

CLARIFICATION/DEVIATION to COMMERCIAL Bid Clauses

S. no	Document number	Document Title	Page No.	Clause #	Clause as per Bid document	CLARIFICATION	PDIL/TFL reply	IR Clarification dated 29rd June, 2021	PDIL/TFL reply dated 02.07.2021
TERMS & CONDITIONS OF CONTRACT									
1	INVITATION FOR BID (IFB)	SECTION-II BID EVALUATION CRITERIA	13	1.1	Technical criteria: The bidder should possess experience of having successfully completed One "Similar work" during the last Seven (07) years reckoned from the bid opening date.	Please advise if the PO date would be older than 7 years but completion date would be within 7 years from bid opening date is acceptable	Bidder's understanding is correct. If completion date is within 7 years from the date of bid opening , the same is acceptable.	Noted	Point Closed
2	INVITATION FOR BID (IFB)	SECTION-II BID EVALUATION CRITERIA	13	1.2	Technical criteria: "Similar Work" means Design Engineering, Supply, Installation and Testing & Commissioning of at least One Instrument Air & Plant Air System	Please advise whether Similar work should also meet design criteria API 672 for meeting technical criteria or Non API machine can also be furnished for this criteria.	As per API 672	Noted	Point Closed
3	INVITATION FOR BID (IFB)	SECTION-II BID EVALUATION CRITERIA	17	B.	NPV OF TOTAL WORKS COST: Total works Cost loading for entire System (to be considered in evaluation) shall be derived by summing up all the separate Works Cost Loading values for entire system	The work Cost loading is done on actual basis and MAD for failing to meet the Work Cost guarantee is limited to 5% only. Hence we strongly recommend to Cap the Work cost loading to 5% in order to get appropriate machine and would give the correct essence in furnishing the Guarantee work cost.	No change. NIT clause prevails.	It is not good for comparison so the work Cost loading is done on actual basis and MAD for failing to meet the Work Cost guarantee is limited to 5% only. Hence we strongly recommend to Cap the Work cost loading to 5% in order to get appropriate machine and would give the correct essence in furnishing the Guarantee work cost.	NIT provides equal opportunity to all bidders to assess and provide their best consumption figures. Bidder shall quote accordingly as per NIT conditions.
4	GENERAL CONDITIONS OF CONTRACT	PC-183/E-4008/P-1/S-IV	31 of 75	28	Insurance: CONTRACTOR shall take in the joint name of CONTRACTOR and OWNER comprehensive transit insurance for imported and indigenous goods. Transit-cum- Storage-Erection insurance or its equivalents and third party liability insurance policies shall be taken with reputed underwriters to cover ALL RISK whatsoever during the whole period starting with dispatch of GOODS from CONTRACTOR's warehouses/ Exworks in foreign country to CIF port of shipment for imported GOODS and EXW at Contractor's works for indigenous GOODS and shall further cover for performing services in India for transportation, loading, unloading, assembly, erection, testing COMMISSIONING OF PLANT till care and custody is transferred to OWNER	Since this a FOR supply contract, Hence Insurance shall on the contractor's name only which is open policy "Marine Cargo Insurance and Third Party Liability Insurance" and covers all the liabilities mentioned in the clause. No separate Insurance policy shall be provided in the joint name. Storage is not in Contractor's scope. It has to be done by	This being LSTK contract , comprehensive Insurance till handing over of the commissioned plant is bidder's responsibility. Storage is also in the scope of Contractor	Insurance shall be only on Contractor's name since total responsibility lies with Contractor till Hand over the site. Please advise storage time & time period for civil competition	Insurance shall be provided by LSTK Contractor as per the NIT . Civil foundation shall be ready prior to erection. Bidder to arrange storage for its equipment during the contract period.
			31 of 75	27.5	The CONTRACTOR shall be solely responsible for proper storage and preservation of all equipments& machineries etc.	Storage at site shall be done by Purchaser as the material will be under TFL's premises. It cant be done by supplier	No change. NIT clause prevails.	Please advise storage time & time period for civil competition	Refer as explained above.
