unions prior to commissioning of the plant
- 6.17 The SPV shall commission & synchronize the plant as per the applicable law within 18 months of the Employer investing 26% of the Equity required by the Project. Any delay in the project execution shall result in penalty equivalent to that amount the Employer would have saved through procuring the electricity from the Group Captive Solar Power Plant vis-à-vis the supply from the Electricity Supply Companies of Karnataka
- 6.18 The SPV shall continue to operate and maintain the plant for a period of 25 years after the commissioning of the solar power plant while generating the minimum contracted electricity capacity and making the same available to KMF.
- 6.19 The SPV shall produce an invoice to Employer separating fees related to transmission and distribution charges & banking charges and its charges for electricity sale on a monthly basis
- 6.20 The SPV shall maintain minimum generation potential as committed during the tenure of the project.
- 6.21 Ensure compliance to the Forecasting and Scheduling Regulations as may be in force during the tenure of the project. Any penalty due to the deviation in the generation from the forecasted quantity shall be deducted from the revenue share of the Contractor / Developer in the SPV.
- 6.22 The SPV shall maintain minimum Plant Capacity Utilization Factor as committed during the tendering process. Under delivery of power due to reasons attributable to the SPV shall result in penalty on the Developer's share of revenue and the same shall be deducted from the Contractor's portion of revenue of the SPV.
- 6.23 The SPV shall maintain all plant related assets in proper working conditions upto the 25<sup>th</sup> year of operations and transfer the same to Employer at the end of 25 years along with the land to the extent of the KMF's ownership of the project. Further, the Developer shall own 51% of Equity Shares in the SPV upto the 1<sup>st</sup> year anniversary of commercial operations of the project & shall thereafter hold onto 26% of the Equity shares for the entire tenure of the project.
- 6.24 The SPV shall ensure that all applicable laws, rules, and regulations to the Solar Group Captive Project shall be complied to and the SPV shall notify Employer & its member all necessary compliances required on their part during the execution and operations of the Solar Power Plant at all times. The SPV shall notify Employer of any changes in the applicable law that would cause materially adverse effect to the Employer.

The above listed scope of work should not be considered to be exhaustive. Any other work / permit / approval required as per applicable law to enable the execution of 100MW of Solar Group Captive Capacity shall be taken up and successfully completed by the Developer.

7. ***Obligation of Employer***

- 7.1 Assist / Facilitate the Developer / SPV to execute the project within time including allowing Developer to have management control of SPV; Employer shall not take any actions prejudicial to Developer / SPV / Developer's rights. The Employer may deploy a project management consultant to oversee the activity of the Contractor / SPV / Developer as per the timelines presented by the Developer / Contractor at the Tender stage.
- 7.2 Make Equity Payment as per Electricity Rules 2005 to the SPV to ensure Group Captive Status of the SPV. The Employer shall hold 26% of the Equity Shares for the entire tenure of the project.
- 7.3 Approve & enter / execute Power Purchase Agreement with SPV after issuance of shares in SPV to Employer
- 7.4 Approve & execute wheeling and banking agreement with SPV on behalf of the Employer & its member milk unions
- 7.5 Issue Letter of Comfort / Guarantee to enable SPV to raise loans on Employer's portion of ownership as per Electricity Rules 2005 after the entire equity has been deployed by the SPV & part of the debt has been deployed.
- 7.6 Ensure Ownership of shares of the SPV is maintained to qualify as a Group Captive category for entire duration of the project ie. 25 years as per the Electricity Rules 2005
- 7.7 Make additional equity payment & issue letter of comfort its debt portion if the project cost increases for reasons attributable to change of law on the concurrence of the Project Management Consultant
- 7.8 Procure the minimum contracted capacity from the Power Plant set up by the SPV on a month on month basis throughout the 25 year period of the PPA. Alternatively, the Employer shall pay money equivalent to the tariff multiplied by the minimum contracted capacity for that month in the event the electricity is not consumed by the Employer.
- 7.9 Return the Bank Guarantee of the Developer on successful commissioning of the project within the schedule commercial operation date.
- 7.10 Open Letter of Credit for 12 months with regard to payments to made by the SPV against sale of electricity for itself and its member milk unions and renew the same every year during the tenure of the contract. Further, the Employer shall enter into ESCROW Agreement along with opening an ESCROW account with the SPV for payments due against procurement of electricity generated by the SPV.

