

ASSAM POWER DISTRIBUTION COMPANY LTD.

**BID DOCUMENT
FOR**

PROMOTION OF APDCL ACTIVITIES IN DIGITAL SOCIAL MEDIA



Open Tender Notice

No.APDCL/PR Cell/2017/5; Dated: 25.08.2017

**OFFICE OF THE CHIEF GENERAL MANAGER (PP & D), APDCL,
6th FLOOR, BIJULEE BHAWAN,
PALTANBAZAR, GUWAHATI-781001**

25/08/2017



ASSAM POWER DISTRIBUTION CO. LTD.
OFFICE OF THE CHIEF GENERAL MANAGER (PP&D)
BIJULI BHAWAN, PALTANBAZAR, GUWAHATI-781001
Fax: 0361-2739535. E-mail: cgmppd_aseb@hotmail.com

NOTICE INVITING E-TENDER

NIT No. : APDCL/PR Cell/2017/05 Dated: 25.08.2017

Online tenders in two parts, with validity upto 365 days from the date of opening of price bids, accompanied with requisite earnest money and all tender particulars, order executing details, users' performance certificates etc. are invited for **promotion of APDCL activities in digital social media** by the undersigned for the following items.

NIT No:	Item	EMD (In Rs)	Cost of tender documents (In Rs.)	Date of Pre Bid Meeting	Last date/time of receipt of tenders	Date/time of opening of Techno-Comm. Bids
APDCL/PR Cell/2017/05; Dated: 25.08.2017	Promotion of APDCL activities in digital social media (e.g. Facebook, Twitter, YouTube, blogs etc.)	1,00,000/-	3,000/-	01.09.2017 at 14:00 Hrs.	11.09.2017 at 14:00 Hrs.	11.09.2017 at 14:30 Hrs.

Date of opening of Price bids will be intimated subsequently to the technically qualified bidders. The complete tender papers can be downloaded from our official website **www.apdcl.org**. Interested bidders can download the Bidding Documents and commence preparation. Download of bidding document is free of cost. However, bidders must deposit tender participation fee (cost of tender paper) of Rs. 3,000.00 (Rupees Three Thousand Only) only in the form A/C payee DD/Banker's Cheque (which is non-refundable) duly pledged in favour of "**APDCL, payable at Guwahati**" along with their bid and provide the DD details in the web documents.

The earnest money for the work is **Rs. 1,00,000.00** (Rupees One Lakh Only) only. EMD should be submitted along with Techno-Commercial bid in the form of A/C payee Demand Draft/Fixed Deposit receipt/Bankers Cheque/Bank Guarantee from any Nationalized Bank or scheduled bank of RBI, pledged in favour of "**ASSAM POWER DISTRIBUTION COMPANY LIMITED**". Any tender without EMD will be rejected outright.

The undersigned reserves the right to reject any/all tenders without assigning any reason thereof, and to accept any tender or part of which is advantageous to APDCL and to award the contract to one party or split up the contract amongst different bidders.

KEY Dates :

- **Tender download start date: 25.08.2017**
- **Pre-Bid meeting date & time: 01.09.2017 at 14:00 Hrs.**
- **Last date of Technical Bid Submission: 11.09.2017 at 14:00 Hrs.**
- **Technical bid opening date & time: 11.09.2017 at 14:30 Hrs.**

For details please visit www.apdcl.org.

Chief General Manager (PP&D) :APDCL
6th floor, Bijulee Bhawan, Guwahati-1

Memo No. : APDCL/PR Cell/2017/05(a)

Dated: 25.08.2017

Copy to:

1. PS to Chairman, APDCL - for kind appraisal of the Chairman, APDCL.
2. PS to Managing Director, APDCL - for kind appraisal of the Managing Director, APDCL.
3. The Chief General Manager(F&A), APDCL, Bijulee Bhawan, Guwahati-781001 for kind information.
4. The N.O(GM), R-APDRP, APDCL, Bijulee Bhawan, Guwahati-781001
5. The N.O(DGM), PR Cell, APDCL, Bijulee Bhawan, Guwahati-781001
6. The AGM (F&A), R-APDRP, APDCL, Bijulee Bhawan, Guwahati-781001.

Chief General Manager (PP&D) :APDCL
6th floor, Bijulee Bhawan, Guwahati-1

ADDITIONAL TERMS AND CONDITIONS

1. The validity of offer should be 365 days from date of opening of Price Bid.
2. The tender will be for:
Promotion of APDCL activities in digital social media
 - a) **Techno commercial bid:** A hard copy of technical bid has to be submitted in sealed envelope consisting of (i) Earnest money deposit and cost of tender paper deposit (ii) Validity of offer (iii) Annual turnover (iv) Order executing details (x) Users' performance certificate (xi) Company profile, Balance sheet for last 3 years, Financial status
 - b) **Price bid:** The price bid should distinctly indicate the following components - Quoted price with clear differentiation of Taxes and Duties. The bidders are to quote FIRM rates showing break up of all taxes and duties in the 'Schedule of Price and Delivery'.
 - c) **Techno commercial bids and Price bids** are to be submitted separately in sealed envelopes super scribing tender no., name of bidder etc. In case of techno commercial bid, the earnest money deposit should be super scribed on the body of the sealed covers.

The earnest money for the work is **Rs. 1,00,000.00** (Rupees One Lakh only) only. EMD should be submitted along with Techno-Commercial bid in the form of A/C payee Demand Draft/Fixed Deposit receipt/Bankers Cheque/Bank Guarantee from any Nationalized Bank or scheduled bank of RBI, pledged in favour of "ASSAM POWER DISTRIBUTION COMPANY LIMITED". Any tender without EMD will be rejected outright.
3. The Techno commercial bid shall be opened on the due date and due time (or on the next working day, in case due date being a holiday) in presence of the tenderers or their authorised representatives. Price bids of technically approved tenderers will be opened on a separate date after due intimation.
4. Tenders received after the due date and time shall not be accepted under any circumstances
5. (i) Post –tender revision of quoted rates and/or revision of terms and conditions having direct or indirect impact on the quoted rates shall not be accepted and the offer would be rejected and earnest money shall be forfeited.
(ii) Withdrawal of offer within the quoted validity period shall not be accepted and earnest money shall be forfeited.
(iii) APDCL reserves the right for negotiation of rates, terms and conditions only.
6. Each and every paper of the hard copy of the bid should be signed affixing seal by the bidder while submitting bid.
7. Payment Terms:
100% (Hundred percent) payment with full taxes and duties on a monthly basis will be admissible subject to the following conditions:

Bills in triplicate duly signed by the Nodal Officer, PR Cell, APDCL should be sent to the consignee for payment of bills.

8. All other terms and conditions as mentioned in the “General Conditions of Supply and Erection” of APDCL unless in contravention of the above conditions will remain in force.
9. APDCL reserves the right to reject any / all tenders, the right to accept any tender or part of a tender which is advantageous to APDCL and to award the contract to one bidder or split up amongst different bidders. In exercising the above, the purchaser is not bound to assign any reason(s).

