Issued to M/s. _____

Sl.No

NOT TRANSFERABLE

Ref.No: 010/M(P)/DRUG/TNMSC/2021, Dt.01.12.2021

TAMILNADU MEDICAL SERVICES CORPORATION LIMITED
(A Government of Tamilnadu Undertaking)
No. 417, Pantheon Road, Egmore, Chennai – 600008.
Phone: 044-28191890, 28190259
Website: www.tnmsc.tn.gov.in, www.tenders.tn.gov.in
Email: mngrpurdrug.tnmsc@tn.gov.in

TENDER FOR THE SUPPLY OF ESSENTIAL DRUGS AND MEDICINES

TO

TAMILNADU MEDICAL SERVICES CORPORATION LIMITED

UNDER RATE CONTRACT SYSTEM FOR ONE YEAR FROM THE DATE OF ACCEPTANCE

LAST DATE FOR RECEIPT OF TENDER: 31.12.2021 upto 10.00 A.M.

TamilNadu Medical Services Corporation Limited
No. 417, Pantheon Road,
Egmore, Chennai – 600008.

Telephones : 044-28190259 / 28191890
Email : mngrpurdrug.tnmsc@tn.gov.in

TENDER FOR THE SUPPLY OF ESSENTIAL DRUGS AND MEDICINES TO TAMILNADU MEDICAL SERVICES CORPORATION LIMITED UNDER RATE CONTRACT SYSTEM FOR ONE YEAR FROM THE DATE OF ACCEPTANCE

Tender Reference	:	**010/M(P)/DRUG/TNMSC/2021 Dt.01.12.2021**
Date of commencement of Sale of tender document	:	**01.12.2021**
Last date for sale of Tender document	:	**30.12.2021**
Last date and time for Receipt of tender	:	**31.12.2021 upto 10.00 A.M.**
Time and date of opening of tender	:	**31.12.2021 at 10.30 A.M**
Place of opening of Tender	:	Tamilnadu Medical Services Corporation Ltd., No.417, Pantheon Road, Egmore, Chennai - 600 008.
Address for Communication	:	Tamilnadu Medical Services Corporation Ltd., No.417, Pantheon Road, Egmore, Chennai - 600 008.
Cost of the Tender Document	:	Rs.5,725/- (Inclusive of GST)

Alternatively, the tender document can be downloaded from the websites of ***www.tnmsc.tn.gov.in*** *and* ***www.tenders.tn.gov.in*** *on free of cost.*

TAMILNADU MEDICAL SERVICES CORPORATION LIMITED

TENDER FOR THE SUPPLY OF ESSENTIAL DRUGS AND MEDICINES TO TAMILNADU MEDICAL SERVICES CORPORATION LIMITED UNDER RATE CONTRACT SYSTEM FOR ONE YEAR FROM THE DATE OF ACCEPTANCE

The TNMSC Ltd., a Govt. of Tamilnadu undertaking is involved in procuring quality drugs and medicines directly from the manufacturers and importers through open tenders system and ensures timely Supply of Drugs and Medicines to about 11,500 medical institutions all over Tamilnadu.

Tender Inviting Authority - The General Manager (Drugs), Tamilnadu Medical Services Corporation Limited, No.417, Pantheon Road, Egmore, Chennai-600008, (hereinafter referred as **Tender Inviting Authority** unless the context otherwise requires).

Tender Accepting Authority - Tamilnadu Medical Services Corporation Limited (hereinafter referred as **TNMSC Ltd.,** unless the context otherwise requires)

Tender Inviting Authority invites **Tender for the Supply of Essential Drugs and Medicines to Tamilnadu Medical Services Corporation Ltd., under rate contract system for one year from the date of acceptance.**

1. <u>LAST DATE FOR RECEIPT OF TENDERS.</u>

(a) Sealed Tenders [in two separate covers {Technical bid (Cover "A") and Price Bid (Cover "B")}] will be received till **10.00 A.M.** on **31.12.2021** by the Tender Inviting Authority, Tamilnadu Medical Services Corporation Limited (TNMSC Ltd.,), No.417, Pantheon Road, Egmore, Chennai - 600008, for the Supply of Essential Drugs and Medicines to Tamil Nadu Medical Services Corporation Limited under

rate contract system for one year from the date of acceptance. The Name and address of the Firm / Company quoting the Tender should be clearly indicated in the outer cover as per the constitution of the Firm / Company particulars.

(b) The bid shall be valid for a period of 120 days from the date of opening of Cover-A (Technical Bid) and prior to the expiry of the bid validity, the Tender Inviting Authority may request the Tenderers to extend the bid validity for further period as deemed fit. However, TNMSC Ltd., reserves the right to place purchase orders at the quoted rate till such period of validity of the tender and the tenderer(s) are bound to accept the orders at the rates quoted / accepted and within the production capacity indicated in the tender, irrespective of execution of agreement / finalization of price.

2. ELIGIBILITY CRITERIA

(a) Tenderer shall be a manufacturer having valid Own Manufacturing License / Direct importer holding valid Import License and Loan Licensees having Valid Loan License. Distributors / Suppliers / Agents are not eligible to participate in the Tenders.

(b) (i) Average Annual turnover for Non Domestic Enterprise **in last 3 years i.e., 2018-2019, 2019-2020 and 2020-2021** shall not be less than *Rs.4.00 Crores and the turnover should be a minimum of Rs.4.00 Crores* ***in any one of the financial years (ie.,*** **2018-2019, 2019-2020 and 2020-2021*****).***

(ii) Average Annual turnover for Domestic Enterprise **in last 3 years i.e., 2018-2019, 2019-2020 and 2020-2021** shall not be less than *Rs.2.00 Crores and the turnover should be a minimum of Rs.2.00 Crores* ***in any one of the financial years (ie.,*** **2018-2019, 2019-2020 and 2020-2021*).***

(c) (i) Tenderer should at least have 3 years Market Standing as a manufacturer / loan licensees for each drug quoted in the tender as manufacturer / loan licensees. In case of an Importer, their principal manufacturer should have 3 years market standing in India and the Importer should have 3 years market standing in the pharmaceutical field. And also, the importer should have due authorization for quoting drugs from the principal manufacturer along with relevant import licenses.

(ii) Tenderer should have obtained permission to manufacture the drugs(s) quoted as per specification in the tender from the competent authority. The imported product(s) should have valid import license by the competent authority.

(iii) In both cases (i) and (ii) above, the permission provided by Drug Controller General of India (DCGI) shall be provided as applicable.

(d) <u>FOR PRODUCT(S)</u>

(i) Tender should not be submitted by the firm / company / loan licensee for the Product(s) for which the firm / Company / loan licensee has been blacklisted / banned / debarred by TNMSC Ltd., on any grounds.

(ii) Tender should not be submitted for the product(s) for which the firm / company / loan licensee has been blacklisted by any other State Government / Central Government / its Drug procurement agencies due to quality failure and/or fraudulent/illegal practices of the drugs supplied.

(e) **FOR FIRM/COMPANY**

(i) The Company / Firm / loan licensee which has been blacklisted by TNMSC Ltd., due to quality failure of the drugs / non-performance of tender conditions / any other grounds should not participate in the tender during the period of blacklisting.

(ii) The Company / Firm / loan licensee which has been blacklisted by any other State Government / Central Government / its Drug procurement agencies due to quality failure of the drugs and / or fraudulent / illegal practices involved in the tender should not participate in the tender during the period of blacklisting.

(f) (i) The Tenderer should give a notarized affidavit that they have not been black listed due to quality failure of the drug(s) and / or fraudulent / illegal practices for the quoted product(s) / firm in the tender by any other State Government / Central Government / its Drug procurement agencies or by TNMSC Ltd., and also not blacklisted by TNMSC Ltd., due to non-performance of tender conditions and thereby eligible to participate in the present tender. (Notarized affidavit as per **Annexure-IV**).

(ii) During the validity of the tender if the firm / Company / loan licensee is blacklisted by any other State Government / Central Government / its Drug procurement agencies on the grounds stated above in Para (d), (e) and (f) / convicted by any Court of law in India, shall be intimated to TNMSC Ltd., by the corresponding firm / company / loan licensee.

In case of Loan licensee,

(a) The Loan licensee and / or its manufacturing facility if blacklisted for particular product(s) by any other State Government / Central Government / its Drug procurement agencies on the grounds stated above / convicted by any Court of law in India, shall be intimated to TNMSC Ltd.,

(b) The Loan licensee and / or its manufacturing facility if blacklisted in whole by any other State Government / Central Government / its Drug procurement agencies on the grounds stated above / convicted by any Court of law in India, shall be intimated to TNMSC Ltd.,

(c) Tenderer should quote at least for ***60%*** of the tendered quantity of each drug exclusively earmarked for TNMSC Ltd., in this tender irrespective of any other tenders that may be floated by TNMSC Ltd., for any drug in which the same firm / company / loan licensee become eligible/selected. However after evaluation of

the price bid, the eligible tenderers are permitted only for upward revision of the production capacity / earmarked quantity of any drug(s) approved. On any circumstances downward revision of the quoted quantity and/or production capacity is not permitted. TNMSC Ltd., have the prerogative either to accept or to reject the revision given by the tenderer among the drugs.

3. GENERAL CONDITIONS

(i) A complete set of tender documents may be purchased by any interested eligible person from the office of Tender Inviting Authority between **10.00 AM to 5.00 PM on or before 30.12.2021 on** all working days either in person or by post by making an application in writing and upon payment of a non-refundable fee as indicated in the advertisement in the form of Demand draft drawn in favor of Tamilnadu Medical Services Corporation Limited payable at Chennai. Tender Inviting Authority will not be responsible in any way for postal delay.

(ii) Alternatively, the tender document can be downloaded from the websites **www.tnmsc.tn.gov.in** and **www.tenders.tn.gov.in** at free of cost.

(iii) The complete set of tender (Cover A and Cover B) should be submitted on or before **10.00 A.M.** on **31.12.2021.**

(iv) All tenders must be accompanied with Earnest Money Deposit as specified against each drug in **Annexure-IX** of the Tender document UNLESS EXEMPTED under clause 7.2 here under.