			41 of 75	35	FORCE MAJEURE	Pandemic and Epidemic to be considered as Force Majeure	Covid 19 pandemic is covered under Government acts and regulations.	Noted	Point Closed
			15 of 47	1.2.9.3	Special Maintenance Tools	It is not required so it would not be applicable	NIT clause prevails. Bidder to provide as required.	Special maintenance tools is not required by bidder so it will not be applicable & provided.	NIT clause prevails. Bidder to provide as required.
			15 of 47	1.2.9.5	Special Tools & Tackles	It is not required so it would not be applicable	NIT clause prevails. Bidder to provide as required.	Special maintenance tools is not required by bidder so it will not be applicable & provided.	NIT clause prevails. Bidder to provide as required.
			16 of 47	1.2.10.1.2	The warranty period for the EQUIPMENT supplied by CONTRACTOR shall be valid for minimum 12 months for all EQUIPMENT from the date of PRELIMINARY ACCEPTANCE	warranty period for the equipment supplied would be 12 months for all equipment from the date of Commissioning or 18 months from date of Supply whichever is earlier.	No change. NIT clause prevails.	This warranty shall be valid for 21 months from date of completion of Supply or 12 months from date of successful PGTR, whichever is earlier. Should any defects be noticed in the design, material and/or workmanship within this Warrantee Period, Owner/ Consultant shall inform Supplier/ Contractor and Supplier/ Contractor shall immediately, on receipt of such intimation, depute their personnel within 7 days to investigate the causes of defects and arrange rectification/ replacement /modification of the defective Equipment at site, without any cost to Owner/Consultant within a reasonable period. If the Supplier/ Contractor fails to takeproper corrective action to repair/ replace defects satisfactorily, within a reasonable period, Owner/ Consultant shall be free to take such corrective action as may be deemed necessary at Supplier's risk and cost, after giving notice to the Supplier. The Consultant/ Owner shall promptly notify the Supplier/ Contractor in writing of any claims arising under this warranty.Equipment or part thereof so repaired or replaced shall have further warranty for a period of 12 months from the date of acceptance. However, the extended Warrantee period shall in no case, exceed 21 Months from expiry of the Initial Warrantee Period.It has to be capped from date of supply as per OEM warranty policy. There would not be any warranty on consumables as it has self life	No change. NIT clause prevails.

17 of 47	1.2.10.1.6	EQUIPMENT or part thereof so repaired or replaced shall have further warranty for a period of 12 months from the date of its acceptance after repair/replacement and the Contract Performance Security shall be suitably extended for the same. DEFECTS LIABILITY PERIOD shall have an upper limit of 24 months for extended DEFECTS LIABILITY PERIOD, starting from the PRELIMINARY ACCEPTANCE	warranty period for the equipment supplied would be 12 months for all equipment from the date of Commissioning or 18 months from date of Supply whichever is earlier.	No change. NIT clause prevails.	This warranty shall be valid for 21 months from date of completion of Supply or 12 months from date of successful PGTR, whichever is earlier. Should any defects be noticed in the design, material and/or workmanship within this Warrantee Period, Owner/Consultant shall inform Supplier/ Contractor and Supplier/ Contractor shall immediately, on receipt of such intimation, depute their personnel within 7 days to investigate the causes of defects and arrange rectification/ replacement/ modification of the defective Equipment at site, without any cost to Owner/Consultant within a reasonable period. If the Supplier/ Contractor fails to take proper corrective action to repair/ replace defects satisfactorily, within a reasonable period, Owner/ Consultant shall be free to take such corrective action as may be deemed necessary at Supplier's risk and cost, after giving notice to the Supplier. The Consultant/ Owner shall promptly notify the Supplier/ Contractor in writing of any claims arising under this warranty. Equipment or part thereof so repaired or replaced shall have further warranty for a period of 12 months from the date of acceptance. However, the extended Warrantee period shall in no case, exceed 21 Months from expiry of the Initial Warrantee Period. It has to be capped from date of supply as per OEM warranty policy. There would not be any warranty on consumables as it has self life	No change. NIT clause prevails.
20 of 47	1.2.14.2	OWNER shall provide area at SITE for making shed/covered stores etc. for storing EQUIPMENT. CONTRACTOR shall be responsible for making shed/covered stores etc. for safe storage of EQUIPMENT.	Storage at site shall be done by Purchaser as the material will be under TFL's premises. It cant be done by supplier	No change. NIT clause prevails.	Please advise storage time & time period for civil competition	Refer as explained above.
30 of 47	2.8	Site Facilities: Land for Construction Activities	Any type of Civil work is not in supplier scope. Storage at site shall be done by Purchaser as the material will be under TFL's premises. It cant be done by supplier	No change. NIT clause prevails.	Any type of civil work is not in contractor scope	Storage facility shall be in Bidder's scope. For civil work , refer pre-bid reply Lot -2 , dt. 18.06.2021 , Sl.No.1 .
35 OF 47	14.3.2	TERMS OF PAYMENT	10% Advance Payment on issuance of Order, 40 % on pro-rata basis as indicated in the approved Billing AGAINST PROOF OF SHIPMENT / DESPATCH OF MATERIALS 45% AGAINST RECEIPT OF MATERIAL AT SITE . If the certification by Owner gets delayed beyond 7 days, the payment has to be released 5% after commissioning or within 60 days from the date of dispatch if the commissioning is delayed for reasons not attributable to supplier.	Under review. Amendment if required, shall be issued shortly.	Noted	Under review. Amendment if required, shall be issued shortly.
36 OF 47	14.3.3	FOR SERVICES (including transportation, insurance, installation Erection & Commissioning)	95% (Eighty Five Percent) of the Services Price component shall be paid on pro-rata basis against progress of Service duly certified by the Owner for the quantum of work completed and field quality billed as per the approved Billing Schedule/monthly progress report. 5% (Five percent) on issue of MECHANICAL COMPLETION Certificate against CONTRACTOR's certified running Accounts Bill(s).	No change. NIT clause prevails.	100% of the Invoice value along with GST payable under the Contract shall be released on 30th day, on the basis of actual man-day consumed, duly certified by TFL/Consultant.	No change. NIT clause prevails.
37 of 47	14.5	Payment Methodology: CONTRACTOR shall enclose all documents as per check list issued by PMC/OWNER. After receipt of complete RA Bill as per terms and conditions of the contract and duly certified by Engineer-in-Charge (EIC) / PMC, on-account payment equivalent to seventy percent (70%) of the net payable certified amount of the RA Bill will be released to the Contractor within a period of seven (07) working days from submission of certified bill by PMC to TFL.	Why 70% of the net payable amount will be paid in place of 100%. Payment has to be done as per agreed Payment terms only.	No change. NIT clause prevails.	Why 70% of the net payable amount will be paid in place of 100%. Payment has to be done as per agreed Payment terms only.	No change. NIT clause prevails.
37 of 47	15	BILLING SCHEDULE: a. Total of Supplies (excluding Spares , Chemicals, Lubricants)	The Billing Break up for supplies will be further split for various major equipment during detailed engineer which is part of scope for ease of shipment. Total of supplies cant be shipped in Single Lot	Bidder's understanding is correct.	Noted	Point Closed
38 of 47	15. Note	Note: 5. The Civil & Structural Works shall include but not limited to the Price of Piling, Equipment Foundation, Buildings, Structural Works, etc.	The civil & structural Works are not in scope of supply	Confirmed	Any type of civil work is not in contractor scope	For civil work , refer pre-bid reply Lot -2 , dt. 18.06.2021 , Sl.No.1 .
		DEEMED ACCEPTANCE: In case COMMISSIONING & PGTR of a PLANT is delayed by 12 months from successful MECHANICAL COMPLETION of the PLANT due to reasons solely attributable to the OWNER, the PLANT shall be considered as DEEMED ACCEPTED with a DEFECT LIABILITY PERIOD of another 12 months from DEEMED ACCEPTANCE.	DEEMED ACCEPTANCE: In case COMMISSIONING & PGTR of a PLANT is delayed by 3 months from dispatch due to reasons solely attributable to the OWNER, the PLANT shall be considered as DEEMED ACCEPTED with a DEFECT LIABILITY PERIOD of another 6 months from DEEMED ACCEPTANCE.	No change. NIT clause prevails.	NIT clause is open ended so deemed acceptance needs to be capped at 6 months for reasons not attributed to supplier.	No change. NIT clause prevails.
		In case of DEEMED ACCEPTANCE, a reasonable cost for conductance of Performance Guarantee Tests shall be worked out mutually and shall be retained by OWNER. Payment against PRELIMINARY ACCEPTANCE, less the aforesaid retention amount shall be released upon DEEMED ACCEPTANCE of the PLANT. The CONTRACT PERFORMANCE SECURITY shall be extended by the CONTRACTOR so as to ensure validity of three (03) months beyond the date of completion of DEFECT LIABILITY PERIOD.	All payment has to be released is there is any delay for reasons not attributable to supplier. Contract performance security shall not be extended any further as it is not attributable to supplier	No change. NIT clause prevails.	Payment has to be paid in case of delay is not attributed to Contractor	No change. NIT clause prevails.

			40 of 47	17	DEFECT LIABILITY PERIOD AND LIABILITY FOR DEFECT	warranty period for the equipment supplied would be 12 months for all equipment from the date of Commissioning or 18 months from date of Supply whichever is earlier.	No change. NIT clause prevails.	This warranty shall be valid for 21 months from date of completion of Supply or 12 months from date of successful PGTR, whichever is earlier. Should any defects be noticed in the design, material and/or workmanship within this Warrantee Period, Owner/Consultant shall inform Supplier/ Contractor and Supplier/ Contractor shall immediately, on receipt of such intimation, depute their personnel within 7 days to investigate the causes of defects and arrange rectification/replacement/ modification of the defective Equipment at site, without any cost to Owner/Consultant within a reasonable period. If the Supplier/ Contractor fails to take proper corrective action to repair/ replace defects satisfactorily, within a reasonable period, Owner/ Consultant shall be free to take such corrective action as may be deemed necessary at Supplier's risk and cost, after giving notice to the Supplier. The Consultant/ Owner shall promptly notify the Supplier/ Contractor in writing of any claims arising under this warranty. Equipment or part thereof so repaired or replaced shall have further warranty for a period of 12 months from the date of acceptance. However, the extended Warrantee period shall in no case, exceed 21 Months from expiry of the Initial Warrantee Period. It has to be capped from date of supply as per OEM warranty policy. There would not be any warranty on consumables as it has self life	No change. NIT clause prevails.
			42 of 47	18.4	If PGTR fails due to any reason, CONTRACTOR has to make necessary adjustments and modifications and take all remedial measures at his own cost and demonstrate PGTR	If PGTR fails for reasons solely attributable to supplier only will be considered. Any reason cant be accepted	No change. NIT clause prevails.	It has to be solely attributable to supplier only . Any reason can not be accepted	Refer Clause 18.5 of SCC in this regard.
			43 of 47	19	FINAL ACCEPTANCE CERTIFICATE	Final Acceptance will be after commissioning of the equipment	No change. NIT clause prevails.	Final acceptance will be commissioning of equipment.	No change. NIT clause prevails.
6			P-45 of 47	Clause 20.0	COMPLETION PERIOD:Completion period for the entire package shall be 15 (Fifteen) months from the date of issuance of FOA.	i) We understand that completion period means upto commissioning of the plant. Please confirm.ii) Considering the scope of work along with time cycle required for document approval and inspection procedure, it is not feasible to complete entire work in 15 months. Hence, you are requested to consider completion schedule as 18 months Our completion schedule of 18 months is based on the assumption that civil front shall be made available to us progressively between 8 to 10 months from order date .Please confirm.	Shall be as per NIT. PAC shall be considered as date of Completion.	We will complete supply within 15 months. Erection & Commissioning will take another 3 months so total completion period shall be 18 months from the date of PO. If 15 months is applicable then it should be from drawing approval in CODE-1 category	No change. NIT clause prevails.
7			P-5	Clause 9C	The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1979 & Building and Other Construction Workers Welfare Cess Act, 1996	Please confirm the applicale rate of BOCW cess which will be applied for this project. We also understand that BOCW Cess should be applicable on the site <u>job only and not on Total Contract value. Pease confirm.</u>	Bidder to include BOCW cess in their quoted LSTK price as per NIT provisions	Please advise applicable rates to be included	This being LSTK Contract , all applicable taxes and duties shall be assessed and included in the LSTK CONTRACT PRICE by the bidder.
8	General		36&37	45(2.6, sl c	List of Excepted matters: c) Dispute(s)/issue(s) wherein the decision of Engineer-In-Charge/owner/TFL has been made final and binding in terms of the Contract.	We seek deletion of the provision marked in sl no. c)	No change. NIT clause prevails.	Sr. No. C is one side so it has to be mutually agreed between Owner & Supplier	No change. NIT clause prevails.
9	Section 4 of GCC		Sheet 70 and 71 of 75	Section 81	Land for Contractor's Field Office, Godown and Workshop: The OWNER will, at his own discretion and convenience and for the duration of the execution of the work make available near the site, land for construction of CONTRACTOR's Temporary Field Office, godowns workshops and assembly yard required for the execution of the CONTRACT. The CONTRACTOR shall at his own cost construct all these temporary buildings and provide suitable water supply and sanitary arrangement and get the same approved by the ENGINEER-IN-CHARGE. On completion of the works undertaken by the CONTRACTOR, he shall remove all temporary works erected by him and have the SITE cleaned as directed by ENGINEER-IN-CHARGE. If the CONTRACTOR shall fail to comply with these requirements,the ENGINEER-INCHARGE may at the expenses of the CONTRACTOR remove such surplus, and rubbish materials and dispose-off the same as he deems fit and get the site cleared as aforesaid; and CONTRACTOR shall forthwith.....written permission from ENGINEER-IN-CHARGE.	We seek to add the provision as <u>underlined below:</u> The OWNER will, at his own discretion and convenience and for the duration of the execution of the work make available near the site, land for construction of CONTRACTOR's Temporary Field Office, godowns workshops and assembly yard required for the execution of the CONTRACT. The CONTRACTOR shall at his own cost construct all these temporary buildings and provide suitable water supply and sanitary arrangement and get the same approved by the ENGINEER- IN-CHARGE. On completion of the works undertaken by the CONTRACTOR, he shall remove all temporary works erected by him and have the SITE cleaned as directed by ENGINEER-IN-CHARGE. If the CONTRACTOR shall fail to comply with these requirements after giving thirty days written notice, the ENGINEER-IN CHARGE may at the expenses of the CONTRACTOR remove such surplus, and rubbish materials and dispose-off the same as he deems fit and get the site cleared as aforesaid; and CONTRACTOR shall forthwith.....written permission from ENGINEER-IN-CHARGE.	No change. NIT clause prevails.	We need 30 days written Notice	No change. NIT clause prevails. Reasonable time shall be given to the bidder.
10	Section 4 of GCC		Sheet 75 of 75	Clause 92.0 (2)	The OWNER shall have lien on all materials, equipments including those brought by the CONTRACTOR for the purpose of erection, testing and commissioning of the WORK.	We seek deletion of this clause	No change. NIT clause prevails.	It has to be mutually agreed	No change. NIT clause prevails.
11	Section V of SCC		Sheet 14 of 47	Clause 1.2.8.10.4.1	In case of all EQUIPMENTS/MATERIALS, the title of Ownership shall pass on to OWNER on PRELIMINARY ACCEPTANCE of Plant. However, the OWNER shall have Lien on all EQUIPMENTS/MATERIALS including those brought by the Contractor for the purpose of Erection, testing and commissioning of the WORK. However, in case of Termination of Contract the Transfer of Title shall pass automatically to OWNER.	We seek to add the provision as indicated below in underlinedIn case of all EQUIPMENTS/MATERIALS, the title of Ownership shall pass on to OWNER on PRELIMINARY ACCEPTANCE of Plant. However, the OWNER shall have Lien on all EQUIPMENTS/MATERIALS including those brought by the Contractor for the purpose of Erection, testing and commissioning of the WORK. However, in case of Termination of Contract the Transfer of Title shall pass automatically to OWNER upon the OWNER discharging all its payment obligations under the CONTRACT .	No change. NIT clause prevails.	Please incorporate the addition line.	In case Termination , Payment obligations of Owner shall be as per clause 34.0 of GCC.