



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated Under the Companies Act, 1956 (No.1/1956)

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ABSTRACT

Supply of 16kVA, 100kVA and 160kVA, 11kV/433V, 1 Star rated Distribution Transformers by M/s KEL, Kochi - Extension of delivery period requested based on force majeure condition - Sanctioned - Orders issued.

CORPORATE OFFICE (SCM)

B.O.(FTD)No.683/2020 (XD/AEEI/SCM48/2019-20) Thiruvananthapuram, Dated 09/11/2020

- Read:
1. Purchase Order No. SCM.25/2019-20/3375 dated 29.07.2019 of the Chief Engineer (SCM).
 2. Purchase Order No. SCM.46/2019-20/4238 dated 04.09.2019 of the Chief Engineer (SCM).
 3. Purchase Order No. SCM.48/2019-20/4241 dated 04.09.2019 of the Chief Engineer (SCM).
 4. Office Memorandum dated 19.2.2020 of the Ministry of Finance, Government of India.
 5. Office Memorandum dated 13.5.2020 of the Ministry of Finance, Government of India.
 6. Letter dated 23.03.2020 of M/s. KEL, Kochi.
 7. Letter no. DGM(BDC)/KSEB/946/2020 dated 05.10.2020 of M/s. KEL, Kochi.
 8. Note No. XD/AEE1/SCM48/2019-20/3899 dtd 19.10.2020 of the Chief Engineer (SCM) submitted to the Full Time Directors through the Director (Gen.Ele & SCM) (Agenda 21/11/20).

ORDER

Purchase Orders read as 1st, 2nd & 3rd above, were placed with M/s KEL, Kochi for 100kVA, 16kVA and 160kVA, 11kV/433V, 1 Star rated Distribution Transformers respectively. The details of delivery of transformers during the lock down period are as follows.

Purchase Order No.	Rating of trfr	Total Quantity	Scheduled delivery period	Quantity (Nos.)	Inspection offer date	Date of Inspection	MDCC date	Last date of receipt of trfrs	Period of lapse (days)
SCM25/2019-20/3375 dated 29.7.19	11kV/433V, 100 kVA	667 nos.	29.1.20	133	14.3.20	16.3.20	17.4.20	02.05.20	94
			29.2.20	104	25.5.20	25.5.20	27.5.20	23.06.20	115
				29	12.6.20	13.6.20	18.6.20	30.06.20	122
SCM46/2019-20/4238 dated 04.9.19	11kV/433V, 16 kVA	56 nos.	3.12.19	28	19.3.20	19.3.20	27.4.20	26.05.20	175
			3.1.20	28					144
SCM48/2019-20/4241 dated 04.9.19	11kV/433V, 160 kVA	143 nos.	3.2.20	18	11.5.20	12.5.20	18.5.20	02.06.20	120
				14	26.5.20	25.5.20	27.5.20	30.06.20	148
				8					148
			3.3.20	23	12.6.20	13.6.20	18.6.20	30.06.20	119

M/s. KEL, Kochi as per letter read as 6th above has requested to apply Force Majeure condition based on COVID-19 pandemic for all the Purchase Orders and extend the delivery schedules.

As per clause 19 - Force majeure conditions of the Purchase Orders mentioned above,
"The supplier will not be liable for any liquidated damages for such delay due to force majeure conditions such as acts of God, acts of public enemy, act of Government, fire, floods, epidemics, quarantine, restrictions, riots, civil commotion and freight embargo, provided that supplier notify within 10 days from the beginning of such delay due to force majeure conditions, with valid proof for force majeure conditions. KSEB Ltd will verify that fact on merit and grant suitable extensions of delivery period if facts satisfy."

It is notified by the Ministry of Finance, Government of India as per Office Memorandum read as 4th above that COVID -19 situation should be considered as a case of natural calamity and FMC may be invoked, wherever considered appropriate. The date for completion of contractual obligations which had to be completed on or after **20th February 2020** shall stand extended for a period not less than three months and not more than six months without imposition of any cost or penalty on the contractor.

It is clarified that invocation of FMC would be held valid only in a situation where the parties to the contract were not in default of the contractual obligations as on 19th February 2020. It is further clarified that invocation of FMC does not absolve all non-performances of a party to the contract, but only in respect of such non-performance as is attributable to a lockdown situation or restrictions imposed under any Act or executive order of the Governments on account of COVID-19 global pandemic.

The following lots of transformers supplied by M/s. KEL are having scheduled delivery period **after 19.02.2020** and hence are eligible for delivery extension invoking FMC, as per Government of India order.

