

MEMORANDUM

Sub: Proposal for implementation of Rate Contract Manual in DHBVN.

DHBVN has planned huge infrastructure investment on the following works in order to make available uninterrupted, reliable and quality supply to the consumers and to bring down the existing technical and commercial distribution losses.

- i) Renovation and Augmentation of existing 33KV Sub-stations and construction of new sub-stations.
- ii) Segregation of feeders within (Rural, Domestic and Agriculture Load).
- iii) Bifurcation/trifurcation of over loaded feeders.
- iv) Strengthening of Distribution Transformers/conversion of LT to HT for Tubewell / Rural Industries.
- v) DT Metering/Capacitors on DT.
- vi) Re-location of meters outside the premises.
- vii) HVDS/LVDS scheme implementation.
- viii) Automatic Meter Reading Projects.
- ix) Augmentation, Segregation and re-conducting of LT & HT lines feeding the villages.

In order to carry out above infrastructure development speedily, the Delegation of Powers of the field officers have been increased manifolds. The Nigam has also implemented new Procurement Manual w.e.f.1.4.2006. It has further been considered essential to adopt the rate contract system in view of the following benefits to Buyers and Suppliers.

To Buyers:

- Facility of purchase at lowest, economical and competitive price.
- Saving in time and effort in tedious and frequent tendering at multiple user locations.
- Enables buying as and when required.
- Reduces inventory carrying cost.
- Availability of the quality goods with full quality assurance back up.
- To adopt uniform technical specifications.
- Uniform purchase procedures, forms, policies and rates.

To Suppliers:

- Access to large volume of purchase without going through tendering and follow up at multiple user locations.
- Saving in administrative and marketing efforts and overheads.
- Rate contract lends respectability and image enhancement.

The office of the Chief Engineer/MM is a Nodal Agency for procurement of materials in the DHBVN as a whole and the rate contracts to be operated by the field officers for all common use items will also be finalized by the same organization. Such rate contracts are to be made with the manufacturers as a matter of policy. The Nigam officers shall ensure pre-despatch inspection of the stores to ensure that the stores actually supplied are strictly as per rate contract specifications & are of proper quality. The rate contract manual have been framed to ensure transparency in the procedures and its implementation. The regulations contained in the procurement manual are also required to be followed strictly for processing rate contract cases.

The Board of Director of DHBVN may consider the draft Rate Contract Manual for their approval and implementation in DHBVN.

This item carries approval of MD, DHBVN.

DA/Draft Rate Contract Manual

**FA&CAO/MM,
DHBVN, Hisar.**

DAKSHIN HARYANA BIJLI VITRAN NIGAM

RATE CONTRACT MANUAL

PREAMBLE

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It is hoped that this rate contract manual would serve as a handy guide to the various purchase authorities functioning in the DHBVN.

Errors or omissions, if any, noticed by the users may be brought to the notice of the FA&CAO/MM, DHBVN, Hisar.

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**DAKSHIN HARYANA BIJLI VITRAN NIGAM
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DHBVN RATE CONTRACT MANUAL

INTRODUCTION :

In exercise of the powers conferred by Section 291/292 of the Companies Act, 1956, the Dakshin Haryana Bijli Vitran Nigam Ltd. hereby makes the following regulations to regulate the purchases of equipment, stores/material through rate contract system.

REGULATION 1 : SHORT TITLE, COMMENCEMENT AND SCOPE:

1.1 These Regulations shall be called "The Dakshin Haryana Bijli Vitran Nigam Rate Contract Manual.

1.2 These shall come into force with effect from 1.2.2007.

1.3 The Nigam shall fix annual rate contract as per Procurement procedure through the office of Chief Engineer/MM for the various items keeping in view the following advantages of the rate contract scheme:-

- i) To have economical, lowest and competent price of various items to be procured directly by the field officers from manufacturers.
- ii) To save time and efforts in tedious and frequent tendering at multiple user locations.
- iii) To buy the material as and when required.
- iv) To reduce inventory carrying cost.
- v) To get quality goods with full quality assurance back up.
- vi) To have uniformity of technical specification by all users and purchase at the same rates during specified duration of Rate Contract.
- vii) To ensure implementation of consistent and uniform purchase policies and procedures.

REGULATION 2 : DEFINITIONS

In these regulations, unless the subject or context otherwise requires:

2.1 "The Government" means the Government of the State of Haryana.

2.2 "Act" means the Companies Act 1956 and shall include any statutory amendment, modification or re-enactment thereof, for the time being in force.

2.3 "The Nigam" means the Dakshin Haryana Bijli Vitran Nigam as incorporated under Companies Act, 1956 and shall include its successors and assigns.

2.4 "The BOD (Board of Directors)" means a group of Directors duly appointed and constituted by GOH and the Directors assembled at a BOD meeting or the requisite number of Directors entitled to pass a circular resolution in accordance with the Act, as the case may be.

2.5 "The Chairman" means a Director appointed as Chairman of the Haryana, Power Utilities duly appointed by the Government of Haryana.

2.6 The "Whole Time Directors" means the Managing Director of the Nigam, the Director/Project, Director/OP, the Director (Finance and Accounts) of the Nigam

and any other Director of the Nigam appointed by the Government to serve on whole time basis.

2.7 "Managing Director" means the Managing Director of the DHBVN duly appointed by the Govt.

2.8 "Director" means any Director for the time being of the Company appointed by the Government to serve on the Board of the Nigam whether on whole time or part time basis and includes the Chairman.

2.9 "Purchasing Authority" means the B.O.D.s, WTDs and SPC or such authority to whom power to purchase material may have been delegated by the Nigam.

2.10 "Store Purchase Committee" and "Standing Purchase Committee" means the Committee constituted by the Nigam for making purchases of certain specified items of stores and any other material on behalf of the Nigam. It shall consist of SE, concerned as Member Secy, FA&CAO/MM as Member and Chief Engineer(MM/P&D/ OP) as Chairman.

2.11 "Controller of Stores" means the Controller of Nigam Stores appointed/designated by the Nigam.

2.12 "D.G.S. & D" means the Director-General of Supplies and Disposals, Govt. of India.

2.13 "D.S. & D" means the Director Supply & Disposals Haryana.

2.14 "Rate Contract" means the rate contract entered into by the DHBVN.

2.15 **Direct Demand Officer:** The rate contract will be operated by the field officers or the officers authorized by the Nodal Agency, to be called as Direct Demand officers.

2.16 "Approved Banks" means the State Bank of India, State Bank of Patiala or any other Nationalised /scheduled Bank approved by the Nigam from time to time.

2.17 "Schedule" means a schedule appended to these regulations.

2.18 "Purchasing Department" is the Department attached to and working under the Purchasing Authority.

2.19 "Inspecting Agency" means the agencies nominated and authorised by the competent authority for inspecting the material at the works of the supplier(s).

2.20 "Inspecting Officer" means any of officer of the Nigam or appointed by the Chief Engineer or any representative of the Inspecting Agency deputed for the purpose of inspection and testing the material at the works of the supplier(s).

2.21 "Contract Value" shall mean the bare value of the goods 'ex-works price' without taking into account taxes, duties or any other incidentals where the prices is ex-works, but where the prices given in the PO are on FOR destination basis inclusive or exclusive of ED and CST etc., the 'Contract value' would mean FOR destination prices, given in the PO inclusive of ED, CST, other statutory levies etc. as the case may be.

2.22 "Material" means any product or services or any combination thereof.

2.23. NIT :- The purchasing section shall prepare Notice Inviting Tender including therein the essential pre-qualifications, minimum quantity to be quoted, the annual turnover required, past performance with the Nigam and the same should be issued after approval of the competent authority.

2.24 High Powered Rate Contract Committee means the committee has the power to finalize the various rate contracts for purchases/works consisting of Chief Engineer/MM, Chief Engineer P&D, G.M. Commercial, FA/HQ as member and SE/Admn. as Member Secretary. The senior most Chief Engineer will officiate as Chairman of the committee and the Nodal Agency shall provide all secretarial and other supporting documents/concerned papers to the Committee.

Regulation No. 3: Nodal Agency

The Chief Engineer/MM will act as Nodal Agency for rate contract functions and is responsible for:-

- 1) Concluding rate contracts for common users items required by various Nigam Departments.
- 2) To conduct training in supply and quality management and render consultancy services.
- 3) To fix Inspecting Agency and notify the same for the information of field officers.
- 4) To continuously identify more or more items to be brought within the ambit of the rate contract system.
- 5) To maintain continuity of the rate contracts as far as possible.
- 6) To adopt consistent and uniform policies and procedures.
- 7) To update the procurement specifications in keeping with the latest/current trends of the technology usage.
- 8) To arrange procurement of quality materials at competitive rates.
- 9) To have regular interaction with the field officers.
- 10) To have a feed back on the suppliers performance.
- 11) To maintain register at the headquarter for the supply orders placed by the various field offices.
- 12) To resolve bottlenecks, if any, in supplying the material by the firms with rate contract.
- 13) To notify details of rate contracts to the field officers from time to time and its supplementary information/amendment.
- 14) To maintain data bank of the suppliers, specifications etc. for items required.
- 15) To simplify the documentation and procedures.
- 16) To render assistance to the field officers for understanding of the specifications and require testing standards.

Regulation 4 : Policies For Procurement of Material Under Rate Contract

Regulation 4.1 Basic Principles:

(a) No new works should be sanctioned without careful assessment of the assets or facilities already available and time and cost required to complete the new works.

(b) As budgetary resources are limited and granted on annual basis, adequate provisions should be ensured for works and services already in progress before new works are undertaken.

(c) The construction period and sanctioned cost stipulated in the sanction of Project will not be exceeded as far as possible.

(d) The competent authority according administrative approval should be kept informed of the progress of the work till their completion through regular periodical reports.

(e) No project or work will be split up to bring it within the sanctioning powers of a lower authority.

(f) Any anticipated or actual savings from a sanctioned estimate for a definite project, shall not, without special authority, be applied to carry out additional work not contemplated in the original project.

No works shall be commenced or liability incurred in connection with it until:-

(i) Administrative approval has been obtained from the appropriate authority.

(ii) Sanction to incur expenditure has been obtained from the competent authority.

(iii) A properly detailed design has been sanctioned.

(iv) Estimates containing the detailed specifications and quantities of various items has been prepared and sanctioned on the basis of the schedule of rates maintained by DHBVN or rates circulated by CE(P&D) DHBVN on quarterly basis.

(v) Funds to cover the charge during the year have been provided by competent authority.

(vi) Tenders have been invited and processed in accordance with rules.

(vii) A work order has been issued.

However, on grounds of urgency or otherwise, if it becomes necessary to carry out a work or incur a liability under circumstances when the provisions set out above cannot be complied with, the concerned executive officer may do so on his own judgment and responsibility. Simultaneously, he should initiate action to obtain approval from the competent authority and also to intimate the concerned Accounts Officer/Accounts wing.

Regulation 4.2 Preparation of Detailed Project Report (DPR):-

The procuring entity shall finalize the Detailed Project Report giving reference to the following documents:

-Approval of Statutory Bodies for Site Plan, Architectural Drawings etc. as required.

- Detailed soil investigation.

- Detailed architectural drawings.

- Detailed structural drawings.

- Detailed Cost Estimates based on specifications and schedule of rates.

- Annual plan and five-year plan allocation and cash flow.

