GENERAL/SPECIAL CONDITIONS FOR BIDDING

1) This Tender is governed by General Conditions of Contract for Purchase by WAPDA Dated: 12.08.1984 amended to-date & latest Purchase Procedure, Registration procedure, PPMC procurement guidelines/ instructions and PPRA Rules 2004 (amended to date).
2) Rate should be quoted inclusive of all taxes/duties & 0.5% Inspection Charges (non reimbursable) and exclusive of Sales Tax on the basis of free delivery at consignee's store (FCS), Faisalabad, Sargodha, Mianwali & Jhang in local currency without involving any foreign exchange.
3) The quoted FCS prices shall be firm & final valid for **90-days (ninety)** after the opening date of tender and not be escalated/enhanced/increased for any reasons what-so-ever.
4) The conditional bids/rate shall not be accepted.
5) The tenderer will quote full tender quantity for any lot/item or for all lots/items. The bid having less than 100% of the lot/item quantity will not be accepted and bid will be liable to rejection.
6) FESCO reserves the right to increase/decrease the quantities up to **50%** of lot/item/tender quantity before placing of LOI/PO. In case of increase/decrease of quantities, the delivery schedule will be amended accordingly.
7) FESCO reserves the right to **increase/decrease** the quantities up to **15%** through variation order/repeat order after issuance of purchase order during the currency of the contract (currency of the contract means delivery of last consignment in concerned store).
8) FESCO also reserves the right to scrap the tender under PPRA Rules.
9) In order to be considered, the tender must be accompanied by bid security equal to **2%** (two percent) of the estimated value of the **tender/lot/item as required in EPADS v2.0**. The bid security must remain valid for **120 (one hundred and twenty) days** after the date of the tender opening. It shall be in the form of a Call Deposit Receipt (CDR), Bank Draft, Pay Order or Bank Guarantee, drawn or issued by any scheduled bank in Pakistan in favour of the Chief Executive Officer, FESCO. The guarantee must be on the prescribed form and executed on non-judicial stamp paper. Photocopies of the bid security shall not be accepted.
10) The bid not accompanied with the requisite bid security, as mentioned above, will be considered non-responsive.
11) **No joint bid guarantee** will be accepted and same will be treated as non-responsive.
12) The successful bidder/tenderer shall furnish to the purchaser a Performance Bond/Security in the shape of Bank Guarantee/Bond, Bank Draft, Pay Order or CDR from a scheduled Bank of Pakistan in favour of **Chief Executive Officer FESCO** valid for 12-months (extendable upto extent of required warrantee period) from the receipt of last consignment equal to 5% of the total value of contract with the acceptance of Letter of Intent within 15-days from the date of issuance of Letter of Intent/NOA or as specified in the LOI. Performance Bond/Security in the shape of Bank Guarantee/Bond shall be furnished on non-judicial stamp paper of value as prescribed by the government.

    However it is your responsibility that above Performance Bond/Security must be got extended from concerned bank as per required period before its expiry upto the required warranty period of material. In case of non receipt of extension the security will be encashed in favour of FESCO.

    The performance bond/security shall be furnished along with the acceptance of Letter of Intent (LOI) and details of the beneficial owners of his firm along with Performance Guarantee after issuance of LOI in the light of Government of Pakistan's SRO No.592(1)/2022 dated 10.05.2022 within 15 days or time specified in LOI before the issuance of the formal purchase order. Non compliance may tantamount to cancellation of LOI & 02% bid money will be confiscated in favour of FESCO and black listing/debarring of firm, however, in case of delay in submission of performance guarantee as date specified in letter of intent, the delay period will be deducted from the delivery period of 1st consignment/delivery period.

