

**TENDER ENQUIRY**  
**MATERIALS MANAGEMENT DIVISION**  
**FOUNDRY FORGE PLANT,**  
**HEAVY ENGINEERING CORPORATION, RANCHI – 834 004**  
**TELEPHONE: 91-0651 – 2400427, 2401437, 2401107 FAX: 91-0651 -2401323**

**TENDER No. PUR/FFP/2012/411157/80/ 3275**

**Dt. 08.09.2012**

To:

M/s .....

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.....

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Dear Sirs,

Sealed tenders in **two bid system** are invited on behalf of Foundry Forge Plant, Heavy Engineering Corporation Ltd, Plant Plaza Road, P.O: Dhurwa, Ranchi for the items indicated below:

Brief Title of item / Service	Last Date of submission of Tender	Tender will be opened on.	Validity period of Tender for acceptance
Supply of Liquid Oxygen as per IS:309/92 at Temp: 27 <sup>0</sup> C & Pressure 1 Atm with purity of 99.5%.	Till 01.00 P.M. on Opening Date	<b>25 .09.2012</b> at 15.00 Hrs i.e; 3.00 P.M. on opening date Extended upto 15.10.2012	<b>90</b> Days from opening date.
Installation on RENTAL and B.O.M. BASIS of VIE Tank ( 11 KL Capacity) equipped with Vaporizer coil, Valves, Instruments etc & Piping up to user point(maximum 09 Points) of Bay no. 6 & 7 of moulding section and melting area in 02-shop /FFP )with provision of all statutory prerequisites.			

Offer should be submitted in two parts viz;

**1) Techno- commercial Bid**

**2) Price Bid**

**IMPORTANT DATES :**

- |   |              |                 |
|---|--------------|-----------------|
| 1) Last Date & Time of submission of Tender | : 15.10.2012 | till 01.00 P.M. |
| 2) Date & Time of Opening of Tender         | : 15.10.2012 | at 03.00 P.M.   |

The following documents are enclosed for submission of tenders:

I	Instructions to tenderers (Annexure -A)
II	Specification of Oxygen Plant (Annexure -B)
III	Special Terms & conditions (Annexure -C)
IV	Proforma of un-price bid copy (Annexure – D)
V	Check list – Compliance Report (Annexure – E)

**Note :- Tenderers are requested to read the enclosed Instructions to Tenderers, Technical Specifications and General conditions of contract of HEC Ltd carefully before submitting offer.**

For and on behalf of HEC Ltd

(Vimal Kumar)  
Manager /Purchase/FFP  
Materials Management Division  
Ph: 0651 2400427,2401437  
Fax: 0651 - 2401437  
Email : [vimalkumar@hecltd.com](mailto:vimalkumar@hecltd.com)

## **INSTRUCTIONS TO TENDERERS**

### **1.0 SUBMISSION OF TENDER:**

- 1.1 Tenders in double cover must be submitted in duplicate in Two parts (Techno-commercial bid and Price Bid) in separate sealed covers (inner covers), Super-scribing the Techno-commercial bid or Price Bid, tender number and date of opening of tender on the covers. **Both the bids i.e; Techno Commercial bid & Price Bid should be sealed separately in different envelopes with bid type marked on the top and super scribed with Tender No. Tender date, Tender Opening date and addressed to Manager (Purchase)/FFP, HEC Ltd P.O;Dhurwa,Ranchi - 834 004. Then both the above mentioned envelopes are to be kept in a one big envelope and having Techno Commercial + Price bid marked on the top and super scribed with Tender no.& Tender date, tender opening date, and addressed to Manager (Purchase)/FFP, HEC Ltd Dhurwa Ranchi, 834004.** Offer must be accompanied with technical leaflets, **Credentials**, Brochures and other relevant details. The tender shall be neatly arranged, plain and legible, typewritten with consecutively numbered pages in solid binding. Tender should not contain any terms and conditions, printed or otherwise, which are not applicable to the tender. Such conditional tenders are liable to be summarily rejected.
- 1.2 Only one tender should be included in one cover. When more than one tender are included in one cover, all tenders so enclosed in one cover will be liable to be ignored. Tender shall contain a special declaration that the Tenderer agrees to hold the tender open for period indicated in this invitation to tender. This period of validity of tender shall be six months from the date of opening of the tender and the prices quoted shall be deemed to remain valid for this period.
- 1.3 Tenders in sealed cover should be sent by registered post and if delivered by hand should be put in the Tender Box of the respective office inviting the tenders. Tenders sent by courier and received by Purchaser will be treated as hand delivered.
- 1.4 Tender documents are strictly non-transferable. i.e. offer can be submitted only by the Tenderers to whom tender documents have been issued. The tender forms should be signed by a competent authority holding power of attorney to handle such job on behalf of tendering firm and this fact must be stated explicitly.
- 1.5 Insertions, postscripts, additions and alterations shall not be recognized, unless authenticated by the Tenderers signature.
- 1.6 The tenders shall be submitted in English Language.
- 1.7 Tender is liable to be ignored if complete information is not given therein or if the particulars and data (if any) asked for in the schedule to the tender, are not fully filled in. Special attention must be paid to the delivery dates and also to the General Conditions of the Contract of HEC LTD with latest amendments and those contained in this booklet as the contract shall be governed by them.

