

SPECIFICATION NO.:  
MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04



**MAHARASHTRA STATE POWER  
GENERATION CO. LTD.**

**FUEL MANAGEMENT  
CELL**

**BID SPECIFICATION**

**FOR**

**SUPPLY OF 2.00 LMT NON-COKING  
(STEAM) COAL OF FOREIGN ORIGIN**

**FOR**

**NASIK, KHAPERKHEDA AND  
CHANDRAPUR THERMAL POWER  
STATIONS**

**NOTIFICATION OF INVITATION OF BIDS  
(SHORT TENDER NOTICE)**

**COMPETITIVE BIDDING FOR SUPPLY OF  
NON-COKING (STEAM) COAL OF FOREIGN ORIGIN  
(TO BE SUBMITTED PHYSICALLY DULY FILLED IN)**

Date of issuance of invitation: 13-10-2011

The Maharashtra State Power Generation Co. Ltd., Mumbai, India (MAHAGENCO) invites Bids (Two Bid System i.e. separate bid for technical/commercial and price bid) from eligible Bidders for supply of "2.00 lakh MT NON-COKING (STEAM) COAL OF FOREIGN ORIGIN" for its Nasik, Khaparkheda and Chandrapur Thermal Power Stations.

Bid specification shall be available for download on website <http://mahagenco.in>

1	Download of tender document	14-10-2011 17.00 Hrs. IST
2	Last date for Submission of Bid (Techno-commercial and price Bids)	15-10-2011 15.00 Hrs. IST
3.	Due date for opening of techno- commercial bids	15-10-2011 16.00 Hrs. IST

MAHAGENCO reserves the right to cancel/withdraw this Invitation for Bids without assigning any reason for such decision.

CHIEF ENGINEER (FMC)

NOTE:

This is not the e-tender. Offers shall be submitted and processed in physical mode only. The instructions to bidder/terms and conditions appearing in this specification only shall be applicable. The bidders are requested to ignore the instructions about online offers/digital signature etc. appearing in e-tender notice.

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### SUPPLY OF 2.00 LAKH MT NON-COKING (STEAM) COAL OF FOREIGN ORIGIN FOR NASIK, KHAPERKHEDA AND CHANDRAPUR THERMAL POWER STATIONS

#### SECTION – I: INSTRUCTIONS TO BIDDERS

##### 1.0 INTRODUCTION:

##### 1.1 BID PACKAGE:

Maharashtra State Power Generation Co. Ltd. (hereinafter called and referred to as the 'Purchaser') invites the competitive bids for supply the below mentioned materials conforming to Section III - 'Technical Specification' of the Bid Specifications on the terms and conditions specified in the Bid Specifications on FOR Destination TPS basis:

Item No.	Description	Quantity
1.	Supply of non-coking (steam) coal of foreign origin to Nasik TPS	: 50,000 MT (-7% tolerance)
2.	Supply of non-coking (steam) coal of foreign origin to Khaparkheda TPS	: 50,000 MT (-7% tolerance)
3.	Supply of non-coking (steam) coal of foreign origin to Chandrapur Super TPS	: 1,00,000 MT (-3.5% tolerance)
	Total	2.00 Lakh MT

##### 1.2 LOCATION OF THERMAL POWER STATIONS:

- a) **Nasik Thermal Power Station (NTPS):** Nasik Thermal Power Station is located in the vicinity of village Eklahare, which is about 7 KM away from the Nasik Road Railway Station on Mumbai-Nagpur-Howrah section of Central Railway. Nasik Road Railway Station is about 180 KM away from Mumbai. The purchaser has provided a broad gauge railway siding connecting Nasik TPS to Nasik Road Railway station for movement of goods/coal.
- b) **Khaparkheda Thermal Power Station (KPKD):** Khaparkheda Thermal Power Station is about 20 Km away from the Nagpur Railway Station. Nagpur is one of the important junction of Mumbai-Nagpur-Howrah and New Delhi-Nagpur-Chennai section of Central Railway and is about 840 Km away from Mumbai. The purchaser has provided a broad gauge railway siding connecting to Kalumna Railway Station of South Eastern Railway.

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- c) **Chandrapur Super Thermal Power Station (CSTPS):** Chandrapur Super Thermal Power Station is located in the vicinity of Durgapur, which is about 5 KM away from Chandrapur Railway Station on New Delhi-Nagpur-Chennai section of Central Railway. Chandrapur is about 165 KM away from Nagpur. The purchaser has provided a broad gauge railway siding connecting Chandrapur Super TPS to Chandrapur Railway station and Vivekananda Nagar Railway Station for movement of goods/coal.

Bidders should note that distances shown above are meant only for the purpose of general idea of the location. Distances of destinations must be independently verified and confirmed by the Bidder from respective railway authorities. Bidders must also confirm, verify and satisfy themselves with respect to the unloading facilities at above power stations before submission of the bid.

- 1.3 The Bidder shall be solely responsible for undertaking any and all activities and incurring all costs and expenses, required for delivery of the coal, having the Technical Specification set forth in Section III, free of any liens and encumbrances to the Purchaser at the aforementioned thermal power stations.

### 2.0 CONTENTS OF BIDDING DOCUMENTS:

- 2.1 The goods required, bidding procedures and contract terms are prescribed in the Bid Specification. The bid specification includes the following sections and Annexures which shall collectively with the invitation for bids, and any amendments and modifications to the bid specifications notified by the purchaser be referred to as the "**Bid Specification**":

- |     |   |   |                             |
|-----|---|---|-----------------------------|
| (a) | Instructions to bidders   | : | Section – I                 |
| (b) | General terms and conditions  | : | Section – II                |
| (c) | Technical specification   | : | Section – III               |
| (d) | Proforma for Bank Guarantee against bid security (EMD)                                      | : | Annexure – I                |
| (e) | Proforma for power of attorney (from bidder to his person)                                  | : | Annexure – II               |
| (f) | Proforma for Techno-commercial bid  | : | Annexure – III              |
| (g) | Proforma for price bid with detailed breakup of FOR Destination price offered by the bidder | : | Annexure – IV (1) to IV (3) |
| (h) | Proforma for Bank Guarantee against Security cum Performance Guarantee deposit              | : | Annexure – V                |
| (i) | Schedule of deviations  | : | Annexure – VI               |
| (j) | Proforma of the contract  | : | Annexure – VII              |

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- (k) List of Banks : Annexure – VIII
- (l) Proforma for details of Bank Account for release of payment Annexure -IX

- 2.2 The bidder shall carefully examine the Bid Specification and fully inform and satisfy itself as to all the conditions and matters which may in any way affect to work or cost thereof. **Failure to furnish all information required by the Bid Specification or to submit a bid not substantially responsive to the Bid Specification in every respect will be at bidder's risk and may result in the rejection of the bid.** Should a bidder find any discrepancies or omissions in the Bid Specifications or have any queries with respect to any provision of the Bid Specifications, he should at once notify to the purchaser at below mentioned address:

The Chief Engineer (FMC)  
Maharashtra State Power Generation Co. Ltd.,  
Fuel Management Cell, 3<sup>rd</sup> Floor, 'Prakashgad', Plot No. G-9,  
Bandra (E), MUMBAI – 400 051,  
Maharashtra (India) FAX: +91 22 2658 1466

### 3.0 PREPARATION OF BID:

#### 3.1 Bid Form and Bid Schedules:

The bidder shall complete the Bid Form and the appropriate price schedule furnished in the Bid Specification, indicating for the goods to be supplied, a brief description of coal, its technical and quality parameter, quantity and prices.

