

Tender No

(In case of bid submitted by Authorized Distributor /Dealer / Importer /Traders/agent for foreign Manufacturer)

TRI PARTY AGREEMENT BETWEEN HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL), MANUFACTURER AND BIDDER

This agreement made on this theday of, Two Thousandbetween **HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL)**, having its registered office at CST, MUMBAI hereinafter referred to as the PURCHASER (1ST Party) and _____, India a firm (hereinafter referred to as the "SUPPLIER" which expression where the context admits shall include its successors in interest and assigns of the other part(2nd party) and M/S _____ . (3rd Party as Principle).

Whereas as the PURCHASER is desirous that Supply, Installation, testing and commissioning of the equipment & accessories be done by supplier or manufacturer as per the terms and conditions laid out in tender document of the PURCHASER. Purchaser will follow standard practices as per the terms and condition laid out in the tender document to evaluate the bids submitted by the suppliers or manufacturers. Bidders who unconditionally accept all the terms and conditions of the purchaser will be eligible to bid.

All the suppliers (distributors) have to be authorized by the manufacturers and manufacturers indemnifies that all the terms are acceptable to them as well.

Purchaser will be given 3% bank guarantee by the Manufacturer/ Distributor /Dealer / Importer /Traders/agent for foreign Manufacturer towards the performance of the supplied equipment for the product life cycle (2yrs warranty plus 8 years CMC/AMC) (10 years).

Manufacturer has accepted the bid terms and conditions submitted by his Distributor /Dealer / Importer /Traders/agent for the Comprehensive/Annual Maintenance Contract & Supply Order terms under reference and whereas the Distributor /Dealer / Importer /Traders/agent has agreed to execute the CMC/AMC on the quoted rate, terms and condition as hereinafter referred to at a comprehensive/ annual maintenance cost (Inclusive of taxes, Duties Levies, transportation, handling, insurance, GST etc.)

And whereas various General, technical & commercial negotiation/ correspondences took place between SUPPLIER & PURCHASER as a result of which SUPPLIER'S final offer has been accepted and whereas supply order has already been issued to the SUPPLIER by the PURCHASER vide Ref. no. _____ which has been duly accepted by the SUPPLIER.

NOW THIS AGREEMENT WITNESSED & THE PARTIES AGREES AS FOLLOWS:

1. In pursuance of the agreement and in consideration of Rate only as payable to the Manufacturer/ Bidder, the Manufacturer/ Bidder shall start commence the work in the manner as stated in the agreement.
2. The parties hereunder shall respectively and faithfully abide by the terms and conditions and stipulations contained in this agreement and perform / discharge their part of the obligation of the agreement accordingly.
3. The agreement shall be executed within the purview of the Indian Laws.
4. In this agreement words and expressions shall have the same meanings as are respectively assigned to them in the conditions of agreement herein before referred to.
5. The three sets of agreement shall be signed & 1 set of agreement shall remain with the PURCHASER, BIDDER and with Principle i.e. OEM.
6. IN WITNESS WHEREOF the parties have hereunto set their respective hand seals at Mumbai on the date, month and year first above written.
7. The Supplier has agreed for 8 years CMC/ AMC (with spares) for preventive and breakdown maintenance of the supplied equipment and it's accessories in order to ensure proper functioning of the equipment. The CMC/ AMC period will start only after successful completion of warranty period of two years which is further extendable as per DOWNTIME PENALTY clause stipulation as under:

During warranty period of 2 years i.e. 24 months from the date of satisfactory commissioning / installation of the equipment, log book will be maintained at the **User Department**. If the availability of the equipment, during warranty period, falls below prescribed uptime the warranty period will be extended for the breakdown days the equipment remains breakdown minimum as prescribed availability of the equipment in terms of working days.

CMC/ AMC Charges: The CMC/AMC charge has been agreed by all the executors. The charges for CMC/ AMC (with spares) for 8 years for total unit & will start after successful completion of 2 years warranty period.

8. **Scope Of Work:** The scope of work under this agreement for CMC/AMC will be as under:
 - a. The CMC/AMC will be effective from the day after successful completion of warranty/ guarantee period. During CMC/AMC period, the Service Engineer will have to make 04 (four) compulsory Quarterly visits per year for preventive maintenance while breakdown calls (unlimited) will be attended within 24 hours (1 days) from the date & time of lodging of complaint with the supplier / principle through phone / fax/ person/ post/ courier/ e-mail. The complaint/message will be sent to the address given in this contract as well as in supply order.
 - b. If the breakdown is attended and rectified within 24 hours (1 days) at site, no penalty/ deduction will be made from the CMC/AMC bill.

