



ITER-India
(Institute for Plasma Research)



Bid Specific Additional Terms & Conditions (ATC)

Note: The bid specific ATC shall have precedence over the Service specific STC and GTC, whenever there are any conflicting provisions.

GeM Bid No.	GEM/2023/B/3982195
Title	Section-A: Essential Eligibility Criteria, Instructions to Bidders, Unpriced Bid Format Section-B: Terms & Conditions of the Contract

ITER-India, Institute for Plasma Research
Block A, Sangath Skyz, Bhat-Motera Road, Koteshwar,
Ahmedabad 380005, Gujarat, India





Title: Third Party Inspection (TPI) during Manufacturing of DNB and HNB3 Vacuum Vessel” at Manufacturer’s and it’s sub-supplier’s premises

GeM Bid No.

GEM/2023/B/3982195

Title	Third Party Inspection (TPI) of “Manufacturing and Supply of DNB and HNB3 Vacuum Vessel” at Manufacturer’s site
Sub Title	Section-A: Essential Eligibility Criteria, Instructions to Bidders and Unpriced Bid Format

**ITER-India, Institute for Plasma Research
Block-A, Sangath Skyz IPL, Bhat-Koteshwar Road, Koteshwar
Ahmedabad 380005, Gujarat, INDIA**





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1 ABBREVIATIONS

DNB	Diagnostic Neutral Beam
HNB	Heating Neutral Beam
DR	Deviation Request
ISO	International Organization for Standardization
MIP	Manufacturing and Inspection Plan
NC	Non-Conformity
NCR	Non-Conformance Report
NDE	Non-Destructive Examination
NDT	Non-Destructive testing
QP	Quality Plan
TPIA	Third Party Inspection Agency
TPI	Third Party Inspection
RT	Radiography Testing
UT	Ultrasonic Testing
LPT	Liquid Penetrant Testing
HP	Hold Point
NP	Notification Point



2 INTRODUCTION

ITER will be the world's largest experimental facility to demonstrate the scientific and technological feasibility of fusion power. ITER is an international collaborative project involving seven Parties (China, European Union, India, Japan, Korea, Russia and U.S.A.). ITER is being built at Cadarache, South of France. More information can be obtained from www.iter.org or www.iterindia.in websites. India is one of seven participating members and is responsible for the supply of some of the major systems and equipment for ITER. This ‘in-kind’ contribution being executed through the Indian domestic agency called ITER-India, Institute for Plasma Research. One of the systems, which India has to deliver for ITER, is DNB and HNB3 Vacuum Vessel ITER-India has placed a contract for Manufacturing and Supply of DNB and HNB3 Vacuum Vessel.

ITER-India would like to appoint Third Party Inspection Agency (TPIA) to carry out inspection and verification of different manufacturing processes to ensure the quality of the final product as per technical specifications of above referred Contract documents and approved MIPs (Manufacturing & Inspection Plan). The purpose of this document is to provide Essential Eligibility Criteria, Bid submission instructions and details and terms & conditions for TPIA to carry out the Third-Party Inspection during manufacturing of DNB and HNB3 Vacuum Vessel.

ITER-India shall provide all manufacturing drawings and Technical Specification of DNB and HNB3 Vacuum Vessel to TPIA after award of Contract. ITER-India shall also provide approved Quality Plan, MIPs (Manufacturing & Inspection Plan) and approved manufacturing and quality procedures to TPIA after award of Contract.

3 ESSENTIAL ELIGIBILITY CRITERIA (EEC)

Bids meeting the Essential Eligibility Criteria (EEC) shall only be considered as “Eligible Bids” and will only be shortlisted for further evaluation. Bidder must submit self-attested copies of original documents in support of eligibility criteria. Mere meeting the eligibility criteria in itself does not mean technical evaluation and qualification of the bid(s).

Table 1: Essential Eligibility Criteria

Essential Eligibility Criteria	Evidence to be submitted	Evidences submitted in the bid document
Bidder must be an LLP / company registered in India	Certificate from Registrar of companies	Certificate dated -----from Registrar of companies
The Bidder must be an ISO 9001 certified organization	Valid ISO certificate	ISO 9001 certificate with validity till -----
The Bidder shall have executed Third-Party Inspection activities in Nuclear / Space / defence / Precision engineering / Heavy Engineering Industries within last seven years from the tender date.	At least one relevant unpriced Purchase Order (PO) copy within last seven years with brief description of work.	PO no. _____ dated _____ List down supporting documents attached with PO



<p>The Bidder shall have at least 3 Nos. of inspectors with following qualification requirements:</p> <ol style="list-style-type: none"> 1. Minimum 10 years of experience as quality control inspector and the age of the inspector shall be less than 50 years. 2. NDE LEVEL – II as per ISO 9712 in RT, UT, Visual Inspection and LPT. 3. Inspectors must be on the payroll of the TPIA as on tender date. 	<ol style="list-style-type: none"> 1. Bio-data of Inspectors and Experience Certificate 2. Relevant valid NDE Certificates 3. Evidence of regular employment / supporting document. 	<p>Bio-data of 3 Inspectors</p> <ol style="list-style-type: none"> 1. 2. 3. <p>NDE certificates</p> <p>Document for evidence of regular employment</p>
<p>Financial capability Criteria - The Bidder shall have an average turnover of atleast INR 1.5 crores during last three financial years (2020-21, 2021-22, 2022-23)</p>	<p>Audited Balance sheets and Profit & Loss account of last three financial years</p>	<p>Audited Balance sheet for FY - ----, FY----- and FY -----</p>

4 Bid Submission Content, Format & Instructions

4.1 Techno-commercial bid submission

The following table provides the guideline for preparing and arranging the Techno-commercial bid documents **without Price Bid**.

Notes:

1. All the documents shall be properly arranged into sections.
2. Pages shall be numbered, initialled and stamped.
3. Apart from the given specific templates, bidder may also use the tender documents to insert any comments/mark-up within the text

Table 2: List of contents for Techno-commercial bid submission

S/N	Content to be included	Detail	Submitted Yes / No
1	Covering Letter & Bidder Information	<ul style="list-style-type: none"> ➤ Bid Covering Letter ➤ General information about the bidder as per the template provided in Annexure-A1 of Section-A 	
2	Essential Eligibility Criteria (EEC)	<ul style="list-style-type: none"> ➤ All documents in compliance to EEC as per EEC provided with GeM bid 	
3	EMD	Proof of Payment of EMD or Valid document as per applicability for exemption from payment of EMD	



		(In case of EMD in the form of Demand Draft (DD), original DD shall reach to Purchaser well before the due date and time)	
4	Compliance with Scope of Work, other details and Terms and Conditions of the Contract	<ul style="list-style-type: none">➤ Provide Unpriced Bid Format as per Annexure-A2 of Section-A➤ Provide signed and stamped Letter of Acceptance for Tender as per Annexure-A3 of Section-A, along with list of deviations, if any	
5	Self-Declarations for Make In India (MII) and country sharing land border with India	<ul style="list-style-type: none">➤ Annexure-A4 and Annexure-A5 of Section-A	
6	PAN, GST, MSME, Start up registration details and any other details	<ul style="list-style-type: none">➤ PAN➤ GST registration➤ MSME (Udyam Registration)➤ Start-up registration➤ Registration with DPS, DAE➤ Registration with NSIC➤ Any other details	

4.2 Price bid submission

Prices to be offered in GeM portal only on or before the bid submission end date.

5 Corrupt or Fraudulent Practices

- i) The terms “corrupt practice” and “fraudulent practice” are set forth as follows:
 - a) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official during the tendering process
 - b) “fraudulent practice” means a misrepresentation of facts in order to influence a tendering process to the detriment of the Purchaser, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid Prices at artificial non-competitive levels and to deprive the Purchaser of the benefits of free and open competition.
- ii) The Purchaser will reject a proposal for award of Contract, if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract in question.
- iii) The Purchaser will declare a Bidder ineligible, either indefinitely or for a stated period of time, for awarding a Contract/Contracts, if at any time, the Purchaser determines that the Bidder has engaged in corrupt or fraudulent practices in competing for the Contract.