Bids shall be fully in accordance with the requirements of this document and the Technical Specifications attached thereto. **Bidders should quote the price of non-coking (steam) coal of foreign origin for specified technical parameters as per Clause 2.0 (B) of Section-III of the Bid specification only.** Copies of appropriate specimen forms furnished with the Bid Specification shall be used for quoting bid prices.

- 3.2 The bidder shall quote the prices in figures as well as in words. In case of any variation/ mistake in the words and figures as well as quoted and calculated FOR Destination price as per the rates of taxes and duties prevailing at the time of evaluation, the rate advantageous to the purchaser shall be considered for the purpose of evaluation of bids and placement of order in the event of the bid being the successful bid.

- 3.3 **Bidders are requested to note that: offers shall be summarily rejected if Offers not conforming to General Technical Specification of coal as stipulated under Clause 2.0 (A), Section – III of Bid Specification.**

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### 4.0 BID PRICE AND BID CURRENCY:

- 4.1 The bidder is to quote his lowest prices net per metric ton as per prescribed price schedule with break-up for respective TPS destination basis for supplying non-coking (steam) coal of foreign origin having **specified technical parameters indicated in Clause 2.0 (B) of Section – III** for evaluation purpose. Bidder should note that this bid is to be submitted as a “package offer” on single point responsibility basis. **Therefore, offers not on FOR destination basis shall be summarily rejected.** The FOR destination prices should be quoted considering ports having facilities to handle the materials and are to include all duties including but not limited to levies, wharfage, shunting, trimming, tallying, other charges and cost of protection or preservation of the materials, Dock and Harbor dues, port rates, export taxes or other fees or charges (if any) levied.
- 4.2 Bidder can load cargo from place of origin for any Indian port. The Indian discharge port must be clearly specified in the bid as per the existing railway logistic plan, if any, at the time of submission of bid and the bidder if selected as the successful bidder will bound by all charges/costs quoted with respect to the discharge port specified in its bid including but not limited to the port charges, railway freight from discharge port to Destination TPS etc. Bidder should also study the unloading arrangement at the ports and respective TPSs and transport arrangement from such port of discharge to respective Power Stations of the purchaser, by rail, for the safe delivery of coal on turnkey basis. Arrangement of unloading etc. needs to be studied by the bidder before quoting rates on FOR destination basis. The purchaser shall not be responsible for making any arrangement at any Indian port for clearing and transporting the coal to the thermal power station site.
- 4.3 Prices shall include in addition to the above, freight for carriage of the material, all port charges and other incidental expenses such as, tonnage dues, light dues, harbor dues, other taxes and charges which are customarily payable on or with respect to the vessels at port/s of loading and unloading.
- 4.4 The prices stated above are also to include all rights (if any) of patent; registered design or trademark and the seller shall indemnify the purchaser against all claims in respect of the same.
- 4.5 All prices shall be quoted in Indian Rupees only in the format enclosed as Annexure IV(1)-IV(3). All break-up of prices shall be indicated individually for each item for which an offer is being made.
- 4.6 **Offers not giving breakup as per format given in Annexure IV (1)-IV (3) shall be liable for rejection.**
- 4.7 Customs duty and M VAT/sales tax included in the price shall be reimbursed by the purchaser as per Clause 5.0 of Section-II. While

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evaluating the price bids, the purchaser shall consider the set off/credit of taxes/duties available to him against the purchases through this bidding.

- 4.8** Any introduction of new tax/duty and statutory variation in, customs duty and M VAT/ sales tax within the contractual delivery period as explained under Clause 5.0 of Section-II shall only be paid on submission of documentary evidence.
- 4.9** Bid shall accompany Power of Attorney from the Bidder to his person in the format as per Annexure-II

### **5.0 ORIGIN OF GOODS:**

Bids are acceptable for coal conforming to the Technical Specifications set forth in Section III from coal producers or traders from any country of origin which has known mineable reserves of coal of the required specification. The supplier shall submit the shipping document for declaration of the source of each consignment to office of Chief Engineer (O&M) of respective TPS before delivery of coal at TPS for verification of country of origin of coal being supplied to Mahagenco.

### **6.0 QUALIFYING REQUIREMENTS FOR BIDDERS:**

The bidder must satisfy ALL the following minimum qualifying requirements:

- 6.1** As on the date of submission of bids, the bidder should have stock of imported coal of matching specification sufficient to cater requirement of the item/items he has opted to bid for at any Indian Port. The bidder shall submit notarised copies of following documents as a evidence for the same:

Bill(s) of Lading, Draught Survey Report of Load Port and/or Discharge Port as may be applicable, Sampling and Analysis Report at Load Port, Certificate of Country of Origin, Certificate Marine Insurance, Cable/Advise of Shipment. Copies of these documents filed with customs shall be submitted.

**AND**

- 6.2** The bidder shall have experience for handling of a minimum quantity of 50% of quantity offered to be supplied in the bid, in any one year during preceding three financial years i.e. 2008-09, 2009-10 & 2010-11/ calendar years i.e., 2008, 2009, 2010; directly or through PSU's to Indian Power / Steel/ Cement/fertilizer/ Industrial utilities. Experience of handling shall include handling of any dry bulk (solid) commodity like coal, fertilizer, cement, unloading at port, storing, loading in railway rakes, delivery upto destination and related activities. In support of the aforesaid experience, the Bidders shall furnish performance certificate in original / duly notarized from End Users / PSUs. In case of submission of notarized experience certificates, Mahagenco may ask for original certificate for verification, if required.

**AND**

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**6.3** The bidder should quote for full quantity specified for the station (s) the bidder has opted to bid for. Offers for short/ part quantities shall not be considered;

The bids of the bidders not meeting any one of the above qualifying criteria shall not be considered for evaluation.