### **2.0 LATE/ DELAYED TENDER**

- 2.1 Tenders or modifications to tenders received after opening of tenders are to be called as Late Tender. Tenders or modification to it received after time fixed for receipt of tenders, though before time fixed for opening is to be called Delayed Tenders. Price-bids received after opening of techno-commercial offer though before the time fixed for opening of price-bid will also be regarded as Late Offer. Such delayed/ late offers will not be opened.

### 3.0 Signing of tender

3.1 Individual signing the tender or other documents connected with a contract must specify whether he signs as:

- (i) 'Sole Proprietor' of the firm or constituted attorney of such Sole Proprietor.
- (ii) A partner of the firm, if it be a partnership, in which case he must have authority to quote & to refer the dispute to arbitration concerning the business of the partnership either by virtue of the partnership agreement or a power of attorney;
- (iii) Constituted attorney of the firm if it is a company.

- N.B.**
- (1) In case of (ii) above, a copy of the partnership agreement or general power of attorney, in either, case, attested by a Notary Public should be furnished or affidavit on stamped paper of all the partners admitting execution of the partnership agreement or the general power of attorney should be furnished.
  - (2) In case of the partnership firms, where no authority to refer disputes concerning the business of the partnership has been conferred on any partner, the tender and all other related documents must be signed by every partner of the firm.
  - (3) A person signing the tender form or any documents forming part of the contract on behalf of another shall be deemed to warrantee that he has authority to bind such other persons and if, on enquiry, it appears that the persons so signing had no authority to do so, the purchaser may, without prejudice to other civil and criminal remedies, cancel the contract and hold the signatory liable for all costs and damages.
  - (4) Each page of the tender, schedule to tender and Annexure, if any, should be signed by the tenderer.

### 4.0 OPENING OF TENDER

- 4.1 The tender will be received and opened at the office of the purchaser till the date and time specified in Invitation of Tenders. Only Techno-commercial bid will be opened on due date of tender opening. The price bids of only technically acceptable bidders will be opened at later date which will be intimated to the bidders concerned.
- 4.2 Tenderer is at liberty to be present or authorize a representative to be present at the time of opening of the tender. However in case of visit of Foreigner, a prior permission from the concerned authority is essential.

### 5.0 Right of Acceptance of Offer

- 5.1 The **purchaser reserves** his right to accept partly or reject any offer without assigning any reason thereof. The purchaser does not pledge itself to accept the lowest or any tender and reserves to itself the right of acceptance the whole or any part of the tender or portion of the quantity offered and the tenderer shall supply the same at the rate quoted.
- 5.2 The **purchaser reserves** his right to split the order in two or more part among the different tenderers.

## 6.0 EARNEST MONEY DEPOSIT

- 6.1 TECHNO-COMMERCIAL BID MUST ACCOMPANY INFORMATION ABOUT SUBMISSION OF EMD **WITHOUT MENTIONING THE AMOUNT** IN THE FORM OF DEMAND DRAFT VALID FOR THREE MONTHS TECHNO-COMMERCIAL BID RECEIVED WITHOUT EMD WILL BE SUMMARILY REJECTED WITHOUT TECHNICAL EVALUATION.
- 6.2 Tenderers registered with State/Central Govt. Organisation,PSU's, NSIC or DGS&D will be exempted from submission of EMD. The tenderer should enclose an authenticated copy of their valid registration certificate with /Central Govt. Organisation,PSU's,NSIC, DGS&D for grant of exemption.
- 6.3 EMD will be converted to security deposit( SD) in case of successful bidder(s). EMD of unsuccessful bidders will be returned after finalisation of contract and Interest of any sort will not be payable on EMD.