- Systems to be adopted for project monitoring.

- Works accounting system.

- Quality assurance system/mechanism.

- Bidding Systems - Single, two parts, pre-qualification, Post-qualification.

Regulation 4.3 Administrative Approval:-

Administrative approval will be accorded by the competent authority to the execution of work after due examination of Detailed Project Report and detailed estimates.

Regulation 4.4 Technical Sanction:-

Technical sanction to detailed cost estimates shall be accorded by the competent authorities so as to ensure that proposals are structurally sound and that the estimates are accurately calculated based on adequate data.

Regulation 4.5 Availability of Funds:-

Before taking up the execution of work it shall be ensured that appropriate funds are available to meet out the expenditure on the work.

Regulation No. 5: General conditions of contract:-

The rate contract and supply orders placed against the rate contract shall be governed by general regulations as contained in DHBVN Procurement Manual as amended up to date and also the conditions set out therein, unless otherwise stated in special conditions of the contract. The Direct Demand Officer/Field Officers authorized to operate the rate contract may place their orders in the prescribed form for the procurement of material as per their need and copies of all such orders shall also be sent to the Nodal Agency.

Regulation No. 6: Price Negotiation/Counter-Offer

6.1 Price Negotiation with the tenderers should be severely discouraged. However, in case the price quoted even by the lowest responsive tenderer (L1) is not reasonable and acceptable, the price may be negotiated with L1 only and, if it reduces the price to the desired level, rate contract may be concluded with L1.

6.2 There may be a situation, where parallel rate contracts are needed, but though the price of L1 is reasonable, there are inadequate numbers of responsive tenderers falling within the reasonable price band. To take care of such situation, High Powered Rate Contract Committee has empowered for negotiation and counter offering as per the procedure indicate below:

To start with, the rate contract may be awarded to L1 tenderer. Then the price of L1 may be counter offered to the higher quoting responsive tenderers under intimation to L1 asking them to send their revised price bid in sealed covers to be opened in public at a specified place, date and time (as per the standard procedure). L1 may be specifically informed that it may, if it so desires, reduce its price and send its revised tender accordingly as above. The tenderers who accepts the counter offer rate or rate lower than that are to be awarded parallel rate contracts. If L1 lowers its rate in its revised offer, same may also be accepted with effect from that date and its rate contract amended accordingly.

There may be a situation where parallel rate contracts are necessary, but even the price of the lowest responsive tenderer (L1) is not reasonable. In that case,

price negotiation may be conducted with L1 in the first instance. If L1 agrees to bring down the price to the desired level, rate contract may be concluded with it and that price counter offered to other responsive tenderers under intimation to L1 for further action in identical manner as indicated in the above paragraph. If, however, L1 does not agree to reduce its price in the first instance itself, then the price, which has been decided as reasonable may be counter offered to all the responsive tenderers (including L1) for further action on above lines.

6.3 This clause will not apply to the negotiations conducted by the high powered rate contract committee with the tenderers after the opening of Part-I of tender.

Provided further that negotiations regarding delivery schedule and other commercial terms not related to the rates quoted which may be conducted by the purchasing authority with the parties selected for placing the rate contract, shall not be deemed as a negotiation under this Regulation.

Regulation No. 7: Power to approve rate contract for purchases/works

High Powered Rate Contract Committee has the power to finalize the various rate contracts for purchases/works, consisting of the following members.

1. The CE/MM, DHBVN, Hisar.
2. The CE/P&D, DHBVN, Hisar.
3. The G.M.(Commercial), DHBVN, Hisar.
4. The F.A.(HQ), DHBVN, Hisar, Member.
5. The S.E./Admn. DHBVN, Hisar– Member Secretary.

The senior most Chief Engineer will officiate as Chairman of the ibid stated committee whereas other two Chief Engineers will be the Members of the Committee. The office of the Nodal Agency shall provide all secretarial and other supporting documents/concerned papers to the Committee.

Regulation No. 8: Terms of payment

Subject to any deductions which the purchaser may be authorised to make under this contract, the payment for the material shall be made as under:-

(a) One hundred percent payment shall be made on 30th day from the date of receipt of material by the consignee or date of submission of documents i.e. bills/invoices in triplicate, receipted challan, inspection note, prescribed sale tax/excise duty certificates and excise duty gate pass wherever required etc. whichever is later.

(b) The bank guarantee of the value of 10% of the contract price shall be furnished within 15 days from the date of issue of Purchase Order which should remain valid for 90 days after the expiry of warranty period, failing which:

(i) Penalty @ 0.35% per week or part thereof of the value of BG would be charged from due date of submission, till the BG or DD in lieu of BG is submitted by the firm.

(ii) In case the performance bank guarantee or DD in lieu of performance security is not submitted within 30 days from the date of issue of Purchase Order or the date if any stipulated by the DDO, the Nigam (Nodal Agency) reserve the right to cancel the Rate Contract.

Further a rebate of 0.35 percent per week or part thereof shall be availed of by the Nigam if payment is made earlier than the period specified. The rebate will be calculated on the payable amount.

The following time schedule for inspection and issue of despatch authorization shall be observed:

Sr. No.	Time Schedule for inspection / issue of D.I.	Description
1	Period for deputing inspecting officer/ agency from the date of receipt of offer of inspection	5 days
2	Period for inspection and submission of report thereof by inspecting officer/ agency after inspection.	10 days
3	Period of scrutiny of inspection report and issue of despatch instruction	5 days

Regulation No. 9: Delivery against purchase order

No supplies/consignments received after the due date, on which they were actually due according to the terms of the purchase order, shall be accepted by the consignee except, with the approval of the purchasing authority. In case the purchasing authority decides to accept a delayed supply, the supplier shall be liable to pay penalty @ one half of one percent per week or part thereof up to 10 weeks and 1 per cent thereafter per week or part thereof of the value of the goods, so delayed, subject to a maximum of 10% of the total value of the delayed supplies. In case the delivery schedule provides lot wise delivery of material, lot wise penalty shall be imposed.

Regulation No. 10 : Extension in delivery schedule

10.1 No extension of dates on which the deliveries are due as per the terms of purchase order shall ordinarily be granted except under force-majeure circumstances as defined under Regulation 13. Acceptance of a delayed supply at the sole discretion of the Purchasing authority shall be subject to the levy and recovery of liquidated damages as prescribed under Regulation 9.

10.2 In exceptional circumstances, where the supplier applies for an extension of the due date of delivery well before that date, and advances good and valid reasons for claiming the extension to the satisfaction of the purchasing authority that authority may grant such extensions by amending the relevant clause of the purchase order and in such a case, no penalty/liquidated damages in terms of Regulation 9 shall be leviable or recoverable from the supplier. Where the reasons given by the supplier are not convincing, the request for extension shall

be rejected and all delayed supplies if accepted shall be subject to the levy/recovery of penalty/liquidated damages as per Regulation 9.

Provided that where an extension is granted under this clause by the purchasing authority, it shall be made clear to the supplier that the Nigam shall not be liable to pay a higher price in terms of the price variation clause beyond what should have been payable, had the supplies been effected according to the original schedule of deliveries. Such a stipulation will also be made in the amendment issued to the purchase order. Extension of delivery period is to be allowed by the authority approving the purchase proposal.

10.3 The total delay in inspection and dispatch authorization shall be the period from the date of receipt of offer of material to the date of receipt of dispatch authorisation by the firm less 20 days.

10.4 The delay in dispatch authorisation shall not be considered in those cases where the firm has not offered the full to +/- as determinable from the delivery clause of the P.O.

10.5 Benefits of delay in inspection and issue of DA/DI would not be allowed to the firm in case the firm offer the material after expiry of scheduled delivery period. Provided that the extension of delivery period is to be allowed by the authority, which approved the purchase proposal.

Provided further that all other terms and conditions of the purchase order/contracts shall remain unchanged.

Regulation No. 11 : Termination of contract for default :

11.1 The purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, terminate the contract in whole or in part:

(a) If the supplier fails to deliver any or all of the stores within the time period(s) specified in the contract, or any extension thereof granted by the Purchaser; or

(b) If the supplier fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted by the purchaser.

(c) If the supplier, in the judgement of the purchaser has engaged in corrupt or fraudulent practices in competing for or in executing the contract (The definition of corrupt or fraudulent practices defined under regulation-16).

11.2 In the event the purchaser terminates the contract in whole or in part. Performance Security(Cash/Bank Guarantee) submitted by the firm/supplier shall be forfeited.

11.3 For deciding acceptance of delayed supplies in terms of Regulation 9, the powers of purchasing authority shall be exercised by the Direct Demand Officer . The cases for enforcing termination of contract for default action or canceling the purchase order in terms of Regulation 10 & 11 and the cases of extension in rate contract will be decided by authority approving the rate contract. In case the Rate

Contract was approved by the SHPPC, the extension in delivery period shall be decided by the Board of Directors.

Regulation No.12 : Replacement of Rejected Material

12.1 Material found sub-standard or defective or not conforming to the prescribed specification in any manner, at consignee's end shall not be accepted and an intimation to this effect shall be given to the supplier, the purchasing authority, Nodal Agency and the Controller of Stores by the consignee. The purchasing authority shall promptly take up the matter with the supplier and ask him to rectify or replace the defective/sub-standard material forthwith and in any case within a period of 45 days from the date of original supply, failing which, the Nigam shall reserve the right to get the defect rectified at the supplier's cost or to withhold the amount equal to cost of defective material. The supplier shall also be intimated that all expenses involved in the replacement by way of handling, transportation, storage, etc. shall be to their account. Before lifting the material for repair/replacement the supplier shall furnish Bank Guarantee equivalent to the total cost of the material to be lifted for repair/replacement. Failure to submit Bank Guarantee or to lift the material or to repair the equipment within the stipulated period, the purchaser shall entitle to deduct/ recover the full cost of the defective material from the outstanding payments/ B.Gs. of the firm. The payment so deducted/ recovered shall be released after receipt of repaired/replaced material. The purchaser may suspend further dealing with the firm till the receipt of repaired./replaced material.

12.2 In respect of the defective/sub-standard supplies, the date on which such supply is made shall be reckoned as the effective date of delivery. The delay shall be worked out with reference to the date on which the supply was due as per the terms of contract, for the purpose of determining penalties/liquidated damages recoverable under Regulation 9.

12.3 The provision of Regulation 12.1 and 12.2 shall apply mutatis-mutandis to the material found sub-standard or defective during the period of warranty.

Regulation No. 13 : Force majeure :

13.1 Notwithstanding the provisions of Regulation 10,11 and 12, the supplier shall not be made liable for any loss or damage due to delay in manufacture or delivery of the material/equipment on order as may result from any causes arising out of compliance with regulations, orders or instructions of the Central or State Governments, acts of God, acts of civil & Military authority, fires, floods, strikes, lock-outs, freight embargoes, war-risks, riots and civil commotion.

13.2 Whenever the supplier is not in a position to supply the material within the delivery period and he wants extension in the due dates(s) of delivery under this clause, he will request for such extension of the delivery period along with all necessary evidence before the expiry of the scheduled date(s) of delivery. In no case, the delivery period shall be extended under this clause, in case the request is received after the due date of delivery has expired. Extension in the delivery period may be granted only for the period for which the completion of the work is

proved by the supplier to have been delayed for circumstance mentioned in this clause.