Note: Above Qualifying Requirements are to be read in totality and not in isolation. The Purchaser also reserves the right to seek any additional information as it may deem fit to satisfy itself of the eligibility and past performance of the Bidder.

### **7.0 BID SECURITY (EMD):**

**7.1** The bidder shall submit the Bid security i.e. unconditional EMD of amounts equal to Rs.1 Crore /LMT, separate for each TPS's specified quantity, offered along with its bid.

**7.2** Bid security can be submitted in one of the following forms:

- a. Crossed Demand Draft in the name of Maharashtra State Power Generation Co. Ltd. payable at Mumbai drawn on any scheduled bank.
- b. A Bank Guarantee strictly as per the proforma specified in revised Annexure-I (enclosed) in favour of Maharashtra State Power Generation Co. Ltd. on behalf of bidder payable at Mumbai branch only. The names of banks are as stipulated in enclosed Annexure – VIII of this specification.

**7.3** The validity of the bank guarantee against Bid security shall be at least for **60** days from the date of Bid opening and the same shall be extended as may be required. **Bid security for shorter value and period shall make the Bid liable for rejection.**

**7.4** No interest will be paid on bid security irrespective of mode of submission.

**7.5 Any bid not accompanied by Bid security (EMD) or having submitted shorter amount than specified under Clause 7.1 above shall be disqualified.**

**7.6** The Bid submitted by a bidder shall be treated invalid and the Bid security shall be forfeited:

- i) If the bidder withdraws/ modify his bid within the bid validity specified in the Bid Specification. **OR**
- ii) The successful bidder fails to submit performance guarantee and/ or to execute contract agreement within the prescribed period in accordance with the instructions to the bidder. **OR**
- iii) If the Bidder does not accept the arithmetical calculation of the landed Price for evaluation of the bid. **OR**
- iv) If the bidder being the successful bidder fails to furnish the

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acceptance of Letter of Award, within the specified time limit. **OR**

- v) If the bidder gives any wrong / false information /documents in the bid for making the bid qualified (eligible).

### 8.0 VALIDITY OF BIDS:

Offers/bids should be valid for a period of at least **30** days from the date of their opening. **Bids with shorter validity shall be liable for rejection at the discretion of the purchaser.**

### 9.0 PAYMENT TERMS:

Payment terms are stipulated under Clause 12.0, Section – II of Bid Specifications. Bidders should note that no other payment terms are acceptable. Conditional discounts if any offered by bidders on any account shall not be considered for evaluation of bids; however, in the event of award of the contract to such bidder through this bidding, the purchaser reserves the right to avail such discounts offered at its own discretion.

### 10.0 SIGNING OF BIDS:

The offer shall be signed by the bidder as per Annexure II. Each page of the bid must be numbered consecutively, bear the tender number and should be signed by the bidder. Reference to total number of pages comprising the offer must be made at the top of the right-hand corner. Offer shall be submitted alongwith the bid specifications and be clearly and legibly filled in with all Sections/Annexures/ Appendixes/ Schedules etc. and must be either in ink or type written. Offer and all documents comprising of tender details, tender form, conditions of supply, Annexures, Appendixes, Questionnaires, drawings, test certificates and other documents should be duly signed on each page and corrections, if any, the information filled in should be duly initialed by the tenderer. There shall be no overwriting however, if required to be done should be duly initialed. Additional details given should also be duly initialed.

### 11.0 SUBMISSION OF BIDS:

**11.1** Bids are invited in **Two Envelope System** and are to be submitted in **duplicate (one set original and one copy of all the documents comprising bid)** as under:

- a) Envelope – A: This envelope shall be superscribed as” Techno-Commercial Bid” and shall contain documents as under:
  - i) Relevant Annexures, schedules, Power of attorney, EMD .
  - ii) Bid Specification signed and sealed on each and every page.
  - iii) Relevant documents in support of bidders qualifying requirements stipulated under Clause No. 6.0 above.

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- iv) Any other information/documents called for in the specification (bid specification) other than price.

**Envelope– A of bid should not contain any indication of price offered by the bidder failing which the bid shall be disqualified.**

- 11.2 Envelope – B. This envelope shall be superscribed as “Price Bid” and shall contain the documents as under:

- i) Price breakups for all the items quoted as per proforma stipulated in Annexure IV on the letterhead of the bidder for each and every item quoted by the bidder.

- 11.3 Envelope-A and Envelope-B shall be enclosed in an overall envelope. Envelope-A, Envelope-B and the overall envelope shall be individually sealed, superscribed and addressed as instructed below. Each of the four envelopes (i.e. Overall Envelope, Envelopes A, B) shall be signed and sealed by the authorised signatory of the bidder.

- a. Price bids with breakups for all the items quoted as per proforma stipulated in Annexure IV on the letterhead of the bidder for each and every item quoted by the bidder. Bidder shall submit his bid on or before the notified date and time fixed for the submission of the bids.

- 11.4 Bid must be addressed to:

The Chief Engineer (FMC),  
Maharashtra State Power Generation Co. Ltd.,  
3<sup>rd</sup> Floor, 'Prakashgad', Plot No.G-9,  
Prof. Anant Kanekar Marg,  
Bandra (East), Mumbai – 400 051,  
Maharashtra State, India.

- 11.5 The bidder should ensure that the bids are submitted on or before the notified date and time of submission of bids in person or by post or by courier as may be thought suitable by the bidder. However, the purchaser is not responsible for postal/courier delays and such delayed bids shall not be considered.

- 11.6 Bids are to be submitted in sealed condition only. As such, bids sent by fax/telegram/ e-mail etc. or submitted in open condition shall not be accepted.

### 12.0 POST BIDDING CORRESPONDENCE:

In view of the Clause 2.3 above, the bidder should note that no correspondence shall be entertained or considered after the due date and time of submission of bids unless otherwise sought by the Purchaser.

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### 13.0 ACCEPTANCE OF BIDS:

- 13.1 The purchaser reserves the right to accept/reject any bid in part or in full or all the bids without assigning any reasons thereof.
- 13.2 The purchaser reserves the right to place order on more than one bidder for any quantity.

### 14.0 NOTIFICATION OF AWARD OF CONTRACT:

The notification of award of contract shall be communicated to the successful bidder by Letter of Award (LOA) by Registered Post/Air mail or hand delivery or Fax or Courier as the purchaser deems fit. In case of issuance of LOA by fax the same shall be followed by letter of confirmation by Registered Post/ Air Mail. It shall be noted that the contract shall be concluded on notification of award of contract.