## 7.0 TECHNO-COMMERCIAL BID

- 7.1 The tenderer shall carefully check the specifications and drawings and shall satisfy himself of the suitability of the equipment being offered and shall take full responsibility for the efficient operations and guarantee of specified output of the Plant and equipment offered.
- 7.2 The offer should be complete in all respects along with supporting documents and technical literature like catalogue, test charts, credentials, list of customers of similar m/c, performance feed back reports from users etc.
- 7.3 The tenderer is at liberty to offer alternative quotations for any modifications he considers advisable giving full reasons in support thereof. However, it will not be binding on purchaser to accept it in part or full.
- 7.4 The offer should confirm to technical specification and general conditions of contract. However, deviations, if any, should be clearly brought out by the tenderer. The tenderer should invariably attach with their offer a clause-wise compliance statement against (I) Instruction to Tenderers (II) Technical specification (III) Special terms & conditions of contract in a specified format as per Annexure – C stating where they meet requirement in toto and where and how they deviate giving full details and remarks if any.
- 7.5 **The tenderer should certify in the techno-commercial bid that the price-bid contains item-wise price with detail breakup as specified in Technical Specification.**
- 7.6 In order that no clarification is needed after opening of Price Bid of technically acceptable offers, it is essential that the un priced copy of the price bid **(REPEAT UNPRICED)** alongwith other terms & conditions should be enclosed with the Techno-commercial bid. Proforma of un-priced bid is enclosed as Annexure-D.
- 7.7 The check list (Compliance Certificate) as per Annexure – F to be filled by the tenderer and to be submitted alongwith techno-commercial bid.
- 7.8 **Tenderer are requested to visit the site of Installation** and inspect the site if considered necessary and shall satisfy himself of site conditions and shall collect himself any other information which he may require before submitting the tender. Claims and objections due to ignorance of site conditions will not be considered after submission of the tender.

## 8.0 THE PRICE BID AND UN-PRICED BID ALONG-WITH TECHNO-COMMERCIAL BID :

- 8.1 **In the price bid, the tenderer shall include all elements of cost of Plant and Equipment strictly as per the scope of supply & services specified in technical specification. The price shall be item wise in accordance with and as stated in the specification. If the work is of turn-key nature, the vendor will be responsible for complete execution of the plants, Civil works etc. as specified in the scope of work. The rate quoted should be valid for 90 days.**
- 8.2 The tenderer shall give the detail price schedule taking into consideration of all the element of work and services as covered under the scope of work.
- 8.3 For all plant and equipment, accessories, spares etc. of import origin from out side India, prices shall be quoted for delivery on F.O.B basis indicating the Port of shipment as well as for delivery on CIF basis indicating the port of entry i.e. KOLKATA(in India) along-with the charges for transportation and insurance separately, directly by the Original Equipment Manufacturer (OEM) or the foreign supplier if authorized by the concerned Foreign Govt. However, order if any, will be on FOB basis only and all taxes, duties, fees or charges including Bank charges outside India for supply of P&M, Services and Spares ex-import including transportation, Seaworthy packing, preservation till FOB is the responsibility of the supplier.
- 8.4 In some cases, a foreign supplier stipulates that purchases can be made through their Indian counterpart/ collaborator (not agent). In such cases purchase can also be made against Rupee payment only for those P&Ms against offer from Indian tenderers, but the import clearance should be arranged by the tenderer and he should arrange inspection/ training in India and also provide after sale services. Prices for equipment, accessories, spares etc. shall be quoted in rupees for delivery ex-works. Statutory duty e.g. sales tax, service tax etc. if applicable, shall be indicated separately and distinctly. The freight charges, if any, shall be quoted separately. However, order if any, will be on FOR destination basis.
- 8.5 **For all plant and equipment accessories, spares etc. of indigenous source, prices shall be quoted in rupees for delivery ex-works. Statutory duties e.g. excise duty and sales tax, service tax etc. if applicable, should be indicated separately and distinctly. The freight charges if any, shall be quoted separately. However, order if any, will be on F.O.R. destination basis.**
- 8.6 Revision in price bid or techno-commercial bid having impact on prices will not be considered after opening of techno-commercial bids.
- 8.7 Quoted Price should be in words and figure. Any discrepancy between words and figures, the price in words shall prevail.
- 8.8 Price quoted should be exclusive of Excise Duty(ED). In case ED is Inclusive, the amount of ED should be indicated separately. Also please clearly mention the amount of ED which shall be passed as CENVAT BENEFIT.

## 9.0 TECHNICAL CAPACITY

- 9.1 The tenderer shall satisfy the purchaser that he possesses the necessary technical experience and qualification and that he has at his disposal suitable modern facilities and staff of specialized nature to ensure that his contract work is of best quality and workmanship, according to the latest engineering practice. The tenderer shall furnish necessary particulars in this behalf with the tender.
- 9.2 In this regard the tenderer shall submit a detailed statement of similar plants built by him at least during the last 5 years and name and full address of the customers with order No., date of supply and performance report thereof.