6 Amendments to Tender Document:

The Purchaser reserves the right to issue any amendments, clarifications, etc. to the specifications and documents giving reasonable time, prior to the bid submission. Such amendments, clarifications etc., shall be given due considerations by the Bidders while submitting the bids and



invariably enclose such documents as a part of the bid. All such amendments, clarifications, etc., shall be posted in GeM Portal as well as in ITER-India website: www.iterindia.in and also notified through e-mail to those bidders who have already registered for the pre-bid meeting. The bidders are requested to visit ITER-India website periodically. No corrigendum will be published in the newspapers. ITER-India shall bear no responsibility or liability arising out of non-receipt of the same in time or otherwise.

7 Acceptance/Rejection of Bids

The Purchaser reserves the right to accept or reject, lowest/any/all bid(s) whatsoever and without any liability to the Purchaser.

Non-compliance to tender scope, tender specifications and/or General conditions of Contract shall lead to rejection of received bids.

Conditional discount, if any offered by the Bidder shall not be considered and may lead to the rejection of the bid.

Canvassing in any form with regard to this tender will lead to rejection of the bid.

Acceptance of bids by the Purchaser may be sent by Priced Letter of Intent/Purchase Order/Contract within the validity of the bid. In case of such Letter of Intent, the Bidder whose bid is accepted and who is herein after referred to as TPIA will proceed with the execution of the Contract on the basis of such advance acceptance of bid without waiting for a formal Purchase Order/Contract and will be responsible to seek and obtain whatever clarifications that are necessary from the Purchaser to proceed with the execution of the Contract and the validity of the Contract will be reckoned from the date of issue of such Letter of Intent.

8 Pre-bid Meeting

A pre-bid meeting for providing clarifications to the Bidders will be held on **23rd October 2023, Time – 11:00 am to 1:00 pm, remotely via MS Teams**. Link for joining the pre-bid meeting will be sent to the registered bidders well in advance. In the pre-bid meeting, the Bidders shall take part in the discussions to ensure that all tender requirements are clearly understood by all the stakeholders. The Bidders interested in attending pre-bid meeting shall register using the format given in **Annexure-B2** on or **before 19th October, 2023**.

The Bidders are required to furnish in writing their queries (both technical and commercial) at least five working days prior to the stipulated date of pre-bid meeting. If the queries submitted by the Bidders are in parts, then latest query should have all previous queries separated and marked properly, so that earlier information is available in consolidated form at single point. The Bidders are required to raise the Queries if any, on GeM, strictly as per enclosed format (**Annexure-B3**) only. A softcopy of the queries (in xls or doc file) shall also be sent by e-mail to buyer1.doai.adi@gembuyer.in, purchase@iterindia.in.

The responses to tenderer’s queries/clarifications/information will be discussed and sent to all the registered Bidders and the same shall also be posted on ITER-India website.

In case Bidder makes any alternative suggestions with respect to the tender requirements, the same will be discussed and noted for further evaluation by the Purchaser. However, ITER-India reserves the right to accept or reject such suggestions at its discretion.

Any modification of the tender document, which may become necessary as a result of the pre-bid meeting shall not be published in newspapers, but shall be posted on ITER-India website and on GeM Portal. Hence the bidders are requested to visit ITER-India website and GeM portal periodically.



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Annexures

Annexure-A1: General Particulars of the Bidder

1.	Name of the Bidder	
2.	Bidder’s details along with address for placement of Order	
3.	Bidder’s Proposal No. and Date	
4.	Name and designation of the officer of the Bidder to whom all references shall be made for expeditious co-ordination.	
5.	Postal Address, Telephone & Fax Nos. and e-mail Address of Registered Office	
6.	Name, Address, Telephone Nos., Fax Nos. and e-mail ID of Company/Office on which the proposed work will be ordered with name & designation of person-in-charge	
7.	Core Competence of business	
8.	Areas of other business activity, if any & place of such business	
9.	Any additional information which the tenderer considers relevant for evaluation of this tender	
10.	Bank details of the Bidder	
11.	GST Registration details of the bidder / GST Registration Certificate	
12.	PAN details of the bidder	
13.	MSME registration details with category / UDYAM registration (General/SC/ST/Women), if any	
14.	Start-up registration details, if any	
15.	Registration with DPS, DAE, NSIC	

Authorized signatory of Bidder

Bidder’s stamp



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Annexure-A2: Unpriced Bid Format

This tender is for “Third Party Inspection (TPI) of Manufacturing and Supply of DNB and HNB3 Vacuum Vessel at Manufacturer’s site” as follows:

Notes for bidders:

- i) The bidder is required to quote only in INR (Indian Rupees).
- ii) The bidder shall quote for the overall scope of the tender.
- iii) In the event of increase or decrease in Contract quantity, Contract price shall be increased (as per GeM GTC) or reduced (as per GeM GTC) for the increment or reduction in quantity at the unit rates given in the Contract.

A. Priced Bid Format: Table-A

Sr. No.	Item Description	No. of Man Months* (a)	Man Month Rate (in INR) (inclusive of taxes and any other charges) (b)	Total Price (in INR) (a x b)
1	Charges for providing inspector certified with NDE LEVEL – II as per ISO 9712 in RT, UT, Visual Inspection and LPT to carry out Third Party Inspection (TPI) during Manufacturing and Supply of DNB and HNB3 Vacuum Vessel on Man-Month Basis at (1) Nelamangala Taluka, Bangalore and (2) 1 st stage Peenya Industrial area, Bangalore and within periphery of approx. 40 km from any of this location	100	Quoted Yes/No	Quoted Yes/No

Note: If there is any need for inspection arises at the location/site in India other than above mentioned location/site, then TPIA will be notified before one week of Inspection activities. Cost of such inspection will be as per mutual agreement between both the parties.

*Refer clause No. 1.4.2 of Section B of ATC document.

B. Bidder’s confirmation regarding submitted Price Bid: Table-B

Sr. No.	Particulars	Confirmation Yes/No
1	L1 bidder will be derived based on Total Price which is quoted in the last column of above table.	
2	Unit rate/s should be valid throughout the validity of Order/Contract for addition/deletion purposes. The quoted price should not be subject to price escalation for whatsoever reasons. The quoted price shall be	



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	firm, fixed and non-revisable during the validity/ extended validity of Order/Contract.	
3	The quoted price shall include all applicable taxes, expenses for food, conveyance, travel, any other expenses and accommodation of inspector for visit / deputation at inspection site	
4	Contractor/Service provider shall not be entitled for payment other than the man-month charges for TPI service	
5	Each Party shall bear their own expenses for visiting to other Party’s site concerning execution of the Order/Contract	
6	Splitting of Order/Contract is not applicable.	

C. Compliance with Commercial Terms, Taxes and Duties: Table-C

Particulars	Compliance
Price Basis: Offer Prices on GeM shall be on all-inclusive basis i.e. including all applicable taxes, duties, local levies, food, conveyance, travel, any other expenses, accommodation charges etc.	Yes / No (In case of No, details of deviation to be specified)
Rate of Goods and Service Tax (GST) included in the quoted price	To specify
HSN/SAC code of offered item(s)	To specify
Committed Contract Period/Duration – as per clause no. 1.4.2 will apply	Yes / No (In case of No, details of deviation to be specified)
Bid Validity Period - 120 days from date of opening of Part-A	Yes / No (In case of No, details of deviation to be specified)
Payment Terms- ITER-India Payment terms as per clause No. 1.7 of Section-B of ATC will apply	Yes / No (In case of No, details of deviation to be specified)
Submission of Performance Security Bank Guarantee/e-PBG as per GeM	Yes / No (In case of No, details of deviation to be specified)
Penalty shall apply as per clause no. 1.9.1 of Section-B	Yes / No (In case of No, details of deviation to be specified)

Bidder Signature		
Name of the signatory& Title	Name	Title
Bidder’s Official seal		
Place & Date	Place	DD-MM-YYYY



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Annexure-A3: Letter for Acceptance of Tender

(This form should be printed on bidder’s letter head duly signed, stamped and sent by the bidder along with the technical Bid document)

From:

Name and address of Applicant Bidder
Name of Contact Person
Contact Number (Tel. no., mobile no., Fax no., E-mail)

Date:

To:

Sr. Officer (Purchase & Stores)
ITER-India, Institute for Plasma Research,
Block A, Sangath Skyz, Bhat-Motera Road, Koteswar,
Ahmedabad 380005,
Gujarat, INDIA Tel: + 91-79-2326 9656
Email: purchase@iterindia.in

Subject: Acceptance of the Tender

Ref. : GeM Bid No.: GEM/2023/B/3982195

Dear Sir/Madam,

1. I/ We have downloaded / obtained the tender document(s) for the above mentioned ‘Tender’ from GeM/web site(s) namely: _____ as per your advertisement, given in the above mentioned website(s)
2. I / We hereby certify that I / we have read the entire tender documents i.e. Scope of Work, Essential Eligibility Criteria (EEC), Payment Terms, other details and Terms & Conditions (ATC) of the tender, which form part of the contract agreement and I / we shall abide hereby by the terms / conditions / clauses contained therein and GeM GTC.
3. The corrigendum(s) issued from time to time by your department/ organisation too have also been taken into consideration, while submitting this acceptance letter.