### 15.0 DELIVERY REQUIREMENT:

TPS	Nasik	Khaparkheda	Chandrapur	Total
Quantity (MT)	50,000	50,000	1,00,000	2,00,000

Period of delivery : The above quantities are to be supplied during the period of 20<sup>th</sup> October 2011 to 10<sup>th</sup> November 2011. Out of which at least 50% quantities are to be supplied by 30<sup>th</sup> October-2011. Rakes received after 7<sup>th</sup> November shall not be accepted.

### 16.0 SUBMISSION OF PERFORMANCE GUARANTEE, SIGNING OF CONTRACT & RETURN OF BID SECURITY:

- 16.1 The successful bidder shall submit Security-cum-Performance Guarantee Bond as per Annexure-V issued by any bank enlisted in Annexure – VIII of this specification and **payable at Mumbai branch only**, within 7 days of notification of Award of Contract (issuance of Letter of Award) by the purchaser. Failure of the successful bidder to complete the requirement of submission of Security-cum-Performance Guarantee Bond shall constitute a sufficient ground for annulment of the Award and result in forfeiture of the Bid security (EMD). The Contract shall be executed amongst the purchaser and successful bidder within 10 working days of date of acceptance of the Security-cum-performance guarantee bond at the office of the purchaser or on the date and time mutually agreed upon in the prescribed format (enclosed hereto as Annexure – VII). All costs and expenses in respect of execution of the contract including stamp duty costs (if any) shall be borne by the successful bidder.
- 16.2 After execution of contract with the successful bidder, the Bid security (EMD) will be returned to respective bidders, with the exception of the successful bidder(s).

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16.3 The Bid security (EMD) of the successful bidder will be returned only after furnishing of Security Deposit-cum-Performance Guarantee Bond and signing of the Contract.

### **17.0 EVALUATION:**

The offers shall be evaluated considering the following components:

- a. Coal Price (Port Based)- CIF Price (Rs. per Metric Ton),
- b. (i) Fixed Component (Port Based) viz. Stevedoring, Port Charges, Handling, Clearing, Forwarding Charges;  
(ii) Transportation Cost from Port of entry to Destination TPS &
- c. As per rates prevailing at the time of evaluation: Customs Duty, Countervailing duty, Clean energy cess, Statutory taxes & duties etc.

### **18.0 RIGHT TO CANCEL THE BIDDING:**

The purchaser reserves the right to cancel the bidding process without assigning any reason for such decision. The purchaser shall not be liable in any manner whatsoever to any bidder on account of such cancellation.

### **19.0 GOVERNING LAW AND JURISDICTION**

This Bid Specifications shall be governed and construed in accordance with the laws of India. The courts in Mumbai shall have exclusive jurisdiction to decide any disputes arising out of or in relation to the tender and the Bid process.

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**SUPPLY OF 2.00 Lakhs MT NON-COKING (STEAM) COAL OF FOREIGN ORIGIN FOR NASIK, KHAPERKHEDA AND CHANDRAPUR THERMAL POWER STATIONS**

**SECTION – II: GENERAL TERMS & CONDITIONS OF CONTRACT**

**1.0 DEFINITIONS:**

- 1.1** “Applicable Laws” means any law, rule, regulation, ordinance, notification, circular, order, code, treaty, judgment, decree, injunction, directive, policy, guidelines, permit or decision of any central, state or local government, authority, agency, court, tribunal, regulatory body or other body having jurisdiction over the Seller, Purchaser, the subject matter of the Contract or the matter(s) in question, as in effect from time to time.
- 1.2** “Bid” shall mean the bid submitted by the Seller in response to bid specification no. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 issued by the Purchaser.
- 1.3** “Bid Specifications” shall mean the bid specification no. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 issued by the Purchaser including any revisions or amendments made thereto by the Purchaser.
- 1.4** “BIS” shall mean Bureau of Indian Standards.
- 1.5** “Coal” or “Goods” or “Material” means non-coking (steam) coal of foreign Origin stipulated in the Contract and conforming to the Technical Specifications set out in Section III of the Bid Specifications.
- 1.6** “Contract” means the supply contract entered into between Purchaser and Seller in the form set out in Annexure VII to the Bid Specification, including all attachments and appendices thereto and all documents incorporated by reference therein and including any amendments effected to such contract from time to time in accordance with the provisions thereof.
- 1.7** “Contract Price” means the price payable to Seller under the Contract for the full and proper performance of its contractual obligations. The Contract Price is the price payable per MT of coal, delivered at the Destination TPS to the Purchaser in accordance with the terms of the Contract.
- 1.8** “Destination Thermal Power Stations” or “Destination TPS” shall mean one or more of the following thermal power stations of the Purchaser at which the Contractor is required to deliver the coal to the Purchaser in accordance with the terms of the Contract: Nasik thermal power station, Khaparkheda thermal power station and Chandrapur super thermal power stations. The Destination Thermal Power Stations shall be specified in the Contract.

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- 1.9** “Discharge Port” shall mean the discharge port specified by the Seller in its Bid and as stipulated in the Contract.
- 1.10** “Fixed Costs” shall have the meaning set forth in Clause 4.3 of this Section II.
- 1.11** “IIA(s)” shall have the meaning set forth in Clause 7 of this Section II.
- 1.12** “Losses” shall mean all losses, damages, liabilities, costs (including legal fees, costs and expenses), charges, interest, penalties, and expenses of any kind whatsoever and all losses, damages, costs and expenses incurred or suffered, including in relation to any claim, suit, arbitration, proceedings and all sums paid in relation to any compromise or settlement of any such claim, suit, arbitration or proceedings.
- 1.13** “Mahagenco” or “Purchaser” means the Maharashtra State Power Generation Co. Ltd. (MAHAGENCO), Mumbai, a Govt. company formed as per the provisions of the Maharashtra Electricity Reforms Transfer Scheme, 2005 and registered under the provisions of the Companies Act, 1956 having its registered office at 2<sup>nd</sup> Floor, Prakashgad, Plot No. G9, Prof. AK Marg, Bandra (East), Mumbai – 400 051, India.
- 1.14** “Notification of Award of Contract” or “Letter of Award (LOA)” shall mean the official notice/ letter issued by Purchaser notifying the Contractor that its bid has been accepted.
- 1.15** “Other Charges” shall have the meaning set forth in Clause 4.3 of this Section II
- 1.16** “Origin” shall mean the foreign origin
- 1.17** “Party” shall refer to either the Seller or the Purchaser and “Parties” shall refer to both of them.
- 1.18** “Referee” shall mean Purchaser nominated NABL laboratory.
- 1.19** “Seller” or “Contractor” means the successful bidder to whom the LOA is issued by the Purchaser and with whom the order for the supply is placed and shall be deemed to include Seller’s successors (if approved by the Purchaser), representatives, heirs, executors and administrators, as the case may be unless excluded by the terms of the Contract.
- 1.20** “Services” means services ancillary to the supply of the Goods, such as Transportation and Insurance and any other Incidental Services.
- 1.21** “Stores Receipt Note” means a document issued by the Stores Authority of the relevant Destination Thermal Power Station regarding the quantity of coal received at such Destination Thermal Power Station, and the amounts payable to the Seller after making the necessary price adjustments for the various quality parameters stipulated in the technical specifications set out

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in Section-III of the Bid Specifications, such as GCV, Moisture, Sulphur content, Ash content etc.