**10.0 FINANCIAL CAPACITY:**

10.1 The tenderer shall produce satisfactory proof that he is financially in a position to fulfill the contractual obligations offered to be undertaken by him. In the case of Indian tenderer the tenderer shall also submit the following with their techno-commercial bid.

- (a) Copies of last three years annual report indicating profits and losses.
- (b) Copies of Partnership deeds.
- (c) Copy of certificate of incorporation and Articles of Association.
- (d) Copies of ownership documents in respect of manufacturing plant.
- (e) General power of attorney in favour of any signatory, other than the owner/head of the firm.
- (f) Affidavit that the firm has never been banned.

**11.0 LEGAL CAPACITY**

11.1 The tenderer shall satisfy the purchaser that he is competent and authorized to submit tender and/or to enter into a legally binding contract with the purchaser. To this effect, any person giving a tender shall render documentary evidence that his signature on the tender, submitted by him is legally binding upon himself, his firm or company as the case may be.

**12.0 QUERIES / CLARIFICATIONS:**

12.1 Queries/Clarifications of all nature, if any that may arise should be referred by the tenderer by Telex/ Cable/ Letter direct to the signatory at the following Address:

MANAGER  
Materials Management Division  
Foundry Forge Plant  
HEC Ltd, Dhurwa, Ranchi – 834 004  
Tele: 0651 -2400427, 2401437. 2401107  
FAX: 0651 – 2401323, 2401571, 2401437  
email : vimalkumar@hecltd.com.

AND

Sr.Dy.G.M  
02- Shop  
Foundry Forge Plant  
HEC Ltd, Dhurwa, Ranchi – 834 004

**13.0 EVALUATION OF TECHNO-COMMERCIAL BIDS**

13.1 Tender Evaluation will involve recording and analyzing the merits of each tender. After detail scrutinizing of the Techno commercial bids, the successful bidders will be listed for opening of Price bid.

**14.0 EVALUATION OF PRICE BIDS OF TECHNICALLY ACCEPTABLE BIDDER**

- 14.1 For ranking of offers, price of complete scope of supply as detailed in technical specifications.
- 14.2 In case where all offers from indigenous sources are under consideration, ranking will be assessed on FOR destinations.
- 14.3 In case where all offers from foreign suppliers are under consideration, ranking will be assessed on CIF basis at port of entry on exchange rate prevailing on date of price bid opening.

**TECHNICAL SPECIFICATION OF OXYGEN PLANT**

**Description of item:**

Brief Title of item / Service	Quantity	Remarks
<b>Supply of Liquid Oxygen as per IS:309/92 at Temp: 27<sup>0</sup> C &amp; Pressure 1 Atm with purity of 99.5%.</b>	120000 CuM	Delivery of material will be taken in phases which will be negotiated during Techno commercial discussion.
<b>Installation on RENTAL and B.O.M. BASIS of VIE Tank ( 11 KL Capacity) equipped with Vaporizer coil, Valves, Instruments etc &amp; Piping up to user point(maximum 09 Points) of Bay no. 6 &amp; 7 of moulding section and melting area in 02-shop /FFP )with provision of all statutory prerequisites. Pressure at user point = 4-5 Kg/Cm<sup>2</sup></b>	01 Nos	The job to be done on Turn Key basis.
<b>Project Execution Period</b>		<b>150 Days</b>

The offer has to be submitted in two part bid system viz;

- 1) Techno commercial bid                      2) Price Bid

**N.B.:**

- (I) Tenderer are requested to visit the site of Installation and inspect the site before submission of offer.**
- (II) The Supply LOX and Installation and maintenance of plant (Tanks etc )shall be done by the same tenderer.**

**Scope of Supply**

- A) The Erection & Commissioning, Installation of VIE Tank including Civil work will under the scope of tenderer.
- B) Flooring, boundary upto half meter height by bricksthen further one meter height by wire fencing, gate fitting( 1.5 Mtr X 5 Mtr ) will be under the scope of tenderer.
- C) All necessary provisions of Electrical, Mechanical and Instrumentation, valves and other safety accessories along with piping up to the user point at Heavy , Medium and Light Forge shop of FFP will be under the scope of supply of tenderer.
- D) The required statutory license like CCOE etc has to be arranged by the tenderer
- E) The successful tenderer has to enter into a rate contract for Supply of LOX, and maintenance of the plant valid for **minimum two years**.**
- F) The Maintenance of the VIE tank, Vaporizer, piping etc during the contractual period will be under firms scope of works.
- G) Provision of proper illumination /lighting at the site of installation shall be under the scope of work of tenderer.
- H) The tenderer has to assure the supply of liquid oxygen on one day advance intimation.
- I) The firm has to provide Test certificate, Guarantee certificate for each consignments.
- J) Training of the person(s) at site has to be arranged by the tenderer.