(v) Tenders will be opened in the presence of Tenderers / authorized employees of tenderers who chooses to attend on the specified date and time or as per Covid-19 restrictions in place at the time of opening.

(vi) (a) At any time prior to the date of submission of Tender, Tender Inviting Authority may, for any reason, whether on own initiative or in response to a clarification requested by a prospective Tenderer, may modify the condition in Tender documents by an amendment. All the prospective Tenderers who have purchased the tender document will be notified of the amendment in writing and that will be binding on them. In order to provide reasonable time to take the amendment into account in preparing their bid, Tender Inviting Authority may at discretion, extend the date and time for submission of tenders.

(b) Any person who has downloaded the tender document should watch for amendment, if any, on the website **www.tnmsc.tn.gov.in** and **www.tenders.tn.gov.in** for which TNMSC Ltd., will not issue any separate communication to them.

(vii) Interested eligible Tenderers may obtain further information in this regard from the office of the Tender Inviting Authority on all working days between 10.00 AM and 5.00 PM.

4. TECHNICAL BID - COVER "A"

4.1. The Tenderer should furnish the following documents in a separate cover hereafter called **"Cover A". (All the documents submitted should be signed and sealed by the Tenderer in each page and photo copies of the documents should be attested by the Tenderer and also be notarized in each page)**

(a) Earnest Money Deposit, IF NOT EXEMPTED under clause 7.2, shall be paid to TNMSC Ltd., as indicated against each drug in **Annexure-IX** of the tender document in the form of **Bankers Cheque or Demand Draft and/or irrevocable Bank Guarantee** favoring Tamilnadu Medical Services Corporation Ltd., payable at Chennai and the Tenderer should also enclose split up details of EMD for each drug. EMD in any other form like ***cheque/cash/postal order*** etc. will not be accepted and the tender will be rejected.

(b) Documentary evidence for the constitution of the Company/Firm such as Memorandum and Articles of Association, Partnership deed, Permanent Registration Number, GST registration certificateetc. with details of the Name, Address, Telephone Number, Fax Number, e-mail address of the firm and of the Managing Director / Partners / Proprietor. Also the list of present Directors in the Board of the Company / Partners duly certified by a Company Secretary of the Company / Practicing Company Secretary / Charted Accountant to be furnished.

(c) The Tenderer should furnish attested photocopy of Manufacturing Licence / Loan License for the product, duly approved by the Licensing Authority for each and every product quoted as per specification in the tender. The licence must have been duly renewed up to date and the drugs quoted shall be clearly highlighted in the licence. Original documents should be produced when demanded for verification.

(d) Attested photocopy of import license (in Form 10 with Form 41) in accordance with Rule 21 of the Drugs and Cosmetics Act 1940 and Rules 1945 (if the product is imported) should be furnished. In case of new drug, import permission in Form-45 / Form-45A should be furnished in accordance with Rule 122-A of the Drugs and Cosmetics Act 1940 and Rules 1945. The licence must have been renewed up to date. A copy of a valid licence for the sale of Drugs imported by the firms issued by the State Licensing Authority shall also be enclosed. Original documents should be produced as and when demanded for verification.

(e) The instruments such as power of attorney, resolution of board etc., authorizing an officer (employee) of the Tenderer should be enclosed with the tender duly signed by the Authorized signatory of the Company/Firm and such authorized officer (employee) of the Tenderer should sign the tender documents.

(f) Authorization letter nominating an officer (employee) (With the photograph) of the Tenderer to transact the business with the TNMSC Ltd., if the officer is different from the (e) above.

(g) **Market Standing Certificate** issued by the Licensing Authority as a Manufacturer for each product quoted **for last 3 years (i.e., 2018-2019, 2019-2020 and 2020-2021)** (Certificate obtained specifically for TNMSC Ltd., tender / in General) should be enclosed with list of products. In case of direct importer, evidence of import of the said products for the last three years such as bill of landing, bill of entry for last three years and certificate of analysis are to be submitted (irrespective of the Importer). In case of supply of Serum or Vaccines, Market standing certificate issued by Licensing Authority **for one year (i.e.2019-20 or 2020-21)** should be enclosed.

(h) **Performance statement of manufacturing / importing unit** to establish market standing **for last 3 years (i.e., 2018-2019, 2019-2020 and 2020-2021)** as per format in **Annexure-VII** along with the Attested scanned copies of the BMR for the quoted products to establish 3 years Market standing in the CD in Cover A (In case of Serum or Vaccines one Year) shall be furnished. However as and when required by TNMSC Ltd., the said documents should be submitted as attested true copy by the tenderers.

(i) **Non-conviction Certificate / Conviction Status Certificate** issued by an appropriate authority of the State certifying that the Firm / Company / Loan licensee has not been convicted / convicted [along with list of product(s)] and such firm should not submit tender for products which are convicted in any Court of Law for 3 years from the date of conviction.

(j) **Current Good manufacturing practices Certificate (cGMP) as per revised Schedule-'M' or WHO-GMP** (for manufacturers / manufacturing units of loan licensee) issued by the Licensing Authority. The Tenderer shall also furnish a notarized affidavit in the format given in Annexure-III declaring that the Tenderer complies with the requirements of cGMP (as per revised Schedule-'M') or WHO-GMP. In case of Imported drugs, labels and product literature of all quoted product(s) must be submitted with WHO-GMP or certificate which is at par with WHO-GMP issued by the authorities of exporting countries like U.S. FDA etc., or COPP certificate of their Principal Manufacturing Company or firm.

(k) **Annual turnover statement for last 3 years i.e., 2018-2019, 2019-2020 and 2020-2021** should be furnished in the format given in Annexure-VIII duly certified by the Charted Accountant.

(l) Printed Annual reports including the **Balance Sheet and Profit and Loss Account for last 3 years i.e., 2018-2019, 2019-2020 and 2020-2021** duly certified by the Chartered Accountant.

(m) **GST returns** from **01.01.2021 to 31.03.2021 (as applicable)** along with GST registration copy of the tenderer.

(n) (i) Undertaking (as in the proforma given in **Annexure-I**) for embossment of logo on tablets, capsule shell, on labels of vials, Ampoules, bottles, tubes etc. as the case may be, and for supply of tablets / capsules on the strips as per the conditions specified under Clause 14 herein, duly notarized by the Notary Public.

(ii) Undertaking (as in the proforma given in **Annexure-II)** for affixing the logo on the Secondary/Primary packing for the imported drugs along with Brand/Trade names.

(o) The details containing the name and address of the manufacturing premises / importing unit where the drugs quoted are actually manufactured / imported should be given as per the format in **Annexure-XIII** along with exact address of the Registered / Corporate office and address to which communications are to be sent.

(p) Documents, if any, to show that the manufacturing unit/importer has been recognized by any other Indian / International Standard Organizations as applicable etc (optional).

(q) Details of technical personnel employed in the manufacturing and testing of drugs (Employee Name, Qualification, and Experience) as endorsed in license.

(r) List of drugs quoted (The name & Drug code of the Drugs quoted, yearly production capacity of individual drug earmarked exclusively for the tender of TNMSC Ltd., and the amount of EMD for each drug alone should be furnished and **the rate of those drugs should not be indicated in this list),** as shown in the **Annexure-XIV** should be given in duplicate.

(s) A Checklist (**Annexure-XVIII**) indicating the above documents submitted with the tender document and their respective page number shall be enclosed with the tender document. The documents should be serially arranged as per this **Annexure-XVIII** and should be securely tied or bound. If a company/firm has two or more separate manufacturing units at different sites / States, which are not separate entities, then the company will be allowed to submit only one tender for all units but necessary document regarding separate manufacturing units will have to be

submitted as a separate set with the same tender. But a bidder will be allowed to submit only one offer for one product.

(t) The tender document should be signed only by the authorized official of the Tenderer in all pages with office seal as indicated in (e) above.

(u) All the documents enclosed with the tender document should also be signed by the authorized official of the Tenderer as indicated in (e) above.

4.2. The above documents should be sealed in a separate Cover Super scribed as **"TECHNICAL BID - COVER "A" – TENDER FOR THE SUPPLY OF ESSENTIAL DRUGS AND MEDICINES TO TAMILNADU MEDICAL SERVICES CORPORATION LIMITED UNDER RATE CONTRACT SYSTEM FOR ONE YEAR FROM THE DATE OF ACCEPTANCE DUE ON 31.12.2021 AT 10.00 A.M". AND ADDRESSED TO "THE TENDER INVITING AUTHORITY, TAMILNADU MEDICAL SERVICES CORPORATION LIMITED, NO.417, PANTHENON ROAD, EGMORE, CHENNAI – 600008".**

5. PRICE BID - COVER "B"

5.1. Cover "B" contains the Price Bid of the Tenderer.

(i) Bid should be typewritten and every correction and interlineations in the bid should be attested with full signature by the Tenderer, failing which the product(s) will be

treated as ineligible. Corrections done with correction fluid should also be duly attested.

(ii) Each page of the price bid should be duly signed by the Tenderer affixing the official seal.

(iii) The Tenderer shall fill in the rate in the **Annexure-XIX** for the drugs quoted and also in the Pendrive (supplied with tender document) and such filled in **Annexure-XIX** along with the Pendrive (Soft Copy) should be submitted.

(iv) The Tenderers who have downloaded Tender document, shall also download and copy the ***EDL2021.XLS*** (Excel) file in the Pendrive. Such Pendrive may be used for quoting the rate in soft copy.

(v) In determining the lowest evaluated price, (the rate quoted per unit or landed price in **Annexure-XIX**) the evaluation shall include Basic Price Inclusive of Incidental Charge + Packing & Forwarding Charges + Freight and Insurance Charges + Customs Duty (if applicable) + GST.