DETAILED SCOPE OF WORK

Work details :

Item
Promotion of APDCL activities in digital social media (e.g. Facebook, Twitter, YouTube, blogs etc.)

1. The promotion activities will be done in consultation with Nodal Officer, PR Cell, APDCL
2. The primary social media platforms to be used are—Facebook, Twitter, YouTube. New platforms may be added to the above list any time.
3. Details of APDCL activities along with necessary supporting documents like photograph etc. will be provided by the PR Cell, APDCL to the bidder. The bidder will publish the information in various digital social media platforms. The content of the posts must be vetted by PR cell, APDCL. The bidder will be held responsible for any social media post published without taking necessary consent from PR cell, APDCL.
4. The bidder will provide new ideas and prepare material for posting in social media.
5. The bidder will ensure maximum viewership of APDCL posts in various social media platform.
6. The bidder will be provided with the passwords of APDCL social media accounts.
7. The bidder will be responsible for responding to user comments on posts published from APDCL social media accounts. A detailed guideline will be provided by PR Cell, APDCL describing the standard operating procedure for framing the responses.

QUALIFYING CRITERIA
(Other than specified in the Bid Documents)

The bidders will have to:

1. Submit a written power of attorney authorizing the signatory of the Bid to commit the bidder; and
2. To be qualified for this contract the bidder must compulsorily meet -the following minimum criteria:

i) Bidders must have prior experience of promoting content of an organization/Company in digital social media platforms.

ii) The bidders must submit performance report of similar work done previously.

iii) **PERSONNEL CAPABILITY:** The Bidder must have suitably experienced and qualified personnel in their payroll for carrying out the job.

iv) **FINANCIAL CAPABILITY :** The average annual turnover of the bidder for the three (3) best financial years out of last five (5) years should be at least Rs. Eighteen (18) Lakhs.

v) **LITIGATION HISTORY:** Bidders shall submit details of all the litigation, arbitration or other claims, whether pending, threatened, or resolved in the last five years, with the exception of immaterial claims with a cumulative impacts of not more than 10 per cent of their total assets. The Employer may disqualify bidders in the event that the total amounts of pending or threatened litigation, arbitration or other claims represent more than 50 per cent of their total assets.

Notwithstanding anything stated herein under, APDCL reserves the right to assess the capacity and capability of the bidder to execute the work, should the circumstances warrant such assessment in the overall interest of the Purchaser.

SCHEDULE OF PRICE AND DELIVERY

(To be filled by the Tenderer)

TENDER NO _____

Sl No.	Particulars	Monthly Rate	GST as applicable	Monthly rate inclusive of all taxes and duties
1	Promotion of APDCL activities in digital social media ensuring maximum viewership by general public			

Note: Tender without showing Break-up rate shall be rejected outright. Taxes & Duties must be mentioned clearly in % (percentage,) in figure and in words.

Signature of Tenderer

General Conditions of Supply & Erection of APDCL

GENERAL CONDITIONS OF SUPPLY AND ERECTION

1.0 INTRODUCTION :

- 1.1 Assam Power Distribution Company Limited was constituted under the provisions of Electricity Act, 2003 and is a public sector company registered under 'Company Act, 1956'. It was formed out of Assam State Electricity Board in 2003 and was notified as the State Electricity Distribution Utility. It is entrusted with the responsibility of promoting the co-ordinated development of power distribution and its efficient management in the entire state of Assam.
- 1.2 Assam Power Distribution Company Limited hereinafter referred to as APDCL, has its Corporate Office at Bijulee Bhawan, Paltanbazar, Guwahati, Assam. For further information, one may refer to APDCL's official web site: www.laedcl.gov.in.
- 1.3 Assam is one of the seven states of North East India and its boundary encompasses almost the entire valleys of Brahmaputra and Barak rivers. The state is well connected with rest of the country by broad gauge railways and several national highways, one of which is a part of the four lane east-west corridor. It also has important airports at Guwahati, Jorhat, Silchar, Tezpur & Dibrugarh.
- 1.4 Relevant guidelines and rules connected with all departmental supply and erection works have been laid down in this document General Conditions of Supply & Erection of Assam Power Distribution Company Limited adopted in 2009. This document supersedes earlier conditions of contract. It is intended that contractual clauses of this document will be generally followed in all contractual works. Any modification of a contractual clause considering requirement of a particular project shall be made in the NIT/ Tender document for the specific project.

2.0 DEFINITION OF TERMS:

- 2.1 The following terms appearing in the General Conditions of Supply & Erection of Assam Power Distribution Company Limited shall have the meaning herein indicated unless there is anything repugnant in the subject or context.
- 2.2 "Purchaser/ Employer" shall mean the Assam Power Distribution Company Limited (in short APDCL) and its assignees.
- 2.3 "Contractor/Supplier/Owner" shall mean the tenderer/ bidder whose tender/ bid has been accepted by the "Purchaser/ Employer" and shall include the bidder's/ tenderer's legal personal representatives, successors and assignees.
- 2.4 "Engineer" shall mean the Officer in-Charge of Project/ Work/ purchase for the supply and/ or erection contract or such other Officer or Offices as may be duly authorized and appointed in writing by the Purchaser to act as "Engineer" for the purpose of the contract.
- 2.5 "Sub-Contractor" shall mean the person named in the contract for any part of the work or any person to whom any part of the contract has been sublet with the consent in writing of the "Purchaser/ Employer" and the legal representatives, successors and assignees of such person.
- 2.6 "Materials" or "Works" shall mean and include plant and materials to be provided and work to be done by the contractor under contract.
- 2.7 "Contract" shall mean and include the general conditions, specifications, schedules, drawings, tender forms, bidding schedules, covering letter, schedule of prices, any special conditions applying to the particular contract specification, amendments if any, letter of acceptance and contract agreement to be entered into.

- 2.8 “Contract period” means the period from the contract commencement date to the date on which the warranty period is over. Date of acceptance of ‘Purchase/ Work Order’ shall be treated as the “date of commencement of contract”.
- 2.9 “Specification” shall mean the relevant ISS/ IEC specification with up to date amendments and revisions and/or APDCL specification wherever applicable.
- 2.10 “Site” shall mean the site of the station, where proposed work is to be executed under the contract and to which the plant and machinery are to be delivered and any other places as may be specifically designated in the contract as forming part of the site.
- 2.11 “Consignee” shall mean the Executive Engineer/ Senior Manager or any other authorized Officer performing the duty of the consignee as specified in the Order.
- 2.12 “Commercial use” shall mean use in the work which the contract contemplates or to which it is to be commercially capable.
- 2.13 “Day” shall mean a calendar day.
- 2.14 “Month” shall mean a calendar month.
- 2.15 “Writing” shall include any manuscript, type written or printed statement properly signed.
- 2.16 “Persons” shall include firm, company, corporation and other body of persons whether incorporated or not.
- 2.17 “Word” indicating in the singular only shall also include the plural and vice versa where the context requires.
- 2.18 “Bid” will mean “Tender”

3.0 PREPARATION OF TENDER I BID:

3.1. DEFINITION OF TENDERER / BIDDER:

- 3.1.1. When the tenderer is a firm, the names and addresses of the partners must be indicated and a copy of the certificate of registration with the concerned Registrar of firms should be enclosed.
- 3.1.2. When the tenderer is a Company, the company registration document along with Memorandum of Association shall be submitted.
- 3.1.3. When the tenderer is an individual carrying on business in a firm’s name, the tender should be submitted by the owner of the firm, who may describe himself as carrying on business in the firm’s name.
- 3.1.4. When the tenderer is a Joint Venture (JV) of two or more firms as partners, one of the partners shall be legally authorized as the lead partner for the purpose of submitting the tender, incur liabilities; receive payments and instructions on behalf of the others. A copy of the registered agreement, executed on Non judicial stamp paper, shall be submitted with the tender.