13) The material shall conform to WAPDA/PPMC instructions/specification (Amended to date).
    i) In case of expiry of prototype approval (if applicable) during the currency of purchase order/contract you have to obtain the fresh prototype approval from the office of Chief Engineer (S&S) NTDC. Drawings and prototype sample for prototype testing shall be submitted within thirty (30) days from the expiry of prototype approval to Chief Engineer (S&S). The Chief Engineer (S&S) will accord approval of offered prototype within thirty (30) days from the date of receipt of prototype sample. All expenses including Testing Charges, Traveling, Boarding/Lodging and Daily Allowance etc. of two (2) PPMC Engineers shall be born by the manufacturers. The testing will be carried out at manufacturer premises/HV&SC Lab Rawat/RTL Faisalabad or any other Lab of international repute like KEMA Holland, CRIEPI Lab Japan, CESI Lab Italy to be approved by Chief Engineer (S&S) NTDC. However the delivery period will be treated from the date of issue of purchase order instead of fresh prototype approval.
    ii) If the prototype sample fails, the material shall be improved and re-offered for prototype testing to Chief Engineer (S&S). The time taken for improvement in sample and resubmission of drawings will not entitle the manufacturer to claim extension in delivery period on this account. Moreover the time taken for obtaining fresh prototype approval will also be on your account.
    iii) Any changes suggested in the material and drawings during prototype testing for compliance of a specification and purchase orders shall have to be incorporated without any extra price claim.
14) The material supplied by the manufacturer should have the embossing / printing / punching / engraving of P.O. No. & Name of the Manufacturer, "The Faisalabad Electric Supply Company Limited or FESCO" with the year of manufacturing and other essential data as well as serial No. as per specification.
15) During the time of currency of purchase order/contract if any minor modification is made by the competent Authority (for which new prototype approval is not required), the firm will be bound to modify the material according to the instructions issued by the authority without any extra cost/charges.
16) Evaluation/comparison will be carried out on lot/item wise FCS unit price basis.
17) Previous performance will be taken into account while evaluation of the bid.
18) Bidder/Tenderer will submit a certificate that the firm is not black listed/debarred from WAPDA/DISCO's/GENCO's/NTDC at present.
19) Bidder/Tenderer will submit a certificate that the firm is not involved in any litigation with FESCO at present. In case of any relief granted by the Court of Law, the certified copy of decision of court must be attached with the bid, otherwise, the bid is liable to be considered non-responsive.
20) In case of breach/violation of any clause of tender documents or LOI/purchase order, FESCO reserves the right to take legal action against the manufacturer/contractor.
21) GM (Technical)/Chief Technical Officer FESCO will act as arbitrator in case of extreme ambiguity.

22) **DELIVERY PERIOD/SCHEDULE.**
    Delivery schedule will commence from the date of issue of purchase order instead of date of opening of Letter of Credit/approval of prototype.

Delivery period is the essence of the contract and delivery must be completed not later than the dates specified. The terms "Delivery date" shall mean the 1st day of inspection or 15th day of inspection call whichever is earlier, shall be reckoned as date of delivery of store to WAPDA/FESCO consignee provided the goods accepted for supply have been delivered within 20-days of issue of inspection certificate subject to the condition that the supplier/manufacturer offers the material for inspection at least 15-days prior to the due date and the offer is not rejected due to being a fake call or material not conforming to the specification.

23) **INSPECTION.**

Inspection of material will be carried out at your works by the Chief Engineer (MI) PPMC Lahore OR his authorized representative alongwith authorized representative of FESCO jointly. Notice in writing for inspection of goods shall have to be given to the CE (MI) PPMC Lahore as well as to this office atleast 15-days prior to the due date through courier/e-mail/in-person positively. All reasonable facilities as provided in the specification or followed by the industry OR Trade in General shall have to be provided/afforded to the Inspecting Officers by you at your expenses for carrying out the inspection. The inspection charges @ Rs.0.5% (non-reimbursable) of the cost of material will be paid by you to Chief Engineer (MI) PPMC Lahore while offering the material for inspection.

24) **WARRANTY CERTIFICATE.**

You will furnish a warranty certificate, certifying that the goods supplied conform exactly to the specification laid down in the contract and are brand new and that in the event of the material being found defective or not confirming to the specification/particulars governing supply at the time of delivery and for a period of **12 months** from the date of delivery, you will be held responsible for all losses and the unacceptable goods shall be substituted with the acceptable goods at your expenses and cost.

25) **PAYMENT.**

A) 100% payment excluding sales tax will be made by Chief Financial Officer FESCO Ltd: Faisalabad on the receipt of the following documents along with bill in triplicate.
   - i. Invoice/bill in triplicate.
   - ii. Delivery Challan and GRN issued by the consignee duly signed and stamped by the Deputy Director (MM) Regional Store FESCO concerned.
   - iii. Warranty Certificate.
   - iv. Inspection Certificate issued by the Chief Engineer (MI) PPMC or his authorized representative.
   - v. Certificate to the effect that the billed amount has not been claimed or received earlier (Non-payment certificate).
   - vi. Confirmation letter of acceptance of performance guarantee/security by the Director (Material Management) FESCO Ltd: Faisalabad.
   - vii. Copy of sales tax invoice.

