



Bharat Heavy Electricals Limited
(A Government of India Undertaking)
Boiler Auxiliaries Plant
Indira Gandhi Industrial Complex
RANIPET – 632 406- INDIA

Ph: ++91 4172 254423 Fax ++91 4172 241131

E-mail: ls@bhelrpt.co.in

Ref: 4180185E
Date: 30.04.2008

Dear Sir,

Ref: Our Enquiry No.4180185Edt.30.04.2008 and Due date 30.06.2008.
Sub: Procurement of FGD Systems required for NTPC Bongaigaon project – reg.

Please submit your most competitive offer for the procurement of following items.

Sl. No.	Item description	Qty	Tentative delivery requirement ##
001	FGD System and accessories as per Technical Specification TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008	1 Set. *	31.03.2009
002	GGH [Gas to Gas Heater] System as per Technical Specification TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008	1 Set. *	31.03.2009
003	Slurry recirculation Pump System as per Technical Specification TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008	1 Set. *	31.03.2009
004	Absorber System Internals as per Technical Specification TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008	1 Set. *	31.03.2009
005	Lime Stone Mill System as per Technical Specification TEP:FGD: Bongaigaon. Rev.00 dt.07.03.2008	1 Set. **	31.03.2009
006	Gypsum Belt Filter and accessories as per Technical Specification TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008	1 Set. **	31.03.2009

* One set means individual system to be offered for each 250 MW unit. [pls. refer Tech. Specn]

** One set means common system to be offered for the complete power station consisting of 3 x 250 MW. [pls. refer Tech. Specn]

- Delivery dates are tentative. Please refer clause-11 of GCC to this Enquiry for detailed delivery dates.

Note: In the event of an order, all the above items in the enquiry will be procured from a single source as one group and hence technical suitability and competitiveness will be decided based on the total items in the group / Enquiry

Please refer to the annexure for list of Enclosures to this Enquiry.

Kind regards.

Manager/Purchase
BHEL Ranipet

contd...2

Annexure to Enquiry ref: 4180185E dt30.04.2008.

List of documents to be referred for Enquiry:

- 01) Enquiry details of 4180185E dt.30.04.2008 - [page 01 & 02 of this file]
- 02) General Conditions of Contract [GCC] - [page 03 to 28 of this file]
- 03) Write up for FGD - [page 29 & 30 of this file]
- 04) Proforma of Contract Execution Bank Guarantee[CEBG]- [[page 31 to 35 of this file]
- 05) Proforma of Performance Bank Guarantee [PBG] - [page 36 to 40 of this file]
- 06) General Instruction for Bank Guarantee - [page 41 & 42 of this file]
- 07) List of Banks from whom BGs are to be obtained - [page 43 of this file]
- 08) Bongaigaon FGD Technical Specification Part-A [TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008] – separate file
- 09) Bongaigaon FGD Technical Specification Part-B&C [TEP:FGD: Bongaigaon.Rev.00 dt.07.03.2008] - separate file

Note: Sealed Tenders superscribed with Tender Number, Item Name, Tender Due Date and supplier's name shall be addressed to MANAGER / PURCHASE, Bharat Heavy Electricals Limited, Ranipet – 632406, Tamil Nadu , INDIA as per instructions given below:

I) Sealed cover superscribed "Envelope-I" - with Tender Number, Item Name, Tender Due Date & supplier 's name containing the following items.

(A) Sealed cover superscribed as "Cover –I (Qualifying Requirements)" with Non-Refundable Tender Fee of USD 1000/- for foreign vendors or Indian Rs.40,000/- for domestic vendors favoring Bharat Heavy Electricals Ltd., Ranipet- 632406 towards value of tender document. Qualified vendors should meet the Clause no. 1.1 Provenness Criteria of Technical Specification for FGD TEP:FGD: Bongaigaon Rev.00 dt.07.03.2008 and also furnish filled up format 3.A.3 – in section 4.1 Provenness data sheet of TEP:FGD: Bongaigaon Rev.00 dt.07.03.2008.

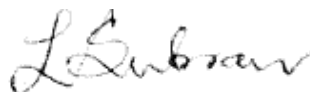
(B) Sealed cover superscribed as "Cover-II (Techno Commercial – Un priced Bid)"

II) Sealed cover superscribed "Envelope-II" with Tender Number, Item Name, Tender Due Date & supplier 's name containing the following.

Sealed cover superscribed as " Cover - III (Price Bid)"

Cover-I will be opened for the supplier's Qualification Requirements. Cover-II will be opened for the eligible suppliers who fulfill the Qualification Requirements and Cover-III will be opened later for the bidders whose offer is meeting the complete Technical Requirements.

Pre Bid meeting date: 02, June 2008, 10-00 hrs. to 12-00 hrs. at BHEL, Ranipet, India.
If any points need clarification, vendors may send the same to BHEL by e mail or fax before the pre bid date.



**Manager/Purchase
BHEL Ranipet**

GENERAL CONDITIONS OF CONTRACT (GCC)
for
Bongaigaon 3x250 MW FGD PROJECT [page-03 to 28]

1. Definition

Throughout these conditions and in the specification, the terms:

- 1.1 'The Purchaser' means the 'BHARAT HEAVY ELECTRICALS LIMITED, BOILER AUXILIARIES PLANT, Ranipet 632 406, INDIA' acting through Manager/Purchase.
- 1.2 'The Seller' means the Company with whom the order for the supply is placed and shall be deemed to include the Seller's successors (approved by the Purchaser) representatives, heirs, executors and administrator, as the case may be.
- 1.3 'Engineer' or inspecting officer means the person, firm or department nominated by the Purchaser to inspect the Stores on his behalf.
- 1.4 'Contract' shall mean and include the tender, letter of acceptance, this agreement together with any correspondence modifying the terms thereof, the General Conditions, the Specification, Schedule, if any annexed. This also includes the Drawings if any enclosed or to be provided or to be approved by the Purchaser or his Authorised Nominee and the samples and patterns if any to be provided under the provisions of the Contract.
- 1.5 'Day' means calendar day of the Gregorian Calendar.
- 1.6 'Month' means calendar month of the Gregorian Calendar.
- 1.7 'Effective Date' means the date of acknowledgement of Purchase Contract by the Seller. The Contract enters into full force from the Effective Date.
- 1.8 'Delivery' means delivery of the Technical Documents and the Stores in accordance with the applicable trade terms as referred to in the Sub-clause-3.1 hereof, and shall include deemed Delivery in accordance with the Sub-clause-3.1 hereof.
- 1.9 'Incoterms' means the International Rules for the Interpretation of Trade Terms published by the International Chamber of Commerce (Latest edition).
- 1.10 'Patent' means any or all of the patents, utility models and other industrial property rights, pending applications thereafter, and patents, utility models and other industrial property rights resulting from such applications and including improvements granted by the Seller with respect to the Plant which the Seller owns or has the right to license in India as of the Effective Date of the Contract.
- 1.11 'Project' shall mean the Purchaser's constructing work for Flue Gas Desulfurization plant at Bongaigaon 3x250 MW, India ('Plant') by M/s NTPC ("END USER")

- 1.12 'Specifications' shall mean the Specification annexed to or issued with these General conditions of Contract.
- 1.13 'Stores' shall mean the goods specified in the Contract which the Seller has agreed to supply under the Contract.
- 1.14 'Technical Documents' shall mean designs, drawings, specifications, parts lists, Quality plans, Inspection procedure, Performance test procedure, manuals and instructions for installation, operation and maintenance to be provided by the Seller under the Contract
- 1.15 'Works' means the entire works and services to be carried out by the Seller under the Contract.
- 1.16 "Facilities" means the Plant and Equipment to be supplied and installed, as well as all the Installation Services to be carried out by the Contractor under the Contract.
- 1.17 "END USER" means authorized persons from M/s NTPC Limited who are the ultimate customer for the Purchaser.
- 1.18 "Completion" means that the Facilities (or a specific part thereof where specific parts) have been completed operationally and structurally and put in a tight and clean condition and that all work in respect of Pre commissioning of the Facilities or such specific part thereof has been completed and Commissioning has been attained as per Technical Specifications'

2. (a) Parties to the Contract :

The Parties to the Contract which is for the supply of the Stores and the Technical Documents by the Seller to the Purchaser on the condition set forth in the Contract are the Seller and the Purchaser named in the Contract.

(b) Authority of person signing documents:

A person signing the Contract shall be deemed to warrant that he has authority to bind so, and if on enquiry it appeared that the person so signing had no authority to do so, Purchaser may without prejudice to other civil and criminal remedies, cancel the contract and hold the signatory liable for all costs and damages.

(c) Notice on behalf of the Purchaser:

Notice on behalf of the Purchaser in connection with the Contract may be given by any Authorised Officer of the Plant, dealing with the Contract.

(d) Language:

All Contract Documents and all correspondence and communications to be given and all other documentation to be prepared and supplied under the Contract shall be written in English and the Contract shall be construed and interpreted in accordance with English. If any of the Contract documents is prepared in any other language in addition to English, the Contract documents in English shall prevail.

(e) Singular and Plural:

The singular shall include the plural and the plural the singular except where the context otherwise requires.

(f) Headings:

The headings and marginal notes in the Contract Documents are included for ease of reference, and shall not constitute a part of the Contract, nor affect its interpretation.

(g) Persons:

Words importing persons or Parties shall include firms, corporations and government entities.

(h) Amendment:

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by each Party.

(i) Non-Waiver:

Subject to the below second paragraph of this Sub-clause 2(i), no relaxation, forbearance, delay or indulgence by either Party in enforcing any of the terms and conditions of the Contract or the granting of time by either Party to the other shall prejudice, affect or restrict the rights of that Party under the Contract, nor shall any waiver by either Party of any breach of the Contract operate as a waiver of any subsequent or continuing breach of the Contract.

Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, dated and signed by the representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived.

(j) Severability:

If any provision or condition of the Contract is prohibited, or is rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

(k) Independent Vendor

The Seller shall be an independent vendor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the Parties hereto.

(l) Patent infringement and Indemnity

The Seller shall indemnify and hold harmless the Purchaser and END USER and their employees, officers and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Purchaser / END USER may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

In the event of any such claim in respect of an alleged breach of patent, registered design or trade mark, copyright or other intellectual property right registered or otherwise existing at the date of the Contract being made against the Purchaser, he shall notify the Seller of the same and the Seller shall be at liberty but at his own expense to conduct negotiation for settlement of any litigation that may arise there from.