**16.0 SPECIAL TERMS & CONDITIONS**

**16.1 Risk purchase and general damage** will be applicable as per Corporation General Terms and Conditions of Contract, and as amended up to date.

**16.2 PERFORMANCE SECURITY / SECURITY DEPOSIT :**

Successful tenderer irrespective of their registration status with HEC LTD will be required to submit performance security within 30 days of contract for due performance of contract.

**16.3 DELIVERY :**

**16.3.1 The total project execution time is 150 days.**

16.3.2 Time is the essence of the contract. The tenderer shall quote his best and earliest delivery so that machine is available at site at the earliest. The time schedule for the delivery of the Plant and equipment, civil engineering erection and putting into commission as specified in technical specification should be indicated suitably in the tender. Tenderer will submit a BAR CHART in this regard showing detailed activities for execution of the order if any and their time schedule for consideration of the purchaser.

16.3.3 Delivery quoted should be guaranteed.

16.3.4 The tenderer will be responsible for co-ordinated delivery and erection of the complete plant, equipment and materials both from out side India and from indigenous sources and he shall ensure deliveries in the sequence in which they will be required for erection at site.

**16.4 L.D. CLAUSE**

16.4.1 The date of delivery of the stores stipulated in the acceptance of tender shall be deemed to be the essence of the contract and delivery must be completed not later than the date specified therein. If the supplier fails to deliver the stores or any consignment there of within the period prescribed for such delivery, the Corporation shall be entitled at his option either: -

a. To recover from the supplier, liquidated damages and by way of penalty, a sum of 0.5% per week subject to max. of 10% of the price of any stores which the supplier has failed to deliver as aforesaid.

Or

b. To purchase from elsewhere, without notice to the supplier on the account and the risk of the supplier, the stores not delivered or other of similar description without canceling the contract in respect of the consignment not yet due for delivery.

Or

c. To cancel the contract or a portion thereof, and if so, desired to purchase stores or similar / equivalent description at the risk & cost of supplier. In the event of action being taken under (a) or (c) above the contract on that account provides that the purchase or if there is an agreement to purchase then such agreement is made within six month of the date of such failure, But the supplier shall not be entitled to any gain on such purchase made against default. The manner and method of such purchase shall be at the entire discretion of the Corporation, whose decision will be final. It shall not be necessary for the purchaser to serve a notice of such repurchase on the defaulting supplier. This right shall be without prejudices to the right of the purchaser to recover damages for breach of the contract by the supplier.

16.4.2 In the event of the supplier's failure to have the stores delivered by the date/ dates specified in the contract, the purchaser may, at his discretion withhold any payment until the whole of the stores have been supplied and the buyer may also deduct from the seller as agreed, liquidated damages and not by way of penalty the sum of 0.5% of the contract price of the undelivered store for each and every week and part of a week for which the stores have been delayed subject to maximum of 10% of the value of delayed store, in case the delay in delivery is acceptable to the buyer.

**16.5 Compliance with Statutory Laws and other regulations of Govt./Local/Authority:**

16.5.1 All statutory /labour rules of Govt./Local authorities as applicable at site shall be strictly followed by the Tenderer. Tenderer shall indemnify employer against any such implication.

The following Acts with latest amendment thereof shall be complied with by the Tenderer.:

- a) Employee Provident Fund & Misc Provision Act 1952.
- b) Contract Labour Act ( Regulation and Abolition Act 1970,.)
- c) Minimum Wages Act, 1948.
- d) Payment of Wages Act,1936.
- e) Workmen Compensation Act,1923.
- f) Factories Act,1948.
- g) Apprenticeship Act,961.
- h) Family Pension Act,1952.
- i) ESI Act..
- j) Shop & Establishment Act.
- k) Cess Act,1996
- l) Any other statutory Act relevant to in this regard.

**16.6 PACKING:**

**16.6.1 FOR INDIGENOUS MACHINE:**

16.6.1.1 The Supplier must ensure that sturdy packing is used to withstand rough handling during transit by rail/road. The Supplier will be responsible for internal damages if any, when outwardly there is no damage to the package.