B) The amount of sales tax (if applicable) will be reimbursed by the Chief Financial Officer FESCO Ltd: Faisalabad as under:-
   - i. Sales Tax return cum payment challan for the month of delivery of material.
   - ii. Copy of GRN duly stamped and signed by the respective consignees
   - iii. Sales Tax Invoice as per GRN above
   - iv. In case the manufactures who pay lumpsum Sales Tax, they shall also submit an affidavit on non-judicial paper separately that "Challan includes the amount of Rs.____________of Sales Tax for supply of material to FESCO against P.O. No.________ dated._______________.

C) **In case of payment through Inland Letter of Credit**, All the payments due under the Purchase Order will be made through confirmed & irrevocable Letter of Credit for

Contract Price to be established by Chief Financial Officer FESCO Faisalabad through any Scheduled Bank of Pakistan in your's favour. All amount of material (including GST etc.) in the letter of credit shall be available for negotiation and encashable on the production of documents mentioned as under duly pre-audited by the Chief Financial Officer FESCO Ltd., Faisalabad:-

i. Invoice/bill in triplicate for 100% claim.
ii. Delivery Challan and GRN issued by the consignee duly signed and stamped by the Deputy Director (MM) Regional Store FESCO concerned.
iii. Warranty Certificate.
iv. Inspection Certificate issued by the Chief Engineer (MI) PPMC or his authorized representative.
v. Certificate to the effect that the billed amount has not been claimed or received earlier (Non-payment certificate).
vi. Confirmation letter of acceptance of performance guarantee/security by the Director (Material Management) FESCO Ltd: Faisalabad.
vii. Sales Tax Invoice as per GRN above.
viii. Sales Tax return cum payment Challan for the month of delivery of material.
ix. In case the manufactures who pay lump sum Sales Tax, they shall also submit an affidavit on non-judicial paper that "Challan includes the amount of Rs.________________ of Sales Tax for supply of the quantity of__________________ to FESCO against P.O. No._____________ dated _____________. These documents shall however, be got verified/pre-audited by Chief Financial Officer FESCO Ltd: Faisalabad before payment by the Bank.

Note: - All charges relating to L/C opening and negotiation charges shall be borne by you. You will pay L/C opening charges at the time of opening upon the demand of Bank and subsequent extension charges etc.

D) Partial deliveries and part payment is allowed.

26) **RESPONSIBILITY FOR EXECUTING THE CONTRACT**

You are entirely responsible for the successful execution of the contract in all respects in accordance with the terms and conditions as specified in the contract

27) **FORCE MAJEURE**

The right of FESCO to terminate the Contract, or to claim penalty or liquidated damages shall be subject to the following circumstances, provided as a result of all or any of these events there has been delay in the performance of the contract by the Manufacturer or Supplier, or the Contract has be-come incapable of being performed: -

A) Act of God.
B) Act of State, war or any act of the enemy.
C) Lock outs, Riots or Civil commotion.
D) Injuction granted by a court of competent Jurisdiction not resulting from any fault of the Manufacturer or Supplier.
E) Restriction imposed by the Government on the import of any material relating to the manufacture of goods.
F) Port delays due to bunker age or lighter age.
G) Diversions of supplies by the carrier without any fault or knowledge of the Manufacturer or Supplier.

Provided further that the Manufacturer or Supplier has given notice to the FESCO within 14-days of the happening of any such event.

28) **FAILURE AND TERMINATION**

A) If you fail to deliver the stores or any consignment there of within the specified delivery period, the purchaser shall be entitled at his option either.

i) To recover from you liquidated damages levied at the rate of 2% of the value of undelivered goods per month or a fraction, thereof subject to a maximum of 10% except.
   (a) Where un-delivered stores holdup the use of other stores liquidated damages shall be levied on the total value of the contract.
   (b) The recovery of liquidated damages mentioned above can be effected from any payment due to you from any unit of DISCO's/GENCO's/NTDC/ WAPDA/ FESCO.

ii) To purchase from elsewhere without notice to you at your risk and cost, the stores not delivered, without canceling the contract in respect of the consignment not yet due for delivery, -OR-

iii) To cancel the contract with encashment of performance bond/ guarantee and purchase un-delivered material at your risk & cost -OR-

iv) To cancel the contract at the cost of encashment of performance bond/guarantee with black listing/debarring of the firm and purchase un-delivered material at your risk & cost.

v) In the event of the action being taken under (ii) or (iii) or (iv) above, you shall be liable for any loss which the purchaser may suffer on that account, but you shall not be entitled to any gain on repurchase made against the supply order.