4. In this regard, we would like to confirm the following (**Please ✓ against any one out of below two applicable points**).

I/ We hereby **unconditionally accept** all the Scope of Work, Essential Eligibility Criteria (EEC), Payment Terms, other details and Terms & Conditions as per GeM Bid including ATC document of the tender.

I/ We accept all the Scope of Work, Essential Eligibility Criteria (EEC), Payment Terms, other details and Terms & Conditions as per GeM Bid including ATC document of the tender, **except following deviations**.

List of deviations attached as an enclosure to this letter.

5. I/ We do hereby declare that our Firm has not been blacklisted/ debarred by any Govt. Department/Public sector undertaking.



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6. I / We certify that all information furnished by our Firm is true & correct and, in the event, that the information is found to be incorrect/untrue or found violated, then your department/ organisation shall without giving any notice or reason therefore or summarily reject the bid or terminate the contract, without prejudice to any other rights or remedy including the forfeiture of the full said earnest money deposit absolutely.

Signature

Bidder’s stamp

Name:

Position:

Note: If any deviations are proposed, these must be clearly indicated in the bid/offer as a separate annexure to this Letter of Acceptance instead of merely enclosing bidder’s printed conditions of Sale. Deviations, if any, shall be reflected in this letter of acceptance (or enclosure to this letter) only and not elsewhere in the bid, failing which, the Purchaser shall consider bidder’s acceptance of the tender document with no deviation.



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Annexure-A4: Self Certification under preference to Make in India order

[If the bidder is an authorized dealer, then OEM needs to provide this MII declaration on their letter head]

In line with Government Public Procurement Order No. P-45021/2/2017-PP (BEII) dated 04.06.2020 and its amendments, we hereby certify that we M/s. _____ are local supplier/ service provider meeting the requirement of minimum local content i.e., _____% excluding transportation, insurance, installation, commissioning, testing, training and after sales service support like AMC/CMC etc. as defined in above orders for the items against GeM Bid No. GEM/2023/B/3982195.

Details of location at which local value addition will be made as follows:

_____.

We also understand, false declarations will be in breach of the code of integrity under rule 175(1) (i) (h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151(iii) of the General Financial Rules along with such other actions as may be permissible under law.

Thanking You,

Signature with date:

Name:

Designation:

Bidder’s stamp



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Annexure-A5: Self-declaration by Bidder of a country sharing/not sharing land border with India

[ON THE LETTER HEAD OF THE COMPANY]

Ref: 1) Our bid/offer No. dated
2) GeM Bid No. GEM/2023/B/3982195

Restrictions on procurement from Bidders from a country or countries, or class of countries under Rule 144(xi) of the General Financial Rules 2017.

We have read the clause regarding restrictions on procurement from Bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries. We certify that:

- (a) *we are not from such a country or, if from such a country, we are registered with the Competent Authority (copy enclosed). and;*
- (b) *we shall not subcontract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. We hereby certify that we fulfil all requirements in this regard and are eligible to be considered.”*

Penalties for false or misleading declarations:

We hereby confirm that the particulars given above are factually correct and nothing is concealed and also undertake to advise any further changes to the above details. We understood that any wrong or misleading self-declaration by us would be violation of Code of integrity and would attract penalties as mentioned in this tender document, including debarment.

Signature

Bidder’s stamp

Name:

Position:

Address:

Tel:

Fax:

Email ID:



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Sub Title	Section-B: Terms and Conditions of the Contract

**ITER-India, Institute for Plasma Research
Block A, Sangath Skyz, Bhat-Motera Road, Koteshwar,
Ahmedabad 380005, Gujarat, INDIA**





1 Terms and Conditions of the Contract (TCC) / Service Order

Following are the Terms and Conditions of the Contract (TCC) applicable to this GeM tender enquiry. The Contract / Service Order resulting from this GeM tender enquiry shall be governed by the terms and conditions given in this TCC. Bidders submitting the bid against this tender enquiry shall be deemed to have read and understood the same in total.

1.1 General provisions of the Contract

1.1.1 Definitions

- a. **“AMENDMENT”** shall mean a written amendment to the existing Contract/Service Order from the Purchaser to the TPIA after the effective date of the Contract requiring a change in scope of work or addition/deletion of work in any part or extension of period and shall be signed by both the parties.
- b. **“BID” OR “QUOTATION” OR “TENDER”** shall mean the offer or quotation submitted by the bidder in response to the tender enquiry.
- c. **“BIDDER” OR “TENDERER”** shall mean the entity who seeks to provide specified Third-Party Inspection Service by submitting Tender/Bid/Quotation.
- d. **“COMPLETION”** shall mean that all activities specified under the scope of work of the Contract have been successfully completed to the complete satisfaction of the Purchaser in all aspects and approved and accepted by the Purchaser.
- e. **“CONTRACT” OR “SERVICE ORDER” OR “GEM ORDER” OR “GEM CONTRACT”** shall mean the communication or document signed/issued for and on behalf of the Purchaser by an Officer duly authorized confirming the acceptance, for and on behalf of the Purchaser, on the terms and conditions mentioned or referred to in the said communication or document, including all attachments and appendices thereto, while accepting the Bid or Offer of the Contractor for TPI Service and any subsequent amendments there to made on the basis of mutual agreement.
- f. **“CONTRACTOR / SERVICE PROVIDER / THIRD PARTY INSPECTION AGENCY (TPIA)”** shall mean the firm or company with whom or with which the Service Order / Contract is placed to carry out Third Party Inspection (TPI) during Manufacturing of DNB and HNB3 Vacuum Vessel at Manufacturer’s and its sub-supplier’s premises and shall be deemed to include the TPIA’s legal successors and/or assignees (approved by the Purchaser), representatives, heirs, executors and administrators unless excluded by the Service Order / Contract.
- g. **“DAY” OR “DAYS”** shall mean a Gregorian calendar day or days of twenty-four (24) hours each.
- h. **“I-I”** shall mean ITER-India (Institute for Plasma Research), Ahmedabad.
- i. **“INSPECTOR”** shall mean any person appointed by or on behalf of the Purchaser to carry out TPI.
- j. **“IO”** shall mean ITER – Organization.
- k. **“MAN MONTH”** shall mean a one person's working for 8 hours per day considering 30 days in a month, considering Sunday or any other week-day declared as a Holiday by the company where inspection is being carried out and closed holidays as declared by the company where inspection is being carried out.
- l. **“MANUFACTURER”** shall mean the company to whom a contract for manufacturing and supply of DNB and HNB3 vacuum vessel is awarded by ITER-India.
- m. **“MONTH”** shall mean a month according to Gregorian calendar.
- n. **“ORDER ACKNOWLEDGEMENT”** shall mean, for administrative reasons, the written acknowledgement sent by the Service Provider to the Purchaser as soon as the Service Order is signed by the Parties.
- o. **“ONE MAN DAY”** shall mean a one person’s 8 hours working on any day excluding to and fro time and lunch time.
- p. **“PARTY”** shall mean either the PURCHASER or the CONTRACTOR/SERVICE PROVIDER.
- q. **“PARTIES”** to the Contract are the Contractor/Service Provider/TPIA and the Purchaser named in the Service Order/Contract.