(vi) The rate quoted in column 8 of **Annexure-XIX** should be for a unit and for the given specification. **The rates quoted in paisa are to be in 2 digits.** The Tenderer is not permitted <u>to change/alter specification or unit size</u> given in the **Annexure-XIX**. **Request for any changes in the rates quoted will not be entertained by TNMSC Ltd., on any circumstance other than the Tax**

revision made by any Government. Tax portion should be mentioned in the form of percentage only (%).

(vii) The details of rates and manufacturing capacity earmarked for TNMSC Ltd., (for each drug individually) given in **Annexure-XIX** should be entered clearly given along with the tender. **The production capacity earmarked for TNMSC Ltd., as indicted in Annexure-XIV in Serial No 7 (Column 8) or up-scaled revised quantity of the Tenderers alone will be considered for placement of purchase orders.**

(viii) The bidder shall necessarily quote the excise duty or customs duty applicable and when the drug is excisable or imported as the case may be. The relevant chapters and tariff applicable should be indicated for each drug (or) as per the relevant Acts / rules in force at the time of price bid opening.

(ix) The bidder shall specifically mention **" EXEMPTED "** when the drug is excisable but exempted for the time being, based on turn over or for any other grounds by the notification issued by the Government of India **(Also refer clause 17.6)**.

(x) The bidder once quoted the excise rate is not permitted to change the rate/amount unless such change is supported by the notification issued by the Government of India or by the order of the court, after submission of Tender (or) as per the relevant Acts / rules in force at the time of price bid opening.

5.2. The Tenderers shall submit duly signed **Annexure-XIX** in a sealed cover Superscribed as **"PRICE BID COVER "B" – TENDER FOR THE SUPPLY OF ESSENTIAL DRUGS AND MEDICINES TO TAMILNADU MEDICAL SERVICES CORPORATION LIMITED UNDER RATE CONTRACT SYSTEM FOR ONE YEAR FROM THE DATE OF ACCEPTANCE"**. The "Cover-B" should also be addressed to the "**TENDER INVITING AUTHORITY, TAMILNADU MEDICAL SERVICES CORPORATION LIMITED, NO.417, PANTHEON ROAD, EGMORE, CHENNAI - 600008"**.

5. 3. Two separate sealed covers {Technical bid (Cover "A") {Refer Clause No.4.2} and Price Bid (Cover "B")} {Refer clause 5.(2) } shall be placed in a cover which shall be sealed and Superscribed as **"TENDER FOR THE SUPPLY OF ESSENTIAL DRUGS AND MEDICINES TO TAMILNADU MEDICAL SERVICES CORPORATION LIMITED UNDER RATE CONTRACT SYSTEM FOR ONE YEAR FROM THE DATE OF ACCEPTANCE DUE ON 31.12.2021 AT 10.00 A.M"** and addressed to the **TENDER INVITING AUTHORITY, TAMILNADU MEDICAL SERVICES CORPORATION LIMITED, NO. 417, PANTHEON ROAD, EGMORE, CHENNAI-8**, which shall be submitted within the date and time as specified in Clause 1(a).

5.4. If the last date for submission of Tender is declared as holiday in the state of Tamilnadu including local holiday if any, the tenders may be submitted on the next working day up to 10.00 A.M.

6. OPENING OF COVER "A" AND COVER "B" OF TENDER

6.1 Only authorized official as indicated in Clause 4.1.(e) or (f) only are entitled to be present at the time of opening of Technical Bid - Cover "A" of the tender submitted by them. **No other persons will be permitted.**

6.2 Tenderers, who are found eligible on satisfying the criteria for technical evaluation and inspection will only be invited and the authorized official as indicated in 4.1(e) or (f) alone will be allowed to be present at the time of opening of Price Bid - Cover "B" of the tender.

7. EARNEST MONEY DEPOSIT

7.1 (a) The Earnest Money Deposit referred to under Clause 4.1(a) UNLESS EXEMPTED under Clause 7.2, shall be for the amount as indicated against each drug in Annexure-IX of the tender documents. In case a Tenderer is quoting for more than one drug, the Earnest Money Deposit payable by such Tenderer shall be the aggregate total of the Earnest Money Deposit for all the drugs quoted by such bidder. The bidders are required to furnish the breakup of the Earnest Money Deposit for the drugs quoted along with the Bankers Cheque or Demand Draft or irrevocable Bank Guarantee in the format favoring Tamilnadu Medical Services Corporation Limited, Chennai. **However, whenever the total EMD payable is less than Rs.50,000/- the EMD to be paid only by way of Bankers Cheque / Demand Draft, *failing which the tender will***

be rejected. **In other case, a minimum of Rs.50,000/- to be paid only by Bankers Cheque / Demand Draft** and the balance may be paid by irrevocable Bank Guarantee/Demand Draft/Bankers Cheque. **EMD furnished in the form of a Bank Guarantee should remain valid for a minimum period of 60 days beyond the validity period of tender (i.e., 120 days + 60 days = 180 days from the date of opening of Cover "A")**. **The format of Bank Guarantee for EMD is enclosed in the Annexure-XVII**. This should be enclosed with the tender in Cover "A". **For the matter of clarity, if the due date for receiving the tenders is extended, the validity period of the tender will automatically stand extended and it is the responsibility of tenderers to ensure that the EMD is valid at the time of Cover-A opening.** Earnest Money Deposit in the form of Cheque/Cash/Postal order will not be accepted. Earnest Money Deposit will not earn any interest.

(b) In case the EMD submitted by the bidder is not sufficient to meet the EMD requirement of all the drugs quoted, the available EMD will be adjusted for the drug(s) in the ascending order of the drug codes of the drugs quoted by the Tenderer, till the EMD is exhausted. Further, the tender of such bidder for the remaining drugs, out of the quoted drugs, will be treated as non-responsive for want of EMD. Any part value of EMD remaining unadjusted will be treated as an excess value furnished.

7.2 **EXEMPTION FROM PAYMENT OF EARNEST MONEY DEPOSIT TO DOMESTIC ENTERPRISE**

(i) Domestic Enterprises – Micro and Small Enterprise (MSME) as defined in the Micro, Small, Medium Enterprise Development Act, 2006 (Central Act 27 of 2006), which manufacturers or produces goods within the State and filed Part-II of the Entrepreneurs Memorandum in the Distrcit Industries Centres or filed Udyog Aadhaar portal are exempted from payment of EMD.

(ii) The Domestic Enterprise will be required to furnish a notarized undertaking (as per **Annexure-VI**) to the effect that in the event of non-fulfillment or non-observance of any of the condition stipulated in the **tender / contract,** the Domestic Enterprise shall pay a penalty, equivalent to the **applicable penalty / Earnest Money Deposit of the drug(s) quoted stipulated in the tender** to offset the loss incurred by the Tender Inviting Authority consequent on such breach condition of **tender / contract.**

7.3. (i) The tender submitted without EMD will be summarily rejected.

(ii) The tenders with insufficient Earnest Money Deposit will be processed in accordance to clause 7.1 (b) above.

(iii) The Earnest Money Deposit will be refunded to the lowest bidders within 30 days from the date of signing the contract agreement and on the deposit of Performance Security.

(iv) The Earnest Money Deposit will be refunded to the matched bidders within 30 days from the date of signing the contract agreement.

(v) The Earnest Money Deposit (EMD) of the other bidders would be returned after the expiry of validity of the tender.

(vi) The Earnest Money Deposit (EMD) will be forfeited, if the Tenderer withdraws his bid **either fully or partially during the validity of the tender / contract period.**

(vii) The Earnest Money Deposit (EMD) will be forfeited, in case of the lowest / matched bidder, fails to execute the contract agreement and / or deposit the Performance Security within the stipulated time besides other actions.

(viii) The Tenderer, whose manufacturing unit found to be not complying with the cGMP (but furnished an affidavit in **Annexure-III**) during inspection, will be levied with a fine of Rs.50,000/- or the expenditure incurred by the TNMSC Ltd., in such inspection, whichever is higher. This fine amount shall be deducted from the EMD deposited by the bidder or any other amount payable to them in any nature. The amount will be deducted without any notice. In case of deficit, legal action will be taken against the tenderer for recovery.

8. OTHER CONDITIONS

8.1. (i) The details of the required drugs and medicines, etc., are shown in **Annexure-IX**. ***The tender quantity mentioned herein is not a fixed procurement quantity and it is only a tentative requirement and may be increased or decreased*** by the TNMSC Ltd., at its discretion, depending on the actual need. **Hence the Rule 14 (9) (with respect to the limitation on quantity to be ordered) of the TamilNadu Transparency in Tenders Rules 2000 is not applicable being a rate contract.** Though the tentative quantity is indicated in the agreement, the TNMSC Ltd., will confirm the actual requirement then and there only through purchase order(s). The tenderers shall supply the drugs only on the basis of the purchase order issued by the TNMSC Ltd. Any supply without a valid purchase order will not be accepted by TNMSC Ltd., for payment and the TNMSC Ltd., shall not be responsible for any loss on this account.

(ii) However, once the purchase order/orders is/are issued by the TNMSC Ltd., the tenderer should not renege from the commitment of supplying the quantity mentioned in the agreement / undertaking.

(iii) The rates quoted shall not be varied with the order quantity or the destination during the full contract period.

8.2. Tender has been called for in the **generic name of drugs**. The Tenderers should quote the rates for the generic products only. The composition and strength of each product should be as per specifications given in **Annexure-IX**. Any variation, if found, will result in rejection of the tender/drug. However the imported/combination drugs are allowed to be quoted in trade / brand name.

8.3. Rates (inclusive of Customs duty, Transportation, Insurance, any Incidental charges, but Exclusive of GST) should be quoted for each of the required drugs, medicines etc., separately on door delivery basis according to the unit ordered as in the format in **Annexure-IX**. Tender for the supply of drugs, medicines, etc. with cross conditions like "AT CURRENT MARKET RATES" shall not be accepted. Handling, clearing, transport charges etc., will not be paid separately. The delivery should be made as stipulated in the purchase order placed with Tenderers (or) as per the relevant Acts / rules in force at the time of price bid opening.