**1.22** “Technical Specifications” shall mean the technical specifications and the quality standards set forth in Section III of the Bid Specifications.

**1.23** “Protocol” shall mean

1. Joint Witnessing of weighment and signing on the weight of coal & signing on register.
2. Joint Witnessing of sample collection, reduction, sample preparation and packing and signing on the sample packet and register.
3. Joint Witnessing of analysis of TM & Fines at TPS Laboratory and signing on the result and register.
4. Joint Witnessing of proximate analysis at IIA's NABL Laboratory or Mahagenco's Nagpur Laboratory and signing on result and register.

### **2.0 SCOPE OF WORK:**

The Seller shall supply non-coking (steam) Coal conforming to the Technical Specification set forth in Section – III of the Bid Specifications, in accordance with the terms of the Contract including the General Terms and Conditions of the contract to the Destination Thermal Power Stations.

### **3.0 STANDARDS:**

The Goods supplied under the Contract shall conform to the standards mentioned in the ‘Technical Specifications’ (Section: III of the Bid Specifications). The standards for sampling and quality determination referred to in Section III shall be the latest issued by the Bureau of Indian Standards (BIS). For receipt of off-spec coal, and in case of consumption of off-spec coal at TPS, only lower of quoted and actual of the inland transportation cost from port of entry to destination TPS indicated at Sr. no. 12 of Price bid (Annexure- IV), only shall be reimbursed. However, the liabilities, such as demurrage charges, supervision charges; etc for supply of the off-spec coal shall be recovered from the supplier.

### **4.0 CONTRACT PRICE & PRICING METHODOLOGY:**

The prices shall be on Free On Rail (FOR) Destination Power Station site basis including all the duties but not limited to levies, wharfage, shunting, trimming, tallying, other charges and cost of protection or preservation of materials, dock and harbor dues, port rates, export taxes or other fees or charges levied (if any). The prices shall be inclusive of freight for carriage of the materials, all port charges and other incidental expenses such as taxes and charges, which are customarily payable on or with respect to the vessels at port/s of loading and discharge. The prices shall also be inclusive of any other taxes and duties than specified under clause 5.0 below. The prices shall also be inclusive of all rights (if

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any) of patent; registered design or trademark and the bidder shall indemnify the purchaser against all claims in respect of the same.

### **5.0 CUSTOMS DUTY, COUNTERVAILING DUTY (CVD), MAHARASHTRA VAT (M VAT)/CENTRAL SALES TAX (CST), OTHER STATUTORY LEVIES, RAILWAY FREIGHT & PORT CHARGES.:**

- 5.1** Customs Duty, Countervailing Duty & Clean energy cess, M VAT/ CST and other statutory taxes and duties which are included in the Contract Price shall be paid at actuals. However, any variation due to change in rate of Customs Duty, CVD & Clean energy cess, M VAT/CST or other statutory duties included in the Contract Price during contractual delivery period shall be payable by the Purchaser only upon presentation of documentary evidence. For avoidance of doubt, if any time during the supply including the delayed supplies, the Customs Duty, CVD & Clean energy cess, MVAT/CST tariff rates are reduced than the rates shown in the price schedule, the benefit of such reduction will be passed on to the Purchaser and in such an event, Customs Duty, CVD & Clean energy cess and MVAT/CST will be paid at actuals at the reduced rate on presentation of documentary evidence. Further, notwithstanding the aforesaid, any increase in Customs Duty, CVD & Clean energy cess and M VAT/CST shall not be payable or reimbursable by Purchaser if such increase is on account of the change in Discharge Port.
- 5.2** At present, no concessional Customs Duty is applicable on coal, however, in case such concessional Customs Duty becomes applicable during the contractual period, Seller will be responsible in all manner including completion of formalities such as making application, documentation etc. to all concerned authorities in order to obtain concession in Customs Duty and such benefit shall be passed on to the Purchaser. The Purchaser may, however, extend all necessary assistance required by the Seller.
- 5.3** Under the present policy of Government of India, there is no need to apply for import license. Actual user can import the coal for generation purpose under O.G.L. Scheme. The Purchaser will provide the necessary certificate, if required.
- 5.4** Any introduction of new tax/duty and statutory variation in Customs Duty, CVD & Clean energy cess and M VAT/CST within the contractual delivery period, as explained under Clause 5.1 above, shall only be paid on submission of documentary evidence.
- 5.5** Any refunds received by Successful Bidder on any of these accounts from concerned authorities shall be passed on by Successful Bidder to buyer within Three (3) working days of receipt of such refunds.
- 5.6** The purchaser is registered under Maharashtra Value Added Tax Act of the Maharashtra State, so also under the Central Sales Tax, 1956. The declaration form 'C' will be issued whenever and wherever applicable.

**6.0 SECURITY CUM PERFORMANCE GUARANTEE BOND:**

The Seller shall furnish a Security-cum-Performance Guarantee Bond for an amount equivalent to ten (10%) percent of the total contract value (“**Security Amount**”). The total contract value shall be computed by multiplying the Contract Price (calculated by considering C & F value per MT as quoted in the Bid) with the total quantity of coal to be supplied under the Contract. The Security-cum-Performance Guarantee Bond shall remain in full force and effective during the period that would be taken for satisfactory performance and fulfillment in all respects of the Contract and the Purchaser shall have the right to seek payment under such Security cum Performance Guarantee Bond for and against any loss or damage caused to or suffered or would be caused or suffered by the Purchaser by reasons of any breach by the Seller of any of the terms or conditions contained in the Contract or any failure by the Seller to perform its obligations in accordance with the terms of the Contract or by reason of the failure by the Seller's to enter into and execute the Contract in full or part. This bond shall continue to be enforceable for 120 days after the date of receipt of last consignment of coal at the relevant Destination Thermal Power Stations. The Security-cum-Performance Guarantee Bond shall have provision for extension of validity by the guarantor bank for a period of 90 days on each occasion when the Purchaser makes a request for the same to the guarantor bank. The guarantor Bank shall confirm such extension of validity without any reference to the Seller. As and when an amendment is issued to the contract, the Seller shall, within thirty days of the receipt of such amendment, furnish to the Purchaser an amendment to the Security-cum-Performance Guarantee Bond rendering the same valid for the contract as amended. The Security-cum-Performance Guarantee Bond and/or any amendment there to shall be executed on a stamp paper of requisite money value in accordance with Indian laws. On the performance and completion of the contract in all respect, the Security-cum-Performance Guarantee Bond will be returned to the Seller, without any interest. The Seller shall ensure that the Security cum Performance Guarantee Bond is valid at all times for the full Security Amount. If the Seller fails to execute the Contract within the time period stipulated by the Purchaser, the Seller will forfeit the Security cum Performance Guarantee and the Purchaser will be entitled to encash the Security cum Performance Guarantee in full.