13.3 In all such cases, the Nigam shall have the option to accept any portion of the balance material and cancel the order for the rest, provided, however, that if any material had been manufactured exclusively for the purchaser under this contract, prior to the commencement of the force majeure circumstances, it shall be accepted by the purchaser and that secondly, the cancellation will be without any liability for damages on the part of the supplier.

13.4 The decision of the Nigam in all matters under this Regulation shall be final and binding on the supplier.

13.5 Non availability of raw material or any other similar cause shall not be considered as a force majeure circumstance.

Regulation No.14 : Black listing of the firms

As the purchase order becomes a valid contract between the purchaser and supplier on the date of its issue, no further changes in the terms and conditions thereof are permissible and any request received in this regard from the supplier should be summarily rejected, making it clear to supply the goods strictly in accordance with the terms and conditions of the contract. It should be noted that such a liability can be enforced on the supplier only if the purchase order does not contain any term or condition contrary to what had been quoted in the supplier's tender. Once this is ensured, any attempt by the supplier to back out of his commitment should be taken a serious and his earnest money deposited be forfeited forthwith, without prejudice to any further legal remedies open to the Nigam under the relevant laws. Where necessary, the case of supplier illegally backing out of the commitment, should also be put up to the Whole Time Directors for consideration and to decide for black-listing of the firm and damages, if any ,to be recovered.

14.1 Procedure for Blacklisting of firm

In case the supplier's illegally backing out of the commitment, the steps for blacklisting of the firm, besides enforcement of damages recoverable under the law will be taken as per procedure given below:-

a) A legal notice shall be served by the purchasing department on the supplier by registered post bringing his defaults to his notice and asking him to complete all pending supplies / or to settle dispute immediately within a period of 15 days from the date of issue of Notice.

b) In case he again defaults, another notice be sent asking to complete all pending work within 7 days from the date of issue of second Notice.

c) In case the firm fails to comply with the requirement of notice all BG's/EMD/PEMD etc. deposited against any contracts be got encashed. The supplier shall be blacklisted after obtaining approval from the Whole Time Directors.

d) The period of blacklisting of the defaulting supplier/contractor will be 3 years. The blacklisting of the contractor/supplier should be notified to all Power Utilities

in the country and the names of such blacklisted supplier/contractor would also be put on the website of the Nigam.

Regulation No. 15: Supplier's default liability :

In the event of breach of any of the terms and conditions of the Contract/ Purchase Order by the supplier, the Nigam shall reserve the right to terminate the contract without notice to the supplier at any stage and the supplier shall have no claim whatsoever on the Nigam on this account. But the supplier shall be made liable to pay to the Nigam a sum equivalent to 10% of the value of the undelivered material as liquidated damages and not as penalty. The supplier shall in addition and without prejudice to the above said damages be required to make good any other loss or damage that may be incurred by the Nigam on making recoveries in terms of Regulation 11 'Termination of contract for default'.

Regulation No. 16: Corrupt or fraudulent practices

The Nigam requires that Tenderers/ Suppliers/ Contractors observe the highest standard of ethics during the procurement and execution of Nigam contracts. In pursuance of this policy, the Nigam:-

(a) defines, for the purposes of this provision, the terms set forth as follows:

(i) "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution: and

(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Nigam, and includes collusive practice among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial, non-competitive levels and to deprive the Nigam of the benefits of free and open competition;

(b) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a Nigam contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Nigam contract.

Regulation No. 17 : Patent rights

The supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of the Goods or any part thereof in India. In the event of any claim asserted by a third party of infringement of copyright, patent, trademark or industrial design rights arising from the use of the Goods or any part thereof in the Purchaser's country, the supplier shall act expeditiously to extinguish such claim. If the supplier fails to comply and the Purchaser is required to pay compensation to a third party resulting from such infringement, the supplier shall be responsible for the compensation including all expenses, court costs and lawyer fees. The

Purchaser will give notice to the supplier of such claim, if it is made, without delay.

Regulation No. 18 : Settlement of disputes

If any dispute or difference of any kind whatsoever will arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties will make every effort to resolve amicably such dispute or difference by mutual consultation. If, after thirty (30) days the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of the matter may be commenced unless such notice is given.

Regulation No. 19 : Arbitration

All matter questions, disputes, differences and/or claims arising out of and/or concerning and/or in connection and/or in consequences or relating to the Contract whether or not obligations of either or both parties under the contract be subsisting at the time of such dispute and whether or not the contract has been terminated or purported to be terminated or completed, shall be referred to the arbitration which shall be conducted by three arbitrators, one each to be nominated by the supplier/contractor and the Nigam (**arbitrator to be approved by the M.D. DHBVNL or authority of the Nigam authorized for the purpose by the Nigam**) and the third to be named by the president of the institution of the Engineers, India. If either of the parties fails to appoint its arbitrator within **thirty (30) days** after receipt of a notice from the other party invoking the arbitration clause, the president of the institution of Engineers, India, shall have the power at the request of either of the parties, to appoint the arbitrator. A certified copy of the order of the institution of Engineers (India) making such an appointment will be furnished to each of the parties. The decision of the majority of the arbitrators shall be final and binding upon the parties. The parties to the contract agree that the cost of arbitration shall be as per instructions of the Nigam issued/prevalent on the date of appointment of arbitral tribunal. The arbitrators may, from time to time, with the consent of the parties enlarge the time for making the award. In the event of any of the aforesaid arbitrators dying, neglecting, resigning or being unable to act for any reason, it will be lawful for the party concerned to nominate another arbitrator in place of the outgoing arbitrator. The arbitrator shall have full powers to review and/or revise any decision, opinion, direction, certification or valuation of the Engineer in consonance with the Contract, and neither party shall be limited in the proceedings before such arbitrators to the evidence or arguments put before the Engineer for the purpose of obtaining the said decision. The objection that the Arbitrator has to deal with the matters to which the Contract relates in the course of his duties or he has expressed his views on any or all of the matters in dispute of difference, shall not be considered as a valid-objection. Subject to aforementioned provisions, the provisions of the Arbitration and conciliation Act, 1996 and the Rules thereunder any statutory modifications thereof for the time being inforce, shall be deemed to apply to the Arbitration

proceedings under the clause. Where the value of the Contract is Rs. One Crore and below, the disputes or differences arising will be referred to the Sole Arbitrator. The Sole Arbitrator to be approved by the M.D. DHBVNL or authority of the Nigam authorised for the purpose by the Nigam.

Notwithstanding any reference to arbitration herein,

(a) The parties will continue to perform their respective obligations under the Contract unless they otherwise agree; and

(b) The Purchaser will pay the Supplier any monies due to the Supplier.

Regulation No. 20: Preparation of the Supply Orders

20.1 Placement of indent or the supply orders should be with a clear understanding that expenditure involved in procuring the stores has received the sanction of the competent financial authority and that funds are available under the proper Head of account in the year in which the total cost will be adjusted.

20.2 Supply order against the rate contract should be prepared in the standard form. All clauses/information should be mentioned carefully so as to avoid any ambiguous interpretation. Particular care should be taken to mention quantity and total cost both in figures and in words so that there is no possibility of interpolation.

20.3 The field officers will place their supply orders for their requirement on phased delivery basis to enable the supplier to supply stores in time.

20.4 The rate contract shall remain in force for the period indicated therein. A supply order may be placed upto the last date of currency of the rate contract. The delivery date in the supply order need not be necessary to fall within the currency of the rate contract but it can go beyond it depending upon the terms of the delivery stipulated in the rate contract or in specifically agreed condition of delivery in respect of particular supply order. No extension of validity period of the rate contract itself is required when deliveries against outstanding supply orders continue even after expiry of the validity period. The rate contract will remain alive for the purpose of the delivery for all the supply ordered during the currency of the rate contract until deliveries have been completed.

Regulation No. 21: Periodical assessment of rate.

Since the Rate Contract is for one year thus the rates once fixed will be assessed/verified by the Nodal Agency periodically. In case downward trend in the market rates is observed, the Nigam shall have the right to review the rates and to refix it.

Regulation No. 22: Price Fall Clause: (i) The prices charged for the material supplied under the rate contract by the firm shall in no way exceed the lowest price at which the firm sales the material to any person/organization including the purchaser or any other department of the central Govt. or any Deptt. of the State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be during the delivery period till performance of all supply orders placed during the currency of the rate contracts is completed.

ii) If at any time during the said period the firm reduces the rates or offer to sell such material to any person / Organization including the purchaser or any Deptt. of Central Govt. or any Deptt. of the State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be at price lower than the price chargeable under the rate contract, shall forthwith notify such reduction / sale or offer to sale to the Nigam and the price payable under the rate contract for the material supplied after the date of coming into force of such reduction or sale offer to sale, shall stand correspondingly reduced.

iii) The firm shall furnish the following certificates to the concerned Consignee's alongwith each bill against the rate contract:-

"I / we certify that there has been no reduction in sale price of the material of description identical to the material supplied to Nigam under the rate contract herein and such the material has not been offered and sold by me / us to any person / organization including the purchase of any Deptts. of the Central Govt., any Deptts. of the State Govt., any statutory undertaking of the Central or State Govt. as the case may be upto the date of bill/ date of completion of supplies against all supply orders placed during the currency of the rate contract at a prices lower than the prices charged to Nigam under the rate contract".

Regulation No. 23 : Warranty

23.1 The supplier shall be made responsible to replace free of cost, with no transportation or insurance-cost to the Nigam, up to the destination, the whole or any part of the material which in normal and proper use proves defective in quality or workmanship, subject to the condition that the defect is noticed within 18 months from the date the material is received by the consignee or 12 months from the date of installation of the goods which ever period may expire earlier. The consignee or any other officer of the Nigam actually using the material will give prompt notice of each such defect to the supplier as well as the Purchasing authority and the Controller of Stores. The replacement shall be effected by the supplier within a reasonable time, but not, in any case, exceeding 45 days. The supplier shall also arrange to remove the defective supply within a reasonable period but not exceeding 45 days from the date of issue of the notice in respect thereof. Upon the firm failing to do so, the damages/defects may be got rectified by the Nigam and the cost adjusted from the firm's pending dues and/or security deposit against this or any other contract in force and the balance left be got deposited by the supplier. The Nigam may also withheld the amount equal to cost of defective material. These provisions shall, also equally apply to the replaced material. In case, the material is again found to be defective within warranty period, it shall, also, have to be replaced similarly.

23.2 In case of Electronic Meters and all transformer with CSP and conventional transformer above 100 KVA the supplier shall be made responsible to replace free of cost, with no transportation or insurance-cost to the Nigam, up to the destination, the whole or any part of the material which in normal and proper use proves defective in quality or workmanship, subject to the condition that the defect is noticed within 66 months from the date the material is received by the consignee or 60 months from the date of installation which ever period may

expire earlier. The consignee or any other officer of the Nigam actually using the material will give prompt notice of each such defect to the supplier as well as the Purchasing authority and the Controller of Stores. The replacement shall be effected by the supplier within a reasonable time, but not, in any case, exceeding 45 days. The supplier shall also arrange to remove the defective supply within a reasonable period but not exceeding 45 days from the date of issue of the notice in respect thereof. Upon the firm failing to do so, the damages/defects may be got rectified by the Nigam and the cost adjusted from the firm's pending dues and/or security deposit against this or any other contract in force and the balance left be got deposited by the supplier. The Nigam may also withheld the amount equal to cost of defective material. These provisions shall, also equally apply to the replaced material. In case, the material is again found to be defective within warranty period, it shall, also, have to be replaced similarly.