(m) Set off clause

Payments shall be subject to deduction of any amount for which the Seller is liable under this contract or any Contract in respect of which the Bharat Heavy Electricals Limited Ranipet - 632 406 Tamil Nadu, India is the Purchaser.

(n) Country of Origin

Any Plant, Material and Services that will be incorporated in or be required for the Facilities and other supplies shall have their Country of Origin.

(o) Design and Engineering:

(i) Codes and Standards:

The Codes and Standards for the Works under the Seller's scope shall be complied at least with one of the standards specified in the Technical specification.

(ii) Review of Technical Documents by the Purchaser / END USER:

The Purchaser / END USER shall review the Technical Documents submitted by the Seller. If the Purchaser / END USER need some clarification or have found any discrepancy, miscalculation on such Technical Documents, the Purchaser shall inform to the Seller.

If the Seller receives any clarification or comments on discrepancy, miscalculation on such Technical Documents from the Purchaser, the Seller shall response, revise or resubmit the same within a reasonable period to the Purchaser.

All technical claims indicated in this section are only indicative, these conditions are indicated in Technical Specification for Flue Gas Desulphurisation.

3.0 Execution:

The whole contract is to be executed in the most approved substantial and work - man like manner to the entire satisfaction of the Purchaser and End User.

3.1 Scope of supply:

3.1.1 Engineering documentation:

The Seller shall prepare and supply two hard copies and PDF, excel format or AUTOCAD in CD form (for drawings executed by AUTOCAD except for the drawings made by sub-vendor.) format of each Technical Documents broadly specified in the technical specification. Further break up of technical documents will be discussed during finalization of the purchase contract.

3.1.2 Stores and spare parts:

The Seller shall supply the Stores including spare parts for use in the construction, pre-commissioning, commissioning and Performance Test of the Plant as specified in the technical specification. The detailed scope split will be discussed during finalization of the purchase contract.

The Seller shall deliver the Stores in accordance with the conditions of FOB as per 'Incoterms' and also submit storage, operation and maintenance manuals for the Stores. In the event that the Seller shall repair, replace or make good of the Stores in accordance with the Clause 19 and 20 hereof, the Seller's responsibility for such repaired or replaced Stores shall be in accordance with the conditions of FOB under Incoterms. Risk of loss and title of the Stores shall be transferred from the Seller to the Purchaser at the time of Delivery.

If any of the Stores is not shipped due to reasons not attributable to the Seller and all obligations of the Seller in accordance with the FOB under Incoterms are fulfilled, the Seller may notify to the Purchaser Delivery of such Equipment. If the Seller so notifies, Delivery of such Stores shall be deemed to have been made as of the date when such Stores have become ready for shipment at the Port.

3.2. Supervision of erection, commissioning:

The erection and commissioning is in the scope of the Purchaser. However the Seller shall support the Purchaser at the time of erection and commissioning in deputing the Seller's technical advisors for successful execution of the contract.

3.3 Performance guarantee test

The Performance test is in the scope of the Seller. However the Purchaser shall support the Seller at the time of Performance test for successful execution of the contract.

3.4 Alteration:

The Purchaser or the Authorised nominee may require any change, modification, addition or deletion to, in or from the Works (hereinafter called 'Alteration') during its progress as he deems necessary. Should an Alteration be such that either Party considers an Alteration shall not be carried out until amended Contract prices and/or conditions including time of delivery have been submitted by the Seller and accepted by the Purchaser, the Alteration shall not be proceeded without obtaining the consent in writing of the Purchaser and the Seller to an amended Contract prices and conditions.

4.0 The Seller's Responsibility:

- 4.1 The Seller shall be solely responsible for the execution of the Contract in all respects including meeting the full performance guarantees in accordance with the conditions of the Contract. For the avoidance of doubt, any approval which the Purchaser may have given of materials or other parts of the Work involved in the Contract or of tests carried out either by the Seller or by the Purchaser shall not release the Seller from his obligation for the execution of the Contract. The Seller will submit all Inspection procedure, Performance test procedure, installation, commissioning, operation and maintenance procedures or any other data required for fulfilling the Project contract requirement to the satisfaction of the Purchaser and End User
- 4.2 The Seller shall design, manufacture (including associated purchases and/or subcontracting), support the Purchaser to install and complete the Facilities and carry out the Guarantee tests with due care and diligence in accordance with the Contract.
- 4.3 The Seller confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the Facilities provided by the Purchaser, and on the basis of information that the Seller could have obtained from a visual inspection of the Site (if access thereto was available) and of other data readily available to it relating to

the Facilities as at the date prior to bid submission. The Seller acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Facilities.

- 4.4 The Seller shall acquire in its name all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings in the country where the Site is located that are necessary for the performance of the Contract, including, without limitation, visas for the Seller's and Sub-Seller's personnel and entry permits for all imported Seller's Equipment. The Seller shall also acquire all other permits, approvals and/or licenses that are not the responsibility of the Purchaser
- 4.5 The Seller shall comply with all laws in force in the country where the Facilities are installed and where the Installation Services are carried out. The laws will include all national, provincial, municipal or other laws that affect the performance of the Contract and bind upon the Seller. The Seller shall indemnify and hold harmless the Purchaser from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Seller or its personnel, including the Sub-Sellers and their personnel.
- 4.6 Even though erection of the Facilities or any part thereof is in the Purchaser's scope, The Seller shall certify for its completeness as per procedures given by the Seller.
- 4.7 Even though Commissioning of the Facilities or any part thereof is in the Purchaser's scope, The Seller shall certify for its completeness as per procedures given by the Seller.
- 4.8 Conducting Performance guarantee test at Site and prove the Guarantees
- 4.9 Even though Part supply, Erection, Commissioning of the Facilities or any part thereof is in the Purchaser's scope, the Seller is solely responsible for the execution of the Contract in all respects including meeting the full performance guarantees.

5.0 The Purchaser's Responsibility:

- 5.1 The Purchaser shall provide to the Seller, or identify with sufficient precision for the Seller to obtain, all necessary information and/or data relevant to the carrying out of the Works which is in the possession of or is reasonably obtainable by the Purchaser.

The Purchaser shall ensure the correctness and accuracy of all required information for design, specifications, data and other information and/or data provided by the Purchaser to the Seller unless otherwise expressly stated in the Contract.

- 5.2 The Purchaser shall be responsible for the construction, pre-commissioning, commissioning and operation and maintenance of the Plant in accordance with the Technical Documents. The Purchaser shall procure and supply all equipment, materials and facilities required for the construction, pre-commissioning, commissioning, performance test, operation and maintenance of the Plant except for the Stores.

The Purchaser shall follow the installation, commissioning, operation and maintenance procedures which will be submitted by the Seller.

- 5.3 The Purchaser shall be responsible for acquiring and providing legal and physical possession of the Site and access thereto, and for providing possession of and access to all other areas reasonably required for the proper execution of the Contract, including all requisite rights of way, as specified in Scope of Works and Supply by the Purchaser to the Contract Agreement.

6.0 Contract Price:

The Contract Price shall be as specified in the Purchase Contract.

Price shall be firm till completion of contract.

Delivery terms shall be FOB-Sea/Airport for imports and FOR-Destination (site) for indigenous supply.

The Contract Price shall be a firm lump sum not subject to any alteration except in the event of a scope change upon which the Contract Price will be mutually settled and the Contract will be amended accordingly. This contract price does not include the supply of any other spare parts as described in the Purchase Contract.

Prices of spares shall be separately covered under Spare Price.

7.0 Terms of Payment:

7.1. Payments for supply of Stores due under the Contract shall be made through the Purchaser's Bank in India and the Seller's Bank which will be informed later by Purchaser and Seller.

- (a) Irrevocable, letter of credit ("LC") for the despatch payment for Stores and by Telegraphic Transfer ("TT") for subsequent stage payment.
- (b) Telegraphic Transfer ("TT") for payment for Engineering Charges;

7.2 Payment for Stores:

The Contract Price for Stores shall be paid by the Purchaser as follows:

- (a) Seventy percent (70%) of Contract price component of the Contract Price for each identified equipment upon despatch of equipment from manufacturer's works on pro-rata basis based on agreed schedule on production of invoices and satisfactory evidence of shipment which shall be original Bill of Lading including Material Despatch Clearance Certificate (MDCC) issued by the END USER's QA & I representative.
- (b) Ten Percent (10%) of Contract Price Component of the contract price on receipt at site.
- (c) Ten Percent (10%) of Contract Price Component of the contract price on commissioning.
- (d) Ten Percent (10%) of Contract Price Component of the contract price on receipt of Final Acceptance from customer (NTPC).

No advance payment will be made. All vendors shall adhere to the above payment terms. For any deviation to the above payment terms suitable loading will be applied and the same will be communicated to the respective vendors before price bid opening.

For supplies from within India, 80% of contract price will be released within 30 days of receipt & acceptance at site. 10% will be released after commissioning and the balance 10% after issue of Final Acceptance Certificate by the customer & END USER (M/s NTPC).

7.3 Payment for Engineering Charges – drawings and documents:

The Contract Price for Engineering Charges will be paid by the Purchaser as follows:

- (a) 10% shall be paid by 21 days of receipt and certified by the Purchaser of the Technical documents (List to be identified during finalization of the purchase contract) as deliverable until 1 month after the Effective Date and against the invoice which shall be issued upon signing of this Contract, by TT remittance.
- (b) 20 % shall be paid by 21 days of receipt and certified by the Purchaser of the Technical documents (List to be identified during finalization of the purchase contract) as deliverable in 1 to 3 months after the Effective Date through TT remittance against invoice.
- (c) 20% shall be paid by 21 days of receipt and certified by the Purchaser of the balance Technical documents (List to be identified during finalization of the purchase contract) as deliverable in 3 to 6 months after the Effective Date through TT remittance against invoice.
- (d) 20% shall be paid against successful approval of the Technical document by END USER
- (e) 20% shall be paid against successful commissioning of the Facilities.
- (f) 10 % on successful completion of the guarantee test.

No advance payment will be made. All vendors shall adhere to the above payment terms. For any deviation to the above payment terms suitable loading will be applied and the same will be communicated to the respective vendors before price bid opening.

7.4 Payment for Technical Advisory Service during erection and Commissioning

Rates will be applicable as detailed in the purchase contract and payment shall be 100% by TT within 21 days from the date of receipt of invoice together with work sheet signed by the Purchaser. The vendor shall quote separate charges for Erection and Commissioning as lump sum only for all units.