8.4. The price quoted by the tenderers shall not, in any case exceed the controlled price, if any, fixed by the Central/State Government, the Maximum Retail Price (MRP) and the selling price of the tenderer with other organizations. Tender Inviting Authority at its discretion, may exercise, the right to revise the price at any stage so as to conform to the controlled price or MRP or the lowest selling price of the tenderer as the case may be. This discretion will be exercised without prejudice to any other action that may be taken against the Tenderer.

8.5. To ensure sustained supply without any interruption, the Tender Inviting Authority reserves the right to split orders for supplying the requirements among more than one Tenderers, pursuant to the provisions laid under the Tamilnadu Transparency in Tenders Act 1998 and Rules made thereunder subject to the production capacity available with other tenderers.

8.6. The rates quoted and accepted will be binding on all the Tenderer(s) for the full contract period of one year and any increase in the price on any account/reasons will not be entertained till the completion of this contract period. Accordingly this clause will be applicable for all the orders placed by TNMSC Ltd during the contract period.

8.7. No Tenderer shall be allowed at any time and on any ground, whatsoever it may be, to claim revision or modification in the rates quoted by them. Representation to make correction in the tender documents on the ground of clerical error, typographical error, etc., committed by the Tenderers in the Bids shall not be entertained after submission of the tenders. Cross Conditions such as "SUBJECT TO AVAILABILITY", "SUPPLIES WILL BE MADE AS AND WHEN SUPPLIES ARE RECEIVED" etc., will not be entertained under any circumstances and the tenders of those who have mentioned such conditions shall be treated as incomplete and accordingly the Tender will be summarily rejected.

8.8. For the drug formulation like Injections, Liquid orals, Tablets and Capsules, rates should be quoted only for the composition stated in the tender. Blood products should be supplied along with HIV and Hepatitis-B screening certificate, failing which the drugs will not be accepted. A copy of these Certificates duly notarized should be sent with every consignment and every invoice.

8.9. Supplies should be made directly by the tenderer and not through any other Agency / Dealer / Distributors.

8.10. The Tenderer shall allow inspection of the factory at any time during the validity of the tender / currency of the contract by a team of Experts/Officials nominated by the Tender Inviting Authority for the purpose. The Tenderer shall extend necessary cooperation to such team in inspection of the manufacturing process, quality control measures adopted etc., in the manufacture of the drugs quoted. If Company/Firm does not allow for any such inspection, their tenders will be rejected during the currency of the contract. Non compliance to any of the manufacturing process / Quality control measures brought out during such inspection render the tenderers ineligible / disqualified.

8.11. The Tenderer should not influence the Inspection team in any manner including providing conveyance, accommodation, food etc., any effort may result in rejection of the tender without prejudice to other conditions.

9. ACCEPTANCE OF TENDER

9.1. Tenders will be evaluated in accordance to the provisions of the Tamilnadu Transparency in Tenders Act, 1998 and Rules made thereunder and the criteria mentioned herein. Rate per unit inclusive of various taxes and charges (landed price) as mentioned in **Annexure-XIX** shall be worked out for determining the L1 rate (Lowest rate) (or) as per the relevant Acts / rules in force at the time of price bid opening.

9.2 TNMSC Ltd., reserves the right to accept or reject the tender for the supply of all or any one or more drugs of the drugs tendered for in a tender without assigning any reason.

9.3 TNMSC Ltd., or its authorized representative(s) has the right to inspect the manufacturing (own manufacturer / loan licensee's manufacturing facility) premises of Tenderers, before, accepting the rate quoted by them or before releasing any purchase order(s) or at any point of time during the continuance of tender and also has the right to reject the tender or terminate/cancel the purchase orders issued and/or not to place further order, based on adverse reports brought out during such inspections by any statutory authorities besides blacklisting for a period of 5 years.

9.4 The acceptance of the tenders will be communicated to the lowest / matched Tenderers in writing.

10. PERFORMANCE SECURITY

On being informed about the acceptance of the tender and at the time of signing the Agreement, the lowest/matched Tenderer shall pay the Performance Security as indicated below in the form of ***Demand Draft or irrevocable Bank Guarantee*** in favor of Tamilnadu Medical Services Corporation Limited. In case the Performance Security is paid in form of Bank Guarantee, the bank guarantee shall be valid for a period of 2 years from the date of communication of the acceptance letter from the Tender inviting Authority. The format of Bank Guarantee is at **Annexure-XII.** Failure to deposit the performance security will attract Clause No. 20.1 (a).

(a)	Total value of contract upto Rs.1.00 Crore	3% of the contract value (subject to a minimum of Rs. 5,000/-) at the time of entering into contract.
(b)	Total Value of contract Exceeding Rs.1.00 Crore	Rs.3.00 Lakhs Plus @ 2% of the contract value over and above Rs.1.00 Crore at the time of entering into contract.

11. AGREERMENT

11.1. The lowest/matched Tenderer shall execute an agreement on a non-judicial stamp paper of value of Rs.100/- (stamp duty to be paid by the Tenderer) within 15 days from the date of the intimation from TNMSC Ltd., The Specimen form of agreement is available in **Annexure-XI** and available in the TNMSC Ltd., Website **(www.tnmsc.tn.gov.in) also**.

11.2. The Tenderer shall not, at any time, assign, sub-let or make over the contract or the benefit thereof or any part thereof to any person or persons what so ever.

11.3 All notices or communications relating to and arising out of this agreement or any of the terms thereof shall be considered duly served on or given to the Tenderer if delivered to him or left at the premises, places of business or abode as provided by the tenderer.

11.4 If the lowest/matched Tenderer fails to execute the agreement and/or to deposit the required Performance Security within the time specified or withdraws the tender, after the intimation of the acceptance of the tender or owing to any other reasons to undertake the contract, the contract will be cancelled and the Earnest Money Deposit deposited by the tenderer along with the tender shall stand forfeited by the TNMSC Ltd., and the firm will also be liable to make for the damages/losses suffered by TNMSC Ltd., apart from blacklisting and other penal actions.

12. METHODOLOGY FOR PLACING ORDERS

For the above purpose the following procedures will be adopted

(a) After the conclusion of Price Bid opening (Cover B), the lowest offer of the Tenderer is considered for negotiation and rate arrived after negotiation is declared as the lowest rate and that tenderer is the lowest evaluated for the drug (s) for which the tender has been invited.

(b) The Tenderer, who has been declared as lowest tenderer for certain drug(s), shall execute necessary agreement for the supply of the tendered quantity of such drug(s) as specified in the Tender Document. On depositing the required amount as Performance Security and on execution of the agreement, such Tenderer(s) is eligible for the placement of Purchase Orders.

(c) If two or more Tenderers are declared as lowest suppliers for the same drug(s), such Tenderers shall execute necessary agreement as specified in the Tender Document. On depositing the required amount as Performance Security and on execution of the agreement, such Tenderers are eligible for the placement of Purchase Orders.

(d) TNMSC Ltd., will inform the lowest rate to other Tenderers who had qualified for Price Bid (Cover B) opening, inviting their consent to match with the lowest rate for the drug(s). The Tenderers who agree to match lowest rate, will be considered as Matched lowest tenderer.

(e) The Tenderer, who agrees to match the lowest rate, shall furnish the revised breakup details of Price (Lowest Rate) in Format in **Annexure-XIX**.

(f) Subject to para (e) above, while TNMSC Ltd., has chosen to place Purchase Orders with the Matched lowest supplier and if there are more than one such Matched lowest supplier, then the Purchase Orders for the requirement of drug(s) will be placed based on the production capacity provided by the suppliers and in

accordance with Transparency in Tenders Acts and Rules or as per relevant Acts / Rules in Force.

(g) The Matched lowest supplier, on placement of Purchase Order, will be deemed as lowest rate supplier for the purpose of the tender and all provisions of the tender documents applicable to L1 rate Tenderer will apply mutatis mutantis to the Matched L1 supplier also.

(h) (a) In the case of purchase of drug(s) where the total quantity earmarked by the lowest / matched tenderers, is less than the total quantity required, the TNMSC Ltd., may, after placing orders with the lowest evaluated / matched Tenderers for the entire quantity earmarked by such Tenderer subject to the tenderer's ability to supply, require all the other eligible Tenderers who participated in the tender and offered a price higher than that of the lowest evaluated price, to submit revised price and quantity they would be willing to supply. TNMSC Ltd may place order for the remaining required quantity at the revised offered / quoted rates in strict ascending orders with due priority to the tenderer who offered the lowest rate.

(b) In addition, provision under Rule 31A of The TamilNadu Transparency in Tenders Act 1998, 2000 Tender Rules and made thereunder or any relevant Acts / Rules in force will be invoked wherever found necessary.

(c) All the supplier(s) shall be provided with ***e-purchase*** **order(s) to the registered mail-id provided in the technical bid.** Intimation regarding placement of purchase orders shall also be provided as ***SMS*** to the registered mobile number provided in the technical bid for the purpose. The email-id and the mobile number provided shall be of the bidder's origin and not any other person.

(i) The supplier, on receipt of the e-purchase order deems that the purchase quantity exceeds the production capacity declared in the tender document/agreement and the delay would occur in executing such order, shall inform the TNMSC Ltd., immediately without loss of time (within 7 days from the date of purchase order), failing which the supplier is estopped from disputing the imposition of liquidated damages, fine for the delayed supply etc.

(j) If the lowest supplier has failed to supply the required drug(s) within the stipulated time or within the extended time, as the case may be, TNMSC Ltd., will cancel such purchase orders and on cancellation, TNMSC Ltd., will place Purchase Orders with the alternate source at the risk and cost of the defaulted supplier.

(k) If the supplier fails to supply the drug(s) for any of the three Purchase Orders placed for the same drug(s), at any point of time, either fully or partly, within the stipulated time, TNMSC Ltd., is at liberty to place Purchase Orders either with other Tenderers (in ascending order, viz., L2,L3 and so on) at the price offered

by them or with alternate sources and in such cases the defaulted supplier is liable to indemnify TNMSC Ltd, WITH OUT ANY PROTEST OR DEMUR, for the difference in cost incurred by TNMSC Ltd., and the TNMSC Ltd., is entitled to recover the difference in cost from any amount due/payable to the defaulted supplier.

(l) Notwithstanding anything contained in para (k) above, the supplier, after committing the default in supply either partly or fully, can inform the TNMSC Ltd., about his willingness to execute the Purchase Order during the tender period. The TNMSC Ltd., at discretion, may consider the willingness of the supplier on merit. However, such supplies will be subjected to the levy of Liquidated Damages and other penalties as stipulated in the tender document/ agreement and purchase order.

(m) The supplier shall start supply of the Drug/Medicines required by TNMSC Ltd., at the destination mentioned in the schedule, within the period stipulated in the Purchase Order.

(n) The Drug/Medicines supplied in excess of the ordered quantity shall not be accepted and the supplier shall take back the excess at their cost. TNMSC Ltd., will not be responsible for the loss to the supplier and will not entertain any demand/claim for excess supply.

(o) The supplier shall supply the Drug(s) at the specified destination along with original excise invoice, Test reports of finished products for every batch, delivery Challan and other relevant documents at the destinations. Any supply without the above documents will not be accepted and the said supply will be accepted only on the date of submission of the required document (s). **However, the test reports for the raw materials used in the product to be furnished as and when called by TNMSC Ltd.,**

(p) The supplier shall take utmost care in supplying the quality Drug/Medicines and ensure that the batch number mentioned in the packages of the Drug/Medicines tally with the batch number mentioned in the Invoice(s) produced to TNMSC Ltd., for payment. Also the supplier shall ensure the quantity relevant to the Batch Number of the Drug/Medicines is mentioned in the invoice. Any variation will be viewed seriously and the payment for the supply will be released only after confirmation of the batch number by the supplier. At the discretion of the TNMSC Ltd., the variations in batch numbers in Invoices Vs. actual supply will be accepted. However, any abnormal variation may lead to Blacklisting of the product (s) at the discretion of TNMSC Ltd.,

(q) It is the duty of the supplier to supply Drug/Medicines at the destinations mentioned in the Purchase Order and supply shall conform to the conditions mentioned in the provisions of tender documents, viz., logo, nomenclature in Tamil, etc.,

(r) Subject to para (q) above, TNMSC Ltd., will process the invoices submitted by the supplier and the payments against supply will be made, within 30 days from the date the Drug(s) supplied has been declared of STANDARD QUALITY, by the Empanelled laboratory.

(s) Subject to the conditions mentioned in the Purchase Order, Tender Document, Agreement executed by the supplier and here under, the Supplier is entitled for the payment against supply. In case of any discrepancy in levy of LD, Penalty, Unexecuted Fine, Short Passing of Bills shall be intimated **within 15 days** from the date of receipt of payment, failing which TNMSC Ltd., will not entertain any claim thereafter.

13. SUPPLY CONDITIONS

13.1. e-purchase orders along with the place of supply (destinations) will be issued to the Tenderer(s) at the discretion of the TNMSC Ltd., preferably once in a month.

13.2. Within 3 days from the receipt of e-purchase orders the Tenderer should upload on the website of the TNMSC Ltd., and/or inform through fax the confirmation for the receipt of the purchase order.

13.3. The Tenderer should also upload the details of supply schedule as specified in Annexure, on the TNMSC Ltd., website within 7 days from the receipt of the e-purchase order.

13.4 (i) **FOR CATEGORY "A" DRUGS**

(a) The supplier shall supply at least **50%** of the ordered quantity within **45 days** from the date of purchase order and the balance quantity within **60 days** from the date of purchase order at the destinations mentioned in the purchase order. If the above day happened to be a holiday for TNMSC Ltd., the supply should be completed by 5.00 PM on the next working day. If the Tenderer fails to execute the supply within the stipulated time **(45 / 60 days),** the TNMSC Ltd., without any notice/information is at its liberty to make alternative arrangement for purchase of the drugs of drugs and medicines for which the Purchase orders have been placed, from any other sources or in the open market or from any other Tenderer who might have quoted higher rates, at the risk and the cost of the defaulted supplier and in such cases the TNMSC Ltd., has every right to recover the cost and impose penalty as mentioned in Clause 19.

(b) The supplier may continue the supply of the unexecuted quantity after **60th day upto 5 PM of 80th day,** subject to levy of appropriate Liquidated Damages as specified in clause 18.1 of the tender conditions.

13.4 (ii) **FOR CATEGORY "B" DRUGS**

(a) The supplier shall supply at least **50%** of the ordered quantity within **60 days** from the date of purchase order and the balance quantity within **70**

days from the date of purchase order at the destinations mentioned in the purchase order. If the above day happened to be a holiday for TNMSC Ltd., the supply should be completed by 5.00 PM on the next working day. If the Tenderer fails to execute the supply within the stipulated time **(60 / 70 days),** the TNMSC Ltd., without any notice/information is at its liberty to make alternative arrangement for purchase of the drugs of drugs and medicines for which the Purchase orders have been placed, from any other sources or in the open market or from any other Tenderer who might have quoted higher rates, at the risk and the cost of the defaulted supplier and in such cases the TNMSC Ltd., has every right to recover the cost and impose penalty as mentioned in Clause 19.

(b) The supplier may continue the supply of the unexecuted quantity after **70th days upto 5 PM of 90th day,** subject to levy of appropriate Liquidated Damages as specified in clause 18.1 of the tender conditions.

13.5. (i) **FOR CATEGORY "A" DRUGS**

The supplier is entitled to receive a bonus payment **@ 0.25% / 0.50% / 0.75%** flat on the order value PROVIDED the entire order is completed within **45th days / 35th days / 25th days respectively.** However, such bonus shall be paid to the extent of the least of difference in rate between L2 and L1 or the actual amount arrived then and there.

(ii) **FOR CATEGORY "B" DRUGS**

The supplier is entitled to receive a bonus payment **@ 0.25% / 0.50% / 0.75%** flat on the order value PROVIDED the entire order is completed within **50th days / 40th days / 30th days respectively.** However, such bonus shall be paid to the extent of the least of difference in rate between L2 and L1 or the actual amount arrived then and there.

13.6. Supplier shall complete the earliest pending purchase order before commencing the supply of subsequent purchase orders.

13.7. All supplies will be scheduled for the period from the date of acceptance till the completion of the tender in installments, as may be stipulated in the Purchase Order, subject to various conditions mentioned here under. The supplied medicines and Drugs (covered in SCHEDULE "P" of Drugs and Cosmetics Act) should have the prescribed potency throughout the shelf life period as prescribed in the Drugs and Cosmetics Act 1940 and rules there under and in relevant Pharmacopoeias. All other drugs of drugs and medicines should have shelf life period of minimum 24 / 18 / 12 months from the date of manufacture as prescribed in official compendiums. Each batch of product (s) supplied should have ingredients at the lower limit of 95% at the entry level to the TNMSC Ltd., warehouses and the upper limits should be as prescribed in the official Pharmacopoeias throughout its shelf life. Failure to comply with this condition may lead to rejection of drugs at discretion of TNMSC Ltd.,

13.8. The Tenderer must submit an Analysis report from a Government approved Laboratory for every batch of drug along with invoice. In case of failure on part of the supplier to furnish such report, the batch of drugs will be returned back to the suppliers and he is bound to replenish the same with Govt. approved lab test report. The Drugs and medicines supplied by the successful Tenderer shall be of the best quality and shall comply with the specifications, stipulations and conditions specified in the tender.

13.9 Tenderer should supply the product, **within 30 days (Category "A") and 40 days (Category "B")** from the date of manufacture of that product. In case, the product is received after 30 / 40 days from date of manufacture and the product is not consumed before its expiry date, the supplier should replace the short expiry/expired quantity with fresh stock of longer shelf life, otherwise the expired product will be returned to the supplier and the value equal to the cost of expired quantity will be recovered from any dues payable.

13.10. **FOR CATEGORY "A" DRUGS**

(i) The order **stands cancelled at the end of 80th day** from the issue of the purchase order after levying penalty on the value of unexecuted order as specified under Clause 18.2. Further, the Tenderer shall also be liable to pay other penalties as specified under Clauses 19. However if such default occurs for 3 or more purchase orders placed during the

tender period, penal action like blacklisting from participating in present and future tenders of TNMSC Ltd., may be enforced by the TNMSC Ltd.,

FOR CATEGORY "B" DRUGS

(ii) The order **stands cancelled at the end of 90th day** from the issue of the purchase order after levying penalty on the value of unexecuted order as specified under Clause 18.2. Further, the Tenderer shall also be liable to pay other penalties as specified under Clause 19. However if such default occurs for 3 or more purchase orders placed during the tender period, penal action like blacklisting from participating in present and future tenders of TNMSC Ltd., may be enforced by the TNMSC Ltd.,

13.11. It shall be the responsibility of the Tenderer for any shortages/damage at the time of receipt in Warehouse. TNMSC Ltd., is not responsible for the stock of drug received, for which no order is placed.

13.12. If at any time the Tenderer has, in the opinion of the TNMSC Ltd., delayed the supply of drugs due to one or more reasons related to Force Majeure events such as riots, mutinies, wars, fire, storm, tempest or other exceptional events at the manufacturing premises, the time for supplying the drugs may be extended by the TNMSC Ltd., at discretion for such period as may be considered reasonable. However such extension shall be considered only if a specific written request is made by the Tenderer within 10 days from the date of occurrence of such event

with necessary documentary evidence. The exceptional events does not include the Scarcity of raw material, Increase in the cost of raw material, Electricity failure, breakdown of machineries, Labour disputes/Strikes, Insolvency, and Closure of the Factory/Manufacturing unit on any grounds etc.

13.13. The Tenderer shall take back drugs, which were supplied **beyond 30 / 40 days from the date of manufacturing** which are not utilized by the TNMSC Ltd., within the shelf life period based on mutual agreement.

13.14. The supplier shall not be liable to pay LD/penalty and forfeiture of performance security for the delay in executing the contract on account of the extension of supply period granted on the ground of force majeure events.

14. LOGOGRAMS

Logogram means, wherever the context occurs, the design as specified in **Annexure-I and Annexure-II. The name of the drug shall be mentioned in Tamil and English only.**

14.1. Tenders for the supply for Drugs and medicines etc., shall be considered only if the Tenderer gives an undertaking that the product(s) will be prepared as per the specifications such as strength, minimum size and packed with appropriate size of the strips/blisters and with the logogram of proportionate size either printed or embossed on tablets and capsules, bottles etc., as per the design enclosed as per **Annexure-I and Annexure-II**.

14.2 All tablets and capsules have to be supplied in standard packing of 10 X 10 in strip or blister packing with printed logogram of proportionate size and shall also conform to Schedule P1 of the Drugs & Cosmetics Act & Rules wherever it applies. Affixing of stickers and rubber stamps shall not be accepted unless exempted by TNMSC Ltd.,

14.3 Vials, Ampoules and Bottles containing the drugs tendered for should also carry the printed logogram of proportionate size unless exempted by TNMSC Ltd.,

14.4 Failure to supply Drugs etc., with the printed logogram of proportionate size will be treated as breach of the terms of agreement / violation of tender conditions and action will be taken to blacklist the product and/or fine will be deducted from the amount payable as per condition in Clause 18.4. However if such failure continues despite notice, will be viewed as a serious lapse. Tenderers who are not willing to agree to conditions above will be summarily rejected.

15. PACKING

15.1. The drugs and medicines shall be supplied in the package specified in **Annexure-IX** and **Annexure-X** and the package shall carry the logograms of proportionate size specified in **Annexure-II**. Affixing of labels in smaller size will be treated as violation of tender conditions and fine will be deducted from the amount payable as per condition in Clause 18.4.

15.2. (a) 2D bar coding as per GS1 standard should be done on tertiary packing of the supplies as per the specifications given in **Annexure-XV**.

(b) 2D bar coding should be done on **secondary packing** for fixed variables as per the specifications given in **Annexure-XV (a)**.

15.3. The minimum size of each tablet should be 6.4 mm in diameter and the minimum size of the blister packing and strip packing should be 70mm x 30mm and 45mm x 110mm respectively. Failure to comply with this shall lead to non-acceptance of the goods besides imposition of penalties as per clause 18.4.

15.4. The packing in each carton shall be strictly as per the specification mentioned in **Annexure-X**. The outer carton should be of **white board** with **a minimum of 300 GSM with laminated packing** for the strips, blisters, ointments, creams etc. and for ampoules and vials should be with **white board** of **450 GSM.** Failure to comply with this shall lead to non-acceptance of the goods besides imposition of penalties as per clause 18.4. **However in case of poor / damaged packing, necessary replacement should be provided for damaged goods.**

15.5. The caps of bottle preparations should not carry the name of the supplier.

15.6. The labels in the case of Injectable preparations should clearly indicate whether the preparations are meant for Intravenous (IV), Intra Muscular (IM), Intra Dermal (ID), Subcutaneous (SC) administration etc.,

15.7. The capsule shell should have the name of the drug, in addition to the logo.

15.8. It should be ensured that only first-hand fresh packaging material of uniform size, including bottle and vial, is used for packing.

15.9. All primary packing containers should be strictly conforming to the specification included in the relevant pharmacopoeia.

15.10. Packing should be able to prevent damage or deterioration during transit.

15.11. In the event of drugs of drugs supplied found to be **not as per specifications in respect of their packing and logogram**, the TNMSC Ltd., is at liberty to make alternative purchase of the drugs of drugs and medicines for which the Purchase orders have been placed from any other sources or in the open market or from any other Tenderer who might have quoted higher rates, at the risk and the cost of the supplier. In such cases the TNMSC Ltd., has every right to recover the cost and impose penalty as mentioned in Clause 18.4.

16. QUALITY TESTING

16.1. Samples of supplies in each batch will be chosen at the point of supply or distribution/storage points for testing. The samples will be sent to different laboratories including Government Drugs Testing Laboratory/Kings Institute for testing as decided by the TNMSC Ltd.,

16.2. The Drugs shall have the active ingredients at the prescribed level as indicated in official compendiums throughout the shelf life period of the drug. The samples will be drawn periodically throughout the shelf life period and if found "Not of Standard Quality", the cost of entire batch paid will be recovered whether consumed fully/partially. Also action will be initiated for blacklisting as per clause.19 irrespective of the period of supply. The supplies will be deemed to be completed only upon receipt of the quality certificates from the laboratories. Samples which do not meet quality requirement shall render the relevant batches liable to be rejected. If the sample is declared to be "Not of Standard Quality" or spurious or adulterated or misbranded, such batch/batches will be deemed to be rejected goods.

16.3. In the event of the samples of Drugs and medicines supplied fails in quality tests or found to be not as per specifications, the TNMSC Ltd., is at liberty to make alternative purchase of the drugs of drugs and medicines for which the Purchase orders have been placed from any other sources or in the open market or from any other Tenderer who might have quoted higher rates, at the risk and the cost of the supplier and in such cases the TNMSC Ltd., has every right to recover the cost and impose penalty as mentioned in Clause 19.

16.4. The supplier shall furnish to the TNMSC Ltd., the Evidence of bio-availability and/or bio-equivalence reports for certain critical drugs upon demand.

16.5. The supplier shall furnish evidence of the basis for expiration dating and other stability data concerning the commercial final package on request by the TNMSC Ltd., In case of any adverse report in the field, the B.M.R/B.P.R for the particular batch of the product(s) supplied shall be produced when demanded.

16.6. The products should conform to the standards of IP/BP/USP/EP/JP as the case may be. In case the product is not included in the said compendiums, the supplier, upon award of the contract, must provide the reference standards and testing protocols for quality control testing. For imported drugs, respective Country's Pharmacoepial standards shall be acceptable (even if the product is official in IP).

16.7 In case of admixture of drugs / mixing of various products in the Secondary and/or Tertiary packing, such case will be treated as a violation of tender conditions and action will be initiated as per clause 19.3.

17. PAYMENT PROVISIONS

17.1. No advance payments towards costs of drugs, medicines etc., will be made to the Tenderer.

17.2. Payments towards the Supply of Drugs and Medicines will be made strictly as per the rules of the TNMSC Ltd., The payment will be made either by means of Cheque or through RTGS (Real Time Gross Settlement System)/Core Banking/NEFT. The Tenderer shall furnish the relevant details in original

(Annexure-XVI) to make the payment through RTGS/Core Banking/NEFT and the change of Bank Account during the validity of the tender will not be entertained normally.

17.3. All Bills / Invoices should be raised in triplicate and in the case of excisable Drugs and Medicines, the bills should be drawn as per Central Excise Rules in the name of Tamil Nadu Medical Services Corporation Ltd., No.417, Pantheon Road, Egmore, Chennai - 600008 or in the name of any other authority as may be designated (or) as per the relevant Acts / rules in force at the time of billing.

17.4 (i) The Warehouses of TNMSC Ltd., has been divided in to 5 Divisions i.e., Chennai Division, Coimbatore Division, Madurai Division, Thiruchirapalli Division and Tirunelveli Division.

The details of warehouse in each division are as follows.

(a) Chennai Division - Anna Nagar, K.K.Nagar, Kancheepuram, Vellore, Villupuram and Tiruvallur.

(b) Coimbatore Division - Coimbatore, Dharmapuri, Erode, The Nilgris, Salem, Krishnagiri, Namakkal and Tiruppur.

(c) Madurai Division – Madurai, Dindigul, Ramanathapuram, Sivagangai, Theni and Virudhunagar.

(d) Thiruchirapalli Division - Thiruchirapalli, Cuddalore, Thanjavur, Thiruvarur, Tiruvannamalai, Pudukottai, Karur, Perambalur and Nagapattinam.

(e) Tirunelveli Division – Tirunelveli, Nagercoil and Thoothukudi.

Payments for supply will be considered only after supply of <u>minimum 50% of the total ordered quantity in total and 40% in each divisions in the individual Purchase Order,</u> provided reports of Standard Quality on samples testing are received from Government Analyst or Approved Laboratories of TNMSC Ltd.,

(ii) However, in case of cancellation of a particular purchase order due to failure in delivery, payment for part supplies less than 50% of the purchase order quantity on the date of cancellation of the purchase order may be considered for release of payment subject to the following:

(a) If the Tenderer have supplied at least 50% of the quantity ordered in the subsequent purchase order within **70 days** from the issue of such purchase order.

(b) If further purchase order is not placed with the supplier due to any reason, not attributable to the supplier, the amount eligible will be paid after **70 days** from the date of last supply.

(c) The payment for part supply as mentioned above will subject to the deduction of liquidated damages, penalty towards unexecuted quantity, risk and cost etc., as per the tender conditions.

(iii) In all other cases, which are not covered under para (i) and (ii) above, the issue related to the settlement of payments will be decided by the TNMSC Ltd., on merits of the case subject to various terms and conditions of the tender.

17.5. If at any time during the period of contract, the price of tendered drugs is reduced or brought down by any law or Act of the Central or State Government or by the Tenderer himself, the Tenderer shall be bound to inform the TNMSC Ltd., immediately about such reduction in the contracted prices. Tender Inviting Authority is empowered to unilaterally effect such reduction as is necessary in rates in case the Tenderer fails to notify or fails to agree for such reduction of rates.

17.6. (a) In case of any increase or decrease in the taxes, such as customs duty, GST (or) as per the relevant Acts / rules in force after the date of submission of tenders and during the tender period, such variation in the taxes will be to the account of the TNMSC Ltd., For claiming the additional cost on account of the increase in taxes, the Tenderer should produce the proof of having paid additional amount on this account on the goods supplied to TNMSC Ltd., from the concerned authorities and also must claim the same in the invoice separately. However the basic price structure and the price of the Drugs approved under the tender shall not be altered. Similarly if there is any reduction in the taxes and statutory levies as notified by the Govt., after the date of

submission of tender, the Tenderer will be paid based on the unit rate worked out on the basis of the reduced taxes / statutory levies without any change in the basic price or the price structure of the drugs approved under the tender. Any increase or decrease in taxes and statutory levies will be considered based on the notification issued by the Government.

