



**TALWANDI SABO POWER LIMITED**

**Tender Specification No:**

**TN/17/TSPL/PELLET/2023-24/R0**

**BIDDING DOCUMENT**

**FOR**

**SUPPLY OF AGRO BASED RESIDUE BIOMASS TORREFIED PELLETS  
(LONG TERM)**

For

**TALWANDI SABO POWER LIMITED  
1980 MW SUPERCRITICAL THERMAL POWER PLANT**

**AT VILLAGE BANWALA,  
DISTT. MANSA, PUNJAB, INDIA**

**7th November 2023**

\*This document is a can be amended at the discretion of TSPL (if needed).

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## 1. INTRODUCTION

Talwandi Sabo Power Limited ("hereinafter referred to as "TSPL" or "Owner" or "Company"), a subsidiary of Vedanta Limited, has developed one of the largest green-field Thermal Power Project in Punjab with capacity of 1980 MW (3 x 660 MW). TSPL is the largest power producer in Punjab and 100% power is being supplied to the state of Punjab.

## 2. SCOPE OF SUPPLY

TSPL is inviting tenders from Vendor(s) for supply of Agro based residue torrefied pellets of 24,00,000MT for a period of 7 years, the detailed scope and activities are mentioned below.

2.1 The scope of work under this package shall include supply (loading-un loading, transport, and delivery of Material at TSPL plant as per the guaranteed parameters mentioned in clause Bid Document.

Details of Material:

S.No	Description of Item	Indicative Qty to be supplied per Day (TPD)	Total Qty. (Tonne)
1.	Agro residue based Torrefied pellets**	939	24,00,000

Note:

\*\*Agro residue collection/ sourcing preferably from NCR region @50% of the total ordered quantity is mandatory for the party interested to supply torrefied pellets to the TSPL. Contractor will be required to provide documents in the form of certificate from state authority from the where the agro residue have been sourced as evidence along with monthly bills.

2.2 Unloading shall be in the scope of Contractor at a designated place inside TSPL plant. Contractor shall supply and ensure that the Material is loose filled in the dumpers (Trucks with hydraulic based auto unloading system).

2.3 If Contractor shall supply the Material in tarpaulin covered trucks and make sure that it is waterproof to prevent the Material from rain and dusting. Consignment not supplied in tarpaulin covered trucks shall not be accepted.

2.4 Demurrage, if any, on the carriage vehicle for any reasons shall be borne by the Bidder / Contractor.

- 2.5 Agro residue /crop residue means the leftover portion of the crop or agriculture produce such as stubble/ straw/ stalk/ husk etc. / horticulture waste etc.
- 2.6 Any byproduct of woodwork factory (such as wood, wood chips, saw dust, furniture waste etc.) shall not be treated as agro/ crop residue and shall not be accepted for delivery.
- 2.7 Agro residue based Torrefied pellets can be manufactured using single or multiple agro /crop residues together.
- 2.8 The Contractor shall mention the name(s) of agro/crop residue(s) used for manufacturing of Torrefied pellets and their approximate proportion in consignment details during dispatch of Material.
- 2.9 Natural additives/binder such as lignin, starch, animal dung etc. can be used for manufacturing torrefied pellets briquettes if required and same shall also be explicitly mentioned by Contractor in consignment details.
- 2.10 TSPL reserves the right to exclude any base Material/additive/ binder or modify their proportion, if any adverse impact of the base Material/additives/binder is found on boiler in long run.

### **3. SCOPE OF WORK RELATED TO VEHICLE MOVEMENT INSIDE THE PLANT & PENALTY**

- 3.1 Only trained drivers/operators/helpers having valid driving licenses/permits shall be engaged. TSPL reserves right to verify such licenses/permits/Registration Certificate/Vehicle Insurance/Pollution Under Control (PUC) Certificate. Further, drivers/ operators/ helpers should be physically and mentally fit for performing their respective duties. Personnel under the influence of alcohol/drugs will be barred from entering the premises.
- 3.2 Every vehicle should be accompanied with trained helper/cleaner who should be directed by supervisors of Contractor to escort the vehicle movement safely inside the plant.
- 3.3 Adequate and qualified manpower shall be deployed for unloading activities; for supervision at various places for patrolling en-route to TSPL Plant and return route from TSPL Plant and shall report on a daily basis to the Authorized Person(s) of TSPL as required.

3.4 Contractor should ensure that loaded Tippers do not take unnecessary halts en-route to the Plant.

3.5 Contractor's representative should be available at the time of supply inside TSPL premises for complete coordination of all activities like unloading, sampling, weighment, gate entry and exit formalities etc.

3.6 The Contractor shall execute the work in accordance and compliance with Applicable Laws and Good Industry Practice.

3.7 Penalty for violation of safe and efficient Material transportation to TSPL's delivery point:

- Driver found under influence of alcohol/drugs: Any incidence of Tipper Drivers/ equipment operators and personnel being found under the influence of alcohol/drugs. Penalty shall be Rs 10,000 for first incidence, then Rs 15,000 for second incidence .and from third incidence Rs 20,000 in addition to blacklisting of the concerned personnel, who shall not be allowed by the Contractor to perform any activity under the Contract.
- Over speeding of vehicle. Penalty is Rs 5,000 per incidence.
- Overtaking of tippers standing in queue for weighment/ unloading/ in front of plant gate on plant main approach road unless allowed by TSPL on certain exigencies.

#### **4. QUANTITY DETERMINATION**

4.1 Weighment of trucks shall be carried out on Weighbridges (for tare and gross) at TSPL Plant. Net weight = Gross weight less the tare weight as measured at TSPL Weighbridge (WB). The Bidder may witness weighment of trucks once in 30 days, TSPL representative will accompany the Bidder's representative when any such visit is carried out. Bidder shall intimate TSPL via e-mail at least two days in advance about the date of such visit.

4.2 TSPL shall provide a copy of calibration certificates if requested by the Contractor. TSPL shall undertake the calibration of WB in line with the schedule/practice as recommended by Legal Metrology.

4.3 Net adjusted quantity received at TSPL Power Plant i.e., quantity worked out by TSPL after carrying out adjustment due to quality variations with respect to the base parameters, if any, shall be applicable for the purpose of payment.

#### **5. QUALITY DETERMINATION**

**TSPL receipt end quality determination:**

- 5.1 TSPL will carry out the sampling, preparation and testing of supplied torrefied pellets at TSPL Power Plant as per the provisions of either BIS/ASTM/ISO. TSPL will carry out the sampling and testing process as per the relevant BIS/ASTM/ISO standard for sampling from the consignment received in a day.
- 5.2 TSPL at its own discretion will conduct the HGI testing for the selective consignment.
- 5.3 Samples collected for supplies received in a single day will be reduced as per relevant standard and one sample will be prepared for the samples collected in the entire day. This sample will be used for quality determination purpose for the quantity supplied on that day.
- 5.4 The Contractor's representative will have the option to witness the sample collection, preparation, testing of main sample and final packing of the reserve sample through CCTV real time footage (following coverage locations). Any dispute related to sampling, preparation and analysis activity has to be raised strictly within 48 hours of the respective activity. Further any dispute related to test results may be raised strictly within 5 days of the declaration of the results by TSPL. The dispute is to be registered / raised through email/ letter to TSPL, in case the prescribed format is not adhered to the claim for reserve sample testing will not be entertained. The disputes with respect to sampling and testing may be entertained only if backed up by logical and justifiable reasons. Frivolous/repeated disputes may invite penal action by TSPL.
- 5.5 Wherever CCTV coverage facility is not available for a particular area/activity, physical access to the that process may be provided (TSPL representative may accompany the Contractor in such cases). However, for testing of reserve sample physical access to testing facility will be allowed.

<b>S. No</b>	<b>Locations Under CCTV Coverage</b>
1	WB
2	Unloading yard
3	Area between unloading yard to lab
4	Air drying room inside the lab
5	Other areas of Lab

- 5.6 Contractor acknowledges that TSPL have given the opportunity to witness the process of sampling and testing through CCTV Realtime footage. Request for testing of reserve sample has to be based on justification acceptable to TSPL.

5.7 As this process of sampling and preparation is a continuous round the clock process to deal with the multiple consignment workloads, so TSPL would carry out the process as per the time deemed suitable for the process, hence it is the responsibility of the Contractor's representative to be available at all times at CCTV monitor location to witness the same.

5.8 TSPL may request Contractor to withdraw representative who is not diligent and/or is not cooperative. Frivolous/unreasonable objections to the sampling and testing process at TSPL will not be entertained. It may be noted that witnessing of testing (if any) carried out outside of TSPL lab will not be feasible and should be avoided.

5.9 TSPL may also consider (at its option) sharing of part of sample (third sample) with the Contractor. Third sample is for reference of the Contractor only and results of analysis of third sample will not be considered for determining the payments.

5.10 Reserve samples will be preserved in the TSPL laboratory under jointly (TSPL & PSPCL) locked almirah in sealed condition for 30 days (from the date of declaration of results) in safe custody of TSPL.

5.11 Generally, quality reports will be generated within 7 days of receipt of the Material and same will be communicated to Bidder subject to receipt of loading end quality report.

5.12 Despite having offered/ provided access to sampling, sample preparation and testing processes through CCTV real-time footage to demonstrate transparency, the right to raise dispute for testing reserve sample will be given to the Contractor.

The number of results challenged for referee sample testing by the Contractor shall be considered to the extent of 50% of the total vehicles received in a Batch. 50% results challenged for referee shall be tested at TSPL lab and remaining 50% samples shall be analyzed at 3rd party external laboratory.