In addition to the above the Liquidated damages shall be applicable in case of non-performance of the contract as stipulated in the Clause no. 15.1, Section II

**7.0 INSPECTION DURING THE COURSE OF SUPPLY:**

The Purchaser shall appoint internationally reputed independent inspection agency/ (ies) (IIA(s)) to carry out sampling and quality analysis at the relevant Destination TPS. The supplier shall inform to the IIA (s) at TPS end seven days prior to the expected date of arrival of rakes at TPS. The IIA(s) shall have access to the Contractor's or Sub-Contractor's site at any time during working hours at TPS end for the purpose of inspecting, testing and selection of test samples of coal proposed to be supplied. The Contractor or Sub-Contractor shall extend the necessary co-operation for collection of samples at any time. All the cost for the deputation of the IIA(s) will be borne by the purchaser.

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The results of sampling and analysis carried out at TPS of Mahagenco shall be considered in addition to the results of sampling and analysis by IIA(s). The supplier shall jointly witness the sampling and analysis at all the places. The results beneficial to Mahagenco shall be considered for payment purpose.

IIA(s) would issue to Buyer a Certificate of Analysis, not later than ten (10) Working Days after sampling.

### **8.0 PORT OF DISCHARGE AND DELIVERY:**

**8.1** The Contractor shall bring the coal to the Discharge Port stipulated in the Contract and shall be fully and solely responsible for safe delivery of coal on FOR destination basis to respective Destination TPS. If the Contractor uses any other Indian port other than the Discharge Port, the Purchaser will only reimburse the Seller for the Fixed Costs and Other Costs that are applicable and quoted for in the Bid from the Discharge Port to the Destination TPS, subject to the maximum quoted price per MT quoted in the Bid. In the event of any operational problems at the Discharge Port during currency of the Contract including statutory restrictions, the Contractor shall have to arrange delivery by discharging cargo at any other port and no extensions in delivery period or increase in Contract Price shall be considered on account of Seller having to arrange delivery of cargo at a port other than the Discharge Port

**8.2** In case of railway constraints, the import of coal for a particular power plant may be routed through alternate suitable discharge port, however the FOR destination price payable under such a cases shall be lower of the prices between quoted FOR destination price as per contract and the landed price considering such alternate port.

**8.3** The Contractor shall arrange the delivery of materials as stipulated under Schedule – C of the Contract. Tolerance upto -7% for Nasik and Khaparkheda and -3.5% for Chandrapur TPS shall be allowed for total ordered quantity/ contracted quantity. However, seller shall note that it is not seller's right to restrict the quantity to lesser than contractual quantity.

### **9.0 MARINE AND INLAND INSURANCE:**

The Coal shall be insured by the Seller under ICC (A) cover from warehouse to warehouse till the relevant Destination TPS for 110% of quoted C&F value. The Insurance premium cost is included in the Contract Price and will be reimbursed to the Seller at actuals subject to the maximum amount quoted in the Bid towards Marine Insurance and Inland Insurance.

### **10.0 GUARANTEE:**

**10.1** The Seller shall guarantee that coal supplied shall comply fully with the specifications laid down. If the coal is not found in conformity with the contract specifications, the penalty as specified shall be imposed. However, in the event of repetitive failure to comply with the coal specifications, the purchaser reserves the right to reject the same and cancel the contract for balance quantities.

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**10.2** The decision of the Purchaser in regard to Seller's liability under this guarantee shall be final and conclusive.

### **11.0 METHOD OF INVOICING:**

The Material Receipt Intimation (MRI) shall indicate final weight observed at the relevant Destination Thermal Power Station (TPS) on electronic or mechanical wagon Weigh Bridge whichever is available with the Purchaser at the Destination TPS end. This weighment will be at the cost of the Purchaser, which shall be conclusive and form the basis for settlement of payment after making due adjustment on account of quality parameters. Seller may, at his own cost, depute his representative for witnessing the weighment at TPS end. The seller shall raise invoice for payment of material supplied as per the quantity and quality indicated in stores receipt note issued by the concerned destination power station authorities.

### **12.0 PAYMENT TERMS:**

The Contract Price shall be payable in accordance with this Clause 12 of section II after making adjustments for quality parameters of the coal received at the Destination TPS in accordance with Section III and any costs payable on account of delay/bunching of rakes etc. as set out in Clause 15 & 16 of this Section II.

"Payment shall be made to the Seller by the office of the G.M. (HO A/C), Mumbai, less any deductions to be made on account of price adjustments for quality of coal delivered at the Destination TPS computed in accordance with Section III, after making deductions for (i) liquidated damages payable for delay in delivery of coal to the Destination TPS; (ii) any amounts payable by the Seller for bunching of rakes at TPS, (iii) all other penalties stipulated in section II & III, wherever applicable, within 30 days of receipt of the Stores Receipt Note. Seller shall note that the bills complete in all respect with all required documents and documentary proof along with the checklist of documents shall be submitted. All documents shall be submitted in duplicate to the office of Sr. Manager (F&A) of respective TPSs and Supdt. Engineer (Coal), Nagpur separately. In absence of any of the document, bills shall not be processed. Date of bill Submission is recorded on which all the documents are submitted. List of documents to be submitted is mentioned below:

- a. Material Receipt Intimation (MRI) from TPS authorities
- b. Signed Commercial Invoice based on the actual quantity determined at Power Station and after carrying out the adjustments for quality results, CVD-Customs Duty & clean energy cess paid at actuals, transportation cost and insurance charges at actuals or quoted amount whichever is less, Entry Port charges (including stevedoring & Handling, clearance) as quoted, and Sales tax at actuals or quoted whichever is less, if any. While the invoice will be scrutinized and passed for payment, the amount towards sales tax will be kept under retention and shall be released only upon submission of documentary evidence limited to the quoted amount of sales tax.