**16.6.2 FOR IMPORTED MACHINE:**

- 16.6.2.1 The packing must be such that it is able to withstand the vagaries of weather, shipping and roughness of handling by port labour, cranes and fork-lifts.
- 16.6.2.2 The consignments as far as possible must be shipped in containers (FCL/LCL). Shipment shall be arranged by Indian Flag Vessels only . Transshipment is not permitted.
- 16.6.2.3 In case the supplier fails to meet the qualitative requirements for packing, he must make good all losses arising out of failure to meet contractual obligations. The supplier will be responsible for internal damages if any, even if outwardly there is no damage to the package.

### **16.6.3 MARKINGS: (COMMON FOR INDIGENOUS/ IMPORTED MACHINE).**

16.6.3.1 The following markings on two opposite faces and top side should be stenciled in legible ink on the packing cases containing the consignments at the time of dispatch:

Contract No & Date.  
Full address of consignee.  
Port of landing/Rly siding of the consignee.  
Total No. of packages & SI No of each packing case.  
Up right arrow.  
Gross weight.  
Special marking for case.  
Brief nomenclature of equipment.  
Slings position.

### **16.6.4 PACKING DOCUMENTS: (COMMON FOR INDIGENOUS/ IMPORTED MACHINE).**

16.6.4.1 The following documents will be kept in the packing case:  
a) Packing List/Invoice.  
b) Pre-delivery inspection certificate.

### **16.7 STANDARD TERMS OF PAYMENT:**

16.7.1 The advance payment is not admissible. The detail Payment term will be decided during techno commercial discussion.

16.7.2 PERMANENT ACCOUNT NUMBER :

All indigenous tenderer shall submit along with their tender , Permanent Account Number of Income Tax (PAN). Foreign tenderer may also give their PAN if they have acquired the same. Failure to produce the PAN will render their quotation liable to be rejected.

16.7.3 All Taxes and duties will be borne by the supplier/enderer. Details to be included in the quotation.

### **16.8 PRICE PREFERENCE POLICY**

**16.8.1 PRICE PREFERENCE POLICY :**The provision relating to price preference policy as per Govt. of India, Min.of Small Scale Industries, letter vide F. No. 22(1)/ 2003/ EP&M dt. 29/7/2003 and as amended up to date will be applicable to SSI units registered with NSIC. However, such a preference will be considered strictly on merit in such a manner as to discourage inflation and prevent profiteering and creation of sense of self complacency in economy.

## **16.9 GUARANTEE AND WARRANTY OF SUPPLIES:**

**16.9.1 Guarantee :** The supplier shall guarantee among other things the following :

- (a) Satisfaction of technical and other parameters mentioned in the specification and contract.
- (b) Quality and strength of materials used in the manufacture of the equipment considering the applicable codes of practice and regulation.
- (c) Adequate factors of safety for all parts of the equipment to withstand the mechanical and/ or electrical stresses developed therein under specific operating conditions.
- (d) Performance data furnished/ specified for the equipment should be actually obtainable when the equipment is installed and tested at site.

### **16.9.2 Warranty :**

- (a) The supplier shall warranty that the equipment will be in accordance with the specification/ contract suitable in design and workmanship for conditions envisaged in the specification.
- (b) The supplier shall warrant that the equipment will be free from defects in design, material or workmanship.
- (c) Supplier's obligations under the warranty shall involve repair, rectification and making good at site the defect, imperfection or fault attributable to defective design, material or workmanship.
- (d) Inspection by purchaser's representatives at various stages would not relieve the supplier of his obligations under the warranty.
- (e) The Supplier/ seller hereby declares that the goods/ store/ articles sold/ supplied to the purchaser under this contract shall be of best quality and workmanship and new in all respects and shall be strictly in accordance with the specifications and particulars contained/ mentioned in the said contract. The goods/ stores/ articles would continue to conform to the description and quality aforesaid for a period of twelve months from the date of final commissioning of the said goods/ stores/ articles to the purchaser or 18 months from the date of shipment/ dispatch from the supplier's works, whichever is earlier and that notwithstanding the fact that the purchaser (Inspector) may have inspected and/ or approved the said stores/ articles. If during the aforesaid period of 12/ 18 months the said goods/ stores/ articles be discovered not conforming to the description and quality aforesaid or not satisfactory performing or have deteriorated, the decision of the purchaser in that regard shall be final and binding on the supplier/ Seller. The purchaser shall be entitled to call upon the supplier/ seller to rectify the goods/ stores/ articles or such portion/ portions thereof as is found to be defective within the reasonable period or such specific period as may be allowed by the purchaser in his discretion on an application made thereon by the supplier/ seller and in such an event the above mentioned warranty period shall be applied to the goods/ stores/ articles rectified from the date of rectification thereof, otherwise the supplier/ seller shall pay to the purchaser such compensation, as may arise from breach of the Warranty herein contained.