5.13 The SOP for testing of reserve sample subject to satisfaction of criteria as per 5.12 above as under:

- a) The Contractor will be intimated 4 days prior to the extraction of referee sample from the joint custody.
- b) Referee samples will be taken out from the joint custody of TSPL & PSPCL in



presence of Contractor.

c) For referee sample testing at third party external laboratory, following procedure shall be followed:

- I. The sample will be jointly re-packed and sealed by TSPL and Contractor post extraction from the joint custody.
- II. The sealed and packed sample will be sent to 3rd party external laboratory for analysis. The detail of 3rd party external laboratory is as under:
  1. National Metallurgical Laboratory
  2. Indian Institute of Chemical Technology
  3. Institute of Minerals & Materials Technology
  4. Inspectorate Griffith India Pvt Ltd
  5. Shriram Institute for Industrial Research
- III. The 3rd party external laboratory for testing the referee sample amongst the above shall be decided by TSPL at its own discretion.
- IV. Referee sample will in no case be handed over to the Contractor and shall be physically handed over to the 3rd party external laboratory in presence of TSPL and Contractor representative. If permitted by the external referee lab, analysis shall be carried out in presence of TSPL and Contractor's representative, if present.
- V. The cost related to testing for the referee sample shall be to the account of the Contractor, the same shall be deducted from Contractor's monthly bill. It is to clarify that the Contractor shall directly bear the cost of travelling, boarding, lodging and other related expenses for its own representatives.
- VI. Results reported by 3rd party external laboratory shall be final and binding on both Parties, the Contractor and TSPL for all commercial purposes.

d) For referee sample testing at TSPL laboratory, following procedure shall be followed:

- I. Referee sample testing shall be carried out in presence of Contractor's representative.
- II. In case of testing of referee sample for GCV, bomb calorimeter will be calibrated/verified as per BIS/ASTM/ISO prior to testing. Post successful verification of bomb calorimeter, referee sample will be tested as per applicable standards.
- III. The calibration status of oven, muffle furnace and weighing equipment will be demonstrated through valid calibration certificates.
- IV. The entire process including taking out the referee samples from joint custody, extracting the quantity from sealed packet and final

analysis will be captured on CCTV camera. If CCTV camera is not functional for any area, video recording of that process will be done through mobile camera.

- V. Based on the testing TSPL will share the revised results. Results declared by TSPL shall be final and binding on both Parties, the Contractor and TSPL for all commercial purposes.

5.14 PSPCL representative (s) may witness the process including testing of referee samples.

5.15 Any misuse of real time footage witnessing by Contractor, or its representative will be viewed seriously and may result in disqualification/blacklisting of a Contractor, including denial of this access for the balance period of supply of torrefied pellets. The presence of more than one representative of a Contractor will be viewed as unnecessary and violation of the privilege. Repeated violations may lead to the cancellation of the gate pass and the banning of entry on the premises.

5.16 It may be noted that referee samples shall only be used in case of conflict of quality and price adjustment, whereas, in case of rejection of consignment due to Total moisture (TM), Power Plant reported Total Moisture (TM) result will be final and binding.

5.17 To prevent misuse of the facility by disputing the majority of results of the lot, Power Plant will abort this reserve testing process in case if the reserve sample results (first two) are within the repeatability limits (as per BIS 1350) from original results. In this case, original results will be considered for payment purposes.

5.18 Any torrefied pellets that is received at TSPL will not be returned/ permitted to be collected by the Contractor unless agreed to in writing by TSPL.

5.19 Standards/Methods as per the table below will be referenced/used for quality determination:

<b>S. No.</b>	<b>Technical Data</b>	<b>Testing Method/Standard</b>
1.	Dimension (Diameter & Length)	ISO 17829 or Equivalent method may be referred
2.	Fines (%)	ISO 18846 or Equivalent Method may be referred
3	GCV(ARB)	IS 1350 or equivalent method may be referred

4.	Moisture content (ARB)	Method based upon IS 1350 or equivalent method may be referred (Hand-Held Moisture Meter may also be used)
5.	HGI	ISO 5074 or equivalent method may be referred

5.20 For Determination of Total Moisture (TM) content:

- a. Samples shall be collected from each truck/dumper for TM determination.
- b. TM will be determined by Power Plant lab validated method based on IS 1350,

(10g of 2.90mm passing sample will be heated for 2 hours at 108 +/- 2 Deg C.

Total Moisture will be computed as per the formula below:

$$TM\% = (W1-W2) \times 100 / W1$$

Where: W1= Initial Weight of Sample (10 grams) W2= Final Weight of Sample.

Note: Before unloading, samples shall be tested for moisture at TSPL end. If this value is in the rejection level range, the consignment shall be rejected and it shall be the contractor's responsibility to carry it back at his own cost.

## **6. PRICE & PRICE BASIS & ITS EFFECTIVENESS**

- 6.1 The Bidder shall quote its most competitive prices for the Scope of Work in Price Bid format (Annexure A Price Schedule). Any quantity which is allocated during the Contract period but not delivered during the Contract period will be executed at the price applicable for that specific Contract period along with the same terms and conditions under the Contract.
- 6.2 Price shall be quoted in Indian Rupees only.
- 6.3 Bid price shall be inclusive of all taxes, levies, cess and duties etc. except GST (on the invoice as applicable on the date of invoice). GST shall be applicable as per Govt norms.
- 6.4 Owner shall deduct applicable taxes at source (TDS) as per statutory requirements.
- 6.5 Alterations to the Form of Bid and associated document shall not be permitted. Any alteration other than the filling in of blanks intended for that purpose or failure to comply with these instructions may result in the rejection of the bid.

6.6 Bids must be submitted solely on the basis of the Bidding Documents and must be free of any qualifying statements.

6.7 Bidder shall submit offers that comply with the requirements of the Bid Document.

**6.8 Price Variation:**

a) The purchase price mentioned in PO shall be annually revised from date of issue of PO.

For destination Prices quoted by the contractor shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labour, Diesel, Electricity, cost of raw material in accordance with the procedures specified below:

It is understood that the price component of the items for any shipment/dispatch comprises of a fixed portion (designated as 'F' and the value of which is specified hereunder) and a variable portion linked with the indices for raw material, labor, diesel, electricity (description and co-efficient as enumerated below).

The amount of price adjustment towards variable portion payable/recoverable on each shipment/dispatch shall be computed as under:

$$EC = EC1 - EC0$$

EC1 will be computed as follows:

$$EC1 = EC0 \{F + a X (A1/A0) + b X (B1/B0) + d X (D1/D0) + Lb X (L1/L0)\}$$

Where,

EC = Adjustment to FOR destination Price Component expressed in the currency of the Contract payable to the contractor for each shipment/dispatch.

EC1 = Adjusted Amount of FOR destination Price Component expressed in the currency of the Contract payable to the Contractor for each shipment/ dispatch.

EC0 = FOR destination Price for the item in the currency of the Contract, shipment/dispatch wise.

F = The fixed portion of Component of the Contract Price. It shall be 0.08

a = Co-efficient of High-speed Diesel fuel, it shall be 0.13

b = Co-efficient Electricity, it shall be 0.17

d = Co-efficient for raw material component, it shall be 0.42

Lb = Co-efficient for labour component which shall be 0.20

A0 = High Speed diesel oil price as on one month prior to date of submission of Price bid.

A1 = High Speed diesel oil price as on one month prior to the date of shipment.

Note: Price of High-Speed diesel oil, at Pump Station of Indian Oil Corporation or HP or any other Govt. oil company nearest to the Project Site, where the material shall be delivered. (Selling price inclusive of taxes and duties as per liter of H.S.D. Oil).

B0 = WPI (Electricity) as on one month prior to date of submission of Price bids.

B1 = WPI (Electricity) as on one month prior to the date of shipment.  
(Note: As per Office of Economic Advisor).

D0 = Raw material price as on one month prior to date of submission of Price bids

D1 = Raw material price as on one month prior to the date of shipment.

Note: The values of D1 & D0 shall be derived from Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulation, 2020 as per the applicable year. The CERC regulations considers an escalation of 5% per year in the raw material price.

L0 = All India Consumer Price Index for Industrial workers (All Indian Monthly Average) as on one month prior to date of submission of Price bid.

L1 = All India Consumer Price Index for Industrial workers (All Indian Monthly Average) as on one month prior to the date of shipment.

Note: As published by Labour Bureau Shimla, Govt. of India.

- b) Statutory variations (increase or decrease) on account of the change in statutory taxes & duties, introduction of any new tax, withdrawal, or modification of any tax shall be passed through during the period of Contract. Documentary evidence shall be required from the Bidder for the same.
- 6.3 The rates quoted by the Bidder in the Price Bid be deemed to cover the cost of all the relevant operations/works mentioned in this Bid Document. No claim for any increase in cost shall be entertained on any account except in terms of 6.2 above.

## 7. COMPUTATION METHODOLOGY FOR SUPPLY PAYABLE & VARIOUS RECOVERIES /QUANTITY ADJUSTMENTS

7.1 The Contractor shall guarantee technical parameters of agro residue-based torrefied pellets as given in following Table-1. The characteristics contained in Technical Specification (Table- 1) shall be adhered to and maintained and non-adherence shall result in 'Quantity and Price Adjustment' as per clause 7.2 or even rejection as per clause 7.3 of this volume.

### Technical Specification for Agro residue based Torrefied pellets (Table 1)

S No.	Technical Data	Unit	Specification for torrefied pellets
1.	Base Material	NA	Agro Residue/Crop Residue (wood-based pellets will not be acceptable)
2.	Dimensions Diameter	Mm	In case of cylindrical shape: Diameter: Not more than 25-30 mm Length: Random
3.	Fines% (Length< 3mm)	Weight%	Fines ≤ 5%
4.	Moisture (ARB*)	Weight%	Not more than 14% (≤ 14%)
5.	Gross Calorific Value (ARB)	Kcal/Kg	To be quoted by the bidder (not less than 3400 Kcal/Kg)
6.	Volatile Matter shall be below 22%	Weight%	Volatile matter below 22%

\*ARB- As received basis

7.1.1 Acceptance range of key technical parameters (on as received basis) with price/ quantity adjustment.

S No	Technical data	Unit	Acceptance range with pro rata price/quantity adjustment
1	Gross calorific value	kcal/kg	3400<GCV<=5000
2	Moisture	Weight%	Moisture<=14%
3	Ash	Weight%	Ash<20%
4	Fines% (Length <3 mm)	Weight%	Fines<=5%

## 7.2 Penalty / Adjustment

Computation for penalty / adjustment for the consignments (all the trucks) received in a Day shall be done as per the following.

