



**ITER-India**  
**(Institute For Plasma Research)**



<b>Title</b>	<b>Tender No. I-I/ET-TPT/24006/24-25 dated 20-08-2024 for Supply and Installation of Safety Barricading using Aluminium Partition Grills with Stainless Steel Structure at ITER India Gyrotron Test Facility</b>
<b>Sub Title</b>	<b>PART-A (III): Terms and Conditions of the Contract/Purchase Order</b>

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





**Title: Supply and Installation of Safety Barricading using Aluminium Partition Grills with Stainless Steel Structure at ITER India Gyrotron Test Facility**

Tender Notice No.

I-I/ET-TPT/24006/24-25

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## Abbreviations

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### **A**

*ABG · Advance Bank Guarantee*

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### **B**

*BG · Bank Guarantee*

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### **H**

*HDFC · Housing Development Finance Corporation*

*HP · Hold Point*

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### **I**

*ICICI · Industrial Credit and Investment Corporation of India*

*IDBI · Industrial Development Bank of India*

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### **L**

*LD · Liquidated Damages*

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### **N**

*NP · Notification Point*

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### **P**

*PBG · Performance Bank Guarantee*

*PLR · Prime Lending Rate*

*PM · Project Manager*

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### **S**

*SBI · State Bank of India*

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### **T**

*TDS - Tax Deducted at Source*

*TRO · Technical Responsible Officer*



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

Following are the Terms and Conditions of the Contract (TCC) applicable to this tender enquiry. The Contract / Purchase Order resulting from this 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 Language

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

#### 1.1.2 Governing Law

1.1.2.1 The Contract/Purchase Order shall be construed and shall be governed by the laws of India and the Contractor/Supplier shall be required to comply with all the applicable laws with regard to performance of the Contract/Purchase Order.

#### 1.1.3 Jurisdiction

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

#### 1.1.4 Severability

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

#### 1.1.5 General obligations

1.1.5.1 Each party shall bear their own expenses for visit of their personnel to other party's end concerning execution of the Contract/Purchase Order.

#### 1.1.6 Sub-contracting, subletting or assignment of Contract/Purchase Order

1.1.6.1 The Contractor/Supplier shall not sub-contract, sublet, transfer or assign the Contract/Purchase Order or any part thereof, without the prior written consent of the Purchaser (All major sub-contractors are required to be appraised and approved by the Purchaser, before placement of orders by the Contractor/Supplier). However, such consent shall not be unreasonably withheld by the Purchaser, if such items/equipment are not normally manufactured by the Contractor/Supplier. Such assignment or subletting shall not relieve the Contractor/Supplier from any Contractual obligation or responsibility under the Contract/Purchase Order.

1.1.6.2 The Contractor/Supplier shall be responsible and accountable for coordination of all activities with his sub-contractors

1.1.6.3 In case the Contractor/Supplier sublets, transfers or assigns any part of the Contract/Purchase Order with the prior written consent of the Purchaser, all payments to the Sub-Contractor shall be the responsibility of the Contractor/Supplier and any requests from such Sub-Contractor shall not be entertained by the Purchaser.

1.1.6.4 All payment to the sub-contractors shall be made by the Contractor/Supplier only.



### 1.1.7 Price Fall Clause

1.1.7.1 The Contractor shall not offer to supply / supplied / are not supplying same or similar products / systems or sub systems at a price lower than that offered against the existing tender in respect of any Organization/Ministry/Department of the Govt. of India or its Subsidiaries or other PSU or any other private organization during the currency of the Contract and if it is found at any stage that same or similar product/systems or sub systems was supplied by the bidder/Supplier to any Organization/Ministry/Department of the Govt. of India or its Subsidiaries or other PSU or any other private organization at a lower price during the currency of the Contract, then that very price will be applicable to the present case and the difference in the cost would be refunded by the bidder to buyer, if the contract has already been concluded. The Contractor/Supplier will inform the Purchaser of offer to supply/supply of the similar/ordered item(s) at a lower rate to any Organization/Ministry/Department of the Govt. of India or its Subsidiaries or other PSU or any other private organization during the currency of the Contract.

### 1.2 Contract/Purchase Order Work Scope and Completion Time

#### 1.2.1 Scope of Work, Scope of Supply and Specifications:

1.2.1.1 Part-A(II) of this tender enquiry specifies the **scope of work, scope of supply, technical specifications and testing** of deliverables to be covered under this Contract/Purchase Order.

1.2.1.2 Any tooling or accessories which may not be specifically mentioned in the Specifications but which are necessary for proper and efficient functioning of the items/systems as per the specifications of the tender enquiry shall be included in the price(s) as quoted by the Contractor/Supplier.

1.2.1.3 Operation/instruction manual, technical manuals and technical drawings is essential in English to enable the Purchaser to put the Items/system to proper use, so the Contractor shall furnish such manuals along with the Items/Systems as per Part A (II) of the tender.

#### 1.2.2 Delivery Dates and Completion Time

1.2.2.1 Contractor/supplier shall make complete scope of work of all the ordered items on free door delivery basis (including supply and successful erection) at ITER-India Lab building, IPR within **4 months** from date of Contract/ Purchase Order (P.O.). The Site readiness date shall be intimated by the Purchaser within 01 month from date of P.O.

1.2.2.2 **The date of delivery and time for completion stipulated in the Contract/Purchase Order shall be deemed to be the essence of the Contract/Purchase Order.** Delivery completion must be accomplished within the dates/durations specified in Delivery Schedule.

#### 1.3 Free Issue Material (FIM):

No Free Issue Material (FIM) from Purchaser side is involved for execution of this Contract/Order. Purchaser will provide facilities like electricity, water, space as may be required for final/site acceptance testing of the ordered items.

#### 1.4 Bank Guarantees

##### 1.4.1 Security Deposit (SD)

a. Within thirty (30) days from the date of issue of Contract by the Purchaser, the Contractor shall



submit a Bank Guarantee equal to 5% (five percent) of the Contract value, as “Security Deposit” on a non- judicial stamp paper, as “Security Deposit” towards satisfactory execution and performance of the Contract from any nationalized/ scheduled commercial bank (as per RBI). Format of SDBG is given in Annexure-B1. BG issuing Bank is required to send confirmation through SFMS (Structured Financial Messaging System) on our SBI bank having IFSC Code: SBIN0001045 Account No: 30360272380 and provide intimation of the same on following E-mail ID: accounts@iterindia.in.

- b. The Bank Guarantee shall remain valid till the expiry of (60) sixty days from the date of the final acceptance of the Items ordered. If need arises, the Contractor shall extend the validity of the Bank Guarantee for suitable period at his expenses. In the event, the Contractor fails to fulfil any of the obligations under the Contract; the Purchaser shall have the right to encash the Security Deposit. No interest shall be payable to the contractor on security deposit amount, till it is retained by Purchaser.
- c. Where the Contractor fails to maintain the specified delivery date/completion time or the Contract period is extended, the Contractor shall extend the validity of Bank Guarantee(s) suitably to cover the extended/expected delivery date or completion time, failing which, the Purchaser shall have the right to invoke the Bank Guarantee(s) without prejudice to the terms and conditions of the CONTRACT.
- d. Upon satisfactory execution of the CONTRACT, the original Bank Guarantee (s) shall be returned to the Contractor without any interest, on receipt of a request from the Contractor.

#### 1.4.2 Performance Bank Guarantee (PBG)

1.4.2.1 The Contractor will have to furnish to the Purchaser (ITER-INDIA) an interest free performance bank guarantee for 5% (five percent) of the total Contract value by way of providing a Bank Guarantee from a bank as specified in [1.4.1 \(a\)](#) above for the satisfactory performance of the Items supplied against the Contract. The Performance Bank Guarantee (PBG) will be effective from the date of final acceptance and shall remain in force two months beyond the warranty period mentioned in the Contract. In the event that the Bank Guarantee needs extension, the Contractor shall extend the validity of PBG for suitable period at his expenses. On the performance and completion of all contractual obligations, the original PBG shall be returned to the Contractor without any interest on receipt of a request from the Contractor. The performance bank guarantee format is given in ANNEXURE-B2: PERFORMANCE BANK GUARANTEE. BG issuing Bank is required to send confirmation through SFMS (Structured Financial Messaging System) on our SBI bank having IFSC Code: SBIN0001045 Account No: 30360272380 and provide intimation of the same on following E-mail ID: accounts@iterindia.in. In the event, the Contractor/Supplier fails to fulfil any of the warranty obligations under the Contract/Purchase Order; the Purchaser shall have the right to encash the PBG.

#### 1.4.3 Bank charges

1.4.3.1 All bank charges, if applicable, shall be borne by Contractor/Supplier only.

#### 1.5 Contract/Purchase Order Price, Payment and Recoveries

##### 1.5.1 Terms of Prices

1.5.1.1 The price(s) for this Contract/Purchase Order shall be **firm with no price variation** during the validity and extended validity of the Contract/Purchase Order. The price(s) to be quoted



for complete scope of work as per Part-A(II) of tender document.

1.5.1.2 Price/s is/are required to be quoted according to the units indicated in the Price Bid (Part-B).

1.5.1.3 Cost for travel, accommodation, lodging and other expenses which will be necessary for execution of the Contract/Purchase Order i.e. visit of personnel for testing / meeting at other party's site or any other place/lab will be borne by respective parties.

#### 1.5.2 Basis of Delivery

1.5.2.1 The price quoted should be inclusive of loading, freight, packing & forwarding and insurance i.e. on Free Door Delivery basis at specified location. Refer to clause no. [1.6.4.2](#) for details of "delivery address".

#### 1.5.3 Taxes and Duties

1.5.3.1 **The price quoted should be exclusive of all applicable taxes, levies, duties which are to be mentioned separately in the un-Price Bid format (Annexure-A3 of Part-A(I)) at the prevailing rates.**

1.5.3.2 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.

1.5.3.2.1 **GST registration:** Bidder shall submit a copy of GST Registration certificate along with the bid.

1.5.3.2.2 Supplier shall be liable to undertake assessment of likely GST impact on the price of the supplies being made to the Purchaser in light of the anti-profiteering provisions being proposed. After completion of such assessment, Supplier 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 supplier. The Supplier hereto agrees that all liabilities arising out of any default from complying with the aforesaid directions and consequences thereof will be of the Supplier and Purchaser is authorised to recover the same along with interest from the Supplier and/or the same can be deducted from the amount payable to the Supplier.

1.5.3.2.3 Supplier 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 supplier. The Supplier agrees that in case of any loss arising out of acts of the Supplier or any non-compliance on the part of the Supplier, Purchase is authorized to recover the same along with interest from the Supplier and/or the same can be deducted from the amount payable to the supplier.

1.5.3.2.4 Supplier 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 Code will be on supplier's account and any loss of credit arising due to any non-compliance by the Supplier will be recovered from Supplier along with interest and / or the same can be deducted from the amount payable to the Supplier.

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



1.5.3.3.1 Income tax (TDS applicable for Supplier) at a prevailing rate will be deducted from the supplier's invoice(s). Certificate of TDS will be issued by the Purchaser.

1.5.3.3.2 TDS applicable at the prevailing rate as per GST Act will be deducted from the supplier's invoice(s). A TDS certificate will be issued to this effect.

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

#### 1.5.4 Mode of Payment and Payment Schedule:

ITER-India is fully funded by Government of India and the normal terms of payment are as follows:

1.5.4.1 Payment shall be made through RTGS/NEFT in INR within 30 days from the date of delivery and final acceptance & measurement. Necessary mandate form for RTGS/NEFT will be provided at the time of Contract/order.

#### 1.6 Inspections and Dispatch Clearance

Refer Part-A(II) for more details regarding Inspection and acceptance test requirements.

##### 1.6.1 Packing and Shipment

1.6.1.1 The Contractor shall submit packing/packaging list before dispatch. The material should be appropriately packed & dispatched to ITER-India Lab, IPR at following address:

EC-Lab, Third floor,  
ITER-India Lab Building,  
Institute for Plasma Research,  
Near Indira Bridge, P.O. Bhat Gandhinagar -382 428, India

1.6.1.2 Prior information of the material dispatch shall be given to ITER-India Purchase Officer at least 3 working days before the dispatch.

##### 1.6.2 Marking & Labelling

1.6.2.1 All packages shall be clearly, legibly and durably marked for correct identification with uniform block letters (preferably with waterproof paint) on at least three sides with:

- i. Delivery address (as communicated)
- ii. Contract/Purchase Order Number and date
- iii. Net and gross weights
- iv. Sign showing 'SIDE UP', "FRAGILE"
- v. Any handling and unpacking instructions, if considered necessary.
- vi. In case of spare parts, each spare part shall be clearly marked and labeled on the outside of its packing with its description and catalogue/part number.

##### 1.6.3 Insurance

1.6.3.1 The items shall be delivered to the Purchaser's site (Delivery address given in [1.6.4.2](#)) on free door delivery basis, freight paid basis. All expenses including the freight, insurance, loading, unloading of items at Purchaser's site, shifting of items within Purchaser's site, erection, testing and commissioning are to the account of Contractor/Supplier.

##### 1.6.4 Ultimate Consignee & Delivery Address:

1.6.4.1 The ultimate consignee of the Purchaser is:



**Title: Supply and Installation of Safety Barricading using Aluminium Partition Grills with Stainless Steel Structure at ITER India Gyrotron Test Facility**

Tender Notice No.

I-I/ET-TPT/24006/24-25

The Sr. Officer (Purchase & Stores), ITER-India, Ahmedabad  
Phone: +91-79-23 26 96 56 / +91-79-23 26 95 30  
E-mail: [purchase@iterindia.in](mailto:purchase@iterindia.in)

**1.6.4.2 Delivery Address/Site Address:**

ITER-India Lab building  
ECRH Lab (3<sup>rd</sup> Floor)  
Institute for Plasma Research Campus  
Bhat, Gandhinagar-382428  
Gujarat, India

**1.6.4.3 Bill To:**

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

**1.6.5 Delivery Documents**

1.6.5.1 The Contractor/Supplier shall forward in advance to the Purchaser, by rapid Courier Service and scanned copies through e-mail, following documents:

- a. Original Tax Invoice in triplicate
- b. Delivery Challan in triplicate
- c. Packing List
- d. Lorry Receipt (LR)

1.6.5.2 The dispatch documents such as Invoice, Delivery Challan, Packing list etc., shall bear the "Contract/Purchase Order Number", "Contract/Purchase Order Date", "Destination/Delivery address"

**1.7 Transfer of Ownership and Title**

Transfer of ownership of the Items shall occur upon successful completion of Final Site Acceptance test.

**1.8 Risk of Loss/damages**

The Contractor/Supplier shall be responsible and liable for risk of any loss or damages to deliverable items during transportation, till the Final Acceptance of complete system/deliverables at the Purchaser's site (refer clause No. [1.6.4.2](#)).

**1.9 Delay, Extension & Postponement**

**1.9.1 Extension of Time (due to Contractor/Supplier)**

1.9.1.1 In the event, the contractual delivery dates/completion time cannot be adhered to for any cause(s) attributable to the Contractor/Supplier, an application for extension of time with sufficient reasons shall be made by the Contractor/Supplier to the Purchaser. If failure, on the part of the Contractor/Supplier to deliver the items/completion of work in scheduled time shall have arisen from any causes which the Purchaser may find as reasonable ground for an



extension of time (and his decision shall be final), he may allow such additional time as he may consider justified in the circumstances of the case through a formal notification. The Contractor/Supplier shall not become entitled to receive additional payment towards escalation or increased statutory levies (if any) beyond the contractual delivery date / completion time.