In case of transformers without CSP (conventional) upto 100 KVA the supplier shall guarantee satisfactory performance of transformers and all the associated components for a period of 2 years from the date of receipt by the purchaser or 18 months from the date of commissioning, whichever is earlier. During the warranty period all repairs/replacement shall be carried by free of cost.

The warranty shall cover all failures except those caused by deliberate interference such as pilferage of oil, tempering with circuit breaker. The LT enclosure shall be suitably sealed by the manufacturer and no attempt shall be made by field staff to temper with this during the warranty period. The consignee or any other officer of Nigam actually using the material will give prompt notice of each such defect to the supplier. The replacement shall be effected by the supplier within a reasonable time, but not, in any case, exceeding 45 days. The supplier shall also arrange to remove the defects within a reasonable period, but not exceeding 45 days from the date of issue of notice in respect thereof, failing which, the purchaser reserve the right to dispose of defective material in any manner as considered fit by him (Purchaser), at the sole risk and cost of the supplier. Any sale proceeds of the defective material after meeting the expenses incurred on its custody, disposal, handling etc., shall however be credited to the suppliers account and set off against any outstanding dues of the purchaser against the supplier.

These provisions shall, also equally apply to the replaced material. In case, the material is again found to be defective within the period of 12 months of its replacement, it shall, also, have to be replaced similarly.

Regulation No. 24 : Set-off

Any sum of money due and payable to the supplier under a contract (including security deposit returnable to the supplier) may be appropriated by the Nigam and set-off against any claim of the Nigam for the payment of a sum of money arising out of /under that or any other contract entered into by the supplier with the Nigam.

Regulation No. 25: Release of Bank Guarantee

25.1 All BGs will be maintained by the concerned DDOs. The DDO shall arrange to obtain NDC from all concerned offices before the due date for release of BG.

25.2 In case NDC is not received from any office a notice shall be issued by DDO to the concerned office with a copy to the Nodal Agency. The Nodal Agency shall ensure issue of NDC for the timely release of BG by the DDO.

25.3 In case, NDC is still not received from the concerned office after expiry of the notice period, the BG shall then be released and in the event of any liability that may be pointed out later on and not found recoverable from the firm, the same shall be recovered from the officer concerned who failed to supply the NDC to the DDO as per given time schedule.

Regulation No. 26 : Laws Governing Contracts

26.1 All contracts shall be governed by the laws of India for the time being in force.

26.2 Irrespective of the place of delivery, place of performance or place of payment under a contract, the contract shall be deemed to have been made at the place from which the acceptance of tender has been issued.

26.3 Jurisdiction of court. The courts of the place from where the acceptance of tender has been issued shall alone have exclusive jurisdiction to decide any dispute arising out of or in respect of the contract.

Regulation No. 27 : Power to Amend the Regulations

These Regulations shall not be amended except with the prior approval of the Board of Directors.

SCHEDULE 'B'

(General Instructions to Tenderers)

The following instructions must be carefully observed by all tenderers. Offers/Tenders not strictly in accordance with these instructions will be liable to rejection.

1. The tender must be on the prescribed tender form and complete in all respects.
2. Tenders should be submitted in triplicate, per Regd. Post both copies should be separately tagged and clearly marked as 'Original', 'Duplicate' and Triplicate Offers not received in triplicate may be ignored.
3. Offers/Tenders should positively reach before the last date prescribed for their receipt those received late will not be considered.
4. The 'Tender form along- with, 'Terms and Conditions of Contract' and its Annexure 'A' and 'B' should be returned in triplicate with each page there of signed by the tenderer and with all the required particulars and rates filled in at appropriate places.
5. Offers/Tenders should be enclosed in double-covers. Both the inner and the outer covers should be sealed and super-scribed with the Tender/offer No. together with the date on which the offer/tender is due and the items of material covered.
6. The offers/tenders will be opened on the date and time prescribed in the Notice InvitingTenders. In case the date of opening falls on a holiday or a holiday is subsequently declared on that date, the tenders will be opened on next working day following the holiday.
7. Material offered should be strictly according to the specifications laid down in Annexure 'A' to the Terms and conditions of the contract. Unless a deviation item the specifications given in Annexure 'A' is pointed out by the tenderer specifically, it will be presumed that Offer/tender conforms to the specifications as laid down in Annexure 'A'.
8. The prices should be for supply of the material in safe condition F.O.R. Destination or Ex-works/suppliers premises, the location of which should be clearly specified, failing which the offer/tender may be ignored. The rates of ED, CST, freight and transit insurance charges etc. may also be quoted separately.
9. All Tender/offers will be regarded as constituting an offer or offers open to acceptance in whole or in part until the last date of validity as prescribed in the notice inviting enders or as indicated by the tenderer in his tender/offer, whichever be later.
10. The offer/tender should be typed or written in ink, offer /tender written in pencil shall be ignored.
11. The price must be quoted in Indian Rupees and any mistake in calculating the rupee price will not justify the claim for increase in prices.
12. Tenderer should specifically mention the period of validity of offer/tender. The period of the validity should not be less than that specified in the notice inviting tenders.

13. The tender shall not be opened at all in case the validity is not indicated on the envelope containing tender.

14. The time and date of delivery of the material stipulated in Annexure 'D' to the terms and conditions of the contract/ purchase order shall be deemed to be the essence of the contract and the delivery must be completed not later than the date or dates specified therein.

15. The offer/tenders not accompanied with earnest money in one of the following forms drawn or executed in favour of the purchaser, shall not be accepted.

(a) Cash Deposit.

(b) Bank Draft.

(c) EMD in the form of Bank Guarantee in favour of the Nigam shall also be accepted if the estimated value of the material/contract is more than 5 Crores.

(d) In any other form specifically approved by the purchaser.

As soon as the tender has been decided upon and the order placed on the selected supplier / contractor(s), the earnest money deposit of the unsuccessful tenderers (**except L-1 and L-2 bidders**) shall be released forthwith by the purchasing department without waiting for any formal application from the unsuccessful tenderers. The purchasing department shall ensure that the refund of earnest money deposit is allowed within two weeks of the decision on the NIT.

The EMD of L-1 and L-2 shall be released after submission of performance Bank Guarantee by the successful bidder i.e. L-1.

The performance guarantee shall remain valid for 90 days after the expiry of warranty period. Provided that for erection and construction works, project and other services, the security deposit shall be deducted at 10 percent from the contractor's running payment bills.

16. The Bank charges, if any, will be to the account of the tenderer.

17. No claims against the Nigam either in respect of interest if any due on the Security deposit/Earnest money or its depreciation in value shall be admitted.

18. The quantities specified in the NIT can be varied upto any extent at the sole discretion of the Nigam without assigning any reason.

19. Telegraphic tender shall not be considered.

20. The purchaser reserves the right to reject to any or all tenders received without assigning any reason.

21. The enquiry No. and the due date should be written clearly and distinctly on the sealed cover containing the quotation.

22. The validity of the quotation should not be less than 120 days from the last date of opening of price bid (Part-II). In case the Bid is invited in two parts.

22(a) Amendments/Modifications to Tenders

The tenderer, after submitting its tender, is permitted to submit alterations/modifications to its tender so long such alterations/modifications are received duly sealed and marked like original tender, upto the date & time of receipt of tender. Any amendment/modification received after the prescribed date & time of receipt of tenders are not to be considered and any withdrawal of the

offer shall not be permitted. However, the firm may modify their offer before opening of bid, but the Nigam will consider the lowest one.

23. The tenders quotation should be addressed to the Chief Engineer/MM, DHBVN Vidyut Nagar, Hisar where these shall be opened on the prescribed date and time indicated in the NIT.

24. Any party while submitting tenders to the Nigam would submit (a) the earnest money and (b) the quotations/tender in two separate sealed covers. The envelope containing the earnest money should a part from mentioning the name of the party submitting the tender quotation and the tender enquiry number to which it relates should be clearly inscribed over with the Word Earnest Money amounting to Rs._____ enclosed. The second envelop apart from giving similar relevant details regarding the tender enquiry number and the name of the party should be clearly inscribed over with the words contains tender/quotation prices only. Each of these envelopes would be sealed and signed by the party submitting the tender, and the envelopes placed in bigger sealed envelope. This outer, cover would also contain reference to the tender, enquiry as also the name and signature of the party submitting the tender.

25. However, the following tenders shall be exempted from the deposit of earnest money.

(i) Wholly Govt. of India owned undertakings.

(i) Wholly State owned undertakings of Haryana.

26. Only such a tender shall be considered "Valid tender" where the tenderer has in accordance with the above regulation remitted the requisite amount or earnest money.

27. Separate tender must be submitted against each enquiry.

28. The Tenderer must clearly state whether they are a small scale/Large scale industries and the rate of excise duty as applicable to them must be stated in tender.

29. Tenders not submitted on prescribed form will be liable to be rejected.

30. "The post tender offers or communications received from the supplier/contractors etc. which erect the quoted and equivalent rates there by changing the merit position of the tender shall not be entertained".

31. The purchase contract will come into existence on the date the purchaser posts acceptance to the supplier offer either through telegram, by a letter through post /through fax. The date of posting the telegram or letter will be the date of agreement and the contractual obligation of the supplier will commence from that very date. The supplier will have no right to revoke his offer after the purchaser has posted his acceptance in the aforesaid manner.

32. The tenderer should indicate separately ex-work prices, Excise Duty Sales Tax freight charges, transit insurance charges or any other charges for purpose of assessing the total per unit price.

33. The Red Slip (Enclosed) duly filled in properly & complete in all respects, must be pasted on the outer most envelope of the tender.

34. In the event of a firm not favouring the delivery commitment of the previous contracts, this fact will weigh against the firm tendering against a subsequent

enquiry and be treated as disability. Before issue of the letter of intent or of placing the order, the previous order should be fully discharged or a reliable under taking should be given that it would be done within a reasonable period and within a scope of the previous contract, if the firm decline to give this undertaking it would be considered ineligible for competing against any subsequent or and the order would automatically pass on the next lower firm.

35. The bidder will furnish Type Test Results. The type tests must have been conducted on the material offered as per the relevant IS in recognized laboratory as per the latest revision of the Technical Specification and the date of Type tests will not be older than 3 years. The Bids received without type test reports will be treated as Non-Responsive.

36. The prices charged for the stores supplied under the Contract by the Contractor shall no event exceed the lowest price at which the Contractor sells the Stores or offer to sell stores of identical description to any person(s)/organization(s) including the Purchaser or any Department of the Central Government or any Department of a State Government or any statutory undertaking of the Central or a State Government, as the case may be, during the period till performance of all Supply orders placed during the currency of Contract is completed.

37. In the case of distribution transformer, if damage within the warrantee period, the same should be replaced by the supplying firm free of cost. The supplier shall supply a new transformer and the damaged transformer will be taken back by him and pending this the full cost of damaged transformer will be recovered/deducted from the outstanding bills by the paying authority and it will be released after the damaged transformer is replaced by new one.

38. Arithmetical Errors

In case of any inconsistency in the price furnished, the purchaser shall be entitled to consider the lowest prices for the purpose of evaluation and award of contract. All arithmetical errors will be rectified on the basis of the unit price or total price (in figures and in words) whichever is more beneficial to the purchaser.