- **Price Adjustment for Gross Calorific Value (GCV):**

Contractor is required to quote GCV (ARB) of torrefied pellets within the range as mentioned below:

Preferable limit shall be from 3400 Kcal/Kg & above to maximum limit of 5000 Kcal/Kg. Upward pro-rata price adjustment shall be done for GCV variation of supplies as per following formula:

$$\text{Adjusted Price} = [\text{Quoted Price} \times \text{Actual GCV(ARB)}] / \text{Quoted GCV(ARB)}$$

Upward price adjustment shall be done maximum up to 5000 kcal/kg GCV (ARB), beyond this value, upward price adjustment shall not be done even if Contractor supplies torrefied pellets/briquettes of higher GCV.

For downward GCV variation from 3400 Kcal/kg, pro rata price adjustment shall done for GCV variation of supplied Material as per following formula:

- For GCV less than 3400 Kcal/Kg & more than or equal to 3000 Kcal/Kg, Adjusted Price= 0.75 X (Quoted Price X Actual GCV(ARB))/Quoted GCV(ARB))
- For GCV less than or equal to 3000 Kcal/Kg & more than or equal to 2600 Kcal/Kg, Adjusted Price= 0.50 X (Quoted Price X Actual GCV(ARB))/Quoted GCV(ARB))
- For GCV less than 2600 Kcal/Kg, the consignment shall be rejected and no

payment shall be made for the already delivered and/or consumed Material.

In case, Contractor frequently supplies Material of GCV less than 2600 Kcal/Kg or deviates from the technical parameters, warning letter shall be issued to the Contractor or Contract may be cancelled, if Contractor continues to do so even after issuing warning letter.

Illustration I:

Quoted Price- Rs 5000/MT (FOR  
Basis) Quoted GCV- 4000  
Kcal/Kg

Actual GCV- 3300 Kcal/Kg

Adjusted Price-  $0.75X [5000 X 3300]/4000 = Rs 3093.75/MT$

(FOR Basis) Illustration II:

Quoted Price- Rs 5000/MT (FOR  
Basis) Quoted GCV- 4000  
Kcal/Kg

Actual GCV- 2900 Kcal/Kg

Adjusted Price-  $0.50X [5000 X 2900]/4000 = Rs 1812.50/MT$  (FOR Basis)

- **Recovery on account of excess fine in consignment**

Biomass dust, crushed/ broken/ damaged torrefied pellets of length less than 3 mm in consignment as received at TSPL site shall be treated as fines and there shall be recovery on account of excess fines (ARB) if it is beyond 5%.

The recovery on account of excess fines will be worked out as per the following formula.  
Recovery = (Adjusted price of Biomass pellets) X W X (Actual Weight % of fines beyond 5%)

“W” - Weight of consignment as received

However, there shall be no additional payment to vendor if fines are less than 5%.

Illustration:

Adjusted Price of Biomass Pallets: 5000 RS/MT

W = 100 MT

Fines % in Consignment: 6%

Allowable Fines %: 5%

% Fines beyond allowable limits:  $6-5=1\%$

Recovery:  $5000 \times 100 \times (100\%-1\%) = 5000 \times 100 \times 99\% = 4,95,000$

### 7.3 REJECTION LEVEL



- The consignment of agro residue-based torrefied pellets received in day at TSPL plant shall initially be tested for following and shall be rejected in case any of the following parameters (as given in table 3) exceeds the rejection level given as follows: -

Table 3 Rejection Level

S. No	Technical Data	Units	Rejection Level
1.	Total Moisture (ARB*)	Wt%	More than 14%

#### **7.4 DELIVERY SCHEDULE**

The Contractor should deliver Material as per daily delivery schedule to avoid liquidated damage (LD) for short supply in a given month against aggregate of daily delivery schedule in that month. The default delivery schedule shall be quantity allocated to the supplier for the supply of pellets on daily basis.

Although the supplier shall supply the pellets as per the above delivery schedule, however, the supplier shall have the flexibility to supply the material in higher quantity than the delivery schedule on mutual consent basis to meet the annual supply requirement. In such case, the supplier shall give one-week advance intimation to the Plant site and the site shall give the consent to supply material in higher quantity after assessing traffic congestion or other aspects as required.

Purchaser can also give a reduced daily delivery schedule to the supplier by giving one-week advance notice through the official e-mail ID of the Engineer-in charge or e-mail ID of any other person authorized by him and the supplier shall dispatch the consignment accordingly.

Maximum variation in Biomass monthly offtake of Plants shall be within  $\pm 15\%$  of the contracted quantity.

#### **7.5 LIQUIDATED DAMAGE FOR DEVIATION FROM DELIVERY SCHEDULE.**

The Supplier shall have to commence delivery of Material within 270 days from the date of issue of the Purchase Order. To facilitate initial capacity ramp up, no Liquidated Damage shall be levied for initial 120 days from the delivery start date (hereinafter referred to as 'NO LD Period').

Liquidated Damage (LD) shall not be applicable for short supply up to 15% in a month

against aggregate of daily delivery schedule in that month, however, for monthly short supply beyond 15%, liquidated damage (LD) @ 5% of bid price of agro residue based torrefied pellet shall be recovered from Contractor only for shortfall quantity beyond 15% subject to the condition that aggregate of liquidated damage recovered from Contractor shall not exceed 5% of contract value.

## **8. EARNEST MONEY DEPOSIT**

To be eligible for Award of Contract, Bidders shall provide evidence, satisfactory to Owner/TSPL, of their eligibility and of their capability and adequacy of resources to carry out the subject contract effectively. Bids submitted shall include the following information:

- a. **EARNEST MONEY:** - The bidders are required to deposit the **Earnest Money of INR 5000 per MTPD per year of supply period** through RTGS/NEFT in bank account of Talwandi Sabo Power Limited, The validity of the earnest money shall be three months from the Tender opening date. In case of tenders of unsuccessful bidders, the earnest money shall be refunded within 7 days of the award of order/contract or after the expiry of validity period of the bids, whichever is earlier.

### **Beneficiary Details:**

Beneficiary Name	Talwandi Sabo Power Limited
Account No.	35216862121
Centre (Location)	Mumbai
Bank	State Bank of India
Branch	CAG Branch, Mumbai
Account Type	Cash Credit
IFSC Code	SBIN0016376

Example: Quoted Quantity (MTPD) by bidder: 100 MT

Supply Period: 5 Years

EMD:  $5000 \times 100 \times 3 = 15,00,000$

- b. For successful bidder the Earnest money deposit shall be converted in Security deposit.
- c. In case, a successful bidder refuses to honor the Contract awarded to him, his EMD shall be forfeited.
- d. The Bidder shall have credential of supplying similar Material along with proof of satisfactory execution of supplies, such as performance/ completion certificates etc. made by them to State electricity GENCO's/State Govt./ Govt of India undertaking plants/ IPP's. (Preferred but not mandatory)

- e. Bidder should have an annual turnover of not less than INR 10 Cr (Rupees Ten Crores) for the previous financial year. (Preferred but not mandatory).
- f. If after award of the Purchase Order/Contract it is found that the manufacturing plant from which supplies are being made, is not registered in the name of the Contractor/ one of the partner of Consortium, to whom Purchase Order/Contract is awarded then the Contract shall be terminated and security deposit of the bidder is liable to be forfeited and bidder is also liable to be debarred for subsequent tenders.

## **9. DOCUMENTS TO BE SUBMITTED**

9.1 Following Documents need to be submitted for qualification requirement:

- i. Complete company profile.
- ii. Details of similar work done during the past three years (POs of supplies of similar Material along with proof of satisfactory execution of supplies, such as performance/ completion certificates etc. made by them to State electricity GENCO's/State Govt./ Govt of India undertaking plants/ IPP's
- iii. Details of the current works in hand and other contractual commitments in the format prescribed in Schedule-2 on company letter head.
- iv. Audited Balance sheet and profit loss statement of last three years. Schedule 3 on company letter head.
- v. Deviation(s) taken by the Bidder in any of the clauses of this tender document, to be filled in the format prescribed in Schedule-4 on company letter head.
- vi. Bidder Responsiveness check list duly filled and signed by the Bidder, in the format prescribed in Schedule-5 on company letter head.
- vii. Declaration of site visit (TSPL) as per format prescribed in Schedule-6 on company letter head.
- viii. List of equipment's owned by bidder as per format prescribed in Schedule-7 on company letter head.

New Vendor qualifications shall also be governed by Clause No. 12.7

## **10. PRE-BID MEETING & SITE VISIT**

10.1 The Bidders to mandatorily attend pre-bid meeting for understanding of TSPL expectation from vendors in terms of safety, health, environment, human rights, ethics, modern slavery act etc. Bidders advised to acquaint himself with the actual job, visit the Site and examine the transport and other facilities, environmental regulations, laws and bye-laws of statutory bodies, and collect all information that will be necessary for preparing the bid and entering into a contract. The costs of visiting the Site shall be at the Bidder's own expense. Bidder shall submit the declaration of site visit as per Schedule-6,

thereby amounting to consonance to such indemnification, as mentioned above.

## **11. AMENDMENT OF BIDDING DOCUMENTS**

At any time prior to the deadline for submission of Bids, the Owner may amend the Bid documents, at his sole discretion, by issuing Addenda. Addenda may also cover the queries raised and the responses given. Addenda shall be uploaded on our website <https://www.tsplindia.co/tender/> It shall be the responsibility of bidders to regularly visit the website for checking for amendments (if any).

**NOTE: Bidder to visit TSPL website <https://www.tsplindia.co/tender/> at regular intervals to have online update about this tender.**

## **12. BILLING AND PAYMENT TERMS**

The Contractor shall submit the bills in in triplicate on completion of delivery of Material received at TSPL Plant as per methodology as under:

12.1. The Contractor shall raise an invoice for each delivery as well as a consolidated invoice for the batch i.e., total quantity received at TSPL in a calendar month.

12.2. The bills are to be submitted along with the following supporting documents (as applicable), included but not limited to: -

- i. Copies of weighment certificate by TSPL.
- ii. Copy of quality reports of loading end.
- iii. Copy of TSPL receipt end quality reports.
- iv. Certified working for deriving payable quantity
- v. Original challan copies of truck engaged in transportation.
- vi. HGI Certificate from NABL accredited Lab.
- vii. Composition of biomass pellets

12.3. The eligible payments shall be released after adjusting various penalties/ recoveries/ other adjustments as per the following procedure:

(a) TSPL shall release the 75% payment against undisputed invoice through EFT (Electronic Fund Transfer) for the quantity received, within seven (7) working days from the date of receipt of material (complete in all respects as determined solely by TSPL) as per the detail mentioned in 12.2 at the TSPL's designated

office(s) located at the TSPL Power Plant.

(b) The balance 25% Payment shall be kept as performance Guarantee which shall be released within 10 days of completion of a batch along with complete documents as mentioned in clause 12.2.

(c) However, it may happen that a vendor may supply material with lower GCV and takes the 75% payment which may be more than the payment due against the adjusted amount as per GCV of the supplied material. To discourage such cases, contractors defaulting on quality of pellets, resulting in actual payment less than 15% of the invoiced amount, shall only be paid 50% of the invoiced value on receipt of the material, instead of the 75% for subsequent six months. The remaining 50% shall be paid on receipt and acceptance of test results. The facility may be restored based on satisfactory performance in previous six months.

- 12.4. In the case of the Contract closure, the differential amount shall be recovered from the contractor and other amounts due to the Contractor and/or payable by the Contractor at the time of closure of the Contract. Contract closure note shall be provided by the Contractor at the time of final settlement of the Contract.
- 12.5. Contractor s are advised to submit bills that are complete in all respects and well in time for timely release of payment.
- 12.6. Tax at source shall be deducted, as per the relevant rules of Income Tax Act, 1961, any amendments modifications and substitutions thereto, from all payments on account of supply provided by Contractor. NPL will issue valid certificates for the tax deducted at source as applicable.
- 12.7. In case the location of manufacturing Plant is not yet finalized, then bidder may declare the tentative location of manufacturing Plant. However, the Bidder shall declare the location of their manufacturing Plant within 90 days of placement of Award. If a Contractor does not declare the Plant Location within 90 days of Placement of Award, then the Contract is liable to be terminated and security deposit of the bidder is liable to be forfeited and bidder is liable to be debarred for subsequent tenders. However, in the event of declaration of location of manufacturing plant after the placement of Award, the FOR-destination price quoted by the bidder and incorporated in NOA/PO, shall remain same.

### **13. BID VALIDITY**

The Bid shall remain valid and open for acceptance for a period of 90 days from the last date of bid submission or as communicated by TSPL from the specified date of Bid opening.

### **14. CONTRACT PERIOD**

The Contract duration shall be for 3 years +4 years (extendable basis, on discretion of

TSPL) from the date of issue of Purchase order/Letter of Confirmation by the Owner. However, the same may be extended as per TSPL discretion. Further, after award, if the supplier is not able to supply the allocated quantity of pellets to Plant due to any reason attributed to Plant or reason mentioned in force majeure clause, an additional three-month grace period corresponding to each one year of supply period shall be provided to the supplier. Thus, a maximum of 21 Month grace period shall be given corresponding to the supply of Seven years. In this grace period, the supplier shall be able to supply leftover quantity out of the total allocated quantity of pellets.

In case of any clarifications required in Bid Document, please revert on ([Tspl.eoi@vedanta.co.in](mailto:Tspl.eoi@vedanta.co.in)) All clarifications shall be in mail or writings only.

## **15. SUBMISSION OF BIDS**

15.1. The bid shall be submitted in ARIBA portal in two parts. Technical Bid and Commercial bids

15.2. Part I (Technical Bid) shall comprise the following:

- Details of EMD money submitted in TSPL bank account
- Original Bid Documents (all Volumes) including amendments, if any, duly signed with company seal by the Bidder on all pages.
- Filled in all **Schedule 1 to 7** & Company profile signed with company seal with all required attachments.

15.3. Part II (Price Bid) of the Bid shall comprise of the following:

- Filled in Annexure A Price Schedule signed with company seal.

## **16. REVERSE AUCTION**

After opening of Price Bid, Reverse Auction shall be carried out. Following procedure and terms & conditions shall be applicable for which reverse auction is to be carried out:

- Selection of Bidders for reverse bidding:

All the Qualified Bidders.

In reverse Bidding, Bidder shall quote the price.

Reverse bidding start price: The lowest price Rs/MT/GCV discovered during close bidding shall be the opening price (start price for reverse bidding) . Projection of opening price on the screen shall initiate the reverse bidding process, which shall be conducted on ARIBA portal.

Bidders shall be required to submit their acceptance to the stipulated terms & conditions before participating in the reverse auction.

Online reverse auction shall be conducted by TSPL in the presence of PSPCL team on pre-specified date and time for duration of 1 Hour.

Decrement value: Rs. 0.01 Rs/MT/GCV or higher (in multiples of Rs/MT/GCV).

Bidder may become 'L1 Bidder' by offering a price lower than the 'next valid Bid' and this shall continue as an iterative process.

During reverse bidding, if no Bid is received within the specified time, then the L1 Price Bid already discovered during the price bid opening shall be the closing price (CP) for the reverse bidding.

After Completion of online Reverse Auction, the Closing Price (CP) shall be considered as L1 rate for further processing including negotiations with the L1 bidder, if desired by TSPL.

All documents submitted as a part of bidding process will become property of TSPL and are not returnable.

**Auction Extension Time:**

If Valid bid is placed within 5 minutes of End Time of the Reverse Auction, then Reverse Auction duration shall get automatically extended for another 5 Minutes from the existing end time. It may be noted that the auto extensions will further take place if a valid bid comes in those last five minutes. If a bid does not get accepted as the lowest bid, the auto extension will not take place even if the bid might have come in last Five minutes. The above process shall continue till no valid bid is received in last 5 Minutes which shall mark the completion of reverse auction.

The bidders are advised not to wait till the last moment to enter their bid so as to avoid complications related to Internet connectivity, network problems, system crash down, power failure etc. No request for an extension in time period of reverse auction due to any of the above reasons shall be entertained by TSPL and no claim of any bidder in this respect shall be accepted.

**17. DEADLINE FOR SUBMISSION OF BIDS**

The completed bid shall be submitted at the office of Owner, no later than date and time indicated in the bidding document/ its amendments.

The Owner may, in exceptional circumstances and at its sole discretion, extend the deadline for submission of Clarification/Bids by issuing an Addendum, in which case all rights and obligations of the Owner and the Bidders subject to the original deadline will thereafter be subject to the deadline as extended.

#### **18. LATE BIDS**

Any bid received by the Owner after the prescribed or extended deadline for submission of bids will not be considered for opening & evaluation.

#### **19. BID EVALUATION**

- The Owner will examine the bids to determine whether they are complete, whether the documents have been properly signed, and whether bids are generally in order.
- Fax / E - mail offers will be treated as defective, invalid and rejected. Only detailed complete offers received prior to the closing time and date of the bids will be considered as valid. Bids not complying with any of the Instructions contained herein may not be considered.

#### **20. PROCESS TO BE CONFIDENTIAL**

- 20.1. Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations concerning the award of Contract shall not be disclosed to bidders or other persons not officially concerned with such process.
- 20.2. Any effort by a bidder to influence the Owner in the process of examination, clarification, evaluation and comparison of bids or in decisions concerning the award of contract may result in the rejection of the bidder's bid and may also lead to "black listing" of the bidder and all existing successful bids in hand, if any, shall be deemed to be cancelled.

#### **21. CLARIFICATION OF BIDS SUBMITTED BY BIDDER**

To assist in the examination, evaluation and comparison of bids, the Owner may ask bidders individually for clarification of their bids, including breakdowns of prices. Requests for clarification and the response shall be in e-mail or on ARIBA portal.

#### **22. CORRECTION OF ERRORS**

- 22.1. Bids will be checked by the Owner for any arithmetical errors in computation and summation. Errors will be corrected by the Owner as follows:
  - a. Where there is a discrepancy between amounts in figures and in words, the amount in words will govern; and
  - b. Where there is a discrepancy between the unit price and the total amount derived



from the multiplication of the unit price and the quantity, the unit price as quoted will normally govern unless in the opinion of the Owner there is an obviously gross misplacement of the decimal point in the unit price, in which event, the total amount as quoted will govern.

22.2. If a bidder does not accept the correction of errors as outlined above, his bid will be rejected.

### **23. AWARD CRITERIA**

The Owner will award the contract to the bidder whose bid has been determined to be responsive to the bid Documents and who has offered the competitive price in reverse auction followed by negotiation, provided further that the bidder has the capability and resources to carry out the contract effectively. TSPL at its discretion reserves the right to negotiate with the Bidders (after reverse bidding) in consultation with PSPCL. TSPL may award a Contract(s) to more than one Successful Bidder and such Contract shall incorporate the terms of this Bid Document.

### **24. OWNER'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS**

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

### **25. NOTIFICATION OF AWARD**

25.1. Prior to the expiration of the period of bid validity prescribed by the Owner, the Owner will notify the successful bidder by e-mail and confirmed in writing that his bid has been accepted.

25.2. The notification of award will constitute the formation of the Contract.

### **26. SIGNING OF AGREEMENT**

The agreement shall be executed within four weeks from the date of issue of Letter of Award.

### **27. CRITICAL DATES FOR BIDDING PROCESS:**

<b>S. No</b>	<b>Description</b>	<b>Date</b>
1	Availability of bid document on TPSL website	07-Nov-23
2	Last date for submitting tender related queries	09-Nov-2023
3	Response to bidder's queries	10-Nov-2023
4	Commencement of submission of bid (Online ARIBA)	07-Nov-2023 17:00 Hrs.