8. ***Application of Penalty on the Developer on default of Obligation***

- 8.1 If the Developer / SPV were to
- (a) Delay in Commissioning of the power plant and / or delay in executing the Wheeling & Banking Agreement  
Any delay in the project execution shall result in penalty equivalent to that amount the Employer would have saved through procuring the electricity from the Group Captive Solar Power Plant vis-à-vis the supply from the Electricity Supply Companies of Karnataka. If the Project is not completed with 30months of the Signing of the Power Purchase Agreements, the Employer shall terminate the Agreement with the Contractor / Developer and invoke the Bank Guarantee provided by the Contractor / Developer. Employer Default shall be deducted from calculation of time taken to execute the project as mentioned in clauses 9.
- (b) Deployment of Capital without pro-rata execution on ground as certified by PMC  
The SPV shall ensure deployment of Equity Share Capital & Debt for execution of the project and get the same ascertained and certified by the PMC. If the capital deployed is not suitably reflected in the work completed by the SPV, the Employer shall issue a notice to the SPV to ensure completion of the work on ground to reflect the quantum of capital deployed by the



SPV. The SPV shall reply to the notice by the Employer and request for the PMC to ascertain & certify the quantum of work completed on ground. If the work certified on ground matches the capital and is certified by the PMC, the Employer shall issue letter of comfort. If the work is lesser than the capital deployed to a proportion greater than 25% then the Employer may issue termination notice and encash the Bank Guarantee of the Contractor / Developer.

(c) **Generating Electricity lesser than the committed CUF**

Generation of Electricity below the committed CUF shall result in penalty equivalent to that amount the Employer would have saved through procuring the electricity from the Group Captive Solar Power Plant vis-à-vis the supply from the Electricity Supply Companies of Karnataka.

The Employer shall terminate the agreement with the agreement with the Contractor / Developer for non-generation of electricity for an aggregate period of more than 15days in any year.

(d) **Forecasting & scheduling penalty**

Any penalty applied on the SPV shall be deducted from the revenue share of the Contractor / Developer

(e) **Causing Increase in Project cost for reasons attributable to Developer / Contractor as assessed by the Project Management Consultant**

The Increase in Project Cost attributable to the Developer / Contractor shall be financed by the Developer / Contractor investing to the requisite Equity Share Capital with no additional investment from the Employer while ensuring the SPV issues Sweat Equity shares to the Employer to ensure 26% Equity Shares Ownership. Further, the Developer / Contractor will raise the debt required by the project without any further security given by the Employer.

**9. *Application of Penalty on the Employer's on default of Obligation***

(a) **Making Investment in SPV within time**

The Employer shall make the 26% equity investment in the SPV within 15days of formation of the SPV. The day of investment by the Employer of equity share capital shall be considered the effective day on the Power Purchase Agreement. Further, any further increase in project cost during this extend period of execution of the project shall not be attributable to the Contractor / Developer

(b) **Not Issuing Letter of Comfort for Debt Financing**

The Employer shall be bound to issue letter of comfort to the SPV for raising debt proportionate to equity ownership of the SPV after the PMC has certified the deployment of the equity & debt of the SPV (not including the Employer's portion of guaranteed debt) and ascertained equivalent on-ground execution of the plant. If the Employer does not issue Letter of Comfort to the SPV after the recommendation of the PMC it shall be considered a force majeure condition and the time between acceptance of project cost and actual investment in the project shall deducted from the delay in commissioning of the project and the penalties so applicable by the Employer shall be waived for this period. Further, any further increase in project cost during this extended period of execution of the project shall not be attributable to the Contractor / Developer