39. A copy of the constitutions of the Company/firm or Balance Sheet, Power of Attorney in the name of person who signs the tender documents shall be submitted alongwith tender documents.

40. The bidder shall accept all the clauses of NIT failing which their bid/tender is liable to be rejected.

41. Purchase preference : Purchase preference may be allowed upto 50% of the requirement to the industrial units located in Haryana on the lowest quoted/ agreed rates provided the tendering firm claim the purchase preference in their tender and submit the registration certificate and the valid purchase preference certificate issued by Industries Deptt. alongwith their tender and submit an affidavit that their sales office for the purpose of billing is bases in Haryana and all the billings are/ will be raised from Haryana only. Provided purchase preference of 50% of the quantity shall be allowed only to those industrial units in Haryana who qualify among 3 lowest valid firms and agrees to accept the lowest (L1) tenderer rates and where more than one tenderer having their industries in Haryana agreed to the lowest rates, the 50% quantity covered under purchase

preference, may be divided between them on proportionate basis keeping in view the quantity/ delivery period quoted by them.

42. Blacklisting of the Firms: As the purchase order becomes a valid contract between the purchaser and supplier on the date of its issue, no further changes in the terms and conditions thereof are permissible and any request received in this regard from the supplier should be summarily rejected, making it clear to supply the goods strictly in accordance with the terms and conditions of the contract. It should be noted that such a liability can be enforced on the supplier only if the purchase order does not contain any term or condition contrary to what had been quoted in the supplier's tender. Once this is ensured, any attempt by the supplier to back out of his commitment should be taken a serious and his earnest money deposited be forfeited forthwith, without prejudice to any further legal remedies open to the Nigam under the relevant laws. Where necessary, the case of supplier illegally backing out of the commitment, should also be put up to the Whole Time Directors for consideration and to decide for black-listing of the firm and damages, if any, to be recovered.

43. On the day the purchaser convey acceptance to the supplier's offer either through telegram/fax or by a letter, the date of telegram/fax or letter will be the date of agreement and the contractual obligation of the supplier will commence from that very date. The supplier will have no right to revoke his offer after the acceptance of purchaser.

Placed :

Name & Full address of tenderer

Date :

NIT No. _____
Enquiry No. _____

SCHEDULE 'D'

**DAKSHIN HARYANA BIJLI VITRAN NIGAM
TERMS AND CONDITIONS FOR PROCUREMENT OF
EQUIPMENT STORES AND OTHER MATERIAL UNDER THE RATE
CONTRACT**

In construction of the terms and conditions of the contract, the following words shall have the meaning herein assigned to them, unless the subject or context otherwise requires:

(a) The "PURCHASER" shall mean the DHBVNL or its authorized agent and shall include its Successors in office, and assigns.

(b) The "SUPPLIER" shall mean M/s _____ and shall include the supplier's legal representatives, successors, and assigns.

(c) "MANUFACTURERS: shall mean M/s _____ and shall include their legal representatives, successors, and assigns.

(d) "MATERIAL" all the materials to be supplied by the supplier under the contract as per clause of material specifications, price etc.

(e) 'SPECIFICATION' shall mean and include the specifications as detailed in the Annexure attached herewith and Drawings attached thereto as well as samples and patterns, (if any).

(f) The 'SITE' shall mean and include the lands and buildings over/under/upon and in which the materials are to be installed and used in accordance with the terms and conditions.

(g) 'PLACE OF DELIVERY' shall mean the place of delivery at which the supplier is responsible to deliver the material at the contract price as specified in the clause "Material- Specification: Price etc.

(h) 'COMMERCIAL USE' shall mean the use to which the material can commercially be put.

(i) 'MONTH' shall mean a calendar month.

(j) 'THE TERMS' F.A.S., F.O.R., F.O.B., C.I.F. and other shipping/ despatch terms as used herein, shall have meaning in accordance with their uses in India.

(k) 'WORK' shall mean and include supply of all the materials, plants and equipment and rendering of other services by the supplier under this contract.

(l) 'ACT' shall mean the Companies Act 1956 and shall include any statutory amendments, modifications or re-enactment thereof for the time being enforce.

(m) 'THE NIGAM' shall mean the DAKSHIN HARYANA BIJLI VITRAN NIGAM LIMITED as incorporated under *Companies Act 1956* and shall include its successors and assigns.

- (n) 'MANAGING DIRECTOR' shall mean the *Managing Director* of the NIGAM duly appointed by the Govt.
- (o) 'CONSIGNEE' shall mean the officer to whom the materials is required to be dispatched or the person specified in the purchase order.
- (p) 'CONTRACT' shall mean the Notice Inviting Tender. Instructions for tenderers, Tender Forms, terms and conditions of contract with their annexures and purchase order/ acceptance of offer/Tender.
- (q) 'DRAWING' shall mean the drawing/drawings annexed to the specification (if any) or as approved by the purchaser.
- (r) 'PURCHASE AUTHORITY' shall mean the officer signing the acceptance of tender and shall include any officer who has authority to execute the relevant contract on behalf of the purchaser.
- (s) 'PURCHASE ORDER' shall mean an order of supply of material including the acceptance of the tender.
- (t) 'ANNEXURE' shall mean the Annexure to the terms and conditions.
- (u) 'ACCEPTANCE OF TENDER' shall mean the letter or memorandum communicating to the supplier the acceptance of his offer (Tender) and shall include advance acceptance of his offer.
- (v) 'TEST' shall mean such test as is prescribed by the Indian Standards Institution or by the Nigam and/or considered necessary by the authorized agents of the purchaser, whether conducted/performed or made by him or any other agency acting under his direction.
- (w) 'DELIVERY' shall be deemed to take place on delivery of the material in accordance with the terms and conditions of the Contract after test and inspection by the purchaser or his authorized agent, to the consignee.
- (x) D.G.S & D shall mean the Director General of Supplies and Disposals, Government of India.
- (y) DS&D shall mean the *Director Supply & Disposal*, Haryana.
- (z) Direct Demand Officer shall mean the officer authorized by the Chief Engineer/MM (Nodal Agency) for placing supply order as per their office requirement under the Rate Contract.

2. PARTIES.

The parties to the contract are the supplier and the purchaser, Legal address of the parties to the Contract is under:

Supplier M/s _____

Purchaser: Dakshin Haryana Bijli Vitran Nigam (Hisar)

For all purposes of the contract including the arbitration there under, the address of the supplier mentioned above, shall be the address to which all communications addressed to the supplier shall be sent, unless the supplier has notified a change by a separate letter containing no other communication and sent by a Registered Post (Acknowledgement Due) to the purchaser. The supplier shall be solely responsible for the consequences of an omission to notify the change of address in the manner aforesaid.

3. AUTHORITY OF THE PERSON SIGNING THE CONTRACT ON BEHALF OF THE SUPPLIER.

The person who has signed these Tender papers (including the terms and conditions) has got authority to sign on behalf of the supplier. It is discovered at any time that the person so signing had no authority to do so, the purchaser without prejudice to any other right or remedy available to him may, cancel the contract and make a purchase of the material at the risk and cost of such person and hold such person liable to the purchaser for all costs and damages arising from the cancellation of the contract including any loss which the purchaser may sustain on account of such purchase.

4. RESPONSIBILITY OF THE SUPPLIER FOR EXECUTING THE CONTRACT.

(I) RISK IN MATERIAL

The supplier shall execute the contract in all respects in accordance with these terms and conditions. The material and every constitute part thereof, whether in possession or control of the supplier, his agents or servants or a Carrier or in the joint possession of the supplier, his agents, servants and the purchaser, shall remain in every respect at the risk of supplier until its actual delivery to the consignee at the stipulated place or destination. The supplier shall be responsible for all loss, destruction, damage or deterioration of or to the material from any Cause whatsoever while the material after test and inspection is awaiting dispatch or delivery in course of transit from the supplier to the consignee. The supplier shall alone be entitled and responsible to make claims against the carrier in respect of non delivery, mis-delivery, short delivery, loss destruction, damage or of the deterioration material entrusted to such carrier by the supplier for transmission to the consignee.

(II) CONSIGNEE'S RIGHT OF REJECTION

Notwithstanding any approval which the purchaser may have given in respect of the material, it shall be lawful for the consignee to reject the material or any part thereof on behalf of the purchaser within a reasonable time after actual delivery thereof to him at the place or destination specified in Annexure 'B' if the material or any part or portion thereof is not in all respects in conformity with the terms and conditions of the contract whether on account of any loss, deterioration or damage before despatch or delivery or during transit or otherwise howsoever.

The provision contained in clause 14 (VI) below relating to the removal of material rejected by the purchaser or his authorised agent shall, mutatis mutandis, apply to material rejected by the consignee as herein provided.

(III) SUBLETTING AND ASSIGNMENT:

The supplier shall not save with the previous consent in writing of the purchaser sublet transfer or assign the contract or any part thereof or interest therein or behalf or advantage thereof any manner whatsoever.

5. ASSISTANCE TO SUPPLIER

The supplier shall be solely responsible to procure any raw material, license or permit required for the fulfillment of the contract. Any assistance for the procurement or attempt to tender assistance in the matter aforesaid, shall not be construed or constitute any promise, undertaking or assurance on the part of the

purchaser regarding the procurement of the same of effect any variation in the rights and liabilities of the parties under the contract.

6. SECURITY DEPOSIT

i) The earnest money furnished by the successful tenderer's to whom the purchase order/contract is allotted shall be refunded within 7 days from the receipt of performance guarantee as per contract by the accounts wing/DDO on intimation to the purchasing authority for making necessary entries in EMD register. The earnest money of lowest (L-2) shall be released after submission of performance Bank Guarantee by the successful bidder i.e. L-1.

ii) The supplier agrees that they will submit BG equivalent to 5% or 10% , as the case may be, of contract value in lieu of retention money.

iii) Security deposit shall be retained by the purchaser for the period valid for 90 days after the expiry of warranty period as per clause of 'WARRANTY'.

iv) No. claim of the supplier shall lie against the purchaser either in respect of interest or any depreciation in the value of security deposit.

v) If, the supplier fails or neglects to observe or perform any of his obligations under this contract, it shall be lawful for the purchaser to forfeit either in whole or in part, in his absolute discretion, the security deposit furnished by the supplier.

The forfeiture of security deposit shall be without prejudice to the right of the purchaser to recover any further amount of any liquidated and/or other damages, undue payment or overpayment made to the supplier under this Contract or any other contract.

6.A) Low rates)- To curb the tendency to quote low rates and execute the works unsatisfactorily, the quoted rates shall be compared with the estimated cost and shall be dealt with as follow:-

a) If the quoted rate for a work is below 25% of the estimated rates, it will be rejected.

b) If the quoted rate is between 10% and 25% below estimated rate, the contractor will remit performance guarantee equal to the difference between estimate Price and quoted price. This will be released after satisfactory completion of the work.

7. MATERIAL, SPECIFICATIONS, PRICES, ETC.

(i) The supplier shall supply the following quantities of different items of material of the best quality, workmanship and strictly in accordance with the specifications and rates shown against each, unless any deviation in specification has been expressly pointed out in the purchase order.