5	Last date for site visit and pre bid meeting	On or before 10 Nov 2023 17:00hrs
6	Last date for submission of EMD	17-Nov-2023 17:00 Hrs.
7	Last date & time for submission of bids (technical + commercial)	17-Nov-2023 17:00 Hrs.
8	Bid opening Date (Technical)	20 Nov 2023 11:00 Hrs.
9	Bid Opening Date (Commercial)	20 Nov 2023 12:30 Hrs.
10	Reverse Auction (time to be intimated to successful bidders)	20 Nov 2023

Timelines mentioned above are indicative and are subject to change at the discretion of TSPL. TSPL reserves the right to amend the above schedule or modify/cancel the bid process at its own discretion. The successful bidder shall not be entitled to any loss / claim / damage arising out of or related to the amendment / modification / change in the abovementioned schedule. All expenses in relation to Bidding to be borne by the Bidder. All communication with owner for bidding process shall be done with below email: - [tspl.eoi@vedanta.co.in](mailto:tspl.eoi@vedanta.co.in)

**Note: Reference of tender document is National Biomass Mission guidelines and the standard model agreement issued by MOP dated 06.01.2023. MOP issued standard draft model agreement supersede the TSPL tender in case of any difference.**

<< To be submitted on the letter head of the company submitting the bid>>

**ANNEXURE A – PRICE SCHEDULE**

To,  
Chief Commercial Officer,  
Talwandi Sabo Power Limited,  
Village: Banawala, Mansa- Talwandi Sabo Road, Mansa, Punjab.

Dear Sir,

Sub: Bid for Supply (Long Term) of Agro Residue-Based Biomass Pellets to TSPL plant.

Having examined the Bid Documents No. \_\_\_\_\_ including its Amendments/Addendum/Corrigenda and Clarifications if any, the receipt of which is hereby acknowledged, we the undersigned, offer the above-named Package: "Bid for Supply (long Term) of Agro Residue- Based Biomass Pellets to NPL plant" inclusive of all taxes and duties.

Type of agro residue based	Daily Qty Supply Offer (MT)*	Quoted Price - (Estimated FOR TSPL price offered for technical specifications of Material given in Table- 1 of tender) Exclusive of GST	GST	Price per MT (Inclusive of GST) on FOR destination basis	Quoted GCV (ARB)	Quoted price (Inclusive of GST)
		Rs/MT	Rs/MT	Rs/MT	Kcal/Kg	Rs/MT/GCV
<b>Torrefied</b>						

**Note:**

We have thoroughly examined and understood the instructions, scope of work and the terms and conditions etc. covered in the Bidding Documents issued by TSPL, being fully aware of nature and scope of work required. We hereby confirm our acceptance and compliance to all the provisions of the Bidding Documents. We declare that the work shall be executed strictly in accordance with the requirement and Bidding Documents provisions and good industry practice. We confirm that we have taken into account all taxes, duties and levies (GOI/State Govt/Bodies) applicable as on date. We acknowledge TSPL is entitled for the benefit of any reduction or withdrawal of any taxes, duties and levies and liable to pay additional tax only in case of changes/additions under change of law scenario, which are reimbursable by PSPCL.

Signature:.....

Name:.....

Designation:.....

<< To be submitted on the letter head of the company submitting the bid>>

**SCHEDULE-1**

**DETAILS OF SIMILAR WORK DONE DURING THE PAST THREE YEARS**

Sl. No.	Full Postal Address of Client	Description of the Work	Value of Contract	Completion Time as stated in the Bid (week)	Date of Commencement of	Actual Completion Time (week s)	Year of Completion
1	2	3	4	5	6	7	8

Bidder to submit Work order copy of the contract meeting up the eligibility criteria and also to submit the certificate received from the owner of the plant on successful completion of plant and its successful operations

**Note:-**

1. Bidders are specifically requested to furnish all the details about the last assignment done for the Client.
2. Completion date should be that mentioned in the Completion Certificate given by the Client.
3. Only a format in which the information is to be given is indicated above. The Contractor shall attach additional sheets of bigger sizes to accommodate the necessary information, if required.

<< To be submitted on the letter head of the company submitting the bid>>

**SCHEDULE-2**

**CONCURRENT WORKS AND COMMITMENTS**

The Bidder(s) shall furnish in the format given below, details of the current works in hand and other contractual commitments:

<b>Sl. No.</b>	<b>Client with Address</b>	<b>Description of the Work</b>	<b>Value of Contract Rs Cr</b>	<b>Completion Time as stated in the Contract</b>	<b>Percentage Completion</b>	<b>Remarks</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
<b>I. Current Works in Hand</b>						
<b>II. Immediate Commitments</b>						

*Only a format in which the information is to be given is indicated above. The Bidder shall attach additional sheets of bigger sizes to accommodate the necessary information, if required.*

<< To be submitted on the letter head of the company submitting the bid>>

**SCHEDULE-3**

**FINANCIAL TURNOVER**

The Bidder shall furnish in the format given below details of its financial turnover during the last three years. (Rs Cr)

<b>Year:</b>	<b>2022-23</b>	<b>2021-22</b>	<b>2020-21</b>
<b>Total:</b>			

<< To be submitted on the letter head of the company submitting the bid>>

#### **SCHEDULE -4**

### **BIDDER RESPONSIVENESS CHECK LIST**

Specific response to be given against each of the following questions by Bidder:

<b>S. No</b>	<b>Particulars</b>	<b>State</b>
1	Is the bidder a transporter having experience of agro residue based torrefied pellets?	YES / NO
2	If the answer to the item no. 1 is 'YES', whether the bidder is having tie up/agreement copy for contracts for supply of agro residue based torrefied pellets mentioned in the bidding document.	YES / NO
3	Whether the experience list of the Bidder has been attached in the format of Schedule-1?	YES / NO
4	If the answer to the item no. 3 is 'YES', whether he has attached the certificate received from the Owner for successful completion of work	YES / NO
5	If the answer to the item no. 3 is 'YES', whether he has attached the contact details of the Owner for checking credentials	YES / NO
6	Whether details of the current works in hand and other contractual commitments has been attached as in format of Schedule-2	YES / NO
7	Whether details of financial turnover furnished by Bidder in the format of schedule-3	YES / NO
8	If the answer to the item no. 7 is 'YES', whether he has attached the Profit and Loss Statements, Balance Sheets and Auditor's Reports for the past three years	YES / NO
9	Whether there is any deviation from the clauses of ITB?	YES / NO
10	If the answer to Item No. 9 is 'YES', whether BIDDER has entered the deviations in the Schedule of Deviations clause wise in the format given in Schedule-4	YES / NO



SIGNATURE -----

-

COMPANY SEAL

NAME -----

COMPANY -----

DESIGNATION -----

---

DATE -----

< To be submitted on the letter head of the company submitting the bid>>

**SCHEDULE -5**

**DECLARATION OF SITE VISIT BY THE BIDDERS**

We hereby declare that we have attended the pre bid meeting and understood all Vedanta safety performance standards, technical standards, Health, Safety, Environment & Sustainability policies & practices at TSPL. Also have visited the TSPL plant (inclusive of gate entry system) and have acquainted and satisfied thoroughly with the existing site Condition & processes.

Signature .....

Designation .....

.....  
(COMPANY SEAL)

Company .....

.....

Date .....

<< To be submitted on the letter head of the company submitting the bid>>

**SCHEDULE -6**

**List of Equipment owned by Bidder**

The Bidder shall furnish in the format given below d List of Equipment owned by Bidder

<b>S.No</b>	<b>Description</b>	<b>Qty</b>

SIGNATURE -----

COMPANY SEAL

NAME -----

----

COMPANY -----

DESIGNATION -----

DATE -----



## STANDARD TERMS & CONDITIONS

### 1. TAXES AND DUTIES

#### 1.1. Definitions

For the purposes of this Clause 1 (Taxation):

- (a) "Tax" or "Taxes" means taxes, levies, duties, fees, charges and contributions as amended from time to time and any interest or penalties thereon;
- (b) "Government Authority" or "Government Authorities" means any local or national government or authority of any country, competent to levy any Tax;
- (c) "Goods & Services Tax" or "GST" shall include Central Goods & Service Tax ("CGST"), State Goods & Service Tax ("SGST"), Integrated Goods & Service Tax ("IGST"), Union Territory Goods & Service Tax ("UTGST") & GST Compensation Cess.

#### 1.2. Person Responsible for payment of Taxes

##### 1.2.1. General

Except as may be expressly set out in this Contract, the Supplier shall be responsible for:

- (a) the payment of all Taxes now or hereafter levied or imposed on the Supplier or its subcontractors or on the personnel of the Supplier or its subcontractors by any Government Authority in respect of any wages, salaries and other remuneration paid directly or indirectly to persons engaged or employed by the Supplier or its subcontractors (hereinafter referred to as "Personal Income tax");
- (b) the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the actual/assumed profits and gains made by the Supplier or its subcontractors (hereinafter referred to as "Corporate Income tax");
- (c) the payment of all GST now or hereafter levied or imposed by any Government Authority on the supply of goods or services, if any, provided to the Company by the Supplier or its subcontractors;
- (d) the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the mentioned goods only, namely, petroleum crude, HSD, Petrol, Natural Gas & ATF, if any, sold to the Company by the Supplier or its subcontractors (hereinafter referred to as "Sales tax/VAT/CST");
- (e) the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the mentioned goods only, namely, petroleum crude, HSD, Petrol, Natural Gas & ATF, if any, manufactured by the Supplier or its subcontractors for sale to the Company (hereinafter referred to as "Excise Duty");and
- (f) the payment of any other Taxes now or

hereafter levied or imposed by any Government Authority on the Supplier or its subcontractors as a result of the performance of this Agreement.

##### 1.2.2. Exception to General:

Prior to commencing the Services, the Supplier shall notify the Company whether or not it has Fixed Establishment in India. If the Supplier notifies the Company that it does not have Fixed Establishment in India, then, any Indian GST chargeable on the services provided by the Supplier under this Agreement shall be paid by the Company directly to the relevant Government Authority.