## **16.10 LEGALITY AND DISPUTE SETTLEMENT**

### **ARBITRATION CLAUSE –Applicable between HEC Ltd and Private Supplier excluding FOB supplier**

- 16.10.1 The parties to this contract at the first instance shall endeavor to settle by mutual discussion all the questions of disputes or differences arising out of, or relating thereto, or in connection with this contract and in the event of failure of settlement, the aggrieved party shall refer the unresolved dispute(s) or difference(s) to the Chairman-cum-Managing Director of the company (HEC Limited) for adjudication by a sole Arbitrator to be appointed by him (CMD of HEC Ltd) who (sole Arbitrator) shall adjudicate the matter in question in accordance with the arbitration and conciliation Act, 1996 (For short "Act") and publish the award. The parties shall have no objection if the sole Arbitrator so appointed is an employee or Ex-employee of HEC Ltd. If the sole Arbitrator for any reason, whatsoever, becomes unable to proceed with the arbitration, the Chairman-cum-Managing Director of the company shall appoint his successor arbitrator who may proceed with the reference from the stage it was left by his predecessor subject to provision of the Act. The venue of arbitration proceeding shall be at Ranchi in the state of Jharkhand, INDIA alone.

## JURISDICTION OF COURT

For any or all types of disputes arising out of the contract, the jurisdiction of court shall be at Ranchi in the State of Jharkhand(INDIA) alone.

- 16.10.2 **ARBITRATION CLAUSE -FOR Suppliers (FOR PUBLIC ENTERPRISES/ GOVT. DEPARTMENTS) :** In the event of any dispute or difference relating to the interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Govt. of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act 1996 shall not be applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the disputes, provided however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/ Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator. (Ref-Min. of HI & PE OM No. 1(24)/ 2005-DPE (PMA) dt. 22/1/04).

### **16.10.3 ARBITRATION (for FOB Suppliers /Contractors):**

All disputes, differences, controversies/differences of opinions, breaches and violation arising from or related to the agreement arises out of this Agreement between parties the same shall be resolved by mutual discussions/reconciliation in good faith.

If the disputes, differences, controversies/differences of opinions, breaches and violation arising from or related to the agreement can not be resolved within 60 (sixty) days of commencement of reconciliation / discussion, then such question , dispute or difference (except as to the matters, the decision to which is specifically provided under this agreement) shall be finally settled by arbitration under the Arbitration and Conciliation Act, 1996 which has been enacted based on the United nations Commission on International Trade Law (UNICITRAL). The parties may agree to appoint a sole arbitrator. Judgment upon the award by the arbitrator will be final and binding and may be entered in any court having jurisdiction thereof. Each party hereby waives any sovereign or international organizational immunity defense to which it would be otherwise entitled, to the fullest extent necessary to conduct such arbitration , to enforce and collect on any judgment entered on an award in arbitration, and to engage in any other matters incidental thereto. The place of any such arbitration shall be at New Delhi, India . the Language to be used in the arbitration proceedings shall be English.

## GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the substantive law in force in India without reference to any of its conflict of law rules.

### **16.11 GOVERNMENT OF INDIA NOT A PARTY TO THE AGREEMENT (for Foreign Bidders/Suppliers)**

It is expressly understood and agreed by and between .....( Name of foreign party / firm ) and M/s Heavy Engineering Corporation Ltd .( for short "HEC") that HEC is entering into this agreement solely on its own behalf and not on behalf of any other person or entity. In particular it is understood and agreed that Government of India is not a party to this agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that HEC 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 principals of contract law. The Company expressly agrees , acknowledges and understand that HEC is not an agent , representative or delegate of Government of India. It is further understood and agreed that Government of India is not and shall not be liable for any acts, omissions, commissions , breaches or other wrongs arising out of the contract. Accordingly Corporation (HEC) hereby expressly waives , releases and foregoes any and all actions or claims including cross claims, impleader claims or counter claims against the Government of India arising out of this contract and covenants not to sue the Government of India as to any manner, claim, cause or action or thing whatsoever, arising out of or under this agreement.

### **16.12 FOR IMPORTED MACHINE ONLY:**

- (a) For machines of imported nature involving payment in Foreign Exchange, have to be quoted by the Foreign Manufacturer/Supplier directly without associating Indian Agents, if any, on FOB price stating the Port of shipment.
- (b) Tenderer to confirm that their quoted price does not include payment of Agency Commission to any third party.
- (c) Tenderer should also confirm in their offer that Export License, if required, would be arranged by the Tenderer.