Sr. No.	Code No. of Material	Name of Item	Specification	Rate	Ex-Works/ FOR Destination

(As detailed in Annexure attached hereto)

Provided that the quantity specified above can be increased or decreased up to any extent at the sole discretion of the purchaser.

(ii) The above rates shall remain firm for the entire supply indicated above and subject to no variation in any circumstances whatsoever. The rates shown above

are inclusive of packing/forwarding charges/ Insurance charges/ Excise Duty/ Sales tax/ VAT etc. for respective destination.

(iii) PERIODICAL ASSESSMENT OF RATE AND UNDERTAKING FOR PRICE FALL.

(a) Periodical Assessment of Rate: Since the Rate Contract is for one year thus the rates as finalized will be assessed/verified by the Nodal Agency periodically. In case a downward trend in their market rates are observed. The Nigam shall have the right to review the rates time to time.

Price Fall Clause: i) The prices charged for the material supplied under the rate contract by the firm shall in no way exceed the lowest price at which the firm sales the material to any person/organization including the purchaser or any other department of the central Govt. or any Deptt. of the State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be during the delivery period till performance of all supply orders placed during the currency of the rate contracts is completed.

ii) If at any time during the said period the firm reduces the rates of sales prices sells the contract or offer to sell such material to any person / Organization including the purchaser or any Deptt. of Central Govt. or any Deptt. of the State Govt. or any Statutory Undertaking of the Central or State Govt. as the case may be at price lower than the price chargeable under the rate contract, shall forthwith notify such reduction / sale or offer to sale to the Nigam and the price payable under the rate contract for the material supplied after the date of coming into force of such reduction or sale offer to sale, shall stand correspondingly reduced.

iii) The firm shall furnish the following certificates to the concerned Consignee's alongwith each bill against the rate contract:-

"I / we certify that there has been no reduction in sale price of the material of description identical to the material supplied to Nigam under the rate contract herein and such the material has not been offered and sold by me / us to any person / organization including the purchase of any Deptts. of the Central Govt., any Deptts. of the State Govt., any statutory undertaking of the Central or State Govt. as the case may be upto the date of bill/ date of completion of supplies against all supply orders placed during the currency of the rate contract at a prices lower than the prices charged to Nigam under the rate contract".

8. SAMPLE

The material will be supplied by the supplier strictly in accordance with the sample approved by the purchaser or his authorised agents, whose decision as to whether or not, the material conforms to the sample shall be final and binding on the supplier.

9. (I) DELIVERY

The supplier shall deliver the material in accordance with the terms and conditions of the contract at the time/times and at the place/places and in the manner specified in the Annexure 'B' attached thereto.

In case the due date of delivery in terms of delivery schedule falls on a holiday or holiday is subsequently declared on that date, the firm shall be required to complete the supply by the first working day falling next to the due date.

(ii) TIME FOR AND DATE OF DELIVERY; THE ESSENCE OF THE CONTRACT.

The time for and the date of delivery of the material stipulated in the Annexure 'B' purchase order shall be the essence of the contract and delivery must be completed not later than the date (s) as specified in Annexure 'B'/purchase order.

(iii) NOTIFICATION OF DELIVERY:

Notification of delivery of despatch in regard to each and every consignment shall be made to the purchaser and respective consignees. The supplier shall supply to consignee a packing account and full details of the contents of the package and quantity of material in order to enable the consignee to check the material on arrival at destination.

(iv) DAMAGES FOR DELAY IN DELIVERY:

The delivery of material as per the Annexure "B" attached to the Terms and Conditions of Contract (Schedule 'D') shall be the essence of the contract between the supplier and the Nigam and the delivery of such consignment must accordingly be insisted upon the date it is due in terms thereof. As also stipulated under Regulation 16.6 no supplies/consignments received after the due date, on which they were actually due according to the terms of the purchase order, shall be accepted by the consignee except, with the approval of the purchasing authority. In case the purchasing authority decides to accept a delayed supply, the supplier shall be liable to pay penalty @ one half of one percent per week or part thereof up to 10 weeks and 1 per cent thereafter per week or part thereof of the value of the goods, so delayed, subject to a maximum of 10% of the total value of the delayed supplies. In case the delivery schedule provides lot wise delivery of material, lot wise penalty shall be imposed.

(v) PASSING OF A PROPERTY:

Property in the material shall not pass to the purchaser unless and until the material has been delivered to the consignee, in accordance with the terms and conditions.

(vi) TAKING OVER CERTIFICATES:

The consignee (s) shall issue a taking over certificate after the material has been received at site (s), taken into possession, inspected, counted, measured and the supplier has supplied the copies of tests and inspection-certificate, if any, vide clause-14 "Test and Inspection".

10. FORCE MAJEURE:

The supplier shall not be liable for any loss or damage due to delay in manufacture or delivery of the material for reason arising out of compliance with regulations, orders or instructions of Central/ State Govt.. Acts of God, acts of Civil and Military authorities, fires, floods, strikes, Lockouts, freight embargoes, war-risk, riots and civil commotion. Whenever the supplier is not in a position to supply the material within the delivery period and he wants extension in the due date (s) of delivery under this clause, he will request for such extension of the delivery period alongwith all necessary evidence, before the expiry of the scheduled date(s) of delivery. In no case, the delivery period shall be extended under this clause, in case the request is received after the due date of delivery has expired. Extension in the delivery period may be granted only for the period

for which the completion of the work is proved by the supplier to have been delayed for circumstances mentioned in this clause. In all such cases, the Nigam shall have the option to accept any portion of the balance material and cancel the order for the rest, provided, however, if any material had been manufactured exclusively for the purchaser under this contract prior to the commencement of the force majeure circumstances, it shall be accepted by the purchaser and secondly, the cancellation will be without any liability for damages on the part of the supplier. The decision of the purchaser in all matters under this clause shall be final and binding on the supplier. Non-availability of raw material or any other similar cause shall not be considered as a force majeure circumstance.

11 WARRANTY

11.1 The supplier shall be made responsible to replace free of cost, with no transportation or insurance-cost to the Nigam, up to the destination, the whole or any part of the material which in normal and proper use proves defective in quality or workmanship, subject to the condition that the defect is noticed within 18 months from the date the material is received by the consignee or 12 months from the date of installation of the goods which ever period may expire earlier. The consignee or any other officer of the Nigam actually using the material will give prompt notice of each such defect to the supplier as well as the Purchasing authority and the Controller of Stores. The replacement shall be effected by the supplier within a reasonable time, but not, in any case, exceeding 45 days. The supplier shall also arrange to remove the defective supply within a reasonable period but not exceeding 45 days from the date of issue of the notice in respect thereof. Upon the firm failing to do so, the damages/defects may be got rectified by the Nigam and the cost adjusted from the firm's pending dues and/or security deposit against this or any other contract in force and the balance left be got deposited good by the supplier. The Nigam may withheld the amount equal to cost of defective material. These provisions shall, also equally apply to the replaced material. In case, the material is again found to be defective within warranty period, it shall, also, have to be replaced similarly.

11.2 In case of Electronic Meters and all transformer with CSP and conventional transformer above 100 KVA the supplier shall be made responsible to replace free of cost, with no transportation or insurance-cost to the Nigam, up to the destination, the whole or any part of the material which in normal and proper use proves defective in quality or workmanship, subject to the condition that the defect is noticed within 66 months from the date the material is received by the consignee or 60 months from the date of installation which ever period may expire earlier. The consignee or any other officer of the Nigam actually using the material will give prompt notice of each such defect to the supplier as well as the Purchasing authority and the Controller of Stores. The replacement shall be effected by the supplier within a reasonable time, but not, in any case, exceeding 45 days. The supplier shall also arrange to remove the defective supply within a reasonable period but not exceeding 45 days from the date of issue of the notice in respect thereof. Upon the firm failing to do so, the damages/defects may be got rectified by the Nigam and the cost adjusted from the firm's pending dues and/or security deposit against this or any other contract in force and the balance

left be got deposited good by the supplier. The Nigam may withheld the amount equal to cost of defective material. These provisions shall, also equally apply to the replaced material. In case, the material is again found to be defective within warranty period, it shall, also, have to be replaced similarly.

11.3 In case of transformers without CSP (conventional) upto 100 KVA the supplier shall guarantee satisfactory performance of transformers and all the associated components for a period of 2 years from the date of receipt by the purchaser or 18 months from the date of commissioning, whichever is earlier. During the warranty period all repairs/replacement shall be carried by free of cost. The warranty shall cover all failures except those caused by deliberate interference such as pilferage of oil, tempering with circuit breaker. The LT enclosure shall be suitably sealed by the manufacturer and no attempt shall be field staff to temper with this during the warranty period. The consignee or any other officer of Nigam actually using the material will be prompt notice of each such defect to the supplier. The replacement shall be effected by the supplier within a reasonable time, but not, in any case, exceeding 45 days. The supplier shall also arrange to remove the effective supply within a reasonable period, but not exceeding 45 days from the date of issue of notice in respect thereof, failing which, the purchaser reserve the right to dispose of defective material in any manner as considered fit by him (Purchaser), at the sole risk and cost of the supplier. Any sale proceeds of the defective material after meeting the expenses incurred on its custody, disposal, handling etc., shall however be credited to the suppliers account and set off against any outstanding dues of the purchaser against the supplier. These provisions shall, also equally apply to the replaced material. In case, the material is again found to be defective within the period of 12 months of its replacement, it shall, also, have to be replaced similarly.
(Strike out whichever is not applicable)

12 DRAWINGS:

(a) The supplier will submit, in quadruplicate, to the Purchaser for his approval (within 15 days) immediately on receipt of his offer's acceptance from the purchaser detailed dimensional drawings of the equipment to be supplied and other general arrangements of the work to be carried out and such other detailed drawings as may be reasonably necessary. Submission of incomplete drawing or any delay in submission of drawing beyond 15 days shall be towards to supplier account.

(b) The drawing will be approved by the purchaser and returned to the supplier within one month from the date of their receipt. Any period beyond one month taken by the purchaser for the approval or otherwise of the contract drawings may be regarded by the Supplier as a ground for extension of time for completion of the work.

(c) In case the firm requests for use of purchaser's drawings, the same shall be provided by getting deposit of Rs.3000 per drawing.

13 MISTAKES IN DRAWINGS:

The supplier will be responsible for and shall pay for alterations of the material or works due to any discrepancies, errors or omissions in the drawings or other particulars supplied by him whether such drawings or particulars have been approved by the purchaser or not. Mistakes in drawing will be set right by the Supplier after obtaining approval of the purchaser.

14 TESTS AND INSPECTION:

The material shall be inspected and tested by the purchaser or his authorised agent before despatch unless dispensed within writing by the purchaser. The Supplier shall give to the purchaser at least 20 days advance notice for such inspection and test. Nigam intends to purchase only High Quality material. For this purpose sample from minimum 3 lots (if total lots are 3 or more than 3) of the material supplied should be sent to Sri Ram Test House/Govt. Approved Lab for Testing at Nigam's Cost. Any lot shall be finally accepted only when the samples are passed by the Test House. In case sample fails, the entire lot shall be rejected which will have to be lifted back by the firm at its own cost. If the sample drawn from two or more lots are rejected by the Test House, the entire balance quantity shall be deemed to have been cancelled and the Nigam will affect the purchases for the balance quantity on the risk and cost of the supplier. For these reasons, the firm can also be blacklisted for future supplies.