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- c. Shipping documents which shall include (1) Bill of Lading (2) Certificate of Origin ; (3) Load port Analysis certificate by IIA etc. Original non-negotiable documents shall be submitted while claiming Invoice against "Payments on Delivery" duly retired/ vetted from bank in India. (Xerox copies are not allowed)
- d. Submission of Documentary evidence for CVD, Customs Duty and clean energy cess payment and transportation cost and other charges.
- e. Submission of original report of Coal Quality issued by Coal office.

**12.1** For receipt of off-spec coal, and in case of consumption of off-spec coal at TPS, only lower of quoted and actual of the inland transportation cost from port of entry to destination TPS indicated at Sr. no. 6 of Price bid (Annexure- IV), shall be reimbursed. However, the liabilities, such as demurrage charges, supervision charges; etc for supply of the off-spec coal shall be recovered from the supplier.

**12.2** Time line for processing the bill:

- a. On submission of RR by Seller to TPS authority, MRI shall be issued within 2 days from the date of complete unloading of the rake.
- b. Coal quality report shall be made available to the Seller within 18 days from date of sampling by the Dy. CE (TIC), Nagpur
- c. Seller shall submit the rake wise bill complete in all respects once in a week as stipulated above. In case of delay in submission of bills by the Seller or submission of bills in an irregular manner, Purchaser shall not be responsible for delay in payment.
- d. SR note will be issued within 15 days on submission of bills complete in all respects.

### **13.0 ASSIGNMENT, TRANSFER AND SUBCONTRACTING OF CONTRACT:**

The Seller shall not subcontract, transfer, assign or otherwise part with the Contract or any part thereof, either directly or indirectly without the previous written permission of the Purchaser. For any subcontract entered into by the Seller with the consent of the Purchaser, the Seller shall continue be entirely and solely responsible for the execution of the Contract by such sub-contractor.

### **14.0 OTHER ASSISTANCE:**

The Seller shall apply directly to the appropriate Government Authority for required permission/assistance for any work to be performed to supply the coal. However, the Purchaser will assist wherever necessary and possible, by giving required letters etc. without any firm commitments. Such assistance shall not absolve the Seller of his responsibility to execute the contract as per provisions therein.

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### **15.0 LIQUIDATED DAMAGES / PENALTIES :**

- 15.1** "In case of any delay, the Seller shall be liable to pay liquidated damages ("LD") @ 0.5% (One half Percent) of the value of delayed consignment for each week's delay or part thereof subject to a ceiling of 10% (ten percent) of the total consignment value. In case of non performance of the entire contract or part thereof, the LD will be levied on the un-executed portion of the contract subject to a ceiling of 10% (ten percent) of un-executed contract value."
- 15.2** The supplier shall arrange the dispatches of rakes so that there should be gap of 12 hrs. between two consecutive rakes so as to avoid the bunching of rakes to TPS. In case of failure to deliver rakes at this rate, resulting in bunching of rakes at the TPS, the demurrage charges charged by railways with additional 15% amount as supervision charges shall be recovered from the seller against the amount payable to the seller. The Purchaser will have the right to set off amounts due from the Seller against amounts payable to the Seller.
- 15.3** The parties to the Contract agree that the liquidated damages payable per this Clause 15 of this Section II are a fair and reasonable pre-estimate of the damages likely to be sustained by the Purchaser as a result of the Seller's failure to perform its obligations in accordance with the terms of the Contract.
- 15.4** The aforementioned remedies shall be in addition to any other rights and remedies that the Purchaser may have under contract or in law.

The Purchaser shall be entitled to deduct/recover the amount of such liquidated damages from the amounts payable to the Contractor or any other amount due or payable to him against this or any other contract .

### **16.0 PENALTY FOR RECEIPT OF BURNT, EXCESSIVELY WET COAL, LUMPY, COAL AT POWER STATION:**

- 16.1** If burnt/burning coal is received at Power Station, the same will have to be manually unloaded. In the event of receipt of excessively wet coal, if the unloading by the mechanized handling system is not possible, the same shall also be manually unloaded. In such cases, the cost towards manual unloading and demurrage/penalty, if any, charged by railways with additional 15% amount as supervision charges shall be recovered from the Seller.
- 16.2** Coal of foreign origin having size of above 100 mm shall be treated as lumpy coal. If the supplied coal is found to be lumpy in nature then a joint protocol signed by representative of TPS & seller will be prepared. If the representative of seller remains absent/ refuses to sign the joint protocol, decision of Mahagenco will be final and binding on seller. Such quantity shall not be considered for measurement. In addition the penalty of Rs.10/- per MT will be imposed on such quantity.

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**16.3** It is Seller's responsibility to inspect the extraneous material from the point of unloading of rakes, conveyer belts upto the crusher in presence of Mahagenco's representative and sign the joint protocol for the same. In absence of the same, Mahagenco's report for measurement of extraneous material shall be final and binding on the Seller.

**16.4** The cost towards manual unloading and demurrage/penalty, if any, charged by railways with additional 15% supervision charges shall be recovered from the Seller.

Sampling of coal received in all such wagons shall be done separately and results of testing of such samples shall be made applicable to the quantity of respective wagon.

### **17.0 FORCE MAJEURE:**

**17.1** Force Majeure is herein defined as any cause which is beyond the control of either party to the Contract as the case may be, which they could not foresee or with a reasonable amount of diligence could not have foreseen or which when foreseen could not have prevented and which materially and adversely affected the performance by either party (the "**Affected Party**") of its obligation under the Agreement such as but not limited to:

- a) Act of God, natural phenomena including but not limited to floods, droughts, unavailability of water at the thermal power station, earthquakes, epidemics, lightening and cyclone;
- b) Acts of any Government (domestic or foreign) including but not limited to war, declared or undeclared, hostilities, priorities, quarantines, embargoes;
- c) Civil disturbances including riot, civil commotion, sabotage or terrorism; revolution, rebellion, insurrection;
- d) Strikes and lock outs.

**17.2** Burden of Proof: The burden of proof as to whether a Force Majeure event has occurred shall be upon the party claiming the Force Majeure event. The decision of the Managing Director, MAHAGENCO about whether the performance of the contract was prevented due to such events or otherwise shall be binding on both the parties.

**17.3** If the period of operation of the Force Majeure event exceeds three months, either party will have the right to terminate this Agreement by giving a written notice of termination to the other Party. . Neither party shall have the right to claim damages from the other Party on account of such termination.