1.9.1.2 If the Contractor/Supplier fails to apply and secure extension of Contract/Purchase Order delivery date(s)/completion time (before effecting the supply of the items as in the Contract/Purchase Order) acceptance of such supplies by the Purchaser, shall not entitle the Contractor/Supplier to claim payment on account of escalation or extra payment on account of increase of statutory levies or new statutory levies that may be payable at higher rate after the expiry of Contract/Purchase Order delivery dates / completion date (clause [1.9.2](#)).

#### 1.9.2 Delay in delivery dates/completion time

1.9.2.1 Should the Contractor/Supplier fails to comply with contractual delivery dates/ completion time and the reasons for such failures are attributed to the Contractor/Supplier, it shall be construed as a breach of the Contract/Purchase Order and the Purchaser shall be entitled at his option to the following:-

1.9.2.1.1 *To receive the deliverable items under the Contract/Purchase Order after prescribed date of delivery with the right to impose LD on the Contractor.*

1.9.2.1.2 *To terminate the total Contract/Purchase Order, as per clause [1.17](#). However, the Purchaser will inform in writing one month in advance to the Contractor/Supplier before exercising this clause.*

1.9.2.2 The Contractor is required to maintain Hindrance Register for reporting hindrance if any, while executing the work and supply related issues, in an approved format. The Contractor shall get record of hindrances in the Hindrance Register approved / endorsed by the Purchaser's representative. Such hindrance in the Work or Supply endorsed by the Purchaser's representative will only be taken into consideration for granting time extension. Format of Hindrance Register is as per Annexure-B3.

#### 1.10 Liquidated Damages (LD)

1.10.1 If the Contractor/Supplier fails to deliver/complete the ordered items within the time specified in clause No. 1.2.2 and the delay or part thereof is attributable to the Contractor/Supplier, the Purchaser shall recover from the Contractor/Supplier as liquidated damages sum of half percent (0.5 percent) of the Contract Price for each calendar week or part thereof for the delay that is attributable to the Contractor. The total liquidated damages shall not exceed five percent (5%) of contract price.

1.10.2 Items will be deemed to have been delivered only when all its items and component parts are also delivered. If certain items/components are not delivered in time, the items will be considered as delayed until such time as the missing parts are delivered.

1.10.3 However, the payment of liquidated damages shall not in any way relieve the Contractor/Supplier from any of its obligations to complete the supplies and work scope or from any other obligations and liabilities of the Contractor/Supplier under the Contract/Purchase Order.

#### 1.11 Force Majeure

1.11.1 Force Majeure is herein defined as any cause which is beyond the control of the Contractor/Supplier 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/Purchase Order, such as: Natural Phenomena, including but not limited to floods, droughts, earthquakes, and epidemics.

- 1.11.2 Acts of any Government, domestic or foreign including but not limited to war-declared or undeclared, priorities, quarantines, embargoes.
- 1.11.3 Other Phenomena including but not limited to hostilities riots, civil commotion and declared lock-down in Contractor/Supplier's works.
- 1.11.4 Provided that Parties shall not be liable for delay in performing its obligations resulting from any Force Majeure causes as referred to/or defined above. The date of completion will subject to hereinafter provided, be extended by reasonable time even though such cause may occur after Contractor/Supplier's performance of his obligations has been delayed for other cause. However, the Contractor/Supplier is not entitled to increase in statutory levies that has come into force during the extended delivery period.

## 1.12 Acceptance Tests at ITER-India Laboratory /Site Acceptance Tests:

### 1.12.1 Final Acceptance

Final / Site Acceptance of the Items/components will be subject to the fulfilment of requirements given in Part-A (II).

## 1.13 Rejection of defective goods & Contractor/Supplier's Liability

### 1.13.1 Rejection before final acceptance:

In the event that any of the items/components supplied by the Contractor/Supplier are found defective in material or workmanship or not in conformity with the requirements of the Contract/Purchase Order specifications, before the final acceptance, the Purchaser shall reject the same and request the Contractor/Supplier in writing to repair or to replace the defective items free of cost to the Purchaser within a mutually agreed time period.

### 1.13.2 Accident liability during onsite work

- 1.13.2.1 Contractor/Supplier and his sub-contractors shall insure its own personnel and tools & equipment(s) if deployed at Purchaser's site against all risk, such as injuries, damage, loss of life etc. The Contractor/Supplier will be fully responsible and liable for payment of compensation to his own personnel and compensation (if any) for own tools and equipment(s)
- 1.13.2.2 The Contractor/Supplier shall take all possible precautions and avoid loss/damages to equipment/items/Purchaser's property during the execution of installation & commissioning / erection/site work. In the event of loss or damage to Purchaser's property/any item(s)/equipment and/or injury or loss of life to Purchaser's personnel during the course of onsite work as a result of fault(s) in the items supplied under the Contract/Purchase Order or due to the reasons attributable to the Contractor/Supplier, then, the Contractor/Supplier will be fully responsible, accountable and liable for such damages/losses and payment of appropriate compensation. The Contractor/Supplier shall relieve the Purchaser from all the liabilities under this clause.

### 1.13.3 Limitation of liability

- 1.13.3.1 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 the cost of repairing or replacing defective equipment, or to any obligation of the contractor to indemnify the purchaser with respect to Intellectual Propriety Rights



infringement.

1.13.3.2 The Purchaser being a research institute, indirect losses, that is loss of production and loss of profit is not applicable.

#### 1.14 Indemnity

The Contractor/Supplier shall at all times indemnify and hold harmless the Purchaser and its employees and officers from and against all claims which may be made in respect of supplies covered by this Contract/Purchase Order against infringement of any right protected by patent registration, law of designs, trademarks, utility model, copyright and other intellectual property rights registered or otherwise existing.

#### 1.15 Warranty, Defect Liability, Latent defect

##### 1.15.1 Warranty

1.15.1.1 The Contractor/Supplier shall warrant that the items i.e. **Supply and Installation of Safety Barricading using Aluminum Partition Grills with Stainless Steel Structure at ITER India Gyrotron Test Facility** supplied under this Contract/Purchase Order comply fully with the specifications laid down, for the items/system, workmanship and performance. The items shall be new, unused and free from any defects.

1.15.1.2 The Contractor/Supplier shall provide a warranty covering repair or replacement of the Items/components up to **01 (One) year** from the date of final acceptance at On-Site. Warranty of (OEM) bought out items / procured components (if any), if more than 1 year shall be intimated by the Contractor and will be applicable for all such items.

1.15.1.3 The Purchaser may accept the supplies, if it is complete in all respects or alternatively accept the same on such terms as may be considered appropriate. If the supplies, after the acceptance thereof is discovered to have defects, latent or otherwise, notwithstanding that such defects could have been discovered at the time of inspection, or any defects therein are found to have developed during the warranty/defect liability period, the Purchaser shall be entitled to give a notice to the Contractor/Supplier and within 60 days thereafter, setting forth details of such defects or failure and Contractor/Supplier shall forthwith make the defective supplies good or alter the same to make it comply with the requirements of the Contract/Purchase Order at his own cost.

1.15.1.4 A reasonable time limit for repair or replacement of defective item(s) under warranty shall be guaranteed by the Contractor/Supplier and agreed by the Purchaser.

1.15.1.5 The repair or replacement of items under warranty by the Contractor/Supplier shall be on Free Door Delivery basis at On-Site address as per clause no. [1.6.4.2](#).

1.15.1.6 If any supplied item is repaired/replaced during the warranty period, the Contractor/Supplier shall warrant all such items for a further period of at least 12 months from the date of repair/replacement, or remaining original warranty period, whichever is longer.

1.15.1.7 Further, if in the opinion of the Purchaser, defects are of such a nature that the same cannot be made good or repaired without impairing the efficiency or workability of the components or if in the opinion of the Purchaser, such opinion being final, the components cannot be repaired or altered to make it comply with the requirements of the Contract/Purchase Order, the Contractor/Supplier shall remove and replace the defective component confirming in all respects to the stipulated specifications at the Contractor/Supplier's own cost.



### 1.15.2 Contractor/Supplier's Failure to Repair/Replacement of defective Goods

1.15.2.1 If the Contractor/Supplier fails to repair or replace the damaged/defective items within the agreed time period during the warranty period, the Purchaser at his option either :

1.15.2.1.1 Replace or rectify such defective items and recover the actual costs so involved from the Contractor/Supplier or encashment of Performance Bank Guarantee.

1.15.2.1.2 Acquire the defective items/Systems/components at a reduced price considered equitable under the circumstances. The provision of this article shall not prejudice the Purchaser's rights under Clauses [1.15](#) and [1.13](#).

If the Contractor/Supplier fails to make the required repairs/ replacement within mutually agreed time, then in pursuant to clause [1.15.2.1.1](#), such repairs/replacement shall be carried out by the Purchaser, with due information on the actual costs incurred by the Purchaser in carrying out such work in connection therewith, against documentary proof by the Purchaser, shall be paid by the Contractor/Supplier to the Purchaser or recovered by the Purchaser from the payment due to the Contractor/Supplier or recover through encashment of Performance Bank Guarantee. In such case, the Purchaser shall be entitled to use the items in a reasonable and proper manner on a mutually agreed basis for such time as sufficient to enable the Purchaser to obtain repair / replacement.

### 1.16 CHANGES

1.16.1.1 The Purchaser shall have the right to propose and order the Contractor/Supplier from time to time during the execution of the Contract/Purchase Order to make any change, modification, addition or deletion to, in or from the supplies (hereinafter called "Change"), provided that such change falls within the general scope of the supplies and does not constitute unrelated work and that it is technically practicable, taking into account both the state of advancement of the supplies and the technical compatibility of the change envisaged with the nature of the supplies as specified in the Contract/Purchase Order.

1.16.1.2 The Contractor/Supplier may from time to time during its execution of the Contract/Purchase Order propose to the Purchaser any change that the Contractor/Supplier considers necessary or desirable. The Purchaser may at its discretion approve or reject any change proposed by the Contractor/Supplier.

1.16.1.3 Notwithstanding Clause [1.16.1.1](#) and Clause [1.16.1.2](#), no change made necessary because of any default of the Contractor/Supplier in the performance of its obligations under the Contract/Purchase Order and/or for Contractor/Supplier's convenience, shall be deemed to be a change and such change shall not result in any adjustment of the Contract/Purchase Order price or the time for completion.