(c) **Non-Investment of Equity & issuing Letter of Comfort to SPV for additional loans in case of project cost increase not attributable to the Contractor / Developer and approved by PMC within 15days**

The above event shall be considered a force majeure condition and the time between

acceptance of project cost and actual investment in the project shall deducted from the delay in commissioning of the project and the penalties so applicable by the Employer shall be waived for this period. Further, any further increase in project cost during this extended period of execution of the project shall not be attributable to the Contractor / Developer

(d) Non-Procurement of Electricity

The Employer shall at all times procure the entire quantum of electricity generated by the SPV. The Employer shall reimburse the SPV for shortfall of electricity procured if any shortfall in consumption by the Employer.

(e) Opening ESCROW Account with agreement & Opening 12 months Letter of Credit

The Employer shall open the ESCROW account with ESCROW agreement with the SPV with a period of 15 days of Contractor / Developer request. The Employer is liable to pay later payment surcharges as notified by Ministry of Power for any delay.

(f) Terminating the Agreement without cause before the determination of the Agreement at the end of 25 years / Selling the 26% of the Equity shares in the SPV

The Employer shall be liable to procure the equity shares of the Developer / Contractor at a premium of 25% and takeover the loan of the SPV if the Employer is to terminate the agreement with the Developer / Contractor for reasons other than mentioned in the above clause 8 or sell 26% of the Equity shares held in the SPV setting up the Solar Project.

10. Notwithstanding any clause in this agreement the final termination of this agreement or resolution of disputes arising out of the same shall be determined by the Project Management Consultant prior to any action by the Employer.
11. Notwithstanding anything to the contrary in the previous sections of this tender document all claims arising out of the above agreement shall be dischargeable under the Karnataka Cooperative Societies Act 1959 in case of Employer's default & the Companies Act 2013 in case of SPV / Contractor / Developer default

**Evaluation of the Bids of the Prospective Technically Responsive Bidders:**

The Bidders shall bid on the following parameters :

1. Contracted Capacity in (MW)
2. Quantum of Electricity injected at point of Billing (million units):
3. Total Project Cost for the Project Facilities (Rs. Crores) :

Based on the above the following table shall be created

SN'	Bid 1 (Figures in Rs. Crores & Million units)	
1	Contracted Capacity in (MW)	80.89
2	Quantum of Electricity injected at point of Billing	132
3	Total Project Cost for the Project Facilities (Rs. Crores)	370
4	Tariff (Rs. / kWh)	3.5
5	BESCOM Base Tariff (Rs. / kWh)	7.5
6	Increase in BESCOM Base Tariff	3%
7	Net Present Value of Savings to KMF from Bid 1	791

SN'	Bid 2 (Figures in Rs. Crores & Million units)	
1	Contracted Capacity in (MW)	101
2	Quantum of Electricity injected at point of Billing	150
3	Total Project Cost for the Project Facilities (Rs. Crores)	479.75
4	Tariff (Rs. / kWh)	3.5
5	BESCOM Base Tariff (Rs. / kWh)	7.5
6	Increase in BESCOM Base Tariff	3%
7	Net Present Value of Savings to KMF from Bid 2	733

Net Present Value of the Savings to KMF from the Bids for 25 years will be calculated for KMF with point of delivery units being deducted from the and bought by KMF

#### Bid 1

Units sold at Drawal End		13	13	13	13
Annual Payment to SPV		46	46	46	46
KMF Payment to SPV	28.86	46	46	46	46
BESCOM Payment made if no Group Captiv		99	102	105	108
NPV Savings	-28.86	53	56	59	62
	NPV	₹ 790.87	Crores		

#### Bid 2

Units to be sold at Drawal end		15	15	15	15
Units to be drawn at Drawal end		12	12	12	12
KMF Payment to SPV	37.4205	52.5	52.5	52.5	52.5
BESCOM Payment made if no Group Captiv		113	102	105	108
NPV Savings	-37.4205	60	50	53	56
	NPV	₹ 732.89	Crores		

**Bid No. 1 will be the winner**

The Highest Net Present Value of Savings to KMF will declared the winner, in this case Bid no. 1.