(b) In case of successful bidder availing duty exemption on any criteria of turnover etc., such bidder will not be allowed to claim duty at a later point of time, during the tenure of contract, when the duty is chargeable on goods manufactured.

18. **LIQUIDATED DAMAGES AND OTHER PENALTIES:**

18.1. (i) FOR CATEGORY "A" DRUGS

If the supply reaches the designated places or District Drug Warehouse between 5 PM of the 60th day and 5 PM of 70th days from the date of issue of the purchase order, a liquidated damages will be levied at 0.25% per day and between 71st day and 5.00 PM of 80th day a liquidated damage will be levied at 0.50% per day irrespective of the fact that whether the TNMSC Ltd., has suffered any damage/loss or not, on account of delay in effecting supply. If the due day happens to be a holiday the supply will be accepted on the next working day without any penalty.

(ii) **FOR CATEGORY "B" DRUGS**

If the supply reaches the designated places or District Drug Warehouse between 5 PM of the 70th day and 5 PM of 80th days from the date of issue of the purchase order, a liquidated damages will be levied at 0.25% **per day and between 81st day and 5.00 PM of 90th day a liquidated damage will be levied at 0.50%** per day irrespective of the fact that whether the TNMSC Ltd., has suffered any damage/loss or not, on account of delay in effecting supply. If the due day happens to be a holiday the supply will be accepted on the next working day without any penalty.

18.2 (i) **FOR CATEGORY "A" DRUGS**

If there are any unexecuted orders after 5 PM of **80th** day /upto the date of delivery extension granted whichever falls later (as the case may be), from the date of purchase order, the order shall stand cancelled automatically after levying penalty @ 25% on the value of unexecuted order and such penalty is recoverable from any amount payable to the supplier. In case of alternate purchase effected due to unexecution, the differential cost incurred or the unexecuted fine whichever is higher will be levied.

(ii) **FOR CATEGORY "B" DRUGS**

If there are any unexecuted orders after 5 PM of **90th day** /upto the date

of delivery extension granted whichever falls later (as the case may be), from the date of purchase order, the order shall stand cancelled automatically after levying penalty @ 25% on the value of unexecuted order and such penalty is recoverable from any amount payable to the supplier. In case of alternate purchase effected due to unexecution, the differential cost incurred or the unexecuted fine whichever is higher will be levied.

18.3. If the supply is received in damaged condition it shall not be accepted. In case of damage in the packing, the supply will be accepted only after levying penalty to the extent of damaged value of supply received at the destination place. ***In case of damaged/broken goods in transit unexecuted penalty will be relaxed for a maximum of 5% on each order quantity for Ampoules, Vials and Glass Bottles and 2% for remaining drugs.***

18.4. All the Tenderers are required to supply the product(s) with printed logogram of appropriate size on the strips, blisters, vials, ampoules & bottles and with prescribed packing specification. If there are any deviation in these Tender conditions, action will be taken to blacklist the product and/or a separate damages will be levied @ 2% of value of the defaulted quantity irrespective of the Tender Inviting Authority having actually suffered any damage/loss or not, without prejudice the rights of alternative purchase specified in Clause No.15.11 and 14.4.

19. DEDUCTION & OTHER PENALTIES ON ACCOUNT OF QUALITY FAILURE:

19.1. If the samples do not conform to statutory standards, the Tenderer will be liable for relevant action under the existing laws and the entire stock in such batch has to be taken back by the Tenderer within a period of 30 days of the receipt of the letter from the TNMSC Ltd., Such stock shall be taken back at the expense of the Tenderer. The TNMSC Ltd., has the right to destroy such "NOT OF STANDARD QUALITY DRUGS" if the Tenderer does not take back the goods within the stipulated time. The TNMSC Ltd., will arrange to destroy the "NOT OF STANDARD QUALITY DRUGS" after the expiry of 30 days mentioned above without further notice. **The tenderer should not claim the quantity/ amount for the rejected goods after this period.** TNMSC Ltd., will incinerate these rejected goods and incineration cost will be recovered from the supplier on the basis of weight (in Kg) of rejected Not of Standard Quality (NSQ) Drugs. The rates for the above disposal will be the same on the rates fixed by TNMSC Ltd., for the waste management for the Govt. Hospitals in TamilNadu.

19.2. If any of the Drug/Medicines supplied by the Tenderer have been partially or wholly used or consumed after supply and are subsequently found to be in bad odour, unsound, inferior in quality or description or otherwise faulty or unfit for consumption, **then the contract price for the quantity not consumed and informed to take back, will be recovered from the tenderer, if payment have already been made.**

In other words the Tenderer will not be entitled for any payment whatsoever for the drugs found to be of "NOT OF STANDARD QUALITY" which is not consumed and informed to take back and the Tender Inviting Authority is entitled to deduct the cost of such batch of drugs of quantity returned will be made from any amount payable to the Tenderer. On the basis of the nature of failure, action will be initiated to blacklist the product/supplier.

19.3. For the supply of Adulterated/Spurious/Misbranded drugs to TNMSC Ltd., the firm/company shall be blacklisted by TNMSC Ltd., and no further supplies shall be accepted from the firm/company. The Tenderer shall also not be eligible to participate in tenders of Tender Inviting Authority of TNMSC Ltd., for Supply of Drugs and Medicines for a period of 5 years from the date of blacklisting. In case of supply of NOT OF STANDARD QUALITY drug(s) to TNMSC Ltd., the product shall be blacklisted by TNMSC Ltd., and no further supplies shall be accepted for the particular drug(s). The Tenderer shall also not be eligible to participate in tenders of TNMSC Ltd., for supply of such Drugs and Medicines for a period of 2 years from the date of blacklisting. In addition, the Director of Drugs Control of concerned State will be informed for initiating necessary action on the Tenderer in their state. Performance Security paid will also be forfeited without any intimation.

In case of supply of admixed product(s) to TNMSC Ltd., the product(s) shall be blacklisted by TNMSC Ltd., and no further supplies shall be accepted for the particular drug(s). The Tenderer shall also not be eligible to participate in tenders of TNMSC Ltd., for supply of such Drugs and Medicines for a period of 2 years from the date of blacklisting. In addition, the Director of Drugs Control of concerned State will be informed for initiating necessary action on the Tenderer in their state. Performance Security paid will also be forfeited without any intimation.

19.4. The Tenderer shall furnish the source of procurement of raw material utilized in the formulations, if required by the TNMSC Ltd., The TNMSC Ltd., reserves the right to cancel the purchase orders, if the source of supply is not furnished.

19.5. The decision of the TNMSC Ltd., or any officer authorized by him, as to the quality of the supplied drugs, medicines etc., shall be final and binding.

19.6. The TNMSC Ltd., will be at liberty to terminate, without assigning any reasons thereof, the contract either wholly or in part on 30 days-notice. The Tenderer will not be entitled for any compensation whatsoever in respect of such termination besides forfeiture of Performance Security.

19.7. For infringement of the stipulations of the contract or for other justifiable reasons, the contract may be terminated by the TNMSC Ltd., and the Tenderer shall be liable to pay for all losses sustained by the TNMSC Ltd., in consequence of the

termination which may be recovered personally from the Tenderer or from his properties, as per rules besides forfeiture of Performance Security.

19.8. Non-performance of any of the contract conditions and provisions will disqualify a firm from participating in the tender for the next 2 years besides forfeiture of Performance Security.

19.9. In the event of making Alternative Purchase, as specified in Clause 13.4, Clause 15.11 and in Clause 16.3 penalty will be imposed on the supplier. The excess expenditure over and above contracted prices incurred by the TNMSC Ltd., in making such purchases from any other sources or in the open market or from any other Tenderer who has quoted higher rates and other losses sustained in the process, shall be recovered from the Performance Security or from any other money due and become due to the supplier and in the event of such amount being insufficient, the balance will be recovered personally from the supplier as per rules.

19.10. In all the above conditions, the decision of the TNMSC Ltd., shall be final and binding.

20. BLACK LISTING IN THE EVENT OF WITHDRAWL FROM THE TENDER, AND NON-ADHERENCE TO THE QUALITY STANDARDS AND SUPPLY SCHEDULE

20.1. BLACKLISTING OF PRODUCT/TENDERER ON WITHDRAWAL OF TENDER

(a) If the Tenderer(s) fails to execute the agreement / to deposit

performance security / to perform the obligations under the tender conditions / commits default in the performance of the contract, such Tenderers will be blacklisted for a period of 2 years by TNMSC Ltd., from the date of intimation besides forfeiture of Performance Security.

(b) The Tenderers who have withdrawn after submitting their bids in the tender and before TNMSC Ltd., finalizes and places the purchase orders either fully or partially, will be blacklisted for a period of 2 years from the date of intimation by TNMSC Ltd., apart from forfeiture of the Performance Security /EMD.

BLACKLISTING FOR QUALITY FAILURE

20.2.1. Quality Test by the Empanelled Laboratories of TNMSC Ltd.,

(a) Each and every batch of Drug/Medicines supplied by the supplier shall be subjected to quality test by the Empanelled laboratories.

(b) The samples are collected from the Warehouses from each batch of supply of the same drugs and after eliminating the common batch, samples shall be taken in random, decoded and will be sent to the empanelled testing laboratories for testing the quality of drugs.

(c) If such sample passes quality test in all respects, TNMSC Ltd., will instruct its Warehouses to issue such drugs of drugs to various hospitals/Institutions.

(d) Such quality passed batches if received after declaration of result of the earlier supply, the same will be again subjected to testing and the latest report of that particular batch will prevails upon the earlier results and binding on the entire quantity of the batch supplied and recovery will be made for the entire quantity of that batch irrespective of purchase order date or date of supply etc.