However, in case of a successful tender, the agreement shall be signed by all the partners, so as to be legally binding on all the partners.

3.2. PURCHASE OF TENDER / BIDDING DOCUMENTS:

- 3.2.1. Tenderer may purchase the tender document by paying the requisite fee as stipulated in the NIT. Alternatively, the tenderer may download tender document from the company’s website: www.laedcl.gov.in and pay the above requisite fee by way of a demand draft separately along with earnest money. Tenderer shall be responsible for any error etc., on the downloaded tender document.
- 3.2.2. The General Conditions of Supply & Erection of Assam Power Distribution Company Limited will be treated as a part of the NIT. The Contractor shall be deemed to have carefully examined the aforesaid general conditions of supply & erection besides all specifications.
- 3.2.3. The tender should be complete in all respects so as to eliminate further correspondences and clarifications. A tender which is not complete in all respects, will be liable for rejection. However the Purchaser, in its discretion, may seek clarification from the tenderer where necessary .The discretion of the Purchaser in this regard shall be final.

3.3. **LANGUAGE AND SIGNING OF TENDER:**

3.3.1. The tender, and all correspondence and documents related to the tender, exchanged between the Tenderer and the Purchaser shall be written in English. Supporting documents and printed literature furnished by the tenderer shall also be in English.

3.3.2. Tender shall be written in ink or typed. No tender filled in pencil or otherwise shall be considered. The tender shall be signed by a responsible and authorized person and the designation and authority of the signatory shall be stated in the tender. All corrections in the proposal will have to be signed with date and seal of the tenderer. Such correction even though signed, may make the tender liable for rejection.

3.3.3. Any printed document promoting sales may not be accepted by the Purchaser.

3.4. **DOCUMENTS COMPRISING TECHNO-COMMERCIAL BID:**

The particulars and supporting documents required in respect of the techno- commercial bid should be strictly as per following sub-clauses (clauses 3.4.1 to 3.4.10). In case, any of the details are either not furnished or inadequately furnished, the entire tender may be rejected without informing the tenderer.

A techno-commercial bid may have to be submitted under separate sealed cover if so stipulated in the NIT. *The price bid may not at all be opened for examination in case the techno-commercial bid, which shall be opened first is not found substantially responsive.*

3.4.1. **EARNEST MONEY OR BID SECURITY:**

- (a) Every tender must be accompanied with Earnest Money of value as stipulated in the NIT. Mode of depositing the earnest money shall be clearly indicated in the NIT. Earnest money or Bid security may be furnished in the shape of Bank Call Deposit/ Bank Draft as may be prescribed in the NIT. Without this, the tender may be deemed to be incomplete and liable for rejection. The earnest money shall be pledged in favour of the Officer as indicated in the NIT.
- (b) In case of unsuccessful tenderer, earnest money will be released on request from the tenderer on a date subsequent to contract agreement with the successful tenderer.
- (c) In case of successful tenderer, the earnest money will be retained until submission of the performance security deposit referred to in *clause 9.0*.
- (d) No interests shall be payable on such deposit
- (e) The Purchaser/ Employer reserve the right to forfeit the earnest money or part thereof, in circumstances which according to him indicate that the tenderer is not earnest in accepting/ executing any order placed under specification.

3.4.2. **GUARANTEED TECHNICAL PARTICULARS:**

The GTP (Guaranteed Technical Particulars) of the materials offered along with their complete technical description supported by drawings shall be furnished by the tenderer. Relevant specifications like IS/ BS/ IEC etc. will be mentioned.

3.4.3. **TEST REPORTS:**

- (a) A list showing various type tests and routine tests as required under the relevant specifications shall be furnished by the tenderer and all such tests shall be carried out on the materials and the components offered for supply in the event of award of contract. Against each such test, the results of test performance shall be mentioned along with the name of laboratories/ testing houses, where tests were so conducted. In support of the results whether type tests or factory tests, certified copies of the test certificates shall be furnished. In case any of the prescribed tests has not been carried out, the same shall be clearly mentioned in this list stating the reasons for not carrying out the test. The tenderer also shall furnish a separate list of tests which they have carried out on their products for ensuring their better quality, but are not stipulated explicitly, in the relevant ISS or BSS specifications. Type test reports to be acceptable, the tests have to be carried out at an NABL accredited laboratory. Reports of Type test conducted in

laboratories other than the above will be acceptable only if witnessed by an officer from a power utility.

- (b) Type test reports of equipment of higher capacity or voltage class than those specified shall be acceptable for the purpose of bidding. However, in that case, the successful tenderer shall conduct type tests on the offered equipment free of charge.
- (c) Type test reports, conducted 5 years prior to the date of opening of tender, in general, will not be accepted.

3.4.4. SPARE PARTS:

Each tenderer shall indicate the expected life in use of their products. A list of spares which may be necessary for replacement during the maintenance of the equipment in service shall be furnished indicating if these are of proprietary nature or of standard make available in the market. In case these spares are of proprietary nature, their prices and the likely quantities that may be necessary during the useful life of the equipment shall also be mentioned.

3.4.5. BIS CERTIFICATION:

The tenderer shall state clearly if the particular product offered by him is covered by any IS certification mark and if so, the tenderer will furnish the particulars of the IS Specification, the year of obtaining the certification and a copy of the certification.

3.4.6. PAST EXPERIENCE:

A Complete list of supplies/ works/ services in respect of the particular supplies / works / services offered to various parties during the period of last 5 (five) years along with total value of supplies shall be furnished. A separate list of supplies/ works/ services not exactly same as the one offered but similar to it, supplied during the last five years shall also be furnished.

The tenderer shall state clearly if they had supplied similar material including the offered product, to Assam Power Distribution Company Limited/ ASEB in the past. If so, reference of the purchase orders, the ordering authority and the consignees shall also be furnished.