##### 1.2.3. Reimbursement of Taxes to the Supplier

It is acknowledged that responsibility for payment of Taxes to the Government Authority will be governed as per clause 1.2.1 and 1.2.2, the Supplier will be reimbursed only for such Taxes which will be agreed to be reimbursed in the Compensation Schedule or any of the Purchase Order(s) issued under the Agreement.

##### 1.2.4. Pricing

The Parties agree that details of Taxes included in, or excluded from, the Supplier's prices and/or rates shall be as stated in the Compensation Schedule to the Agreement and nothing in this Clause 1 shall be construed to affect or prejudice such details as stated in the Compensation Schedule.

#### 1.3. Withholding taxes and Withholding certificates

##### 1.3.1.

The Company shall, at the time of its payments due to the Supplier, withhold the necessary taxes at such rate as is required by any Government Authority, unless and to the extent that the Supplier shall produce to the Company any certificate issued by a Government Authority (having authority to issue such certificate) entitling the Supplier to receive the payments under the Agreement for a prescribed period without deduction of any tax or deduction at a lower rate.

##### 1.3.2.

The Company shall provide the necessary withholding tax certificates to the Supplier within the time stipulated by the relevant law to enable the Supplier to file the same with the Government Authority as a proof of payment of such taxes.

#### 1.4. Person Responsible for filing of returns / information to Government Authorities

##### 1.4.1.

The Supplier shall be responsible for filing all necessary Tax returns (including, without limitation, returns for Corporate Income tax, Personal Income tax, GST, Sales tax and Excise Duty) with the relevant Government Authorities in accordance with all applicable statutory requirements and shall be responsible for providing all information requested by such Government Authorities.

##### 1.4.2.

The Supplier shall also ensure that its subcontractors file such returns as stipulated by the

- relevant Government Authorities and furnish such information as requested for by the relevant Government Authorities.
- 1.4.3. The Company, with respect to the tax withheld from the Supplier in accordance with Clause 1.3 (Withholding Tax and Withholding Tax Certificates), shall be responsible for filing the withholding tax returns with the relevant Government Authorities in accordance with applicable statutory requirements.

1.5. **Company's rights, if treated as representative assessee by Government Authorities**

In certain situations, a Government Authority may treat the Company as the representative assessee of the Supplier and/or its subcontractors and recover the Taxes due to the Government Authority by the Supplier or its subcontractors from the Company. In such situations, the Company shall have the following rights:

- (a) The Company shall be entitled to recover from the Supplier, the Taxes paid on behalf of the Supplier or its subcontractors (together with any costs and expenses incurred by the Company in connection therewith) or to retain the same out of any amounts to be paid to the Supplier or its subcontractors that may be in its possession (whether due under this Agreement or otherwise) and shall pay only the balance, if any, to the Supplier; and
- (b) If the Company is required to furnish any details or documents in such capacity, the Company shall request the details or documents to be furnished to it by the Supplier and the Supplier shall immediately furnish the same to the Company. If the Supplier fails to comply with the foregoing, any penalty/interest levied on the Company for non-filing or late filing of details or documents in this regard shall be recoverable from the Supplier.

1.6. **Indemnity**

The Supplier shall defend, indemnify and hold the Company Group harmless from and against any and all claims, liabilities, costs, damages and expenses (including court costs and legal fees) in connection with any Taxes which may be levied or imposed on the Supplier or its subcontractors by any Government Authority arising out of or in connection with the performance of this Agreement.

1.7. **Changes in Law**

If, after the date of execution of this Agreement, there is any change in law, , excluding any change(s) as result of interpretation by competent authority, tribunal & Court, which results in a change in the rate of any Tax included in the Supplier's prices or rates or the introduction of a new Tax and such change results in an increase or decrease in the cost to the Supplier of performing this Agreement then the Parties shall agree to a revision in pricing to reflect such change provided that:

- (a) the Party requesting such revision shall promptly (and in any case prior to submission of the Supplier's final invoice under this Agreement) but not later than 7 business days notify the other Party that such change in law has arisen; and
- (b) the Party requesting such revision shall provide the

other Party with documentary proof of such change in cost to the reasonable satisfaction of the other Party; and

- (c) the provisions of this Clause 1.7 shall not apply to changes in Personal Income tax or Corporate Income tax or to changes in non-Indian Taxes.

1.8. **GST Compliances by Supplier**

1.8.1. Notwithstanding anything contained hereinabove, the Supplier shall strictly and in a timely manner, adhere to and undertake all acts, omissions and compliances required under the applicable GST laws to ensure that the Company is able to avail the Input Tax Credit/set off/rebate/refund of the GST (along with cesses and surcharges, if relevant) as applicable on the Services or any supplies if applicable made by the Supplier under this Agreement to the fullest extent possible under law. In this regard, without limiting the generality of the foregoing obligation in any manner whatsoever, Company reserves the right to specify to the Supplier, particulars including but not limited to the following:

- (a) whether Supplier should charge IGST or CGST-plus-SGST;
- (b) GST registration number of the Company;
- (c) whether the Supplier should be responsible to generate the E-Way Bill;
- (d) the format of invoices/credit and debit notes/advance receipt vouchers;
- (e) the requirement for maintenance of a 'GST compliance rating score' above a specified threshold; etc. and
- (f) the relevant timelines for such compliances based on the applicable GST laws.

1.8.2. The Supplier acknowledges that any failure in the foregoing obligations (including undertaking the ones specifically instructed by the Company, if any) can cause significant losses to the Company in the form of loss of GST credit, statutory interest liability on such credit loss (under applicable GST laws) and adverse impact on the 'GST compliance rating score' and thus, undertakes to carry out this foregoing obligation with sincerity, due diligence and without any delay or demur.

1.8.3. The Parties agree that the Company reserves the right to reimburse the GST component on supplies received only when the corresponding credit has become available in the electronic credit ledger of the relevant GST registration of Company.

1.8.4. Without prejudice to any other indemnification obligation under this Agreement, the Supplier agrees to, at all times, to hold harmless and indemnify Company from and against all claims, liabilities, expenses, proceedings, costs and losses that may be suffered or incurred by Company which may arise out of or in connection with any failure by the Supplier to adhere to its obligations including but not limited to its obligations under clause 1.8.1 above. In this regard, the Supplier also hereby indemnifies Company from any costs, claim or liability arising out of any claim or action or omission by any employee or consultant or agent or outsourced staff or subcontractor of the Supplier.

2. **STATUTORY COMPLIANCES/LICENCES**

2.1 The Supplier shall be solely liable for statutory compliance in respect of all applicable laws of land

2.2 Purchaser is obligated to ensure that its suppliers meet the criteria for security mandated by the Customs-Trade Partnership Against Terrorism (C-TPAT) program. In order to comply with these requirements, Purchaser requires Supplier to be a C-TPAT certified participant where applicable, or satisfy comparable security program policies and procedures as follows:

- (i) If Supplier is C-TPAT Certified, upon receipt and certification of the SVI # (Status Verification Indicator), Purchaser requests a copy of the official letter, a copy of the C-TPAT Certificate to Supplier, and the Supplier SVI letter for file and audit record.
- (ii) If Supplier is not C-TPAT certified or does not qualify under Customs terms to be C-TPAT certified, Supplier must provide evidence its approved under a similar supply chain security program that is endorsed and sponsored by its local country (For e.g., P.I.P. in Canada) OR must provide a statement from a company senior executive officer of its intent and plan to provide its supply chain security policy and procedure that describes its supply chain security systems that meet or exceed those expectations in U.S. C-TPAT. Upon written request, Supplier shall provide Purchaser with copies of its written tracking procedures to verify the Supplier's compliance with comparable supply chain security measures as required under C-TPAT.
- (iii) Supplier shall grant to Purchaser or its designated Representative the right from time to time, upon prior written notice to Supplier and at reasonable date and hours, to visit Supplier's facilities to perform an audit of Supplier compliance with its security obligations. Upon completion of any review by Purchaser, Supplier will be advised in writing if any corrective action is required to assure compliance with the C-TPAT program. Based on the type of corrective action required, the parties will mutually establish a time period for implementation of the corrective measures required. If Supplier does not comply within a reasonable time period with the requirements for C-TPAT compliance, Purchaser will be entitled to treat Supplier's failure to comply as a material breach of this MPA.

### 3. **INSURANCE**

Insurance shall be arranged according to the applicable INCOTERM as provided in the Scope of Contract.

### 4. **WARRANTIES AND REPRESENTATION**

4.1 The Supplier represents and warrants that:

- (i) It is a duly organized company/business entity validly existing under the laws where it is incorporated/established, and has experience,

expertise, ability and skills as required to supply Materials as detailed in the Scope of Contract above and as may be necessary to perform its obligations hereunder in a professional manner.

- (ii) It has all the requisite power, authority and approvals required to enter into this Agreement and will have all the requisite power, authority to perform fully each and every obligation under this Agreement.
- (iii) This Agreement has been duly executed and delivered by its duly authorized representatives and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.
- (iv) The execution, delivery and performance of this Agreement and all instruments or addenda required hereunder by it does not contravene, violate or constitute a default of or require any consent under the provisions of any other agreement or instrument to which it is bound, including the constitutional documents thereof, or any order, judgment, decree or injunction of any court of law.
- (v) No legal proceedings are pending or threatened against it before any court, tribunal or authority which do or may restrain or enjoin its performance or observance of the terms and conditions of this Agreement or which do or may in any other manner question the validity, binding effect or enforceability of this Agreement.
- (vi) No order has been made or petition presented for the bankruptcy protection, winding up or dissolution thereof against it.
- (vii) It shall maintain high professional standards to ensure performance of this Agreement as per best business practices and in full compliance with statutory obligations.
- (viii) It has all necessary statutory and regulatory permissions, approvals and permits for the running and operation of its establishment for the conduct of its business;
- (ix) It has full right, title and interest in and to all trade names, trademarks, service marks, logos symbols and other proprietary marks (IPR) (including limited right of use of those owned by any of its vendors, affiliates or subcontractors) which it provides to the Company, for use related to the Material, and that any IPR provided by the Supplier shall not infringe the IPR of any third party;
- (x) The Supplier represents that there is no inquiry/ investigation pending by the Police against the Supplier or its employees. The Supplier undertakes that it will confirm at his own cost and expense and shall comply in all respect with the provisions of Government Authority applicable to the Supplier and /or to the Supplier's employees;
- (xi) The Supplier shall be liable for all fines, penalties, and the like of parking, traffic and other criminal offences arising out of or concerning the use of any vehicle for performing the Agreement and any toll charges or entry Taxes payable locally and the Supplier accordingly indemnifies Company against all such liability.

