 <p>ISG BANGALORE</p>	<p align="center">PROJECT: 2 x 660MW Coal Handling Plant Package for Meja Thermal Power Project, Meja, Dist: Allahabad, UP.</p>	<p align="center">Commercial Terms & Conditions</p>
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Name of the Bidder:

Enquiry No. & Date: 88/12/6034/AK dated 03.10.2012

Project : 2 x 660MW Coal Handling Plant Package for Meja Thermal Power Project, Meja, Dist: Allahabad, UP.

Scope of Work : Civil, Piling and Structural works for CHP as per BHEL enquiry.

SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
1.0	Price basis	<p>Prices to be quoted on Item Rate Basis as per NIT (Technical Specification). Structural steel and Reinforcement steel shall be issued free of cost by BHEL.</p> <p>Unit rates shall be quoted by the bidder for the items described in the BILL OF QUANTITY provided with the tender document. The quantities given in the Bill of Quantity are tentative and are likely to change to any extent during detailed engineering. Unit rates shall be valid till the completion of work.</p> <p>Further the prices are subject to PVC as per Annexure-A. Rate of WCT included in price, to be indicated. Service tax on composition basis (present rate is @ 4.80% with Education CESS @3%) shall be reimbursed at actuals.</p> <p>TDS shall be made for IT and WCT as per the rules.</p>	
2.0	Taxes	<p>Service Tax:</p> <p>Service tax on composition basis (present rate is @ 4.80% with Education CESS @3%) shall be reimbursed at actuals.</p> <p>Service tax shall be paid on invoice value excluding WCT. Break-up to be shown in invoice for Basic value and WCT.</p> <p>The contractor shall include the cost of BHEL free issue materials (to be provided by BHEL) such as structural steel / reinforcement steel etc. while computing service tax.</p> <p>Bidder shall furnish the proof of Service Tax registration with the Central Excise Department for operating on Composition basis and the same shall be applicable for the entire Works Contract and shall not be withdrawn until the completion of the said Works Contract. Registration should also bear endorsement for the premises from where the billing shall be done by the contractor on BHEL-ISG for this project.</p>	



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SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
		<p>BHEL-ISG will not be held responsible for non compliance of various Service Tax rules being framed from time to time.</p> <p><u>WCT under VAT act:</u></p> <p>The bidder has to make his own arrangements at his cost for completing the formalities with Uttar Pradesh State VAT Act authorities for bringing their materials, plants and machineries at site for the execution of the works under this contract. Road permits / way bills if required shall be arranged by the bidder. BHEL-ISG will not issue any road permit / way bill for this purpose. The bidder must be a Registered contractor with Uttar Pradesh State under VAT Act. A copy of said registration certificate along with TIN no. etc. must be submitted to BHEL Engineer In-charge.</p> <p>Works Contract Tax applicable under Uttar Pradesh VAT Act for the execution of the contract shall be borne by the bidder and the same shall be included in the quoted price. Bidder shall indicate WCT % considered in their offer. During execution of the contract if there is any variation in the WCT rate (+/-) either way effected by Uttar Pradesh Vat authorities, same shall be reimbursed / recovered at actuals.</p> <p>TDS on VAT on Works Contracts, as per state VAT act, shall be deducted from sub contractors bills and remitted to VAT authorities for which TDS certificates would be issued by BHEL.</p> <p>Further, any other taxes & duties, levies including new taxes & duties if imposed by statutory authorities during the contract execution period (including time extensions) and if the same is not attributable to the contractor , the same shall be reimbursed by BHEL/ISG on production of relevant supporting documents submitted along with RAB.</p>	
3.0	Terms of Payment	<p>1) 90% of the contract price on pro-rata basis including corresponding Service tax with education cess , against progress of work and based on the price schedule.</p> <p>Bidder to submit documentary proof of having remitted the tax along with his invoice which will be part of Running Account Bill. Payment of running bills on submission of RAB with measurement book duly certified by BHEL Engineer In-charge.</p>	