(e) If the sample fails in quality test and report is received certifying that sample is "NOT OF STANDARD QUALITY", one more sample shall be drawn from the same batch and to be sent to Government Laboratory for quality testing.

(i) If such sample passes the quality test as per the report of Government Laboratory, the drugs representing the sample shall be qualified for issue to various Institutions.

(ii) If such sample fails in the quality test, as per the report of the Government Laboratory, the drugs of the batch are not qualified for issue and the supplier shall take back the drugs supplied in that batch, besides taking other actions as per the Tender conditions by TNMSC Ltd.,

(iii) If such Sample fails in quality test for ASSAY content of less than 50% as per the Government Analyst report, such product of the tenderer will be blacklisted for two years.

(iv) However, TNMSC Ltd., reserves the right to reject the drugs based on reports from empanelled laboratories with the applicable penal provisions.

(f) If 3 batches of a particular drug supplied by the supplier is reported to be failing in ASSAY content (above 50% but below prescribed limit) / Sterility / BET / Toxicity / and or other parameters, then the particular drug of the firm shall be blacklisted after observing procedure laid down in Para 20.2.4 besides forfeiture of Performance Security of that particular product(s).

(g) In all the cases the reports received from the Government Drug Testing Laboratory/decision of TNMSC Ltd will be conclusive and final and binding on the suppliers.

20.2.2. Quality Test by Statutory Authorities:

(a) On complaint from Drug Inspector(s) during their Test of statutory sampling, that the particular drug has been reported to be of "NOT OF STANDARD QUALITY", the issue of available stock of the particular drug will be stopped. Further, the available stock of the product in hospitals will be retrieved. If the sample is reported to have less than

50% of content, the particular product will be **blacklisted for 2 years from the date of intimation of blacklisting.**

(b) If 3 batches of a particular drug supplied by the supplier is reported to be failing in **ASSAY content (above 50% but below prescribed limit) and/or other parameters**, then the particular drug of the firm shall be blacklisted for a period of **2 years** from the date of intimation after observing procedure laid down in Para 20.2.4.

(c) If a single batch of any product(s) supplied by the company/firm declared as Adulterated/spurious/ Misbranded by the Government Authorities during the shelf life of the product supplied irrespective of tender period, the company/firm shall be blacklisted for a period of **5 years from the date of intimation** after observing procedure laid down in Para 20.2.4.

20.2.3 BLACKLISTING OF THE SUPPLIER FOR QUALITY FAILURE:

(a) In case of any sample even in one batch, declared as Adulterated/spurious/ Misbranded by the Government Authorities during, the company/firm shall be blacklisted for a period of **5 years** from the date of intimation besides forfeiture of performance security in full after observing the procedure laid down in Para 20.2.4.

(b) If the supplier supplied more than one drug and 50% of such drugs are blacklisted, the firm is liable to be blacklisted for a period of 2 years

from the date of intimation after observing the procedure laid down in Para 20.2.4.

20.2.4 PROCEDURE FOR BLACKLISTING

(i) On receipt of report from Govt. Analyst/Drug Testing Laboratory indicating that a particular Drug/Drug is "**NOT OF STANDARD QUALITY/ ADULTERATED/ SPURIOUS/ MIS-BRANDED (**As the case may be), a show cause notice shall be issued to the supplier calling for explanation within 7 days from the date of notice. On receipt of explanation from the supplier, the Managing Director, TNMSC Ltd., may take appropriate action on merits of the case and impose penalty **@ 25% of the value of the failed batch (or) 7.5% of the total supply value made in the particular purchase order (which ever higher) and / or** the blacklisting of the particular drug(s) of the product/company or firm as deemed fit besides forfeiture of Performance Security.

(ii) If a particular drug of the drug has been blacklisted according to the procedure stated above, the supplier is not eligible to participate in any of the tenders for that particular drug floated by the TNMSC Ltd., until the period of blacklisting is over.

(iii) If a supplier company/firm is blacklisted according to the procedure stated above, such supplier is not eligible to participate in any of the

tenders floated by the TNMSC Ltd., until the period of blacklisting is over.

20.3 BLACKLISTING FOR NON-SUPPLY:

Notwithstanding various actions and penalties for non-supply and/or delayed supply of the drugs and medicines as stipulated in the terms and conditions of the tender, the TNMSC Ltd., shall take action against the supplier as follows:

(a) If the supplier fails to execute at least **70%** of the ordered quantity as mentioned in a single Purchase order and such part supply for **any three Purchase orders of the same drug,** then the product of the supplier will be blacklisted and becomes ineligible to participate in any of the tenders for that particular drug(s) by TNMSC Ltd., for a period of **2 years** from the date of intimation for blacklisting besides forfeiture of performance security of that product(s).

(b) If the supplier supplies more than one drug and 50% of such drugs are blacklisted, the firm is liable to be blacklisted for a period of **2 years from the date of intimation** besides forfeiture of performance security in full.

20.4. Purchase orders, if any, already issued before taking any blacklisting action or orders given in past will not be affected in view of action taken as per above guidelines but all strict quality checks shall be observed for each supply of products.

20.5. The blacklisting of particular product or company/firm will be done without prejudice to other penalties which may be imposed as per the conditions of Tender documents and also to other actions which may be initiated under Drugs and Cosmetics Act 1940 or any other law of Land. TNMSC Ltd., will display names of such blacklisted product(s) and company/firm on its website and also circulate the same among other state Government / Central Government and its Drug procurement agencies including respective State Drugs Control Department where the company or firm is located.

21. SAVING CLAUSE

No suit, prosecution or any legal proceedings shall lie against the Tender Inviting Authority or any person for anything that is done in good faith or intended to be done in pursuance of the tender.

22. RESOLUTION OF DISPUTES

(i) The TNMSC Ltd., and the supplier shall make every effort to resolve, amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract,

(ii) In case of a dispute or difference arising between the TNMSC Ltd., and a supplier relating to any matter arising out of or connected with this agreement, such dispute or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be Chennai alone.

(iii) In case of discrepancy in payment provisions such as levy of Liquidated damages, Unexecuted fine, short passing of bills etc., the same shall be represented to TNMSC Ltd., within **15 days** from the date of receipt of payment, failing which TNMSC Ltd., will not entertain any claim thereafter.

23. APPEAL:

This tender is governed by the provisions of Tamilnadu Transparency in Tenders Act 1998 and the Rules there under.

(i) Any Tenderer aggrieved by the order passed by the Tender Accepting Authority under section 10 of the said Act, may appeal to the Government within ten days from the date of receipt of order and the Government shall dispose the appeal within fifteen days from the date of receipt of such appeal.

(ii) No Appeal shall be preferred while the tender is in process and until tender is finalized and Notification of award is issued by the TNMSC Ltd.,

24. CONTACTING THE TNMSC LIMITED BY THE BIDDER:

(i) No bidder shall contact the *TNMSC Ltd.,* on any matter relating to its bid, from the time of bid opening to the time the contract is awarded.

(ii) Any effort by a bidder to influence the *TNMSC Ltd.,* in the *Purchaser*'s bid evaluation, bid comparison or contract award decisions may result in rejection of the bidder's bid.

(iii) The bidder shall not make any attempt to establish unsolicited and unauthorized contact with the Tender Accepting Authority, Tender Inviting Authority or Tender Scrutiny Committee after opening of the bids and prior to the notification of award and any attempt by any bidder to bring to bear extraneous pressures on the Tender Accepting Authority, Inviting Authority or Tender Scrutiny Committee, shall be sufficient reason to disqualify the bidder.

(iv) Not withstanding anything contained in clause (iii) above the Tender Inviting Authority or the Tender Accepting Authority, may seek bonafide clarifications from bidders relating to the bids submitted by them during the evaluation of bids.

25. <u>FRAUDULENT AND CORRUPT PRACTICES:</u>

(1) <u>FOR BIDDERS:</u>

It is purchaser's policy to require that the bidders, suppliers and contractors and their authorized representatives/agents observe the highest standard of ethics during the procurement and execution of such contracts. (*In this context, any action taken by a bidder, supplier, contractor, or by their authorized representatives/agent, to influence the procurement process or contract execution for undue advantage is improper)* In pursuance of this policy, the purchaser;

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

(i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party (*"another party" refers to a public official acting in relation to the procurement process or contract execution]. In this context, "public official" includes staff and employees of other organizations taking or reviewing procurement decisions.*

(ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation (*a "party" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution).*

(iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party [*"parties" refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive level].*

(iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party (*a "party" refers to a participant in the procurement process or contract execution).*

(v) "obstructive practice" is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(bb) acts intended to materially impede the exercise of the purchaser's inspection and audit rights provided for under sub-clause (e) below.

(b) will reject a proposal for award if it determines that the bidder considered for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;

(c) will cancel the contract if the purchaser determines at any time that the bidder, supplier and contractors and their sub contractors engaged in corrupt, fraudulent, collusive, or coercive practices.

(d) will sanction a firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract; and

(e) will have the right to inspect the accounts and records of the bidders, supplier, and contractors and their subcontractors/authorized representatives and to have them audited by auditors appointed by the purchaser.

(2) <u>FOR SUPPLIERS:</u>

If the TNMSC Ltd., determines that a Supplier has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the TNMSC Ltd., may, after giving 7 days notice to the Supplier, terminate the Supplier's employment under the Contract and cancel the contract, and the procurement will be made at the risk and cost of the supplier besides blacklisting the bidder for 5 years with forfeiture of Performance Security apart from other penal actions.

(a) For the purposes of this Sub-Clause:

(i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

(ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(v) "obstructive practice" is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a purchaser investigation into allegations of a corrupt,

fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(bb) acts intended to materially impede the exercise of the purchaser's inspection and audit rights provided for.

26. JURISDICTION

In the event of any dispute arising out of the tender such dispute would subject to the jurisdiction of the Civil Court within the city of Chennai only and **official communicating language shall be Tamil (or) English, even if any dispute is raised in any other fora.**