3.4.7. SOURCES OF SUPPLIES:

- 3.4.7.1. The tenderer shall clearly state the names of the manufacturer, the brand name of the product and the place/ places of its manufacture. In case, the components of the product are obtained from ancillary manufacturers, the names and addresses of such manufacturers also shall be furnished. It shall be mentioned clearly how the tenderer ensures quality control over such ancillary components and if manufacturer of such components is covered by any IS/ BS/ IEC or any other relevant specification.
- 3.4.7.2. The tenderer shall mention clearly whether he is a manufacturer, a sole selling agent or a commission agent of the product.
- 3.4.7.3. When the tenderer is not a manufacturer, submission of manufacturer's authorization for supply of the offered materials by the tenderer along with warranty pledged by the manufacturer is compulsory.
- 3.4.7.4. Further, the manufacturing experience of the manufacturer in respect of the particular product or similar product also shall be furnished, indicating chronological development of the industry or the manufacturing unit.
- 3.4.7.5. The sources of receipt of the raw material whether indigenous or imported shall be clearly mentioned against each type of such raw materials used. The methods by which quality control of such raw materials being enforced shall be clearly described.

3.4.8. DELIVERY/ WORK SCHEDULE:

- 3.4.8.1. The delivery/ work schedule as stipulated in the NIT or. in the APDCL specification shall be binding on the tenderers. In case the APDCL delivery/ work schedule is not acceptable to the tenderer, then the tenderer may give their own delivery schedule stating clearly the reasons for deviations whether statutory or otherwise.

In any case such schedules must satisfy the completion time specified. Acceptance of such deviations in the delivery/ completion schedule is entirely optional to the Purchaser.

- 3.4.8.2. The commencement period and the quantity of each item to be supplied per month shall be specifically mentioned.
- 3.4.8.3. Quantities offered ex-stock as well as with earlier delivery schedule shall be mentioned.

3.4.9. **SAMPLES:**

A sample shall be submitted along with the tender if asked for in the NIT and as per its terms. Non-submission or late submission of sample may disqualify the tender .

3.4.10. **TAX CLEARANCE CERTIFICATES AND REGISTRATION:**

- 3.4.10.1. The tender shall be accompanied with income tax and sales tax clearance certificates.
- 3.4.10.2. The Contractor must register for VAT with the concerned department of Government of Assam within a reasonable time after award of contract if not already registered.

3.5. **PRICE BID**

- 3.5.1. The particulars and supporting documents in respect of the price bid should be as follows:
- 3.5.2. The total FOR destination price of the product offered unit wise and quantity wise both in words and in figures shall be clearly furnished. Such FOR destination price also shall be supported by a breakup of the price indicating separately Ex-works price, station of dispatch, Freight and Insurance Charges. The offer may be straightway rejected if the FOR destination price and its break up against the components as aforesaid are not furnished. The FOR destination price will be on door delivery basis and shall be inclusive of cost of unloading of materials at site.
- 3.5.3. The Ex-works price shall not include Sales Tax whether central or state and the same will be indicated separately in words and in figures by the tenderer .
- 3.5.4. Excise duty on the finished product also shall be indicated separately if applicable. This should be worked out both unit wise and quantity wise indicating the excise rates applicable.
- 3.5.5. Any other levy, entry tax, excise or otherwise on finished products and of statutory nature also shall be indicated separately stating the reasons for claim of such levies.

3.5.6. *For imported equipment:-*

- (a) The tenderer shall quote price for:-
 - i. FOB Port of shipment, inclusive of seaworthy packing.
 - ii. CIF Kolkata
 - iii. Indian Agent Commission, if any.
 - (b) When prices quoted are for delivery FOB port of shipment, the Contractor shall agree to arrange for the shipment and insurance of the machinery from the port of shipment to Kolkata on behalf and to the account of the Purchaser should the Purchaser so desires. The actual expenses incurred by the Contractor for Sea freight and insurance will be paid by the Purchaser. The Purchaser shall provide for all incidental and statutory charges beyond the port of shipment such as customs duty clearance, loading and unloading, Railway freight and Octroi or terminal and other taxes.
 - (c) Firm FOB port of shipment shall be quoted. An alternative price CIF Kolkata shall be quoted separately. The customs duty applicable and the category (Import Trade Control Classification as brought up to date) under which the "applicant's plant is assessable" shall be stated. If firm FOB price cannot be offered, price subject to contract price adjustment may be quoted, but a ceilings limit must be stated. Any claim for contract price adjustment shall be supported by authentic documents which shall be to the satisfaction of the Purchaser. Preference will be given to the firm offering FOB/ CIF price. The currency in which payments have to be affected shall be clearly mentioned in the tender .
 - (d) The best delivery FOB port of shipment shall be clearly stated in the tender as it shall have a vital bearing on the selection of the final successful tender.
 - (e) In either cases of goods supplied from within and outside India, the tenderer will quote separately the freight and insurance for delivery of the goods at site.
- 3.5.7. Price quoted should be firm. If however a variable price is permitted as per provisions of the

NIT, the tenderer shall specifically stipulate the price variation formula by indicating the base price and base date. Normally the price variation formula and indices as per IEEMA and CACMAI will be accepted.

- 3.5.8. In case the tenderer quotes variable price as per any formula of his own/ other sources, the tenderer will state clearly the reasons for quoting such variable price and submit the source of the formula and indices. However, his offer may be rejected at the discretion of the Purchaser if the Purchaser finds the quoted formula to be complex and it is difficult to compare the outcome with other bids.
- 3.5.9. In any case, if price variation is allowed, it will be limited to a ceiling of 10% (ten percent) upward only. However, there shall be no limit for downward price variation.
- 3.5.10. The rate quoted shall remain valid for a minimum period of 180 (one hundred eighty) days from the date of opening of the tender. Any tender offering a shorter validity period than specified in the NIT may be rejected outright. The price quoted shall remain FIRM during the period of validity and any post revision of rate after opening of the tender will make it liable for rejection. The Purchaser, however, reserves the right to negotiate with the tenderer or offer lowest/ reasonable rate to any/ all of the tenderers.
- 3.5.11. The tenderer shall explain clearly if there is any DGS & D rate contract available for the product offered and if on the positive, copies of such rate contract shall invariably be furnished. For such DGS & D prices, the tenderer should state clearly the period of validity of the rate contract.
- 3.5.12. The tenderer shall mention clearly if any quantity discount or payment discount is offered.
- 3.5.13. The price bid shall be furnished clause wise and in the same order as above.

4.0 **RIGHT TO REJECT:**

- 4.1. The Purchaser reserves the right to reject any or all the tenders without assigning any reason thereof and the Purchaser further reserves the right to split up the supply order in favour of more than one contractor. The Purchaser also reserves the right to reject the lowest or any other price without assigning any reason.

5.0 **ACCEPTANCE OF THE ORDER / CONTRACT:**

- 5.1. Acceptance of the order(s) in writing shall be conveyed by the supplier to the Purchaser/ Employer within 10 (ten) days from the date of issue of the purchase order failing which, it will be presumed that all the terms and conditions of the purchase order are acceptable by him in full.
- 5.2. Before finalization of the contract, if discussion with the successful tenderer is considered necessary by the Engineer, the tenderer shall turn up for the same within 10 (ten) days from the receipt of intimation by FAX / e-mail at no extra cost to the Purchaser.
- 5.3. Also, if it is for executing a separate agreement the successful tenderer will turn up for the same within 10 (ten) days from the receipt of intimation at no extra cost to the Purchaser.