**Annexure:****LIST OF ORGANIZATIONS WHO ARE CONSIDERED AS APPOINTING AUTHORITY FOR APPOINTMENT OF ARBITRATORS<sup>32</sup>**

1. Project Management Consultant engaged by Employer;
2. Indian Council of Arbitration, New Delhi;
3. International Centre for Alternative Disputes Resolution (India);
4. Indian Roads Congress;
5. Indian Building Congress;
6. Indian Institute of Bridge Engineers;
7. Indian Institute of Public Health Engineers;
8. Institute of Water Works

## SECTION 6: CONTRACT DATA

**Items marked "N/A" do not apply in this Contract.**

The following documents are also part of the Contract:

**Clause Reference**

- The Article of Association & Memorandum of Association
- The Power Purchase Agreement
- The Wheeling & Banking Agreement
- The Identified Land Parcel (Village Maps) along with Evacuation Approval

The Employer is :

Name: Karnataka Milk Producer's Cooperative Federation Limited

Address: KMF Complex, P.B. No.2915, D.R.College Post Dr.M.H, Marigowda Rd, Bengaluru, Karnataka 560021

Name of authorized Representative: Managing Director

The name and identification number of the Contract is

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[insert name and number as indicated in the Invitation for Tenders ].

[1.1]

The Works consists of Design, Finance, Installation, Commissioning, Synchronization, with Operations & Maintenance for a period of 25 years of 100MW Solar Power Plant on Group Captive Mode for Karnataka Cooperative Milk Producers' Federation Limited (KMF) & its member Milk Unions. KMF's Board of Director's on 12.05.2020 vide resolution number 27 of the 300<sup>th</sup> Board Meeting resolved to set up a Group Captive Power Project to meet KMF's and its Member Milk Union's electricity requirement. A Feasibility report was prepared and based on the recommendations of the feasibility report it was recommended that a requirement of 100MW would be required to meet 85% of the electricity requirement of KMF and its member unions. Further it was feasible under Section 42 of the Electricity Act 2003 & Electricity Rules 2005 as per rule 9(2) the Federation to set up a Group Captive Plant on the behalf of its Members.

As mentioned above any reduction of costs related to processing and production in milk of KMF and its member milk unions will directly lead to increase in the remuneration to farmers and reduce the price of milk and milk products to consumers of the State. Therefore, through the implementation of Group Captive project by KMF on behalf of itself and its member milk unions will reduce the overall processing cost and is the interest in the public at large.

The start date shall be the date of issue of notice to proceed with the work.

The Intended Completion Date for the whole of the Works is 18months from the date of Equity Infusion by the Employer with the following milestones

Milestone dates:	Physical works to be completed	Period from the date of issue of Notice to proceed with the work
Milestone 1 i.e.,	Investment of 26% Equity	
Milestone 2 i.e.,	Stake by Employer in SPV Transfer of Land & Financial Closure	1 month 8 months
Milestone 3 i.e.,	Schedule Commissioning Date of the Solar Power Plant	19 months

Insurance requirements are as under:

[13]

	Type of Cover	Minimum cover for Insurance <sup>36</sup>
(i)	Works and of Plant and materials	The sum stated in the Agreement plus 20%
(ii)	Loss or damage to equipment	Full replacement cost
(iii)	Loss or damage to property of Third Party	Full replacement cost
(iv)	Personal injury or death insurance (a) for Third Party <sup>37</sup>	
	(b) for Contractor's employees or labour	In accordance with the statutory requirements applicable to Karnataka

The liquidated damages for the whole of the works are

Rs. \_\_\_\_\_ (amount) per day<sup>54</sup> and that for the milestones are as under:

For Milestone 1:	Rs. ....per day	[41]
For Milestone 2:	Rs. ....per day	
For Milestone 3:	Rs. ....Per day	