- r. **“PRICE”** shall mean the price mentioned in the service order for the entire scope of work and terms & conditions covered under this Service Order document.
- s. **“PROJECT DIRECTOR”** shall mean Project Director of ITER-India appointed by the competent authority.
- t. **“PROJECT MANAGER / PM”** shall mean the person authorized to act as Project Manager by a competent authority of ITER-India.
- u. **“PURCHASER”** shall mean ITER-India, Institute for Plasma Research acting through the Project Director or his authorized representative.
- v. **“PURCHASE OFFICER”** shall mean the person authorized to act as Purchase Officer and he/she is Purchaser’s representative for commercial matter of the Contract.
- w. **“SCOPE OF WORK/SERVICES”** shall mean the Scope of Work defined in the technical specification for carrying out the Third-Party Inspection during manufacturing of DNB and HNB3 Vessel.
- x. **“THIRD PARTY”** shall mean the party authorized to carry out the assigned job on behalf of the Purchaser.

1.1.2 Language

- 1.1.2.1 The ruling language of the Contract and language for documentation and communication shall be English.

1.1.3 Governing Law

- 1.1.3.1 The Contract/Service Order shall be construed and shall be governed by the laws of India and the Contractor/service provider shall be required to comply with all the applicable laws with regard to performance of the Contract/Service Order.

1.1.4 Jurisdiction

- 1.1.4.1 The Courts in Ahmedabad (Gujarat State, India) only shall have exclusive jurisdiction to deal with and decide all disputes arising out of this Contract/Service Order.

1.1.5 Exercising the Rights and Powers of the Purchaser

- 1.1.5.1 All the rights, discretion and powers of the Purchaser under the Contract shall be exercised by the Purchaser through written communications which shall be given by the Project Director or other officers authorized by him for and on behalf of the Purchaser.

1.1.6 Publicity

- 1.1.6.1 No publicity of any kind whatsoever regarding the Contract/Service Order shall be given by the Contractor/service provider without prior written permission of the Purchaser.

1.1.7 Purchaser’s Documents

- 1.1.7.1 The TPIA may, at his cost, copy, use and obtain communication of the Purchaser’s documents for the purposes of the Contract. They shall not be copied, used or communicated to any other agency by the TPIA.

1.1.8 The Entire Agreement

- 1.1.8.1 This Contract and its documents constitute the entire agreement between the Purchaser and the Contractor and supersede all other communications, negotiations, and agreements (whether written or oral) of the Parties made before the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not outlined in this Contract.

1.1.9 Severability

- 1.1.9.1 If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of the Contract or any of its other provisions and conditions.

1.1.10 Confidentiality

- 1.1.10.1 The TPIA shall take necessary steps to ensure that all persons employed on any work/service in



connection with this Service Order have noticed that the Indian Official Secrets Act, 1923 (XIX of 1923) applies to them and shall continue to apply even after the execution of such services under the Service Order.

1.1.10.2 The TPIA shall agree and acknowledge that in the course of their discussions and interaction, the Purchaser may disclose information of confidential and proprietary nature relating to its know-how, and technology to the TPIA. Such information shall be considered as confidential. The TPIA agrees to keep it confidential and secret at all times and not directly or indirectly disclose to any party other than its employees and authorized personnel’s strictly on a need to know basis, without the prior written permission of the Purchaser.

1.1.11 Secrecy

1.1.11.1 All information, documents and other related documents forming part of the Service Order are property of the Purchaser and shall not be used for any other purpose, except for execution of the Service Order. The technical information, documents and other related documents shall not be copied, transcribed, traced or reproduced in any other form or otherwise in whole and/ or duplicated, modified, divulged and/or disclosed to a third party nor misused in any other form whatsoever, without the Purchaser's prior consent in writing, except to the extent required for the execution of this Service Order. This technical information and other related documents shall be returned to the Purchaser with all approved copies and duplicates, if any, immediately after they have been used for the agreed purpose.

1.1.11.2 A Non-Disclosure Agreement shall be signed by TPIA as per **Annexure-B1**.

1.1.11.3 In the event of any breach of this provision, the TPIA shall indemnify the Purchaser from any loss, cost of damage or any other claims whatsoever from any parties claiming from or through him in respect of such breach.

1.1.12 Independent Contracts

1.1.12.1 The TPIA shall be an independent entity performing the Service Order. The Service Order does not create any agency, partnership, joint venture or other joint relationship between the parties hereto. Subject to the provisions of the Service Order, the TPIA shall be solely responsible and accountable for the manner in which the Service Order is performed. All employees engaged by the TPIA in connection with the performance of the Service Order shall be under the complete control of the TPIA and shall not be deemed to be employees of the Purchaser, and nothing contained in the Service Order shall be construed to create any Contractual relationship between any such employees or representatives and the Purchaser. The TPIA shall indemnify the Purchaser for any loss suffered or costs incurred by the Purchaser on account of any claims raised by the employees/representatives to whom the TPIA is solely responsible and accountable in terms hereof or under the Service Order.

1.2 The Purchaser

1.2.1 General obligations

1.2.1.1 The Purchaser shall request contractor to provide reasonable facilities to the inspecting personnel for carrying out inspection. The facilities will include all materials, measuring instruments, tools, testing fixtures, testing equipment and laboratory etc.

1.2.1.2 The Purchaser has the right not to call the TPIA for inspection and testing of any equipment/item or any of the test without assigning any reason

1.2.1.3 Purchaser has the right to exclude or include any of the equipment/item, without assigning any reason

1.2.2 Purchaser’s representatives

1.2.2.1 The **Project Director**, as mentioned in the Contract/Service Order, shall act as an authority who can take all decisions related to this Contract/Service Order.

1.2.2.2 The **Project Manager**, as mentioned in the Contract/Service Order, shall act as a Contract Manager for the Purchaser and execute all such duties assigned to him by the project director for smooth execution of the Contract/Service Order.

1.2.2.3 The **Engineer-in-Charge**, as mentioned in the Contract/Service Order, will be Purchaser’s representative to carry out all technical functions concerning the Contract/Service Order including inter-alia review of



technical documents, post Contract/Service Order technical follow up and such other technical functions with the approval of project manager.

- 1.2.2.4 The **Purchase Officer** as mentioned in the Contract/Service Order is the Purchaser’s representative for all commercial matters of the Contract/Service Order and act as a Commercial Coordinator.

1.3 The Contractor/Service Provider/TPIA

1.3.1 General Obligations

- 1.3.1.1 The TPIA shall carry out the inspection with due care and diligence in accordance with the Service Order and with the Purchaser’s instructions
- 1.3.1.2 The TPIA shall be deemed to have carefully examined the Service Order document and obtained clarifications from the Purchaser where needed, the nature of work and expertise necessary for the execution of the Service Order, all necessary information for risks, contingencies and other. The charges Service Order, which rate shall, except as otherwise provided, cover all his obligations under the Service Order and all matters and things necessary for the proper completion of the services. The TPIA acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully carrying out the activities. No claim on his part which may arise on account of non-examination or misunderstanding of the particulars and/or matter related to site will, in any circumstances, be considered payable by the Purchaser.
- 1.3.1.3 During the tenure of the Service Order with ITER-India, the TPIA shall not enter into Contract with the manufacturer or its sub-suppliers/vendors for any of the activities related to ITER-India’s contract titled “Manufacturing, testing and supply of vacuum vessels for DNB and HNB3 (beam line vessel and beam source vessel)”
- 1.3.1.4 The TPIA shall be fully conversant with the National/International Product Specifications, Standards and Codes and shall ensure the direct access/possession of the latest (as on the date of inspection including amendments thereto) applicable International and European standards & codes.
- 1.3.1.5 No person deployed for Purchaser’ work shall be replaced without written permission of Purchaser.
- 1.3.1.6 Employees of TPIA shall abide by the rules of manufacturer and its sub-suppliers and ITER-India during inspection/visit. In case of misbehaviour, proven incompetence or gross negligence, the Purchaser shall require the replacement of the personnel deployed for Purchaser’s assignment. These personnel shall be replaced with a competent person by the TPIA immediately after taking approval from Purchaser. The Purchaser also has the right to ask for replacement of TPIA personnel, if not found suitable.
- 1.3.1.7 All Inspection personnel being offered to the Purchaser shall be regular employees of TPIA
- 1.3.1.8 The TPIA shall arrange safety equipment like helmet, safety Dress, safety shoes etc. at their own cost. The Purchaser and Manufacturer shall not be responsible and accountable for any loss and/or damage on this account.