1.16.1.4 If any of the item in addition to the schedule of supply of materials is required during execution of the Contract/Purchase Order due to change in specifications, drawings, designs etc., which in the opinion of the Purchaser, if not procured promptly may delay the completion of the supplies, the Contractor/Supplier shall procure the required material as per the specifications to the extent required to keep the progress of work unhindered. The Contractor/Supplier shall be paid for such additional procurement in the following manner:

1.16.1.5 If the required item/cost for change(s) proposed by the Purchaser is available in the Contract/Purchase Order, the same unit rate/rate shall be used as cost for such change.



1.16.1.6 If the required item/cost for change(s) proposed by the Purchaser is not available in the Contract/Purchase Order, the Purchaser reserves the right to get the detailed break up with valid documentary evidence from the Contractor/Supplier. Contractor/Supplier shall provide the details asked by the Purchaser within the stipulated time. Purchaser and Contractor/Supplier shall mutually agree on such cost for change within 90 days from the date of such change proposed by the Purchaser.

#### 1.17 Cancellation/Termination of Contract/Purchase Order

##### 1.17.1 Termination of Contract/Purchase Order for default

1.17.1.1 The Purchaser may, without prejudice to any other remedy for breach of Contract/Purchase Order, by written notice of default sent to the Contractor/Supplier, terminate the Contract/Purchase Order in whole or in part in circumstance detailed hereunder:

1.17.1.1.1 If the Contractor/Supplier fails to supply/provide any or all of the deliverable items, within the time period(s) specified in the Contract/Purchase Order or any extension thereof granted by the Purchaser.

1.17.1.1.2 If the Contractor/Supplier fails to perform any other obligation(s) under the Contract/Purchase Order within the period specified in the Contract/Purchase Order or any extension thereof granted by the Purchaser

1.17.1.2 In the event the Purchaser terminates the Contract/Purchase Order in whole or in part, the Purchaser may take recourse to of the following action. However, the Contractor/Supplier shall continue to perform the Contract/Purchase Order to the extent not terminated.

1.17.1.2.1 To purchase from elsewhere, after (thirty) 30 days' notice to the Contractor/Supplier, at risk and cost of the Contractor/Supplier, the supplies, materials and equipment, not delivered or other items of similar description when such deliverable exactly complying with the particulars are not in the opinion of the Purchaser readily procurable, such opinion being final, without cancelling the Contract/Purchase Order in respect of the consignments not yet due for supply.

1.17.1.3 To cancel the total Contract/Purchase Order or balance portion thereof, and if so desired, to purchase or authorize the purchase of the supplies, materials and equipment not so delivered or other deliverable of similar description, when such deliverable exactly complying with the particulars are not, in the opinion of the Purchaser, readily procurable, such opinion being final, at the risk and cost of the Contractor/Supplier.

1.17.1.4 In the event of action being taken under sub-clause [1.17.1](#) above, the Contractor/Supplier shall be liable for any loss which the Purchaser may sustain on that account. Contractor/Supplier shall not however be entitled to gain on such purchase made on account of his default. The manner and method of such alternate purchase shall be at the entire discretion of the Purchaser, whose decision shall be final. This right shall be without prejudice to the right of the Purchaser, to recover the damages for breach of Contract/Purchase Order by the Contractor/Supplier as provided in the Contract/Purchase Order.

1.17.1.5 If the Contract/Purchase Order is terminated as provided in clause [1.17.1](#), the Purchaser in addition to any other rights provided in the clause, may require the Contractor/Supplier to transfer title and deliver to the Purchaser any completed items that are found to be useful and acceptable to the Purchaser. The Purchaser shall pay to the Contractor/Supplier, the Contract/Purchase Order price of such completed items that are delivered to and accepted by the Purchaser.



### 1.18 Precedence

In case of Conflict between the parties, the decision of Purchaser shall have precedence over this Tender enquiry.

### 1.19 Settlement of disputes and Arbitration

#### 1.19.1 Settlement

1.19.1.1 Any disputes or difference arising out of or in connection with the Contract/Purchase Order shall be to the extent possible settled amicably between the parties involving management from either side within one hundred and twenty(120) days. If amicable settlement cannot be reached within one hundred and twenty (120) days, then all disputed issues shall be settled by Arbitration as per clause [1.19.2](#)

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

#### 1.19.2 Arbitration

- a. All disputes or differences arising out of or in connection with the Contract/Purchase Order including the one connected with the validity of the Contract/Purchase Order or any part thereof, should be settled by bilateral discussions.
- b. The Arbitration shall be conducted, in English, by two Arbitrators, one each nominated by the Purchaser and Contractor/Supplier. 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 Contractor/Supplier and whose decision shall be final and binding on both the parties. The sole Arbitrator shall have its seat in Ahmedabad or such other place in India as may be mutually agreed to between the parties. 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/Purchase Order.
- c. Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses shall be shared equally by the parties, unless otherwise awarded by the sole arbitrator.
- d. The parties shall continue to perform their respective obligations under the Contract/Purchase Order during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

### 1.20 SAFETY CODE:

1.20.1.1 The Contractor shall cover his employees/workers under PF, ESI, personal accident insurance policy and applicable laws. Contractor has to submit PF details, ESI No. and insurance policy documents of all employees before commencement of the work.

1.20.1.2 The Contractor shall be fully responsible for the behavior, conduct, theft and any breach at security etc. by his personnel and workers.

1.20.1.3 The Contractor shall comply with all Govt. rules & regulations for his staff in regard



to maintain the applicable labour laws, their amendments etc. in force from time to time.

- 1.20.1.4 The Contractor shall comply with the instructions given by the engineer in charge/ IPR representative, regarding safety regulations, safety precautions, protective measures, clean-up practices, housekeeping etc.
- 1.20.1.5 The Contractor shall ensure adequate safety precautions at site as required under the law of land. Contractor must be entirely responsible for safety of their personnel and provide them safety helmets, safety shoes, other safety gadgets as required and prescribed.

### **1.21 COMPLIANCES WITH VARIOUS ACTS, RULES AND REGULATION:**

- 1.21.1.1 The Contractor shall be fully responsible for complying with all the relevant statutory obligations as applicable from time to time.
- 1.21.1.2 Consequences arising out of the non-compliance with statutory requirements shall be the entire responsibility of the Contractor and the liability to be borne by the Contractor.
- 1.21.1.3 Care must be taken while carrying out the job to avoid any damage to equipment & property of IPR. Contractor has to pay for the cost of damage.

### **1.22 Site Clearance:**

On successful completion of the work, the Supplier shall clear away and remove from the site, all surplus materials, remainder, waste material and temporary works of every kind and clear/clean the whole site. Gate Pass for returns of Contractor's material/tools shall be issued by the Purchaser.



**Annexure-B1: Bank Guarantee (Security Deposit)**

**(On non-judicial stamp paper of appropriate value)**

BANK GUARANTEE NO. \_\_\_\_\_ DATE: \_\_\_\_\_

THIS DEED OF GURANTEE MADE AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_ 20XX between \_\_\_\_\_ having its registered office at \_\_\_\_\_ and one of its branches at \_\_\_\_\_ (hereinafter called “the Bank” which expression shall mean and include the said \_\_\_\_\_ and its successors and assigns) of the one part AND ITER-India (INSTITUTE FOR PLASMA RESEARCH) Block A, Sangath Skyz, Bhat-Motera Road, Koteswar, Ahmedabad 380005, Gujarat, INDIA (hereinafter called “the Purchaser” which expression shall mean and include the said ITER – India, AHMEDABAD and its successors and assigns) of the other part.

WHEREAS \_\_\_\_\_ (hereinafter called “the Contractor/Supplier”) having its registered office at \_\_\_\_\_ have entered into a Contract/Purchase Order having Contract/Purchase Order value of INR \_\_\_\_\_ (in words: \_\_\_\_\_ Only) with the Purchaser being Contract/Purchase Order No. \_\_\_\_\_ dated \_\_\_\_\_ for \_\_\_\_\_ in accordance with the terms, specifications and conditions contained therein.

AND WHEREAS under the terms of the aforesaid Contract/Purchase Order, the Contractor/Supplier is to furnish to the Purchaser a Bank guarantee for an amount of INR \_\_\_\_\_ (in words: \_\_\_\_\_ Only) being 5% of the total value of the Contract/Purchase Order by way of security for fulfilment of the Contractual obligations on the part of the Contractor/Supplier there under.

AND WHEREAS the Contractor/Supplier has requested the Bank to guarantee the due payment of the aforesaid amount by the Contractor/Supplier to the Purchaser in case the Contractor/Supplier fails to fulfil any of the aforesaid Contractual obligations.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. The Bank hereby agrees unequivocally and unconditionally to pay within 48 hours, on demand, in writing from the Purchaser or any officer authorised by it in this behalf and without recourse to the Contractor and without any demur, or protest or objection, any amount up to and not exceeding INR/USD/Euro \_\_\_\_\_ (in words: \_\_\_\_\_ Only) to the Purchaser on behalf of the Contractor/Supplier.
2. This guarantee is valid and binding upon the Bank till final acceptance of the Items under this Contract/Purchase Order and shall not be terminable or affected by notice of any change in this constitution of the Bank or of the firm of Contractor/Supplier or on account of any reason whatsoever.
3. The liability of the Bank hereunder shall not be impaired or discharged by any extension of time or variations or alterations made or conceded or agreed within or without the knowledge or consent of the Bank or by or between the parties to the said Contract/Purchase Order.
4. The liability of the Bank under this deed is restricted to the sum of INR \_\_\_\_\_ (in words: \_\_\_\_\_ Only) and same shall remain in force till successful completion of Final Acceptance of the ordered Items. In case any further extension of the present guarantee is required the same shall be granted on receiving instructions in writing there for from the Contractor/Supplier on whose behalf this guarantee is issued.
5. Unless proceeding for enforcing this guarantee is commenced against the Bank within ..... (specify applicable claim period, minimum 2 months required) from the expiry of the aforesaid period or such



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extended period or periods as aforesaid all the rights of the Purchaser under this guarantee shall be extinguished and the Bank shall be relieved and discharged from all liabilities hereunder.

6. The neglect or forbearance of the Purchaser in enforcement of any of its rights under the aforesaid Contract/Purchase Order against the Contractor/Supplier shall in no way relieve the Bank of its liability under this deed.
7. OUR GUARANTEE shall remain in force until ..... successful completion of Final acceptance of the Items under this Contract/Purchase Order and unless a claim under the guarantee is lodged on or before the above date, all rights of Purchaser under the guarantee shall be forfeited and we shall be relieved and discharged from all liabilities thereunder.

In witness whereof, we the \_\_\_\_\_ have executed this.

This the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

For \_\_\_\_\_  
(Indicate the name of bank with Postal address, Fax Number & email address)

Witnesses:

(1) Name: \_\_\_\_\_ Signature \_\_\_\_\_

(2) Name: \_\_\_\_\_ Signature \_\_\_\_\_



**Annexure-B2: Performance Bank Guarantee (PBG)**

**(On non-judicial stamp paper of appropriate value)**

BANK GUARANTEE NO. \_\_\_\_\_ DATE: \_\_\_\_\_

1. WHEREAS on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ M/s \_\_\_\_\_, a company registered under the Companies and having its registered office at \_\_\_\_\_ (hereinafter referred to as “the Contractor”) entered into an Contract bearing No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as “The Contract”) with ITER-India (INSTITUTE FOR PLASMA RESEARCH) Block A, Sangath Skyz, Bhat-Motera Road, Koteshwar, Ahmedabad 380005, Gujarat, India (hereinafter referred to as "The Purchaser") for the supply of \_\_\_\_\_ (hereinafter referred to as “the Equipment”).

2. A  
 ND WHEREAS under the terms and conditions of the contract an amount of INR \_\_\_\_\_ (Rupees ..... only) representing 5% percent payment (pro-rata basis) out of the total value of the contract of INR \_\_\_\_\_ (Rupees \_\_\_\_\_ only) is to be paid to the Contractor on the successful completion of Final On-Site Acceptance under this Contract and on the Contractor furnishing a bank guarantee in a manner herein contained towards satisfactory performance of the equipment during warranty period, viz ---months from the date of final acceptance

3. NOW WE, \_\_\_\_\_ (Name and Address of the Bank) in consideration of the promises and the payment of said sum of INR..... (Rupees ..... Only) by the Purchaser to the Contractor do hereby agree and undertake to pay to the Purchaser the amount due and payable under the guarantee without recourse to the Contractor and without any demur or protest or objection, merely on a demand from the Purchaser stating that the amount claimed is due by way of loss or damage caused to or suffered by the Purchaser by reason of unsatisfactory performance of the equipment during the warranty period. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount no exceeding Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only).

4. WE, \_\_\_\_\_ (Bank) undertake to pay to ITER-India any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s), in any suit or proceeding pending before any Court or Tribunal relating thereto, our liability under this present guarantee bond being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Contractor(s) shall have no claim against us for making such payment.

5. WE, \_\_\_\_\_ (Bank) hereby further agree that the decision of the Project Director, ITER-India as to whether the said equipment is giving satisfactory performance or not during the warranty period and as to the amount of damages suffered by the Purchaser on account of the unsatisfactory performance of the said equipment shall be final and binding on us.



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6. AND WE, the \_\_\_\_\_ (Bank) do hereby agree that our liability hereunder shall not be discharged by virtue of any Agreement/Contract/Purchase Order between the Purchaser and the Contractor whether with or without our knowledge and/or consent or by reason of the Purchaser showing any indulgence or forbearance to the Contractor whether as to payment, time for performance, or any other matter whatsoever relating to the contract which but for this provision would amount to discharge of the surety under the law.
7. THIS GUARANTEE will not be discharged due to the change in the constitution of the Bank or the Contractor(s).
8. OUR GUARANTEE shall remain in force until \_\_\_\_\_ (two months beyond the Contract warranty period) and unless a claim under the guarantee is lodged with us on or before the above date, all rights of the Purchaser under the guarantee shall be forfeited and we shall be relieved and discharged from all our liabilities thereunder.

In witness whereof, we the \_\_\_\_\_ have executed this.

Dated the \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

For \_\_\_\_\_  
(Indicate the name of bank with Postal address, Fax Number & email address)

Witnesses:

(1) Name: \_\_\_\_\_ Signature \_\_\_\_\_

(2) Name: \_\_\_\_\_ Signature \_\_\_\_\_



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**Annexure-B3: Hindrance Register**

A Hindrance Register is to be maintained in the enclosed Format to record all hindrances encountered during execution of items/work against the PO/Contract. The items or work affected due to any hindrance shall be clearly recorded in the Hindrance Register and the Purchaser's representative as well as the Supplier's/Contractor's representative will sign on the register against the recorded hindrance(s). In case of encountering multiple hindrances simultaneously over a period of time affecting the same item/work or different items/work, the net period of hindrance will be worked out considering the overlapping period.

Format of Hindrance Register:

Sr. No.	Nature of Hindrance	Item or Work which is affected/could not be executed on account of this hindrance	Date of start of hindrance	Date of removal of hindrance (references of communications to resolve)	Overlapping period (if any)	Net Delay in days	Sign/clearance of Purchaser's representative	Sign/clearance of Contractor's representative

It is to be noted that the delay in individual activities may not be affecting the contractual milestone depending on the available float, if any.