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		<p>2) 5% of contract value against completion of all activities and submission of final RAB along with the following documents:</p> <ul style="list-style-type: none">a) proof of wages paid in fullb) No claim certificatec) Questionnaire signed by BHEL Engineer In-charged) ESI & EPF paid in full duly certified by BHEL Engineer In-chargee) Any other document as required by BHEL Engineer In-charge <p>3) 5% of the contract price on expiry of Guarantee period.</p>	
4.0	Mode of Payment	Payment shall be released by EFT (Electronic Fund Transfer) from Bangalore office only.	
5.0	Liquidated Damages for delay in completion of works	0.5% of the total contract value per week of delay or part thereof from the date of completion of civil & structural works (as per Clause no. 8), limited to 10% of the total contract value.	
6.0	Earnest Money Deposit	<p>An amount of Rs 2,00,000/- only as Earnest Money Deposit (EMD) shall be deposited in the form of demand draft only in favour of BHEL/ISG in a separate cover along with the offer.</p> <p><u>In case EMD is not enclosed, the offer will be rejected.</u></p> <p>EMD by the bidder will be forfeited if :</p> <ul style="list-style-type: none">- After opening of the tender the bidder revokes his tender within the validity period or increases his earlier quoted rates.- The bidder does not commences the work within the period as per the LOA / Contract.- EMD given by all unsuccessful bidders shall be refunded normally within 15 days of award of Work to the successful bidder. <p>EMD shall not carry any interest.</p>	
7.0	Security Deposit	<p>Security deposit shall be furnished by the contractor before commencement of the work, in any of the following forms :</p> <ul style="list-style-type: none">1) Cash (As permissible under the income tax act)2) Pay Order, Demand Draft in favour of BHEL.3) Local cheques of local banks, subject to realization.	

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SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
		<p>4) Securities available from Post Offices such as National Savings Certificates, Kisan Vikas Patras etc. (Certificates should be held in the name of Contractor furnishing the security and duly pledged in favour of BHEL and discharged on the back).</p> <p>5) Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL. This BG shall be strictly as per the prescribed format of BHEL. BGs of PSU Banks in addition to consortium banks are only acceptable. In case of BGs issued by non consortium PSU banks, the same are to be enforceable in Bangalore.</p> <p>6) Fixed Deposit Receipt issued by schedule banks / Public Finance Institutions as defined in the companies Act. The FDA should be in the name of the contractor, A/c BHEL, duly discharged on the back.</p> <p>7) EMD of successful bidder shall be converted and adjusted against the security deposit.</p> <p>8) The security deposit shall not carry any interest.</p> <p>NOTE : Acceptance of security deposit against SI No. 4 & 6, above will be subject to hypothecation or endorsement on the documents in favour of BHEL. However, BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.</p> <p>Security Deposit shall be refunded / Bank Guarantee(s) released to the Contractor along with the 'Final Bill' after deducting all expenses / other amounts due to BHEL under the contract / other contracts entered into with them by BHEL.</p> <p>RATE OF SECURITY DEPOSIT : Upto Rs 10.00 lakhs - 10% Above Rs 10.00 lakhs upto Rs 50.00 lakhs – Rs 1.00 lakh + 7.5% the amount exceeding Rs 10.00 lakhs. Above Rs 50.00 lakhs – Rs 4.00 lakhs + 5% of the amount exceeding Rs 50.00 lakhs.</p>	
8.0	Contract completion period	Completion of Civil & Structural Works - within 20 months from the date of LOA.	

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SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
		<p>Note: Sub-contractor shall strictly adhere to 'L2' schedule : In case of non compliance to agreed schedules / milestones, then it would be presumed that vendor / contractor is not fulfilling contractual obligations. BHEL reserves the right to take suitable action like operating "Risk & cost clause".</p> <p>In case the work gets delayed and scheduled completion gets extended due to reasons not attributable to the contractor, time extension will be granted by BHEL without any price implication.</p>	
9.0	Guarantee Period	12 Months from the date of completion of Civil & Structural works under scope, as certified by BHEL Engineer.	
10.0	Insurance	<p>a) By the bidder for his workers, tools & tackles, workmen compensation insurance. Bidders shall also take third party insurance liability @ Rs. 2 Lakhs per occurrence and maximum of Rs.10 Lakhs.</p> <p>b) In the event of loss, damage or theft of the material from the storage area or from the erected equipment, the bidder shall make good of the same within a reasonable time. The actual cost towards such works shall be reimbursed by BHEL to the contractor. However, all required documents are to be furnished by the contractor to BHEL for lodging a claim on insurance company and also the contractor shall extend necessary help in realizing the claim.</p>	
11.0	Validity of the offer	90 Days from the date of the opening of the tender. In case revised price bids are sought due to revision in BOM / scope during technical evaluation, then the revised price bids shall also be valid for another 90 days from the revised due date.	
12.0	Risk and Cost	As per the risk & cost policy, if bidder fails to render the services, tools and tackles or failed to carry out the job in time specified under their scope, BHEL will get the job done at the risk & cost of the bidder. The actual cost incurred for such jobs along with the departmental charges @ 15% will be recovered from the contractor bills.	
13.0	Arbitration	Subject to Bangalore jurisdiction only based on Indian Arbitration Act 1996 and latest amendments if any.	