Purchase Order No.	Rating of trfr	Total Qty as per PO	Scheduled delivery period	Quantity (Nos.)	Inspection offer date	Date of Inspection	MDCC date	Last date of receipt of trfrs	Period of lapse (days)
SCM25/ 2019-20/ 3375 dated 29.07.19	11kV/ 433V, 100 kVA	667 nos.	29.2.20	104	25.5.20	25.5.20	27.5.20	23.06.20	115
				29	12.6.20	13.6.20	18.6.20	30.06.20	122
SCM48/ 2019-20/ 4241 dated 04.09.19	11kV/ 433V, 160 kVA	143 nos.	3.3.20	23	12.6.20	13.6.20	18.6.20	30.06.20	119

Revised delivery schedule if FMC is applied and recommended is as follows.

Sl. No.	Purchase Order No.	Rating of transformer	Quantity (Nos.)	Delivery schedule as per PO	Revised Delivery schedule
1	SCM25/ 2019-20/ 3375 dated 29.07.19	11kV/433V, 100 kVA	104	29.02.2020	01.07.2020
			29		01.07.2020
2	SCM48/ 2019-20/ 4241 dated 04.09.19	11kV/433V, 160 kVA	23	03.03.2020	01.07.2020

As it is clarified in the Office Memorandum read as 5th above that invocation of FMC would be valid only in a situation where the parties to the contract were not in default of the contractual obligations as on **19th February 2020**, the balance lots of transformers supplied by M/s. KEL **are not eligible for delivery extension** invoking FMC, as the scheduled delivery period for these lots are before 19.02.2020.

However, a relief of 30 days and 37 days respectively may be given in calculation of penalty for delayed delivery for 133 nos. of 100kVA transformers against PO No. SCM25/ 2019-20/ 3375 dated 29.07.19 and the whole lot of 56 nos. of 16kVA transformers against PO No. SCM46/ 2019-20/ 4238 dated 04.09.19, with the scheduled delivery period before 19.02.2020, on account of delay in issuing MDCC from KSEBL side.

The matter was placed before the Full Time Directors for decision as per note read as 8th above.

Having considered the matter in detail, the Full Time Directors in the meeting held on 04.11.2020

Resolved to accord sanction to extend the delivery period for the supply of Distribution Transformers, against Purchase Orders placed with M/s. KEL, Kochi as detailed below, without penalty and with updated basic price as per contractual delivery period or updated basic price as per actual delivery period, whichever is lower, considering the request of the supplier, based on force majeure conditions, on account of COVID-19 pandemic, as per Gol orders, considering the fact that the period of lapse towards supply is within the limit as per Office Memorandum dtd 13th May, 2020 regarding Force Majeure Clause issued by the Ministry of Finance, Government of India.

Sl. No.	Purchase Order No.	Rating of transformer	Quantity (Nos.)	Delivery schedule as per PO	Revised Delivery schedule
1	SCM25/ 2019-20/ 3375 dated 29.07.19	11kV/433V, 100 kVA	104	29.02.2020	01.07.2020
			29		01.07.2020
2	SCM48/ 2019-20/ 4241 dated 04.09.19	11kV/433V, 160 kVA	23	03.03.2020	01.07.2020

Company
secretary

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Further resolved to allow a relief of 30 days and 37 days respectively in calculation of penalty for delayed delivery for 133 nos. of 100kVA transformers against PO No. SCM25/ 2019-20/ 3375 dated 29.07.19 and the whole lot of 56 nos. of 16kVA transformers against PO No. SCM46/ 2019-20/ 4238 dated 04.09.19, with scheduled delivery period before 19.02.2020, on account of delay in issuing MDCC from KSEBL side.

Orders are issued accordingly.

By Order of the Full Time Directors,

Sd/-

**LEKHA.G
COMPANY SECRETARY (In charge)**

To

The Chief Engineer (SCM)

Copy to:-

1. The Legal Advisor & Disciplinary Enquiry Officer.
2. The Deputy Chief Engineer (IT), KSEB Limited.
3. TA to Chairman & Managing Director/ Director (D,IT&HRM)/Director (G-E&SCM)/ Director (T,SO,S,CP&REES)/ Director (G-C)
4. PA to Director (Finance)/Senior C.A. to Secretary(Administration)
5. The Fair Copy Superintendent, Board Secretariat
6. The Library, KSEB Limited/Stock file.

Forwarded/ By Order



Assistant Executive Engineer