6.0 **CONDITION OF CONTRACT: COMMERCIAL & GENERAL:**

- 6.1. If so required by the Purchaser, a formal agreement with or without guarantee at the option of the Purchaser shall be entered into between the Contractor and the Purchaser for the proper fulfilment of contract.
- 6.2. Such contracts shall be drawn up in non-judicial stamp paper.
- 6.3. The expenses of completing and standing the agreement shall be paid by the Contractor and Purchaser shall be furnished free of charge with an executed stamped counterpart of the agreement along with ten copies thereof.
- 6.4. After the tender has been accepted by the Purchaser, all orders or instructions to the Contractor shall except as wherein otherwise provided, be given by the Engineer on behalf of the Purchaser .

7.0 **CONSTRUCTION OF CONTRACT:**

- 7.1. The contract shall in all respects be constructed and operated as defined in the Indian Contract Act 1972 and any statutory modification thereof.

8.0 **EXECUTION OF AGREEMENT:**

- 8.1. The contract agreement to be executed at Guwahati (Assam) by the parties.

9.0 **PERFORMANCE SECURITY DEPOSIT:**

- 9.1. The successful tenderer shall have to deposit through a Bank Guarantee from a nationalized or scheduled Bank of RBI for an amount equivalent to 10% (ten percent) of the total value of the order as performance security, immediately on acceptance of letter of intent/detailed orders (as the case may be), duly pledged in favour of the Purchaser concerned and such security deposits shall be valid up to 30(Thirty) days beyond the warranty period.
- 9.2. If the supplier fails or neglects to observe perform any of his obligations under the contract, the Purchaser shall have the right to forfeit either in full or in part at his absolute discretion, the security deposit furnished by the supplier.
- 9.3. No interest shall be payable on such deposits.

10.0 **RETENTION MONEY:**

- 10.1. In addition to above performance security deposit, 5% value of each progressive bill will be retained by the Engineer/ Purchaser as 'retention money'. The amount will be held by the Purchaser till the work under the contract is completed and the completion certificate is issued in pursuance to clause 25.0.
- 10.2. If the supplier fails or neglects to observe and perform any of his obligations under the contract, the Purchaser shall have the right to forfeit either in full or in part at his absolute discretion, the security deposit furnished by the supplier.
- 10.3. No interest shall be payable on such deposits.

11.0 **RAW MATERIALS:**

- 11.1. Raw materials will be arranged by the suppliers from their own quota and the Purchaser does not have any responsibility in this regard. If, however raw materials are obtainable against purchaser's quota due to statutory compulsion, allotment orders in respect thereof will be issued by the Purchaser. In case of raw materials for which supplier has own quota, no recommendation or advice for release of raw materials shall be issued by the Purchaser. If issue of raw materials from purchaser quota is desired by the tenderer, he must indicate the price of the same raw material considered in the offer. In the event of actual cost of such supply by the Purchaser, being lower than the price stipulated in the tender, the difference will be recovered from the tenderer.
- 11.2. Where imports are unavoidable, the items shall be imported by the supplier in good time against his import license without affecting the delivery schedule.

12.0 **WARRANTY :**

- 12.1. Each tender shall stipulate a warranty clause of products offered covering a minimum period for rectification/free replacement thereof. The term "period of warranty" shall mean the period of 12 (Twelve) months from the date of commissioning and successful operation of the equipment. In any case, this period shall not be less than 18 months from the date the materials are received in the purchaser's store in good and acceptable conditions. During the period of warranty, the Contractor shall rectify all defects in design, materials and workmanship that may develop under normal use of the equipment upon written notice from the Engineer who shall indicate in what respects the equipment is faulty .This rectification/ free replacement must be carried i out within a reasonable period as determined and directed by the Engineer. The cost of rectification/ free replacement will be to the Contractor's account.
- 12.2. If the Contractor fails to rectify the defects within the reasonable time, the Purchaser/ Employer may fix a date by which the Contractor would rectify the defects, failing which the Engineer may
- (a) Carry out remedial works himself or through by others, in a reasonable manner and at the contractor's risk and cost. The costs incurred by the Purchaser/ Employer in remedying the defect shall be recoverable from the Contractor by the Purchaser/ Employer;
 - (b) Determine and certify a reasonable reduction in the contract price; or

- (c) May terminate the contract in respect of such parts of the works and the Engineer shall be entitled to recover all sums paid for such parts of the work.

13.0 DETAILS OF AUXILIARIES / MATERIALS:

- 13.1. Within a reasonable time from the date of acceptance of notification of award of contract, the Contractor shall provide the Purchaser with details of all the auxiliaries/ materials being supplied and also of others, not forming part of the Contractor's supply but essential for the safe and satisfactory working of the equipment/ system.
The Contractor shall send for approval on or before the date indicated by the Engineer, outline drawings of all equipment/ materials to be furnished under the contract, together with weights and sufficient overall dimensions to enable the design of the foundations, structures and associated equipment to be prepared and also for transportation purpose.

14.0 CONTRACTOR'S DRAWINGS:

- 14.1. All working drawings shall preferably be prepared in AutoCAD 2000 software or its later version. The Contractor shall also submit the soft copies of all working drawings.
- 14.2. Within 30 days from the date of acceptance of notification of award of contract, the Contractor shall send to the Purchaser a preliminary list of all the drawings with their respective identification numbers, titles and expected date of submission.
This list shall be amended or extended by the Contractor as and when necessary during the progress of the work under the contract.
- 14.3. All titles, notes and inscriptions on the drawings shall be in English.
- 14.4. All drawings which the Contractor shall send to the Purchaser for approval shall be approved or rejected or returned for modification within 15 days of receipt by the Purchaser. In case of modification or rejection the Contractor shall submit the correct drawings within 15 days from receipt of communication from the Purchaser.
Contractor shall be responsible for any delay in the contract processing and its award caused by non conforming technical particulars furnished by the Contractor requiring query, confirmation etc.
- 14.5. Upon approval by the Engineer, the drawings shall become the contract drawings and thereafter, the Contractor shall not depart from them in anyway whatsoever except with the written permission of the Purchaser.

14.6. FINAL AS-BUILT DRAWINGS:

In the final stages of the contract, the Contractor shall submit to the Purchaser hard copies as well as soft copies of complete set of built up drawings.

14.7. MISTAKES/ ERRORS IN DRAWINGS:

- 14.7.1. The Contractor shall be responsible and liable for any change in the work due to any discrepancies, errors, or omissions in the drawings or other particulars which have arisen due to inaccurate information or particulars furnished by the Contractor, even though approved by the Purchaser/Employer.
- 14.7.2. However, the Purchaser/ Employer shall be responsible for drawings and information supplied by him. The Purchaser/ Employer shall compensate for any change in the work caused due to inaccurate information supplied by him to the Contractor.