1.3.2 Compliance with law

- 1.3.2.1 The Contractor shall comply with all laws in force. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the contractor. The TPIA shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that all inspectors deployed comply with the Applicable Law.
- 1.3.2.2 The Contractor shall indemnify and hold harmless the Purchaser from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel.

1.3.3 Permits, Licenses or Approvals

- 1.3.3.1 The Contractor/service provider shall, at his own cost, acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings that are necessary for the performance of the Contract/Service Order. The Contractor/service provider shall also acquire all other permits, approvals and/or licenses that are not the responsibility of the Purchaser and that are necessary for the performance of the Contract/Service Order.



1.3.4 Contractor/service provider’s representative

- 1.3.4.1 The Contractor/service provider shall appoint the Contractor/service provider’s key representatives , who are responsible for execution of managerial, technical and commercial aspects of the Contract/Service Order.
- 1.3.4.2 The Contractor/service provider’s representatives shall represent and act for the Contractor/service provider at all times during the tenure of the Contract/Service Order. All notices, instructions, information and all other communications to be given by the Purchaser to the Contractor/service provider under the Contract/Service Order shall be given to the Contractor/service provider’s representative(s), except as herein otherwise provided.
- 1.3.4.3 The Contractor/service provider shall promptly inform the Purchaser if there is any change in the Contractor/service provider’s representative personnel or their designated roles towards this Contract/Service Order. In the absence of timely information regarding change of personnel or their designated roles from the Contractor/service provider, the resulting damages/liabilities if any, shall not be attributable to the Purchaser.
- 1.3.4.4 During the Contract/Service Order period, to carry out some activities listed in scope of work, the Contractor/service provider needs to deploy his manpower at the Purchaser’s office/site at the Contractor/service provider’s risk and cost. For this, the Purchaser will not provide any facility except sitting space, electricity, water and will not provide any local hospitality like lodging, transportation, food, etc.

1.3.5 Sub-contracting, subletting or assignment of Contract/Service Order

- 1.3.5.1 The TPIA shall not sublet, transfer or assign the Contract or any part thereof to any other Contractor/sub-contractor. Any breach of this condition shall entitle the Purchaser to cancel the Contract or any part thereof and/or recover from the TPIA damages arising from such cancellations.

1.3.6 Security/Safety:

- 1.3.6.1 The TPIA and its deputed manpower/inspector shall strictly observe all safety, security and labour regulations prevailing in the campus of vessel manufacturer. The TPIA shall be responsible and accountable for the proper behaviour of the manpower deployed by him and also for any breach of security regulations, thefts, sabotage etc. The TPIA shall withdraw any person so desired by ITER-India, if in the opinion of the representative of ITER-India it is not desirable to permit that particular person to work at manufacturer’s premises. The deputed man-power shall co-operate with the security personnel at manufacturer’s place and abide by the security requirements.

1.3.7 Other Conditions:

- 1.3.7.1 The inspector shall have a valid photo ID card authorized by the TPIA.
- 1.3.7.2 The insurance of the manpower/inspector engaged is the responsibility and liability of the TPIA.
- 1.3.7.3 No TA/DA or any other allowance(s) shall be paid by ITER-India to manpower/inspector deployed.
- 1.3.7.4 Food, lodging, transportation and medical facilities for the TPIA’s engaged manpower/inspector shall be in the scope of the TPIA.
- 1.3.7.5 The engaged manpower/inspector under no circumstance shall be associated with any Union formation related activities or any type of illegal activities.
- 1.3.7.6 The engaged manpower/inspector needs to be immediately replaced, in case he/she is not performing as per ITER-India requirements.
- 1.3.7.7 TPIA shall indemnify and hold harmless the Purchaser and its employees and officers against all claims, demands, damages, losses, costs and expenses of whatsoever nature (including legal fees and expenses) in respect of:
- Bodily injury, sickness, disease or death, of any person whatsoever
 - Damage to or loss of any property, real or personal arising in connection with this order.
 - Unauthorised use of any software by manpower/inspector
 - TPIA shall pay and indemnify the Purchaser against any liability in respect of any fees or charges payable by him under any act of parliament, state laws, any government instrument, rule or order and any



regulations or by-laws of any local authority in respect of the services under this Order. TPIA shall indemnify and hold the Purchaser harmless from and against all claims, damages and expenses arising out of his failure to obtain all permit and licenses which he is required to comply with in respect of laws, ordinances, regulations of the country and government.

1.4 Contract/Service Order Work Scope and Completion Time

1.4.1 Scope of Work, Scope of Supply and Specifications:

- 1.4.1.1 Refer to GeM bid for the scope of work, document deliverables and other details covered under this Contract/Service Order.
- 1.4.1.2 Each party shall bear their own expenses for visit of their personnel to other party’s end or to the third party’s office/place concerning execution of the Contract/Service Order

1.4.2 Quantity and Contract Duration

- 1.4.2.1 Estimated TPIA services are for 100 Man-months.
- 1.4.2.2 Foreseen duration for the TPIA services shall be for ~5 years from the Contract Start Date.
- 1.4.2.3 The Purchaser reserves the right to extend the service duration / quantity as per prevailing GeM conditions.
- 1.4.2.4 Purchaser at his own discretion can reduce the ordered man months before it scheduled closure in case the project is completed early/ expected time frame. Purchaser do not guarantee any minimum number of man months under this contract.

1.5 Contract Price, Taxes & Duties, Service Location, Payment and Recoveries

1.5.1 Terms of Prices

- 1.5.1.1 The price(s)/man-month rate for this Contract/Service Order shall be firm with no price variation during the validity and extended validity of the Contract/Service Order. Un-Price Bid format (**Annexure-A2 of Section-A**) to be uploaded with technical bid submission.

1.5.2 Taxes and Duties

- 1.5.2.1 The price quoted should be inclusive of all applicable taxes, levies, duties, expenses for food, conveyance, travel, any other expenses and accommodation of inspector for visit / deputation at inspection site.
- 1.5.2.2 GST as applicable during the original delivery schedule shall be paid against submission of GST compliant invoice. No GST exemption certificate will be issued by Purchaser for concessional rate of GST.
- 1.5.2.3 GST registration: Bidder shall submit a copy of GST Registration certificate along with the bid.
- 1.5.2.4 Service Provider shall be liable to undertake assessment of likely GST impact on the price of the supplies/services being made to the Purchaser in light of the anti-profiteering provisions being proposed. After completion of such assessment, Service Provider shall forthwith inform the Purchaser of the extent of reduction in cost so that the prices may be renegotiated accordingly and amendments can be made in the contracts. In case any deviation is found at subsequent stage, wherein GST impact has not been given effect to the cost for any reasons whatsoever, then any consequences arising thereof shall be borne by the Service Provider. The Service Provider hereto agrees that all liabilities arising out of any default from complying with the aforesaid directions and consequences thereof will be of the Service Provider and Purchaser is authorised to recover the same along with interest from the Service Provider and/or the same can be deducted from the amount payable to the Service Provider.
- 1.5.2.5 Service Provider shall be liable to evaluate compliance requirements under GST and ensure proper mechanism for undertaking the same is put in place so that there is no loss of any kind to the Purchaser due to non-compliance on Service Provider. The Service Provider agrees that in case of any loss arising out of acts of the Service Provider or any non-compliance on the part of the Service Provider, Purchase is authorized to recover the same along with interest from the Service Provider and/or the same can be



deducted from the amount payable to the Service Provider.

1.5.2.6 Service Provider shall be liable to update GSTN and HSN Code as and whenever applicable to the item(s) supplied on Invoice and any mis-match/rejection due to GSTN/ HSN/SAC Code will be on Service Provider’s account and any loss of credit arising due to any non-compliance by the Service Provider will be recovered from Service Provider along with interest and / or the same can be deducted from the amount payable to the Service Provider.

1.5.2.7 Tax Deducted at Source (TDS) or any other leviable taxes and or duties:

a. Income tax (TDS applicable for Service Provider) at a prevailing rate will be deducted from the Service Provider’s invoice(s). Certificate of TDS will be issued by the Purchaser.

b. TDS applicable at the prevailing rate as per GST Act will be deducted from the Service Provider’s invoice(s). A TDS certificate will be issued to this effect.