7.5 Payment for Performance guarantee testing.

Rates will be applicable as detailed in the purchase contract and payment shall be 100% by TT within 21 days from the date of receipt of invoice together with issue of Operational Acceptance Certificate by the Project Manager of END USER for all Units and work sheet signed by the Purchaser and this shall be quoted as lump sum only.

Note 1: Payment for first installment for Stores shall be paid through LC payable at 10 days sight against following shipping documents. (the below items (1) and (3) to (7) shall be sent one original and one non-negotiable copy and the below item (2) shall be sent 3 originals and one non-negotiable copy):

- (1) The Seller's ink signed (original) invoice.
- (2) Clean onboard ocean Bill of Lading or Airway Bill
- (3) Packing List

- (4) Test Certificate by the Seller or Inspection Certificate by the Purchaser or his Authorised Agency.
- (5) Certificate of Country of Origin
- (6) Guarantee certificate as per Contract
- (7) A certificate that the material shipped and shown in the packing list are not less than that invoiced and the quality of the goods are guaranteed as new and as per the specification ordered for by the Purchaser.

Note2: LC shall be established and opened before 30 days prior to each lot of despatch as indicated above, and negotiable time will be within 10 days from the date of Bill of Lading.

Note 3: All bank charges within India to the Purchaser's account. All bank charges outside India to the Seller's account.

8.0 Taxes and Duties:

Except as otherwise specifically provided in the Contract, the Purchaser shall bear all taxes, duties, levies and charges assessed on the Seller by all local, State or national government authorities in India in connection with the Contract, except for the withholding tax in India as applicable which will be deducted by the Purchaser and the Purchaser shall issue the tax payment certificate to the Seller within thirty (30) days from such deduction.

The Seller shall bear all taxes, duties, levies and charges including withholding tax assessed on the Seller in connection with the Contract outside of India.

9.0 License / Use of Technical Information:

The Seller's proprietary data, design methods and computer programs prepared by the Seller for the execution of the Contract and all drawings, specifications, data base, requisitions, and other documents of similar nature provided to the Purchaser under the Contract shall be the sole property of the Seller from date of creation and subject to the confidentiality undertaking by the Purchaser based on this Contract. The Seller shall grant the Purchaser a non-exclusive, non-transferable license to use such data and documents to the extent necessary to perform its obligations under the contract with the end-user for the Project. The Seller's grant of license to the Purchaser shall be strictly limited to the foregoing purpose only.

The copyright in all drawings, documents and other technical documents and the equipments containing data and information furnished to the Purchaser by the Seller hereunder shall remain vested in the Seller or, if they are furnished to the Purchaser directly or through the Seller by any third party including any sub-vendor, the copyright in such technical documents and the equipments shall remain vested in such third party.

The Seller shall grant the END USER through Purchaser a non-exclusive, non-transferable license to use such data and documents to the extent necessary to perform Operation and Maintenance, Service of the Plant

10.0 Confidential Information:

Each Party shall hold in strict confidence all information concerning this Contract and shall not disclose the existence, nature or terms of this Contract. Each Party shall treat as strictly confidential any information or material furnished to it by the other Party in the framework of this Contract which is proprietary to the other Party or designated as

confidential information by the other Party or the confidential nature of which can be assumed on the basis of circumstances of their disclosure or the contents and shall neither disclose such information or material to any third party or use such information or material for a purpose other than the purpose of this Contract without prior written consent of the other Party unless: (i) such information is or becomes publicly available (other than as a result of a breach of this Article); (ii) such information was in the possession of the Party at the time of disclosure by the other; (iii) such information is rightfully obtained by the Party from a third party; (iv) such information is independently developed by the party or (v) the Party is required to disclose such information under applicable law or as a result of an order or request of a competent judicial, government or other authority, in which case the Party shall inform the other Party in advance of such disclosure and consult with it for necessary arrangement for protection of the information. The provisions of this Article, which come into force immediately after the execution of this Contract by the Parties, shall remain in force for 3 (three) years after the termination of this Contract.

11.0 Delivery :

Schedule of activity by the seller is provisionally indicated as per the table below: and the same will be discussed during finalization of Purchase contract.

Sl. No	Schedule of activity completion	Unit 1	Unit 2	Unit 3
1	Basic Engineering	Aug 2008	Aug 2008	Aug 2008
2	Detailed Engineering	Oct 2008	Oct 2008	Oct 2008
3	Supply completion	Oct 2009	Jan 2010	Apr 2010
4	Commissioning	May 2010	Sept 2010	Jan 2011
5	Performance testing	Aug 2011	Nov 2011	Mar 2012

12.0 Inspection:

- (i) The Stores shall be of approved design and each part component shall be thoroughly inspected and tested at Seller's works (or where the stores are being manufactured) by the Purchaser or the Purchaser's authorized agency or End User based on the approved Inspection procedure before shipment and shall fully comply with relevant requirement of the Contract. The Test Certificates shall be one of the documents for operation of the Letter of Credit and shall be submitted along with first set of documents for negotiation.
- (ii) The Purchaser shall be entitled to conduct an open-package inspection of any Stores upon its arrival at the port of delivery and shall prepare an inspection report. In case the law of India requires mandatory inspection, the Purchaser shall arrange for an authoritative inspection institution to issue an inspection certificate for such mandatory inspection. The expenses thus incurred shall be borne by the Purchaser.

Should any shortage of, defect in, or damage to any item of Stores be found during the open-package inspection be attributable to something that occurred before Delivery or to improper packaging, the Seller shall repair, replace and/or re-deliver all defective, damaged, missing and/or undelivered items of Stores at its own expense, at the earliest time possible following its receipt of the Purchaser's claim and the record of the open-package inspection.

13.0 Facilities for inspection and Test:

- (i) The Seller shall at its own expense carry out at the place of manufacture and/or on the Site all such tests and/or inspections of the Plant and Equipment and any part of the Facilities as are specified in the Contract. The Seller shall provide the Purchaser with a certified report of the results of any such test and/or inspection.

Subject to the Purchaser's reasonable prior notice to the Seller, the Purchaser or Purchaser's inspection agency (Agency name will be informed later) or End User shall be entitled at reasonable times during manufacture to inspect, examine and test at the Seller's premises the material and workmanship of all Stores to be supplied under the Contract, and if part of the Stores is being manufactured on other premises, the Seller shall obtain for the Purchaser permission to inspect, examine and test as if the said Stores were being manufactured at the Seller's premises. Such inspection, examination and testing, if made, shall not release the Seller from any obligation under the Contract.

- ii) Where the Contract provides for test at the premises of the Seller or any of his sub Sellers, Seller shall provide such assistance (at free of costs to the Purchaser) – labour, materials, electricity, fuel, stores, apparatus and instruments as may be required and as may be reasonably demanded to carry out such tests efficiently.
- iii) The Seller shall give the Purchaser reasonable prior notice in writing of the date on which and the place at which any Stores will be ready for testing as provided in the Contract.

If the Purchaser or Purchaser's inspection agency (or their designated representatives) fails to attend the test and/or inspection, or if it is agreed between the parties that such persons shall not do so, then the Seller may proceed with the test and/or inspection in the absence of such persons, and may provide the Purchaser with a certified report of the results thereof.

- iv) The Purchaser may require the Seller to carry out any test and/or inspection not required by the Contract, provided that the Seller's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of work on the Facilities and/or the Seller's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Completion and the other obligations so affected.
- v) If any Plant and Equipment or any part of the Facilities fails to pass any test and/or inspection, the Seller shall either rectify or replace such Plant and Equipment or part of the Facilities and shall repeat the test and/or inspection.
- vi) If any dispute or difference of opinion shall arise between the parties in connection with or arising out of the test and/or inspection of the Plant and Equipment or part of the Facilities that cannot be settled between the parties within a reasonable period of time, it may be referred to the Adjudicator for determination
- vii) The Seller agrees that neither the execution of a test and/or inspection of Plant and Equipment or any part of the Facilities, nor the attendance by the Purchaser or the User nor the issue of any test certificate shall release the Seller from any other responsibilities under the Contract.

14.0 Certification of Inspection and Approval:

No Stores will be considered ready for delivery until the Purchaser or his nominee or End USER shall have certified in writing that they have been inspected and approved by him based on the inspection procedure which shall be agreed by both Parties. It shall be the responsibility of the Seller to ensure that only such goods as have been duly inspected

and approved by the Purchaser are offered for arranging shipment to the Government of India forwarding agent and to furnish them a certificate as under, "Certified that the goods offered for arranging shipment have been duly inspected and approved by the prescribed authority in accordance with the terms of the Contract and a copy of the inspection certificate issued in this regard is enclosed".

15.0 Progress Reports:

The Seller shall render such report as to the progress (once in a month for first three months and once in 15 days thereafter) of the manufacture / supply and in such a form as may be called for by the Purchaser. The submission and acceptance of these reports shall not prejudice the rights of the Purchaser in any manner.

16.0 Transfer and Subletting:

The Seller shall not sublet (except for purchase some of the Stores from the sub- Sellers in which case, the Seller advise the Purchaser of the same), transfer, assign or otherwise part with the Contract or any part thereof either directly or indirectly without the previous written permission of the Purchaser.

The Seller shall be entirely responsible for the work executed by the sub-Sellers. For this purpose the Seller shall at his own cost, perform adequate inspection of their work if necessary.

17.0 Performance Test:

17.1 General

17.1.1 The term "Performance Guarantees" wherever appears in the Technical Specifications shall have the same meaning and shall be synonymous to "Functional Guarantees". Similarly the term "Performance Tests" wherever appears in the Technical Specifications shall have the same meaning and shall be synonymous to "Guarantee Test(s)".

17.1.2 The term "BMCR" (Boiler Maximum Continuous Rating) appearing in the Technical Specification shall mean the maximum continuous steam output of Steam Generator at super heater outlet at rated parameters.

17.1.3 The term "TMCR" (Turbine maximum continuous rating) appearing in the Technical Specification shall mean 250 MW electrical power output at generator terminals under 0% cycle make-up and design condenser pressure unless used in conjunction with a different cycle make-up and/or a different condenser pressure.

17.2 PERFORMANCE GUARANTEES / PERFORMANCE TESTS

17.2.1 General Requirements

(i) The Seller shall guarantee that the equipment offered shall meet the ratings and performance requirements stipulated for various equipment covered in these specifications.

(ii) The guaranteed performance parameters furnished by the Seller, shall be without any tolerance values whatsoever. All margins required for instrument inaccuracies and other uncertainties shall be deemed to have been included in the guaranteed figures.

