



KERALA STATE DRUGS AND PHARMACEUTICALS LTD.

A Government of Kerala Enterprise

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**TENDER DOCUMENT  
FOR  
SUPPLY, ERECTION, COMMISSIONING AND VALIDATION OF INSPECTION LABELLING  
AND PACKING CONVEYOR FOR OPHTHALMIC-LVP/SVP & OPHTHALMIC PROJECT**

Website for e-tender: [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in)

INDEX				
Sl. No.	Section	Description	Page Nos.	To upload with tender
1	Section I	Introduction	3	√
2	Section II	Scope and description of contract	4	
3	Section III	Tender schedule	6	
4	Section IV	Details of Equipments Tendered	6	
5	Section V	Specific Conditions of Contact	7	
6	Section VI	General Conditions of Contact	13	
7	Annexure – I	Letter of submission of Tender		√
8	Form A	Details of Supply & Erecting and Commissioning		√
9	Form B	Details of Key and Technical and Administrative personnel		√
10	Annexure II	Installation certificate		
11	Annexure III	Warranty Certificate		
12	Annexure IV	Sticker		
13	Annexure V	One month performance certificate		
14	Annexure VI	Check List		√
15	Annexure VII	General information about the Tenderer		√
16	Annexure VIII	Offer Form		√
17	Annexure IX	Service Centre Details		√
18	Annexure X	Preventive maintenance Check list		√
19	Annexure XI	Calibration check list		√
20	Annexure XII	Power of Attorney		√
21	Annexure XIII	Annual Turnover Statement		√

**KSDPL: SUPPLY, ERECTION, COMMISSIONING AND VALIDATION OF INSPECTION LABELLING AND PACKING  
CONVEYOR FOR OPHTHALMIC-LVP/SVP & OPHTHALMIC PROJECT**

22	Annexure XIV	Declaration form		√
23	Annexure XV	Deviation statement		√
24	Annexure XVI	Format for completion Schedule		
25	Annexure XVII	AMC Charges		√
26	URS	User Requirement specification		√
27	BOQ	Price bid		√

## SECTION I INTRODUCTION

- 1.1. The Kerala State Drugs & Pharmaceuticals Limited - KSDPL is a fully owned Government of Kerala company set up in 1974 for manufacture of Pharmaceutical formulations. One of the key objectives of the KSDPL is to act as the main supplier of all essential drugs for all health care institutions (hereinafter referred to as Company) under Government of Kerala and to open market. The Company has also been entrusted with the manufacture of all kinds of modern Medicines.
- 1.2. Over the last decades, several equipment have been procured and installed in our institution under different schemes. The objective of maintenance of the equipment. Site preparation, timely replacement of consumables, calibration of sensitive equipment, up gradation of technology, training to the staff could be achieved only with the active involvement and support of the manufacturers/dealers of the equipment.
- 1.3. The two bid system, which is followed, has been designed to eliminate those equipment which do not match the technical specifications, or not having the proven technology and to eliminate firms that do not have the financial or technical capability to supply, install and maintain the equipment. i.e., to provide after sales support for a period of minimum 5 years from the date of installation and to ensure 98 % uptime in performance/operation of the equipment.
- 1.4. The 3<sup>rd</sup> Instalment of payment to the successful tenders will be settled after obtaining a 'one month performance certificate' from the head of the department – one month period is a period of trail run - during which the performance of the equipment will be keenly observed. We ensure that the technical specifications are not biased towards a particular equipment/firm, through consultations during the pre-tender meetings with the prospective tenderer's. Amendments in the terms and conditions of the tender documents may be resorted to on the basis of expert advice to see that more than one firm qualifies for the final round. Technology specific specifications/conditions and entertaining direct purchase will be undertaken, if and only if , the department certifies the equipment required is of proprietary nature. Since the equipment procured are dealing with manufacture of medicines, it is our endeavour to ensure that most modern, but proven and durable equipment are procured and supplied. The tender documents are prepared after assessing the market to meet such objectives.
- 1.5. Every rupees spend by the Company is public money and hence accountable. Therefore, after sales service and up-time guarantee on the performance of the equipment purchased by the Company have to be given paramount importance. Company will be dealing with defaulters in these fronts with a firm hand, which may lead to black listing and recovery of damages. We request our valuable suppliers to avoid such unpleasant situations.
- 1.6. It is also essential while dealing with public money that utmost transparency has to be maintained in the procurements of the Company. The Company will not wait for the mandatory 30 days period to provide any information under Right to Information Act and will provide the information within the minimum possible time. The Company will uphold the fundamental "right to be heard" enshrined under the Constitution of India and will take harsh decisions only after providing opportunity for hearing/submission of facts. Tenderer's could prefer appeal to the government against all decisions of the Company.

Looking forward for a long standing good relation with you.

Best wishes,

Sd/-

Date:29.11.2021

Managing Director, KSDPL & Tender Inviting Authority

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## SECTION II

### SCOPE & DESCRIPTION OF CONTRACT

#### 2.1. General Definitions

- 2.1.1. Government means Government of Kerala, represented by the Secretary to Industries.
- 2.1.2. Purchase Committee is a Committee of all the concerned Officers, authorised under Resolution to decide on the purchase of the drugs and equipment procured by the Kerala State Drugs & Pharmaceuticals Ltd.
- 2.1.3. Tender Inviting Authority is the Managing Director of the KSDPL, who on behalf of the Company/Government or the funding agencies calls and finalize tenders and ensure supply, installation and after sales service of the equipment procured under this tender document.
- 2.1.4. Funding agencies are usually departments like Industries Department, other Government Institutions and registered societies etc. funded by the Government of Kerala.
- 2.1.5. Blacklisting/debarring – the event occurring by the operation of the conditions under which the tenderers will be prevented for a period of 1 to 5 years from participating in the future tenders of Tender Inviting Authority, more specifically mentioned in the Specific Conditions of Contract (Section V) and General Conditions of Contract (Section VI) of this tender document, the period being decided on the basis of number of violations in the tender conditions and the loss/hardship caused to the Tender Inviting Authority on account of such violations.

#### 2.2. Scope

- 2.2.1. The tenders are invited for the supply, installation and commissioning of the equipment, the details of which are mentioned in Section IV/NIT, needed for the company. The main objective is to obtain bulk discount and obtaining excellent after sales service to the equipment procured under this tender. For this, the Company, on behalf of the Government, will undertake and oversee the procurement process, ensure that the successful tenderer's are installing the equipment properly in the company specified and provide the after sales service during the agreed period of contract in respect of the equipment installed this contract to the satisfaction of the Tender Inviting Authority as well as the user level.
- 2.2.2. If the Tender Inviting Authority chooses to place orders for supply, installation and commissioning, the successful tenderer is bound to supply the same make/model of equipment(s) at the same rates and under the same terms and conditions of this tender, placing the repeat order.

#### 2.3. Brief Description:

**Note:** In tender document any ever mentioned that only online submission/through e-tender website is allowed should be read as that bidders can submit document through online mode in e-tender website [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in) or through sealed tender as mentioned in NIT.

- 2.3.1 A two bid system – consisting of technical bid and price bid - is adopted in the invitation of tenders. Those tenderers which are eligible as per prequalification criteria submit the requisite information as needed in the technical bid document and demonstrate the features/specification of the equipment offered under this tender to the satisfaction of the Tender Inviting Authority will only be eligible for opening of price bids.
- 2.3.2 All bid/tender documents are to be submitted online only and in the designated cover(s)/envelope(s) on the e-Tenders website [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in). Technical bid and financial bid shall be submitted in their respective designated online covers. Tenders/ bids shall be accepted only through online mode on the website and no manual submission of the same shall be entertained. Late tenders will not be accepted. The scanned copies of registration certificate, Bid Capacity certificate shall be submitted online and subsequently in a separate covers. More details on EMD & Cost of Tender documents/bid submission fee are mentioned in the website [etenders.kerala.gov.in](http://etenders.kerala.gov.in).
- 2.3.3 The Price bids of the short-listed technically qualified tenderer(s) will be opened only after evaluation of Technical Bids. The short-listing of the tenderer(s) will be carried out on the basis of the technical evaluation and demonstration, if required.

- 2.3.4 The tender documents could be downloaded from the website of the [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in).
- 2.3.5 The tenders should be prepared and submitted as per the tender formats only prescribed in the e-tender documents [in the website](#), and should be uploaded in the website [etenders.kerala.gov.in](http://etenders.kerala.gov.in) within the stipulated time.
- 2.3.6 In order to ensure maximum number of competitive tenders and to avoid indication of the price quoted, a fixed rate of Earnest Money Deposit (EMD) is adopted.
- 2.3.7 The date of opening of tender technical bid is only published in advance. The date of opening of price bid will be decided after demonstration/obtaining clarification(s) from those who qualify in the technical bid and shall be informed to the qualified tenderers from time to time.
- 2.3.8 Minor infirmities in the submission of documents will be allowed to be rectified so as to ensure qualification of maximum number of competitive offers to the final round.
- 2.3.9 The Company normally adopts three methods for verification of compliance of specification of the equipment, called “demonstration”, as follows, if required by.
1. Demonstration of the specification of sample equipment at the head office of Tender Inviting Authority.
  2. Inspection by a technical committee or the representative of the Tender Inviting Authority at the nearest third party location where the successful tenderers have installed a same make/model of the equipment.
  3. Factory acceptance test in OEM’s premises.
  4. Demonstration of the specification at the Company after installation of the equipment.
- 2.3.10 The decision on the mode of verification of specification of the equipment will be decided after the technical evaluation by the consultant/concerned officer of the Company on the basis of expert advice. The Tender Inviting Authority may also resort to Pre-Delivery Inspection (PDI) at the suppliers site, if needed.
- 2.3.11 There will not be any individual communication in respect of general notices, amendments, etc. The prospective offers are advised to check for updates in our website [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in) on a day to day basis. Individual communications will only be issued in exceptional cases, at the discretion of the Tender Inviting Authority. All notices/information will also be disseminated through the Tender Inviting Authority’s website and it will be binding on the tenderers. The prospective tenderers are advised to browse the website of the etender on a day-today basis till the tender is concluded.
- 2.3.12 The consultant / Owner has the right to increase or decrease the quantity of work or delete/add certain items of work. However such changes shall not entitle the contractor for any compensation, claim regarding the change in scope of work. The variation in scope may be by way of changes in drawings regarding dimensions but specification remaining the same. In such a case, the contractor shall not be entitled for any claim due to change. In case of change of specification, the difference of amount (on either plus or minus side) shall be established on unit rate by owner in consultation with consultant and the same shall be acceptable to the contractor. All electrical , mechanical , civil, masonry and other job works and materials required for doing this work (Except civil foundation) are part and parcel of the work. Such works required also to be undertaken by the contractor without additional claim and after proper assessment of the area and requirement to meet the standards of GMP. If any item not included in the BOQ but are necessary for the completion of work should also considered in the quote. PCGI Panel works and door erection works have been completed. So access to machine position should be done by contractor/supplier without dismantling panel/door.
- 2.3.13 The prospective tenderers may, sometimes, be required to prepare the site and undertake electrification / minor civil works if the Company could not undertake the same within the stipulated time. In such instances, it will be ideal for the successful tenderer to prepare the site on negotiated terms for which extra charges will be paid converting the supply and installation of the equipment under this tender as a ‘turn-key contract’. Site preparation charges will not be considered for evaluation of prices.
- 2.3.14 The Company attaches paramount importance to the after sales service of the equipment installed to ensure smooth operation afterwards. The successful tenderer is required to undertake preventive maintenance and attend all repairs, if any, that may arise during the warranty period free of cost.