1.5.2.8 In case, there is any other applicable taxes and duties, same should be informed by the bidder in the bid.

1.6 Service Location and Bill to details:

1.6.1 Service Locations:

TPI work shall be executed at the following locations:

1. Nelamangala Taluka,
Bangalore, Karnataka, India – 562123
2. 1st Phase, Peenya Industrial Area,
Bangalore, Karnataka, India – 560058

However deputed inspector shall also cover the nearby inspection activities within periphery of approximate 40 kms from any of the above locations. No extra cost will be paid to the inspector.

In case of inspection activities carried out for a small duration (Less than a month) then purchaser will pay for the man-day used.

If there is any need for inspection arises at the location/site in India other than above mentioned locations/site, then TPIA will be notified before one week of Inspection activities. Cost of such inspection will be as per mutual agreement between both the Parties.

1.6.2 Bill To:

Sr. Officer (Purchase & Stores),
ITER-India, Institute for Plasma Research
Block A, Sangath Skyz,
Bhat-Motera Road, Koteshwar,
Ahmedabad 380005
Gujarat, India.
GSTIN 24AAAAI0348C2ZC

1.7 Terms of Payment and Mode of Payment

ITER-India is fully funded by Government of India and the terms of payment are as follows. Refer Payment Terms in GeM bid.

- a. Contractor shall raise the monthly invoice only after approval of “Monthly Inspection Report” and attendance sheet (with “in” and “out” time) from ITER-India for the given month. Payment will be made within 30 days from the date of acceptance of invoice. Refer to clause **4.6.3 and Annexure-I** of Scope of Work and Technical Specifications for typical format of inspection report and other details.
- b. All payments to the TPIA shall be directly made by the Purchaser through Bank transfer/NEFT. Payment made by the Purchaser herein shall not be deemed to constitute acceptance by the Purchaser of the services or any part(s) thereof.



- c. The Purchaser will release payment due to the TPIA within 30 (thirty) days provided the TPIA submits error free invoice/s duly signed & stamped in triplicate along with the required documents that are complete and acceptable in all respects.
- d. The Purchaser reserves the right to carry out post-payment audit and technical examination of the final bill including all supporting vouchers, abstracts etc. The Purchaser further reserves the right to enforce recovery of any overpayment when detected, notwithstanding the fact that the amount of the final bill may have been included by one of the parties as an item of dispute before an arbitrator appointed under arbitration clause of this Contract and notwithstanding the fact that the amount of the final bill figures in the arbitration award.

1.8 Recovery of Sums Due

Wherever any claim for the payment of Liquidated Damages or loss suffered by the Purchaser arises in terms of money out of the CONTRACT against the Contractor, the Purchaser shall be entitled to recover such sums from any due payment under the CONTRACT. In the event of this amount being insufficient, then the amount of damages or loss shall be recoverable from the payment that may become due, to the Contractor from this CONTRACT or any other CONTRACT with the Purchaser. Should this sum be not sufficient to cover the amount of damages or loss that may be recoverable, the Contractor shall pay to the Purchaser on demand, amount due. Similarly, if the Purchaser had made any claim against the Contractor under this CONTRACT or any other CONTRACT with the Purchaser, the payment of all sums payable under the CONTRACT to the Contractor shall be withheld to the extent of claims due according to the Purchaser till such claims of the Purchaser are finally paid by the Contractor, pending which the same will be adjusted. Notwithstanding the provision for recovery through adjustment the Purchaser shall be free to recover his claims from the Contractor/Service Provider as per the terms of the CONTRACT.

1.9 Liabilities and Risk Clause

The TPIA will be liable to the Purchaser following monetary compensation for its non-performance.

1.9.1 Penalty

Following types of Penalty shall be applied during execution of Contract

- 1.9.1.1 Quality of Inspection - If any discrepancy/ies is/are found in quality of inspected items and/or records inspected in a particular day and it is established at any point of time that the discrepancy/ies is/are on account of inaccurate/inadequate/incorrect inspection, amount equivalent to five Man-days per discrepancy/ies shall be imposed. Moreover, the TPIA has to carry out the inspection again without any extra charge to ITER-India.
- 1.9.1.2 Due to Non-attended Inspection Call - If there is an absenteeism of TPIA inspector/substitute inspector without intimation to Purchaser for more than 1 day, then, penalty will be deducted at double rate of per day rate (Derived from man-month rate) for no. of days absenteeism from pending bills. Nonattendance on seventh working day shall lead to termination of the Contract by the Purchaser. If TPIA deputed inspector other than approved inspector/substitute without approval of I-I then it will be considered as absenteeism of TPIA.
- 1.9.1.3 During any completed week, if aggregated working hours were found to be less than 48 hours then proportionate hours payment will be deducted from invoice value.
- 1.9.1.4 Applicable taxes will be levied on penalty amount as per prevailing law

1.9.2 Risk Purchase clause

- 1.9.2.1 In case the TPIA is not in a position to execute the inspection services or fails to execute the inspection services, the Purchaser reserves the right to get the same services executed by own inspector or any other TPI agency which the Purchaser may deem fit at the risk and cost of appointed TPIA.

1.9.3 Indemnification

- 1.9.3.1 The TPIA shall indemnify the Purchaser from and against all actions, suits and proceedings by any other third party for the acts/omissions of the agent and all costs, charges, expenses, losses, damages, duties, taxes, penalties, levies, and all other liabilities which the Purchaser may be liable to pay, incur or sustain as a result of performance or non-performance, observance or non-observance by the agent of any of the terms and conditions of this Contract.



1.9.4 Indemnity for taxes and duties

- 1.9.4.1 The TPIA hereby protects, indemnifies and holds harmless the Purchaser from any and all claims or liability for income, royalty or any other taxes, duties, penalties etc., assessed or levied by the Government of India or by any appropriate authority thereof or by the Government of any other country against TPIA or against the Purchaser for or on account of any payment made to or earned by TPIA.
- 1.9.4.2 The TPIA further protects and holds the Purchaser harmless from all taxes assessed or levied against or on account of wages, salaries or other benefits paid to TPIA’s employees and all taxes assessed or levied against or on the account of any property or equipment of the TPIA.
- 1.9.4.3 The TPIA shall be responsible for filing all necessary tax returns (including, without limitation, returns for corporate income tax, personal income tax, service tax, etc.) with the relevant Government authorities in accordance with all applicable statutory requirements and shall be responsible for providing all information requested by such Government authorities.
- 1.9.4.4 In certain situations, a Government authority may treat the Purchaser as the representative assessee of the TPIA and recover the taxes due to the Government authority by the TPIA from the Purchaser. In such situations, the Purchaser shall have the following rights:
- 1.9.4.5 The Purchaser shall be entitled to recover from the TPIA, the taxes paid on behalf of the TPIA (together with any costs and expenses incurred by the Purchaser in connection therewith) or to retain the same out of any amounts to be paid to the TPIA that may be in its possession (whether due under this Contract or otherwise) and shall pay only the balance, if any, to the TPIA; and
- 1.9.4.6 If the Purchaser is required to furnish any details or documents in such capacity, the Purchaser shall request the details or documents to be furnished to it by the TPIA and the TPIA shall immediately furnish the same to the Purchaser. If the TPIA fails to comply with the foregoing, any penalty/interest levied on the Purchaser for non-filing or late filing of details or documents in this regard shall be recoverable from the TPIA.

1.9.5 Insurance

- 1.9.5.1 The TPIA, will at its expenses take out and maintain in effect, during the performance of Contract the insurance policies of its employees and any assets. The Purchaser shall not bear any liability for any mishap to the TPIA personnel and assets during the currency of the Contract. TPIA shall also take insurance covering third party liability for the personnel deployed at inspection site against all risks, such as injuries, loss of life etc. TPIA will be fully responsible and accountable for payment of compensation in the event of loss or damage to property and/or injury or loss of life to the personnel during the course of execution of the contract. TPIA will be fully responsible and accountable for such damages/losses and payment of appropriate compensation. TPIA will relieve the Purchaser from all the liabilities under this clause.

1.9.6 Limitation of liability

- a) Except in cases of criminal negligence or willful misconduct, the aggregate liability of the Contractor/Supplier to the Purchaser, whether under the contract, in tort or otherwise, shall not exceed the total Contract/Purchase Order price, provided that this limitation shall not apply to any obligation of the contractor to indemnify the purchaser with respect to Intellectual Propriety Rights infringement.
- b) The Purchaser being a research institute, indirect losses, that is loss of production and loss of profit is not applicable.