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14.0	Visits to BHEL Bangalore, New Delhi, Noida , NTPC offices & Site offices.	Visits as required to BHEL Bangalore, New Delhi, Noida, NTPC offices / Site offices or any other place for meetings / discussions shall be in the scope of bidder. All expenditure on account of the same shall be borne by the contractor.	
15.0	All consumables required for Civil & structural Works	By the Bidder	
16.0	Obtaining statutory authorities, clearance required for the completion of work.	By the Bidder	
17.0	Receipt, Loading, Unloading, Storage and transshipment inside the plant of all civil & structural Materials including free supply items by BHEL / Customer at site, Security of the same round-the-clock & loading / unloading / transportation of materials to different erection locations	By the Bidder.	
18.0	All material handling equipments like crane, Hydras, Winches, etc., including all other tools & plants (T&Ps).	By the Bidder	
19.0	Round-the-clock security for the temporary stores, at temporary storage place & for the erected equipments till handing over to customer. (From a reputed agency)	By the Bidder	
20.0	Proposed organization chart for the above referred package including Engineers, supervisors, welders, rigger, fitters, skilled & unskilled work force planned for the execution of the job	To be furnished by the bidder along with the Techno- commercial Bid	

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21.0	Providing tarpaulins & covering materials as required for protection of materials at temporary storage place.	By the Bidder	
22.0	List of tools, tackles, including the erection, alignment, like dumpy level, theodolite etc.	To be furnished by the bidder along with the Techno- commercial Bid	
23.0	Labour Licence	By the bidder. Bidder should have valid license to work in Uttar Pradesh state, if not the same should be produced within one month of award of the contract.	
24.0	Labour Laws	Bidder should follow all the labour laws as applicable at the place of work in Uttar Pradesh state including payment of minimum wages fixed by Government of Uttar Pradesh.	
25.0	Income Tax Deductions	As per the prevailing rules. BHEL will provide TDS certificate.	
26.0	Departmental charges	Any material or service issued / rendered by BHEL to the bidder (unless specifically stipulated to be free of cost / cost recoverable basis) during the execution of project on bidder's demand, the same shall be made available along with 15% departmental charges over and above the cost. BHEL shall not be responsible for any delay due to this reason and delay shall be to contractors account.	
27.0	Pre-qualification Criteria (Technical & Financial)	As per Annexure - B enclosed	
28.0	Any levy, Taxes, as applicable for completion of project	By the Bidder	
29.0	Integrity pact	Integrity pact format is enclosed. The same is to be duly filled and submitted along with offer without fail. Independent External Monitor (IEM) identified for this tender and the details as follows :	

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SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
		<p>Shri J. M. Lyngdoh , IAS (Retd.) Plot No. 144-145, Pragati Resort, Proddator Village & P.O., Shankarpally Road, Rangareddy Distt. (AP)- 500 033</p> <p>All correspondence with Shri J M Lyngdoh, IAS (Retd) has to be with registered post only as courier service is not available.</p>	
30.0	Reverse Auction	BHEL reserves the right to go for Reverse Auction instead of opening the submitted sealed bid, which will be decided after technical evaluation. In case the reverse auction could not be conducted due to any reasons or a need arises due to any other reason, BHEL reserves the right to open the sealed price bids in public and finalize the order accordingly. Non acceptance of this clause by the bidder will lead to rejection of offer.	
31.0	Rejection of offer	BHEL reserves the right to reject the offer, in case the bidders past performance in any of the BHEL's previous contract' is not found satisfactory.	
32.0	Quantity Variation	<p>The quoted rate of each item shall be valid for item wise variation in quantity which may vary to any extent and also for the total variation in value of work up to plus or minus 30% of the total contract value.</p> <p>In case the actual value of executed work on completion of contract becomes less than 70% of the contract value, then actual value shall be raised by 7% of the executed value, subject to the condition that the total value of work executed plus increase by 7% as above shall be limited to 70% of the contract value.</p>	
33.0	All other Terms & Conditions	As per BHEL Tender enquiry.	
34.0	Registration of New Sub-Contractors in BHEL-ISG. (applicable for non PMD	Bidders required to get registered in BHEL-ISG Product Material Directory (PMD) i.e., Contractor Registration without which BHEL-ISG will not be able to process the offer.	