- 2.3.15 Failure to provide satisfactory after sales services during or after the warranty period will lead to blacklisting/debarring of the tenderers, but after issuing due notice and provide opportunity for being heard.
- 2.3.16 The decision to impose penalties and finally to black list the defaulting firm will be final and shall be binding on all tenderers participating in this tender. However there will be provision for appeal before the Government against the decisions of the Tender Inviting Authority.
- 2.3.17 Lowest bidder will be selected by taking grand total of integrated line consist of leak test, inspection, labelling and packing machine.

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### SECTION III TENDER SCHEDULE

#### 3.1 Important dates:

Sl.No.	Particulars	Date and time	Venue
1.	Date of release of tender	PLEASE SEE THE NIT FOR THIS	Head Office, KSDPL/or as mentioned above
2.	Date of Pre-BID meeting		
3.	Last date for submission of Tender		
4.	Date of opening of the Technical bid		
5.	Date of demonstration of Equipment	To be informed to the qualified tenderers qualifying after opening of Technical bids.	
6.	Date of opening of the price Bid	To be informed to the qualified tenderers qualifying after Technical evaluation/demonstration.	

### SECTION IV DETAILS OF EQUIPMENTS TENDERED

#### 4.1 Equipment(s) tendered:

Sl.No	Description	Quantity
1	<b>SUPPLY, ERECTION, COMMISSIONING AND VALIDATION OF INSPECTION LABELLING AND PACKING CONVEYOR FOR OPHTHALMIC-LVP/SVP &amp; OPHTHALMIC PROJECT</b>	<b>AS PER BOQ</b>

#### 4.2 Technical specifications:

The detailed User Requirement specifications and other quality parameters of the above equipment are contained in the tender documents.

*KSDPL: SUPPLY, ERECTION, COMMISSIONING AND VALIDATION OF INSPECTION LABELLING AND PACKING CONVEYOR FOR OPHTHALMIC-LVP/SVP & OPHTHALMIC PROJECT*

**SECTION V**  
**SPECIFIC CONDITIONS OF CONTRACT**

**5.1 Time Limits prescribed**

Sl. No	Activity	Time Limit
5.1.1	Installation & Delivery period	90 Days from date of issuance of Supply/work Order
5.1.2	Comprehensive warranty period	3 years from date of commissioning.
5.1.3	CMC/AMC period	AMC for 3 year after warranty period.
5.1.4	Frequency of visits to Department concerned during Warranty/CMC or AMC	One visit every three months (4 visits in a year) for periodic/preventive maintenance and any time for attending repairs/break down calls.
5.1.5	Frequency of payment of CMC or AMC charges	WILL BE DECIDED LATER.
5.1.6	Submission of Security deposit and entering into Contract	10 days from the date of issuance of Letter of Intent/purchase order.
5.1.7	Payment Installments of Price of equipment and ratio – INDIGENIOUS OFFERS. FOR FOREIGN DIRECT OFFERS	3 Installments and in the ratio 30: 60:10 of basic value.  AGAINST cl 5.9.2
5.1.8	Time for making payments by Tender Inviting Authority	Within 30 days from the date of Submission of proper documents or LOC Terms for direct importers.
5.1.9	Maximum time to attend any Repair call	Within 24 hours
5.1.10	Uptime in a year	98%

**5.2. Pre-qualification of tenderers:**

- 5.2.1 Original Manufacturers/Suppliers/Dealers having a place of business in any of the States of India are eligible to participate in this tender. [Original Equipment Manufacturers shall submit the 'Manufacturers Offer Form and Suppliers/Dealers should submit manufacturer's authorization form and declaration that OEM should provide guarantee/warranty and after sales service during the period of warranty/CMC/AMC as per this tender.
- 5.2.2 The manufacturer of the equipment offered should be in the business of SUPPLY, ERECTION AND COMMISSIONING AND VALIDATION OF INSPECTION LABELLING AND PACKING CONVEYOR FOR OPHTHALMIC-LVP/SVP & OPHTHALMIC PROJECT for the last three completed calendar years.
- 5.2.3 The tenderer and manufacturer of the equipment offered should have supplied and installed at least one number of SUPPLY, ERECTION AND COMMISSIONING AND VALIDATION OF INSPECTION, LABELLING AND PACKING CONVEYOR FOR OPHTHALMIC as per the schedule of requirements in any one of the last two completed calendar years in the country and who submit copy of the work order, satisfactory performance report attested by the client(s).
- 5.2.4 If the tenderer or manufacturer has installed same / similar equipment of lower or higher configuration in institutions under any Government firms in the past three calendar years, the tenderer shall submit satisfactory performance certificate from such State government institutions, subject to the limits imposed under cl.5.2.3.
- 5.2.5 Tenderers who submit all the necessary documents as prescribed for inclusion in the technical bid without any ambiguity, errors etc. and who submit the requisite cost of the tender document and also the EMD.
- 5.2.6 The tenderers should who have an average annual turnover of INR 1.6 crore for the last three completed financial years. The tenderer shall submit proof of the same (attested audited copy of audited accounts, balance sheet, annual report etc.)
- 5.2.7 Tenderers shall submit copy of IT returns filed or related documents for the last three years.

*KSDPL: SUPPLY, ERECTION, COMMISSIONING AND VALIDATION OF INSPECTION LABELLING AND PACKING CONVEYOR FOR OPHTHALMIC-LVP/SVP & OPHTHALMIC PROJECT*

- 5.2.8 Tenderers who have the capability to attend repairs of the equipment within the time mentioned as per clause 5.1.9 anywhere in Kerala, INDIA and who are willing to provide stand by equipment or replace the faulty equipment or parts if the repair/down time extends beyond 72 hours from the time of reporting of the fault within the next 48 hours (total down time should not exceed 5 days in one instance). The tenderers who have the capability to ensure the uptime mentioned in clause 5.1.10. (Documentary proof shall be submitted on the after sales facilities and expertise of the tenderer.)
- 5.2.9 Tenderers should ensure they are not offering the equipment of a firm/company that has been blacklisted by KSDPL or blacklisted/debarred by any other State/Central Government's organization.
- 5.2.10 Tenderers who have been blacklisted/ debarred by Tender Inviting Authority or blacklisted / debarred by any State Government or Central Government department/Organization should not participate in the tender during the period of blacklisting.
- 5.2.11 Notwithstanding anything contained in any other clause in this tender document, or anything contained in any previous tender contract, agreement, instrument or any other legal document, firms / dealers /suppliers / manufacturers who had entered into a contract for supply of any particular equipment with KSDPL during the year 2010-2021, shall not be eligible to participate in this tender in respect of the same/ similar /or any other equipment if the said firms / dealers / suppliers / manufacturers had failed to execute any of the supply orders placed to them.
- 5.2.12 Firm / company who have withdrawn/terminated the service after participating in any of the previous tenders /work of KSDPL are not eligible to participate in this tender.

### 5.3. Delivery and Installation

- 5.3.1. The successful tenderer is required to deliver the equipment and install the equipment at the site within the time specified under cl 5.1.1 from the date of issue of the 'Supply Order' and demonstrate individually the specification/features as well as operation / performance of the equipment to the satisfaction of the institution head or his/her representative and obtain an individual 'Installation Certificate' (as per format in Annexure II) for each equipment and warranty card (as per format in Annexure III) duly signed and with proper stamp of the officer concerned. A proper detail of stock taking has to be obtained in the invoices from the respective officer with signature and seal.
- 5.3.2. The Tender Inviting Authority may also depute one of its representatives, if required by, with prior intimation to the successful tenderer to be present for the demonstration. The signature of such official, if deputed, in the installation certificate is essential.
- 5.3.3. Delivery required at consignee site.
- .3.1.1. **For indigenous goods or for imported goods if supplied from India:** Insurance(Local transportation and storage) would be borne by the supplier from warehouse to the consignee site for a period of validity.
- .3.1.2. **For imported goods directly from abroad:** Foreign tenderers are required to quote DDP(Delivery Duty Paid) at consignee's site break up.  
Customs Clearance, Handling, Unloading and loading and transportation to consignee site shall be the responsibility of the supplier/Indian agent.  
Insurance(Local Transportation and storage would be extended and borne by the supplier from warehouse to the consignee site for a period of validity.
- 5.3.4. Sticker (as per Annexure IV) issued by KSDPL showing the service details should be affixed on the equipment and its accessory units.
- 5.3.5. At least two digital photographs, one showing the sticker properly affixed on the equipment & accessories and the close up photograph of the sticker shall be submitted along with the installation certificate to KSDPL for effecting the payment. The sticker shall be written with fine tipped permanent marker pen.
- 5.3.6. The final payment of the remaining instalment is made only after obtaining a 'One Month Performance Certificate' duly signed by the institution head (as per format in annexure V) at the end of 30 days from the date of installation.



- 5.3.7. The contractor shall make no claim on Tender Inviting Authority for any loss or damage thereto caused by whatsoever source or reason.
- 5.3.8. The installation report and one month performance reports shall be submitted in a single sheet printed back to back and shall be submitted individually for each equipment installed.
- 5.3.9. The machine offered should be suitable and matching for the proposed room layout .The layout enclosed in tender.

**5.4. After Sales Service conditions:**

- 5.4.1. The Tender Inviting Authority is in the pursuit of ensuring excellent after sales service for every institution in respect of the equipment supplied under this contract. The after sales terms and conditions will be strictly enforced and those tenderers who are willing to support the Tender Inviting Authority in its endeavour to provide trouble free operation/performance of the equipment for the prescribed period need only participate in the tender.
- 5.4.2. The after sales service shall be performed during the warranty period and also during the Comprehensive Maintenance Period (CMC)/ Annual Maintenance Contract(AMC), if awarded. The detailed terms and conditions for after sales service mentioned hereunder.

**5.5. Guarantee/Warranty terms:**

- 5.5.1. The successful tenderer has to warrant that the Goods supplied under this Contract are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.
- 5.5.2. The successful tenderer further have to warrant that the Goods supplied under this Contract shall have no defect arising from design, materials or workmanship (except when the design and/or material is required by the Tender Inviting Authority's specifications) or from any act or omission of the successful tenderer, that may develop under normal use of the supplied goods.
- 5.5.3. All the equipment including the accessories supplied is as per the technical specification in clause 4.2 should carry comprehensive warranty for a period mentioned under cl.5.1. in the first instance. During this period, the successful tenderer shall replace all defective parts and attend to all repairs/break downs and undertake stipulated number of preventive maintenance visits. The cost of spare parts for all replacements has to be borne by the successful tenderer during the period of comprehensive warranty.
- 5.5.4. On expiration of the comprehensive warranty period, the successful tenderer shall be willing to provide after sales support for an additional period prescribed under clause 5.1. (the period to be decided by the Tender Inviting Authority after the installation and shall be binding on all prospective tenderers once it is issued as amendment to the tender under clause 6.8) from the date of supply & installation, under an extended contract known as Annual Maintenance Contract (AMC-without replacement of spares) and Comprehensive Maintenance Contract (CMC inclusive of replacement of spares).
- 5.5.5. The prospective tenderer, who are manufacturers, shall submit an undertaking in the format as Annexure I that they are willing to provide spare parts for the period of warranty as mentioned and also during the additional CMC/AMC period, if awarded. The OEM shall also assure continuity of service to their product.
- 5.5.6. After sales service centre in Kerala preferably or at least in South India should be available as part of the pre-qualification criteria and the tenderer shall provide proof of their capability to undertake such maintenance/repair within the stipulated time.
- 5.5.7. Site Visits: The successful tenderer shall visit Company as part of preventive maintenance as per the frequency mentioned under cl.5.1. during the warranty period. The tenderer shall attend any number of break down/repair calls as and when informed by the Tender Inviting Authority/User Institution.
- 5.5.8. During every visit, a copy of the service report/break down call report, duly signed by the custodian of the equipment/head of the Department.
- 5.5.9. Complaints should be attended properly, within the period of warranty/MC/CMC, as the case may be, maximum within the time mentioned in clause 5.1.9. In case, the repair/fault duration is likely to exceed 72 hours,(total down time should not exceed 5 days).

- 5.5.10. Upon receipt of such notice for repair/breakdown from the Tender Inviting Authority, the successful tenderer shall, within the period specified under cl.5.1.9, and with all reasonable speed, repair or replace the defective goods or parts thereof, without cost to the Tender Inviting Authority.
  - 5.5.11. If the successful tenderer, having been notified, fails to rectify the defect(s) within the period specified mentioned in cl.5.1.9, the Tender Inviting Authority may proceed to take such remedial action as may be deemed necessary, at the successful tenderer's risk and cost and without prejudice to any other rights which the Tender Inviting Authority may have against the successful tenderer under the contract.
  - 5.5.12. Failure to attend the repairs in time or failure to attend the stipulated preventive maintenance visit or failure to replace the defective equipment, if the fault/downtime exceeds the stipulated period or to ensure the stipulated up-time in an year shall lead to forfeiture of the performance security and/or may lead to blacklisting/debarring of the defaulting tenderer.
  - 5.5.13. A warranty certificate (as per format in Annexure III) duly signed and with proper stamp of the institution concerned and also signed by the authorized signatory with the stamp of the successful tenderer shall be submitted to the Tender Inviting Authority for keeping it under safe custody along with the Installation Certificate.
  - 5.5.14. The equipment which requires quality assurance test shall be done at free of cost immediately after installation, during the comprehensive warranty period, during the CMC / AMC period, by the demand of Company and also when major spares are replaced.
  - 5.5.15. Any mandatory approval required for installation shall be obtained by the successful tenderer in liaison with the respective authorities.
  - 5.5.16. The tenderer shall submit the activities to be carried out during the preventive maintenance visit as per the format in Annexure .
  - 5.5.17. The tenderer shall submit the parameters which require calibration and the frequency of calibration required as per the format in Annexure
  - 5.5.18. The tenderer shall submit the cost of all major spares as per the format.
  - 5.5.19. The tenderer shall undertake on-site calibration of the equipment every year as part of the after sales service during the period of comprehensive warranty, CMC/AMC, IF AWARDED, or on demand from the Department and submit a 'calibration certificate' to the head of the Department with a copy to the Tender Inviting Authority afterwards.
  - 5.5.20. The offered warranty includes
    - 5.5.20.1. Visits to the company at frequencies prescribed under cl.5.1. as part of preventive maintenance.
    - 5.5.20.2. Testing & calibration as per technical/service/operation manual of the manufacturer or as per the period specified or as per the demand of the user institute or Tender Inviting Authority.
    - 5.5.20.3. Quality Assurance test (if applicable).
    - 5.5.20.4. The cost of labour for all repairs/ and all spares required for replacement during repairs including consumables, and also the accessories and other devices supplied along with the equipment like stabilizer, UPS, Computer, Compressor, Monitor, etc, which forms part of the equipment system, wherever applicable, without which it cannot perform satisfactorily.
  - 5.5.21. The exclusion of warranty of any vital equipment parts will be compared with offers of other tenderers during evaluation of the bids and this may be taken into consideration in deciding the successful tenderer on the basis of expert advice.
  - 5.5.22. The tenderer shall provide up-time warranty of complete equipment as mentioned in clause 5.1.10, the uptime being calculated on 24 (hrs) X 7(days) basis failing which the extension of Warranty period will be extended by double the downtime period.
  - 5.5.23. All software updates, if any required, should be provided free of cost during Warranty period.
- 5.6. Annual Maintenance Contract (CMC & AMC)**
- 5.6.1. The decision to enter into CMC or AMC will be determined on the basis of cost and complexity of the equipment by the Tender Inviting Authority, at its discretion, prior to the expiration of warranty period.

- 5.6.2. The Comprehensive Maintenance Contract (CMC) is otherwise an extended warranty. All the terms and conditions agreed by the successful tenderer for executing the comprehensive warranty of the equipment shall be extended during the period of CMC, only difference being the payment of CMC charges is absent during the period of comprehensive warranty.
- 5.6.3. During Annual Maintenance Contract, the cost of spares will be borne by the Tender Inviting Authority. During the period of AMC, other terms and conditions will remain the same as in the case of Comprehensive Warranty/CMC, except in respect of the cost of spares. In short, the AMC is a CMC with provisions for payment of cost of spare parts during the currency of the contract by the Tender Inviting Authority.
- 5.6.4. The cost of CMC, AMC, accessories and spares, reagents and consumables as in case may be quoted along with taxes applicable, if any. The taxes to be paid extra, to be specifically indicated. In the absence of any such stipulation the price will be taken inclusive of such taxes and no claim for the same will be entertained later.
- 5.6.5. Failure/refusal on the part of the successful tender supplying/installing the equipment to enter into CMC/AMC with the Tender Inviting Authority, at the end of the Comprehensive Warranty Period, if the Tender Inviting Authority, desires so, shall lead to forfeiture of performance security and may also result in the blacklisting/debarring of the tenderer.
- 5.6.6. The successful tenderer shall also indicate the rates for the CMC/AMC and such rates are binding on the successful tenders after the expiration of the warranty period. The yearly rates for CMC/AMC shall remain the one and the same as quoted in the price bid form for the extended years.
- 5.6.7. Tenderer has to quote the Cost of CMC/AMC (excluding taxes, if any) as per AnnexureXVII.
- 5.6.8. The payment of the agreed CMC/AMC charges will be made as per frequency for payment after satisfactory completion of said period, on receipt of service report/ break down report from the head of department.

#### **5.7. Spare parts/Reagents.**

- 5.7.1. The tenders shall offer prices for all the spares/reagents mentioned in the technical specifications separately in the form.
- 5.7.2. Successful tenderer shall carry sufficient inventories to assure ex-stock supply of consumable spares for the goods so that the same are supplied to the Tender Inviting Authority promptly on receipt of order from the Tender Inviting Authority.
- 5.7.3. The successful tenderer shall take over the replaced parts/goods after providing their replacements and no claim, whatsoever shall lie on the Tender Inviting Authority for such replaced parts/goods thereafter.
- 5.7.4. The Tender Inviting Authority may place orders for additional spares/consumables/reagents which are needed for the smooth performance/operation of the equipment and the successful tenderer shall be willing to supply the same in time at the cost offered in the price bid forms, failing which, such instances will be construed as a breach of tender conditions and lead to penal provisions.
- 5.7.5. The method of evaluation and comparison of prices taking into consideration the cost of the reagents/consumables.

#### **5.8. Training**

- 5.8.1. The successful tenderers have to impart on-site training to Section Head/Technical staff on the operation and preventive maintenance of the equipment at the time of installation and anytime during warranty period if demanded by the Company to the satisfaction of the Tender Inviting Authority and Head of Department.
- 5.8.2. The training details shall be recorded in the installation certificate for enabling the Tender Inviting Authority to make the Second instalment payment.

#### **5.9. Payment**

##### **Payment for domestic goods/foreign origin located in India:**

- 5.9.1. The payment of the first instalment (30%) of the price agreed will be made with the firm order against an irrevocable Bank Guarantee equivalent for an amount of 110% of an amount of advance demanded, from nationalised/scheduled bank. This advance shall bear interest rate of 9.5% simple interest. The bank guarantee should be renewed from time to time and the extension should be strictly in accordance with the original BG s and there should not be any change in

the terms and conditions of the original guarantee. The extension of BG should be taken for the same value for which the original BG is executed. This means the BG should be maintained at the original amount it was opened and it should be valid till the completion of supply and commissioning. The second instalment of 60% against supply at site along with submission of original invoice, packing list, certificate of country of origin of the stores, certificate of pre-dispatch inspection with photograph, manufacturer's test certificate, certificate of insurance, Bill of lading/Airway bill, Rail receipt. In case if advance payment is not required for the successful bidder, 70% of price agreed against value of supply will be made against receipt of material at site with submission of original invoice, packing list, certificate of country of origin of the stores, certificate of pre-dispatch inspection with photograph, manufacturer's test certificate, certificate of insurance, Bill of lading/Airway bill, Rail receipt etc. The next 20% will be released after supply and commissioning. The balance 10% will be released on trial run after one month of commissioning of the equipment and submission of performance security. Foreign principals can also submit security deposit and performance security directly on the prescribed through any foreign or Indian Bank having office in Kerala or in the form of letter of credit.

- 5.9.2. **For imported items** the payment can be 100% by way of usance LC for 90 days on CIP or bill of lading subject to the following terms i.e. 90% after furnishing of the security deposit and successful installation commissioning. The remaining balance as per cl 5.9.5.
- 5.9.3. The original invoice submitted shall be in the name of the Tender Inviting Authority and the name of the consignee shall also be mentioned in it.
- 5.9.4. Requests for any other payment will not be considered. Part Payment at the agreed rate as per cl.5.1. shall be considered in respect of equipment installed and the necessary Installation Certificate obtained.
- 5.9.5. The retained remaining (third or final) instalment will be released on submission of the 'performance certificate' subject to recoveries, if any, either on account of non-rectification of defects/ deficiencies by the successful tenderer or otherwise as per 6.25.
- 5.9.6. Payment for CMC/AMC Charges: The payment of CMC, if desired and agreed, will be made once in six months after satisfactory completion of said period by the Tender Inviting Authority.
- 5.9.7. The successful tenderer shall not claim any interest on payments under the contract.
- 5.9.8. Where there is a statutory requirement for tax deduction at source, such deduction towards income tax and other taxes as applicable will be made from the bills payable to the Successful tenderer at rates as notified from time to time.
- 5.9.9. The successful tenderer shall send its claim for payment in writing, when contractually due, along with relevant documents etc., duly signed with date, to respective Department Head/Tender Inviting Authority.
- 5.9.10. While claiming reimbursement of duties, taxes etc. (like GST, excise duty, custom duty) from the Tender Inviting Authority, as and if permitted under the contract, the successful tenderer shall also certify that, in case it gets any refund out of such taxes and duties from the concerned authorities at a later date, it (the successful tenderer) shall refund to the Tender Inviting Authority forthwith.
- 5.9.11. The Tender Inviting Authority shall relax its conditions of payment in two instalments on submission of requisite documents in the following two exigencies;
  - 5.9.11.1. If the successful tenderers shall submit in writing in case the site is not ready or any other impediment they face in respect of the satisfactory installation of any of the equipment in any of the owing the department to any reason other than his own at the first instance of encountering such impediments.
  - 5.9.11.2. In case any difficulty is experienced by the successful tenderer in obtaining the installation certificate/one month performance certificate from Head of the Department after the installation of the equipment, the same shall be brought to the notice of the Tender Inviting Authority immediately in writing. In such event(s), if the Tender Inviting Authority is convinced, the reasons are beyond the control of the successful tenderer, the Tender Inviting Authority, in case of supply orders placed by it, shall release payments at its discretion. In such case the letter sent to the Tender Inviting Authority shall be submitted along with the invoices while claiming payment.

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## **SECTION VI**

### **GENERAL CONDITIONS OF CONTRACT**

**6.1. Contents of the Tender Document:** This 'Tender Document' contains the following:

- 6.1.1. Introduction (Section I)
- 6.1.2. Scope and Description of Contract (Section II)
- 6.1.3. Tender Schedule (Section III)
- 6.1.4. Details of Equipments tendered (Section IV)
- 6.1.5. Specific Conditions of Contract (Section V)
- 6.1.6. General Conditions of Contract (Section VI)
- 6.1.7. Annexures—formats for submission of tenders by the tenderers
- 6.1.8. Appendices - User Requirement Specifications of Item.And form for spare list.

**6.2. Responsibility of verification of contents of tender document:**

- 6.2.1. The purchasers of the tender form shall examine all instructions, forms, terms and specifications in the Tender Document and verify that all the contents mentioned under clause 6.1, are contained in the 'Tender Document'.
- 6.2.2. Failure to furnish any information required by the tender documents and submission of an offer not substantially responsive to it in every respect shall be at the tenderer's risk and may result in the rejection of the bids, without any further notice.

**6.3. Tender Document:**

- 6.3.1. The detailed technical specifications and terms and conditions governing the supply, installation, commissioning and the after sales service of the equipment tendered are contained in this "Tender Document".
- 6.3.2. The tender document is to be downloaded from website [www.etenders.kerala.gov.in](http://www.etenders.kerala.gov.in). The tenderers shall make online payments as Cost of tender document (mentioned in Section NIT) as per the instructions given in, in favour of the Managing Director, Kerala State Drugs & Pharmaceuticals Ltd payable at ALAPPUZHA along with the Technical Bid towards the cost of tender document in addition to EMD, failing which the offer will be rejected.
- 6.3.3. The tender are not available for purchase from the Company, Alappuzha of the Tender Inviting Authority.

**6.4. Guidelines for preparation of Tender**

- 6.4.1. The Tenderer shall bear all costs associated with the preparation and submission of its bid and Kerala State Drugs & Pharmaceuticals Limited, Alappuzha, hereinafter referred to as "Tender Inviting Authority", will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.
- 6.4.2. It is compulsory to provide a check list as per Annexure VI as facing sheet for the technical bid/offers submitted so as to enable the Tender Inviting Authority to prima facie verify the compliance of submission of requisite documents at the time of opening of technical bids.
- 6.4.3. Language of Bid:- The Bid prepared by the tenderer and all correspondence and documents relating to the bid exchanged by the Tenderer and the Tender Inviting Authority, shall be in English language. Supporting documents and printed literature furnished by the Tenderer may be written in another language provided they are accompanied by an authenticated accurate translation of the relevant passages in the English language in which case, for purposes of interpretation of the Bid, the English translation shall govern.
- 6.4.4. The tender (in English Language only) for the supply of equipment mentioned in Section IV shall be submitted along with detailed specifications. A technical leaflet /brochure / literature in original shall be enclosed along with list of names of government departments/offices/organizations to whom the equipment with the same specifications or higher have been supplied in India during the last three years. In case of copy of earlier work orders and the performance certificates supporting the claim of past performance of the tenderer, the client institution/organization where the same have been supplied and installed.
- 6.4.5. The tender once submitted will not be altered in any case and should not have any scope of ambiguity, cutting or overwriting. In case of overwriting/cutting if any, it must be authenticated with signature of the tenderer.

- 6.4.6. The documentary evidence (other than those regarding supply and past performance) submitted along with the Tender shall be produced duly attested by the tenderer on every page and serially numbered. Any interlineations, erasures or over writing shall be valid only if they are initialled by the person (s) signing the offer.
- 6.4.7. In the event of documentary proof as required being not enclosed, the Tender shall be liable to be rejected. All pages of the bid, except for unamendable printed literature, shall be signed by the authorized person or persons signing the bid along with the stamp of the tenderer.
- 6.4.8. Tender shall submit a declaration letter as per the format given as Annexure XIV and copy of amendments published if any signed by the tenderer or the authorized representative shall be enclosed as part of the technical bid as a proof of having read and accepted the terms and conditions of the tender document.
- 6.4.9. The letter of authorization, to the satisfaction of the Tender Inviting Authority, shall be submitted as by written power-of-attorney accompanying the bid/resolution of the board of directors etc.
- 6.4.10. An offer submitted in vague /ambiguous financial terms and the like, shall be termed as non-responsive and shall be summarily rejected.
- 6.4.11. A prospective Tenderer requiring any clarification of the tender documents may notify the Tender Inviting Authority in writing by email or fax at the Tender Inviting Authority's mailing address/fax number indicated in this tender document. The Tender Inviting Authority will respond to any request for clarification of the tender Documents which it receives before 5 days prior to the deadline for submission of bids.
  - 6.4.11.1. Clarifications to specific requests shall be responded through e-mail and general clarifications, affecting all the tenderers shall be published in the official website of the Tender Inviting Authority. However it shall be the duty of the prospective tenderer to ensure that the clarifications sought for has been properly received in time by the Tender Inviting Authority.

#### **6.5. Earnest Money Deposit (EMD) :**

- 6.5.1. Non- submission of sufficient EMD as mentioned in Section III along with the Technical Bid shall be one of the primary reasons for rejection of the offer in the first round.
- 6.5.2. Cheque, Cash payment, Money Order, Fixed deposit etc will not be accepted as EMD.
- 6.5.3. Public Sector Units within the State or State micro, small and medium enterprises registered with Govt. of Kerala are exempted from remittance of EMD subject to submission of valid documents.
- 6.5.4. The EMD shall be in one of the following forms :
  - 6.5.4.1. Shall be submitted online only in favour of Managing Director, Kerala State Drugs & Pharmaceuticals Limited.
- 6.5.5. EMD of unsuccessful tenderers will be discharged/returned immediately on finalisation of tender, but not later than 30 days after opening of the price bids by the Tender Inviting Authority.
- 6.5.6. The successful tenderer's EMD will be discharged upon the tenderers signing the contract and furnishing the security deposit. The EMD of the successful tenderer can be adjusted towards the security deposit payable. But the balance amount should be paid by successful tenderer to match the 5% of total contract value.
- 6.5.7. No interest will be paid for the EMD submitted.
- 6.5.8. The EMD will be forfeited, if a tenderer;
  - 6.5.8.1. misrepresents facts or submit false/fake documents during the tender process.
  - 6.5.8.2. if the tenderer willfully violates any terms and conditions of the tender documents.
  - 6.5.8.3. withdraws its bid after the opening of technical bid;
  - 6.5.8.4. a successful tenderer, fails to sign the contract after issuance of AOC.
  - 6.5.8.5. fails to furnish security deposit after issuance of Letter of Intent/purchase order.

#### **6.6. Period of Validity of Tender**

- 6.6.1. The tender must remain valid for minimum 120 days (four months) from the date of opening of price bid. A bid valid for a shorter period may be rejected by the Tender Inviting Authority as non-responsive.
- 6.6.2. The prospective tenderers may extend the price firmness period up to a maximum of 24 months (inclusive of the minimum period of price firmness of 120 days) from the date of opening of price bid, with an objective to convert the

offer as a 'rate contract'. In such an event, the successful tenderer shall be willing to execute all supply orders placed by the Tender Inviting Authority.

- 6.6.3. The EMD provided could be converted and validity/period extended as Security deposit. A tenderer may refuse the request to convert the tender as a rate contract beyond six months without forfeiting its EMD. A tenderer granting the request for conversion as Rate Contract is not required or permitted to modify its bid.
- 6.6.4. The successful tenderer upon entering into a rate contract can withdraw from the contract at any point of time after 120 days of price firmness, but not after the execution of agreement or issuance of Supply order for any of the agreed items.
- 6.6.5. Withdrawal or non-compliance of agreed terms and conditions after the execution of agreement or issuance of Supply Order will lead to invoking of penal provisions and may also lead to black listing/debarring of the successful tenderer.