(xii) The Supplier has sufficient resources available to respond to emergencies/ incidents, which may occur along established transportation routes. In case of any accident resulting in loss or damage to property of life, the sole responsibility for any legal or financial implication would vest with the Supplier. Company shall have no liability whatsoever.

4.2 Each Party hereby warrants that it has not entered into this Agreement relying on any warranty, representation or undertaking except for any warranty, representation or undertaking expressly set out in this Agreement.

4.3 Supplier warrants and guarantees that:

(i) all Material shall be supplied in accordance with the provisions of the Agreement/Purchase Order and with generally accepted industry standards, Trade Usage with regard to quality, Specification, quantity, measurement;

(ii) it is aware of the purpose and usage of the Material by the Purchaser including the technical parameters attributable to the usage of the Material; and

4.4 If Supplier is required to replace defective Material, the warranty period shall renew for the replaced Material.

#### 5. **RISKPURCHASE/SUBSTITUTED PERFORMANCE**

5.1.1 Without prejudice to any other rights of the Company under the Agreement, relevant Purchase Order/(s) and/ or at law, if the Supplier fails to perform its obligations as per the provisions of this Agreement and/or the relevant Purchase Order/(s), the Company may procure the Material from third party sources at the risk and costs of the Supplier. Provided however that prior to exercising this right, the Company shall give a prior written notice of 30 (thirty days) to the Supplier for rectifying the breach.

#### 6. **BUSINESS ETHICS**

6.1.1 The Supplier shall declare any conflicts of interest with the Company including relationship or financial interest of any nature whatsoever with employees, managers, other suppliers, vendors or stakeholders of the Company.

6.2. The Supplier shall not use the services of any of the employees of the Company, directly or indirectly or enter into any sort of monetary transaction with the employees of the Company. The Supplier undertakes that he has not given, offered or promised to give directly or indirectly any bribes, commission, gift, consideration, reward, or inducement to any of the employees of the Company or their agent or relatives for showing or agreeing to show favor or disfavor to any person in relation to this Agreement or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the aforesaid undertaking, by the Supplier, or his partners, agent or servant or any one authorized by him or acting on his behalf.

6.3. The Supplier agrees to comply with the provisions of the Company's Supplier Code of Conduct which includes Anti-bribery and Corruption requirements (a copy of which is also available at [http://www.vedantalimited.com/media/104182/supplier\\_code\\_of\\_conduct\\_-\\_december\\_2016.pdf](http://www.vedantalimited.com/media/104182/supplier_code_of_conduct_-_december_2016.pdf)) and the Company's Human Rights Policy (a copy of which is available at [http://www.vedantalimited.com/media/80325/vedanta\\_human\\_rights\\_policy.pdf](http://www.vedantalimited.com/media/80325/vedanta_human_rights_policy.pdf)) including the Modern Slavery Act and in case of breach thereof, the same shall be treated as a breach of this Agreement.

6.4. The Supplier shall maintain records and provide to the Company upon request such records and evidences, as the Company may reasonably require, confirming the Supplier's compliance with the obligations under this clause.

6.5. The Company shall have a right to initiate "audit proceedings" against the Supplier to verify compliance with the requirements under this clause. Such audit may be carried out by Company or by a reputed agency to be appointed by Company at the sole discretion of Company. The Supplier shall extend full cooperation for smooth completion of the audit mentioned herein.

6.6. Notwithstanding anything in this agreement, Company shall have right to terminate the Agreement forthwith and recover from the Supplier, the amount of any loss arising from such termination in case, it is found that the Supplier has failed to comply with requirements under this clause including any corrupt practices. A decision of the Company or his nominee to this effect that a breach of the undertaking had been committed shall be final and binding on the Supplier

6.7 If at any time during execution or performance of this Agreement the Supplier becomes aware of any unethical practices or is faced with any undue demand, request for gratification or favor from any employee of the Company or a person connection with such employee, the Supplier must report the same immediately to the Group Head-Management Assurance at the following address:

Group Head – Management Assurance,

Vedanta, 75 Nehru Road

Vile Parle (E), Mumbai 400 099

'Complaints' can also be sent to the designated e-mail id: [sgl.whistleblower@vedanta.co](mailto:sgl.whistleblower@vedanta.co).

#### 7. **DEFAULT AND TERMINATION**

7.1 Notwithstanding anything contained herein to the contrary, the Company may immediately terminate all or part of this Agreement/Purchase Order as under:

(i) by a written notice to the Supplier in case of any breach of the terms of this Agreement by Supplier and has failed to remedy such breach within 30 days from receiving notice from the Company.

(ii) if Supplier (a) ceases, or threatens to cease, to function as a going concern or conduct its operations in the normal course of business, (b) commences, or becomes the subject of, any bankruptcy, insolvency, reorganization (other than in the course of a corporate re-organization or to an



affiliate), administration, liquidation or similar proceedings, (c) makes, or plans to make, a general assignment for the benefit of its creditors, or (d) creditor attaches or takes possession of all or a substantial part of said Party's assets;

(iii) The foregoing shall not apply to any action or proceeding which is (a) in the reasonable opinion of the Company, frivolous or vexatious; or (b) discharged, stayed or dismissed within ninety (90) days of commencement;

(iv) if Supplier is unable to carry out its obligations by reason of Force Majeure events and the force majeure continues for a period more than 60 days, then Company may by giving notice in writing, terminate this Agreement with immediate effect. Any such termination shall be without prejudice to any of the right of the Supplier accrued prior to the date of such termination.

(v) if the price of the Commodity/Material falls below 95% or exceeds 105% of the benchmark market index rates.

7.1 Notwithstanding anything contained herein to the contrary, The Company may terminate all or part of this Agreement by one (1) months' written notice without assigning any reason whatsoever or if the Supplier fails to obtain any approval required under the terms of this Agreement.

7.2 Upon termination of this Agreement, both Parties shall be relieved of their respective rights and obligations under this Agreement save such obligations and / or liabilities of the Parties set forth herein which (i) that the Parties have expressly agreed will survive any expiration or termination, or (b) by their nature would be intended to be applicable following any such expiration or termination, or (c) the Parties have accrued before expiration or termination, as the case may be.

7.3 Upon termination, the sole liability of the Buyer towards the Seller under the Agreement shall be to make payment of all direct and documented costs which have been incurred by the Supplier till the date of termination.

7.4 In the event of Supplier's breach of its obligations hereunder, no payment shall be due by Purchaser in respect of such order/Purchaser order,

## **8. LIMITATION OF LIABILITY**

**8.1 EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL LOSS OR DAMAGES OF ANY NATURE ARISING AT ANY TIME FROM ANY CAUSE WHATSOEVER.**

8.2 The limitations of liability and exclusion of warranties as set out in the Agreement shall be to the maximum extent permitted by applicable law. Nothing in this Agreement

purports to exclude or limit liability for fraud, misrepresentation, death or personal injury.

## **9.0 FORCE MAJEURE**

9.1 For the purposes of this Agreement, "Force Majeure" means the occurrence of any event or circumstance or combination of events or circumstances that is beyond the reasonable control of a Party, has a material and adverse effect on the performance by that Party of its obligations under or pursuant to this Agreement, and that demonstrably could not have been foreseen by the Parties; provided, however, that such material and adverse effect could not have been prevented, overcome or remedied by the affected Party through the exercise of diligence and reasonable care; but provided, further, that the exercise of diligence and reasonable care will not include the obtaining or maintaining of insurance beyond the requirements of this Agreement.

9.2 Subject to clause 9.1 hereinabove, Force Majeure includes without limitation, the following events and circumstances, but only to the extent that each satisfies the above requirements as provided under Clause 9.1; (a) Act of God, (b) fire, flood, earthquake, epidemic, pandemic, natural disaster or extreme natural event (c) war, riot, insurrection, civil commotion, mobilization or military, call up of a comparable scope, which has been notified in accordance with this Clause 9 any direction, judgement, decree or any other order passed by any judicial/quasi-judicial/administrative authority and/or any direction passed by the government authority/(ies) restraining the performance of obligations, whether in part or in full, of the affected party provided that such orders or directions must not emanate out of actions directly attributable to the affected party or (e) any event owing to any restrictions, directives/directions imposed or passed by the government, judicial, quasi-judicial authorities if they impede or delay the performance of the Agreement (Force Majeure Events)

## **FORCE MAJEURE EXCLUSIONS**

Force Majeure will expressly not include the following conditions, except and to the extent that they result from an event or circumstance otherwise constituting Force Majeure:

- (i) unavailability, late delivery or changes in cost of machinery, equipment, materials, spare parts or consumables;
- (ii) failure or delay in performance by any Subcontractor;
- (iii) normal wear and tear or flaws in materials and equipment or breakdowns in equipment.
- (iv) any labour unrest/strikes or any other event of the like nature caused by the personnel of the Supplier (which includes its subcontractors) shall not be considered as a force majeure occurrence

9.3 In the event of a Force Majeure occurrence, the party that is or may be delayed in performing the Agreement shall notify in writing to the other party without delay but not later than fifteen (15) business days on the initiation of such Force Majeure Event(s) and shall use

diligent efforts to end the failure or delay in performance to minimize effects of such Force Majeure Event. Provided, however, that the occurrence of such an event would entitle the parties to renegotiate the time frame for performance of the respective obligations, taking into consideration the nature of such event. . In such a situation, the party, which is not able to perform its obligations under this Agreement on account of Force Majeure Event(s), shall not be liable to the other party for the default or breach of this Agreement for the period of failure or delay. If the said notice is not received by the other party within fifteen (15) business days, after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt.