15.0 COPY RIGHT ETC.:

- 15.1. The Contractor shall indemnify the Purchaser against all claims, actions, suits and proceedings for the infringement or alleged infringement of any patent, design or copyright protected either in the country of origin or in India for the use of any equipment supplied by the Contractor but such indemnity shall not cause any use of the equipment other than for the purposes indicated by or reasonably to be inferred from the specification.

16.0 SUBLETTING CONTRACT:

- 16.1. The Contractor shall not, without the consent in writing of the Purchaser/ Employer assign or sublet his contract, or any substantial part thereof, or interest therein or benefit or advantage

whatsoever, other than for raw materials or for minor details or for any part of the work of which the Sub-contractors are named in the tender provided any such consent shall not relieve the Contractor from any obligation, duty or responsibility under the contract.

17.0 PACKING & MARKING:

17.1. The contract shall include provisions for secured/ protective packing of equipment so as to avoid damage in transit, and the Contractor shall be responsible for all loss or damage caused or occasioned by a defect in the packing.

17.2. All bright metal parts shall be thoroughly protected from rust during transit.

17.3. All materials shall be packed in suitable strong cases or crates as per standard practice, unless otherwise specified. Large equipment such as power transformers, circuit breakers etc. which are not packed in cases, shall have all screwed holes plugged with wood and all machined faces shall be properly protected. Each package should be suitably marked with APDCL marking as specified in the purchase order.

18.0 VARIATION OF QUANTITY:

18.1. Purchaser/ Employer shall have the right to increase/ decrease the ordered quantity by 20% within 50 days of the period of completion of supply order and the same shall be supplied at the same rates/ prices and terms and conditions stipulated in the order except in regard to delivery schedule, which shall be mutually agreed upon in case of increase in the ordered quantity.

19.0 CO-OPERATION WITH OTHER MANUFACTURERS:

19.1. The Contractor shall agree to co-operate with the Purchaser's other contractors for associated supplies and freely exchange with them such technical information as is necessary to obtain the most efficient and economical design and to avoid unnecessary duplication. No remuneration shall come from the Purchaser for such technical co-operation.

20.0 INSPECTION AND TESTING:

20.1. The Purchaser/ Employer and his duly authorized representative shall have at all reasonable time access to the Contractor's premises or works and shall have the power to inspect and examine the materials including raw materials used and the workmanship of the product during manufacture. If a part of the goods is manufactured at other's premises or works the Contractor shall obtain for purchaser's duly authorized representative, permission to similarly inspect at the other premises/works.

21.0 INSPECTION AT SITE FOR ERECTION WORK:

21.1. A representative of the Purchaser shall have access to the Contractor/ Sub- Contractor's work at site at any time and the Contractor/ Sub-Contractor or his authorized agent shall be present and shall provide facilities for necessary inspection.

22.0 TEST AT SITE FOR ERECTION WORK:

22.1. The Contractor after erection and commissioning of the equipment shall arrange testing to prove correct workmanship as per specification. The Contractor shall give in writing the Purchaser's representative thirty (30) days notice of the date the equipment would be ready for testing. The Contractor shall bear all testing cost at site of work and shall become responsible for rectification of defects found on testing within reasonable time as decided by the Engineer.

23.0 INSURANCE:

23.1. The Contractor shall, unless otherwise specified by the Purchaser, insure the materials through their underwriter at their cost and shall keep it insured against any loss/ damage/ pilferage in transit, destruction or damage by fire/ flood, exposure to vagaries of weather or

- through riot, civil commotion, war or rebellion, for the full value of the materials until the materials are received at the Purchaser's destination store.
- 23.2. The Contractor shall be responsible for safe arrival of the goods at destination, their unloading and their receipt by the consignee. The Assam Power Distribution Company Limited will discharge consignee's responsibilities only and shall not be responsible for any damage/ loss/ pilferage/ non-delivery by the carriers.
- 23.3. In case of any loss / damage / pilferage / non-delivery / short delivery by carriers etc. the supplier shall replace free of cost the missing / damaged / lost materials within 30 (thirty) days from the receipt of report thereof from the consignee without waiting for settlement of their claims with their carriers/ under-writers.
Normally such reports from the consignee to the supplier shall be initiated within a period of 30 (thirty) days from the date of receipt of each consignment by him.
- 23.4. If it is considered necessary that the damaged equipment either in part or in full be sent back to the manufacturer's works for repair, the manufacturers/ suppliers will furnish the Bank Guarantee for the full value of equipment needing repairs and such Bank Guarantee shall remain valid till such time the equipment are repaired and returned to the consignee in good condition. The to and fro freight, handling and insurance charges in such cases will be borne by the Contractor .
- 23.5. Unless otherwise mutually agreed upon, in case of failure by the supplier to replenish/ make good of the loss/ damage/ short supplied quantities, within the stipulated period, the Purchaser reserves the right to forfeit the security deposit and/ or adjust any outstanding payment to the Contractor with APDCL or take any other appropriate action.
- 23.6. All materials will be dispatched against clear door delivery basis unless otherwise agreed by the Purchaser .

24.0 **TERMS OF PAYMENT:**

24.1. The standard terms of payment of APDCL for supply of equipment/ materials are indicated below:-

- (A) 100% payment would be admissible within three (3) weeks from the date of receipt of the materials/ equipment at site in full and good condition less deduction of retention money and advance applicable as per clause 10.0 and 24.2 and as per terms and conditions stipulated in the purchase order
- (B) However, in special case, the following terms of payment may be agreed to at the discretion of Purchaser .
- (1) Payment of 90% (ninety percent) of the consignment value on receipt of all dispatch and other documents by the consignee through Bank.
 - (2) Balance 10% (ten percent) on-receipt of the equipment/ materials at site in full and in good condition and as per terms & conditions stipulated in the Purchase order.
 - (3) Payment vide clause (B)(1) & (B)(2) would be made provided the Contractor submits to the Purchaser/ Employer a bank guarantee equivalent to 90% of the consignment value, which will be released after the consignment is received in full and good condition.
 - (4) Payments as per sub-para (A), (B)(1) & (B)(2) above will be made under the following conditions:-
 - (a) Advance copies of bills in duplicate and other information such as challan packing list etc. are furnished sufficiently in advance.
 - (b) Any demurrage charges on account of late intimation and/or delivery of documents by the Bank is borne by the supplier.
 - (c) The supplier intimates the dispatch of each and every consignment to the Purchaser and the Consignee.
 - (d) All Bank charges are borne by the supplier.
 - (5) Payment through Bank in respect of material/ equipment dispatched by road transport shall be allowed if required, provided the transport agency is approved by the Banking Association and prior approval thereof is given by the Engineer .

(C) **TERMS OF PAYMENTS FOR ERECTION WORK:**

Payment up to 100% of erection items will be made against progressive monthly bills within a reasonable time from the date of submission of bills less deduction of retention money and advance applicable as per clause 10.0 and 24.2 respectively.

24.2. **ADVANCE PAYMENT:**

10% of the contract value as interest free advance against a Bank Guarantee for a sum equivalent may be permitted if specifically provided in the NIT. The advance amount will be gradually adjusted/ amortized by suitable instalments from the progressive bills. Number of instalments will be specified in the NIT.

25.0 **TIME FOR COMMENCEMENT AND COMPLETION:**

25.1. For the purpose of determining the completion time of supply and/or erection works, the date on which the Contractor accept the purchase/ work order in pursuance to clause 5.0 shall be taken as commencement date of the contract.

25.2. The Contractor shall attain Completion of the supply and/or works (or of a part where a separate time for Completion of such part is specified in the NIT/ Contract), within the time stated in the NIT / Contract.

25.3. As soon as the works, in the opinion of the Contractor, are completed as per requirements of the specification/ contract, the Contractor shall so notify the Engineer in writing.

25.4. The Engineer shall, within fourteen (14) days after receipt of the Contractor's notice under Sub-Clause 25.3 either issue a Completion Certificate in the form specified by the Engineer, stating that the supply/ works thereof have reached Completion on the date of Contractor's notice under Sub-Clause 25.3 or notify the Contractor in writing of any defects and/ or deficiencies.

25.5. If the Engineer notifies the Contractor of any defects and/ or deficiencies, the Contractor shall then correct such defects and/ or deficiencies, and shall repeat the procedure described in Sub-Clause 25.3

25.6. If the Engineer is satisfied that the supplies/ works have reached completion, the Engineer shall, within seven (7) days after receipt of the Contractor's repeat notice, issue a Completion Certificate stating that the supplies/ works have reached Completion on the date of the Contractor's repeat notice.

25.7. If the Engineer is not so satisfied, then he shall notify the Contractor in writing of any defects and/or deficiencies within seven (7) days after receipt of the Contractor's repeat notice, and the above procedure shall be repeated.

25.8. If the Engineer fails to issue the Completion Certificate and fails to inform the Contractor of any defects and/ or deficiencies within fourteen (14) days after receipt of the Contractor's notice under Sub-Clause 25.4 or within seven (7) days after receipt of the Contractor's repeat notice under Sub-Clause 25.6 then the supplies / works shall be deemed to have reached completion on the date of the Contractor's notice or repeat notice, as the case may be.

25.9. *EXTENSION OF TIME FOR COMPLETION:* Should progress be delayed because of delay in approval of drawings or any cause beyond reasonable control of the Contractor, reasonable extension of time may be granted on the application made by the Contractor in writing to the Purchaser but without prejudice to other terms and conditions of the contract. It shall be the duty of the Contractor to notify to the Purchaser the reason for delay which the Contractor considers to be beyond his control. The decision of the Purchaser as to whether the delay was beyond the control of the Contractor shall be final.

25.10. Price variation, if any, applicable as per purchase order shall not apply to any quantity not delivered as per delivery schedule of the purchase order. If, however, the prices in respect of delayed deliveries are found to have gone down, payment will be made at the reduced price or penalty levied at the discretion of the Purchaser.

26.0 **LIQUIDATED DAMAGE FOR DELAY IN DELIVERY / COMPLETION OF WORKS AND PENALTY:**

26.1. The date of delivery/ completion of work shall be deemed to be the essence of the contract and shall be completed not later than the date specified in the purchase order/ contract. In case of failure to deliver the materials/ equipment in full or to complete the delivery within the

stipulated delivery period or delay in the erection work beyond completion schedule, the Purchaser/ Employer shall be entitled to: -

- (1) Recover an amount at the rate of 1% (one percent) of the Contract Price per week or part thereof of delay, subject to maximum of 10% (ten percent) of the contract price as liquidated damage to APDCL. However, the payment of liquidated damages shall not in any way relieve the Contractor from any of its obligations to complete the works or from any other obligations and liabilities of the Contractor under the Contract.
- (2) Purchase the undelivered material/ equipment from elsewhere or to complete the balance work giving notice to the supplier and to recover any extra expenditure incurred thereby for having to purchase these materials or complete the work at a higher price, at the risk and responsibility of the Contractor.
- (3) Cancel the contract wholly or in part and to purchase materials/ equipment at the full risk and cost of the supplier and forfeit the security deposit.

27.0 CONTRACTUAL FAILURE:

27.1. In the event of contractual failure of any respect on the part of the supplier, the Purchaser shall be entitled to forfeit the security deposit or any deposit or any payment due to Supplier from this or his other contracts towards the recovery of Purchaser's claim for damages arising out of the failure. In addition, APDCL may black-list or ban the Contractor or pending enquiry, suspend him or take any other steps considered suitable.

28.0 REJECTION:

28.1. In the event, any of the Equipment supplied by the Contractor is found defective in materials or workmanship or otherwise not in conformity with the requirements of the contract specifications, the Purchaser shall either reject the equipment or request the Contractor in writing to rectify the same. The Contractor, on receipt of such notification shall either rectify or replace the defective equipment free of cost to the Purchaser. If the Contractor fails to do so, the Purchaser may at his option:

- (a) Replace or rectify such defective equipment and recover the extra cost so involved from the Contractor plus 15% fifteen percent thereof, or
- (b) Terminate the contract for default, or
- (c) Acquire the defective equipment at a reduced price as considered equitable under the circumstances. The provision of this article shall not prejudice the Purchaser's right under *clause 26.0*

29.0 DEDUCTION FROM CONTRACT PRICE:

29.1. All cost, damages or expenses which the Purchaser may have made for which, under the contract, the Contractor is liable, may be deducted by the Purchaser from any money due or becoming due by him to the Contractor or may be recovered by action at law or otherwise from the Contractor.

29.2. In the event of recovery to the necessary extent becoming impossible owing to insufficiency of the earnest money/ security deposit and withheld amounts, the balance due to the Purchaser may at the option of the Purchaser be recovered from any money due to the Contractor from LAEDCL under other contracts with the Contractor.

30.0 FORCE MAJEURE:

30.1. Normally, force majeure shall cover only act of God, fire, war, riots and, act of Government etc. Any constraints other than those specified above, will not constitute a force majeure condition. In view of other constraints beyond the control of the supplier, primarily due to statutory compulsion, extension of delivery time may also be considered on merit of individual case. In case of a force majeure condition, the Contractor shall notify the Purchaser in writing such condition within 10 (ten) days from the beginning of such delay for consideration and acceptance.

31.0 CHANGE OF NAME OF THE TENDERER:

- 31.1. At any stage after tendering, the Purchaser/ Employer shall deal with the Supplier/ Contractor only in the name and the address under which he submitted the tender. All the liabilities/ responsibilities for due execution of the contract shall be that of the Supplier/ Contractor. The Purchaser may however, in his discretion deal with agents/ representatives/ distributors/ manufacturers/ associates/ principals/ sister concerns and such dealings shall not absolve the Supplier/ Contractor from the responsibilities/ obligations/ liabilities to the Purchaser/ Employer under the contract.
- 31.2. Any change/ alteration of name/ constitution/ organization of supplier shall be duly notified to the Purchaser/ Employer and the Purchaser/ Employer reserves the right to determine the contract, in case of any such notification.

32.0 DEATH, BANKRUPTCY ETC.:

- 32.1. If the Contractor becomes bankrupt or being a corporation is in the process of winding up, amalgamation or reorganization, the Purchaser shall be at liberty to:
- (a) Terminate the contract forthwith by notice in writing to the Contractor or to the liquidator or receiver or to any person in whom the contract may become vested.
 - (b) Give such liquidator, receiver or other person the option of carrying out the contract subject to his providing a guarantee for the due and faithful performance of the contract up to an amount to be determined by the Purchaser.
- 32.2. In case of death of the Contractor before completion of work and supply, the Engineer or Purchaser shall be at liberty to:
- (a) Close up the contract and take over the completed portion of work/ supply done and made as per specification and make final payment to the legal heir of the Contractor on receipt of claim from such legal heir .
 - (b) Give the contract to the legal heir of the Contractor subject to his depositing a performance security for the due and faithful performance of the contract. The performance security amount shall be determined by the Purchaser/ Engineer commensurate with the incomplete portion of the work/ supply.
The Purchaser will enter into a fresh contract with the legal heir of the Contractor on the same terms and conditions of the earlier contract.

33.0 ARBITRATION:

- 33.1. If at any time, any question, disputes or differences whatsoever shall rise between the Purchaser and the Contractor, upon or in relation to or in connection with the contract, either party may forthwith give notice to the other in writing of the existence of such question of dispute or difference and the same shall be referred to the adjudication of three Arbitrators, one to be nominated by the Purchaser the other by the Contractor and the third by the President of the International Chamber of Commerce in the case of foreign contractors and in case of local contractors by the President of the Institution of Engineers, India/ Retired or Sitting Judge not below the status of a retired Judge of High Court of India. If either of the parties fail to appoint its arbitrators within 60 (sixty) days after receipt of notice of the appointment of arbitrators then President of International Chamber of Commerce or the President of the Institution of Engineers retired or sitting Judge of India, as the case may be shall have the power at request of either of the parties, to appoint an Arbitrator. A certified copy of the President of the ICC or IOE making such an appointment shall be furnished to both parties
- 33.2. The arbitration shall be conducted in accordance with Rules and procedures for Arbitration of the International Chamber of Commerce (Paris) in the case of foreign contractors as per provisions of the Arbitration Act 1940 or any statutory modification thereof and in case of local contractors, shall be held at Guwahati or any other place as may be decided by the Managing Director, APDCL. The decision of the majority of Arbitrators shall be final & binding upon the parties and the expenses of the arbitration shall be paid as may be determined by the Arbitrator . However, any dispute arising out of this contract will first be discussed and settled bilaterally between LAEDCL and the Contractor.

34.0 **PRECAUTIONS TO BE TAKEN DURING CONSTRUCTIONS/ ERECTION:**

34.1. The Contractor shall take reasonable and statutory precaution during execution of erection and construction work so as to avoid accident and damage to equipment and injury to workman and to prevent theft, pilferage etc.

35.0 **LIABILITY FOR ACCIDENT AND DAMAGE:**

35.1. The Contractor shall not claim for compensation arising out of any accident(s) or damages done during the course of erection & commissioning work & the Contractor will be responsible for paying compensation to the worker as per Workmen's Compensation Act, 1923 and subsequent amendments thereof. It is further clarified that in case any payment is to be made by the Contractor under the said Workmen Compensation Act, the same shall be paid forthwith and in case of failure in making such payments the Purchaser shall make payment and the amount so paid shall be deducted from the bills of the Contractor.

35.2. The Contractor shall adequately insure against liability to third party, in the joint names of the Employer, the Contractor and the Sub-contractors for any loss, damage, death or bodily injury which may occur to any physical property owned by others, the goods/ materials of the contract or to any person which may arise out of the performance of the contract.

36.0 **REGULATION OF LOCAL AUTHORITIES:**

36.1. The Contractor shall abide by the regulation of local Authorities unless such regulation is repugnant to any terms of the contract agreed upon.

36.2. All electrical contractors need to possess a valid 'Electrical Contractor's License' from the concerned Licensing Board, Government of Assam. A tenderer, who has a valid 'Electrical Contractor's License' from other states will also qualify for a bidding. However, in such cases the tenderer will have to obtain the same or an endorsement to that extent, from the Licensing Board of Government of Assam within a reasonable time from the date of award of contract.

36.3. The Contractor is required to fulfil all criteria related to Labour Laws.

36.4. The Contractor will also comply with all regulations/ directives of both State & Central Government Pollution Boards.

37.0 **SUSPENSION OF BUSINESS DEALINGS WITH FIRMS/ CONTRACTORS:**

37.1. The Purchaser may suspend business dealings with a Firm/ Contractor, if:

(a) The Central Bureau of Investigation or any other investigating agency recommends such a course in respect of a case under investigation; and if a prima facie case is made out that the firm is guilty of an offence involving unethical, unlawful, fraudulent means in relation to business dealings, which, if established, would result in business dealings with it being banned.

(b) The Purchaser has past record of non-performance of the Firm in its previously awarded contracts.

(c) The Purchaser has record of ban against the Firm by other Government / Public sector utility

37.2. However, the Purchaser shall give the Firm/ Contractor a fair chance to explain the circumstances of such previous suspensions.

38.0 **BANNING OF BUSINESS DEALINGS WITH FIRMS/ CONTRACTORS:**

38.1. The Purchaser may ban business dealings with a Firm/ Contractor, if:

(a) The owner (s) of the Firm/ Contractor is convicted by a court of law following prosecution for offences involving unethical, unlawful, fraudulent means in relation to business dealings.

(b) There is strong justification that the Firm has been guilty of malpractices "such as, bribery, corruption, fraud, substitution of tenders, interpolation, mis-representation, evasion or habitual default in payment of any Government tax" etc. .

(c) The Firm continuously refuses to return government dues without showing adequate cause and government are reasonably satisfied that this is not due to reasonable dispute which would attract proceeding in arbitration or court of law.

(d) The Firm is found guilty of involving in unethical practices, such as:

1. "corrupt practice" involving offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the action of any such official/ party in procurement process or in contract execution.
 2. "fraudulent practice" involving misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer.
 3. "collusive practice" involving a scheme among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
 4. "coercive practice" involving harming or threatening to harm directly or indirectly, persons or their property to influence procurement process or the execution of a contract.
- 38.2. The Purchaser may sanction a Firm/ Contractor or its successor, including declaring ineligible, indefinitely or for a period of not less than 3 (three) years.

39.0 **LEGAL JURISDICTION:**

- 39.1. For any litigation arising out of the contract which cannot be resolved through mutual agreement or through arbitration, the Guwahati High Court will have the sole jurisdiction.