(iii) The Seller shall conduct performance test and demonstrate all the guarantees covered herein under Category I, II & III. The various tests which are to be carried out during performance guarantee tests are listed in this Sub-section. The guarantee tests shall be conducted by the Seller at site in presence of Purchaser and END USER on each unit individually.

(iv) All costs associated with the tests including cost associated with the supply, calibration, installation and removal of the test instrumentation shall be included in the contract price.

(v) The performance tests shall be performed using only the normal number of Seller, vendor or other sub Seller personnel and the same can be discussed during post-bid technical discussion.

(vi) At all times during the Performance Tests the emissions and effluents from the Plant shall not exceed the Guaranteed Emission and Effluent Limits.

(vii) The Seller shall make the plant ready for the performance guarantee tests.

17.3 Test Instrumentation, Flow Measurement and their Calibration

17.3.1 All instruments required for performance testing shall be of the type and accuracy required by the code and prior to the test, the Seller shall get these instruments calibrated in an independent test Institute approved by the END USER. All test instrumentation required for performance tests shall be supplied by the Seller and shall be retained by him upon satisfactory completion of all such tests at site. All calibration procedures and standards shall be subject to the approval of the END USER. The protecting tubes, pressure connections and other test connections required for conducting guarantee test shall conform to the relevant codes.

Tools and tackles, thermo wells (both screwed and welded), instruments/devices including flow devices, matching flanges, impulse piping & valves etc. and any special equipment, required for the successful completion of the tests, shall be provided by the Seller free of cost.

The Performance test shall be carried out as per the agreed procedure. The detailed PG test procedure including demonstration tests shall be submitted within **120** days of the date of Notification of Award and finalization of the PG test procedure shall be done within **180** days from the effective date.

17.3.2 The P&G test procedures shall be submitted for equipments/ system & subsystem of FGD for all Guarantees under category I, II & III as mentioned below, as per latest International codes / standards including correction curves, meeting the specification requirements along with sample calculations & detailed activity plan of preparation (including test instrumentation), conductance and evaluation of Guarantees.

The Seller shall submit detailed Performance Test procedure to the Purchaser (for END USER 's approval) containing the following:

- (a) Object of the test
- (b) Various guaranteed parameters & tests as per contract.
- (c) Method of conductance of test and test code.
- (d) Duration of test, frequency of readings & number of test runs.
- (e) Method of calculation.
- (f) Correction calculations & curves.
- (g) Instrument list consisting of range, accuracy, least count, and location of instruments.
- (h) Scheme showing measuring points.
- (i) Sample calculation
- (j) Acceptance criteria.
- (k) Any other information required for conducting the test.

The Performance test shall be carried out as per the agreed procedure.

17.4 Test Reports

After the conductance of Performance test, the Seller shall submit the test evaluation report of Performance test results to the Purchaser promptly but not later than one month from the date of conductance of Performance test. Preliminary test reports shall be submitted to the END USER after completing each test run. Four (4) hard copies and two (2) soft copies on CD-ROM of each test report of final conducted test on each equipment/plant/system shall be submitted to END USER for approval through the Purchaser.

17.5 At the date and time notified in the reasonable prior notice by the Purchaser, the performance test (and repeats thereof) shall be conducted by the Seller in the presence of the Purchaser and END USER to ascertain whether the Plant or that part thereof can attain the Performance Guarantees in accordance with the Clause-19 hereof.

If for any reason attributable to the Seller, the Performance Test is to be repeated, the expense of the Seller's technical advisor for the repeated Performance Test shall be borne by the Seller.

18.0 Acceptance of Guarantee Test Results:

Acceptance shall occur in respect of any Technical Documents or item of Stores when the relevant performance test of the Plant or any part thereof which relates to or includes such Technical Documents or item of Stores has been successfully completed and the relevant Performance Guarantees are met and accepted by Purchaser / End user. Acceptance shall occur in respect of the Facilities when the Guarantee Test has been successfully completed and the Functional Guarantees are met

In case during performance guarantee test(s) it is found that the equipment/system has failed to meet the guarantees, the Seller shall carry out all necessary modifications and/or replacements to make the equipment/system comply with the guaranteed requirements at no extra cost to the Purchaser / END USER and re-conduct the performance guarantee test(s) with Purchaser / END USER's consent. In case the specified performance guarantee(s) are still not met but are achieved within the Acceptable Shortfall Limit as specified at clause 28.00 of this GCC. Purchaser / END USER will accept the equipment/system/plant after levying liquidated damages as per clause 28.00 of this GCC. However, if, the demonstrated guarantee(s) continue to be beyond the stipulated Acceptable Shortfall Limit/ Specified Performance Criteria, even after the above modifications/replacements within ninety (90) days or a reasonable period allowed by the Purchaser / END USER, after the tests have been completed, the Purchaser will have the right to either of the following:

(i) For Category-I Guarantees

Reject the equipment / system / plant and recover from the Seller the payments already made

OR

Accept the equipment /system/ plant after levying Liquidated Damages. The liquidated damages for shortfall in performance indicated in clause 28.00 of this GCC shall be levied separately for each unit. The rates indicated in clause 28.00 of this GCC are on per unit basis. The liquidated damages shall be pro-rated for the fractional parts of the deficiencies. The performance guarantees coming under this category shall be called 'Category-I' Guarantees.

(ii) **For Category-II Guarantees:** Not applicable

(iii) For Category-III Guarantees

Reject the equipment /system / plant and recover from the Seller the payments already made.

OR

Accept the equipment/system after assessing the deficiency in respect of the various ratings, performance parameters and capabilities and recover from the contract price an amount equivalent to the damages as determined by the Purchaser / END USER. Such damages shall, however be limited to the cost of replacement of the equipment(s)/system(s), replacement of which shall remove the deficiency so as to achieve the guaranteed performance. These parameters/capacities shall be termed as "Category-III" Guarantees.

19.0 Performance Guarantee:

19.1 GUARANTEES UNDER CATEGORY-I

The Performance Guarantees which attract Liquidated Damages (LD) are as follows:

(i) SO₂ Removal efficiency of FGD system

SO₂ removal efficiency of the Flue Gas Desulphurization (FGD) system, not less than 95% under guarantee point stipulated in relevant clause of Technical Specification.

(ii) Lime stone consumption

Limestone consumption of FGD system in kg/hr at 100% TMCR (250 MW unit load) under Guarantee Point Conditions stipulated in clauses nos. 1.02.00 of Part B, Sub Section M4 and SO₂ removal efficiency of not less than 95 %.

(ix) Auxiliary Power Consumption

(a) Auxiliary Power Consumption at 100% TMCR (250 MW) unit load.

The total auxiliary power consumption for all the equipments and auxiliaries related to FGD, Equipment etc. required for continuous unit operation at 100% TMCR (250 MW unit load) with rated steam conditions and with ambient air temperature of 27 deg.c. & RH of 60%, with 3% cycle make-up shall be guaranteed in line with the requirements of the Technical specification..

(b)Auxiliary Power Consumption at 80% TMCR (200 MW) unit load.

The total auxiliary power consumption for all the equipments and auxiliaries related to FGD, Equipment etc. required for continuous unit operation at 80% TMCR (200MW unit load) with rated steam conditions and with ambient air temperature 27 deg.c. & RH of 60%, with 3% cycle make-up shall be guaranteed in line with the requirements of the Technical specification.

Note: Power consumption of each of the equipment wherever applicable shall be measured with its own drive.

For bid evaluation purpose, suitable loading will be done on the bids, taking the bid with the lowest Aux. power consumption/ Lime stone consumption as the base and at the rates at which LD will be levied for deviation in functional guarantee in respect of Aux.power consumption / Lime stone consumption as specified in clause no. 28.2.

19.2 GUARANTEES UNDER CATEGORY-III

The parameters/capabilities to be demonstrated for various systems/ equipments shall include but not be limited to the following:

19.2.1 Noise

All the plant, equipment and systems covered under this specification shall perform continuously without exceeding the noise level over the entire range of output and operating frequency specified in Part-C of Section-VI of the technical specifications.

Noise level measurement shall be carried out using applicable and internationally acceptable standards. The measurement shall be carried out with a calibrated integrating sound level meter meeting the requirement of IEC651 or BS5969 or IS9779.

Sound pressure shall be measured all around the equipment at a distance of 1.0 m horizontally from the nearest surface of any equipment/ machine and at a height of 1.5 m above the floor level in elevation.

A minimum of 6 points around each equipment shall be covered for measurement, additional measurement points shall be considered based on the applicable standards and the size of the equipment. The measurement shall be done with slow response on the a-weighting scale. The average of a-weighted sound pressure level measurements expressed in decibels to a reference of 0.0002 micro bar shall not exceed the guaranteed value. Corrections for background noise shall be considered in line with the applicable standards. All the necessary data for determining these corrections, in line with the applicable standards, shall be collected during the tests.

19.2.2 FLUE GAS DESULPHURISATION

(A) (FGD) SYSTEM Pressure Drop

The Seller shall demonstrate that the total pressure drop in the gas path across the absorber and gas-gas heater shall not exceed the guaranteed values at 100% TMCR, with Boiler firing the blended Design coal under conditions stipulated in sub-section M4, Part-B of the specification. The measured pressure drop shall be corrected to the gas flow corresponding to the above conditions for the demonstration. However, no correction will be allowed for increase in gas flow, except for variation due to coal properties and ambient conditions.

(B) Stack inlet temperature

The Seller shall demonstrate that the stack inlet temperature, with FGD system in operation, is more than or equal to 100°C at 100% TMCR with the boiler firing the blended Design Coal under conditions stipulated in subsection M4, Part-B of the specification. However, no correction will be allowed for variation in gas temperature or gas flows except for change due to variations in ambient conditions and coal properties.

(C) Limestone Pulverizer

(C.i) Lime Stone Pulverizer Wear Parts Guarantee

Seller shall demonstrate the life of pulverizer wear parts in line with requirements stipulated in Sub-Section-M4, Part-B of the Technical Specification. The establishment of the above guarantee shall be based on the operating records available at the Power station and will be computed for each pulverizer based on actual total hours of operation.

(C.ii) Capacity

The Seller shall demonstrate the guaranteed capacity of each limestone pulverizer under the following conditions:

1) Limestone fineness:

90% or higher (as per the requirement of the absorber) through 325 mesh

2) Limestone Quality :

All available quality from the specified range

Seller shall demonstrate the above capacity with the originally installed grinding elements in nearly worn-out condition as mutually agreed for the purpose of ascertaining wear life of any of the wear parts.

(C.iii) Limestone pulverizer Ball Consumption

The Seller shall guarantee and demonstrate the ball consumption of the limestone pulverizers in grams per ton of ground limestone. The establishment of the above guarantee shall be based on the operating records available at the Power station and will be computed based on average ball consumption rate for a one year period

(C.iv) Vacuum Belt Filter Capacity

Seller shall demonstrate the capacity of the Vacuum Belt Filters to dewater the quantity of gypsum with the specified purity and moisture content as specified in the Technical specification.

(C.v) Vacuum Belt Filter Gypsum Quality

The Seller shall demonstrate that the purity of the gypsum shall be not less than the specified value and the moisture content shall be not more than 10% with the belt filter operating at its maximum guaranteed capacity.

19.3 The Seller shall guarantee the complete performance parameters provided by the Seller with respect to the Project as specified in the Purchase Contract at the Performance Test in accordance with the Clause-17 hereinabove. .

19.4 The Performance Guarantees shall be expressly conditional upon the following being fully satisfied or fulfilled and shall otherwise not take effect:

- (a) Any and all supplies and works to be performed by or on behalf of the Purchaser, including, but not limited to, detailed engineering, construction, pre-commissioning, commissioning and the performance test and maintenance of the Plant and/or its associated facilities, shall be properly provided or performed by the Purchaser and shall be in accordance with the requirements under the Purchase Contract and the Technical Documents;
- (b) The performance test shall be carried out by the Seller in accordance with such procedures, programs, methods, testing conditions and other terms and conditions duly approved by the END USER as provided for in the Contract and in compliance with the relevant Technical Documents; and
- (c) The Stores is properly installed into the Plant.
- (d) The Performance Test shall be carried out with the attendance of the Seller in accordance with this Clause 19 hereof.

19.5 In the event, for reasons attributable to the Seller, the Performance Guarantee is not met either in whole or in part during the Performance Test, the Seller shall at its cost make such revision to the Technical Documents and/or repair, replace or otherwise make good within reasonable period of the Stores supplied by the Seller as well as the Stores supplied by the Purchaser which may be necessary so as to meet at the guaranteed parameters.

19.6 In case even after such revision of the Technical Documents or such repair, replace or otherwise make good of the Stores, the Performance Guarantee is not achieved, the liquidated damage for the Performance Guarantee shall be payable as stipulated in this GCC Sub-clause-28.00 hereof.

20.0 Defect Liability:

- (i) The Seller warrants that the Facilities or any part thereof shall be free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed.
- (ii) The Seller warrants that the Stores supplied by the Seller under the Contract shall comply with the technical specification to the Purchase Contract during the period as specified below.

The Defect Liability Period shall be eighteen (18) months from the date of successful Completion of the Facilities or twelve (12) months from the date of Operational Acceptance of the Facilities (or any part thereof), whichever occurs first.

If during the Defect Liability Period any defect should be found in the design, engineering, materials and workmanship of the Plant and Equipment supplied or of the work executed by the Seller, the Seller shall promptly, in consultation and agreement with the Purchaser regarding appropriate remedying of the defects, and at its cost, repair, replace or otherwise make good (as the Seller shall, at its discretion, determine) such defect as well as any damage to the Facilities caused by such defect.

The Seller shall not be responsible for the repair, replacement or making good of any defect or of any damage to the Facilities arising out of or resulting from any of the following causes:

- (a) improper operation or maintenance of the Facilities by the Purchaser
 - (b) operation of the Facilities outside specifications provided in the Contract.
 - (c) Normal wear and tear.
- (iii) The Purchaser shall give the Seller a notice stating the nature of any such defect together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Seller to inspect any such defect.
 - (iv) The Purchaser shall afford the Seller all necessary access to the Facilities and the Site to enable the Seller to perform its obligations

The Seller (at his cost) may, with the consent of the Purchaser, remove from the Site any Plant and Equipment or any part of the Facilities that are defective, if the nature of the defect and/or any damage to the Facilities caused by the defect is such that repairs cannot be expeditiously carried out at the Site.

- (v) If the repair, replacement or making good is of such a nature that it may affect the efficiency of the Facilities or any part thereof, the Purchaser may give to the Seller a notice requiring that tests of the defective part of the Facilities shall be made by the Seller immediately upon completion of such remedial work, whereupon the Seller shall carry out such tests.

If such part fails the tests, the Seller shall carry out further repair, replacement or making good (as the case may be) until that part of the Facilities passes such tests. The tests, in character, shall in any case be not inferior than what has already been agreed upon by the Purchaser and the Seller for the original equipment/part of the Facilities.

- (vi) If the Seller fails to commence the work necessary to remedy such defect or any damage to the Facilities caused by such defect within a reasonable time (which shall in no event be considered to be less than fifteen (15) days), the Purchaser may, following notice to the Seller, proceed to do such work, and the reasonable costs incurred by the Purchaser in connection therewith shall be paid to the Purchaser by the Seller or may be deducted by the Purchaser from any money due to the Seller or claimed under the Performance Securities. If the Facilities or any part thereof cannot be used by reason of such defect and/or making good of such defect, the Defect Liability Period of the Facilities or such part, as the case may be, shall be extended by a period equal to the period during which the Facilities or such part cannot be used by the Purchaser because of any of the aforesaid reasons. Upon correction of the defects in the Facilities or any part thereof by repair/ replacement, such repair/replacement shall have the Defect Liability Period for a period of twelve (12) month from the time such replacement/repair of the Facilities or any part thereof has been completed.

In addition, the Seller shall also provide an extended warranty for any such component of the Facilities and for the period of time. Such obligation shall be in addition to the defect liability

(vii) The latent defects

- (a) At the end of the Defect Liability Period, the Seller liability ceases except for latent defects. The Seller's liability for latent defects warranty for the plant and equipment including spares shall be limited to a period of five (5) years from the end of Defect Liability Period of the respective plant and equipment including spares. For the purpose of this clause, the latent defects shall be the defects inherently lying within the material or arising out of design deficiency which do not manifest themselves during the Defect Liability Period , but later.
- (b) The warranties expressly provided in this Contract shall be the sole and exclusive warranties for the defects founds after the shipment, in lieu of all other warranties of any kind, whether statutory or implied, including all implied warranties of merchantability and fitness for a particular purpose or whatsoever.

The remedy to amend the technical documents and/or to repair or replacement of the defective part of the stores supplied by the Seller are the Purchaser's or the End User's sole and exclusive remedies for any failure by the Seller to comply with its warranties whether the claims are based on the Contract, in tort (including negligence and strict liability) or otherwise

21.0 Bank Guarantees:

21.1. Contract Execution Bank Guarantee.

The Successful tenderer shall furnish a Bank Guarantee from an Indian Bank approved by BHEL in BHEL's format, for 5% of LOI value- excluding taxes, duties, freight & insurance, confirming that the order will be executed as per the terms & conditions and this should be valid till final dispatch date with additional 2 months claim period. Purchase order & letter of credit will be processed only after receipt of CEGB. The CEGB is to be furnished within 3 weeks from the date of LOI.

21.2. Performance Bank Guarantee.

To fulfill guarantee conditions outlined in the Clause 19 hereof, the Seller shall furnish a Bank Guarantee [proforma enclosed] from the first class Bank confirmed by their branch / correspondent in India, for an amount equivalent to **20%** (twenty percent) of the value of the Contract Price for 12 months from the date of acceptance or 24 months from the date of completion of last supply whichever is later. The Bank guarantee will be returned to the Seller upon the expiry of the guarantee period without any interest.

In the event the last Delivery of the Stores is delayed beyond the defect liability date, the Seller shall extend the validity of the Bank Guarantee accordingly.

If such default occurs within the period of the validity of the Performance Bank Guarantee hereinabove, the Purchaser may claim under the Performance Bank Guarantee until one (1) month after the validity of the Performance Bank Guarantee hereinabove.

The Performance Bank Guarantee (PBG) format is attached. Loading factors are as follows:

Loading

- | | |
|-----------------------------|----------------------------------------------------------------|
| 1) If not agreed for 20% | - 20% on quoted value will be loaded. |
| 2) If agreed for 10% only | - 10% on quoted value will be loaded. |
| 3) For any other percentage | - The shortfall percentage with respect to 20% will be loaded. |

During contract stage, if PBG is not submitted by the Seller, 20% of the contract value will be retained for all transactions till expiry of guarantee period. If PBG is furnished for lesser value than 20%, the retention amount will be the shortfall percentage with respect to 20%.

22.0 Packing:

The Stores shall be suitably painted for tropical conditions and to withstand marine corrosion (shipped in packed condition of Metric Tonnes gross maximum) preserved and packed in seaworthy packing duly ensuring prevention of damages or loss during transit and storage. Packing shall be done in such a way as to ensure easy removal for check at the port of destination and at purchaser's works. The packages shall be provided with facilities for easy handling by mechanical means if need be. For this, the packing specification adopted is also to be such, as to obtain a CLEAN BILL OF LADING.

23.0 Marking

All packages shall be marked as per instructions given below, in bold letters and in ENGLISH.

BHEL,BAP, RANIPET (INDIA)

Pincode -632 406.

CONTRACT NO:

SELLER'S NAME:

CASE No. : GROSS DIMENSION IN CM.:

GROSS, TARE AND NET WEIGHT:

BRIEF DESCRIPTION OF CONTENTS:

SUGGESTED SLING MARKS:

COUNTRY OF ORIGIN:

24.0 Dimensions and weight:

Specification of dimensions and weights in all places shall be in metric system and in ENGLISH language.

25.0 Shipment:

25.1 Sea shipment:

Shipping arrangements will be made by the Purchaser and related information / Instruction which will be informed by the time of opening LC and the port of discharge is Chennai, Tamil Nadu, India.

The Bills of Landing should be drawn so as to show the following:

SHIPPER : Government of India
CONSIGNEE : Government of India
ACCOUNT Bharat Heavy Electricals Limited, BAP/RANIPET – 632 406,
TAMIL NADU, INDIA
NOTIFY PARTY : BHARAT HEAVY ELECTRICALS LIMITED,
BAP/RANIPET–632406,
TAMIL NADU, INDIA

25.2 Air Shipment:

For specific and related information / Instruction which will be informed later by the Purchaser, if any.

26.0. Insurance:

Insurance shall be arranged by the Purchaser through their underwriter for which purpose the details of consignment along with its value shall be intimated by the Seller to the Purchaser or the Seller shall make arrangement with freight forwarder to inform the Purchaser by FAX immediately after shipment of the consignment has been effected per the specimen below:

FAX :0091-4172-241131
BHARAT HEAVY ELECTRICALS LIMITED
RANIPET–632406,
TAMILNADU,INDIA
ATTN.: MANAGER / PURCHASE(.)

Ref (BHEL) Your Contract
No.....date.....
For the supply of
Cases weighting.....
Tonnes / Kgs B/L No & Date
Value
Shippers per Vessel
onPlease arrange insurance

27.0 Documents to be supplied by seller

(a) On receipt of Order or along with order acknowledgement: The Seller shall furnish along with the order acknowledgement the break-up price for the major components going into the equipment and engineering service. This information is required by the Purchaser to check-up and admit the claims of the Seller if part shipments are contemplated and also to facilitate clearance of the consignment through customs after payment of duties and to use for the calculation of liquidated damage for delay in delivery of each Store.

(b) The packing dimensions of the consignment along with net, tare and gross weight of each package and special storage requirements if any on board the ship.

(c) After shipment: Immediately after shipment four (4) sets of non – negotiable copies of Bill of Lading and other documents referred in the Clause 7 herein above shall be

airmailed to the Manager / Purchase, Bharat Heavy Electricals Limited, Ranipet– 632406, Tamil Nadu, India under two (2) separate successive dispatches. In addition to the above one set of non negotiable copies of Bill of Lading and other documents referred to at this Clause 27 shall be airtailed to the Port Consignee, viz

Sr. MANAGER / MATERIAL SERVICES
BHARAT HEAVY ELECTRICALS LIMITED,
PORT CLEARANCE WING
165,THAMBU CHETTY STREET, CHENNAI,TAMIL NADU, INDIA
Pincode : 600 001
FAX No. +91-44-25340 787
PHONE: 25341240 25341249 25341297 25331640

However any change in the above, [port of discharge] will be informed prior to price bid opening.

28.0. Liquidated Damages:

28.1 Liquidated Damage for the delay of the supply of Stores and the Technical Documents:

If the Seller, by the reason attributable to the Seller, fails to deliver the Stores and Technical Documents in time as stipulated in the Purchase Contract, or within any extension of time granted by the Purchaser, and such failure affects the completion date of this Project, there shall be deducted as the Liquidated Damages, from the relevant payment of the price of those Stores and Technical Documents for this Project, at the rate 0.5% (half percent) of the proportionate Contract Price of the scope of work so delayed for each week of delay.

The aggregate amount so deducted shall in no case exceed 10% (ten percent) of the Contract Price as specified in the Purchase Contract.

Where deviation in max. LD applicable, the following are the example to be followed.

- | | |
|-----------------------------------------------|-------|
| 1) When vendor agrees for LD to a max. of 10% | - NIL |
| 2) --- do --- LD to a max. of 5% | - 5% |
| 3) --- do --- LD to a max. of 3% | - 7% |
| 4) When not agreed for LD | - 10% |

Such deduction up to the limitation stated above shall be in full satisfaction of the Seller's liability for the said failure and the Seller shall be relieved from any other obligations or responsibilities resulting from such delay or failure provided however the payment of Liquidated Damage for delay shall not in any way relieve the Seller from any other obligations and liabilities of the Seller under the Contract including warranty obligation as provided in the Clause-20 hereof.

28.2 Liquidated Damage for Performance Guarantee:

28.2.1 AMOUNT OF LIQUIDATED DAMAGES (LD) APPLICABLE FOR CATEGORY- I GUARANTEES

(In addition to the LD for the supply to Stores, the following LD is applicable)

In case even after such revision of the Technical Documents or such repair, replace or otherwise make good of the Stores as stipulated in the Sub-clause-19(iii) and 19(iv) hereof, the Performance Guarantee is not achieved the rate of liquidated damages and acceptable shortfall limits for different Category - I guarantees shall be as under and such liquidated damages shall be payable by the Seller OR deducted from the contract price as follows:

FUNCTIONAL GUARANTEES AND LIQUIDATED DAMAGES-CATEGORY-1			
Sl.No	Guarantee Description	Rate of Liquidated Damage (LD)	Acceptable Shortfall Limit with LD
1.0	For shortfall in FGD system efficiency from the guarantee in % points at conditions stipulated in the Technical specification	US \$ 28353 (US dollar twenty eight thousand three hundred fifty three only) for every 0.1% point shortfall in guaranteed efficiency.	(-) 1 % of the guaranteed FGD system efficiency.
2.0	For increase in the limestone consumption of FGD system in T/hr to achieve the guaranteed FGD system efficiency as per the Technical specification	US \$ 190205 (US Dollar One hundred ninety thousand two hundred five only) for every 100 kg/hr increase in Limestone consumption from guaranteed value.	(+)10% of the guaranteed limestone consumption.
3.0	For increase in the auxiliary power consumption in KW guaranteed as per the requirements of the Technical specification		
3.1	100%TMCR (250 MW unit load)	US \$ 3272 (US dollar Three thousand two hundred seventy two only) for every kW increase in power consumption from the guaranteed value.	(+) 1% of the guaranteed auxiliary power consumption
3.2	80%TMCR (200 MW unit load)	US \$ 2288 (US Dollar Two thousand two hundred eighty eight only) for every kW increase in power consumption from the guaranteed value.	(+) 1% of the guaranteed auxiliary power consumption

28.2.2 Each of the liquidated damages specified above shall be independent and these liquidated damages shall be levied concurrently as applicable.

28.2.3 If the contract currency is other than US dollars, then the liquidated damages shall be in equivalent amount in contract currency based on Bill selling exchange rate of State Bank of India prevailing on the date of award of contract.

28.2.4 All these liquidated damages for short fall in performance shall be deducted from the contract price as detailed in accompanying General Conditions of Contract (GCC).

28.2.5 Such deduction up to the limitation stated above shall be in full satisfaction of the Seller's liability for the said failure to meet any of the Performance Guarantees and the Seller shall be relieved from any other obligations or responsibilities resulting from such failure provided however the payment of Liquidated Damage for the Performance Guarantee shall not in any way relieve the Seller from any other obligations and liabilities of the Seller under the Contract including warranty obligation as provided in the Clause-20 hereof.

29.0 Limitation of Liability:

- (i) The Seller does not assume, nor shall it be held liable for, any liabilities or responsibilities whatsoever for profits anticipated by the Purchaser or the End User, or any other form of lost profits, or any indirect, consequential, incidental, special, exemplary, punitive or similar damages, or any loss of use, benefits, incomes or production, or interruption of the business.
- (ii) Notwithstanding anything to the contrary in the Contract, the Seller's total aggregated liability to the Purchaser and/or the End User under or in connection with the Contract including liquidated damages for this Project shall not exceed 25% of the Contract Price.

30.0 Change in Laws and Regulations:

If, after the date of this Contract, in any country where the Stores is to be manufactured or in the country where the Plant is located, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed (which shall be deemed to include any change in interpretation or application by the competent authorities) which subsequently affects the Seller's performance of the Contract, terms and conditions of the Contract shall be adjusted accordingly in the mutual consent.

31.0 Extension of Time for Delivery:

If the Delivery of Technical Documents and Stores are delayed due to any reasons attributable to the Purchaser, the Purchaser shall agree that the same shall be extended fairly and reasonably.

32.0 Termination Clause:

The terms of this Contract shall remain in full force and effect until the earlier of the following:

- (i) mutual written Contract between the Parties to terminate this Contract;
- (ii) written notice by a Party to terminate this Contract with reasons if the other Party has failed to perform its material obligations hereunder and to cure the same within a reasonable time after written notice thereof by the (non-breaching) Party;
- (iii) written notice by a Party to terminate this Contract if the other Party becomes bankrupt or insolvent;
- (iv) After completion of the Seller's obligation in this Contract.
- (v) If the Project is substantially suspended including Force Majeure at Project site for an aggregate period of more than one hundred eighty (180) days due to the reason not attributable to the Seller.

In the event of termination of the Contract under this Clause 32, the Purchaser shall pay to the Seller the Contract Price on pro-rata basis properly attributable to the parts of the Works executed by the Seller as at the date of termination subject to the Seller's best effort to minimize the expense.

In the event of termination of the Contract under this Clause 32, the Seller shall pay to the Purchaser the Contract Price on pro-rata basis properly attributable to the parts of the Works executed by the Purchaser based on the input data from the Seller for this project as at the date of termination subject to the Purchaser's best effort to minimize the expense.

33.0 Risk Purchase:

The termination of the Contract may be made either for whole or part of the Contract at Purchaser's option by the reason attributable to the Seller under the Clause 32 hereinabove. In the event of Purchaser terminating this Contract in whole or part he may procure upon such terms within a reasonable price and in such manner as he deems appropriate supplies or services similar to those so terminated and the Seller, with the Seller's consensus within two weeks time, shall be liable to the Purchaser for any excess costs for such similar supplies or services provided that the Seller shall continue the performance of this Contract to the extent not terminated under the provisions of this Clause 33.

34.0 Force Majeure:

If at any time, during the continuance of this Contract, the performance in whole or in part by either Party of any obligations under this Contract shall be prevented or delayed by reason of any event beyond the reasonable control of the Parties, any war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, explosions epidemics, quarantine restrictions, or acts of God (hereinafter referred to as 'Event') and such affected Party provides notice of happening of any such Event to the other Party within twenty one (21) days from date of occurrence thereof, the other Party shall not be entitled to terminate this Contract nor shall Party claim any damages against such affected Party in respect of such non-performance and delay in performance and delivery under the Contract. The affected Party shall resume

its work as soon as practicable after such Event has come to an end or ceased to exist. If the performance in whole or part of any obligation under this Contract is prevented or delayed by reason of any such Event, claims for extension of time shall be granted for periods considered reasonable subject to prompt notification by the Seller to the Purchaser of the particulars of the Event and supply to the Purchaser if, required, of any supporting evidence. Any waiver of time in respect of work affected by the Event shall not be deemed to be a waiver of time in respect of other work not affected by the Event.

35.0 Corrupt Gift and payment of commission

Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the Seller, his Agents or Servants, any one on his or their behalf to an employee, representative or Agents of the Purchaser, or any person on his behalf in relation to the execution of this or any other contract with the Purchaser shall be liable for , in addition to the criminal liability under the laws in force, the termination of this Contract and also payment of any loss resulting from any such cancellation to the like extent as is provided. In case of cancellation the Purchaser shall be entitled to deduct the loss incurred by the Purchaser from the money otherwise payable to the Seller under this Contract. Any question or dispute as to and commission of any offence under the present clause shall be settled by the Parties in such manner and on such evidence or information as may be thought fit and sufficient in good faith between the Purchaser and the Seller. If not settled, the result of Arbitration in accordance with the Clause 37 shall be final and conclusive in the matter.

36.0 . Legal Interpretation:

The Contract shall be governed by the laws of India for the time being in force. To interpret all the commercial terms and abbreviations used in the contract which have not been otherwise delineate by the rules of "INCO TERMS 2000" shall be applied unless and otherwise agreed by both the Parties.

37.0 Arbitration:

The Parties hereto agree to use their best efforts to attempt to resolve all disputes arising under this Contract promptly, equitably and in good faith by reference to senior executive of each Party.

Any dispute or differences whatsoever arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Rule of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties. The place of arbitration shall be at Delhi, India.

In case of foreign Seller, under the UNCITRAL Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause. Any arbitration commenced pursuant to this clause shall be administered by the Singapore International Arbitration Center (SIAC). The appointing authority shall be the SIAC. The SIAC schedule of fees and costs shall apply. The number of arbitrators shall be three. The seat or legal place of arbitration shall be Singapore. The language to be used in the arbitral proceedings shall be English Language. The arbitral award shall be final and binding.

38.0 Assignment:

Neither the Purchaser nor the Seller shall without the express prior written consent of the other assign to any third party the Contract or any part thereof, or any right, benefit, obligation or interest therein or there under.

39.0 Entire Agreement:

The Purchase Contract together with its Attachments constitutes the entire agreement between the Parties with respect to the subject matter of the Contract, which supersedes all communications, negotiations and agreements (whether written or oral) of the Parties with respect thereto made prior to the date of the Contract. The Seller makes no representations and provides no covenants, warranties, guarantees or undertakings, whether express or implied, other than those expressly set forth herein.

40.0 Invitation of the offers under three cover system:

Sealed Tenders super scribed with Tender Number, Item Name, Tender Due Date & vendor's name shall be addressed to MANAGER / PURCHASE, Bharat Heavy Electricals Limited, Ranipet – 632406, Tamil Nadu, INDIA as per instructions given below:

I) Sealed cover super scribed "Envelope-I" - with Tender Number, Item Name, Tender Due Date & vendor's name containing the following items.

(A) Sealed cover super scribed as "Cover –I (Qualifying Requirements)" with Non-Refundable Tender Fee of USD 1000/- for foreign vendors or Indian Rs. 40,000/- for domestic vendors favoring Bharat Heavy Electricals Ltd., Ranipet- 632406 towards value of tender document. Qualified vendors should meet the Clause no. 1.1 Provenness Criteria of Technical Specification for FGD TEP:FGD:Bongaigaon.Rev.00 dt.07.03.2008 and also furnish filled up format 3.A.3 – in section 4.1 Provenness data sheet of TEP:FGD: Bongaigaon Rev.00 dt.07.03.2008.

(B) Sealed cover super scribed as "Cover-II (Techno Commercial – Un priced Bid)"

II) Sealed cover super scribed "Envelope-II" with Tender Number, Item Name, Tender Due Date & vendor's name containing the following.

Sealed cover super scribed as " Cover - III (Price Bid)"

Cover-I will be opened for the vendor's Qualification Requirements. Cover-II will be opened for the eligible vendors who fulfill the Qualification Requirements and Cover-III will be opened later for the bidders whose offer is meeting the complete Technical Requirements.

Pre Bid meeting date: 02, June 2008, 10-00 hrs. to 12-00 hrs. at BHEL, Ranipet, India.
If any points need clarification, vendors may send the same to BHEL by e mail or fax before the pre bid date.

-ooOoo-

Write up on Bongaigaon FGD [page no.29 to 30]

BHEL is a leading Government of India owned Public Sector Undertaking in the field of engineering and manufacturing catering to the infrastructure sectors of Indian economy viz. energy, transportation, industry and non-conventional energy. The energy sector covers generation, transmission and distribution equipment for hydro, fossil, and gas fuels.

One of the plants of BHEL is located at Ranipet for manufacture of boiler auxiliaries (electrostatic precipitators, fans and air preheaters). Ranipet is located 120 kms, west of Chennai on the Chennai-Bangalore trunk road and is known as the Boiler Auxiliaries Plant (BAP). Over the years, BAP has consolidated its products in Indian market cornering the major share of ESP, fans and APH business. BAP is also diversified into other fields like manufacture of fabric filters, Desalination plants and Flue Gas Desulphurisation (FGD) systems.

FGD system

BHEL, BAP, Ranipet has received an order for supply of FGD for the 3x250 MW power project at Bongaigaon, Assam, from M/s. National Thermal Power Corporation (NTPC). The scope consists of design, manufacture, supply, erection and commissioning a Wet Limestone based FGD system for removal of SO₂ from flue Gas for 100% stream from exhaust gases.

FGD using Limestone as absorbent is yet to be introduced in INDIA for power plant applications & hence Bongaigaon FGD will be the first of its kind in the country. The FGD for NTPC, Bongaigaon 3 x 250 MW, features 90% pure limestone reactor to remove 95 % SO₂ from the flue gas. A blend of Assam coal of 3.5% Sulphur and Bihar coal of 0.4% Sulphur will be fired in the boiler resulting in 5700 mg/Nm³ of SO₂ to be reduced to less than 400 mg/Nm³, an international norm for SO₂.

The FGD plant will have three independent Reactors for the three units while the limestone milling and gypsum filtration systems are common for three units. **Details are furnished below.**

Boiler Capacity:	250 MW
No of Boilers:	3
No of Absorber System:	1 per Boiler (with Absorber + Recirculation pump + GGH)
Limestone Handling:	common for all 3 Boilers
Gypsum Handling :	Common for all 3 Boilers

We are now proposing to source the FGD system from a qualified FGD vendor with a proposed business sharing arrangement.

Major activities of the FGD project are organized in the scope matrix below.

Activity	Responsibility
Process Design} System Design,} *Critical component supply} Guarantees} * list of items is indicated in the Specification	FGD Vendor
Procurement} Manufacturing}	BHEL, Ranipet
Erection & commissioning} Civil}	PSER, BHEL (PSER is the erection wing of BHEL)

We are now seeking your interest for working with BHEL on this Project as a qualified FGD vendor. You are requested to submit an offer & a detailed specification of FGD system as per NIT reference is published in web: www.bhel.com .

Successful bidder is requested to submit Quality plan (format will be furnished after finalization of purchase contract) , vendor list/ sub vendor list for all the components / system identified under vendor scope, for the approval of NTPC, along with the credentials.

Vendors may pl note that cross references were made in the NIT to Boiler package & are requested to ignore any item not required for FGD system.

Please do not hesitate to call us / contact us in case you need any further information.

-ooOoo-

Bank Guarantee No.....Date.....Banker Name.....

Bank Guarantee Value Rs.....

Please affix Non Judicial Stamp
here, as per Stamp Act

*(TO BE STAMPED IN ACCORDANCE WITH STAMP ACT AND THE EXPIRY DATE OF
BG MUST BE AFTER 2 MONTHS FROM THE DATE OF COMPLETION OF SUPPLIES)*

CONTRACT EXECUTION BANK GUARANTEE

In accordance of M/s. Bharat Heavy Electricals Limited (A Government of India undertaking, a company incorporated under the Companies Act 1956 having its Registered Office at "BHEL House", SIRI Fort, New Delhi 110 049) through its Boiler Auxiliaries Plant located at Ranipet – 632 406, (hereinafter called 'the Company') having entered into a contract with M/s.....

.....hereinafter called 'the said contractor'
which term includes 'suppliers' for the purpose of this Bond and under the terms and conditions of the Contract No.....Dt.....between BHEL, Ranipet and as per the Contract, the Contractor / Supplier is to furnish a Contract Execution Bank Guarantee for Rs.....in words.....

.....for the due performance of the contract

Bank Guarantee No.....Date.....Banker Name.....

Bank Guarantee Value Rs.....

and for the fulfillment of all the terms and conditions of the contract. We.....

(Bank's name, Branch, Place – address to be mentioned [herein after referred to as the Bank) at the request of

.....(Contractor(s)] do hereby undertake to pay the company an amount not exceeding Rs.....in words.....

against any loss or damage caused to or suffered or would be caused to or suffered by the company by reason of any breach by the said Contractor(s) of any of the terms and conditions contained in the said agreement.

2. We.....

.....(name of the bank with full address), do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Company stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the Company by reason of breach by the said Contractor(s) of any of the terms and conditions contained in the said Agreement or by the reason of the Contractor(s) 'failure to perform' the said agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs.....in words.....

Sign and seal of issuing bank

...3

Bank Guarantee No.....Date.....Banker Name.....

Bank Guarantee Value Rs.....

3. We undertake to pay conditionally to the Company any money so demanded notwithstanding any dispute(s) raised by the Contractor in any suit, or proceedings pending before any Court or Tribunal or Arbitration or before any other authority relating thereto our liability under this present being absolute and unequivocal. The payment under this guarantee would not wait till the disputes have been decided by any Court or Tribunal or in the arbitration proceedings or by any other authority. The payment so made by us under this Bond shall be a valid discharge of liability for payment thereunder and the Contractor(s) shall have no claim against us for making such payment.
4. We.....(name of Bank), further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till Purchase Department of the Company certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee.
5. (i) Unless a demand or claim under this guarantee is made on us in writing on or before(date) (After 2 months from the date of completion of supplies) we shall be discharged from all the liability under this guarantee thereafter. But where such claim or demand has been preferred by the Company with the Bank before the expiry of the said date, the claim shall be enforceable notwithstanding the fact that the said enforcement is effected after the said date.
(ii) For the purpose of this clause, any letter making demand on the Bank by M/s. BHEL dispatched by Registered Post with Ack. Due or by Telegram or by any Electronic media addressed to the above mentioned address of the Bank shall be deemed to be the claim / demand in writing referred to above irrespective of the fact as to whether and when the said letter reaches the Bank, as also any letter containing the said demand or claim is lodged with the Bank personally.

Bank Guarantee No.....Date.....Banker Name.....

Bank Guarantee Value Rs.....