- 9.4 Both Parties agree to use their respective reasonable efforts to cure any event of Force Majeure to the extent that it is reasonably possible to do so. Upon the cessation of the event of Force Majeure, the party declaring Force Majeure shall immediately but not later than three (3) business days give notice thereof to the other party.
- 9.5 Neither Party shall be liable in any manner whatsoever to the other party in respect of any loss, damage, costs, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereof. The costs associated with taking all steps required to mitigate the effects of the Force Majeure Event and restore its ability to perform its obligations under this Agreement as soon as reasonably practicable shall be borne by the respective parties.
- 9.6

#### **10. INDEMNITY**

- 10.1 The Supplier shall defend, indemnify and hold the Company, its directors, officials & employees etc., harmless from and against any and all against any and all claims, liabilities, costs, damages and expenses (including court costs and legal fees) in connection with any claim made by any third party (including, but not limited to, any claim made by any governmental or statutory authority) against the Company arising out of or in connection with the performance by the Supplier of its obligations under this Agreement.
- 10.2 The Supplier shall be liable for and shall defend, indemnify and hold the Company its directors, officials & employees etc., harmless from and against and all Claims in connection with any breach, infringement (whether actual or alleged) of Confidentiality, accident, bodily injury, fraud arising out of or in connection with the performance of this Agreement by the Supplier.
- 10.3 The Supplier shall at all times be responsible for, shall release and shall defend, protect, indemnify and hold Purchasing Group harmless from and shall keep Purchaser's equipment and property free and clear of all liens, claims, assessments, fines and levies incurred, created, caused or committed by Supplier Group.
- 10.4 This indemnity shall be without prejudice to any other rights or remedies, including injunctive or other equitable relief, which the Company may be entitled to.

10.5 Purchaser shall have the right to retain / withhold out of any payment to be made to the Supplier an amount sufficient to indemnify it completely against any such lien, claim, assessment, fine or levy exercised or made and all associated costs.

10.6 It is the express intention of the Parties hereto that the provisions of this Agreement / Purchase Order shall exclusively govern the allocation of risks and liabilities of these Parties, it being acknowledged that the Agreement reflected herein has been based upon such express understanding. It is acknowledged that the compensation payable to Supplier as specified in this Agreement and/or applicable Purchase Order has been based upon the express understanding that risks and liabilities shall be determined in accordance with the provisions of this Agreement and/or applicable Purchase Order.

#### **11. ARBITRATION**

11.1 Any dispute or difference whatsoever arising between the parties out of or relating to the interpretation,, meaning, scope, operation or effect of this Agreement or the existence, validity, breach or anticipated breach thereof or determination and enforcement of respective rights, obligations and liabilities of the parties thereto shall be amicably settled by way of mediation by meeting(s) between senior management representatives of each Party.. If the dispute is not conclusively settled within a period of twenty-one (21) days from the date of commencement of mediation or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the (Indian) Arbitration and Conciliation Act, 1996 (as amended from time to time), which are deemed to be incorporated by reference into this clause. The arbitration shall be conducted as follows:

(i) A sole arbitrator shall be appointed in case the value of claim under dispute is less than 5,000,000 (Rupees Five Million Only) / \$ 100,000 (Hundred Thousand United States Dollars) and in any other event by a forum of three arbitrators with one arbitrator nominated by each Party and the presiding arbitrator selected by the nominated arbitrators.

(ii) The language of the mediation and arbitration proceedings shall be English. The seat of arbitration shall be Jharsuguda, India.

(iii) The award made in pursuance thereof shall be final and binding on the parties

It is clarified that the works/supplies under the Agreement shall be continued by the Supplier during the arbitration proceedings unless otherwise directed in writing by the Purchaser/Company. Save as those which are otherwise expressly provided in the contract, no payment due or payable by the Purchaser shall be withheld on account of such arbitration proceedings, unless it is the subject matter or one of the subject matters thereof.

#### **12. APPLICABLE LAW AND JURISDICTION**

12.1 This Agreement shall be governed by, construed and enforced in accordance with the laws of India.

12.2 The parties submit to the exclusive jurisdiction of the courts of Jharsuguda, India and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

### **13. SET OFF**

13.1 Only the Company may at any time without notice to the Supplier set off any liability of the Supplier to the Company against any liability of Purchasing Group to the Supplier (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency of its denomination) and may for such purpose convert or exchange any currency. Any exercise by the Company of its rights under this clause shall be without prejudice to any other rights or remedies available to Company under this Agreement or otherwise.

### **14. CONFIDENTIALITY**

14.1 Each party hereto shall, save as otherwise provided herein, maintain in strict confidence, and not disclose or use for a purpose other than the purpose set out herein, any confidential and/or proprietary information ("Confidential Information") of any party including this Agreement and the terms and conditions hereof. The foregoing covenant shall not restrict a party from disclosing Confidential Information to the extent required in connection with any legal proceeding(s) or required for filing with govt. agencies, courts, stock exchanges or other regulatory agencies under applicable laws and regulations. Each Party shall use its best effort to assure that the provisions of this Agreement and its information disclosed to it concerning the other Party and its assets and business which is not otherwise publicly available, shall be kept confidential, unless otherwise required by law, not to be disclosed without the consent of other Party to anyone other.

14.2 The parties shall restrict access to the Confidential Information only to its own employees or professional advisers who need to have such access for the purposes of performing the obligations or enforcing the rights under this Agreement and who have agreed with such party to abide by the obligations of confidentiality equivalent to those contained herein with such party. The disclosing party shall remain vicariously liable for such disclosure.

14.3 Each Party agrees that it will not use the name or logo of the other party, without the prior written consent of the other party (ies) hereto.

14.4 All Confidential Information developed by Supplier Group as a result of supply of Material shall be the property of Purchaser. All such Confidential Information shall be delivered to Purchaser within fifteen (15) days after completion of any applicable Purchase Order. Purchaser shall have the unrestricted right to use and disclose such information in any manner and for any purpose without payment of further compensation. Such Confidential Information is proprietary information of Purchaser and subject to the terms of this Clause 13.

14.5 Obligations towards all Confidential Information as mentioned above under this clause shall continue to remain valid for the Term and further period of five (5) years from the date of expiry of this Agreement.

14.6 No member of Supplier Group shall make use of the name or logo of Purchasing Group for publicity purposes, nor shall publish or permit to be published any information or photographs in connection with this Agreement or any Purchase Order without the prior written consent of Purchaser.

### **15. MISCELLANEOUS PROVISIONS**

15.1 Entire Agreement: This Agreement along addendums and with all annexures, if any constitutes the entire agreement and understanding between the parties with respect to its subject matter and overrides and supersedes all previous agreements, representations, written documents, correspondence and understanding of the parties, whether in writing or otherwise.

15.2 Severability: If any clause or provision of this Agreement is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without affecting or invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction, unless it materially alters the nature or material terms of this Agreement.

15.3 Counterpart: This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original Agreement and all of which, when taken together, will constitute one and the same instrument

15.4 Relationship: This Agreement shall not be construed to have any purpose or intent other than for purchase and sale of the Commodity between the Parties on a non-exclusive basis and nothing contained in this Agreement shall be deemed to create any association, partnership, joint-venture or relationship of principal and agent or master and servant between the parties or any affiliates or subsidiaries thereof.

15.5 Notices: Any notice required to be given hereunder shall be given by sending the same by facsimile, E mail, prepaid post or by hand delivery to the address of the addressee shown in this Agreement or to such other address as either party may notify to the other for this purpose in writing. If sending by facsimile, notice shall be deemed to have been given upon successful transmission, if by hand upon at the time of dispatch and if sending by post, notice shall be deemed to have been given on the 3<sup>rd</sup> day on dispatch by post.

15.6 Non-Waiver/Exercise Of Right: A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege. All waivers under this Agreement must be made in writing.

5.7 Binding Effect: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns

15.8 Assignment: Neither this Agreement nor any right, duty or obligation of any party hereunder shall be assigned or

delegated by any party (in whole or in part) without the prior written consent of the other party (ies) hereto.

15.9 Amendments: This Agreement may be amended, modified, renewed or extended only by a written instrument signed by each of the parties hereto.

15.10 Validation: This Agreement shall come into effect when authorized representatives of both Company and Supplier execute and affix their signature hereto in their due capacity, within 3 working days after confirmation of business by Company and constitutes the entire agreement between the Parties relating to its subject matter. Any alteration, amendment or addition to any of the terms of this Agreement shall become binding only when such alteration, amendment or addition is evidenced in writing and is executed by the authorized representatives of the both parties in their due capacity.

15.11 Costs: Each Party shall bear its own legal, professional and advisory fees, commissions and other costs and expenses incurred by it in connection with this Agreement.

15.12 Language of the Agreement: English shall be the language of the Agreement and all documentation prepared in relation to it. All of the parties management staff engaged in work arising out of or in connection with this Agreement shall be fluent in English.

15.13 Remedies cumulative: Except as expressly provided in this Agreement, all remedies available to the Parties for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

**15.14 THIS DOCUMENT "STANDARD TERMS & CONDITIONS" SHALL BE AN INTEGRAL PART OF ANY OF THE PURCHASE ORDERS, INVOICE OR MOU OR OTHER DOCUMENT WHATSOEVER ENTERED BETWEEN THE PARTIES AND SHALL SUPERCEDE ANY CONTRARY TERMS IN SUCH PURCHASE ORDER, INVOICE OR MOU OR OTHER DOCUMENT WHATSOEVER INCLUDING ANY ORDER ACKNOWLEDGEMENT BY THE SUPPLIER AND THIS DOCUMENT AND THE GENERAL TERMS AND CONDITIONS MENTIONED HEREIN SHALL APPLY FOR ALL PURPOSES.**