The maximum amount of liquidated damages for the whole of the works is ten percent of final contract price. [41]

The amounts of the advance payment are: [42]

<u>Nature of Advance</u>	<u>Amount (Rs.)</u>	<u>Conditions to be fulfilled</u>
1. Investment in SPV	7.8% of the Contract price	On submission of un-conditional Bank Guarantee returnable after 12 months of SPV successfully completing the project

<sup>56</sup>The date by which "as-built"<sup>57</sup> drawings (in scale ...<sup>58</sup>) in 2 sets are required is within 30 days of issue of certificate of completion of Whole or Section of the Work as the case may be. [48]

Evaluation of the Bids of the Prospective Technically Responsive Bidders:

The Bidders shall bid on the following parameters :

1. Contracted Capacity in (MW)
2. Point Billing (Delivery Point / Drawal Point) :
3. Quantum of Electricity injected at point of Billing (million units):
4. Total Project Cost for the Project Facilities (Rs. Crores) :

The Bidders shall bid on the following parameters :

1. Contracted Capacity in (MW)
2. Quantum of Electricity injected at point of Billing (million units):
3. Total Project Cost for the Project Facilities (Rs. Crores) :

Based on the above the following table shall be created

SN'	Bid 1 (Figures in Rs. Crores & Million units)	
1	Contracted Capacity in (MW)	80.89
2	Quantum of Electricity injected at point of Billing	132
3	Total Project Cost for the Project Facilities (Rs. Crores)	370
4	Tariff (Rs. / kWh)	3.5
5	BESCOM Base Tariff (Rs. / kWh)	7.5
6	Increase in BESCOM Base Tariff	3%
7	Net Present Value of Savings to KMF from Bid 1	791
SN'	Bid 2 (Figures in Rs. Crores & Million units)	
1	Contracted Capacity in (MW)	101
2	Quantum of Electricity injected at point of Billing	150
3	Total Project Cost for the Project Facilities (Rs. Crores)	479.75
4	Tariff (Rs. / kWh)	3.5
5	BESCOM Base Tariff (Rs. / kWh)	7.5
6	Increase in BESCOM Base Tariff	3%
7	Net Present Value of Savings to KMF from Bid 2	733

Net Present Value of the Savings to KMF from the Bids for 25 years will be calculated for KMF with point of delivery units being deducted from the and bought by KMF

Bid 1

Units sold at Drawal End		13	13	13	13
Annual Payment to SPV		46	46	46	46
KMF Payment to SPV	28.86	46	46	46	46
BESCOM Payment made if no Group Captiv		99	102	105	108
NPV Savings	-28.86	53	56	59	62
	NPV	₹ 790.87	Crores		

Bid 2

Units to be sold at Drawal end		15	15	15	15
Units to be drawn at Drawal end		12	12	12	12
KMF Payment to SPV	37.4205	52.5	52.5	52.5	52.5
BESCOM Payment made if no Group Captiv		113	102	105	108
NPV Savings	-37.4205	60	50	53	56
	NPV	₹ 732.89	Crores		

Bid No. 1 will be the winner

The Highest Net Present Value of Savings to KMF will declared the winner, in this case Bid no. 1.



## SECTION 7: SPECIFICATIONS

### Technical Requirements for Grid Connected Solar PV Power Plants

The following are some of the technical measures required to ensure quality of equipment used in grid connected solar photovoltaic power projects:

#### 1. SPV Modules

- 1.1. The SPV modules used in the grid solar power projects must qualify to the latest edition of any of the following IEC PV module qualification test or equivalent BIS standards. Crystalline Silicon Solar Cell Modules IEC 61215 Thin Film Modules IEC 61646 Concentrator PV modules IEC 62108
- 1.2. In addition, SPV modules must qualify to IEC 61730 for safety qualification testing at 1000V DC or higher. The modules to be used in a highly corrosive atmosphere throughout their lifetime must qualify to IEC 61701.