(i) FACILITIES FOR TESTS AND INSPECTION:

The Supplier shall, at his own expense, afford to the Purchaser or his authorised agent, all reasonable facilities and such accommodation as may be necessary for such tests and inspection. The Purchaser or his authorised agent shall have full and free access at any time, during the execution of the contract to the supplier's work for the purpose aforesaid, and he may require the Supplier to make arrangement for inspection of the material or any part thereof at his premises or at any other place specified by the Purchaser or his authorised agent.

(ii) The Supplier shall provide, without any extra charges, all materials, tools labour and assistance of every kind which the Purchaser or his authorised agent may demand of him for any test and inspection. The purchaser or the authorised agent, shall in his sole judgement, be entitled to remove for tests and inspection any of the material to any premises other than his (Supplier's) premises.

(iii) LIABILITY FOR COSTS OF LABORATORY TEST:

In the event of rejection of material or any part thereof by the purchaser or his authorized agent which is removed to the Laboratory or other place of test, the Supplier, on demand, shall pay to the Purchaser all costs incurred in such removal.

(iv) METHOD OF TESTING:

The Purchaser or his authorised agent shall have the right to put all the material or part thereof to such tests as he may think fit and proper. The supplier shall not be entitled to object on any ground whatsoever to the method of testing by the purchaser or his authorised agent.

(v) The Supplier shall mark or permit the purchaser or his authorised agent to mark all the approved material with a recognised Purchaser's mark. The material which cannot be so marked, shall, if so, required by the Purchaser or his

authorised agent, be packed in suitable packages or cases which shall be sealed and marked with such mark.

(vi) REMOVAL OF REJECTED MATERIAL:

If any material is rejected by the Purchaser or his authorised agent after tests and inspection or by the consignee, the material so rejected shall be removed from the premises of rejection by the supplier at his own cost. Such rejected material shall under all circumstances lie at the risk of the Supplier from the moment of such rejection; and if such material not removed by the Supplier within a period of 45 days, the Purchaser or his authorised Agent or consignee may dispose of such material in any way at the Supplier's risk and cost and retain such portion of the proceeds as may be necessary to cover any expense incurred in connection with such disposal shall, also be entitled to recover handling and storage charges for the period during which the rejected material is not removed.

(vii) CERTIFICATE OF TEST & INSPECTION

When the test and inspection have been satisfactory carried out by the purchaser or his agent, the purchaser or his authorised agent shall issue a certificate to that effect and the material will then be dispatched by the Supplier according to despatch instructions of the Purchaser or his authorised agent vide Clause-19 Dispatch Instructions.

(viii) POST RECEIPT INSPECTION:

The material after receipt in the stores of the Nigam is liable to be inspected for its conformity to the specification by a representative of the Nigam in the presence of representative of the contractor/ supplier after one week registered notice to the supplier/contractor. In case the firm fails to depute a representative in the specified date, the Nigam would be free to get the material checked in the absence of firms representative for which the firm would have no reason to protect at any stage and would be fully responsible of the outcome. On receipt of the advance notice from the supplier offering the material for inspection the purchasing authority will get the material inspected and issue of dispatch authorisation within 20 days. In case the Inspecting Officer finds on arrival at the supplier's premises that the material was not ready for inspection and that the notice given by the supplier was infructuous, the expenditure incurred by the Nigam on arranging for such inspection will be debited to the firm's account. Besides this a letter of warning shall be issued and it shall be counted towards their performance for all intents and purposes. The Contractor shall be responsible to pay penalty of Rs. 20,000/- for each occasion at which the fake inspection call has been made or the material is rejected during testing/inspection by the authorised agency/representative of the Nigam. This penalty would be in addition to the expenses incurred by the Nigam in deputing the Inspecting Officer, carrying out such inspection.

(ix) TYPE TEST CONDITIONS:

i) In case of new firms fresh type test may not be insisted upon, if the type test certificates produced is not more than 3 years old and related to a purchase/ supply to any of the utilities.

- ii) If the type test is conducted on a proto-type and the same has not been witnessed by any of the representatives of a Purchasing Organisation the same should not be taken as a valid type test. In such cases fresh type test be insisted upon before accepting the supplies, if the orders are placed on such firms and
- iii) In case of these firms whose past supplies made to Nigam, testify the satisfactory performance of the equipment already supplied, a fresh type test may be waived off, in case there is no change in the design.

(x) Challenge clause- There will be provision for challenge of quality from other manufacturer. The other manufacturer can also request challenge testing for any test based on specification and losses. The challenger would request for testing with testing fee. The challenger would have the opportunity to select the sample from the store and any such challenge would have to be made within guaranty period. The party challenged, challenger and utility shall witness the challenged testing. The testing will cover-1) measurement of magnetizing current: 2) no load losses test, 3) load losses test (at 50% loading or as per acceptance test): 4) temperature rise test. The challenge can be conducted at NABL accredited laboratory like ERDA and CPRI Bhopal. If products fail, the manufacturer shall be declared as unsuccessful manufacturer for the product with wide publicity and would not be allowed to compete in further Nigam tenders and heavy penalty would be imposed.

(xi) TEST AND INSPECTION CLAUSE FOR DISTRIBUTION TRANSFORMERS, IN PLACE OF 2ND PARA OF 14 & 14(VIII).

(i) On offer of inspection for distribution transformers by the firm, authorized representative(s) may go to the Works site of the Manufacturer to pick up samples from offered lot and may send the same for testing as per GTP/Nigam's Technical Specifications at some Central Govt. Testing Lab. or at Nigam's Transformer Workshop at Nigam's cost.

(ii) At the same time after receipt of offer for Inspection, Inspection Agency will be deputed to inspect 100% of the offered lot.

(iii) The checking/inspection reports received from both the agencies i.e. sample checking report from Central Govt. Testing Lab. and inspection report of inspecting agency will be scrutinized by Office CE/MM and, if both the reports are found O.K. the dispatch authorization will be issued to the firm.

(iv) After the receipt of material in the stores, the tests for no load and full load losses shall be carried out on each Transformers through post receipt inspection Committee constituted for the purpose.

(v) (i) No load losses and full load losses are fixed.

(ii) During post receipt inspection if the losses of any transformer are found more than the prescribed limit given in the technical specification, the Transformers shall be got replaced and in addition the penalty equivalent to the cost of transformer supplied will be charged from the firm for supplying inferior quality material.

(vi) If during the post receipt inspection the failure rate of transformer is more than 10% of the lot supplied then the entire lot will be rejected and the firm will not be entitled for any payment. The payment, if any, made will have to be refunded back within 10 days of giving such notice of failure to the supplier.

(vii) Inspection will be conducted every year, for the first 5 year on a 2% sample of the quantities supplied. Samples will be collected at random to establish that the guaranteed technical parameters are as per the submitted bid by the supplier. In the case of non-adherence, the purchaser may take suitable action on the supplier including cancellation of vender registration and banning further dealings, depending on the gravity of the deviation. These random inspection may be entrusted to a third party.

(viii) if the distribution transformers rejection rate exceeds 5% of the total supply, the firm will be automatically blacklisted.

15. VAT/ CENTRAL SALE TAX

The Purchaser shall pay Central Sale Tax /Value Added Tax at the prescribed rates (if applicable) on the production of the following Certificates by the supplier in triplicate:

(i) Certified that the transaction in which the sales tax /Value Added Tax has been claimed has been/will be included in the return submitted/to be submitted to the Taxation authorities for the assessment of Central Sales Tax and amount claimed from the Dakshin Haryana Bijli Vitran Nigam has been/shall be paid to the Sales Tax authorities.

(ii) Certified that the goods on which the Sales Tax /Value Added Tax has been charged in Bill No. _____ dt. _____ for Rs. _____ have not been exempted under the Central Sales Tax Act 1956/ Haryana VAT Act 2003 or the rules made thereunder and the charges on account of Sales Tax on these goods are correct under the provision of the relevant Act or the Rules made thereunder.

(iii) Certified that we shall always indemnify the Dakshin Haryana Bijli Vitran Nigam in case it is found at a later stage, that wrong or incorrect payment had been recovered on account of Sales Tax paid/to be paid by us.

(iv) Certified that we are registered as a dealer under the Central / State Sales Tax/VAT and our registration No. is _____.

Provided that in respect of the item at Sr. _____ and _____ of clause – 7 which are required by the Nigam for use on the generation and distribution of electrical energy to the Public, no Haryana Sales Tax/VAT shall be payable as they are exempted under Section-27, Sub-section (I)(a)(III) of Haryana General Sales Tax Act 1973.

16. DOCUMENTATION :

(I) All bills and/or invoices whether in respect of an advance payment or full payment, shall contain complete details of Code No., name of the item, description of material supplied, quantity supplied, rate, details of extra claims, etc. as well as the name of the consignee who received the material, shall be submitted in triplicate, duly accompanied by the receipted good challan, inspection note/test certificate in original, prescribed sales tax/ excise duty certificates and excise duty gate pass, where required.

(II) All freight charges whether paid or to pay, and whether chargeable to the Nigam or included in the quoted price, shall be shown in the invoice separately.

(III) All bills and/ or invoices shall be sent by the supplier to:

for payment.

17. TERMS OF PAYMENT :

Subject to any deductions which the purchaser may be authorised to make under this contract, the payment for the material shall be made as under:-

(a) One hundred percent payment shall be made on 30th day from the date of receipt of material by the consignee or date of submission of documents i.e. bills/invoices in triplicate, receipted challan, inspection note, prescribed sale tax/excise duty certificates and excise duty gate pass wherever required etc. whichever is later.

(b) The bank guarantee of the value of 10% of the contract price shall be furnished within 15 days from the date of issue of Purchase Order which should remain valid for 90 days after the expiry of warranty period, failing which:

(i) Penalty @ 0.35% per week or part thereof of the value of BG would be charged from due date of submission, till the BG or DD in lieu of BG is submitted by the firm.

(ii) In case the performance bank guarantee or DD in lieu of performance security is not submitted within 30 days from the date of issue of Purchase Order or the date if any stipulated by the DDO, the Nigam (Nodal Agency) reserve the right to cancel the Rate Contract.

Further a rebate of 0.35 percent per week or part thereof shall be availed of by the Nigam if payment is made earlier than the period specified. The rebate will be calculated on the payable amount.

All payments shall be made by the purchaser or his authorised agent to the supplier in rupees in India.

18. NEGLIGENCE:

If the supplier shall neglect to execute the work with due diligence and expedition or shall refuse or neglect to comply with any reasonable orders given in writing by the purchaser or is authorised agent in connection with this contract or shall contravene this provision of the contract, the purchaser may give 15 days notice in writing to the supplier to make good the failure, neglect or contravention complained of and should the Supplier fail to comply with the notice within the above said time from the date of service thereof (in case of failure, neglect or contravention capable of being made good, within that time or otherwise within such time as may be reasonable necessary for making it good, then in such case, the purchaser shall be at liberty to take the work wholly or in part out of Supplier's hand and recontract at a reasonable price with any other person (s). in

such event, it shall be lawful for the purchaser to retain any balance which may otherwise be due by him to the Supplier on any account, and apply the +same towards the execution of the whole of balance of the work so recontracted, as aforesaid, if no such balance is due by him to the supplier or if due, is not sufficient to cover the amount thus recoverable from the supplier, it shall be lawful for the purchase to recover the whole or the balance of the amount from the supplier by action at law or otherwise. The remedy under this clause will be in addition to and without prejudice to right available to the purchaser under other clause of these terms and conditions.