B) If during the course of execution of a contract, you are black-listed by DISCO's/ GENCO's/ NTDC/WAPDA/FESCO the purchaser may proceed with all or any of the action detailed below.

i) To allow the contract to run its course till completed in accordance with the terms and conditions of contract.

ii) To stop further supplies with or without financial repercussions.

iii) To cancel the contract with or without reservation of all rights.

Note: -

While determining liquidated damages the purchaser shall not consider any of the following circumstances, a cause under "FORCE MAJEURE" and shall not allow any relaxation in the liquidated damages on that account.

iv) Delay on the part of the contactor in the arrangement of raw material.

v) Defect or failure occurring to any machinery or equipment installed at the contractor works during the currency of the contract.

29) <u>MECHANISM OF BLACKLISTING</u>

A. The Procuring Agency shall bar for not more than the time prescribed in Rule-19 of the Public Procurement Rules, 2004, from participating in their respective procurement proceedings, bidder or contractor who either:

i. Involved in corrupt and fraudulent practices as defined in Rule-2 of Public Procurement Rules;

ii. Fails to perform his contractual obligations; and

iii. Fails to abide by the id securing declaration;

B. The show cause notice shall contain: (a) precise allegation, against the bidder or contractor; (b) the maximum period for which the Procuring Agency proposesto debar the bidder or contractor from participating in any public procurement of the Procuring Agency; and (c) the statement, if needed, about the intention of the Procuring Agency to make a request to the Authority for debarring the bidder or contractor from participating in public procurements of all the procuring agencies.

C. The procuring agency shall give minimum of seven days to the bidder or contractor for submission of written reply of the show cause notice

D. In case, the bidder or contractor fails to submit written reply within the requisite time, the Procuring Agency may issue notice for personal hearing to the bidder or contractor/ authorize representative of the bidder or contractor and the procuring agency shall decide the matter on the basis of available record and personal hearing, if availed.

E. In case the bidder or contractor submits written reply of the show cause notice, the Procuring Agency may decide to file the matter or direct issuance of a notice to the bidder or contractor for personal hearing.

F. The Procuring Agency shall give minimum of seven days to the bidder or contractor for appearance before the specified officer of the Procuring Agency for personal hearing. The specified officer shall decide the matter on the basis of the available record and personal hearing of the bidder or contractor, if availed.

G. The procuring Agency shall decide the matter within fifteen days from the date of personal hearing unless the personal hearing is adjourned to a next date and in such an eventuality, the period of personal hearing shall be reckoned from the last date of personal hearing.

H. The Procuring Agency shall communicate to the bidder or contractor the order of debarring the bidder or contractor from participating in any public procurement with a statement that the bidder or contractor may, within thirty days, prefer a representation against the order before the Authority.

I. Such blacklisting or barring action shall be communicated by the procuring agency to the Authority and respective bidder or bidders in the form of decision containing the grounds for such action. The same shall be publicized by the Authority after examining the record whether the procedure defined in blacklisting and debarment mechanism has been adhered to by the procuring agency.

J. The bidder may file the review petition before the Review Petition Committee Authority within thirty days of communication of such blacklisting or barring action after depositing the prescribed fee and in accordance with "Procedure of filing and disposal of review petition under Rule-19(3) Regulations, 2021". The Committee shall evaluate the case and decide within ninety days of filing of review petition

K. The committee shall serve a notice in writing upon all respondent of the review petition. The notices shall be accompanied by the copies of review petition and all attached documents of the review petition including the decision of the procuring agency. The parties may file written statements along with essential documents in support of their contentions. The Committee may pass such order on the representation may deem fit.

L. The Authority on the basis of decision made by the committee either may debar a bidder or contractor from participating in any public procurement process of all or some of the procuring agencies for such period as the deemed appropriate or acquit the bidder from the allegations. The decision of the Authority shall be final.