#### 2. Power Conditioners/ Inverters The Power Conditioners/ Inverters of the SPV power plants must conform to the latest edition of IEC/ equivalent Standards as specified below:

Efficiency Measurements IEC 61683 Environmental Testing IEC 60068 -2/IEC 62093

EM Compatibility (EMC) IEC 61000-6-2, IEC 61000-6-4 & other relevant parts of IEC 61000

Electrical safety IEC 62103/ IEC 62109-1&2

Anti-Islanding Protection IEEE 1547/IEC 62116/UL 1741 or equivalent BIS Standards

#### 3. Other Sub-systems/ Components: Other subsystems/components used in the SPV power plants (Cables, Connectors, Junction Boxes, Surge Protection Devices, etc.) must also conform to the relevant international/national Standards for Electrical Safety besides that for Quality required for ensuring Expected Service Life and Weather Resistance. It is recommended that the Cables of 600-1800 Volts DC for outdoor installations should comply with the BS EN 50618:2014/2pfg 1169/08.2007 for service life expectancy of 25 years.

#### 4. Authorized Test Centers The PV modules/Power Conditioners deployed in the power plants must have valid test certificates for their qualification as per above specified IEC/ BIS Standards by one of the NABL Accredited Test Centers in India. In case of module types like Thin Film and CPV / equipment for which such Test facilities may not exist in India at present, test certificates from reputed ILAC Member Labs abroad will be acceptable.

#### 5. Warranty PV modules used in grid solar power plants must be warranted for output wattage, which should not be less than 90% (ninety per cent) at the end of 10 (ten) years and 80% (eighty per cent) at the end of 25 (twenty-five) years.

#### 6. Identification and Traceability Each PV module used in any solar power project must use a RF identification tag. The following Information must be mentioned in the RFID used on each module (This can be inside or outside the laminate, but must be able to withstand harsh environmental conditions.)

- i. Name of the manufacturer of PV Module
- ii. Name of the Manufacturer of Solar cells
- iii. Month and year of the manufacture (separately for solar cells and module)
- iv. Country of origin (separately for solar cells and module)
- v. I-V curve for the module at Standard Test Condition (1000 W/m<sup>2</sup> , AM 1.5, 250C)
- vi. Wattage, I<sub>m</sub>, V<sub>m</sub> and FF for the module
- vii. Unique Serial No and Model No of the module
- viii. Date and year of obtaining IEC PV module qualification certificate
- ix. Name of the test lab issuing IEC certificate
- x. Other relevant information on traceability of solar cells and module as per ISO 9000

Site owners would be required to maintain accessibility to the list of Module IDs along with the above parametric data

for each module

7. Performance Monitoring: All grid solar PV power projects must install necessary equipment to continuously measure solar radiation, ambient temperature, wind speed and other weather parameters and simultaneously measure the generation of DC power as well as AC power generated from the plant. They will be required to submit this data to Procurer and MNRE or any other designated agency on line and/or through a report on regular basis every month for the entire duration of PPA. In this regard they shall mandatorily also grant access to Procurer and MNRE or any other designated agency to the remote monitoring portal of the power plants on a 24X7 basis.

8. Safe Disposal of Solar PV Modules: The developers will ensure that all Solar PV modules from their plant after their 'end of life' (when they become defective/ non-operational/ non-repairable) are disposed of in accordance with the "e-waste (Management and Handling) Rules, 2011" notified by the Government and as revised and amended from time to time.

9. All material used during construction shall be standard equipment with approval under the relevant Indian / International Standards with installation methodologies that ensure the work meets the requirements of the Prudent Utility Practices, applicable safety standards, applicable engineering standards, and any / all rules applicable in the jurisdiction of India. Further, the land on which the solar panels are installed should have the proper access from the main roads and other ancillary infrastructure to ensure installation of the Solar Panels. Proper drainage of the land area should be created to ensure the project site does not get flooded during the implementation / operation / maintenance of the project.