19. DESPATCH OF MATERIAL AND DESPATCH INSTRUCTIONS:

The supplier shall be responsible to obtain complete Despatch instructions from the purchaser before the despatch of each consignment. The supplier sufficiently pack at his own cost the material for transit so as to ensure this being free from loss or damage on arrival without opening the packages while in transit at their destination. All containers in which the material is supplied shall be non returnable.

20. REPLACEMENT AND REJECTION:

Material found sub-standard or defective or not conforming to the prescribed specification in any manner, at consignee's end shall not be accepted and an intimation to this effect shall be given to the supplier, the purchasing authority and the Controller of Stores by the consignee. The purchasing authority shall promptly take up the matter with the supplier and ask him to rectify or replace the defective/sub-standard material forthwith and in any case within a period of 45 days from the date of original supply, failing which, the Nigam shall reserve the right to get the defect rectified at the supplier's cost or to withheld the amount equal to cost of defective material. The supplier shall also be notified that all expenses involved in the replacement by way of handling, transportation, storage, etc. shall be on his account. Before lifting the material for repair/replacement the supplier shall furnish Bank Guarantee equivalent to 100% of the total cost of the material to be lifted for repair/replacement. Failure to submit Bank Guarantee or to lift the material or to repair the equipment within the stipulated period the purchaser shall entitle to deduct/ recover the full cost of the defective material from the outstanding payments/ B.Gs. of the firm. The payment so deducted/recovered shall be released after receipt of repaired/replaced material. The purchaser shall also be at liberty to suspend further dealing with the firm till the receipt of repaired./replaced material. In addition to above, the penalty on account of losses incurred due to sub standard material, would be decided by the WTDs and imposed, depending on the merit of each case. In respect of the defective/sub-standard supplies, the date on which such a supply is replaced shall be reckoned as the effective date of delivery there against and the delay shall be worked out accordingly with reference to the date on which the supply was due as per the terms of contract, for the purpose of determining penalties/liquidated damages recoverable under Clause 9(iv).

The above provision shall apply mutatis-mutandis to the material found sub-standard or defective during the period of warranty.

21. TERMINATION OF CONTRACT FOR DEFAULT

21.1 The purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, terminate the contract in whole or in part:

(a) If the supplier fails to deliver any or all of the stores within the time period(s) specified in the contract, or any extension thereof granted by the Purchaser; or

(b) If the supplier fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted by the purchaser.

(c) If the supplier, in the judgement of the purchaser has engaged in corrupt or fraudulent practices in competing for or in executing the contract (The definition of corrupt or fraudulent practices defined under clause-26).

21.2 In the event the purchaser terminates the contract in whole or in part. Performance Security(Cash/Bank Guarantee) submitted by the firm/supplier shall be forfeited.

22 SET-OFF:

Any sum of money due and payable to the supplier under the contract (including Security deposit returnable to the supplier) may be appropriated by the purchaser and set-off against any claim of the purchaser for the payment of a sum of money arising out of or under this contract or any other contract entered into by the supplier with the purchaser.

23 SUPPLIER'S DEFAULT LIABILITY :

In the event of breach of any these terms and conditions by the supplier, the purchaser can terminate the contract without Notice to the supplier at any stage and the supplier shall have no claim whatsoever on the purchaser on this account. But the supplier shall be liable to pay to the purchaser a sum equivalent to 10% of the value of the undelivered material as liquidated damages and not as a penalty. The supplier shall in addition and without prejudice to the above said damages, make good any loss or damage that may be incurred by the purchaser on making risk purchase in terms of clause of 'Risk purchase'.

24 LAWS GOVERNING THE CONTRACT

(i) This contract shall be governed by the Laws of India for the time being in force. (ii) Irrespective of the place of delivery place of performance or place of payment under the contract, the contract shall be deemed to have been made at the place from which the acceptance of tender has been issued.

(iii) Jurisdiction of courts: The courts of the place from where the acceptance of tender has been issued shall alone have exclusive jurisdiction to decide any dispute arising out of or in respect of the contract.

26 Corrupt or Fraudulent Practices

The Nigam requires that Tenderers/ Suppliers/ Contractors observe the highest standard of ethics during the procurement and execution of Nigam contracts. In pursuance of this policy, the Nigam:-

(a) defines, for the purposes of this provision, the terms set forth as follows:

(i) "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution: and

(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Nigam, and includes collusive practice among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial, non-competitive levels and to deprive the Nigam of the benefits of free and open competition;

(b) will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a Nigam contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Nigam contract.

27. PATENT RIGHTS

The supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of the Goods or any part thereof in India. In the event of any claim asserted by a third party of infringement of copyright, patent, trademark or industrial design rights arising from the use of the Goods or any part thereof in the Purchaser's country, the supplier shall act expeditiously to extinguish such claim. If the supplier fails to comply and the Purchaser is required to pay compensation to a third party resulting from such infringement, the supplier shall be responsible for the compensation including all expenses, court costs and lawyer fees. The Purchaser will give notice to the supplier of such claim, if it is made, without delay.

28. SETTLEMENT OF DISPUTES

If any dispute or difference of any kind whatsoever will arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties will make every effort to resolve amicably such dispute or difference by mutual consultation. If, after thirty (30) days the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of the matter may be commenced unless such notice is given.

29. ARBITRATION

All matter questions, disputes, differences and/or claims arising out of and/or concerning and/or in connection and/or in consequences or relating to the Contract whether or not obligations of either or both parties under the contract be subsisting at the time of such dispute and whether or not the contract has been terminated or purported to be terminated or completed, shall be referred to the arbitration which shall be conducted by three arbitrators, one each to be nominated by the supplier/contractor and the Nigam (**arbitrator to be approved by the M.D. DHBVNL or authority of the Nigam authorized for the purpose by the Nigam**) and the third to be named by the president of the institution of the Engineers, India. If either of the parties fails to appoint its arbitrator within **thirty (30) days** after receipt of a notice from the other party invoking the arbitration clause, the president of the institution of Engineers, India, shall have the power at

the request of either of the parties, to appoint the arbitrator. A certified copy of the order of the institution of Engineers (India) making such an appointment will be furnished to each of the parties. The decision of the majority of the arbitrators shall be final and binding upon the parties. The parties to the contract agree that the cost of arbitration shall be as per instructions of the Nigam issued/prevalent on the date of appointment of arbitral tribunal. The arbitrators may, from time to time, with the consent of the parties enlarge the time for making the award. In the event of any of the aforesaid arbitrators dying, neglecting, resigning or being unable to act for any reason, it will be lawful for the party concerned to nominate another arbitrator in place of the outgoing arbitrator. The arbitrator shall have full powers to review and/or revise any decision, opinion, direction, certification or valuation of the Engineer in consonance with the Contract, and neither party shall be limited in the proceedings before such arbitrators to the evidence or arguments put before the Engineer for the purpose of obtaining the said decision. The objection that the Arbitrator has to deal with the matters to which the Contract relates in the course of his duties or he has expressed his views on any or all of the matters in dispute of difference, shall not be considered as a valid-objection. Subject to aforementioned provisions, the provisions of the Arbitration and conciliation Act, 1996 and the Rules thereunder any statutory modifications thereof for the time being inforce, shall be deemed to apply to the Arbitration proceedings under the clause. Where the value of the Contract is Rs. One Crore and below, the disputes or differences arising will be referred to the Sole Arbitrator. The Sole Arbitrator to be approved by the M.D. DHBVNL or authority of the Nigam authorized for the purpose by the Nigam. Notwithstanding any reference to arbitration herein,

(a) The parties will continue to perform their respective obligations under the Contract unless they otherwise agree; and

(b) The Purchaser will pay the Supplier any monies due to the Supplier.

Place :

Date :

Signature of the Supplier.

ANNEXURE 'A' TO SCHEDULE 'D'
SPECIFICATIONS

Note: Advance sample strictly in accordance with the above specifications Submitted (delete if not applicable).

Signature of the Supplier.

ANNEXURE 'B' TO SCHEDULE 'D'
SCHEDULE OF DELIVERIES

(At least 20 days advance intimation shall be given by the supplier to each consignee before the despatch of the material failing which demurrage/wharfage charges will be to the account of the supplier).

Sr. No.	Name of item	Specification	Name of consignee	Delivery

Name & Full Address of Tenderer

Place:

Date:

NIT No. _____
SCHEDULE 'E'
(Referred to in Regulation 13)
DAKSHIN HARYANA BIJLI VITRAN NIGAM

No.

Date

PURCHASE ORDER
Acceptance of Offer/Tender

From

To

_____ (Name of the firm)

Dear Sir,

Your Offer/Tender contained in your quotation No. _____ dated _____.

As further modified by your letter No. _____
Dated _____, in response to our N.I.T. issued under our No. _____ dated _____ is hereby accepted and a contract has come into force in terms thereof.

Please supply within _____

From the date of issue of this order, the following material by goods/passenger train to the _____ as per the schedule of delivery contained in Annexure 'B' to the terms and conditions of the contract.

The duly receipted and the bill of cost in triplicate may please be sent to the FA&CAO/MM direct under advice to this office for necessary action and payment.

Sr. No.	Description of material	Name of the item	Specific ations	Quantity	Rate	FOR destination Ex-Works etc.	Total amount

For & on behalf of the Purchaser.
(Signature) _____
Name & Designation of
Purchasing Authority

Schedule A, C, F to I shall be as per DHBVN Procurement Manual.

Schedule D should be got signed from the supplier by the Direct Demand Officer while issuing supply order/purchase order.

Sub:- Report of the committee constituted to review the clauses of the procurement manual.

The Managing Director, DHBVN constituted the committee consisting of the following officers to review the clauses of the procurement manual as per scope given below:-

1. Sh.D.S.Yadav, CGM/MM.
2. Sh.Satish Aggarwal, CGM/P&D.
3. Sh. P.C.Gupta, CGM/F&A(MM).

Scope to review and recommended the following clauses of the procurement manual.

1. Requirement for issue of Letter of Award and its proper name.
2. Name of P.O/Work order.
3. Requirement of sample alongwith tender.
4. Requirement for submission of drawings and its approval.
5. Fixing of meeting for discussing deviation of pre-qualification conditions after containing of Part-I (Technical bid) for evaluation of tenders.
6. Other important clause/issue relating to procurement manual as per discretion of the committee.
7. the committee deliberated on the above issues and observed as under:-

IssueNo.1.

As per provisions laid down in the law of contract to conclude a contract and to bring about contractual relationship between the parties the acceptance of an offer/tender must be communicated to the bidder in some perceptible form. The acceptance must be absolute, un-qualified and un-conditional. The law of award is also issued by the Govt. of Karnataka, PFC, Andhara Pradesh and Govt. of India/Finance Department. The above clause is proposed as under:-

13(i) Before expiry of tender validity period and immediately after approval of the competent authority. The purchase organisation will notify by Fax and confirmed by Registered letter the successful tenderer in writing by suitable full proof method giving therein relevant details like quantity, specification all the goods ordered, prices etc. has been accepted and a contract has come into force.

ii) This letter of award will be termed as letter of acceptance and the successful tenderer will have to furnish the required performance security within 15 days from the date of issue of LOA and execute the contract agrees wherever required.