#### **6.7. Pre Tender Meeting, if notified only.**

- 6.7.1. Date of pre-tender meeting is mentioned in Section III.
- 6.7.2. Pre-tender meeting is called by the Tender Inviting Authority to explain briefly about the requirements as well as the terms and conditions of the tender document and to get the views of the prospective tenderers, as part of ensuing transparency in the tender process.
- 6.7.3. It is an opportunity for the prospective tenderer to obtain all the details about the tendered items, conditions governing the tenders and also to get the explanation of any ambiguous condition that may be present in the tender document.
- 6.7.4. It is also an opportunity for the Tender Inviting Authority to assess the market and obtain feedback on the technical specifications/features etc requested by the Company, so as to make amendments in the tender document on the basis of expert advice.
- 6.7.5. All prospective tenderers who would like to participate for the prebidmeeting can do so. The venue, date and time indicated in Section III. Registered KSDPL vendors can also attend the pre-tender meeting.
- 6.7.6. Failure to attend the Pre-tender meeting will not be a disqualification, but a loss of opportunity for the prospective tenderers to understand about the equipment tendered and the tender conditions.
- 6.7.7. Filled up Tenders will be accepted only after the date of pretender meeting.

#### **6.8. Amendment of tender documents:**

- 6.8.1. At any time prior to the dead line for submission of Tender, the Tender Inviting Authority may, for any reason, modify the tender document by amendment.
- 6.8.2. The amendment shall be notified only as corrigendum in the website.
- 6.8.3. The Tender Inviting Authority shall not be responsible for failure to inform the prospective tenderers because of technical issues.

#### **6.9. Tendering System**

- 6.9.1. The tenders/Bids are to be submitted in two Parts i.e. Part – I & Part II.
- 6.9.2. PART – I titled as TECHNICAL BID shall contain the complete technical specifications and details on the competency of the tenderer and also the commercial bid package with terms and conditions of supply, warranty, after sales service etc. (Except Price Bid Form). Apart from the documents and signed copy of the purchased tender document, the necessary enclosures should be submitted in this technical bid as per page 1 & 2 of "tendergenterms" of tender documents. In short, the technical bid should contain all the necessary documents to prove the technical competency and capability of the tenderer for supplying and installing a trouble free equipment meeting the quality standards and technicalspecification and the ability of the tenderer for providing efficient after sales service to the satisfaction of the Tender Inviting Authority and the user institution.
- 6.9.3. PART – II titled as PRICE/FINANCIAL BID shall contain only the 'Price Bid Form' duly filled in the prescribed BOQ. Price Bid not submitted in the prescribed performa will not be considered for evaluation.
- 6.9.4. The tender offers, duly submitted, in two separate covers separately for technical and price bids respectively as per the steps of online format.

6.9.5. The rates quoted shall be inclusive of all charges like taxes, duties, freight charges, loading, unloading, handling charges etc excluding GST.

**6.10. Contents of the Technical Bid:**

- 6.10.1. Check list as per Annexure VI.
- 6.10.2. General information about the tenderer as per Annexure VII.
- 6.10.3. Power of Attorney as per format in Annexure XII.
- 6.10.4. The documents proving that the tenderer is an Original Equipment Manufacturer or their principal dealers/importers for Kerala/ South India/India (Annexure I )
- 6.10.5. The Earnest Money Deposit payment as online mode only.
- 6.10.6. The documents such as supply orders, performance reports from the user institutions showing that the tenderer and manufacturer have been in the business of the supply and installation of the equipment offered for the last three calendar years. At least one order should be in the last calendar year.
- 6.10.7. The documents such as supply orders, performance reports from the user institutions showing that the tenderer and manufacturer has supplied and installed the same/similar equipment as per the schedule of requirements in any one of the last two calendar years in the country.
- 6.10.8. Technical literature, product data sheet with original brochure and other documents proving that the equipment meet all the technical parameters as laid down under Section IV.
- 6.10.9. Offer form as per Annexure VIII
- 6.10.10. Notary attested documents such as articles of association/partnership deed etc, proof of inCompany, proving the registration of place of business and showing the details of partners/promoters/board of directors etc.
- 6.10.11. Notarized audited copies of the P& L Accounts, Balance Sheet, annual report for the last three completed years certified by the auditors.
- 6.10.12. Annual turnover statement for last three years certified by the auditor as per Annexure XIII.
- 6.10.13. GST registration certificate as on latest as applicable for the Indian firms.
- 6.10.14. Copy of IT returns filed for the last three completed years.
- 6.10.15. Documents showing service centre facilities in Kerala/South India
- 6.10.16. Details of Service centres as per Annexure IX.
- 6.10.17. Comparative statement of the technical specifications and compliance with the suppliers offered model, deviations and justifications. Tender Inviting Authority has all the rights to accept/reject the deviations. if not accepted , Bidder has no rights to claim the deviations.
- 6.10.18. Preventive maintenance check list as per Annexure X.
- 6.10.19. Calibration check list as per Annexure XI.
- 6.10.20. Declaration as per Annexure XIV and amendments if any duly signed in all pages by the tenderer or the authorized signatory.

**6.11. Method of Submission of tender**

- 6.11.1. The Tender shall be online.
- 6.11.2. Tender sent by telex or fax or email is void.

**6.12. Deadline for submission of tender.**

- 6.12.1. Tenders must be submitted online not later than the time and date specified in the Tender Schedule (Section III/NIT).
- 6.12.2. The Tender Inviting Authority may, at its discretion, extend the deadline for submission of Tender or cancel by amending the Tender Document, in which case, all rights and obligations of the Tender Inviting Authority and the tenderers previously subjected to the deadline shall thereafter be subjected to the same deadline so extended.

**6.13. Modification and Withdrawal of Bids**

- 6.13.1. The tenderer may modify or withdraw its bid after the bids submission,



- 6.13.1.1. All the purchasers of the tender document till the date of amendment shall be given option to submit revised price bids.

#### **6.14. Opening of Tender**

- 6.14.1. The opening of the technical bid and the price bid shall be done by the Tender Inviting Authority or his authorized representative in the presence of the prospective tenderers or his/her representative who choose to attend at the respective time and place mentioned.
- 6.14.2. The tenderers or representatives present for the opening of the envelopes shall sign registers evidencing their attendances.
- 6.14.3. In the event of the specified date for opening of Tender being declared holiday, the Tender shall be opened at the appointed time and venue on the next working day.

#### **6.15. Evaluation of tender**

##### **6.15.1. Bid Evaluation Committee:**

- 6.15.1.1. The commercial terms and documents submitted as part of the technical bids shall be scrutinized by a Bid Evaluation Committee constituted by the Tender Inviting Authority.
- 6.15.1.2. The Bid Evaluation Committee may also verify the veracity of claims in respect of the known performance of the equipment offered, the experience and reputation of tenderer in the field, the financial solvency etc.
- 6.15.1.3. The decisions of the Bid Evaluation Committee on whether the tenders are responsive or non-responsive or requiring clarifications will be published.

##### **6.15.2. Technical Committee:**

- 6.15.2.1. The demonstration, if required, shall be conducted by a Committee/Consultant called the 'Technical Committee'.
- 6.15.2.2. The composition of technical committee may vary with the type of the equipment tendered.
- 6.15.2.3. The decisions of the technical committee will also be published.

##### **6.15.3. Purchase Committee:**

- 6.15.3.1. In case of major purchases, the decisions of the Bid evaluation Committee/Technical Committee will be further scrutinized by the Purchase Committee.
- 6.15.3.2. The decisions of the Purchase Committee will also be published.
- 6.15.4. A tenderer, at any stage of tender process or thereafter, in the event of being found after verification by the Tender Inviting Authority, to indulge in concealment or misrepresentation of facts, in respect of the claims of the offer, shall be debarred/black listed.
- 6.15.5. The Tender Inviting Authority's decisions on the tender submitted shall be based on the decisions taken by the various committees and otherwise as per the clauses as mentioned above.
- 6.15.6. Arithmetical errors shall be rectified on the following basis: If there occurs a discrepancy between words and figures, the amount in words shall prevail and the offer shall stand corrected to that effect. If the tenderer does not accept the correction of errors, his offer shall be rejected. The Tender Inviting Authority may waive any minor infirmity or nonconformity or irregularity in an offer, which does not constitute a material deviation, provided that the same shall not prejudicially affect the interest of the other tenderers.

#### **6.16. Clarification of Bids**

- 6.16.1. During evaluation of bids, the Tender Inviting Authority may, at its discretion, give opportunity to the tenderer(s) for clarification of points raised by the bid evaluation committee on its bids submitted.
- 6.16.2. The request for clarification and the response shall be in writing, either through email or fax or by post.
- 6.16.3. Unless the Tender Inviting Authority asks for change in price due to the clarifications sought, the tenderer is not permitted to alter the price offered in the "Price bid". The change in price shall be submitted in a separately sealed covers with marking in the cover "revised price bid vide reference no..."