**SECTION 8: DRAWINGS**

## SECTION 9: Price Bid

### Price Schedule / Price Bid

Sl. No.	Project Type	Bid Amount (in Numbers)	Bid Amount (in words)
1	Electricity Supply cost per Unit at Drawal Point including Electricity Cess / Tax Charges & Transmission Charges. The rate quoted shall be fixed for the entire project period of 25 years.(Rs/kWh). The quantum of minimum supply unit shall be approximately 132.27 Million units per annum (cumulatively of all the Units)		
2	Project Cost:- Design, Supply, Installation & Commissioning of suitable capacity Solar Power plant capable of supplying 132.27 Million units per annum available at the drawl point (user end) of KMF & its member milk unions including Wheeling & Banking Charges, Technical Losses etc.,. The scope includes Land suitable to hold in a company, Solar Power Plant, Right of Way with Transmission Infrastructure, Evacuation Infrastructure and interconnection facilities at delivery point, ABT Meters at drawl points (Rs. Crores)		

**Note:**

- Bidder should mention the considered tariff for wheeling and banking, transmission losses and other details as per the prevailing regulatory norms. Any subsequent changes in the above parameter, the same shall be established and borne by SPV.
- The evaluation shall be based on the highest net present value/ savings to KMF and unions.

**SECTION 10: FORMAT OF BANK GUARANTEE FOR SECURITY DEPOSIT**

To: \_\_\_\_\_ [name of Employer]  
 \_\_\_\_\_ [address of Employer]

WHEREAS \_\_\_\_\_ [name and address of Contractor] (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. \_\_\_\_\_ dated \_\_\_\_\_ to execute \_\_\_\_\_ [name of Contract and brief description of Works] (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of Rs. \_\_\_\_\_ [amount of guarantee]  
<sup>63</sup> Rupees \_\_\_\_\_ [in words], and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of \_\_\_\_\_ [amount of guarantee]<sup>64</sup> as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid until 30 days from the date of expiry of the Defects Liability Period.

Signature and seal of the guarantor \_\_\_\_\_  
 Name of Bank \_\_\_\_\_  
 Address \_\_\_\_\_  
 Date \_\_\_\_\_

<sup>63</sup> An amount shall be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract

<sup>64</sup> An amount shall be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract

Annexure

EMD Declaration

I, hereby submit a declaration that the tender submitted by the undersigned, on behalf of the tenderer ... ..'(Name of the Tenderer), shall not be withdrawn or modified during the period of validity or extended period of validity'

I, on behalf of the tenderer.....(Name of the Tenderer), also accept the fact that in case the tender is withdrawn or modified during the period of its validity/extended validity period or if we fail to sign the contract in case the contract is awarded to us or we fail to submit a Performance security and Additional Performance Security, if any, before the deadline fixed in the Tender Document then .....(.name of the tenderer) will be debarred for participation in the tendering process for the Procurements of this Procurement Entity for a period of one year from the date of default.

(Signature of the Authorized Signatory, Official Seal)

**EARNEST MONEY DEPOSIT BANK GUARANTEE FORM**

Whereas .....1 (hereinafter called “the Tenderer”) has submitted its tender dated .....(date of submission of tender) for the supply of.....(name and/or description of the goods)(herein after called “the Tender”).

KNOW ALL PEOPLE by these presents that WE.....(name of bank) of .....(name of country), having our registered office at ..... (address of bank) (hereinafter called “the Bank”),are bound unto .....(name of Purchaser) (herein after called “the Purchaser”) in the sum of \_\_\_\_\_ for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_. THE CONDITIONS of this obligation are: 1. If the Tenderer (a) withdraws its Tender during the period of tender validity specified by the Tenderer on the Tender Form; or (b) does not accept the correction of errors in accordance with the ITT; or 2. If the Tenderer, having been notified of the acceptance of its tender by the Purchaser during the period of tender validity: (a) fails or refuses to execute the Contract Form if required; or (b) fails or refuses to furnish the performance security, in accordance with the Instruction to Tenderers;

We undertake to pay the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including forty five (45) days after the period of the tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

.....  
(Signature of the Bank)