30) **<u>FORFEITURE OF SECURITY BOND/GUARANTEE (PERFORMANCE BOND)</u>.**

The contracting officer will have the right to forfeit the security Bond/Guarantee (Performance Bond).

A) **If the contractor: -**

i) Fails to supply the goods within the time specified.
ii) Fails to replace the material because defective during warranty period.
iii) Commits any breach of contract.
iv) Fails to account for the Import License issued on account of the purchaser.
v) Fails to account for the raw material secured by the contractor against any License or permit issued on account of the contracting officer.
vi) Fails to return drawings, design or any material belonging to the contracting officer, which was to be returned in good condition to the contracting officer after the successful termination of the contract.

B) For other reasons specified in the General/Special conditions of contracts for purchases and purchase order by the contracting officer for forfeiting the security deposit.

If the forfeiture of the security deposit does not compensate the contracting officer for losses suffered due to non-delivery or breach of contract or for any other reason, the contracting officer will have a right to forfeit other security deposits or to recover the same from any other security deposits made in favour of any other unit of DISCO's/ GENCO's/NTDC/WAPDA/ FESCO or from any money due to the contractor from any unit of DISCO's/GENCO's/NTDC/ WAPDA/FESCO.

31) **AMENDMENT IN BID SCHEDULE.**

i) At any time prior to the dead line for submission of bids, the purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify the bidding documents by amendment.
ii) The amendment will be notified in writing or by Email/EPADS/Whatsapp etc. to all prospective bidders who have received the bid schedule/bidding documents and will be binding on them.
iii) The FESCO, reserves the right to amend, add or delete any condition or clause existing in the tender documents/bid schedule, at any time and that changes shall be considered a part of the tender documents/bid schedule.

32) **PROCESS TO BE CONFIDENTIAL.**

No Tenderer shall contact purchaser on any matter relating to his Tender from the time of Tender Opening until Procuring Agency shall announce the result of bid evaluation in the form of a report giving justification for acceptance/rejection of bids. Any effort by a Tenderer to influence purchaser in the Tender Evaluation, Tender Comparison or Contract Award decision(s), may result in rejection of his Tender.

33) **NOTIFICATION OF AWARD/LETTER OF INTENT.**

i) Prior to expiration of the period of tender validity prescribed by the purchaser, the purchaser will notify successful tenderer in writing (Letter of Intent) that his tender has been accepted. This letter shall name the sum which the purchaser will pay to the contractor in consideration of the execution and completion of the works by the supplier/ contractor.
ii) The Letter of Acceptance and its acceptance by the tenderer within 15-days will constitute the formation of the contract between the purchaser and the supplier / contractor.

34) **INTEGRITY DECLARATION/CERTIFICATE.**

In case of contract price exceeding Rs.10.0 millions, the successful bidder will submit the following declaration/certificate.

Contract/ P.O. Number:	______________________________	**Dated:** ______________
Contract Value:	______________________________	

Contract Title: ______________________________
____

M/s.______________ hereby declares that it has not obtained or induced the procurement of any contract, right, interest privilege or other obligation or benefit from Govt. of Pakistan or any administrative Sub-Division or Agency thereof or any other entity owned or controlled by it (GOP) through any corrupt business practice.

Without limiting the generality of the foregoing, M/s.______________ represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to any one and not giving or agreed to give and shall not give or agreed to give to any one within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, share holder, sponsor or subsidiary, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or including the procurement of a contract, right, interest, privilege or other obligation or benefit in what so ever form from GOP except that which has been expressly declared pursuant hereto.

M/s.______________ certifies that it has made and will make full disclosure of all agreements and arrangements with all person in respect of or related to the transactions with GOP and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

M/s.______________ accepts full responsibility and strict liability for making any false declaration, not making full disclosure, miss-representing facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to GOP under any law, contract or other instrument, be void able at the option of GOP.

Notwithstanding any rights and remedies exercised by GOP in this regard, M/s.________ agrees to identify GOP for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to GOP in an amount equivalent to 10 (ten) time the sum of any commission, gratification or bribe, finder's fee or kick back given by M/s.____________ as aforesaid for the purpose of obtaining or inducing the procurement of any contract, right, interest, privilege or other obligation or benefit in what-so-ever form from GOP.

[Buyer] **[Seller/Supplier]**