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SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
	<p>Sub – contractors only)</p>	<p>Please visit our web site http://bhel.com and go to Supplier Registration and then to Contractors. You will get 2 sheets instructions and 10 sheets Contractor registration form. Please download, duly fill in the above Contractor registration form answering all the questions (Pl avoid mentioning "Ref Annexure) and enclose past 4 years balance sheets, order executed with completion certificate, Organisation information, financial information etc. and submit the same along with your offer.</p>	
<p>35.0</p>	<p>Other Terms</p>	<p>Part-1: Technical Bid: Please enclose this BHEL Commercial terms & Conditions accepting all the clauses along with your technical offer in a separate sealed envelop and superscribe as technical bid. Unpriced bid shall also be submitted along with the technical bid.</p> <p>Part-2: PRICE BID: Please mention the price and enclose in a separate sealed envelop. Price bid shall strictly be submitted in "PRICE SCHEDULE FORMAT" enclosed along with specification.</p> <p>a) Last day and time for submission of the tender : As per enquiry. b) Time of collection of tenders from the tender box by MM / Finance Team : 2:30 PM c) Time of tender opening: 3 PM d) Venue of tender opening: ISG Tender Committee room. Please super scribe the cover with the Enquiry Number & date and the due date.</p> <p><u>Authorization letter is must to attend techno-commercial and price bid opening of the tender.</u></p>	
<p>36.0</p>	<p>Maintenance of Records of Weekly Progress Review Meetings at Site.</p>	<p>The Contractor shall be required to attend all weekly site progress review meetings organized by the 'Project Manager' or his authorized representative. The deliberations in the meetings shall inter-alia include the weekly program, progress of work (including details of manpower, tools and plants deployed by the Contractor vis-a-vis agreed schedule), inputs to be provided by Employer, delays, if any and recovery program, specific hindrances to work and work instructions by Employer.</p>	

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SL No	Clause	BHEL Requirement	Bidder's Acceptance / Remarks
		The minutes of the weekly meetings shall be recorded in triplicate in a numbered register available with the Project Manager or his authorized representative. These recordings shall be jointly signed by the Project Manager or his authorized representative and the Contractor and one copy of the signed records shall be handed over to the Contractor".	

I. ARBITRATION

All disputes between parties to the contract arising out of or in relation to the contract, other than those for which the decision of engineer or any other person is by the contract expressed to be final & conclusive, shall after written notice by either party to the contract to the other party, be referred to sole arbitrator of the General Manager of BHEL or his nominee. The arbitration shall be conducted in accordance with the provisions of the Indian Arbitration conciliation act 1996 and the rules there under and any statutory modifications thereof. The place of Arbitration will be at Bangalore. The parties to the contract understand and agree that there will be no objection that the General Manager or his person nominated as arbitrator had earlier in his office capacity to deal directly or indirectly with the matters to which the contract relates or that in the course of his official duties had expressed views on all or any of the matters in dispute of difference. The award of arbitrator shall be final and binding on the parties to this contract.

In the event of Arbitrator dieing, neglecting or refusing to act or resigning or being unable to act for any reason or his award being set aside by the courts for any reason, it shall be lawful for the General Manager or his successor, as the case may be, either to act himself as the Arbitrator in place of the out going Arbitrator in the manner aforesaid.

The Arbitrator may, from time to time, with consent of both the parties to the contract, enlarge the time for making the award.

The work under the contract shall be continued during the arbitration proceedings. The venue of Arbitration shall be such place from which the contract is issued or such other place as the Arbitrator at his discretion may determine.

II. LAWS GOVERNING THE CONTRACT

This contract shall be governed by the Indian Laws for the time being in force. Any claim or disputes arising under the terms of this tender / agreement shall be enforced or filed in the Courts at Bangalore only.

Notes:

1. Vendors to give their confirmation/acceptance for BHEL Commercial terms & Conditions (CTC) without any deviations to consider their offer. Deviations will not be accepted by BHEL. A bid with deviations is liable for rejection and the decision of BHEL will be final in this regard.
2. All the columns of the above format should be filled and any column left blank will be treated as accepted / included.
3. No prices to be filled in CTC format. All prices are to be filled up only in the Price bid format.

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4. Signed un-priced price bid and EMD (separate envelope) to be submitted with the Techno - commercial bid only (Part-1).
5. Detailed L2 schedule shall be drawn by the contractor to match L1 and approved by BHEL. Same shall be binding on contractor for execution of works.
6. In the un-priced price bid all columns against each item shall be filled as "quoted".
7. Commercial terms & conditions shall be submitted along with the technical bid. Otherwise your offer will be considered incomplete and will be rejected.

Signature of the bidder with seal & Date

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