#### **6.17. Demonstration of technical specifications and performance:**

- 6.17.1. Before the opening of the Price Bid, immediately after the opening of Technical bid, the tenderer shall arrange for demonstration, if required by, whether the equipment offered meets the accuracy and other quality parameters as indicated in Section IV, if required by the Tender Inviting Authority.
- 6.17.2. If it is of the opinion of the Tender Inviting Authority that it is practically impossible for the tenderer to bring the equipment for demonstration of specifications/performance to the head office of the Company, the Tender Inviting Authority may instruct the tenderer to adopt any of the two following methods;
  - 6.17.2.1. Inspection of the specifications/performance of the equipment by a technical committee/authorized representative of the Tender Inviting Authority at the nearest third party location where the qualified tenderer as installed a same make/model of the equipment ; OR
  - 6.17.2.2. Demonstrate the technical specification/ performance at the time of installation of the offered equipment in one of the convenient location as per the schedule of requirements contained in the Section IV.
- 6.17.3. Failure to demonstrate the technical specification or performance of the equipment to the satisfaction of the technical committee or the Tender Inviting Authority will lead to automatic rejection of the tender and the price bid of such tenderers shall not be considered for opening of Price bids.
- 6.17.4. Pre-delivery inspection (PDI): The Tender Inviting Authority may also resort to Pre-Delivery Inspection (PDI) at the suppliers site, if needed.
  - 6.17.4.1. The Tender Inviting Authority and/or its nominated representative(s) will, without any extra cost to the successful tenderer, inspect and/or test the ordered goods and the related services to confirm their conformity to the contract specifications and other quality control details incorporated in the contract. The Tender Inviting Authority shall inform the successful tenderer in advance, in writing, the Tender Inviting Authority's programme for such inspection and, also the identity of the officials to be deputed for this purpose.
  - 6.17.4.2. If such inspections and tests are conducted in the premises of the successful tenderer, all reasonable facilities and assistance, including access to relevant drawings, design details and production data, shall be furnished by the successful tenderer to the Tender Inviting Authority's inspector at no charge to the Tender Inviting Authority.
  - 6.17.4.3. If during such PDI , if the contracted goods fail to conform to the required specifications and standards, the Tender Inviting Authority's inspector may reject them and the successful tenderer shall either replace the rejected goods or make all alterations necessary to meet the specifications and standards, as required, free of cost to the Tender Inviting Authority and resubmit the same to the Tender Inviting Authority's inspector for conducting the inspections and tests again.
  - 6.17.4.4. In case the contract stipulates pre-delivery inspection of the ordered goods at successful tenderer's premises, the successful tenderer shall put up the goods for such inspection to the Tender Inviting Authority's inspector well ahead of the contractual delivery period, so that the Tender Inviting Authority's inspector is able to complete the inspection within the contractual delivery period.
  - 6.17.4.5. If the successful tenderer, tenders the goods to the Tender Inviting Authority's inspector for inspection at the last moment without providing reasonable time to the inspector for completing the inspection within the contractual delivery period, the inspector may carry out the inspection and complete the formality beyond the contractual delivery period at the risk and expense of the successful tenderer. The fact that the goods have been inspected after the contractual delivery period will not have the effect of keeping the contract alive and this will be without any prejudice to the legal rights and remedies available to the Tender Inviting Authority under the terms & conditions of the contract.
  - 6.17.4.6. In case if the tender inviting Authority requires to do the PDI by any certified agency, the same is to be complied by the successful tenderer.
- 6.17.5. The Tender Inviting Authority's contractual right to inspect, test and, if necessary, reject the goods after the goods' arrival at the final destination shall have no bearing of the fact that the goods have previously been inspected and cleared by Tender Inviting Authority's inspector during PDI or demonstration as mentioned above.

- 6.17.6. Goods accepted by the Tender Inviting Authority and/or its inspector at initial inspection and in final inspection in terms of the contract shall in no way dilute Tender Inviting Authority's right to reject the same later, if found deficient in terms of the warranty clause of the contract.
- 6.17.7. The machinery and articles for the project will be transported by the successful bidder to the installation site at their own risk and costs.

#### **6.18. Price Bids**

- 6.18.1. Only the Price Bids of those firms qualified in the detailed scrutiny and evaluation of the Technical bid and successful PDI/demonstration, conducted by the Technical Committee/Tender Inviting Authority shall be opened in the second round.
- 6.18.2. The price bid shall be submitted in the format given in the website as BOQ. The Price bids submitted in any other formats will be treated as non-responsive and not considered for tabulation and comparison.
- 6.18.3. The price offered shall be all inclusive or as per the format given in the etender site. The tenderer shall indicate on the Price Schedule the unit prices and total bid prices of the goods it proposes to supply under the Contract.
- 6.18.4. The tenders shall offer prices of the equipment inclusive of all the accessories mentioned in the technical specification under Section IV and under no circumstances offer the essential accessories, without which the equipment cannot function properly, as optional. There should not be any hidden cost and thus the bid should be self explanatory and complete in all respects.
- 6.18.5. The tenderer is also required to offer the rates of all the optional accessories, if any, of the equipment mentioned under Section IV and the cost of the same should be included in the offers submitted.
- 6.18.6. The price offered for accessories /additional accessories / spares mentioned in the technical specifications under section IV as 'optional' will not be taken for evaluation, but the Tender Inviting Authority will place supply orders for optional items in quantities as it desires fit.
- 6.18.7. Price Offered shall be in Indian Rupees (INR) or in freely convertible foreign currency preferably in USD(\$), Euro(€), Yen(¥) GBP (£) wherever possible for the correct evaluation during comparison. Price should be quoted for the supply, installation, training, packing and forwarding and successful commissioning of the equipment and fulfilment of warranty/guarantee and after sales service to the satisfaction of the Head of Department.
- 6.18.8. The Rates of CMC/AMC for the prescribed period as per clause 5.1 shall be shown separately.
- 6.18.9. The CMC/AMC rates are not taken into account while tabulating and comparing prices for deciding the lowest qualified tenderer.
- 6.18.10. The cost of essential reagents/Consumables mentioned in the price bid form, calculated as per the quantity mentioned therein, shall also be taken into consideration while selecting qualified tenderer. The method of evaluation and comparison of prices taking into consideration of the CMC rates (excluding taxes) and the cost of the reagents/consumables.
- 6.18.11. Fixed price: Prices quoted by the Tenderer shall be fixed during the period of the contract and not subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as nonresponsive and rejected.
- 6.18.12. Price variation due to statutory changes will be accepted during the Rate Contract period before releasing the Letter of Intent on receipt of proper documents.
- 6.18.13. There shall also be no hidden costs.
- 6.18.14. Prices indicated on the Price Bid Form shall be entered separately in the following manner:
  - 6.18.14.1. Basic price: The price of the equipment quoted shall be inclusive of ex-factory, ex-show-room, ex-warehouse, or off-the-shelf, or delivered, as applicable, all accessories / additional accessories /spares mentioned in the technical specification section IV, all duties and other taxes (excluding sales tax), charges for inland transportation, insurance and other local costs incidental to delivery of the goods to their final destination and the cost of incidental services like unloading, safe storage and handling of consignment at site, on site assembly if any of the supplied goods, installation, testing and

commissioning of the equipment, furnishing of detailed operations manual, service manual with circuit diagram and maintenance manual for each appropriate unit of supplied goods.

- 6.18.14.2. All applicable taxes should be mentioned in the BOQ. No other charges/taxes will be entertained in later stage. If any changes in statutory taxes will be considered on actual basis. .
- 6.18.14.3. Customs duty payable on the goods if applicable shall be indicated separately. The tenderer shall indicate the value of import items on which customs duty is payable. In such cases the Tender Inviting Authority may arrange to get the customs duty on the supplied to be made, be exempted from Government Authorities and certificate to the effect will be provided to the tenderer on award of contract.
- 6.18.14.4. The rates of discounts offered on the basis of varied quantity.
- 6.18.14.5. CMC/AMC rates should be specifically mentioned for a period mentioned in clause 5.1 after comprehensive warranty period.
- 6.18.14.6. The rates of optional accessories mentioned under Section IV.
- 6.18.14.7. For imported items, the price quoted for at KSDP Alappuzha, Kerala, India and quoted with break up FOB/FCA(Kochi) port of shipment. Notwithstanding financial obligations specified under latest applicable INCOTERMS FCA terms, all charges such as export packing, Documentation Loading Charges, Inland Freight, Warehousing and export clearance etc. in the shipper country and upto consignee's site. Items as per the purchase order duly cleared for export in shipping country would be required to be handed over at site to TIA.
- 6.18.14.8. CIF/CIP rates for shipping items up to Alappuzha, Kerala, India should also be mentioned. Items are to be packed, marked & labelled as per the international norms. Small individual boxes must be pelletized for easy handling & movement. State packing/forwarding/documentation charges etc. (each one) separately if applicable. This condition will be mandatory and will be incorporated in our Letter of Credit.
- 6.18.14.9. Prices quoted by the bidder shall remain fixed during the entire period of contract and shall not be subject to variation on any account. A bid submitted with an adjustable price quotation will be treated as non-responsive and rejected summarily.

#### **6.17. Acceptance /Rejection of tenders:**

- 6.19.1. It is also not necessary that the offer of the firm quoting the lowest rates shall be accepted. Usually the lowest offers of tenderers qualified for the price bid opening shall be accepted, unless one sided conditions unacceptable to the Tender Inviting Authority are provided in such price bid.
- 6.19.2. At any point of time, the Tender Inviting Authority reserves the right to cancel or modify the supply order even after it is awarded to the successful tenderer in the event the firm deviates from the agreed terms and conditions.
- 6.19.3. Price Bids without mentioning the rates for CMC/AMC shall be treated as non-responsive and rejected.
- 6.19.4. Price bids without mentioning the cost of reagents/consumables shall be treated as non-responsive and rejected.

#### **6.20. Other terms and Conditions**

- 6.20.1. All the terms and conditions in respect of warranty/guarantee, CMC/AMC, Training of Staff etc mentioned in Section IV shall be complied with.
- 6.20.2. Technical Specifications and Standards:- The Goods & Services to be provided by the successful tenderer under this contract shall conform to the technical specifications and quality control parameters mentioned in Section IV of this document.
- 6.20.3. The tenderer shall be responsible for payment of any charges due to any statutory authorities such as Income Tax, Sales Tax, Customs Duties, etc. In the event, if it found that there is some statutory deduction to be made at the source, the Tender Inviting Authority will have the authority to do so. GST as per actuals

#### **6.21. Notices**

- 6.21.1. The Tender Inviting Authority shall publish the following information on the tender website at the appropriate time as part of ensuring transparency in the tender process;
  - 6.21.1.1. The tender notices, documents, corrigendum, addendum etc if any.

- 6.21.1.2. Amendments to the tender conditions, if any, especially after the prebid meeting.
- 6.21.1.3. Results of the responsiveness of the technical bids and minor infirmities/clarifications sought.
- 6.21.1.4. List of tenderers qualified for demonstration of equipment and reasons for rejection of unqualified tenderers.
- 6.21.1.5. Results of the demonstration of the equipment, reasons for rejection of equipment and provisional list of tenderers qualified for price bid opening.
- 6.21.1.6. Final List of technical qualified bidders.
- 6.21.1.7. Provisional rates and provisional list of L1 bidders and equipment and rates offered.
- 6.21.1.8. Final Rate Contract list.
- 6.21.2. Notice, if any, relating to the contract given by one party to the other, shall be sent in writing by email or fax and confirmed by post. The procedure will also provide the sender of the notice, the proof of receipt of the notice by the receiver. The addresses of the parties for exchanging such notices will be the addresses as incorporated in the contract.
- 6.21.3. The effective date of a notice shall be either the date when delivered to the recipient or the effective date specifically mentioned in the notice, whichever is later.

#### **6.22. Award of Contract**

- 6.22.1. Criteria:-The contract will be awarded to the lowest evaluated responsive tenderer qualifying to the final round after scrutiny of the technical bids and demonstration of the equipment, i.e. after price bid opening.
- 6.22.2. Variation of Quantities at the Time of Award/Currency of Contract:-At the time of awarding the contract, the Tender Inviting Authority reserves the right to increase or decrease by up to twenty five (25) per cent, the quantity of goods and services mentioned under cl. 4.1 (rounded off to next whole number) without any change in the unit price and other terms & conditions quoted by the tenderer.
- 6.22.3. If orders (LOI/AOC) are issued by the Tender Inviting Authority within the period of 60 days from the issuance of first supply order then the discount slab will be applicable for all the quantity issued, including the tender quantity during this period. In such case the supply order(s) already issued will not be changed and the discount amount will be deducted as excess claim when settling the payment to the successful tenderer.
- 6.22.4. The details such as rates, the model of the equipment selected for award of the contract and the details of successful tenderers etc. will be published during the period of price firmness/rate contract on the website.

#### **6.23. Notification of Award/Letter of Intent (LOI)**

- 6.23.1. Before expiry of the tender validity period, the Tender Inviting Authority will notify the successful tenderer(s) in writing, by registered / speed post or by fax or by email (to be confirmed by registered / speed post immediately afterwards) that its tender for equipment(s), which have been selected by the Tender Inviting Authority, has been accepted, also briefly indicating therein the essential details like description, specification and quantity of the goods & services and corresponding prices accepted. This notification is undertaken by issuing a Letter of Intent (LOI/AOC) by the Tender Inviting Authority.
- 6.23.2. The successful tenderer, upon receipt of the LOI, shall furnish the required performance security and submit an agreement in the prescribed format within ten days, failing which the EMD will be forfeited and the award will be cancelled.
- 6.23.3. The Notification of Award shall constitute the conclusion of the Contract.

#### **6.24. Signing of Contract**

- 6.24.1. The successful tender shall execute an agreement in the format as given for ensuring satisfactory supply, installation, commissioning and the after sales service/support during the warranty period.
- 6.24.2. The successful tenderer shall submit bank guarantee in the format of performance security prescribed.
- 6.24.3. Promptly after notification of award, within ten days from the date of the letter of intent, the successful tenderer shall return the submit two copies of the contract (as per agreement format) with a duplicate copy, both on ` 200/- keralastamp paper purchased in the name of the successful tenderer, duly signed and dated, to the Tender Inviting Authority by registered / speed post or in person.

- 6.24.4. The successful tenderer shall later extend the Contract converting it as Comprehensive Maintenance Contract/Annual Maintenance Contract as per the 'Agreement' with the Tender Inviting Authority, 3 (three) months prior to the completion of Warranty Period, if the Tender Inviting Authority desires so. The CMC/AMC will commence from the date of expiry of the Warranty Period.
- 6.24.5. Assignment:-The Successful tenderer shall not assign, either in whole or in part, its contractual duties, responsibilities and obligations to perform the contract, except with the Tender Inviting Authority's prior written permission.
- 6.24.6. Sub Contracts:- The Successful tenderer shall not sub contract the execution of the contract. Such action, if done without the knowledge of the Tender Inviting Authority prior to the entering of the contract, shall not relieve the Successful tenderer from any of its liability or obligation under the terms and conditions of the contract.
- 6.24.7. Modification of contract:- If necessary, the Tender Inviting Authority may, by a written order given to the successful tenderer at any time during the currency of the contract, amend the contract by making alterations and modifications within the general scope of contract in any one or more of the following:
  - 6.21.7.1. Specifications, drawings, designs etc. where goods to be supplied under the contract are to be specifically manufactured for the Tender Inviting Authority,
  - 6.21.7.2. Mode of Demonstration/PDI
  - 6.21.7.3. Incidental services to be provided by the successful tenderer
  - 6.21.7.4. Mode of Installation
  - 6.21.7.5. Place of delivery
  - 6.21.7.6. Converting the installation of the equipment in all or any of the locations and
  - 6.21.7.7. Any other term(s) of the contract, as felt necessary by the Tender Inviting Authority depending on the merits of the case.
  - 6.21.7.8. In the event of any such modification/alteration causing increase or decrease in the cost of goods and services to be supplied and provided, or in the time required by the successful tenderer to perform any obligation under the contract, an equitable adjustment shall be made in the contract price and/or contract delivery schedule, as the case may be, and the contract amended accordingly.
  - 6.21.7.9. If the successful tenderer doesn't agree to the adjustment made by the Tender Inviting Authority, the successful tenderer shall convey its views to the Tender Inviting Authority within ten days from the date of the successful tenderer's receipt of the Tender Inviting Authority's amendment / modification of terms of the contract.

#### **6.25. Security deposit & Performance Security**

- 6.25.1. There will be a security deposit amounting to 5 % of the total value of the equipment excluding taxes, which shall be submitted by the successful tenderer to the Tender Inviting Authority within 10 days from the date of issuance of 'Letter of Intent/work order
- 6.25.2. The contract duly signed and returned to the Tender Inviting Authority shall be accompanied by a demand Draft or Bank Guarantee in the prescribed format.
- 6.25.3. Upon receipt of such contract and the security deposit, the successful tenderer shall execute an agreement in 200 Rupees kerala Stamp paper.
- 6.25.4. Failure of the successful tenderer in providing security deposit mentioned in Section III and/or in returning contract copy duly signed in time shall make the tenderer liable for forfeiture of its EMD.
- 6.25.5. The validity of security deposit should be until the completion of supply, commissioning and validation of machines and submission of performance security.
- 6.25.6. The successful tenderer has to deposit a performance security amounting to 5 % of the total value of the equipment excluding taxes, which shall be submitted by the successful tenderer to the Tender Inviting Authority after commissioning and validation of the equipment. The validity of this performance security should be as per clause No.6.25.7. The security deposit will be released after submission of the performance security. On written request from form successful tenderer, security deposit can be converted into performance security and terms of performance security remains the same.
- 6.25.7. The security deposit, Performance security shall be denominated in Indian Rupees or in the currency of the contract as detailed below:
  - 6.25.7.1. It shall be in any one of the forms namely Account Payee Demand Draft or irrevocable Bank Guarantee issued by a Scheduled bank in India, in the prescribed form as provided in this document endorsed in favour of the Tender Inviting Authority/user institution.

- 6.25.7.2. In the event of any failure /default of the successful tenderer with or without any quantifiable loss to the government including furnishing of Companywise Bank Guarantee for CMC security as per Performa, the amount of the performance security is liable to be forfeited.
- 6.25.7.3. In the event of any amendment issued to the contract, the successful tenderer shall, within ten (10) days of issue of the amendment, furnish the corresponding amendment to the Performance Security (as necessary), rendering the same valid in all respects in terms of the contract, as amended.
- 6.25.7.4. Tender Inviting Authority/Company will release the Performance Security without any interest to the successful tenderer on completion of 60 days the successful tenderer's all contractual obligations including the warranty obligations & after receipt of certificates confirming that all the contractual obligations have been successfully complied with.
- 6.25.7.5. The Bank Guarantee submitted in place of Security deposit shall be in the prescribed format; Bank Guarantee in no other form will be accepted.

## **6.26. Delivery and Installation**

- 6.26.5. The successful tenderer will have to arrange transportation of the ordered goods as per its own procedure and pay necessary insurance against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery and pay all necessary charges incidental till it is installed in the Company. It shall be ensured that the equipment arrive at the destination(s) in good condition within the delivery period mentioned and as per the other requirements of the Tender Document. The successful tenderer shall arrange for obtaining import licences, statutory clearances etc. within the delivery period stipulated as cl 5.1.2.
- 6.26.6. Delay in the successful tenderer's performance:- The successful tenderer shall deliver of the goods and perform the services under the contract within the time schedule specified by the Tender Inviting Authority in the List of Requirements and as incorporated in the contract.
- 6.26.7. A copy of the invoice shall be submitted to Company for effecting stock entry at the respective location.
- 6.26.8. If at any time during the currency of the contract, the successful tenderer encounters conditions hindering timely delivery of the goods and performance of services, the successful tenderer shall inform the Tender Inviting Authority in writing within a week about the same and its likely duration and make a request to the Tender Inviting Authority for extension of the delivery schedule accordingly. On receiving the successful tenderer's communication, the Tender Inviting Authority shall examine the situation as soon as possible and, at its discretion, may agree to extend the delivery schedule, with or without liquidated damages for completion of successful tenderer's contractual obligations by issuing an amendment to the contract.
- 6.26.9. The goods will not be accepted after the date of issuance of notice of termination under cl. 6.35, even if the goods are ready or dispatched following the termination. For the remaining goods and services, the Tender Inviting Authority may decide:-
  - 6.26.9.1. To get any portion of the balance completed and delivered at the contract terms, conditions and prices; and / or
  - 6.26.9.2. To cancel the remaining portion of the goods and services and compensate the successful tenderer by paying an agreed amount for the cost incurred by the successful tenderer towards the remaining portion of the goods and services.
  - 6.26.9.3. To place orders for the unexecuted portion of the order or even the increased quantity with the next lowest qualified tenderer.
  - 6.26.9.4. The equipment should be suited for the existing layout of proposed plant. So bidder has to visit the site & study the drawing and to supply the machines suitable for the approved layout. The layout enclosed as annexure. Contractor has to study the site condition and has to do shifting into the correct location at contractor/supplier's risk and cost and to do installation. If additional access is required for shifting of machine this has to be intimated in writing within 15 days of issue of supply order. If it is not intimated in time, the additional expenditure incurred for this will be in suppliers scope.

## **6.27. Imported Equipment**

- 6.27.1. The Tender Inviting Authority shall no way involve in the import of the equipment from foreign countries, if such equipment are manufactured outside the country. It shall be the solemn duty of the tenderer to import the equipment offered by paying the requisite consideration in foreign currency and following the stipulations issued by the Government of India, from time to time, in the import of equipment, especially when the import is from hostile nations.

- 6.27.2. The tenderers shall inform any advantages in prices to the Tender Inviting Authority because of reductions/exemptions in customs duty in case of imported equipment at the time of pre-tender meeting and the tender document shall be modified by amendment to that extent.
- 6.27.3. The Tender Inviting Authority will not interfere in any manner with the import process and the successful tenderer shall be solely responsible for supply and installation of any equipment at the time and locations stipulated/agreed to in the bids.
- 6.27.4. The Tender Inviting Authority prefers to deal with the importers or Indian subsidiaries of the foreign original equipment manufacturer having a place of business in India.
- 6.27.5. The payment will be made in Indian Rupees in freely convertible foreign currency preferably in USD(\$), Euro(€), Yen(¥) GBP (£), to the successful tenderer and under no circumstance, the request for opening of letter of credit or payment in foreign currency will be entertained.
- 6.27.6. The successful tenderer shall indemnify the Tender Inviting Authority from all liabilities/damages, if any, that may arise out of the conduct of the tenderer in violation of foreign exchange regulations.
- 6.27.7. However, the tenderers shall disclose the country of origin and shall obtain an undertaking from such OEM to provide spares or service support for the period of contract. The tenderer also share the details of shipment on receipt of the firm order with LC. Failure on the part of the OEM to perform the agreed terms of the undertaking in providing the spares and after sales support will be construed as violation of the contractual obligations by the successful tenderer terming the relation as that of a principal and agent under laws of the country. Such violations may eventually lead to forfeiture of performance security and also lead towards blacklisting/debarring the successful tenderer.

#### **6.28. Intellectual Property Rights(IPR)**

- 6.28.1. The successful tenderer shall, at all times, indemnify and keep indemnified the Tender Inviting Authority, free of cost, against all claims which may arise in respect of goods & services to be provided by the successful tenderer under the contract for infringement of any intellectual property rights or any other right protected by patent, registration of designs or trademarks.
- 6.28.2. In the event of any such claim in respect of alleged breach of patent, registered designs, trademarks etc. being made against the Tender Inviting Authority, the Tender Inviting Authority shall notify the successful tenderer of the same and the successful tenderer shall, at his own expenses take care of the same for settlement without any liability to the Tender Inviting Authority.
- 6.28.3. The Successful tenderer/its Indian Agent/CMC Provider shall at all times, indemnify and keep indemnified the Tender Inviting Authority/Government of India against all claims/ damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under Comprehensive Warranty/ CMC/AMC.

#### **6.29. Corrupt or Fraudulent Practices**

- 6.29.1. It is required by all concerned namely the Tender Inviting Authority/ Tenderers/Successful tenderers etc to observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Tender Inviting Authority defines, for the purposes of this provision, the terms set forth below as follows:
  - 6.29.1.1. “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
  - 6.29.1.2. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Tender Inviting Authority, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Tender Inviting Authority of the benefits of free and open competition;
  - 6.29.1.3. Government/ Tender Inviting Authority will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question; will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract by the Tender Inviting Authority if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing the contract.
- 6.29.2. No tenderer shall contact the Tender Inviting Authority or any of its officers or any officers of the government on any matter relating to its bid, other than communications for clarifications and requirements under this tender in writing, with an intention to influence the members of various committees or officials of Tender Inviting Authority. Any such effort by a tenderer to influence the Tender Inviting Authority in the Tender Inviting Authority’s bid evaluation committee, bid comparison or contract award decisions may result in rejection of the tenderers bid.

#### **6.30. Force Majeure**



- 6.30.1. For purposes of this clause, Force Majeure means an event beyond the control of the successful tenderer and not involving the successful tenderer's fault or negligence and which is not foreseeable and not brought about at the instance of , the party claiming to be affected by such event and which has caused the non – performance or delay in performance. Such events may include, but are not restricted to, acts of the Tender Inviting Authority either in its sovereign or contractual capacity, natural calamities like earthquake, tsunami, flood wars or revolutions, hostility, acts of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes excluding by its employees , lockouts excluding by its management, and freight embargoes.
- 6.30.2. If a Force Majeure situation arises, the successful tenderer shall promptly notify the Tender Inviting Authority/in writing of such conditions and the cause thereof within twenty one days of occurrence of such event. Unless otherwise directed by the Tender Inviting Authorityin writing, the successful tenderer shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 6.30.3. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period exceeding sixty days, either party may at its option terminate the contract without any financial repercussion on either side.
- 6.30.4. In case due to a Force Majeure event the Tender Inviting Authority is unable to fulfill its contractual commitment and responsibility, the Tender Inviting Authoritywillnotify the successful tenderer accordingly and subsequent actions taken on similar lines described in above sub-paragraphs.

### **6.31. Resolution of disputes**

- 6.31.1. If dispute or difference of any kind shall arise between the Tender Inviting Authorityand the successful tenderer in connection with or relating to the contract, the parties shall make every effort to resolve the same amicably by mutual consultations.
- 6.31.2. If the parties fail to resolve their dispute or difference by such mutual consultation within twenty-one days of its occurrence, then, unless otherwise provided in the tender document, either the Tender Inviting Authority or the successful tenderer may give notice to the other party of its intention to commence arbitration, as provided the applicable arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 of India.
- 6.31.3. In the case of a dispute or difference arising between the Tender Inviting Authority and a domestic Successful tenderer relating to any matter arising out of or connected with the contract, such dispute or difference shall be referred to the sole arbitration of competent authority, Govt. of Kerala whose decision shall be final.
- 6.31.4. Venue of Arbitration: The venue of arbitration shall be the place from where the contract has been issued, i.e., Alappuzha, Kerala, India.

### **6.32. Applicable Law & Jurisdiction of Courts**

- 6.32.1. The contract shall be governed by and interpreted in accordance with the laws of India for the time being in force.
- 6.32.2. All disputes arising out of this tender will be subject to the exclusive jurisdiction of courts of law in Alappuzha.

### **6.33. General/ Miscellaneous Clauses**

- 6.33.1. Nothing contained in this Contract shall be constructed as establishing or creating between the parties, i.e. the Successful tenderer/its Indian Agent/CMC Provider on the one side and the Tender Inviting Authority on the other side, a relationship of master and servant or principal and agent.
- 6.33.2. Any failure on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.
- 6.33.3. The Successful tenderer shall notify the Tender Inviting Authorityof any material change would impact on performance of its obligations under this Contract.
- 6.33.4. Each member/constituent of the Successful tenderer(s), in case of consortium shall be jointly and severally liable to and responsible for all obligations towards the Tender Inviting Authority, Government for performance of contract/services including that of its Associates/ Sub Contractors under the Contract.
- 6.33.5. The Successful tenderer shall, at all times, indemnify and keep indemnified the Tender Inviting Authority against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its employees or agents or by any other third party resulting from or by any action, omission or operation conducted by or on behalf of the successful tenderer/its associate/affiliate etc.
- 6.33.6. All claims regarding indemnity shall survive the termination or expiry of the contract.

### **6.34. Penalties for non-performance**

- 6.34.1. The penalties to be imposed, at any stage ,under this tender are;
  - 6.34.1.1. imposition of liquidated damages,

6.34.1.2. forfeiture of EMD/ security deposit/performance security

6.34.1.3. termination of the contract

6.34.1.4. blacklisting/debarring of the tenderer

6.34.2. Failure to produce the requisite certificates after claiming to possess such certificates or concealment or misrepresentation of facts will not only lead to rejection of tenders in the first round itself and/or may lead to forfeiture of EMD, security deposit, performance security as well as result in black listing/debarring of the tenderer.

6.34.3. The penalties to be imposed on the tenderer, at any stage, will be decided on the basis of the violations of number of tender conditions specifically mentioned in the tender document as that leading to forfeiture or EMD, security deposit, Performance Security or leading to black-listing/debarring.

6.34.4. Any unexcused delay by the successful tenderer in maintaining its contractual obligations towards delivery of goods and performance of services shall render the successful tenderer liable to any or all of the following sanctions:

6.34.5. Liquidated damages:- If the successful tenderer fails to deliver any or all of the goods or fails to perform the services within the time frame(s) prescribed in the contract, the Tender Inviting Authority shall, without prejudice to other rights and remedies available to the Tender Inviting Authority under the contract, deduct from the contract price, as liquidated damages, a sum equivalent to 1% of the equipment to be supplied per week of delay or part thereof on delayed supply of goods and/or services until actual delivery or performance subject to a maximum of 10% of the contract price. Once the delivery period is exceeded, Tender Inviting Authority may consider termination of the contract. During the abovementioned delayed period of supply and / or performance, the conditions incorporated shall also apply and Tender Inviting Authority shall seek alternate measures at the risk and cost of the successful tenderers.

6.34.6. The penalties imposed by the Tender Inviting Authority will be published on the website of the Tender Inviting Authority for a period as decided as appropriate by it with a view to prevent other government institutions from procurement of equipment from such tenderers.

6.34.7. Termination of Contract

#### **6.35. Termination for default:-**

6.35.1. The Tender Inviting Authority, without prejudice to any other contractual rights and remedies available to it (the Tender Inviting Authority), may, by written notice of default sent to the successful tenderer, terminate the contract in whole or in part, if the successful tenderer fails to deliver any or all of the goods or fails to perform any other contractual obligation(s) within the time period specified in the contract, or within any extension thereof granted by the Tender Inviting Authority.

6.35.2. In the event of the Tender Inviting Authority terminates the contract in whole or in part, the Tender Inviting Authority may procure goods and/or services similar to those cancelled, with such terms and conditions and in such manner as it deems fit and the successful tenderer shall be liable to the Tender Inviting Authority for the extra expenditure, if any, incurred by the Tender Inviting Authority for arranging such procurement.

6.35.3. Unless otherwise instructed by the Tender Inviting Authority, the successful tenderer shall continue to perform the contract to the extent not terminated.

6.35.4. Termination for insolvency: If the successful tenderer becomes bankrupt or otherwise insolvent, the Tender Inviting Authority reserves the right to terminate the contract at any time, by serving written notice to the successful tenderer without any compensation, whatsoever, to the successful tenderer, subject to further condition that such termination will not prejudice or affect the rights and remedies which have accrued and /or will accrue thereafter to the Tender Inviting Authority.

6.35.5. Termination for convenience:- The Tender Inviting Authority reserves the right to terminate the contract, in whole or in part for its (Tender Inviting Authority's) convenience, by serving written notice on the successful tenderer at any time during the currency of the contract. The notice shall specify that the termination is for the convenience of the Tender Inviting Authority. The notice shall also indicate inter alia, the extent to which the successful tenderer's performance under the contract is terminated, and the date with effect from which such termination will become effective.

6.35.6. Further details could be obtained from the project section of Kerala State Drugs & Pharmaceuticals Ltd during office hours at 0477 2258184.

#### **6.36. Fall Clause**

The prices charged for the equipment supplies under the contract by successful tenderer shall in no event exceed the lowest price at which the successful tenderer sells the equipment of identical description to any other persons during the period of contract. If any time, during the contract, the tenderer reduces the sales price chargeable under the contract, he shall forth with notify such reduction to the Tender Inviting Authority and the price payable under the

contract of the equipment supplied after the date of coming into force of such reduction or sale shall stand correspondingly reduced.

Sd/-  
MANAGING DIRECTOR