1.10 Force Majeure

1.10.1 Definition of force majeure

Force majeure shall mean any event which is beyond the control of the TPIA or the Purchaser, as the case may be, which they could not foresee or with a reasonable amount of diligence could not have foreseen and which substantially affects the performance of the Contract, such as

1. War, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war,
2. Rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, civil commotion,



3. embargo, import restriction, confiscation, nationalization, mobilization, commandeering or requisition by or under the order of Central, State Government or Local Authority in India or any other act or failure to act, of any local, state or national government in India,
4. Riot, state/region/country wide transporters strike,
5. earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning and pressure waves or other natural disaster,

1.10.2 Notice of force majeure

If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of force majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within seven (7) days after the occurrence of such event. A party shall give notice to the other party when it ceases to be affected by the force majeure.

1.10.3 Duty to minimize the effect

The party or parties affected by the event of force majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfil its or their obligations under the Contract.

1.10.4 Consequences of force majeure

The party who has given notice of force majeure shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of force majeure continues and to the extent that such party’s performance is prevented, hindered or delayed. The time for completion shall be extended in mutual agreement, even though such force majeure event may occur after TPIA’s performance of his obligations has been delayed for other cause. Delay or non-performance by either party hereto caused by the occurrence of any event of force majeure shall not constitute a default or breach of the Contract. No payment can be made for no work carried out by TPIA under Force Majeure situation

1.10.5 Limitations:

Anything in this Contract to the contrary notwithstanding:

1. The affected party shall not be relieved from obligations under this Contract to the extent any gross negligence of the affected party aggravates the force majeure event; and

1.10.6 Liability of Government of India

- 1.10.6.1 The Purchaser is a Project of Institute for Plasma Research, Bhat, Gandhinagar which is an independent legal entity with power and authority to enter into Contracts solely on its own behalf under the applicable laws of India and general principles of Contracts law.
- 1.10.6.2 It is expressly stated that the Purchaser while entering into an agreement with the TPIA is doing so solely on its own behalf. The Government of India is not a party to the agreement and has no liability, obligations or rights in the deal.
- 1.10.6.3 It is expressly stated that the Purchaser is not an agent, representative or delegate of the Government of India and the latter shall not be liable for any act, omission, commission, breaches or other wrongs arising out of the Contract.
- 1.10.6.4 Accordingly, the Purchaser expressly waives releases and forgoes any and all actions or claims, including cross claims, or counter claims against Government of India arising out of the Contract.

1.11 Suspension, Foreclosure and Termination

1.11.1 Suspension of work:

The Purchaser reserves the right to suspend performance of any or all of its obligations under the Contract by giving one month notice period. Such notice shall specify the obligations of which performance is to be suspended, the effective date of the suspension and the reasons therefore. The TPIA shall thereupon suspend



performance of such obligations until ordered in writing to resume such performance by the same authority that ordered for suspension.

1.11.2 Foreclosure of Contract:

If at any time after acceptance of the tender / during execution of work, the Purchaser shall decide to foreclose the contract for any reason whatsoever and hence not require the whole or any part of the work to be carried out, the Purchaser shall give one month notice in writing to that effect to the TPIA and the TPIA shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of the foreclosure of the whole or part of the Contract.

1.11.3 Termination of the Contract:

The Purchaser reserves the right to terminate the Contract at any time during the validity period on account of non-fulfilment of any Contract condition, adverse feedback regarding quality of services rendered (as per clauses “Time for attending call”, “Performance Monitoring” and “Liabilities and risk purchase clause”), indulgence in unethical practices or questionable integrity. The termination in such cases i.e. default by the TPIA shall be at their risk and cost.

1.12 Settlement of Dispute

1.12.1 Settlement by Mutual Consultation

Any dispute or difference arising out of or in connection with the Contract shall be to the extent possible, settled amicably between the parties involving management from either side within 60 (sixty) days. If amicable settlement cannot be reached, then all disputed issues shall be settled by Arbitration as set out in clause 1.12.2.

1.12.2 Arbitration:

1.12.2.1 In the event of any dispute or difference arising under the Contract, the matter shall be referred to Arbitration. The Arbitration shall be conducted in English by two Arbitrators, one each nominated by the Purchaser and TPIA. In case the said Arbitrators are not able to settle the dispute by themselves, the matter shall be referred to the Arbitrator mutually nominated by the Purchaser and the TPIA and whose decision shall be final and binding on both the parties. The venue of arbitration will be IPR Gandhinagar/ITER-India Ahmedabad. The arbitration proceedings shall be conducted under the Indian Arbitration and Conciliation (Amendment) Act, 2015 and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only. The Courts of Ahmedabad, Gujarat shall only have exclusive jurisdiction to deal with and decide any legal or dispute arising out of the Contract.

1.12.2.2 Common expenditure incurred in arbitration proceedings shall be shared equally by the Purchaser and the TPIA.

1.12.2.3 Notwithstanding any reference to the arbitration as herein before provided – (a) the Parties shall continue to perform their respective obligations under the Contract with due diligence, unless they otherwise agree, (b) the Purchaser shall continue to pay any undisputed amount to the TPIA.

1.13 Signing of Contract

The Contract shall be signed by authorized representatives of TPIA and Purchaser on non-judicial stamp paper of appropriate value.

1.14 Amendments

The provisions of this Contract including the annexes can only be amended by means of supplementary arrangements signed by the parties.

1.15 Precedence

In case of conflict, decision of the Purchaser shall have precedence over this tender.



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1.16 Coming into Force (Effective date of Contract):

The Contract shall come into force from the date of issuing of LOI by the Purchaser.



Annexure-B1: Non - Disclosure Agreement

(on non-judicial stamp paper of appropriate value)

This Agreement made on this ____ day of _____, _____ (the ‘Effective Date’) BETWEEN:

(1) ITER-India, IPR having its office at

(herein referred as “Disclosing Party”)

AND

(2) _____

(hereinafter referred as Receiving Party)

and collectively, as the “Parties”

Background:

- i) The Parties have entered into a Contract No. _____ dated _____ for _____ (hereinafter referred as the ‘Project’).
- ii) The Parties have agreed that disclosure and use of all technical and/or commercial confidential information provided by Disclosing party to the Receiving Party shall be governed by the terms and conditions of this Agreement.

Now it is agreed as follows:

1. Definition:

- 1.1. ‘Confidential Information’ means any information, which shall include but is not limited to, design, fabrication & assembly drawings, know-how, processes, product specifications, raw materials, trade secrets, technical specifications of the Disclosing Party or their customers, Design analysis, Design reports, concepts and any other technical and/or commercial information, disclosed directly or indirectly and in any form whatsoever (including, but not limited to, disclosure made in writing, oral or in the form of models, computer programs, drawings or any other form furnished by the Disclosing Party to the Receiving Party under this Agreement.
- 1.2. Such Confidential Information shall also include but shall not be limited to:
 - a) information disclosed by the Disclosing Party in writing marked as confidential at the time of disclosure;
 - b) information disclosed by the Disclosing Party orally which is slated to be confidential at the time of disclosure;
 - c) information disclosed in any other manner is designated in writing as Confidential Information at the time of disclosure; or
 - d) notwithstanding sub-clauses a, b and c of this clause, any information whose nature makes it obvious that it is confidential.



1.3. Such Confidential Information shall not include any information which:

- a) is, at the time of disclosure, publicly known; or
- b) becomes at a later date, publicly available otherwise than a wrongful act or negligence or breach of this Agreement of or by the Receiving Party; or
- c) the Receiving Party can demonstrate by its written records was in its possession, or known to the Receiving Party, before receipt under this Agreement, and which was not previously acquired under an obligation of confidentiality; or
- d) is legitimately obtained at any time by the Receiving Party from a third party without restrictions in respect of disclosure or use; or
- e) the Receiving Party can demonstrate to the satisfaction of the Disclosing Party, has been developed independently of its obligations under this Agreement and without access to the Confidential Information.