- c. If it is not rectified within 48 hours (5 days) i.e. stipulated time by the supplier at our site, deduction will be made @ double the prorata basis CMC/AMC charges per day from the bill.
- d. If the problems are required to be rectified at Service Centre site/workshop/premises, additional 7 days period will be allowed from the day of initial breakdown report. Normal CMC/AMC charges for additional 7 days period will be deducted from the bill of CMC/AMC on prorata basis. If the equipment is not made available in all respect after rectification from the Service Centre site/ premises within 10 days, there will be a provision to deduct @ **double the CMC/AMC charges/ day on prorata basis from the bills for delayed period.**
- e. The CMC/AMC will be comprehensive and it will include supply, fitment, Maintenance, repair of the equipment, its parts. Arrangement of spares will be the sole responsibility of the Principle Manufacturer and / or its Distributor /Dealer / Importer /Traders/agent (in case of imported item) for which no extra charges will be paid to the party by HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) as it has already been incorporated in CMC/AMC charges.
- f. In the event of failure of the Dealer/Indian distributor/importer/Trader/agent to execute the CMC/AMC as per agreed TENDER terms and conditions, the entire responsibility to execute the CMC/AMC will be on the Principle Manufacturer/OEM at the quoted cost only.
- g. In case the Principle Manufacturer changes the Distributor /Dealer / Importer /Traders/agent, it will be the sole responsibility of the Principle Manufacturer/OEM to communicate the same immediately to HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) management to get the CMC/AMC executed uninterrupted through their reappointed/nominated Distributor /Dealer / Importer /Traders/agent to ensure that there is no discontinuation of the CMC/AMC due to change/re-appointment of Distributor /Dealer / Importer /Traders/agent etc. DEAN OR DMC, CPD or authorized representative will represent HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) for agreement and its further renewals. Performance Bank Guarantee which will remain valid up to the end of 08 year which will be the responsibility of the Principle Company.
- h. The responsibility of supply, installation, testing and commissioning of medical equipment's along with 2 years warranty and 8 years Comprehensive Maintenance Contract / Annual Maintenance Contract (As applicable) shall be of Manufacturer and Distributor /Dealer / Importer /Traders/agent **JOINTLY AS WELL AS SEVERALLY.**
- i. No advance payment will be made to the supplier on a/c of CMC/AMC rather; the payment of AMC/CMC of the medical equipments shall be made on six monthly basis subject to satisfactory completion of maintenance and servicing activities. In case of no Breakdown, failure in providing Quarterly Preventive Maintenance service will lead to nonpayment of proportionate CMC/AMC charges for that six months payment.

- j. This is a firm & fixed price agreement for CMC/AMC till CMC/AMC period. No taxes, duties etc, shall be reimbursed by the PURCHASER separately on this account and no variation/escalation shall be applicable during agreement period.

The CMC/AMC charges are exclusive of Service Tax/GST/the tax which replaces it which will be paid at actual by HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) separately during the CMC/AMC period.

- k. I/We M/S _____ and I/We _____ M/s. _____
(Manufacturer) (Sole Distributor)

_____/Dealer / Importer) hereby further state and declare that I/We are

- not declared insolvent any time in the past.
- not debarred/ black listed by either HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL)/ central Govt. / state Govt. / Public sector undertaking/any other Local body from start date of tender notice.
- not convicted under the provision of IPC or Prevention of Corruption Act., nor any criminal case is pending against me/us in any court of law.

Settlement of Disputes: It is incumbent upon the supplier/Principle OEM to avoid litigation and disputes during the course of the execution. However, if such disputes take place between the contractor and the HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) department, effort shall be made first to settle the disputes at the HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) level.

The supplier/Principle OEM should make request in writing to the HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL) for settlement of such disputes /claims within 30 (thirty) days of arising of the cause of disputes/claim failing which no disputes/claims of the supplier shall be entertained by the company.

If differences still persist, in case of parties other than Govt. agencies the redresses of the dispute may be sought in the Court of Law in Mumbai Jurisdiction only.

“The Supplier shall familiarize with the orders of the State/ Central Govt. applicable to the work, payment of wages Act, Workman’s Compensation Act, Contract Labour (R&A) Act etc. and shall be fully responsible and liable for due observance of the same.”

SIGNED, SEALED & DELIVERED

By the said Supplier (2nd party)

For M/s

Signature: -

Name: -

Designation: -

Address: -

By the said (1st party)

For HAFFKINE BIO-PHARMACEUTICAL CORPORATION LTD. (PROCUREMENT CELL)

Managing Director / General Manager 1

Signature: -

Name: -

Designation: -

Address: -

By the said (3rd party)

For M/S

Name:

Designation:

Address: