

Odisha Power Generation Corporation Limited

IB Thermal Power Station

At/P.O: Banharpali, Dist. Jharsuguda, PIN: 768234(Odisha)

GRAM: IB THERMAL, Tel.06645-289354/5/6; Tele Fax: 06645- 289355

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SAFE & CLEAN POWER IS OUR COMMITMENT

AN ISO-14001; OHSAS-18001 ORGANISATION

Tender Information	
Classification	Supply of wagons to IB Thermal Power Station
NIT Number	NIT – 21-22/153 Dt. 24.07.2021
Brief NIT Description	Supply of type BOBRNHSM1 (MBS) wagon complete units & BOBRN wagon Superstructure to IB Thermal Power Station
Tender Issue Date:	24.07.21
Pre-bid meeting	31.07.2021 at 15:00 hours
Document Issue/Sale Close Date	09.08.21 up-to 15.00 hours.
Bid Submission Date	09.08.21 up-to 15.00 hours.
Bid Opening Date (Technical)	10.08.21 at 15.30 hours.
Contact Info	General Manager, SCM. IB Thermal Power Station. Banharpali, Jharsuguda; PIN-768234. State: Country: INDIA. Telefax: 91-6645-289355; Mail: bkmishra@opgc.co.in
	Dy. Manager, SCM IB Thermal Power Station. Banharpali. Jharsuguda. PIN-768234. State: Country: INDIA. Cell no: 91-7077743520. Mail: sidharth.patnaik@opgc.co.in
Cost of Tender Paper	NIL. It may be downloaded from opgc website.
Earnest Money Deposit	Rs. 18, 00, 000.00 (Rupees Eighteen lakhs only).

Note: Before Submission of bid please ensure proper documentation is made in technical bid and price bid as mentioned in the bid.

General Manager, SCM

Sealed bids in '**Two Bid System**' and in the prescribed format are invited from bona fide and financially sound reputed Manufacturers Only for supply of the following items to IB-Thermal Power Station, Banharpali.

Tender Document will be available free of cost as per schedule mentioned upto 17:00 Hrs from the office of the General Manager - SCM, ITPS, Banharpalli, Jharsuguda. **Detailed NIT can also be downloaded from our website www.opgc.co.in.** Any amendment and corrigendum to this NIT shall be posted in OPGC website only.

Firms are requested to visit our website regularly for any amendment of the present bid till finalisation of bidding process and information for participation against various tenders. Tender documents can also be downloaded from our website.

M/s OPGC Ltd. reserves the right to accept/reject/split any tender without assigning any reason thereof and will not be responsible for any delay in postal/courier receipt.

Firms interested for registration for supply of different materials may submit application in the prescribed vendor registration format available in our website.

General Manager, SCM

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BOQ

Supply of type BOBRNHSM1 (MBS) wagon complete units & BOBRN wagon Superstructure to IB Thermal Power Station.

BOQ for OPGC II

Sr. No.	Description of materials	UOM	Qty	Unit Price (Rs)	Total Price (Rs)
1	Design, engineering, manufacturing, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding and supply & commissioning of bottom discharge coal hopper complete wagon of model BOBRNHSM1, design K , as per RDSO DRAWING NO: WD-91071-S-50 Alt.12 Design K with pick up shoe, electro pneumatic valve / spool valve for door opening mechanism arrangement. The door operating air pipe line and air receiver tank shall be charged from the locomotive through hose couplings and feed pipe with compressed air at a pressure of 5 KG/cm2 to 6 KG/cm2. The wagons will have bottom discharge hopper for operating on 1676 mm gauge (BG).	No.	25		
2	Design, engineering, manufacturing, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding and supply & commissioning of bottom discharge coal hopper wagon superstructure only with under frame excluding casnub 22 NLB bogie and wheel set of BOBRN variant as per RDSO Drg No. WD-91071-S-50 with pick up shoe, electro pneumatic valve / spool valve for door opening mechanism arrangement for our existing CASNUB 22 NLB bogie having spherical central pivot. The door operating air pipe line and air receiver tank shall be charged from the locomotive through hose couplings and feed pipe with compressed air at a pressure of 5 KG/cm2 to 6 KG/cm2. The wagons will have bottom discharge hopper for operating on 1676 mm gauge (BG).	No	5		

BOQ for OPGC I

Sr. No.	Description	UOM	Qty	Unit Price (Rs)	Total Price (Rs)
3	Design, engineering, manufacturing, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding and supply & commissioning of bottom discharge coal hopper wagon superstructure only with under frame excluding casnub 22 NLB bogie and wheel set of BOBRN variant as per RDSO Drg No. WD-91071-S-50 with pick up shoe, electro pneumatic valve / spool valve for door opening mechanism arrangement for our existing CASNUB 22 NLB bogie having spherical central pivot. The door operating air pipe line and air receiver tank shall be charged from the locomotive through hose couplings and feed pipe with compressed air at a pressure of 5 KG/cm2 to 6 KG/cm2. The	No	15		

	wagons will have bottom discharge hopper for operating on 1676 mm gauge (BG).				
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Price quoted should be firm, till completion of delivery, on F.O.R. - Destination basis, OPGC, Banharpali MGR Track (Door delivery). Excluding GST, RDSO design charge & Drawing Approval, RDSO Inspection Charge, RDSO Speed Certificate, P&F, freight charges, transit insurance etc .The agency has to quote FOR price with detail of breakup of railway charges, freight, inspection , GST etc.

Qualifying Requirements:-

The bidders who wish to participate in the bidding shall satisfactorily establish that they fulfill the following Qualifying Requirements.

Any queries pertaining to the tender bid documents should be apprised to M/s OPGC prior to the pre-bid meeting.

The pre bid meeting shall be attended by the bidder for technical & commercial discussion before 10 days of techno commercial bid opening.

Techno commercial Criteria:

The bidder should have executed the order for design, manufacture and supply or executed orders for manufacture & supply, conforming to RDSO design of:

i) Minimum of 1000 bogies wagons (08 wheelers) and Minimum of 200 bottom discharge type wagons like **BOBR / BOBRN / BOBRNM1 / BOBRNHSM1/ other variants of BOBRN** (08 wheelers) which must have been in successful operation for at least two (02) years as on the date of techno-commercial bid opening. The performance certificate from client shall be submitted in the technical bid.

- ii) **The Tenderer must be a Wagon manufacturer and should be approved by RDSO under G 105.**
- iii) **The Tenderer must have manufactured and supplied a minimum 50 Nos BOBRNHSM1 complete wagons.**
- iv) **The bidder must have to confirm in the technical bid that they have quoted for all items of Bill of Quantity in the price bid.**
- v) **The bidder should have executed supply of similar orders in the preceding 7 years prior to the date of opening of bids meeting the following criteria.**

a) **Single order of value not less than Rs. 15 crores**

b) **Two orders of value not less than Rs. 12 crores each**

c) **Three orders of value not less than Rs. 10 crores each**

All values are excluding GST / Taxes

Note: The word “executed” means the bidder should have achieved the criterion specified in QR, even if the total contract is not completed / closed. In case of contracts under execution as on date of techno commercial bid opening, the quantum of work executed till such date will be considered provided the same is certified by the employer.

Financial criteria:

The average annual turnover of the Bidder in the preceding three (3) financial years as on the date of techno commercial bid opening shall not be less than INR 10.00 Crores (Rupees Ten Crores Only).

In case the bidder is not able to furnish its audited financial statements on standalone entity basis, the unaudited unconsolidated financial statements of the bidder can be considered acceptable provided the bidder furnishes the following further documents on substantiation of its qualification:

- i. Copies of unaudited unconsolidated financial statements of the bidder along with copies of the audited consolidated financial statements of the Holding Company.
- ii. A certificate from the CEO/CFO of the Holding Company as per format enclosed in the bid documents stating that the unaudited unconsolidated financial statements form part of the consolidated annual report of financial company.

In case where audited results for the last financial year as on the date of techno commercial bid opening are not available, the financial results certified by a practicing chartered accountant shall be considered acceptable. In case, bidder is not able to submit the certificate from practicing Chartered Accountant certifying its financial parameters, the audited results of three consecutive financial years preceding the last financial year shall be considered for evaluating the financial parameters. Further, a Certificate would be required from the CEO/CFO as per the format enclosed in the bidding documents stating that the financial results of the company are under audit as on date of techno commercial bid opening and the Certificate from the practicing Chartered Accountant certifying the financial parameters is not available.

The bidder shall have to submit the following documents in support of meeting the QR along with their bid: The bidder to submit documentary evidence.

Copies of audited balance sheet and profit & loss account for the preceding three (3) financial years.

1. SCOPE OF WORK

BOQ Item No. 1.

MGR type BOBRNHSM1 wagon complete with bogie/trolley complete in all respect having RDSO Drg No. WD-91071-S-50 Alt 12 (Design-K).

Design, engineering, manufacturing, supply, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding & commissioning of Twenty Five (25) Nos. of Bottom discharge Hopper wagons, AS PER RDSO DRAWING NO: WD-91071-S-50 Alt.12 Design K as bellow –

- i) **BOBRNHSM1 (Design-K) Wagon**
- ii) **Technical specification with Door Operating Air Pipe :-**

Door Operating Air Pipe: The Bottom Discharge Doors shall be operated by charging compressed air to pneumatic DOM Cylinder through 24 V battery and pick up shoe & electro pneumatic Valve /spool valve fitted with the pipeline (32 NB feed pipe and 20 NB branch pipes).

The Door Operating Air Pipe Line and Air Receiver Tank shall be charged from the locomotive through Hose Couplings and feed pipe with compressed air at a pressure of 5 KG/cm² to 6 KG/cm².

iii) DETAILED SPECIFICATIONS:

Sl. No.	Description	Data/Dimensions
1.	TYPE OF WAGON	BOBRNHSM1 (MBS) Design K
2.	WHEEL DIA	1000 mm
3.	LENGTH OVER COUPLER FACES	10.6 Meter.
4.	OVERALL WIDTH	3500 mm
5.	OVERALL HEIGHT	3735 mm
6.	AXLE LOAD	22.32 T
7.	ALLOWABLE PAY LOAD	63.67 T
8.	GROSS LOAD	89.28 T
9.	BOGIE TYPE	CASNUB-22HS
10.	NO. OF DISCHARGE GATES	04 NOS
11.	HOPPER ANGLE	42 DEG. for (BOBRNHSM1) as per RDSO Drawing No: WD-91071-S-50 Alt.12 or latest
12.	The wagons will be operating on 1676 mm gauge fitted with a PICK UP SHOE electro pneumatically operated door operating mechanism as per RDSO specifications. The commissioning, trial operation and performance guarantee tests will be carried out at OPGC, Banharpali, Jharsuguda MGR system	

iv) **Procurement to be done from:-**

Sl. No.	Description	Known Vendors
1.	Wheel & Axle set	A) Wheel & Axle Plant, Bangalore; B) DSP, Durgapur; C) BHARAT FORGE Ltd. PUNE or any reputed wheel supplier
2.	Bearing	A) Tata Timken; B) NEI; C) SKF or From RDSO/Railway Vendor
3.	DOM Pneumatic cylinder, Spool valve , Pick up shoe and diode etc	From Reputed RDSO/Railway Vendor / supplier

v) **DRAWINGS:**

All the drawings should be duly approved by RDSO or OPGC. LIST OF DRAWINGS & MANUALS are mentioned below:

(A) General arrangement	(B) Under frame arrangement	(C) Centre sill and end sill details
(D) Cross ridge assembly and details	(E) Bolster details	(F) Body structure Assembly
(G) Side-wall Assembly and details	(H) End-wall Assembly and details	(I) End frame construction and details
(J) Hopper arrangement	(K) Hopper details	(L) Door Assembly
(M) Door details	(N) Door mechanism arrangement	(O) Brake diagram
(P) Brake gear arrangement	(Q) Air Brake Equipment and pipe layout	(R) Air brake pipe details
(S) Door operating air pipe layout	(T) Door operating air pipe details	(U) Detailed drawing of wheel
(V) Trial operation procedure P&G test procedure	(W) O&M manuals	(X) As made drawings
(Y) Prototype test procedure		

vi) **PERFORMANCE & GUARANTEE TEST:**

PRE-REQUISITES TO THE P & G TEST:

(A) Pre-requisites by OPGC:

- i) Availability of track hopper to facilitate unloading of wagons in-motion or in stationary condition.
- ii) Adequate supply of coal from mine end to facilitate minimum 5 Nos. unloading operations for all wagons during a maximum period of one week
- iii) Locomotive with driver and adequate supply of compressed air for operation of door mechanism and air brakes.
- iv) Communication System.

(B) Pre-requisites by Vendor:

- i) Stopwatches : 2 Nos.
- ii) Pressure gauges(15kg/cm²) : 2 Nos.
- iv) Measuring tape : 1 No.
- v) Chalk : 1 box.
- vi) Multimeters : 2 Nos.(duly calibrated)
- vii) Deputation of team to site to associate with/conduct P&G tests.

PG TEST PROCEDURE:

- (A) Total number of wagons shall be arrange into lots to form rakes for carrying out P&G tests. Number of wagons in the rakes shall be mutually decided at site, however, number of wagons in a rake shall be as below:
Single-headed rakes - 25 wagons
- (B) Before starting the tests, the rakes shall be handed over to Supplier for conducting trials and any rectification, if found necessary.
If it is not found feasible to detach a defective wagon from the rake formation, identification of the same shall be undertaken before the rake leaves OPGC premises for loading. Such identified defective wagon shall not be considered for P&G test.
- (C) The tests shall be so conducted that each wagon undergoes minimum 5 operating cycles in loaded and empty conditions.
- (D) PG test will be witnessed by the representatives of both OPGC and Supplier. All observations shall be recorded in the specified Performa's and shall be signed in original by each representative.

Each party shall retain one signed original copy.

- (E) If by any reason, the test is suspended/ stopped in between, it shall restart from the very point where it was suspended/ stopped. Process and time for restarting the test shall be mutually decided at site.
- (F) Following data shall be recorded for compliance before commencement of each test run–
Air pressure on first/last wagon : 5kg/cm²
- (G) After unloading the coal, the driver will stop the train beyond track hopper for inspection. After the inspection and recording of necessary data, the train shall be allowed to move. All recordings and data sheets shall be signed by representatives of OPGC and Vendor in the specified

2) TEST DETAILS:

(I) Door Opening - Closing Test:

- (A) It shall be ensured that a minimum of 10 opening/closing cycles are performed on each wagon. Effort should be made to perform all the door opening and closing operations on loaded wagons. If, due to site constraints this is not possible then out of 10 cycles, minimum 5 cycles shall be performed with loaded wagon(s).
- (B) Doors of a wagon shall be considered 'open' if all doors of the wagon are open. Further doors of a wagon shall be considered 'closed' if it's all doors are closed and locked, i.e. door operating resting on the stop position and primary lock closed. Open & close positions shall be clearly marked in the Proforma.
- (C) A minimum of each wagon 10 door opening and 10 door closing cycles for 10 wagons shall be performed.

The failure of door operating mechanism shall not exceed 0.3% in each of the door opening and door closing cycle respectively. It should be ensured that minimum of 10 operations are performed on each wagon.

(II) Unloading Time Test (Coal discharge time):

- (A) During the above test runs with loaded wagons, unloading time of wagons shall also be measured.
- (B) Representatives of OPGC and Supplier will take up positions at any two (2) wagons as identified by OPGC in the rake during every test run. In case normal unloading time of wagons appears to be close to the maximum specified time, more number of wagons in the rake shall be observed for unloading time performance at the sole discretion of OPGC.
- (C) The representatives will take the coal discharge time of wagons starting from impulse given to the wagons till coal discharge ceases.
- (D) ***Coal unloading time shall generally be under 20 seconds and shall not exceed 30 seconds at any time.***

(III) Brake Test:

Application and release of Brake shall be demonstrated with help of locomotive during PG test to the satisfaction of the engineer In charge. The test shall be conducted under such operating conditions (loaded/empty, level, gradient, speed) as desired by engineer In charge. **It should be ensured that each wagon is tested minimum 3 times during the test.** The driver shall be asked to apply brake to full service application and the application of brake shall be physically checked in all wagons and brake cylinder travel shall be noted at random. Once all the wagons have been checked for the brake application, the checking staff from the last wagon shall signal to loco driver to release the brake and thereafter release of brakes in all the wagons shall be checked by observing that the brake cylinder piston has fully retracted to the original position. **Release time of brake after service applications is generally 2½ minutes.**

3) GUARANTEE AND LD FOR SHORT FALL IN PERFORMANCE

The specific performance and guarantee to be established during trial operation and subsequent performance guarantee tests are given below along with liquidated damages to be recovered for the failure to meet these guarantees. If the specified guarantees are not established within the period agreed in P.O. the owner may at his discretion, accept or reject the equipment after assessing the liquidated damages listed herein against the vendor & such amounts shall be deducted from the price.

Guaranteed performance: Penalty for failure

- (A) The door operating mechanism failure, Penalty Rs. 65,000/- per wagon shall be imposed if it exceed for every 0.3%.
- (B) The time for discharge shall not exceed 30 sec : Penalty Rs. 15,000/-per wagon event under for every second or part there of adverse conditions of coal flow increase in unloading time over including time lag in actuation 30 seconds of door actuating mechanism.

4. SCOPE OF WORK

BOQ Item No. 2 & 3

MGR type BOBRN WAGON SUPER STRUCTURE, RDSO Drg No. WD-91071-S-50 with Pick up shoe door opening mechanism arrangement for existing OPGC CASNUB 22 NLB Bogie having spherical central pivot.

Design, engineering, manufacturing, supply, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding of Forty (20) Nos. of Bottom discharge Hopper wagons superstructure,

1. DETAILED SPECIFICATIONS:

Sl. No.	Description	Data/Dimension
1.	TYPE OF WAGON	BOBRN
2.	LENGTH OVER COUPLER FACES	10.6 Meter
3.	OVERALL WIDTH	3500 mm
4.	OVERALL HEIGHT	3735 mm
5.	AXLE LOAD	22.32 T
6.	ALLOWABLE PAY LOAD	63.67 T
7.	GROSS LOAD	89.28 T
8.	NO. OF DISCHARGE GATES	04 NOS
9.	The wagons will be operating on 1676 mm gauge fitted with a PICK UP SHOE electro pneumatically operated door operating mechanism as per RDSO specifications. The commissioning, trial operation and performance guarantee tests will be carried out at OPGC, Banharpali, Jharsuguda MGR system	

i) Procurement to be done from:-

Sl. No.	Description	Known Vendors
1.	DOM Pneumatic cylinder, Spool valve , Pick up shoe and diode etc	From Reputed RDSO/Railway Vendor / supplier

F) OUR EXSISTING BOGIE DATA FOR YOUR INFORMATION FOR SUPPLY OF WAGON SUPERSTRUCTURE		
	Description	UNDER TARE
1	Height of bottom of bogie frame center from R.L	165 mm
2	Distance from R.L to top of Bottom si de bearer	920 mm
3	Distance from R.L to top of Top pivot	930 mm
4	Height of spring	252 mm
5	Journal centers	2260 mm
6	Journal Dia.	144.5 mm
7	Wheel Dia on tread new	1000 mm
8	Dia of wheel seat	210 mm
9	Side bearer clearance	Nil

ii) **DRAWINGS:**

All the drawings should be duly approved by RDSO or OPGC. LIST OF DRAWINGS & MANUALS are mentioned below:

(A) General arrangement	(B) Under frame arrangement	(C) Centre sill and end sill details
(D) Cross ridge assembly and details	(E) Bolster details	(F) Body structure Assembly
(G) Side-wall Assembly and details	(H) End-wall Assembly and details	(I) End frame construction and details
(J) Hopper arrangement	(K) Hopper details	(L) Door Assembly
(M) Door details	(N) Doo mechanism arrangement	(O) Brake diagram
(P) Brake gear arrangement	(Q) Air Brake Equipment and pipe layout	(R) Air brake pipe details
(S) Door operating air pipe layout	(T) Door operating air pipe details	(U) Detailed drawing of wheel
(V) Trial operation procedure P&G test procedure	(W) 0&M manuals	(X) As made drawings
(Y) Prototype test procedure		

2. PERFORMANCE & GUARANTEE TEST:

PRE-REQUISITES TO THE P&G TEST:

(A) Pre-requisites by OPGC:

- i) Availability of track hopper to facilitate unloading of wagons in-motion or in stationary condition.
- ii) Adequate supply of coal from mine end to facilitate minimum 5 Nos. unloading operations for all wagons during a maximum period of one week Locomotive with driver and adequate supply of compressed air for operation of door mechanism and airbrakes for Communication System.

(B) Pre-requisites by Vendor:

- i) Stopwatches : 2 Nos.
- ii) Pressure gauges(15kg/cm²) : 2 Nos.
- iv) Measuring tape : 1 No.
- v) Chalk : 1 box.
- vi) Multimeters : 2 Nos.(duly calibrated)
- viii) Deputation of team to site to associate with/conduct P&G tests.

3) PG TEST PROCEDURE:

- i) Total number of wagons shall be arranged into lots to form rakes for carrying out P&G tests. Number of wagons in the rakes shall be mutually decided at site, however, number of wagons in a rake shall be as below:
- ii) Single-headed rakes - 25 wagons
- iii) Before starting the tests, the rakes shall be handed over to Supplier for conducting trials and any rectification, if found necessary.

If it is not found feasible to detach a defective wagon from the rake formation, identification of the same shall be undertaken before the rake leaves OPGC premises for loading. Such identified defective wagon shall not be considered for P&G test.

- iv) The tests shall be so conducted that each wagon undergoes minimum 5 operating cycles in loaded and empty conditions.
- v) PG test will be witnessed by the representatives of both OPGC and Supplier. All observations shall be recorded in the specified Proforma's and shall be signed in original by each representative. Each party shall retain one signed original copy.
- vi) If by any reason, the test is suspended / stopped in between, it shall restart from the very point where it was suspended / stopped. Process and time for restarting the test shall be mutually decided at site.
- vii) Following data shall be recorded for compliance before commencement of each test run—
 - a. Air pressure on first / last wagon : 5kg/cm²
 - viii) After unloading the coal, the driver will stop the train beyond track hopper for inspection. After the inspection and recording of necessary data, the train shall be allowed to move. All recordings and data sheets shall be signed by representatives of OPGC and Vendor in the Proforma specified at Annexure-I.

4) TEST DETAILS -

A) Door Opening-Closing Test:

- i) It shall be ensured that a minimum of 10 opening / closing cycles are performed on each wagon. Effort should be made to perform all the door opening and closing operations on loaded wagons. If, due to site constraints this is not possible then out of 10 cycles, minimum 5 cycles shall be performed with loaded wagon(s).
- ii) Doors of a wagon shall be considered 'open' if all doors of the wagon are open. Further doors of a wagon shall be considered 'closed' if it's all doors are closed and locked, i.e. door operating resting on the stop position and primary lock closed. Open & close positions shall be clearly marked in the Proforma.
- iii) A minimum of each wagon 10 door opening and 10 door closing cycles for 10 wagons shall be performed.

The failure of door operating mechanism shall not exceed 0.3% in each of the door opening and door closing cycle respectively. It should be ensured that minimum of 10 operations are performed on each wagon.

B) Unloading Time Test (Coal discharge time):

- i) During the above test runs with loaded wagons, unloading time of wagons shall also be measured.
- ii) Representatives of OPGC and Supplier will take up positions at any two (2) wagons as identified by OPGC in the rake during every test run. In case normal unloading time of wagons appears to be close to the maximum specified time, more number of wagons in the rake shall be observed

- for unloading time performance at the sole discretion of OPGC.
- iii) The representatives will take the coal discharge time of wagons starting from impulse given to the wagons till coal discharge ceases.
 - iv) *Coal unloading time shall generally be under 20 seconds and shall not exceed 30 seconds at anytime.*

C) Brake Test:

Application and release of Brake shall be demonstrated with help of locomotive during PG test to the satisfaction of the engineer In charge. The test shall be conducted under such operating conditions (loaded / empty, level, gradient, speed) as desired by engineer In charge. **It should be ensured that each wagon is tested minimum 3 times during the test.** The driver shall be asked to apply brake to full service application and the application of brake shall be physically checked in all wagons and brake cylinder travel shall be noted at random. Once all the wagons have been checked for the brake application, the checking staff from the last wagon shall signal to loco driver to release the brake and thereafter release of brakes in all the wagons shall be checked by observing that the brake cylinder piston has fully retracted to the original position. **Release time of brake after service applications is generally 2½ minutes.**

5) GUARANTEE AND LD FOR SHORT FALL IN PERFORMANCE

The specific performance and guarantee to be established during trial operation and subsequent performance guarantee tests are given below along with liquidated damages to be recovered for the failure to meet these guarantees. If the specified guarantees are not established within the period agreed in P.O. the owner may at his discretion, accept or reject the equipment after assessing the liquidated damages listed herein against the vendor & such amounts shall be deducted from the price.

Guaranteed performance: Penalty for failure

- A) The door operating mechanism failure Rs. 65,000/-to operate shall not exceed for every 0.1% or part thereof exceed 0.3%.
- B) The time for discharge shall not exceed 30 sec Rs. 15,000/-event under for every second or part thereof adverse conditions of coal flow increase in unloading time over including time lag in actuation 30 seconds of door actuating mechanism.

6) DELIVERY SCHEDULE/COMPLETION SCHEDULE

Within twelve (06) months from the date of P.O.

The bidder has to mention the list of sub vendors (for brought items) from whom the bidder has procured for item at sl. no.1 to 8 along with other items at sl. No. 9,10 etc. below.

Sl. No.	Name of outsourcing item	Manufacturer name	Material RDSO No./relevant specification	Drawing No.	Weight of equipment / spares	Size of Equipment
						-
						-

						-
						-
						-

6.0 SELLER'S WORK AND OTHER OBLIGATIONS

6.1 Scope.

From the Effective Date, the Seller shall design, manufacture, procure, pay for, package, obtain necessary permits for and transport and Deliver all the Equipment, Spare Parts and Tools to the Delivery Point. The Seller shall carry out commissioning, installation, testing and start-up of the Equipment according to manufacturers' recommendations (or, if such recommendations do not exist, in accordance with Good Industry Practice), Applicable Laws, the Technical Specification, this Contract, and taking into account foreseeable environmental conditions, as an independent contractor and not as agent for the Buyer. The Seller shall also arrange for all labour required by it in carrying out the Supply, including provision of related services that are required for completion of the Supply in accordance with this Contract and are not explicitly specified as being furnished by the Seller. Unless specifically stated in this Contract, the Supply shall include any work which is implied by this Contract, and all work (whether or not such work is specified in this Contract), that is necessary for the completion and the safe and proper operation of the Equipment. Upon completion of the Supply, the Equipment and all items of the Equipment shall be fit for their intended purpose as defined in this Contract and in the Technical Specification, and shall be free from Defects, whether latent or patent, in design, material, workmanship, and title.

6.2 Work to be performed.

The Seller shall perform, provide and/or procure all things necessary for the safe and successful completion of the Supply and the achievement of the scope of this Contract as specified in Section 6.1. Without limiting the foregoing, the Seller shall perform, provide and/or procure:

1. the Equipment
2. Drawings
3. Spare Parts and Tools

4. O&M Manual, installation manuals, and the other documents described in the Technical Specification
5. Customs documents
6. Technical Advisory Services
7. All other components of the Supply as more particularly described in the Technical Specification, or the terms and conditions set forth in this Contract

6.3 Technical Advisory Services.

As part of the scope of Supply, the Seller shall deploy adequate number of experienced and competent Seller's personnel for adequate time as may be required, covered by insurance (as provided in Section 16), to provide the Technical Advisory Services to: (i) advise the Buyer during the installation, commissioning, testing and start-up (including providing the O&M Manuals, all installation manuals and procedures for commissioning, testing and start-up, in English); and (ii) assist and advise in the repair or operation of the Equipment as may be required till issue of Final Acceptance. The Seller shall be fully responsible for the Technical Advisory Services provided by its personnel. The Seller shall provide classroom and hands-on, on-the-job training and related training materials, in English to the Buyer's personnel, prior to the start of commissioning activities for each Lot separately. The Seller's activities at the Site shall in no way relieve the Seller of any of its obligations under Section 18. For the avoidance of doubt, it is clarified that the Contract Price includes the cost of providing the Technical Advisory Services and the Seller shall not be entitled to any additional amounts for providing such Technical Advisory Services.

6.4 Technical Data and Information.

On the Effective Date, the Seller shall be deemed to have: (i) reviewed this Contract, the Technical Specification and any other documents and requirements provided by the Buyer (including design criteria and calculations, schedules, Drawings, plans, Ambient Conditions and Performance Guarantees); (ii) obtained and taken into consideration any additional information that may impact the Guaranteed Completion Dates, Guaranteed Delivery Dates and the Contract Price; and (iii) given notice to the Buyer of any error, fault or defect found in this Contract (including the Technical Specification) or any other document. The Seller recognizes and accepts that the Buyer is relying on the Seller's skill and judgment and that the Seller is considered to be an experienced supplier. If and to the extent that an experienced supplier exercising due care would be expected to have discovered an error, fault or other defect when examining the Contract, the Technical Specification and/or any other document before submitting its proposal, the remedying of the error, fault or defect shall not result in extension of the time for delivery or adjustment of the Contract Price. No responsibility for costs of remedying any such error or losses consequential to the failure of the Seller to obtain such information prior to the Effective Date will be borne by the Buyer.

6.5 Schedule.

The Seller shall perform its obligations under this Contract in a timely manner, always adhering to the Guaranteed Delivery Dates, the Guaranteed Completion Dates and the Contract Supply Schedule.

6.6 Risk of loss:

Each item of the Equipment shall be delivered to the Buyer at the Delivery Point therefor. The entire risk of loss/damage of any item of Equipment shall remain with the Seller and shall only pass to the Buyer upon 'Lot Acceptance Certificate' independent of the transfer of title as per provision of the Contract.

6.7 Title of Equipment & Document.

6.7.1 Equipment. Title to the Equipment and all materials, supplies and machinery used in connection with the Supply and that become or are intended to become a part of the Supply shall vest in the Buyer upon the earliest of:

1. the occurrence of any event by which, under Applicable Laws, title passes from the Seller;
2. the date of payment therefor by Buyer, notwithstanding any amounts withheld by Buyer in accordance with this Contract;

3. the date that such Equipment, materials, supplies, or machinery are delivered to a shipper for shipment (whether by ship, air, rail, truck or otherwise and whether directly or indirectly) to the respective Delivery Point; or
4. the date that such Equipment, materials, supplies or machinery is Delivered to the relevant Delivery Point;
5. the date that such Equipment, materials, supplies or machinery has achieved Final Acceptance and the Seller has received the Final Acceptance Certificate; or
6. the date of termination of this Contract.

Title to Drawings, design, plans, specifications, other documents and like materials specifically prepared by the Seller as part of the Supply under this Contract will remain with Seller. The Seller grants to the Buyer an irrevocable, perpetual, non-exclusive, royalty-free, and fully assignable (without need of Seller's consent) right to use and reproduce any or all Drawings, designs, plans, specifications and similar materials specifically prepared as part of the Supply and other design documentation necessary or useful for the purpose of constructing, operating, maintaining, rebuilding, or modifying the Facility (the "Specification Rights"). This applies to the subcontractors secured by Seller on Buyer's behalf, if any. As and when required or upon termination of the Contract, the aforesaid documents including indigenous make reproducible shall be handed over to the Buyer.

6.7.2 Clear Title. Title to all Equipment, Spare Parts and Tools shall be transferred to Buyer free and clear of all Liens, charges, limitations or other encumbrances.

6.8 O&M Manual.

Not less than sixty (60) days prior to the commencement of delivery from Seller's manufacturing facilities, Seller shall prepare in individually bound volumes and deliver to Buyer two (2) hard copies and an electronic version (in both native and read only (.pdf) format) of a draft O&M Manual. The Buyer will review the draft O&M Manual and may provide Seller with comments. The Seller shall incorporate or address all of the Buyer's comments to the draft O&M Manual to the reasonable satisfaction of the Buyer within 15 days of receipt of the Buyer's comments and provide the Buyer with required number of hard copies as per this Contract and an electronic version (in both native and read only (.pdf) format) of such revised O&M Manual. Notwithstanding the review and approval of the O&M Manual by the Buyer, the Seller shall be solely liable for any deficiencies, inaccuracies, errors or shortcomings in the O&M Manual.

6.9 Site Rules & Safety.

The Seller and the Subcontractors performing the Supply shall be responsible for compliance with and enforcement of the Safety Requirements. The employees of Seller and the Subcontractors shall at all times comply with the Safety Requirements governing fitness for duty, security, protection of the public, and the facilities on the Buyer's premises. It shall be Seller's responsibility to ensure that each such employee receives, reads and understands the Safety Requirements upon their deployment at the Site. The Buyer will have the right to modify or change the Safety Requirements at any time and the Seller shall ensure that its and its Subcontractors' employees are always fully aware of the modified Safety Requirements. The Seller shall be responsible for providing safety helmets, ear protection, harnesses and other required safety equipment for the security, protection and safety of all of its and its Subcontractor's personnel. All such safety equipment shall comply with the Buyer's Site work rules and Safety Requirements. The Seller shall also be responsible for the security, protection and safety of all Persons performing or in the area during Seller's performance of any portion of the Supply. The Buyer retains the right to stop the Supply at the Site (either partially or completely) if, in the Buyer's sole opinion, the Seller is in violation of the Safety Requirements. In the event of such cessation of any Supply at the Site, the Seller shall not resume performance of the Supply except upon written instructions from the Buyer. The Seller shall not be entitled to any relief in Contract Price or the Contract Supply Schedule or any Guaranteed Delivery Date or Guaranteed Completion Date on account of any suspension of the Supply obligations due to a violation of the Safety Requirements.

6.10 Hazardous Substances.

6.10.1 Generally. The Seller shall not bring, create, or release any Hazardous Substance on the Site, nor shall it exacerbate, increase or enlarge the release of a Hazardous Substance on the Site. The Seller shall comply with all the Safety Requirements regarding the clean-up, removal, and disposal of any Hazardous Substance brought onto, created, released, exacerbated, increased or enlarged on the Site during the performance of the Supply. Neither the Supply nor any of the Equipment or materials shall contain:

1. any asbestos containing materials ("ACM");
2. any polychlorinated biphenyls ("PCB");
3. any urea formaldehyde foam insulation, paints and/or coatings containing lead, instruments and/or control equipment containing mercury
4. any materials that could cause air radiation levels exceeding four (4) picocuries/liter;
5. any ozone depleting substances (as defined by the 1987 Montreal Protocol);
6. any sulphur hexafluoride ("SF6") except to the extent absolutely necessary; or
7. Chemicals or other like materials not accompanied by a material safety data sheet.

6.10.2 No Change Order. Seller shall not be entitled to a Change Order for any violation of its obligations under this Section.

6.11 Non-Interference.

6.11.1 In performing the Supply, Seller shall not interfere with Buyer's ongoing operation and maintenance of the Existing Plant and related activities on (as well as access to) the Existing Plant site and Buyer's ongoing construction activities of New Plant, except in strict compliance with the terms and the procedures for coordinated interface to be established by Buyer and communicated to Seller. If any Supply undertaken by or on behalf of any Seller Person in connection with this Contract interferes or is reasonably likely to interfere with such ongoing operations of Buyer, Buyer may demand, by written notice to Seller, that such Seller Person cease (and, if applicable, cause any Seller Persons to cease) any and all such activities causing such interference, in which case Seller shall forthwith cease such activity. Buyer shall not be obligated hereunder to shutdown, start-up, reduce, increase or otherwise interfere with its operation and maintenance of the Existing Plant as a direct or indirect result of Seller's performance of the Supply.

6.11.2 In addition to and without in any way limiting or modifying the terms of Section 6.11.1, Seller shall prevent any Lien arising in connection with the performance of the Supply from attaching to the Existing Plant, New Plant, the Merry Go Round or the Site, and if the Seller fails to prevent any such Lien from arising, the Seller shall at its own cost defend the Buyer's title and promptly remove and discharge such Lien.

6.11.3 Progress Reports and Meetings. On a monthly basis or more frequently if the Buyer determines that Supply conditions so require, the Seller shall provide to Buyer a monthly progress report of actual progress of the Supply (each, a "Monthly Progress Report"). Each Monthly Progress Report shall be submitted to the Buyer on or before the mutually agreed date. The Seller shall hold progress meetings with Buyer, Buyer's Representatives and their respective invitees on a quarterly basis or more frequently if required by the status of the Supply or as reasonably requested by the Buyer.

7.0 BUYER'S OBLIGATION

7.1 Payment of the Contract Price.

Buyer will make payments of the Contract Price in accordance with Section 10, subject to the terms and conditions of this Contract

7.2 Buyer's Representative.

Buyer shall appoint an engineer-in-charge or other representative who shall have the experience and authority to administer this Contract on behalf of Buyer ("Buyer's Representative") and notify Seller in

writing of Buyer's Representative's name, address, email address, facsimile and telephone number within fifteen (15) days after the Effective Date. Buyer may, at any time, change the Buyer's Representative; provided that Buyer shall promptly notify Seller in writing of such change. Seller shall comply with all instructions issued by Buyer's Representative. Buyer's Representative will coordinate with Seller on all matters/activities relating to this Contract and may also notify additional personnel for specific works.

7.3 Buyer's Personnel

Buyer will, at its cost, provide the personnel for the installation, commissioning, testing and start-up of the Equipment. At Buyer's option, such personnel may be provided by other contractors. Buyer's personnel will, subject to completing training, install, commission, test, start-up and operate the Equipment under the direction and supervision of Seller's technical advisors. Upon Buyer's request, Seller shall provide Buyer with a detailed list of required labour for commissioning, testing and start-up of the Equipment. Buyer's performance of installation, commissioning, testing and start-up shall not affect the Seller's obligations under Section 18(Seller's Warranty).

8.0 BUYER'S RIGHTS

8.1 Design Review.

Seller shall provide to Buyer the Drawings and relevant calculations. Buyer shall have the right to review the Drawings and calculations within fifteen (15) days of receipt of the Drawings and calculations from the Seller. Buyer's review of the Drawings and calculations or its failure to review the Drawings and calculations does not relieve Seller of its obligation to ensure that the Equipment complies with the Technical Specifications and to fulfil the requirements of this Contract, nor is it to be construed as acceptance of such Drawings or the Equipment by the Buyer.

8.2 Inspections and Tests at Seller's Facilities.

On reasonable request, Buyer's Representative shall be provided reasonable access to Seller's facilities to obtain information on production progress, inspect the Equipment, observe tests and review test results. Such access will be limited to areas where the Equipment is being manufactured, fabricated or assembled and shall not include restricted areas where work of a proprietary nature is being conducted. Buyer's inspection of the Equipment at the Seller's facilities, observation of the tests and/or review of the test results or its failure to do any of these does not relieve Seller of its obligation to ensure that the Equipment complies with the Technical Specifications and to fulfill the requirements of this Contract, nor is it to be construed as an acceptance of the Equipment or the test results by the Buyer.

9.0 DELIVERY SCHEDULE

The Delivery of all the Equipment comprising the Wagons and completion of the related Technical Advisory Services shall be in accordance with the Contract Supply Schedule.

10.0 CONTRACT PRICE

10.1 Contract Price.

Subject to the terms and conditions set forth in this Contract, the Buyer agrees to pay to Seller for the completion of the Supply, a lump sum price as under:

INR _____ per Wagon ("Basic Price of Wagon") for the Supply, including the Equipment, engineering, Technical Advisory Services and inter alia. Taxes, freight, insurance and other charges would be payable by the Buyer as per provision of this Contract.

10.2 Sole Consideration.

Except as may be modified by a Change Order, the Contract Price is the full price and consideration for all Supply, including the Equipment, Technical Advisory Services and all costs of delivery of the Spare Parts and Tools to their respective Delivery Points.

10.3 Payment Conditions.

Seller shall be paid upon submission of proper invoices and supporting documents, by wire transfer to the account designated by Seller in accordance with the Payment Schedule or as otherwise provided under this Contract. Wire transfer instructions will be provided on every invoice issued by Seller.

Buyer will make undisputed payments to Seller within thirty (30) Business Days of receipt of Seller's acceptable original invoice. Seller shall not provide an invoice for any payment prior to completion of the applicable payment milestone set forth in the Payment Schedule. Any concerns of Buyer regarding an invoice shall be addressed promptly by Seller to Buyer's satisfaction.

10.4 Withholding to Protect Buyer from Loss.

Notwithstanding anything to the contrary in Section 10, the Buyer may withhold all or any portion of any payment for which an invoice has been raised by the Seller to such extent as may be necessary in the buyers reasonable opinion to protect buyer from any loss due to:

- i. Seller's failure to perform the Supply in accordance with this Contract;
- ii. Seller's failure to fulfill any of its other material obligations under this Contract;
- iii. Defective or incomplete Work by Contractor or any of its Subcontractors;
- iv. Claims filed by third parties arising out of Contractor's performance of the Work
- v. Damage to Buyer caused in whole or in part by any Contractor Person
- vi. Failure by Contractor to validly maintain in full force and effect the Advance Payment Security or the Performance Security required by this Contract.
- vii. Failure of Contractor to submit necessary tax invoices/challans or any other data required by Buyer to claim credit or avail of any other fiscal benefit under Applicable Laws
- viii. A Contractor Event of Default that has occurred and is continuing.

Upon withholding any amounts under this Section, Buyer shall promptly notify Contractor of the amount withheld and the cause for such withholding.

11.0 TAXES & DUTIES

- a) GST as applicable shall be paid.
- b) All payment with respect to Taxes will be made on submission of relevant proofs of payment to the relevant Government Authority. The Buyer is entitled to deduct tax at source (TDS) as may be required under Applicable Laws from the payments to be made to the Seller. The Buyer shall issue TDS Certificates to the Seller for the amount of TDS, within the timelines set out under Applicable Laws.
- c) If after the Bid Submission Date, the rates of any Taxes are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of this Contract, which was or will be assessed on the Seller in connection with performance of the Contract, an adjustment of the Contract Price shall be made to fully take into account the exact quantum such change on the Contract Price by addition to the Contract Price or deduction there from, as the case may be. This shall be applicable only for the Seller's output taxes i.e. taxes levied by the Seller on sale of the Equipment and exclude any change in input taxes of Seller.
- d) Buyer's Taxes

The Buyer shall be responsible for the administration and payment (except to the extent subject to a good faith contest) of:

- i. any property Taxes in connection with the Buyer's property;
- ii. all corporate income Taxes with respect to Buyer's profits;
- iii. any stamp duties levied on this Contract; and
- iv. All Taxes related to employment of Buyer's personnel.

12.0 INSPECTION AND TESTS

- a) All materials shall be inspected as per provisions of Technical Specification.

- b) Factory Testing. Prior to shipping any item of Equipment from such item's manufacturing facility, Seller shall perform all tests necessary to demonstrate whether such item of Equipment meets or exceeds the performance parameters set. All Factory Tests are to be conducted in accordance with the Technical Specification, Applicable Laws and Good Industry Practices. Buyer shall have the right to witness such Factory Tests. Seller will coordinate the scheduling of the Factory Tests with the Buyer as provided in this Section. Seller will provide Buyer with a written notice at least fifteen (15) days prior to the date of the planned start of any Factory Tests. In the event the performance parameters set out in the Technical Specifications are not met in the Factory Tests, the Seller shall rectify any Defects in the Equipment, at its own risk and cost, and repeat the Factory Tests until the performance parameters set out in the Technical Specifications are met to the satisfaction of the Buyer. For any repeat Factory Test that may be undertaken, the Seller will provide the Buyer a written notice of no less than seven (7) days prior to the date of the planned start of such repeat Factory Tests.
- c) For all cases where pre-dispatch inspection is stipulated in the Technical Specification, the materials shall be inspected prior to dispatch by the Buyer for which an advance notice of fifteen (15) days shall be given by the Seller. In such cases, no material shall be dispatched without inspection unless specific waiver/exemption is communicated in writing by the Buyer to the Seller. In all cases the necessary test certificates and guarantee certificate in respect of material/equipment performance shall be furnished along with dispatch documents. However, the final inspection of material shall be done at the Site and acceptance of materials is subject to Lot Acceptance or Final Acceptance as per provision of Section 13.0.
- d) Site inspection and testing on receipt of the equipment at the site. Upon Delivery of any item of Equipment to its Delivery Point, Buyer will inspect and perform, under supervision of the Seller's technical advisors and in accordance with the Technical Specification and this Contract, the inspections and tests necessary to demonstrate that the Equipment has not suffered any damage during shipment and that the Equipment is functional and fit for its intended purpose. All tests are to be conducted in accordance with Applicable Laws, Technical Specification and Good Industry Practices.
- e) If upon Delivery of any Equipment or material, whether inspected and approved by the Buyer earlier or otherwise, the Equipment or material is not in conformity with the Technical Specification, such Equipment or material shall be rejected by the Buyer or his duly authorized representative and notification to this effect will be issued to the Seller within Ninety (90) days from the date of receipt of the equipment or material at the relevant delivery point.
- f) The Seller shall arrange for removal of the rejected Equipment or material within fifteen (15) days from the date of issuance of notification under sub-clause (c) above. In the event, the Seller fails to lift/remove the Equipment or materials within the said fifteen (15) days, the Buyer shall be at liberty to dispose of such rejected Equipment or materials in any manner as it may think fit. All expenses/losses incurred by the Buyer in disposing of the rejected Equipment or materials shall be recoverable from the Seller.

13.0 ACCEPTANCE OF EQUIPMENT

13.1 Criteria for Acceptance: The Buyer shall accept when all of the following conditions have been met.

1. A Performance Test has been completed in accordance with Section 14.1 in which all the comprising to achieve or exceed the Performance Guarantees;
2. All the Wagons are mechanically and electrically sound, available for operation and capable of safe and reliable operation in accordance with the Technical Specifications, all Applicable Laws and can be used for their intended purposes in accordance with all Applicable Laws;
3. Seller has delivered to Buyer printed copies and electronic version (in both native and read only (.pdf) format) of all Drawings, final O&M Manual and other documents as required under this Contract
4. If during the commissioning or the Performance Tests, Seller, subject to Buyer's review, made certain temporary adjustments or modifications to any item of Equipment in order to allow and achieve the Performance Guarantees during the Performance Tests, then Seller has made those

modifications permanent to such items of Equipment so that the wagon can achieve equivalent performance levels during subsequent commercial operation, consistent with Good Industry Practice;

5. Seller has paid Buyer all Liquidated Damages, if any, and all other amounts required to be paid under this Contract for each wagon and

For each wagon, upon the completion of all the conditions set out in sub-clauses (1) to (5) above, the Seller shall issue a notice to the Buyer containing sufficient details to enable the Buyer to determine whether the requirements set out in sub-clauses (1) to (5) above have been met. Within thirty (30) calendar days of receipt of a notice from the Seller, the Buyer will inspect and (a) issue a certificate of acceptance ; or (b) notify the Seller in writing that the requirements specified in sub-clauses (i) to (v) above have not been achieved, stating the reasons therefor. In case of (b) the Seller shall take all necessary steps to satisfy the requirements specified above, including remedying any Defects in the Equipment and re-issue a notice to the Buyer. This process shall continue until the Buyer has issued Acceptance Certificate. For the avoidance of doubt, it is clarified that issuance of a Acceptance Certificate shall not excuse or relieve the Seller of any of its obligations under this Contract, including its obligations to rectify any Defects in the Equipment during the Warranty Period.

13.2 Criteria for Final Acceptance.

Final Acceptance of the Equipment shall be achieved when all of the following conditions have been met.

- i. Seller has performed all of the Supply including Spares Parts and Tools and all the Equipment has been Delivered in a mechanically and electrically sound condition, is fit for its intended purpose and capable of safe and reliable operation in accordance with the Technical Specifications and Applicable Laws;
- ii. Buyer has delivered to Seller the Acceptance Certificates .

Upon the completion of all the conditions set out in sub-clauses (i) and (ii) above, the Seller shall issue a notice to the Buyer. Within thirty (30) calendar days of receipt of a notice from the Seller, the Buyer will either: (a) issue a certificate of acceptance of all the Equipment and completion of the Supply ("Final Acceptance Certificate"); or (b) notify the Seller in writing that the requirements specified in sub-clauses (i) and/or (ii) above have not been achieved, stating the reasons therefor. In case of (c), the Seller shall take all necessary steps to satisfy the requirements specified above, including remedying any Defects in the Equipment and re-issue a notice to the Buyer. This process shall continue until the Buyer has issued the Final Acceptance Certificate. The issuance of the Final Acceptance Certificate shall signify the Final Acceptance of the Supply by the Buyer. For the avoidance of doubt, it is clarified that issuance of the final acceptance certificates shall not excuse or relieve the seller of its obligation to rectify any Defect in the equipment during the warranty period.

14.0 PERFORMANCE TESTING & GUARANTEES

14.1 Performance Testing. The Buyer and Seller jointly will perform all tests necessary to demonstrate whether the Equipment meets or exceeds the Performance Guarantees (the "Performance Tests"). All Performance Tests are to be conducted in accordance with the Performance Testing Procedures, Applicable Laws, Good Industry Practices. All Performance Tests will be adjusted in accordance with the Site conditions and the Performance Testing Procedures. Performance Tests shall be carried out as per requirement on their receipt at Site. Seller shall submit a Performance Testing Procedures consistent with Technical Specification, Applicable Laws, Good Industry Practices to Buyer for review at least 30 days before commencing delivery of First Lot. Buyer shall review the provide comments to Seller. Buyer and Seller shall mutually agree on the Performance Testing Procedure consistent with Technical Specification, Applicable Laws, Good Industry Practices for demonstration of compliance with Performance Guarantee Parameters.

14.2 Timing and Scheduling of Performance Tests. The Buyer will coordinate the scheduling of the Performance Tests as provided in this Section. The Buyer will provide the Seller with written notice at least fifteen (15) days prior to the date of the planned start of such Performance Tests. For any repeat Performance Test that may be undertaken, the Buyer will provide the Seller written notice no later than forty-eight (48) hours prior to the time of the planned start of such Performance Test. The Seller will ensure that appropriately skilled, experienced and technically qualified personnel are present during each Performance Test for providing the Technical Advisory Services required for conducting the Performance Tests.

14.3 Completed Performance Tests. Promptly after the first Performance Test in which the Equipment simultaneously meets or exceeds each of the Performance Guarantees, the Buyer shall notify the Seller thereof in writing. Such notice will be accompanied by a written report of all such Performance Test results. In the event that the Equipment fails to satisfy simultaneously the Performance Guarantees, Seller will promptly undertake such remedial action or work necessary for the Equipment to satisfy the Performance Guarantees, at its own cost and risk, and the Performance Tests shall be repeated upon completion of the remedial work. Such procedure shall be diligently repeated until the Equipment satisfies all of the Performance Guarantees or Seller determines that the Equipment Supplied cannot meet the Performance Guarantees. In case of Seller's determination of Equipment's non-compliance with the Performance Guarantees specified herein, the Seller shall notify to Buyer the demonstrated values of the performance parameters. If the demonstrated values informed by Seller are not acceptable, Buyer in its sole discretion will reject the Equipment and Seller will have to remove the Equipment from Site within 15 days of such notice. In case, Buyer accepts the demonstrated values, Performance Liquidated Damages specified herein would be payable by Seller.

14.4 Performance Guarantees. The Seller guarantees to the Buyer that, when tested in accordance with the Performance Testing Procedures, the Equipment shall achieve each of the performance guarantees set forth as per RDSO/OPGC.

14.5 "Performance Liquidated Damages"

The Seller shall pay any Performance Liquidated Damages within fifteen (15) days after receipt of written notice from the Buyer requesting payment thereof. The Seller shall pay the Performance Liquidated Damages without deduction, set off or counterclaim. The Parties agree that the Performance Liquidated Damages are a genuine and reasonable pre-estimate of and reasonable compensation for the losses and damages that will be suffered by the Buyer in the event the Equipment does not achieve the Performance Guarantees and the Seller irrevocably undertakes that it will not, whether by legal proceedings or otherwise, contend that the amount of the Performance Liquidated Damages is not reasonable. The Buyer shall have the right to deduct from any payment otherwise due to Seller any Performance Liquidated Damages that are due and remain unpaid by the Seller or to invoke the Performance Security to recover any such Performance Liquidated Damages.

14.6 Exclusive Remedy. Payment of Performance Liquidated Damages by the Seller shall constitute the Seller's sole and exclusive liability and the Buyer's sole and exclusive remedy for the Equipment's failure to achieve the Performance Guarantees.

15.0 DELAY LIQUIDATED DAMAGES.

If the Seller fails to Deliver to the Buyer any item of the Equipment at the relevant Delivery Point on or before the relevant Guaranteed Delivery Date and such failure is not due to an event of Force Majeure or an act or omission of the Buyer, the Seller shall pay as liquidated damages (the "Delay Liquidated Damages") at the rate specified. Delay Liquidated Damages, if any, shall be computed from the applicable Guaranteed Delivery Date until and including the actual date of Delivery of the Equipment at the relevant Delivery Point. Seller shall pay the Delay Liquidated Damages within fifteen (15) days after receipt of written notice from the Buyer requesting payment thereof. Seller shall pay such amounts without deduction, set off or counter claim. The Parties agree that the Delay Liquidated Damages are a genuine

and reasonable pre-estimate of and reasonable compensation for the losses and damages that will be suffered by the Buyer in the event of any delay in the Supply of the Equipment and the Seller irrevocably undertakes that it will not, whether by legal proceedings or otherwise, contend that the amount of the Delay Liquidated Damages is not reasonable. Payment of Delay Liquidated Damages by Seller shall constitute Seller's sole and exclusive liability and the Buyer's sole and exclusive remedy for Seller's failure to deliver to Buyer any item of Equipment on or before the Guaranteed Delivery Date related thereto. Buyer shall have the right to deduct from any payment otherwise due to Seller any Delay Liquidated Damages that are due and remain unpaid by Seller or to invoke the Performance Security to recover such Delay Liquidated Damages. The payment of the Delay Liquidated Damages shall not relieve the Seller from its obligation to complete the Supply or from any of its other obligations under this Contract.

16.0 INSURANCE

Seller shall, at its sole cost and expense, obtain, maintain and keep in full force and effect during the term of this Contract insurance in accordance with, and meeting the requirements set forth in Section 16.1, and shall require its Subcontractors performing the Supply to do the same.

16.1 Required Insurance.

- a) **Workmen Compensation/Employer's Liability Insurance.** During the term of this Contract, Seller shall maintain, as required by applicable laws, statutes and local standards of the state, territory, province or country exercising jurisdiction over the Supply and by the laws of each employee's country of origin to the extent that such limits/benefits exceed those required by the state, territory, province or country exercising jurisdiction over the Facility, worker's compensation or employee compensation and/or employer's liability insurance. Policies shall also include coverage for benefits required by any labour agreements affecting Seller and the Supply under this Contract. If occupational diseases are not compensable under such laws and statutes, they shall be covered under the employer's liability section of the insurance policy.
- b) **General Liability and Automobile Insurance.** During the term of this Contract, Seller shall maintain the following insurance coverage at its own expense to protect its own interests: (i) commercial general liability insurance, in broad form, either per occurrence or effective for at least three (3) years after the expiration of this Contract, that includes coverage for contractual liability, bodily injury and third party property damage, with adequate limits; and (ii) automobile liability insurance covering all owned, non-owned, and hired automobiles used by it in connection with the work, if any. The foregoing commercial general liability insurance policies shall contain waivers of subrogation in favor of Buyer.
- c) **Transit and Storage Insurance.** At all times during the period from the Effective Date of this Contract to the date on which Buyer delivers the Final Acceptance Certificate, Seller shall maintain marine/inland cargo transit and storage insurance covering any and all materials and equipment intended to form a part of the Equipment. Such insurance shall provide a limit not less than 100% of the replacement value of the largest single shipment plus freight and insurance.

16.2 Failure to Maintain Insurance.

Coverage shall be maintained for the duration of the Supply until issuance of the Final Acceptance Certificate. If at any time Seller fails to maintain insurance complying with the requirements of this Contract in full force and effect: (i) Seller shall be responsible for any resulting losses or costs sustained by Buyer and shall hold Buyer harmless from actions brought against Buyer as the result of the absence of the required insurance; and (ii) Buyer shall not be required but may elect to do any of the following: (A) immediately suspend all or a portion of the Supply; (B) provide for such insurance itself and deduct the costs from any amounts owed to Seller; or (C) pursue such other remedies as may be allowed by Applicable Law.

16.3 Insurance Certificates.

If requested by Buyer, copies of the insurance policies shall be provided by Seller. Copy of the transit insurance policy shall be provided before commencement of dispatch of the any equipment.

17.0 CHANGE ORDERS

17.1 Buyer-Initiated Changes.

Buyer shall have the right to request Seller for changes to the Supply including modifications, alterations or additions and to the Contract Supply Schedule by notifying the Seller of such change in writing. Within fifteen (15) days after receipt of such notice (unless otherwise extended by mutual agreement), Seller shall advise Buyer of the feasibility of the requested change, and shall submit to Buyer a draft Change Order. Should Seller become aware of circumstances that would require any changes in the scope of the Supply, the Seller shall notify Buyer of such circumstances promptly and submit a draft Change Order.

17.2 Contents of Draft Change Order.

The draft Change Order shall include: (i) a technical description of the proposed change in such detail as Buyer may reasonably require; (ii) a lump sum firm price adjustment (increase or decrease) in the Contract Price, if any, caused by the proposed change; (iii) all potential effect(s), if any, on the Guaranteed Delivery Dates, or any other dates for performance by Seller hereunder, caused by the proposed change; and (iv) all potential effect(s), if any, on Seller's ability to comply with any of its obligations hereunder, including Seller's warranties and performance guarantees, caused by the proposed change.

17.3 Process for Concluding Change Order.

Buyer shall, within ten (10) business days from the date of receipt of such information, either approve or disapprove the draft Change Order, in writing, make changes to it or request additional time to consider the draft Change Order. If Buyer approves the draft Change Order, Buyer and Seller shall then sign the Change Order, which shall operate as an amendment to this Contract.

17.4 Dispute.

All changes under this Contract shall be subject to mutual agreement, and no Change Order will be effective until signed by both Parties. Disputed Change Orders will be subject to the dispute resolution provisions contained in Section 24.5. Without prejudice to the Buyer's rights under Section 17.5, during the period of dispute resolution with respect to a Change Order, the Seller will perform the Supply as described in this Contract and in accordance with any previously agreed Change Orders.

17.5 Continued Performance Pending Resolution of Disputes.

Notwithstanding and pending resolution of any Dispute with respect to a Change Order, Seller must proceed, upon written notice from Buyer, with the performance of any work associated with the disputed Change Order.

17.6 Limitation on Changes. Notwithstanding any other provision of this Section 17, the Seller shall not be entitled to a Change Order to the extent any change or alteration in the Supply is, in the sole opinion of the Buyer, necessitated:

- a. (in whole or in part) by: (i) the action or inaction of any Seller Person (including as a result of any error or omission); or (ii) Seller's or any Subcontractor's performance of the Supply; or
- b. by the Seller's failure to deliver to Buyer any item of Equipment at the Delivery Point on or before the Guaranteed Delivery Date related thereto or the increase in the Contract Price is caused by or attributable to Seller or any Subcontractor.

If any Change Order is necessitated in part by an event or circumstance described in the preceding sentence and some other event or circumstance for which Seller would be entitled to a Change Order pursuant to this Section 17, the Seller shall be entitled to a Change Order to the extent caused by such other event or circumstance, based on the relative percentages of causation.

17.7 Buyer's Right to Offset Changes.

Whenever it is determined that any change to the Supply will require an extension of any Guaranteed Delivery Date or Guaranteed Completion Date, the Buyer may, at its sole discretion and to the extent possible, elect to offset all or any part of such extension with other changes to the Supply that will maintain the Guaranteed Delivery Dates and the Guaranteed Completion Date. Whenever it is determined that any change to the Supply will require an increase in the Contract Price, the Buyer may at its sole discretion and to the extent possible, elect to offset all or any part of such increase with other changes to the Supply that will maintain the Contract Price.

18.0 SELLER'S WARRANTIES

18.1 Warranty Period.

Seller shall warrant each Equipment and all related work on the terms set forth herein from the Effective Date until expiry of eighteen (18) months from the date of issuance of Acceptance Certificate or expiry of twenty four (24) months from the date of Delivery, whichever is earlier, (the "Warranty Period").

18.2 Warranty.

Seller warrants to Buyer that during the Warranty Period: (i) the Equipment shall be fit for its intended purpose and shall be free from all Defects, whether latent or patent, in design, material, workmanship and title; (ii) the Supply shall be performed in accordance with this Contract using reasonable care and in compliance with the Technical Specification, Applicable Laws and Good Industry Practices; and (iii) all Equipment Delivered under this Contract shall be new, made using new materials and of good quality.

18.3 Remedy.

If the Equipment does not meet any warranty in Section 18.2 during the Warranty Period, Buyer shall promptly notify Seller in writing of the warranty claim and Seller shall, at its own expense and as soon as practical, remedy the Defect in the Equipment, including replace any Defective parts and install acceptable spare parts, and otherwise complete any work required to satisfy its warranty obligations. The Seller shall be responsible for: (i) payment of any customs duties or similar levies which may be assessed as a result of the shipment of any replacement parts; (ii) the transportation, storage and testing of Equipment undergoing warranty repairs; (iii) all expenses (including travel, food and lodging) of technical personnel provided by the Seller; and (iv) all costs and expenses associated with the correction, removal or repair of any damage to the Equipment that arises from the Defect and testing or any repaired or replaced Equipment. The condition of any tests shall be mutually agreed upon and the Seller shall be notified of and may be represented at, all tests that may be conducted on the repaired or replaced Equipment. In the event the Seller fails to remedy any Defect in the Equipment within a period of 60 days from the issuance of the notice of the warranty claim, the Buyer, at its own discretion, may take required steps to remedy such defects including appointment of a Third party for remedying/rectifying such defects, at the sole risk and cost of the Seller.

18.4 Warranty on Remedial Work.

Any repaired or replacement part furnished under this Warranty shall carry warranties on the same terms as set forth above, except that the warranty period shall be either: (i) the remaining balance of the original Warranty Period; or (ii) a period of twelve (12) months from the date of the Buyer's acceptance of such repaired or replacement part (which acceptance shall not be unreasonably withheld), whichever period shall end later.

18.5 Warranty Period for Latent Defects.

Notwithstanding anything in Section 14.4 to the contrary, if following the end of the Warranty Period, Buyer observes or discovers any error, omission, defect or deficiency in the Equipment that was not revealed to Buyer during the Warranty Period despite Buyer's exercise of reasonable due diligence in operating the Equipment, the Warranty Period shall be extended to effect the repair or replacement of

such Equipment ; provided that notice of such error, omission, Defect or deficiency shall have been given to the Seller within five (5) years (or such longer period as may be required by law) following the date of issuance of the Final Acceptance Certificate.

18.6 No Liens or Encumbrances.

Seller further warrants and guarantees that it shall at no time exercise any lien over the Equipment for any reason whatsoever including non-payment of any amount due to it under this contract. Further the Seller hereby warrants and guarantees that title to the Equipment shall pass to the Buyer free and clear of all claims, Liens, security interests and other encumbrances, and the Equipment shall not be procured by the Seller subject to any agreement under which a security interest or other Lien or encumbrance is retained by any Person.

18.7 Exclusions.

Seller does not warrant the Equipment or any repaired or replacement parts against normal wear and tear, including normal wear and tear due to environment or operation; provided that nothing contained in this sentence shall relieve Seller of its warranty obligations to the extent the Equipment is not manufactured in accordance with the Technical Specifications.

18.8 Time Limitations.

The Parties acknowledge that the Warranty Period relates only to the specific obligation of Seller to cure Defective Equipment and has no relationship to the time within which Buyer may seek to enforce, or commence proceedings to establish Seller's liability with respect to Seller's obligation to comply with this Contract.

18.9 No other warranties.

Except as otherwise expressly provided in this Contract, the preceding paragraphs of this Section 18.04 set forth the exclusive remedies for all claims made after the date of Final Acceptance based on failure of or Defect in the Equipment and any other work performed under this contract, whether the failure or Defect arises before or during the Warranty Period and whether a claim, however instituted, is based on contract, warranty, tort (including negligence), strict liability or otherwise (but explicitly excluding claims for indemnification, fraud, material misrepresentation, bad faith or wilful misconduct on the part of Seller).

18.10 Notices for Warranty Matters.

For warranty purposes, communications from Buyer to Seller may be sent by electronic mail, and later ratified in writing, to the following address of OPGC.

For purposes of notices in connection with warranty matters, Seller shall keep Buyer informed on any change of address.

19.0 INTELLECTUAL PROPERTY.

19.1 Generally.

Seller represents and warrants that it owns, or is licensed to use, all Intellectual Property necessary for the conduct of its business as currently conducted, free of all Liens. Seller shall own or have the right to use all Intellectual Property comprised in the Equipment or used in the performance of its obligations under this Contract, and Seller represents and warrants that such Intellectual Property does not infringe, misappropriate, dilute or otherwise violate the Intellectual Property rights of any Person. Seller shall take all reasonable actions (including executing non-disclosure or Intellectual Property assignment agreements with past and current employees and Subcontractors and filing for statutory protections) to protect, preserve, police and maintain its Intellectual Property, including any thereof that is confidential in nature.

19.2 Royalties and License Fees.

Seller shall pay all royalties and license fees, if any, for materials, apparatus, methods, processes, systems, software or other Intellectual Property rights acquired or used by Seller or any Subcontractor for

incorporation into the Equipment or otherwise in connection with the performance of its obligations under this Contract.

19.3 No Infringement.

In performing the Supply, neither Seller nor any Subcontractor shall incorporate into or use any material, apparatus, method, process or system that infringes, misappropriates, dilutes or otherwise violates the Intellectual Property rights of a third party or involves the use of any confidential information, Intellectual Property or other proprietary right that Buyer or Seller does not have the right to use or that may result in a claim or suit against either Party arising out of claims of infringement, misappropriation, dilution or other violation of any domestic or foreign patent right, copyright, trade secret or confidential information, or any other Intellectual Property right.

19.4 Licenses.

19.4.1 Generally.

Seller hereby grants, and shall cause each Subcontractor to grant, a fully-paid, non-exclusive, royalty-free, perpetual, transferable, irrevocable right and license to Buyer under or to any and all Intellectual Property rights of Seller and the Subcontractors in connection with the Equipment and the Supply, including the O&M Manual, manufacturer's specifications, Drawings and all other documents that are submitted by the Seller in connection with the Supply to allow Buyer to fully use the Equipment and the Spare Parts and Tools including the operation, repair, maintenance, modification, expansion, and if necessary, reconstruction, of the Equipment. Buyer shall be free to use all such Intellectual Property rights in connection with the Equipment and the Supply without additional compensation to Seller. To the extent that Seller or any Subcontractor uses in or incorporates into the Equipment or the Supply any Intellectual Property of a third party, Seller shall, or shall cause the Subcontractor to, obtain from such third party and provide to Buyer a fully paid, non-exclusive, royalty-free, perpetual, transferable, irrevocable right and license granting Buyer the right to use such Intellectual Property in connection with the Equipment and the Supply to allow the Buyer to fully use the Equipment, Spare Parts and Tools including the operation, repair, maintenance, modification, expansion and, if necessary, reconstruction of the Equipment.

19.4.2 Seller's Standard Proprietary Property and Seller's Project-Specific Information.

Buyer shall at all times (including after any termination of this Contract) have the right to retain and use copies of Seller's standard drawing details, designs, specifications, databases, computer software and any other proprietary property and information as it relates to the Supply ("Seller's Standard Proprietary Property"), and Buyer is hereby granted a fully paid, royalty-free, perpetual, transferable, irrevocable right and license under Seller's Intellectual Property rights to use Seller's Standard Proprietary Property and any other information of Seller prepared for or incorporated into the Equipment and Supply ("Seller's Project-Specific Information"). Such right and license shall be effective upon creation or incorporation of such Seller's Standard Proprietary Property or Seller's Project-Specific Information, and shall include the right to reproduce, modify, make derivative works from and make copies thereof for effective use thereof and to disclose all such Seller's Standard Proprietary Property and Seller's Project-Specific Information to employees of Buyer and third parties as necessary in connection with the Equipment's operation, maintenance or future modification, or as required by Applicable Laws. The right and license granted to Buyer shall be limited to the development, use, operation, repair, maintenance, modification, expansion (but not replication) and, if necessary, reconstruction, of the Equipment, and Buyer will not use any of Seller's Standard Proprietary Property or Seller's Project-Specific Information for other purposes unless otherwise authorized by Seller in writing. Except in the case of a termination pursuant to in connection with resolving a Dispute arising under this Contract, Buyer's use of any Seller's Standard Proprietary Property or Seller's Project-Specific Information for any purpose other than as set forth in this Contract or modification of any Seller's Standard Proprietary Property or Seller's Project-Specific Information by anyone other than Seller shall be at Buyer's sole risk and without liability or legal exposure to Seller.

20.0 INDEMNIFICATION

20.1 Indemnity; Patent Infringement

20.1.1 Indemnity.

To the fullest extent permitted by Applicable Law, Seller hereby releases and indemnifies, defends and holds harmless Buyer, the Buyer's Representative, the Financing Parties, and each of their respective directors, officers, shareholders, members, partners, Affiliates, subsidiaries, employees, representatives, contractors and agents, and the respective successors and assigns of all of the foregoing (collectively, the "Buyer Indemnitees"), from and against all liability (including any strict liability), claims, suits, legal or administrative proceedings, demands, penalties, actions, causes of action, Liens, costs (including attorneys' fees), expenses, losses, damages, injuries, interest or judgments (collectively, "Indemnified Items") that may be imposed on, incurred by or asserted against any Buyer Indemnitee (whether or not such Buyer Indemnitee is a party to such Indemnified Items) directly or indirectly in connection with or relating to the Supply and in any manner directly or indirectly caused or claimed to be caused, occasioned, or contributed to, in whole or in part, by reason of any act, omission, fault or negligence, whether active or passive, of any Seller Person in connection with, or incidental to, the performance of the Supply, including:

- a) any bodily injury to or death of any person and damages to or destruction of third-party property caused by an act or omission by any Seller Person;
- b) any discharge, emission, spill, release or threatened release, disposal (or arranging for the disposal), distribution, manufacture, processing, storage, treatment, transport or other use of Hazardous Substances;
- c) the violation by any Seller Person of any Applicable Law;
- d) any claim or allegation that any equipment, apparatus, materials, Drawings, design and engineering documents, the draft O&M Manual, the O&M Manual or information provided by Seller or any Subcontractor in connection with its performance of the Supply, any method or process used by Seller or any Subcontractor in connection with its performance of the Supply, any use of the Equipment based on the incorporation of, or use of, any equipment, apparatus, materials, Drawings, design and engineering documents, the draft O&M Manual, the O&M Manual or information provided by Seller or any Subcontractor in connection with the performance of the Supply, , constitutes an infringement, misappropriation, dilution or other violation of any Intellectual Property or proprietary rights of any third party;
- e) the Seller's obligation to pay Seller's Taxes;
- f) all Liens, claims or similar encumbrances arising in connection with the Supply or the Seller's failure to transfer good title as set forth herein;
- g) any interference with Buyer's on-going operation of the Existing Plant or construction of the New Plant or any part of the Facility, or the performance of the related works by the Buyer or Buyer's contractors;
- h) any breach of contract by Seller with any Subcontractor;
- i) Any breach of any obligation set forth.
- j) Any breach of any representation and warranty
- k) Any breach of the compliance obligations set Nothing contained in this Section shall in any way reduce the Seller's obligation to correct Defects in accordance relevant section.

Notwithstanding anything stated in the foregoing, any indemnification payment made pursuant to this Section shall be increased by an amount equal to the Taxes incurred by the Buyer Indemnitees in connection with such indemnity payment.

20.1.2 Additional Remedy for Patent Infringement.

Without limiting any other obligation of Seller under this Contract or any other remedy of Buyer under this Contract, if the use, operation, repair, maintenance, modification, expansion or reconstruction (but not replication) of the Equipment by the Buyer is enjoined by a court of competent jurisdiction as a result of any infringement, misappropriation, dilution or other violation of any Intellectual Property or proprietary rights of any third party, for which Seller has agreed to indemnify Buyer herein, Seller shall procure and

pay for a non-exclusive, royalty free, perpetual, transferable and irrevocable license in favor of Buyer permitting continued use, operation, repair, maintenance, modification, expansion or reconstruction of the Equipment, or shall replace or modify such Equipment or applicable part thereof, with non-infringing Equipment of quality and specifications that is substantially equivalent in all material respects to that specified in the Technical Specifications, in each case, at the expense of Seller.

20.1.3 Notice and Legal Defense.

Within a reasonable time after receipt by a Buyer Indemnitee of any notice of an Indemnified Item or of the commencement of any action, administrative or legal proceeding or investigation in connection with an actual or potential Indemnified Item as to which any indemnity provided for in Section 20.1.1 may apply, such Buyer Indemnitee will notify Seller in writing of such fact. Seller shall assume, on behalf of such Buyer Indemnitee, and conduct with due diligence and in good faith, the defense thereof with counsel reasonably satisfactory to such Buyer Indemnitee; provided that:

- a) such Buyer Indemnitee shall have the right to be represented therein by advisory council of its own selection and at its own expense; and if the defendants in any such action include both Seller and such Buyer Indemnitee, and
- b) if such Buyer Indemnitee shall have reasonably concluded that there may be legal defenses available to it that are different from, additional to or inconsistent with those available to Seller, then such Buyer Indemnitee shall have the right to select separate counsel to participate in the defense of such action on its own behalf and at Seller's expense.

Seller shall not settle any such Indemnified Item without the prior written consent of such Buyer or Buyer Indemnitee, as appropriate.

20.2 Failure to Defend Action.

If any Indemnified Item arises as to which any indemnity provided herein may apply and Seller fails to assume the defense of such Indemnified Item upon receipt by Seller of notification thereof, then the Buyer Indemnitee against which the Indemnified Item is instituted, asserted or commenced may, at Seller's expense, contest, or settle, such Indemnified Item. All costs and expenses incurred by such Buyer Indemnitee in connection with any such contest, settlement or payment shall be deducted from any amounts due or paid to Seller under this Contract, with (in the case of deduction) all such costs in excess of the amount deducted to be reimbursed by Seller to Buyer within fifteen (15) days following Buyer's demand therefor.

20.3 No Limitation to Workers' Benefits.

With respect to any Indemnified Item asserted against any Buyer Indemnitee or any of their agents or employees, or anyone else acting for or on behalf of Buyer, by any employee of any Seller Person, Seller's indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Seller or any Subcontractor under any insurance policy or workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

20.4 Survival of Indemnities.

The indemnities required by this Section shall survive the completion, expiry or termination of the Contract.

21.0 FORCE MEASURE

21.1 Force Majeure Definition:

As used in this Contract, an event of “Force Majeure” shall mean any event that:

- a) occurs after the Effective Date;
- b) was not foreseeable as of the Effective Date;
- c) is beyond the reasonable control of and without the fault or negligence of the affected Party;
- d) causes the affected Party to be unable to perform its obligations under this Contract;
- e) by the exercise of due foresight,
- f) such affected Party could not reasonably have been expected to avoid; and such affected Party is unable to overcome by the exercise of due diligence and reasonable care (it being understood and agreed that reasonable care includes acts or activities to protect the Site from a casualty event that are reasonable in light of the likelihood of such event, the probable effect of such event if it should occur and the likely efficacy of such protection measures).

21.2 Events of Force Majeure:

Subject to Section 21.3 and provided that: (a) the requirements of Section 21.1 are satisfied; and (b) the affected Party complies with the provisions set forth in Section 21.5, Force Majeure shall only include the following:

1. acts of God (including earthquakes, storms, pestilence or other natural catastrophes);
2. epidemics, wars, riots, terrorism, civil disturbances, sabotage or other civil disobedience; and
3. National strikes; or action or inaction of legislative, judicial or other governmental bodies that render illegal actions in accordance with this Contract.

21.3 Events that are not considered Force Majeure:

It is clarified that the following shall not constitute an event of Force Majeure and are the sole responsibility of the Seller:

- a) strikes or labour disturbances involving only employees of the Seller or employees of any Subcontractor;
- b) shortages or price fluctuations with respect to materials, supplies or components comprising the Equipment; late delivery of materials, supplies or components of equipment;
- c) economic hardship;
- d) shortages of manpower;
- e) the delay, default or failure to perform by any Seller Person;
- f) machinery or equipment breakdown;
- g) customs procedures;
- h) unavailability at the Site of necessary water and other utilities;
- i) flaws or ambiguities in the Technical Specification requiring the Seller to re-design or re-engineer any portion of the Equipment or otherwise change or modify the scope of Supply; and
- j) typical weather conditions that are consistent with weather in the applicable area over the last twenty-five (25) years (other than hurricanes, tornadoes, or typhoons at or in the vicinity of the Site);
- k) Any order/direction issued by any Statutory/Government body or Tribunal or Judiciary for any act/omission or violation of any law of the Seller.

l) **21.4 Burden of Proof.**

The burden of proof as to whether a Force Majeure event has occurred shall be upon the Party claiming that such Force Majeure event has occurred.

21.5 Excused Performance.

If either Party is rendered wholly or partly unable to perform its obligations under this Contract because of a Force Majeure event, such Party shall be excused from whatever performance is affected by such Force Majeure event to the extent so affected; provided that:

- a) the non-performing Party, within forty-eight (48) hours after such Party knew (or should, with the exercise of reasonable diligence, have known) of the occurrence of such Force Majeure event, gives the other Party written notice describing the particulars of the occurrence, including an estimate of its expected duration and probable impact on the performance of such Party's obligations hereunder, and thereafter continues to furnish timely regular reports with respect thereto during the continuation of such Force Majeure event;
- b) such suspension of performance is of no greater scope and of no longer duration than is reasonably required or caused by such Force Majeure event;
- c) the non-performing Party shall exercise all reasonable efforts: (i) to mitigate or limit the delay and the consequences and damages to the other Party resulting from such Force Majeure event; and (ii) to continue to perform its obligations hereunder and to correct or cure the event or condition excusing performance;
- d) no obligation of either Party that arose before the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and
- e) when the non-performing Party is able to resume performance of its obligations hereunder, such Party shall immediately give the other Party written notice to that effect and shall promptly resume such performance.

22.0 TERMINATION AND SUSPENSION

22.1 Suspension

Buyer shall have the right, at any time, to suspend the Supply to the Site upon written notice to Seller. Unless such suspension is attributable to fault or negligence of Seller then: (i) any reasonable cost incurred by Seller in accordance with any such suspension (including storage costs) and agreed by the Buyer shall be payable by Buyer upon submission of Seller's invoice(s), provided that Seller has used commercially reasonable efforts to mitigate such costs; and (ii) performance of Seller's obligations shall be extended for a period of time reasonably necessary to overcome the effects of such suspension.

22.2 Termination for convenience

Buyer shall have the right by notice to Seller to terminate this Contract (including the part termination of this Contract) for its convenience subject to payment of the mutually agreed termination charges which shall not be more than the net loss to the Seller resulting from the termination of this Contract.

In determining the quantum of termination compensation payable to the Seller in case of termination of this Contract for Buyer's convenience, the following shall be taken into consideration: (a) any value that the Seller can recover from the terminated scope of the Supply; (b) the aggregate amount of any payments of the Contract Price received by Seller prior to such termination; and (c) any excess amounts paid to Seller prior to such termination. Seller shall retain title to the Equipment forming part of the terminated scope of the Supply. Title to each item of Equipment Delivered or to be Delivered to the Buyer under this Contract (forming part of the scope of the Supply which is not terminated pursuant to this Section 22.2) shall vest in the Buyer in accordance with the terms of this Contract and payment will be made in full for such Equipment in accordance with this Contract.

22.3 Termination for cause by Buyer.

Buyer shall have the right to terminate this Contract, in whole or in part, for cause in the event (each, a "Seller Event of Default") that:

- i. Seller becomes subject to bankruptcy or insolvency proceedings;
- ii. Seller fails to pay Liquidated Damages as they become payable herein;
- iii. The liability of Seller for Liquidated Damages exceeds the Overall Liquidated Damages Cap and the breach in respect of which the Liquidated Damages are payable continues to exist;
- iv. Seller assigns its obligations under this Contract other than pursuant to Section 6;
- v. Seller fails to provide or maintain the Performance Security;
- vi. Seller breaches its obligations under Section 6;
- vii. Buyer does not receive proof of replacement of the Performance Security reasonably satisfactory to it at least thirty (30) calendar days prior to the expiration date of the Performance Security;
- viii. The issuer of Performance Security no longer qualifies as an Acceptable Credit Provider;
- ix. The Performance Security is amended or modified without the prior written consent of the Buyer;
- x. Any provision of the Performance Security ceases to be valid and binding on or enforceable against the issuer of the Performance Security or the issuer of the Performance Security disaffirms any of its obligations under the Performance Security;
- xi. Seller fails to remove, or provide security acceptable to Buyer with regard to, any Lien or other encumbrance filed against any other property of Buyer by Seller or any Subcontractor within thirty (30) days after the filing thereof; or
- xii. Seller breaches or fails to comply or perform any of its material obligations under this Contract (but only with respect to a material obligation for which this Contract does not provide exclusive remedies other than termination of this Contract),
Including the breach by Seller of any representation or warranty contained herein.

22.4 Termination for prolonged Force Majeure.

If an event of Force Majeure affects Seller's ability to perform the Supply and such Force Majeure continues for at least one hundred eighty (180) consecutive days, then

Buyer shall have the right, by written notice to Seller, to terminate this Contract forthwith in whole or in part.

22.5 Remedies in the event of termination by Buyer.

Upon the termination of this Contract by Buyer pursuant to Section 22.3 & 22.4, Buyer shall, in addition to its right to pursue any other right or remedy given under this Contract now or hereafter existing at law or in equity or otherwise, have the right to:

- a) reject the Equipment and any other work for which payment in full has been made by Buyer, in which case, Seller shall: (a) on or before the date that is thirty (30) days after receipt of a notice from Buyer indicating that Buyer chooses to exercise this option, reimburse all payments previously made by Buyer; and (b) promptly remove the Equipment from the Site; or
- b) assume responsibility for, and take title to and possession of, the Equipment and any other work for which payment in full has been made by Buyer; or
- c) Complete the Supply, using one or more substitute contractors or manufacturers. Upon written notice to Seller, within a reasonable period of time after the work is finally completed by Buyer or one or more substitute contractors in lieu of Seller, Buyer shall determine the total costs (including such substitute contractors' fees) incurred by Buyer in completing the work, including all sums previously paid or then owed to Seller pursuant to this Contract. Buyer will pay to the Seller any unpaid amount attributable to the work satisfactorily performed by Seller

as of the date of termination less any sums payable by Seller to Buyer; provided that if the total costs incurred by Buyer in completing the Supply, including all sums previously paid or then owed to Seller pursuant to this Contract, exceeds the Contract Price, Seller shall promptly pay Buyer for the amount by which such total costs exceed the Contract Price. Buyer will make all reasonable efforts to mitigate the costs to complete the work. This provision would not be applicable in case of termination due to prolonged force majeure as per Section 22.4.

- d) Any termination of this Contract shall not constitute a waiver, release or estoppel by Buyer of any right, action or cause of action it may have against Seller. Seller shall provide Buyer and its designee with the right to use, free of charge, all patented, copyrighted and other proprietary information relating to the Equipment that Buyer reasonably deems necessary to complete the Supply, and Seller shall execute such documents as may be reasonably requested by Buyer to evidence such right. If this Contract is terminated by Buyer pursuant to Section 22.3, Seller shall indemnify Buyer for all costs and losses arising as a result of termination of this Contract, in addition to the additional cost to complete the Supply by Buyer. These costs and losses shall be a debt due and payable to the Buyer on demand by the Buyer and the Buyer may also have recourse to the Performance Security.

Special terms and condition: The bidders shall submit offer accepting the following terms and the conditions

- 1) The superstructure shall be as per above specification and fit to our CASNUB 22 NLB Bogie.
- 2) The bidders has to submit the offer for wagon superstructure as per our requirement of BOBRN variant with required specification.
- 3) The bidder may also submit their offer for complete wagon as per RDSO for BOBRNHSM1 (MBS) wagon with detail specification and drawing as above BOQ sl.no1.
- 4) Load test as per RDSO to be carried out and RDSO/RITES inspection shall be arranged by the bidder before dispatch for both wagon super structure and complete wagon separately.
- 5) Loading & Transportation in low bed or open bed trailer shall be arranged by the supplier
- 6) Payment shall be released after 30days of fitment and commissioning at our site
- 7) OPGC shall engage IR approved 3rd party (in addition to RITES/RDSO) as consultant to witness the MOC, Quality, make, size of equipment during production process, drawing design approval, work quality plan and joint inspection for brake, door operating & load testing at your works before dispatch. The bidder has to mention the RITES/RDSO inspection charge in the price bid.
- 8) The Delivery of wagon shall be made after 06 months of receipt of purchase order.
- 9) Bidders shall have to commission the Wagons at our site for one to one fitment to our existing bogie. The agency may visit our site for technical verification of wagon and bogies before submission of tender documents.
- 10) Bidders shall ensure necessary guarantee for trouble free operation of wagon for a period of 24 months from the date of commissioning at our works. Necessary PBG is to be submitted accordingly.
- 11) The painting of wagon shall be done in Oxford blue color with Golden yellow Band and marking (as per Approved Marking Diagram drawing) on both sidewall and details of marking shall be done on the body of wagon as per RDSO rule and test result
- 12) The wagon structure and Bogie shall be weighed after production and during test of operating equipment and record of weights shall be submitted along with supply.
- 13) 10% of PO value as performance bank guarantee valid for a period of 18 months from the receipt of materials or 12 months from the date of use whichever is earlier. Extra 03months grace period shall be provided by them for lodging or claiming the same.
- 14) The bidder shall have to confirm that guarantee period of 12 months commencing from the date of utilization or 18 months from the date of last dispatch whichever is earlier for defects in material and bad workmanship.
- 15) The vendors shall be intimated their category of their unit status like Mini, Micro & Small as per the DIC (District Industries Certificate).
- 16) The bidder has to clarify to deliver the material within 06 months from the date of receipt of our order. Schedule of delivery shall be a point for consideration during evaluation of the bid.
- 17) Validity: The price shall remain valid for a period of 180 days from the date of opening of techno-commercial bid.
- 18) Termination of Contract: The purchaser reserves the right to terminate the contract at any time after the expiry of delivery period.
- 19) Any deviation from above points shall have to be mentioned clearly in the techno commercial bid
- 20) The bidder shall also undertake for commissioning of the superstructure to the existing wagon at our site.
- 21) The agency shall have RDSO / Indian Railway approval for manufacturing the BOBRNHSM1 wagon.
- 22) The agency has to clarify and submit the document for the facility available for MOC testing, load testing of wagon for both cases of supply, brake testing and door operating system testing of wagon in their workshop with detail of calibration report. The detail of procedure and expected test result for these type of testing for the offered Items shall be mentioned in technical bid.

Standard Commercial Terms & Conditions

- A. The bid security shall remain valid for a period of One Hundred Eighty (180) days.
- B. ANY BID NOT ACCOMPANIED WITH AN ACCEPTABLE EMD (BID SECURITY) SHALL BE REJECTED BY THE EMPLOYER AS BEING NON-RESPONSIVE AND RETURNED TO THE BIDDERS WITHOUT BEING OPENED. EMD WILL BE WAIVED OFF FOR BIDDERS WHO ARE REGISTERED WITH MSME/NSIC/SSI UNITS ON PRODUCTION OF DOCUMENTARY EVIDENCE. HOWEVER, THE FIRM HAS TO SUBMIT A LETTER BEFORE 02 DAYS OF THE SUBMISSION OF THE BID TO THE PURCHASE DEPARTMENT AND TAKE PRIOR CONFIRMATION OF THE SAME. THE FIRM HAVE TO SUBMIT THE CERTIFICATES IN PLACE OF EMD ALONG WITH THE OFFER.
- C. **Payment Terms:** The bidder has to accept our payment terms i.e. 90% payment shall be made within 30 days from the date of final acceptance of material & 10% shall be made within 90 days on submission of Performance Bank Guarantee for 10% of Basic value of PO valid for a period of 21 months (18 months + 03 months grace period) from the receipt of materials or 15 months (12month + 3months grace period) from the date of use whichever is earlier. All payment shall be made in electronic mode. E-mandate to be submitted for release of payment.
- D. **Security Deposit:** The bidder shall submit security deposit i.e. 5% of the P.O. basic value in shape of DD/irrevocable bank guarantee valid for six month/up to delivery period whichever is later plus 2-month claim period from a nationalized bank executed on non-judicial stamp paper of appropriate value towards execution of the contract. Security deposit shall be released after supply is complete. If the Supplier fails or regrets to observe or perform any of his obligations under the Contract, it shall be lawful for the Purchaser to forfeit either in whole or in part, at its absolute discretion, the security-deposit furnished by the Supplier. The forfeiture of Security deposit shall be without prejudice to the right of the Purchaser to recover any further amount of any liquidated and / or other damages, undue payment or over payment made to the Supplier under this contract or any other contract. No claim of the Supplier shall be entertained against the purchaser either in respect of interest or depreciation in the value of Security deposit. Security deposit is to be submitted within 30 days of placement of LOI/PO.
- E. **Guarantee:** The bidder shall have to confirm that guarantee period of 12 months commencing from the date of utilization or 18 months from the date of receipt whichever is earlier for defects in material and workmanship. The materials also shall be guaranteed for the chemical composition and hardness as specified for the above mentioned period.
- F. **Inspection:** The bidder has to clarify to accept our inspection by third party. Third party inspection charges if any to be clearly specified. The details of test procedure followed after manufacturing shall have to be mentioned in the techno commercial bid. Test certificate shall be submitted in the supply documents.
- G. The bidder has to submit their valid BIS/ISO registration certificate or any other international accreditation documents.
- H. **Delivery:** The bidder has to deliver the material within Twelve Months with pre dispatch inspection by M/s OPGC and/or Third party from the date of receipt of our order/LOI. However OPGCL shall have the right to purchase / cancel at any point of time. Schedule of delivery shall be a point for consideration during evaluation of the bid. *Delivery shall be made in a single lot basis.*
- I. **Validity:** The price shall remain valid for a period of 180 days from the date of opening of techno-commercial bid. The price should be firm for two years for staggered delivery schedule.
- J. **Termination of Contract:** The purchaser has the right to terminate the contract at any time.
- K. **Dimensions:** Information on shipping weight and cubage (length, width & height) to be provided.
- L. Any deviation from above points shall have to be mentioned clearly in the techno commercial bid.
- M. **Dispatch:** The consignment shall be dispatched to IB Thermal Power Station to the consignee on door delivery and freight paid basis after necessary inspection by third party and dispatch instruction by OPGC Engineer.
- N. **Standard:** The material to be supplied shall be strictly as per relevant IS. Quality Assurance Plan to be approved by OPGCL before manufacturing.
- O. **Inspection/Testing:** Pre dispatch Inspection & Testing shall be carried out by Us/Third Party at your works by your cost. Metallurgical Test Report from govt. Approved Laboratory to be submitted along

with the supply. OPGCL may incorporate any other testing or inspection if required at your cost. If required, the third party may take the samples to outside for necessary testing on their behalf. Finally, he will certify regarding acceptance of the material. Regarding inspection, necessary communication with the third party has to be made well in advance by the party, matching their production planning.

- P. **Samples:** If required M/s OPGCL shall ask for samples drawn from each consignment in the presence of company's authorised representative and arrange testing in an independent laboratory to check up whether the supplied item are in accordance with the purchase order or not.
- Q. **Quantity Variation:** The quantities mentioned in the tender may be changed at the time of order.
- R. **Risk Purchase:** The inability of the bidders to execute the order in accordance with delivery schedules will entitle M/s OPGCL to purchase the orders at the risk and cost of the vendors from other sources. The difference in amount shall be recovered from the dues of the vendors. Increase in tax structure due to delay in supply beyond contractual delivery period is to vendor account.
- a. **E-Reverse Auction:** Bidders are to give their acceptance for participating in e-Reverse Auction for finalization of price bid for placement of order based on Reverse Auction / Sealed Price Bid/ combination of both Reverse Auction and Sealed Price Bid. Only the technically qualified bidders shall be eligible for participating in the Reverse Auction as per the terms & conditions there in at Annexure-II (vide at page-48) for "RULES AND REGULATIONS OF THE E-REVERSE AUCTION".

Non acceptance to participate in Reverse Auction may result in non-acceptance of bids in the event of OPGC decides to go for Reverse Auction (E-RA). In the event of such decision, the bidders shall have to deposit requisite non-refundable Transaction Fees for e-Reverse Auction to the account of MSTC Limited directly.

The non-refundable Transaction Fees towards e-Reverse Auction as mentioned above shall be deposited by all Techno-Commercially qualified bidders directly to the account of MSTC before E-RA launch schedule. The date of conduct of E-RA shall be intimated in later stage to Techno Commercially qualified bidders via e-mail. Before participation in e- Reverse Auction, the bidder has to register in MSTC e-Procurement Portal well in advance and submit the E-RA fee amounting to the value intimated by M/s. MSTC Limited.

NB: Reverse Auction shall be conducted through M/s MSTC, Bhubaneswar /Visakhapatnam

- S. **Laws of Governing Contracts:** All Contracts shall be governed by the laws of India for the time being in force. Irrespective of the place of delivery, place of performance or place of Payment under this contract, the contract shall be deemed to have been made at place from which the acceptance of tender has been issued.

General Manager, SCM

TENDER NOTICE GENERAL TERMS & CONDITIONS

1. Sealed Tender is invited (in duplicate) for the supply of articles as per details mentioned in the bid. Tender should be submitted in a proper sealed envelope addressed to the Manager (Purchase Materials); Purchase Department OPGCL- IB Thermal Power Station, Banharipali, Jharsuguda-768234, in variably giving on the cover Tender Notice No., Name of the Articles, and the date of opening and EMD details.
- 2 Basic Qualification of Bidders

This bidding is open to any Manufacturer/ Supplier who provides satisfactory evidence that he (Bidder):-

- (a) Is a qualified manufacturer or an authorized representative of a qualified manufacturer who regularly manufactures the equipment of the type specified and has adequate technical knowledge and practical experience.
 - (b) Does not anticipate change in the ownership during the proposed period of work (If such a change is anticipated, the scope and effect thereof shall be defined).
 - (c) Has adequate financial stability and status to meet the financial obligations pursuant to the scope of the assignments (The bidders should submit at least 3 copies of their profit and loss account and balance sheet for the preceding 3 years, including turn over).
 - (d) Has adequate plant and manufacturing capacity available to perform the assignment properly and expeditiously within the time period specified. The evidence shall consist of written details of the installed manufacturing capacities and present commitments (excluding the assignments under this specification) of the bidder or his Principal. If the present commitments are such that the installed capacity results in inadequacy of the manufacturing capacities to meet the requirement of equipment corresponding to this bid, then the details of alternative arrangements to be organized by the bidder for this purpose and which shall meet the owner's approval shall also be furnished.
 - (e) Has established quality assurance systems and organization designed to achieve high levels of equipment reliability during his manufacturing activities.
- 3 Amendment in Specifications: OPGCL may revise or amend the specification and drawings prior to the date notified for opening of tenders. Such revision / amendment, if any, will be communicated to all bidders as amendment / Addendum to the specification which will also be published in OPGC web site. Vendors may visit our website regularly till finalization of tender.
- 4 **Requirement to read the Tender Specification by Bidder:** The bidders are requested to go through all the contents of Tender specification before preparing their tender / bids for submission.
- 5 The quantities mentioned in the Tender Notice shall be deemed to be only approximate and will not in any manner whatsoever be binding on the OPGCL- IB Thermal Power Station.
- 6 All tenders are to be submitted up to 15:00 hours on the opening date & they will be opened at 15:30 hours on the same date specified. Representatives of the bidders those who choose to be present may attend the bid opening.
- 7 The tender shall remain open for acceptance for a period of **180 DAYS FROM THE DATE OF OPENING UNLESS OTHERWISE SPECIFIED**. Tenders with a Validity of Less than **180** days are liable to be rejected/ or have lesser preference than those adhered the tender conditions.
- 8 Actual percentage of Duties/Sales tax (Local or Central or Both) of any description whatsoever where leviable and intended to be claimed from the OPGCL-IB Thermal Power Station, whether as a part of the price or by way of tax in purchase of any statutory provisions enabling the dealer to collect the Sales Tax/Excise Duty leviable on him for purchase should be distinctly shown along with the price quoted. Where it is not done all claims for payment or reimbursement of Sales Tax/Excise Duty any description whatsoever whether part of the price or extra will be deemed to have been waived and such claims shall not be entertained on any ground whatsoever.
- 9 TIN No/ VAT No. SALES TAX REGISTRATION NUMBER MUST BE INDICATED IN VARIABLY FAILING WHICH OFFER SHALL NOT BE CONSIDERED.
- 10 Rates quoted should be F.O.R. IBTPS, Banharipali including packing, forwarding, loading at seller's site and unloading at buyer's site at IB Thermal Power Station, Banharipali, Jharsuguda, Odisha. Jharsuguda.

- 11 Wherever bidders have entered into the Rate Contract with Director General of Supplies and Disposals they will indicate the same in their tender. They will also certify that the rates quoted are same as are applicable on the rate contract finalized by the Director General or Supplies & Disposals.
- 12 Illustrated pamphlet/leaflet and drawing indication technical details/Year of manufacture, Maker's Name, Country of Origin etc. must be enclosed with tender.
- 13 SPECIAL ATTENTION OF THE TENDER IS INVITED ABOUT THE RECEIPT OF TENDER IN TIME. TENDERS RECEIVED AFTER THE STIPULATED DATE AND TIME DUE TO ANY REASON WHATSOEVER SHALL NOT BE CONSIDERED TENDERERS ARE REQUESTED TO SEE THAT THE TENDERS ARE DELIVERED IN THE OFFICE BEFORE THE PRESCRIBED DATE AND TIME.
- 14 The delivery period quoted must be specific and realistic. The inability of the successful tenderers to execute orders in accordance with delivery schedules will entitle OPGCL to purchase the stores at the risk and cost of the contractors such failures will also be kept in view while considering that subsequent tenders.
- 15 With regard to acceptance of tender for earlier delivery it should be noted that if the contract is placed on higher tender in preference to the lowest acceptable offer in consideration of earlier delivery the contractor will be liable to pay to OPGCL, the difference between the contract rate and the lowest acceptable, in case of failure to complete suppliers in terms of such contract within the date of delivery specified in the tender and incorporated in the contract. This is without prejudice to other rights of the OPGCL under the terms of contract.
- 16 The time given for delivery or dispatch shall commence from receipt of the purchase order by the contractor. The time for and the date of delivery or dispatch stipulated in the schedule for the delivery or dispatch of stores shall be deemed to be the essence of contract and should the contractor fail to deliver or dispatch the stores or any consignment thereof within the period prescribed for such delivery or dispatch the purchased shall be entitled to withhold payment until the whole of the stores have been supplied and to recover from the contractor a sum of the half percent of the price of any stores which the contractor has failed to deliver or dispatch aforesaid for each and within week or part of a week during which the delivery OR dispatch of such stores may be in arrears subject to maximum of five percent of total of the contract value alternatively at the option of the Purchase shall be entitled to purchase also where on the account & at the risk of the contractor the store of any consignment thereof which the contractor has failed to deliver or dispatch as afore said if not available the nearest available substitute thereof to cancel the contract and the contractor shall be liable for all loss or damage which may sustain by reason of such failure on the part of the contractor.
- 17 Suppliers failing to execute the order placed on them to the satisfaction of OPGC under the terms and conditions set forth therein, will be liable to make good the loss sustained by the Board, consequent to the placing of fresh orders elsewhere at higher rates, i.e. the difference between their ordered price and the price accepted in the contract already entered into the price at which fresh orders have been placed. This is without prejudice to the imposition of liquidated damages.
- 18 It is a condition of the contract that all though the currency thereof, the price at which the tender shall supply stores shall be firm.
- 19 Tenderers may kindly note that it is essential to pay the requisite amount of earnest money in any one of the following forms.

Demand Draft/Bank Guarantee from a Nationalized Bank irrevocable and operative till the validity of the offer. The earnest money will be liable to be forfeited on revocation of the quotation or if refused to enter into a contract after the award is made to the tenderer.

The EMD submitted by the unsuccessful bidders will be returned within 45 days after finalization of the tender.

- 20 Small scale industries/National Small-Scale Industries Corporation shall be exempted from payment of Earnest Money Deposit/Tender Fees only if they are entitled for exemption of the offered items. Tenderers seeking exemption should enclose a photocopy of valid registration certificate with NSIC.

- 21 Successful tenders will have to deposit security by the date specified in the Acceptance of Tender in case they fail to deposit security by the specified date the OPGCL reserves the right to adjust the same from the payment pending with the OPGCL, ITPS, and Banhaprali.
- 22 OPGCL reserve the right to give preference to those quoting payment and delivery as per bid norms. Loading shall be made for other terms of payment and delivery.
- 23 OPGC reserves the right not to accept the lowest rate quoted by the Bidder and may reject any or all the tenderers and to split-up and award the order to more than one tenderer without assigning any reasons whatsoever.
- 24 Wherever samples are asked from tenderers the same shall be submitted freight paid through post of Railways/Road Transport and should reach the OPGCL within the stipulated date and time failing which to cognizance will be given to such samples which are received late.
- 25 Printed Terms and Conditions on letter heads or Quotation form of tenderers shall not be applicable.
- 26 Tendering firms are advised to quote as per our serials number specified in tender notice.
- 27 OPGCL Reserves the right to reject all or to any of the tenders or to accept the tender or to accept the tender either in full or in part or to split of the contract without assigning any reason.
- 28 The quote price discount if any should be typed both in words as well as in figure without any cover typing. Alternations if any should be made clearly by crossing already entered rates and all such corrections should be attested by the tenderers under their full signature in no case there should be over writing and all tender with such over writing and all tender with such over writing shall be liable for rejection.
- 29 Our Tender Notice No. & due date of opening nature of items and vendors complete address should in variable be indicated on the top of the envelope, Bank charges always borne by the vendor.
- 30 Wherever I.S is available please quote as per I.S only, otherwise quote the brand name of the quote items goods must be dispatch through authorized dealer.
- 31 The material supplied shall be guaranteed for a period of 18 months from the date of supply or 12 months from the date of actual use whichever is earlier.
- 32 These terms and conditions shall form a part of the contract.
- 33 **EFFECTING OF RECOVERIES:** Any loss, arising incident to non-fulfilment of this contract or any other contract, will be recovered from the Security Deposit held and or any other amount due to the supplier from OPGC.
- 34 **PATENT RIGHT ETC:** The Supplier shall indemnify the purchaser against all claims, actions, suits and proceedings for the infringement or alleged infringement of any patent, design or copy right protected either in the country of origin or in India by the use of any equipment supplied by the supplier other than for the purpose indicated by or reasonably to be inferred from the specification.
- 35 **Jurisdiction:** All contracts effected between OPGCL and vendor shall be subject to Jharsuguda Court Jurisdiction and shall be governed by Law. It is agreed that no other court shall have jurisdiction to entertain any suit or proceedings, even though, part of the cause of action might arise within their jurisdiction. In case any part of the cause of action might arise within the jurisdiction of any other Courts in Odisha, and rest within the jurisdiction of Courts outside the State of Odisha, then it is agreed to between the parties that such suits on proceedings shall be instituted in a Court within the State of Odisha and no other Court outside the State of Odisha have jurisdiction.
- 36 **Arbitration:** In case of any dispute arising out of the supply or interpretation of meaning of the terms in these conditions of purchase or any alleged breach thereof, the same shall be referred to independent Arbitrator/s selected by the aggrieved party and consented by the other party. The arbitration shall be conducted in accordance with the provision of Indian Arbitration Act of 1996 or modifications thereof and award of Arbitrator shall be final and binding on both parties. The arbitrations shall be conducted at Jharsuguda or at such place as decided by Arbitrator. The cost, incidentally shall be borne by the vendor.
- 37 **Litigation:** All expenses and cost in connection with litigation, if any, will be to vendor account.
- 38 **Preparation of comparative statement:** Bidders are required to adhere to all technical and commercial conditions in this NIT. Any deviation to tender conditions such as delivery period, payment terms, price basis, and liquidated damages shall be suitably loaded in the price comparative statement. Loading factor for each deviation shall be decided by OPGC at the time of evaluation.

IMPORTANT NOTICES:

1. Please fill in the proforma for summary quotation as per specimen given.
2. Tenders not specifying the exact rates of taxes and duties (wherever applicable) shall be loaded to the highest slab or may not be considered.
3. **Any deviation in Technical Specification/ terms & conditions shall be clearly specified in details in the deviation statement, failing which shall be deemed the NIT specification & Terms conditions are acceptable in totally unless and otherwise specified in the deviation statement. Deviations mentioned at any other points may not be acceptable and the bid may be treated as unresponsive and in such case bid may be rejected and EMD amount shall also be rejected.**
4. The suppliers/contractor is required to manufacture the product/carryout the work in controlled condition so as to contain Air pollution, water/land contamination within relevant legislative & statutory requirement.
5. Vehicle must accompany TREM Card for transportation of materials wherever applicable to OPGCL. Driver must carry valid driving license for transporting the materials to OPGCL.
6. Vendor/Representative/Vehicle driver must wear Safety Helmet, Shoes inside the Plant premises.
7. All person(s) connected with OPGCL shall have to adhere the safety rule regulations of the Company.
8. Salient points of EHS (Environment Health & Safety) that are to be considered while submission of offer is:
 - a. Consumption benchmarks related to output shall be provided wherever applicable for key input resources (energy/fuel/chemicals).
 - b. Competency requirements for operation, maintenance and calibration if any.
 - c. MSDS to be submitted in case any hazardous chemicals as per MSIHC (Manufacturing. Storage, Import of Hazardous Chemicals (Rules 1989/94/2000 along with onsite and offsite emergency plan (as applicable).
 - d. Occupational and Health safety control measures for safe working of the equipment offered.
 - e. Equipment should be fitted with guard for rolling and moving part as per OH&S legislation and Factory Act.
 - f. The recommended PPE for the equipment to be furnished.
 - g. Details of all hazardous/harmful substances discharged as by-products/wastes during operations to be mentioned along with their permissible limits.
 - h. Appropriate pollution controls measure to be taken to keep the emissions from the battery to be clearly mentioned.
 - i. Chemical banned due to their negative impact on the environment shall not be used in the offered item.
 - j. Details of disposal practices to be followed to be provided for the chemicals and the Equipments.
 - k. Primary materials used in the equipment shall be specified and they should be ecofriendly.
9. Vendor shall take all measures necessary steps to maintain integrity in totality throughout the bidding process. He or any of the representatives, third person shall not be engaged in any manner to anybody in the business at any point of time for biasing or indulged in corruption process during any stage of bidding process (pre contract or post contract stage) in order to secure the contract or in furtherance to secure it. Indulgence of such unfair practices will lead to Cancellation of bids or orders as the case may be and also lead to forfeiture of EMD, Security deposit and performance bond without assigning any reason thereof. Similarly, if any person from the purchaser OPGCL demands or do any unlawful act are to be brought to the notice of the management to address the same. If required OPGCL & Vendor have to sign the Integrity Pact to maintain the transparency in the procurement process as per format enclosed.
10. OPGCL reserves the right not to accept the lowest rate quoted by the bidder and reject any or all the offer without assigning any reason whatsoever. M/s OPGC Ltd. also reserves the right to accept/reject/split any tender without assigning any reason thereof.

DEVIATION FROM Techno- COMMERCIAL SPECIFICATION

All Deviations from the Commercial terms shall be filled in by the Tenderer, Clause by Clause, in this Schedule else bid may be treated as unresponsive. Deviations which are not reflected in this sheet and found at any other point shall not be considered any in such case EMD amount may be forfeited.

Section No.	Clause No.	Deviation type & details	Remarks/ reference no.	Page

The tenderer hereby certify that the above mentioned are the only deviations from the Techno Commercial terms of the Specification. Deviation points not mentioned in this list shall not be considered.

Company Seal:
Designation:
Company:

Signature:

**STATEMENT OF SUPPLY ORDERS EXECUTED / UNDER EXECUTION DURING
THE PAST THREE YEARS AS ON THE DATE OF TENDER**

Name of Equipment/Material	Name and Address of the Organisation.	Po No. & Date	Qty.	Value in Rs.	Schedule date of completion of order	Actual date of completion of order

Company Seal:
Designation:
Company :

Signature :

PROFORMA FOR SUMMARY QUOTATION

For Technical & un-priced Commercial bid) Part-1

Tender No.:

Sl. No.	Techno Commercial Points	OPGCL Needs	To be filled by the bidder with Page/Folio Reference
1	Technical Specification as per Tender Enquiry for supply of Wagons.	a. Accepted/ Not accepted. b. If not accepted detail deviation and proposal.	
2	Credentials for supply of quoted items to other power plant.	Submitted/ Not submitted as per bid requirement.	
3	The bidders should have experience in Design, manufacture, supply of Wagons as per bid requirement and supplied a minimum of 50 sets in last five year. (60 months within date of bid opening)	Yes/ No.	
4	The performance certificates from the industries where used, are to be enclosed. The Performance certificate should be submitted for the installations which are Commissioned in the last ten (10) years as on date.	a. Yes/ No. b. If Yes name of the Plant/s.	
5	Bidder is a ISO 9001/ISO14001/OHSAS18001 firm	Yes/No	
6	All Tests to be carried out as per the bid document	Yes/No	
7	Bidder has to submit EMD either in shape of DD payable on State Bank of India (Code No. 9510) Banharpali /Central Bank of India, Belpahar/ Andhra Bank, Adhapada (Code-0662), IB Thermal Power Station, Banharpali, Jharsuguda in favour of Odisha Power Generation Corporation Limited.	Submitted/Not submitted	
8	Price Basis	FOR Destination IB Thermal Power Station.	
9	Packing & Forwarding charges % or Rs..... in Lumpsum Inclusive/ Exclusive.	
10	GST % Inclusive/ Extra/Not applicable.	
12	Transportation Cost	Rs. ---- per No./Lump sum. As extra/Inclusive.	
13	Transit Insurance % extra/inclusive	
15	Delivery Schedule	Eight weeks Accepted/Not Accepted.	
16	Validity of offer	180 days from the due date	

		of opening date of the Part-1 bid. (Techno Commercial). Accepted/Not accepted.	
17	Liquidated damage clause is applicable if delivery is delayed beyond quoted delivery date @0.5% per week/part of week subject to 5% of PO value. (As per Details in the tender)	Accepted/ not accepted. Non acceptance shall lead to loading of your offer by 5%.	
18	Submission of security deposit as per bid.	Accepted/Not accepted	
19	Payment Term: 90% payment shall be made within 30 days from the date of final acceptance of material & 10% shall be made within 90 days on submission of 10% of PO value as performance bank guarantee valid for a period of 21 months (18 months + 03 months grace period) from the receipt of materials or 12 months from the date of use.	a. Accepted/ Not accepted (in case non acceptance loading shall be done). b. If not accepted with deviation details.	
20	Acceptance of part order quantity	Yes/No	
21	Packing material as per OPGCL term to use non asbestos and environmentally friendly material	Yes/ No	
22	Payment to be made through RTGS mode	Accepted/ Not accepted.	
23	All Bank charges to vendor account	Accepted/ Not accepted.	
24	Tender Notice NIT General Terms & Conditions	Accepted/ Not accepted.	
25	Acceptance to guarantee clause	Accepted/not accepted.	
26	List of Deviation statement from tender norms.	Submitted/ Not submitted.	
27	Certificate of approval by RDSO	Submitted/ Not submitted.	
28	Average turnover in last three years. P/L account of last three year.	Document submitted/Not submitted.	
29	Acceptance to Participate in E-Reverse Auction	Accepted/Not Accepted	
30	Third Party Inspection Charges on Suppliers Scope	Accepted/Not accepted	

Authorised Signatory:

Name of the firm:

Designation:

Company Seal:

Place & Date.



Part-II

Part-II is the Price Bid only which should contain the price & details of breakup of the trade discount, packing, forwarding, Taxes, freight, insurance. Supervision and Installation Charges, Third party inspection charges etc.

PROFORMA FOR SUMMARY QUOTATION for Price Bid (Part-II)

BIDDERS REF.:

DATE:

Sl No.	Description of the materials	UOM	Qty.	Unit Rate	Price Basis	P&F	GST	Estimated freight	Transit Insurance	Total price F.O.R. Destination
1	Design, engineering, manufacturing, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding and supply & commissioning of bottom discharge coal hopper complete wagon of model BOBRNHSM1, design K , as per RDSO DRAWING NO: WD-91071-S-50 Alt.12 Design K with pick up shoe, electro pneumatic valve / spool valve for door opening mechanism arrangement. The door operating air pipe line and air receiver tank shall be charged from the locomotive through hose couplings and feed pipe with compressed air at a pressure of 5 KG/cm2 to 6 KG/cm2. The wagons will have bottom discharge hopper for operating on 1676 mm gauge (BG).	Nos	25							
2	Design, engineering, manufacturing, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding and supply & commissioning of bottom discharge coal hopper wagon (wagon superstructure only with under frame excluding casnub 22 NLB bogie and wheel set) of BOBRN variant as per RDSO Drg No. WD-91071-S-50 with pick up shoe, electro pneumatic valve / spool valve for door opening mechanism arrangement for our existing CASNUB 22 NLB bogie having spherical central pivot. The door operating air pipe line and air receiver tank shall be charged from the locomotive through hose	Nos	5							

	couplings and feed pipe with compressed air at a pressure of 5 KG/cm ² to 6 KG/cm ² . The wagons will have bottom discharge hopper for operating on 1676 mm gauge (BG).									
3	Design, engineering, manufacturing, shop fabrication, assembly, testing & inspection at manufacture's works, packing, forwarding and supply & commissioning of bottom discharge coal hopper wagon (wagon superstructure only with under frame excluding bogie and wheel set) of BOBRN variant as per RDSO Drg No. WD-91071-S-50 with pick up shoe, electro pneumatic valve / spool valve for door opening mechanism arrangement for our existing CASNUB 22 NLB bogie having spherical central pivot. The door operating air pipe line and air receiver tank shall be charged from the locomotive through hose couplings and feed pipe with compressed air at a pressure of 5 KG/cm ² to 6 KG/cm ² . The wagons will have bottom discharge hopper for operating on 1676 mm gauge (BG).	Nos	15							

1. Third party INSPECTION Charges if any:
2. Super vision and installation charges:
3. (i) Deviation in tech. Specification- YES OR NO/ if yes details of the same.
(ii) Deviation in commercial Terms & conditions- YES OR NO /if yes details with clause No.

Authorised Signatory:

Name of the firm:

Designation:

Company Seal:

Place & Date

The above two bids should be sealed separately superscribing as Technical & Un-Priced Commercial (Part-I) and Price Bid (Part-II) as the case may be and enclosed in third sealed envelope super scribing NIT No - NIT/21-22/153 dt. 24.07.2021 for supply of Wagons to ITPS due on 09.08.2021 . Your offer should reach this office on or before 09.08.2021 up to 15.00 hrs. Part-I (Technical and Un-priced commercial Bid) shall be opened on 10.08.2021 at 15.30 hrs. in presence of either the bidder or their authorized representative. Parties who shall qualify in Techno commercial bid shall be intimated to attend on a future date & venue to keep them present in the opening of Price Bid. In case the tender opening date happens to be a holiday the same will be opened on the next working day.

The EMD of unsuccessful bidders shall be returned within 45 days of finalisation of the tender. If the bids are not submitted in separate sealed envelope, both found in one envelope or if price bid is found in techno commercial bid and vice versa the bids will be rejected.

Offer received late due to postal or courier delay shall not be entertained. The bidder at their interest should ensure delivery of the bid well in advance.

OPGC shall not be responsible in any way for any delay/ difficulties/ inaccessibility of the downloading facility from the website for any reasons whatsoever. The tenderer(s) who are found to be indulging in changing/ adding or deleting the content of the downloaded Tender Documents will be liable to face necessary action as deemed fit including banning, suspension of business dealings etc. In case any discrepancies found between the downloaded Tender Documents from the website and the master copy available in the Office of the Tender Inviting Authority, the later shall prevail and will be binding on the Tenderer(s). No claim/ apple on this account will be entertained or given cognizance. Tenderer(s) will be solely responsible for the correctness/ genuineness of the downloaded Tender Documents from the website. If the offer submitted through the downloaded tender documents which are incomplete, or with changed content, the offer will be summarily rejected. Quotation submitted by the tenderer(s) through FAX/ Telegram will not be considered valid.

M/s OPGCL reserves the right to ask more credential/clarification during evaluation of Techno-commercial bid and reserves to extend the date of opening of techno commercial bid & price bid. Any amendment or Bid extension shall be published in the opgc web page www.opgc.co.in only. M/s OPGCL reserves the right to accept, reject all or any bid & can split among the bidders or can ask for rebid among the technical accepted bidders without assigning any reason thereof.

N.B:- Evaluation of “L1” will be done for “Wagons” under this NIT on the landed cost for sum total of quoted rates for all items including taxes, duties, freight, third party inspection charges & other costs indicted in the price bid.

General Manager, SCM

Annexure-II

Rules and Regulations of the e-Reverse Auction

Buyer's Name/Owner	Ib Thermal Power Station (A Unit of Odisha Power Generation Corporation Limited)
Auction To Be Conducted By	MSTC Limited
Name of the work	Supply OF Wagons as per specification
Reference	NIT 21-21/153 dt: 24.07.2021
Date & Time Of Auction	Auction Date: [To be intimated later] Online e-Reverse Auction Time : [To be intimated later] URL: www.mstcecommerce.com/eprochome/opgc
Special Instructions	Bidding in the last minutes and seconds should be avoided in the bidders own interest. Neither the Service Provider nor OPGC will be responsible for any lapses /failure on the part of the vendor, in such cases.
Auto Extension of Closing Time	5 minutes NB: If any bidder quotes 5 minutes before closing time, the closing time will be extended automatically for another 05 minutes and so on till 05 minutes idle time between the bids.
Decremental Value	Minimum decrement is to be intimated later
Start Price	The start price shall be confirmed before start of the e-RA by OPGC.

1. For the proposed e-Reverse Auction, techno-commercially qualified bidders only shall be eligible to participate.
2. Bidders must be a registered user to bid for Buyer ("OPGC") in MSTC portal www.mstcecommerce.com/eprochome/opgc. Bidders need to have their Login ID and Password prior to e-Reverse Auction.
3. Bidders have to participate as per the e-Reverse Auction time and date communicated to them & based upon e-Reverse Auction invitation for particular Auction.
4. Quotation once submitted through e-Reverse Auction cannot be withdrawn /deleted. Otherwise, the EMD submitted by the bidder shall stand forfeited.
5. Buyer reserves the right to ban the bidder from participating in e-Reverse Auction without any explanation/reason at any stage of e-Reverse Auction.
6. Buyer reserves the rights to extend / cancel the e-Reverse Auction.
7. E-Reverse Auction shall be conducted in Indian Rupees only.
8. All prices submitted by Bidder in e-Reverse Auction shall be as per Tender's Terms & Conditions.
9. Validity of bids: As mentioned in Tender Document.
10. Written Confirmation shall be taken in advance regarding participation in the e-Reverse Auction to buyer along with the Authorized person name and details.
11. Buyer reserves the right to award the Purchase Order / Service Order as per buyer's discretion irrespective of Live Auction Rank.
12. Buyer reserves the right to repeat the e-Reverse Auction of same package.
13. **The manual price bids submitted by techno-commercial qualified bidders shall open before reverse auction. After opening of manual price bid E-RA shall be conducted. After completion of e-Reverse Auction, the lowest evaluated bid of all the bids submitted in manual and e-Reverse Auction process shall be considered for award of the Purchase order / Work order.**
14. The bidders shall quote from their own offices/ place of their choice. Internet connectivity shall have to be ensured by bidders themselves.

15. If the Bidder or any of his representatives are found to be involved in Price manipulation/ cartel formation of any kind, directly or indirectly by communicating with other bidders, OPGC at its own discretion shall debar the bidder from the e-Reverse Auction/Tender and future participation also.
16. OPGC reserves the right to cancel the e-Reverse Auction process/ tender at any time, before ordering, without assigning any reason and may go for finalization based upon manual opening of price bids as per standard practice.
17. OPGC shall not be liable for any interruption or delay in accessing the MSTC portal irrespective of any cause. In such cases, the decision of OPGC shall be binding on the bidders.
18. Other terms and conditions shall be as per NIT, bidder's techno-commercial Bid and other latest correspondences/ final confirmations, (if any) against the NIT.
19. If any item is not quoted by a bidder, the maximum price quoted by the other participated bidders for that item shall be considered for arriving evaluated price of that bidder.
20. The total L1 Price obtained through e-Reverse Auction shall be proportionately distributed among each line item inline with the price quoted and evaluated in the hard copy price bid.
21. The price quoted in e-Reverse Auction is the total price for all the items and quantity as per Price Schedule of NIT irrespective of any omission by the bidder in the hard copy price bid.
22. In case, the L1 Bidder in e-Reverse Auction and manual Tender happens to be the same bidder, then minimum price among both shall be considered as L1. If the bidder disagrees to accept the said condition, then his EMD shall be forfeited. Apart from this the bidder will be debarred from participating in future e-Reverse Auction/Tender of OPGC.
23. Each Bidder shall get the final loading factor (%age of the quoted price) from OPGC before e-Reverse Auction for the deviations, if any, taken by them in the techno-commercial bid.
24. The Price quoted in the e-Reverse Auction shall be inclusive of all applicable taxes, duties and levies, deviations considering the loading factor (got from OPGC/Tender Condition as mentioned in above clause) on his quoted price. However, the GST shall be paid extra as applicable and not included in the loading factor as well as total price.

UNDERTAKING

I hereby undertake that I agree to the **"Rules and Regulations of the e-Reverse Auction"** mentioned herein.

Signature:

Name:

Date:

Company Name:

Seal:

Additional Instructions for Foreign Bidders.

1. The Price basis shall be CIF Kolkata Airport / Kolkata Port/Para deep Port/Visakhapatnam Port.
2. The prices shall be in any freely convertible currency such as US Dollar, Pound Sterling, Deutsch Mark, Japanese Yen and Euro only.
3. The prices shall be firm and free from corrections and erasures.
4. The prices shall be valid for 180 days from the date of Bid Opening.
5. Quotation shall be submitted in English Language only.
6. Delivery Period shall be firm and clearly indicated in the Quotation. In case of urgency, early deliveries may be requested.
7. Approximate Dimension of the consignment, Gross and Net weight shall be indicated in the quotation.
8. Packing and Insurance:
 - a. Packing shall be transport worthy to ensure safe delivery considering the nature of the goods.
 - b. Incase insurance shall be arranged by OPGC, the name, address, fax no. and policy no. shall be indicated in the order. Suppliers must send dispatch details by fax/mail to insurance company within 72 hours of handing over the material to carrier.
9. Name and details of foreign advising banker, Country of Origin, Port of Shipment should be indicated in the Quotation.
10. Indian Agency Commission, if any, payable by us shall invariably be included in the CIF Kolkata /Para deep Port/Visakhapatnam Port price. Percentage of Commission shall be clearly mentioned along with the name and address of Indian Agent. A copy of agreement with Indian Agent shall be furnished along with the Quotation.
11. Indian Agency Commission, if any, shall be paid in Indian Rupees only, subject to the following quantum as per Government of India Guidelines:

a. Up to order value Rs. 5,00,000/-	10% (Max)
b. Between Rs. 500000 to Rs. 10,00,000	7.5%
c. Between Rs. 10,00,000 to Rs. 25,00,000-	5%
d. Over Rs. 25,00,000/-	2.5%

(CIF/FOB cost may be converted into equivalent Indian Rupee value and quote IAC subject to above maximum limit)
12. We would prefer to deal directly with the foreign supplier. In case, if our tender enquiry is forwarded to Indian Agent/ Distributor, we shall be informed of the same. The quotation from Indian Agent/ Distributor shall be accepted subject to following:
 - a. The quotation is submitted in accordance with the above instructions along with copy of Agreement with their Principal.
 - b. Quotation submitted by Agent/ Distributor for and on behalf of Principal, be supported with Authority from the Principal / Power Attorney in favour of Indian Agent duly notarized. format enclosed)
 - c. In the event of quotation submitted in Indian Rupees; Principal's price list, applicable Custom duty and Countervailing Duty (if any), with specific reference clauses and base Exchange rate is to be furnished.
 - d. Agent/ Distributor/ Authorised Dealer must be registered with DGS&D/ Govt. of India.
13. Payment Terms:
 - a. Foreign Supplier: 90% of the CIF/FOB/ FCA price less Indian Agent's commission, if any shall be payable through a Irrevocable Letter of Credit against presentation of shipping documents as called for in the purchase order, 10 % against submission of Performance Bank Guarantee of equivalent value valid for 21 months from the date of receipt of materials at OPGC site.

b. Indian Agent's Commission: 100% agency commission, if any, shall be payable to the Indian Agent in equivalent Indian Rupees at the rate of exchange applicable as on date of Airway Bill/ Bill of Lading within 30 days of receipt of Materials against Invoice

supported by a Certificate indicating exchange rate (TT BUYING), applicable on date of Airway Bill/ Bill of Lading from the Indian Agent's Banker/ Declaration by Central Board of Excise and Customs for the relevant month. In case the date of shipment happens to be Bank Holiday, the exchange rate applicable on the last working day prior to the date of shipment shall be considered.

- c. All bank charges on account of Letter of Credit payable within India shall be borne by OPGC Limited and those outside India are to be borne by the Foreign Supplier.
 - d. The Letter of Credit shall not allow partial shipment or Transshipment normally.
 - e. The arrangement for transportation by Sea/ Air shall be done by the seller as per instructions given in this regard in the Purchase Order.
 - f. The name of carrier chosen to be clearly mentioned. DHL is preferred carrier for OPGCL.
14. Validity of Letter of Credit: The Irrevocable Letter of Credit to be opened through the Purchasers bank shall normally be kept valid for a period of 90 days. The Letter of Credit shall be opened upon intimation from the supplier about the expected date of dispatch of material. Normally extension of the validity of Letter of Credit will not be allowed.
15. Bidder should note that the exchange Rate applicable on the BOD (Bid Opening Date) shall be considered for evaluation purposes.
16. Following Documents are to be submitted while negotiating through L/C:
- a. Invoice/ Airway Bill/ Bill of Lading
 - b. Certificate of Country of Origin Certified by Local Chamber of Commerce.
 - c. Packing List with complete details.
 - d. Inspection/ testing / Guarantee Certificate wherever applicable.
 - e. Copy of confirmation of our insurance company.
 - f. Technical Literature if any
 - g. Psychosanitary certificate for the packing material.

Vendors Signature

Name and address

PROFORMA OF BANK GUARANTEE FOR CONTRACT PERFORMANCE
(On Non-Judicial Stamp paper of Appropriate Value)

1.0 In consideration of OPGC Ltd. Having its registered office at Zone-A, 7th Floor, Fortune Tower, Chandrasekaharpur, Bhubaneswar-751023, Odisha herein-in after called the "Owner" which expression shall unless repugnant to the subject or context include its successor & assignees) having awarded to M/s with its Registered/Head office at..... here-in after referred to as the "Contractor" which expression shall unless repugnant to the subject or context include its successor, executors & assignees) a contract by issue of Owner's Letter of Intent No.....dt. and the same having been unequivocally accepted by the contractor resulting in a contract bearing No.dated valued at Rs.....for and the contractor having agreed to provide a contract performance (Scope of work)

Guarantee for the faithful performance of the entire contract equivalent Rs. 10% (ten percent) of the said value of the contract to the owner for satisfactory performance of the equipment/materials supplied (as detailed in the said agreement) during the Guarantee period (as detailed in the said agreement) and for the due fulfillment by the contractor(s) of the terms and conditions contained in the said agreement.

2.0 We(here-in after referred to as " the bank"
(Name & address of Bank)
having its Head Office atdo hereby guarantee and undertake to pay the owner, on demand any and all amount payable by the contractor not exceeding Rs.(Rupees) only as aforesaid at any time upto
(Days/month/year)

3.0 We do hereby
(Name of Bank)
Undertake to pay the amounts due to and payable under this guarantee without any demur, reservation, contest, recourse or protest and/or without any reference to the contractor. Any such demand made by the owner on the Bank shall be conclusive and binding notwithstanding any difference between the owner and contractor or any dispute pending before any court, tribunal or any other authority. The bank undertakes not to revoke this guarantee during the currency without previous consent of the Owner and further agrees that the guarantee herein contained shall continue to be enforceable till the owner discharges this guarantee.

The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the contractor(s)/suppliers shall have no claim against us for making such payment.

4.0 We further agree that the
(Name of Bank)
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 dues of OPGC have been fully paid and its claims satisfied or discharged until OPGC certifies that the terms & conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and accordingly discharges this guarantee.

5.0 We further agree with the
(Name of Bank)

OPGC that OPGC 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 OPGC against the said contractor(s) and to for bear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, postponement or extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of the OPGC or any indulgence by the OPGC to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

6.0 This guarantee will not be discharged due to the change in the name, style and constitution of the Bank or the contractor(s)/suppliers(s).

7.0 Notwithstanding anything contained herein a) Our liability under this bank guarantee shall not exceed Rs..... [Rupees] b) This bank guarantee shall be valid upto c) We are liable to pay the guaranteed amount or any part thereof under this B.G only and only if the beneficiary/Govt. serves upon the bank a written claim or demand on or before

8.0 Welastly undertake not to revoke this
(Name of Bank)

Guarantee during its currency except with the previous consent of the OPGC in writing.

Dated theday of200...

9.0 Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to Rs.....(Rupees.....only) and this guarantee is valid upto We shall be released and discharged from all liabilities hereunder unless a written claim for payment under this guarantee is lodged on us within three months from the date of expiry of the guarantee i.e on or before Irrespective of whether or not the original guarantee is returned to us.

The confirmation of this Bank Guarantee is available within our controlling office. The beneficiary in his own interest should obtain such confirmation from the controlling office at the following address

WITNESS with address

1.

2.

For and on behalf of (the Bank)

Signature

Name

Designation

Authorisation No.

Seal of the Bank



PROFORMA FOR BANK GUARANTEE IN LIEU OF DD FOR EARNEST MONEY
(On Non Judicial stamp paper of appropriate value)

Ref:

Date:

Bank Guarantee No.

To

Odisha Power Generation Corporation Ltd.,
IB Thermal Power Station,
At/Po- Banharpali,
Dist-Jharsuguda-768234.

Dear Sir,

In consideration of Odisha Power Generation Corporation having its Registered office at 7th Floor, Zone – A, Fortune Towers, Chandrasekharpur, Bhubaneswar-751 023 (hereinafter called the "Owner" which expression shall unless repugnant to the subject or context include its successors and assigns) having issued Tender Specification Against NIT No. _____ dt. _____

to M/s _____ having its Registered / Head office at _____ (hereinafter called the Bidder) who wishes to participate in the said tender for and you, as a special favour, have agreed to accept an irrevocable and unconditional Bank Bid Guarantee for an amount of Rs. _____ valid up to _____ On behalf of the Bidder, as a condition for participation in the said tender.

We, the _____ Bank incorporated under _____ law and having one of our branches at _____ and having our Registered office/Head office at _____ do here by unconditionally and irrevocably guarantee and under take to pay to the "Owner" immediately on demand without any demur reservation, protest, contest and recourse to the extent of the said sum of Rs. _____ (Rupees _____ only). Any such claim/demand made by the said "Owner" on us shall be conclusive and binding on us irrespective of any dispute or differences raised by the Bidder.

This guarantee shall be irrevocable and shall remain valid up to _____. If any further extension of this guarantee is required, the same shall be extended to such required period on receiving instructions from M/s _____ on whose behalf this guarantee is issued.

We, the said Bank lastly undertake not to revoke this guarantee during its currency except with the previous consent of the owner in writing and agree that any change in the constitution of the said tenderer or the said Bank shall not discharge our liability. In witness where of the Bank, through its authorised officer, has set its hand and stamp on this _____ day of _____ 20_____

Witness:

(Signature)

(Signature)

Name

Name

Official Address

(Designation with Bank stamp)

Attorney as per Power of Attorney
No. _____ & Date: _____



Bank MANDATE FORM for e-payment
(To be submitted in Duplicate)

To.
M/s Odisha Power Generation Corporation Ltd.,
IB thermal power station,
Banharipali, Odisha

Dear Sir,

Sub :- Authorization for release of payment due from OPGC Ltd through e-mode facilities of RTGS / NEFT / Internet Banking.

We are the regular contractor/Supplier to your organization and are executing work /supplying materials under different Contracts/ Purchase Orders to OPGC Ltd. We request you to release the payment of the outstanding amount electronically i.e, through RTGS, NEFT, Fund Transfer or any other suitable way. The details of our bank account are as follows: -

(Please fill in the information in CAPITAL LETTERS. Please TICK wherever it is applicable)

1. Name of the Party:

2. Address of the Party
.....

City Pin Code

E-mail ID

Permanent Account Number

Telephone/Cell No.....

3. Particulars of Bank :

Bank Name		Branch Name	
Branch Place		Branch City	
Pin code		Branch Code	
MICR No			
Account Type	Savings:	Current:	Cash Credit:
Account No. (as appearing in the Cheque Book) :			
(9 Digits code number appearing on the MICR Bank of the cheque supplied by the Bank. Please attachPhoto copy of a chqueue of your bank for ensuring accuracy of the bank name, branch name & code and Account number)			
IFSC Code			

4. Date from which the mandate should be effective :

I hereby declare that the particulars given above are correct and complete. If any transaction is delayed or not effected for reasons of incomplete or incorrect information, I shall not hold Odisha Power Generation Corporation Ltd responsible. I also undertake to advise any change in the particulars of my account to facilitate up dation of records for purpose of credit of amount through internet / RTGS / NEFT.

Place:

Date :

Signature of the Party / Authorized Signatory

.....



Certified that particulars furnished above are correct as per our records.

Bank's Stamp:

Date:

(Signature of the Authorized Official from the Banks)

INTEGRITY PACT

Between

Odisha Power Generation Corporation Ltd. (OPGC), a company registered under the Companies Act 1956 and having its registered office at Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar-751023, Odisha (India) hereinafter referred to as "Principal", which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

And

_____, description of the party along with address), hereinafter referred to as "Bidder/ Contractor" which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

(The Principal and the Bidder/ Contractor together are collectively referred to as the "Parties" and individually as a "Party" in this Pact).

Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for... ("Contract") The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal enter into an Integrity Pact ("Pact") with the Bidder(s)/ Contractor(s) for the tender process and execution of the Contract and will appoint Independent External Monitor(s), who will monitor the tender process and the execution of the Contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1.1.1 No employee/Director/management representative of the Principal, personally or through family members or through third party, will in connection with the tender process for, or the execution of a Contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

1.1.2 The Principal will, during the tender process treat all Bidder(s)/ Contractor(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information (other than the clarifications sought for by the Bidder(s)/Contractors with respect to the bidder specific information required to be provided only to the concerned Bidder(s)/Contractor(s),) and will not provide to any Bidder(s)/Contractor(s) confidential / additional information through which the Bidder(s) /Contractor(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the tender process or execution of the Contract all known prejudiced persons including those employees/ Directors/management representatives of the Principal who have family relationships with the employees or Directors of the Bidder(s)/Contractor(s).

1.2 If the Principal obtains information on the conduct of any of its employees/ Directors/ management representative which is a penal offence under the Indian Penal Code 1860 and

Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Chief Vigilance Officer for further enquiry and initiation of disciplinary actions against the person(s) concerned.

Section 2 – Commitments of the Bidder(s)/ Contractor(s)

2.1 The Bidder(s)/ Contractor(s) commit itself to take all measures necessary to prevent corruption. The Bidder(s) / Contractor(s) commits itself to observe the following principles during its participation in the tender process and during the contract execution.

2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees/ Directors/ management representative involved in the tender process or the execution of the Contract or to any third person any material, immaterial or any other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the Contract.

2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC Act and any other such similar applicable Acts; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

2.1.4 The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2.1.5 The Bidder(s) / Contractor(s) will not, directly or through any other person or firm, approach any Government officials, ministers, political persons public servants, or any external agencies in an effort to influence the bidding decision making process or to attain any undue favours to the Bidder(s) / Contractors(s).

2.1.6 The Bidder(s)/Contractor(s) shall exclude, from the tender process or execution of the Contract all known prejudiced persons including those employees / Directors /management representatives of the Bidder(s) / Contractor(s) who have family relationships with the employees or Directors of the Principal.

2.1.7 The Bidder(s)/Contractor(s) shall disclose the circumstances, arrangements, undertakings or relationships that constitute, or may reasonably be considered to constitute, an actual or potential conflict of interest with its obligations specified in the tender process or under any contract which may be negotiated or executed with the Principal. Bidder(s)/Contractor(s) and their employees, agents, advisors and any other person associated with the Bidder(s)/Contractor(s) must not place themselves in a position which may, or does, give rise to conflict of interest (or a potential conflict of interest) between the interests of the Principal or any other interests during the tender process or through operation of the Contract.

2.1.8 The Bidder(s)/Contractor(s) will not indulge in any corrupt, fraudulent, coercive undesirable or restrictive practice in the tender process or the execution of the Contract.

2.2 The Bidder(s)/ Contractor(s) or its sub-contractors or its agents will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 – Disqualification from tender process, termination of the Contract and exclusion from future contracts

If the Bidder(s)/ Contractor(s), during the tender process or before award of the Contract or during the execution of the Contract has committed a transgression through a violation of Section 2 above, or acts in

any other manner such as to put its reliability or credibility in question, the Principal may disqualify the Bidders(s)/ Contractor(s) from the tender process or decide not to award the Contract

or terminate the awarded Contract or blacklist the Bidder(s)/Contractor(s). I and seek damages as specified in Section 4.

Section 4 – Compensation for Violations

4.1 If the Principal has disqualified the Bidder(s)/ Contractor(s) from the tender process prior to the award of the Contract according to Section 3 or 5, the Principal is entitled to demand and recover the damages by encashment of the Earnest Money Deposit/ Bid Security deposited by the Bidder(s)/ Contractor(s) while making submission in the tender process.

4.2 If the Principal has terminated the Contract according to Section 3 or 5, or if the Principal is entitled to terminate the Contract according to section 3 or 5, the Principal is entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the Contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher, in addition to the Liquidated Damages already agreed to by the Bidder(s)/ Contractor(s) in the Contract..

Section 5 – Previous Transgression

5.1 The Bidder(s)/ Contractor(s) declares that no previous transgressions occurred in the last three (3) years with any other organization in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify its exclusion from the tender process or the execution of the Contract.

5.2 If the Bidder/ Contractor has made incorrect statement/disclosure on this subject or hides such information, the Principal is entitled to disqualify the Bidder/Contractor from the tender process or the execution of the Contract, if already awarded, may terminate the Contract and claim compensation as mentioned in section 4.

Section 6 – Equal treatment of all Bidders/ Contractors/ Sub-contractors

6.1 The Bidder(s)/ Contractor(s) undertake(s) to demand from his sub-contractors a commitment consistent with this Integrity Pact. This commitment shall be taken only from those sub-contractors whose contract value is more than 20% of Bidder's/ Contractor's contract value with the Principal.

6.2 The Principal will enter into individual Integrity Pacts with identical conditions as this one with all Bidders and Contractors for the tender process.

6.3 Only those Bidder(s)/ Contractor(s) who have entered or expressed intention of entering into Integrity Pact with the Principal shall be eligible to participate in the tender process or execution of the Contract.

6.4 The Principal will disqualify the Bidder(s)/ Contractor(s) from the tender process who do not execute the Integrity Pact or violate its provisions.

Section 7 – Criminal Charges against violating Bidders/ Contractors/ Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office of the State in which the Principal has its Registered Office.

Section 8 –Independent External Monitor(s)

8.1 The Principal will appoint one or more competent and credible Independent External Monitor(s) ("Monitor") for monitoring the implementation of this Pact. The task of the Monitor will be to review independently and objectively, whether and to what extent the Parties comply with the obligations of the Integrity Pact.

8.2 The Monitor shall not be subject to instructions by the representatives of the Parties and shall perform his functions neutrally and independently. The Monitor shall report to the OPGC Board.

8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all the document related to the tender process or the execution of the Contract of the Principal including

that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) shall grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to the document in its possession related to the tender process or execution of the Contract. The same is applicable to Sub-contractor(s) of the Bidder(s)/ Contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Subcontractor(s) with strict confidentiality.

8.4 The Principal will provide to the Monitor sufficient information about all meetings among the Parties related to the tender process or the execution of the Contract provided such meetings could have an impact on the contractual relations between the Principal and the Bidder/ Contractor. The Parties shall offer to the Monitor the option to participate in such meetings.

8.5 As soon as the Monitor notices, or believes to have noticed, a violation of the Integrity Pact, he will so inform the Managing Director of the Principal and request him to take corrective action, or heal the situation, or to take other relevant action. The Monitor may in this regard submit non-binding recommendations. Beyond these actions, the Monitor shall have no right to demand from the Parties that they act in a specific manner, refrain from action or tolerate action.

8.6 If the Monitor reports to the Managing Director of the Principal, a substantiated suspicion of an offence under relevant IPC / PC Act, the Managing Director of the Principal shall within reasonable time, taken visible action to proceed against such offence.

8.7 The number of Independent External Monitor(s) shall be decided by OPGC.

8.8 The word 'Monitor' would include both singular and plural.

Section 9 – Pact Duration

9.1 This Pact shall become effective from the date when both the Parties have executed it or the Parties have shown their intent to enter into the Pact, whichever is earlier. This Pact will expire for the Contractor after it meets all the obligations of the Contract and for all other Bidders 6 months after the Contract has been awarded.

9.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this Pact as specified as above, unless it is discharged/ determined by the Principal

Section 10 – Other Provisions

10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. Bhubaneswar.

10.2 Changes and supplements to the Pact as well as notices of termination of the Pact to be sent to any Party shall be made in writing by mutual agreement between the Parties.

10.3 If the Bidder/ Contractor is a partnership or a consortium, this Pact shall be signed by all partners or consortium members.

10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

10.5 Only those Bidder(s)/ Contractor(s) who have expressed their intention through submission in the tender process or have entered into this Pact with the Principal will be eligible to participate in the bidding.

For & On behalf of the Principal For & On behalf of the Bidder/ Contractor

(Office Seal)

(Office Seal)

Place-----

Date-----

Witness: _____

Witness: _____

(Name & Address) _____

(Name&Address)_____