### **16.13 PENALTY FOR USE OF UNDUE INFLUENCE**

16.13.1 The seller undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the buyer or otherwise in procuring the contract or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the contract or any other contract with the Government for showing or forbearing to show favour or dis-favour to any person in relation to the contract or any other contract with the Government. Any breach of the aforesaid undertaking by the seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the seller) or the commission of any offense by the seller or anyone employed by him or acting on his behalf, as defined in chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1947 or any other Act enacted for the prevention of corruption shall entitle the buyer to cancel the contract and all or any other contracts with the seller and recover from the seller the amount of any loss arising from such cancellation. A decision of the buyer or his nominee to the effect that a breach of the undertaking has been committed shall be final and binding on the seller.

16.13.2 Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the seller towards any officer/employee of the buyer or to any other person in a position to influence the decision of the buyer directly or indirectly or any attempt to influence any officer/employee of the buyer for showing any favor in relation to this or any other contract, shall render the seller to such liability/penalty as the buyer may deem

proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the buyer.

**16.14 AGENTS/ AGENCY COMMISSION:**

16.14.1 The seller confirms and declares to the buyers that the seller is the original manufacturer of the stores referred to in this contract and has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the contract to the seller, nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any, such intercession, facilitation or recommendation. The seller agrees that if it is established at any time to the satisfaction of the buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the buyer that the seller has engaged any such individual/firm and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the seller will be liable to refund that amount to the buyer. The seller also be debarred from entering into any supply contract with the Government of India for a minimum period of five years. The buyer will also have a right to consider cancellation of the contract either wholly or in part, without any entitlement or compensation to the seller who shall in such event be liable to refund all payments made by the buyer in terms of the contract along with interest at the rate of 2% per annum above the rate. The buyer will also have the right to recover any such amount from any contracts concluded earlier with the Government of India.

**16.15 ACCESS TO THE BOOKS OF ACCOUNTS:**

16.15.1 In case it is found to the satisfaction of the buyer that the seller has engaged an Agent or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents/agency commission and penalty for use of undue influence, the seller, on a specific request of the buyer shall provide necessary information / inspection of the relevant financial document/information.

**16.16** In the event of an order being placed on you in pursuance of this invitation to tenders, the same will be governed by the Corporation General Terms and Conditions of Contract and as amended up to date. A copy of which may be obtained from this office or can be downloaded from our web site [www.hecltd.com](http://www.hecltd.com).

Sub: Proforma of un-priced bid copy for Oxy Plant  
 Ref: Enq. NO. PUR/FFP/2012/411157/80/

Dt 08.09.2012

Sl. No.	Description	Compliance Yes or no	In case of noncompliance, deviation to be indicated
1	Basic cost		
2	Excise duty (If any)		
3	Sales Tax		
3 (a)	CST /VAT		
3(b)	JVAT		
4	P & F charges (If any)		
5	Freight charges up to FFP Stores (If any)		
6	Octroi (If any)		
7	Insurance (If any)		
8	Erection & installation charges (If any)		
9	Commissioning charges (If any)		
10	Service tax (If any)		
11	Any other taxes (If any)		
12	Training /Demonstration cost (If any)		
13	Sub total		
14	Optional item cost		
15	Taxes on optional items in detail		
16	Spares for 2 years requirement (List of items with quantity, unit rate & value to be added.)		
17	Taxes on spares		
18	Sub total		
19	Grand Total		

Date:

Signature of Supplier  
 Address & seal

**Note:**

- 1. The Price for Supply of LOX , Installation and Commissioning work and Spares shall be quoted separately with detail break up to arrive at Landed cost.**
- 2. The price schedule of each item shall be submitted with detail breakup as above.**
- For foreign suppliers ( FOB /CIF basis) , the above format may not be applicable. In that circumstance the foreign firm may furnish the details in their own format.



**Check List Compliance Report**

SI No	Description	Firm's Remarks Yes/No	In case of noncompliance, deviation to be indicated
1	Submission of EMD		
2	Confirmation for submission of performance security deposit		
3	Validity 180 days from the date of opening of tender documents.		
4	Delivery period.		
5	Warranty period		
6	Submission of un priced copy of price bid along with techno-commercial bid.		
7	Para-wise compliance statement.		
8	Confirmation regarding scope of supply and prices available against each item in price bid as per scope of supply mentioned in the technical specification.		
9	Payment terms.		
10	Submission of catalogues / Drawing of the proposed machines.		
11	Submission of Customers list / Reference list to whom the similar / proposed machines supplied by the tenderer .		
12	Submission of test chart of the proposed machines.		
13	Confirmation to risk purchase and L.D. clauses.		
14	Confirmation to Special Terms & Condition of contract Clause No. 16		