6. We.....(name of the Bank), further agree with the company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said Contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Company against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by any reason of any such variation or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the company or any indulgence by the company to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating would, but for this provision, have effect of not so relieving us.
7. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).
8. The guarantee herein contained shall not be determined or affected by the liquidation or winding up or insolvency of or change in the constitution of the Contractor, but shall in all respects and for all purpose be binding and operative until all payments of all moneys due or that may hereafter become due to the said company or settled irrespective of any liability or obligation of the Contractor under the said Contract.
9. It shall not be necessary for the company to proceed against the Contractor before proceeding against the guarantor-bank and the guarantee herein contained shall be enforceable against them notwithstanding any security, which the company may have obtained from the Contractor shall, at the time when proceedings are taken against the Guarantor hereunder be outstanding or unrealized.

Sign and seal of issuing bank

...5

Bank Guarantee No.....Date.....Banker Name.....

Bank Guarantee Value Rs.....

10. Any claim or dispute arising under the terms of this document shall only be enforced or settled in the Courts at Ranipet, Tamilnadu Jurisdiction.

11. The Bank declares that it has powers to issue this Guarantee under the Bank's Memorandum and Articles of Association and the undersigned has full powers to do so on its behalf under the power granted to him by the proper authorities of the Bank.

12. We(name of Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the company in writing.

In witness whereof we.....
(name of Bank) have hereunto setout Bank Seal the.....
day.....of.....month 200

Sign and seal of issuing bank.

Bank Guarantee No..... Date..... Banker Name

Bank Guarantee Value Rs.....

Please affix Non Judicial Stamp here,
as per Stamp Act

(TO BE STAMPED IN ACCORDANCE WITH STAMP ACT AND THE EXPIRY DATE OF BG MUST BE
AFTER 3 MONTHS FROM THE DATE OF COMPLETION OF WARRANTY PERIOD)

PERFORMANCE BANK GUARANTEE

In accordance of M/s. Bharat Heavy Electricals Limited (A Government of India undertaking, a company incorporated under the Companies Act 1956 having its Registered Office at "BHEL House", SIRI Fort, New Delhi 110 049) through its Boiler Auxiliaries Plant located at Ranipet – 632 406, (hereinafter called 'the Company') having entered into a contract with M/s

..... hereinafter called 'the said contractor' which term includes 'suppliers' for the purpose of this Bond and under the terms and conditions of the Contract No..... Dt between BHEL, Ranipet and as per the Contract, the Contractor / Supplier is to furnish a performance Bank guarantee for Rs. in words

..... for the due performance of the equipment

to be supplied under the above referred Contract and for the fulfillment of all the terms and conditions of the contract. We

.....
.....
(Bank's name, Branch, Place - address to be mentioned [herein after referred to as the Bank])
at the request of
..... (Contractor(s)) do here by undertake to pay the company an
amount not exceeding Rs..... in words

.....
against any loss or damage caused to or suffered or would be caused to or suffered by the
company by reason of any breach by the said Contractor(s) of any of the terms and conditions
contained in the said agreement.

2. We
.....
..... (name
of the bank with full address), do hereby undertake to pay the amounts due and payable under
this guarantee without any demur, merely on a demand from the Company stating that the
amount claimed is due by way of loss or damage caused to or would be caused to or suffered
by the Company by reason of breach by the said Contractor(s) of any of the terms and conditions
contained in the said Agreement or by the reason of the Contractor(s) 'failure to perform' the
said agreement. Any such demand made on the Bank shall be conclusive as regards the
amount due and payable by the Bank under this guarantee. However, our liability under this
guarantee shall be restricted to an amount not exceeding Rs..... in
words

Bank Guarantee Value Rs.....

3. We undertake to pay unconditionally to the Company any money so demanded notwithstanding any dispute(s) raised by the Contractor in any suit, or proceedings pending before any Court or Tribunal or Arbitration or before any other authority relating thereto our liability under this present being absolute and unequivocal. The payment under this guarantee would not wait till the disputes have been decided by any Court or Tribunal or in the arbitration proceedings or by any other authority. The payment so made by us under this Bond shall be a valid discharge of liability for payment thereunder and the Contractor(s) shall have no claim against us for making such payment.
4. We..... (name of Bank), further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till Purchase Department of the Company certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee.
5. (i) Unless a demand or claim under this guarantee is made on us in writing on or before (date) (After 3 months from the date of completion of warranty period) we shall be discharged from all the liability under this guarantee thereafter. But where such claim or demand has been preferred by the Company with the Bank before the expiry of the said date, the claim shall be enforceable notwithstanding the fact that the said enforcement is effected after the said date.

(ii) For the purpose of this clause, any letter making demand on the Bank by M/s. BHEL despatched by Registered Post with Ack.Due or by Telegram or by any Electronic media addressed to the above mentioned address of the Bank shall be deemed to be the claim / demand in writing referred to above irrespective of the fact as to whether and when the said

Bank Guarantee Value Rs.....

letter reaches the Bank, as also any letter containing the said demand or claim is lodged with the Bank personally.

6. We (name of the Bank), further agree with the company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said Contractor (s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Company against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by any reason of any such variation or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the company or any indulgence by the company to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating would, but for this provision, have effect of not so relieving us.
7. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).
8. The guarantee herein contained shall not be determined or affected by the liquidation or winding up or insolvency of or change in the constitution of the Contractor, but shall in all respects and for all purpose be binding and operative until all payments of all moneys due or that may hereafter become due to the said company or settled irrespective of any liability or obligation of the Contractor under the said Contract.
9. It shall not be necessary for the company to proceed against the Contractor before proceeding against the guarantor-bank and the guarantee herein contained shall be enforceable against them notwithstanding any security, which the company may have obtained or obtain from the Contractor shall, at the time when proceedings are taken against the Guarantor hereunder be outstanding or unrealised.

Bank Guarantee No..... Date..... Banker Name Page : 05

Bank Guarantee Value Rs.....

10. Any claim or dispute arising under the terms of this document shall only be enforced or settled in the Courts at Ranipet, Tamilnadu Jurisdiction.
11. The Bank declares that it has powers to issue this Guarantee under the Bank's Memorandum and Articles of Association and the undersigned has full powers to do so on its behalf under the power granted to him by the proper authorities of the Bank.
12. We (name of Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the company in writing.

In witness whereof we.....
(name of Bank) have hereunto setout Bank Seal the
day..... of month 200

Sign and seal of issuing bank.



BHEL BAP RANIPET

INSTRUCTIONS FOR BANK GUARANTEE

- 1.1 Bank Guarantee shall be issued by any one of BHEL's Bankers. Please refer to List of BHEL's Bankers enclosed.
- 1.2 If it is not possible, then BG can be issued by a Scheduled Commercial Bank with the prior approval of BHEL.
- 1.3 BG from Co-operative Banks is not acceptable.
- 2.1 Pre-printed BG Form of BHEL only shall be used.
- 2.2 Only the relevant information like Supplier Name, BG Value, Contract No., validity etc. shall be typed in the pre-printed form and executed by Bank.
- 2.3 Special adhesive stamp of the required value shall be affixed on the 1st Page of the Form.
- 2.4 If Special Adhesive Stamps are not available, then applicable stamp duty shall be paid at the Bank/Agency nominated by the concerned State Government to collect stamp duty, who will affix their signature, date and seal in the first page of the BG Form clearly marking it as "SPECIAL ADHESIVE" & "STAMP DUTY".
- 2.5 Stamp Duty for the BG shall be at the rate as applicable in the State where the BG is executed.
- 2.6 Bank Seal shall be affixed on the special adhesive stamp.
- 3.1 The executing officer of the Bank shall indicate his name, designation and power of attorney number/signing power number etc. on the BG.
- 3.2 Any correction/overwriting on the BG shall be duly authenticated under the Seal and signature of the executing officer of the Bank.
- 3.3 Each page of the BG shall be duly signed/initialed by the executing officer of the Bank and the last page is to be signed with full particulars under the seal of the Bank.
- 3.4 Fax number, e-mail Address, contact person, phone number and complete postal address shall be indicated in the covering letter of the BG from Bank.
- 4.1 The validity of the BG shall cover a period of 18 months (or such other period as per Purchase Order, if otherwise specified) from the last date of dispatch as per Purchase Order or actual date of last dispatch under the Purchase Order, whichever is later.
- 4.2 The BG shall have a claim period of 3 months. If no separate claim period is indicated in the BG, then the validity shall be 18 months (or such other period as per Purchase Order, if otherwise specified) plus 3 months.

- 5.1 No clause of the BHEL BG Form shall be altered, deleted or new clauses added by the Issuing Bank under any circumstances. Bank Guarantees with altered/deleted/added clauses will not be accepted by BHEL under any circumstances.
- 5.2 If the Issuing Bank wants to add any additional clauses, it shall be intimated to BHEL well in advance with exact text of the clause, which shall be subject to approval by BHEL Law Department. Those clauses specifically accepted by BHEL Law Dept. can be added in the last page of the BG Form and executed by Bank.
- 6.1 Bank Guarantee shall be forwarded by Issuing Bank directly to Accounts Officer/Stores Bills, BHEL/BAP, Ranipet-632406 .
- 6.2 If it is not directly forwarded to BHEL due to unavoidable circumstances, then the Issuing Bank shall send a letter directly to BHEL confirming the issue of the BG enclosing a photocopy of the Original BG.
- 6.3 The Bank Guarantee should not be routed through Bank along with other dispatch documents under any circumstances.
- 7.1 In case of any extension of a BG the same shall be executed on non-judicial stamp paper of the required value.
- 7.2 Only the due date and claim period shall be extended.
- 7.3 The extension should not result in alteration of any material facts of the BG.

Bank Guarantees executed as per the above instructions only shall be accepted at our end. Hence kindly ensure compliance with the above instructions for early processing of the bills and to avoid hold up of the bills.

Date : 10-11-2005.



**LIST OF BHEL'S BANKERS
FROM WHOM BANK
GUARANTEE IS TO BE OBTAINED**

Sl. No.	Name of the Bank
1.	State Bank of India
2.	ABN AMRO Bank N.V.
3.	Bank of Baroda
4.	Canara Bank
5.	CITI Bank N.A.
6.	Duestche Bank AG
7.	HDFC Bank Ltd.
8.	ICICI Bank Ltd.
9.	IDBI Bank Ltd.
10.	Punjab National Bank
11.	Standard Chartered Bank
12.	State Bank of Hyderabad
13.	State Bank of Travancore
14.	The Hongkong and Shanghai Banking Corporation Ltd.