2. Non-Disclosure of Confidential Information:

- a) In consideration of the disclosure of Confidential Information by the Disclosing Party to the Receiving Party solely for the Purpose, the Receiving Party undertakes whether by itself, its successors and heirs, not to disclose Confidential Information to any third party, unless in accordance with Clause 4.
- b) In addition to the undertaking in Clause 2.a, the Receiving Party shall be liable for:
 - i. any loss, theft or other inadvertent disclosure of Confidential Information, and
 - ii. any unauthorized disclosure of Confidential Information by persons (including, but not limited to, present and former employees) or entities to whom the Receiving Party under this Agreement has the right to disclose Confidential Information, except where, the Receiving Party has used the same degree of care in safeguarding such Confidential Information as it uses for its own Confidential Information of like importance and in no event less than a reasonable degree of care; and upon becoming aware of such inadvertent or unauthorized disclosure the Receiving Party has promptly notified the Disclosing Party thereof and taken all reasonable measures to mitigate the effects of such disclosure and to prevent further disclosure.
- c) The Receiving Party understands and agrees that:
 - i. any information known only to a few people to whom it might be of commercial interest and not generally known to the public is not public knowledge;
 - ii. a combination of two or more parts of the Confidential Information is not public knowledge merely because each part is separately available to the public.
- d) The Receiving Party acknowledges the technical, commercial and strategic value of the Confidential Information to the Disclosing Party and understands that unauthorized disclosure of such Confidential Information will be injurious to the Disclosing Party.

3. Use of Confidential Information:



The Receiving Party is entitled to use the Confidential Information but only for the Purpose of the Contract No. _____ dated _____

4. Permitted Disclosure of Confidential Information:

- a) The Receiving Party may disclose in confidence Confidential Information to any of its employees who are deputed for this project, in which event their employee shall be entitled to use the Confidential Information but only to the same extent the Receiving Party is permitted to do so under this Agreement. The Receiving Party agrees that such employees are subject to confidentiality obligations no less restrictive than those of this Agreement.
- b) The Receiving Party shall limit the dissemination of Confidential Information of its employees having a need to receive such information to carry out the Purpose.
- c) Notwithstanding Clause 2.a, the Receiving Party shall not be prevented from disclosing Confidential Information, where (i) such disclosure is in response to a valid order of a court or any other governmental body having jurisdiction over this Agreement or (ii) such disclosure is otherwise required by law, provided that the Receiving Party, to the extent possible, has first given prior written notice to the Disclosing Party and made reasonable efforts to protect the Confidential Information in connection with such disclosure.

5. Copying and Return of Furnished Instruments:

- a) The Receiving Party shall not be entitled to copy samples, models, computer programs, drawings, documents or other instruments furnished by the Disclosing Party hereunder and containing Confidential Information, unless and to the extent it is necessary for the Purpose.
- b) All samples, models, computer programs, drawings, documents and other instruments furnished hereunder and containing Confidential Information shall remain the Disclosing Party’s property.
- c) At any time upon request from the Disclosing Party or upon the conclusion of the Purpose or expiry of this Agreement, the Receiving Party, at its own cost, will return or procure the return, promptly and in any event within 14 days of receipt of such request, of each and every copy of Confidential Information given by the Disclosing Party, and satisfy the Disclosing Party that it no longer holds any further Confidential Information.

6. Non-Disclosure of Negotiations:

Except as provided in Clause 4, each Party agrees that it will not, without the other Party’s prior written approval, disclose to any third party the fact that the Parties are discussing the Project. The Parties acknowledge that the provisions of this Agreement shall apply in respect of the content of any such discussions. The undertaking set forth in this Clause 7 shall survive the termination of this Agreement.

7. Term and Termination:

- a) This Agreement shall become effective on the Effective Date (Date of engagement of manpower of Receiving Party to the assigned task). The provisions of this Agreement shall however apply retroactively to any Confidential Information, which may have been disclosed in connection with discussions and negotiations regarding the Project prior to the Effective Date.
- b) This Agreement shall remain in force for 5 years from the Effective Date, except to the extent this Agreement is superseded by stipulations of the Contemplated Agreement.



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- c) The rights and obligations of each Party with respect to all Confidential Information of the other Party that is received under this Agreement shall remain in effect for a period of 5 years from the date of disclosure of Confidential Information.
- d) This agreement can be extended in case the Contract No. _____ dated _____ gets extended.

8. Intellectual Property Rights: All Confidential Information disclosed herein shall remain the sole property of the Disclosing Party and the Receiving Party shall obtain no right thereto of any kind by reason of this Agreement.

9. Amendments: Any amendment to this Agreement shall be agreed in writing by both Parties and shall refer to this Agreement.

10. Governing Law: This agreement shall be governed by and construed in accordance with the laws of India and in any dispute arising out of or relating to this agreement, the Parties submit to the exclusive jurisdiction of the Courts situated at Gandhinagar, Gujarat, India.

11. Severance: If any term or provision in this agreement is held to be either illegal or unenforceable, in whole or in part, under any enactment or rule of law, such terms or provision or part shall to that extent be deemed not to form part of this Agreement, but the validity and enforceability of the remainder of this agreement shall not be affected.

12. General:

- a) The Disclosing Party shall not have any liability to the Receiving Party for any claims made by third parties arising out of their use of the Disclosing Party’s trademarks (including “Logo”) or any other confidential information. The Receiving Party agrees to indemnify the Disclosing Party for any loss, liability, damages, cost or expense arising out of any claims, which may be made against the Disclosing Party arising out of their use of the Logo or confidential information where such claim relates to their activities, products or services. Notwithstanding above, the Receiving Party shall have no obligation to indemnify the Disclosing Party with respect to a claim of trademark or copyright infringement based upon their use of the Logo or confidential information, as expressly permitted under this Agreement.
- b) The Receiving Party shall disclose of any similar agreements explicit or otherwise, for similar purpose/application with in its own organization, or any other third party.
- c) In the event of a breach or threatened breach by the Receiving Party of any provisions of this Agreement, the Disclosing Party, in addition to and not in limitation of any other rights, remedies or damages available to the Disclosing Party at law or in equity, shall be entitled to a temporary restraining order / preliminary injunction in order to prevent or to restrain any such breach by the Receiving Party, or by any or all persons directly or indirectly acting for, on behalf of, or with the Receiving Party.



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IN WITNESS WHEREOF, this Agreement was duly executed on behalf of the Parties on the day and year first above written.

For and on behalf of For and on behalf of

Purchaser

Name of TPIA

Name:

Name of Authorized Signatory:

Sign:

Sign:



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Annexure-B2: Registration form for Pre-bid meeting

(This form should be duly filled- in, signed, stamped and sent by email so as to reach the Purchase Officer, ITER-India latest by 19-10-2023.)

From:

Name and address of Applicant Bidder
Name of Contact Person
Contact Number (Tel. no., mobile no., Fax no., E-mail)

To:

The Purchase Officer
ITER-India, Institute for Plasma Research,
Block- A, Sangath Skyz, Bhat-Motera Road,
Koteshwar, Ahmedabad 380 005, Gujarat, India
Tel: + 91-79-2326 9656
Email: purchase@iterindia.in / buyer1.doai.adi@gembuyer.in

Subject: Registration for pre-bid meeting

Dear Sir/Madam,

This is with reference to your GeM bid No. GEM/2023/B/3982195. We understood the requirements of the referred tender and intend to participate in the pre-bid meeting via MS Teams. The following is the list of participants who will attend the pre-bid meeting and represent our organization.

- 1
- 2
- 3

Signature
Name:
Position:
Address:
Tel:
Fax:
Date:

Bidder’s stamp



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Annexure-B3: Format for submission of pre-bid queries / clarifications

(Pre- bid queries / clarifications needed by the Bidder on tender on or before **19-10-2023**)

Notes:

1. The Bidders are required to note that as per tendering conditions, **no revision in Price** is permitted after submission of bids. Hence it is imperative that the total scope of the tender including its requirements, scope and conditions are fully understood by the Bidder before submitting the bids. With a view to get complete clarity on the bid document, the Bidders are advised to study the tender document thoroughly and seek clarifications/confirmations, wherever needed, from the Purchaser during the pre-bid stage.
2. The Bidder shall submit this format duly filled in hard as well as soft editable form.

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FORMAT FOR RAISING QUERIES BY THE BIDDER

Query No.	Ref. Tender Part / Clause No.	Ref. Clause No.	Description of the query	Response of ITER-India
1	2	3	4	5

Please add rows to the table above as required

1-4: To be filled by the Bidder

Authorized signatory of Bidder

Bidder’s stamp