**17.4** The Affected Party, which is unable to fulfill its obligations under the Contract on account of a Force majeure event, shall be excused from performance of its obligations under the Contract, to the extent that such performance is affected by the Force Majeure event subject to the following:

- i. the Affected Party shall forthwith and no later than 15 (fifteen) Working Days after the occurrence of the Force Majeure Event provide written

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notice to the other Party of the particulars of the occurrence, including an estimation of its expected duration and probable impact on the performance of its obligations hereunder and continues to furnish timely regular reports with respect thereto during the period of Force Majeure. The Affected Party may (if possible) additionally provide a certificate issued by any competent authority stating the existence of the Force Majeure event and its duration (if possible);

- ii. the Affected Party shall use all reasonable efforts to continue to perform its obligations hereunder and to correct or cure the event or condition excusing the performance as soon as possible;
- iii. the suspension of performance shall be of no greater scope and no longer duration than is reasonably necessitated by the Force Majeure;
- iv. the Affected party shall provide the other party with prompt notice of cessation of the Force Majeure event and shall promptly resume performance hereunder upon cessation of the Force Majeure event;
- v. the Affected party shall exercise all reasonable efforts to mitigate or limit losses of the other Party on account of the non- performance of obligations by the Affected Party

### **18.0 DEFAULT / RISK PURCHASE:**

**18.1** The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Seller, terminate the contract in whole or part (at the option of the Purchaser) if:

- (a) the Seller fails to deliver any or all of the goods within the time period(s) specified in the Contract or any extension thereof granted by the Purchaser; or
- (b) the Seller fails to perform any other obligation(s) under the Contract.

**18.2** In the event the purchaser terminates the contract in whole or in part, pursuant to above, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the seller shall be liable to the purchaser for any excess costs for such similar goods. However, the Seller shall continue performance of the Contract to the extent not terminated.

**18.3** The aforementioned right of termination shall be without prejudice to any other rights and remedies that the Purchaser has under the Contract or in law including but not limited to claiming liquidated damages on account of delay in delivery of coal to the Destination TPS. Further any termination of the Contract shall be without prejudice to any rights and remedies that have accrued prior to the termination of the Contract.

**19.0 GOVERNING LAW AND DISPUTE RESOLUTION:**

- 19.1** This Contract shall be governed and construed in accordance with the Indian laws without giving effect to the principles of conflict of laws thereunder. The courts at Mumbai shall have exclusive jurisdiction in all matters/disputes (other than a dispute with respect to quantity and quality of coal shall be resolved only as per the mechanism set forth in Clause 7 and Clause 11 of this Section II) arising out of this Contract.
- 19.2** The Purchaser and the Seller shall make every effort to resolve amicably by direct informal negotiation, any disagreement or dispute arising between them under or in connection with the Contract except a dispute with respect to quantity and quality of coal which shall be resolved only as per the mechanism set forth in Clause 7 and clause 11 of this Section II and the provisions of this Clause 19 shall not apply. A dispute which may be submitted to arbitration is hereinafter referred to as a “**Contract Dispute**”)
- 19.3** If after sixty (60) days from the commencement of such informal negotiations, the Purchaser and the Seller have not been able to resolve amicably a Contract Dispute, either the Purchaser or the Seller may require, by delivery of a written notice to the other party, that the Contract Dispute be referred to arbitration in accordance with this Clause 19 of this Section II. Such arbitration shall be held in accordance with the Arbitration and Conciliation Act, 1996.
- 19.4** The place of arbitration and the seat of arbitral proceedings shall be Mumbai, India. All arbitration proceedings shall be conducted in English language. The decision of the arbitral tribunal and any award given by the arbitral tribunal shall be final and binding upon the Parties.
- 19.5** The arbitral tribunal will comprise of a sole arbitrator jointly appointed by the Purchaser and the Seller. If however, the purchaser and the seller are unable to agree on the sole arbitrator to be appointed within 15 days from the date of written notice requiring resolution by arbitration as specified in Clause 19.3, the arbitral tribunal shall comprise of three arbitrators, of which the Seller and the Purchaser shall appoint one arbitrator each within 15 days from the date of the notice requiring the dispute to be settled by arbitration. The two arbitrators so appointed shall appoint the third arbitrator within 15 days. If the third arbitrator is not appointed within the aforementioned period of 15 days or any further period mutually agreed between the Parties, the third arbitrator shall be appointed in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and the rules thereunder.
- 19.6** The award rendered shall be in writing and shall set forth in reasonable detail the facts of the dispute and the reasons for the arbitrators' decision.
- 19.7** Notwithstanding the above, during the pendency of any arbitration, the Parties shall continue to perform their respective obligations hereunder.

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**19.8** Decision of the arbitration panel with respect to costs shall be final and binding.

**19.9** The provisions of this Clause 19 of this Section II shall survive the termination of the Contract.

### **20.0 REPRESENTATIONS AND WARRANTIES AND COVENANTS BY THE SELLER**

**20.1** The Seller hereby represents and warrants to the Purchaser that

(i) All information in relation to the Seller or the Bid provided by the Seller to the Purchaser is true, correct and accurate in all respects, and no such information omits to state any fact necessary to make such statements accurate.

(ii) The execution, delivery and performance of the Contract (1) has been duly authorized by all requisite corporate action; (2) does not conflict with any provisions of Applicable Laws; (3) does not contravene the provisions of any charter documents of the Seller (4) will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any covenant, agreement, contract, understanding, decree, undertaking or order to which the Seller is a party or by which it or any of its properties or assets is bound or affected.

(iii) The Contract will constitute, when duly executed and delivered, legal, valid and binding obligations of the Seller, enforceable in accordance with the terms of the Contract.

(iv) It has obtained and is in compliance with all authorizations, permits, licenses, approvals, etc. that are required to be obtained under this Contract for performance of its obligations under this Contract.

(v) It (i) holds all permits, certificates, licenses, approvals and other authorizations of governmental authorities as are necessary for the conduct of its business and for the performance of the Contract; (ii) is in compliance with the terms thereof and has not received any claim pertaining to the failure to obtain, or the breach or violation of the terms of, any such authorization; (iii) has not received any notice nor is aware of any proceeding, suits or investigation pending or threatened against it or affecting it that is likely or could be reasonably expected to result in the suspension or revocation of any such authorization that could materially affect its ability to meet and carry out its obligations under the Contract; (iv) has been and is conducting its business, properties and affairs in compliance with all applicable laws, ordinances, rules, regulations and court or administrative orders and decrees.

(vi) It shall abide by all Applicable Laws as may be in force from time to time.

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- (vii) There are no actions, suits or proceedings pending, or to its best knowledge, threatened, against or affecting it before any court or administrative body or arbitral tribunal that could reasonably be expected to materially adversely affect its ability to meet and carry out its obligations under the Contract.
- (viii) No steps and/or legal proceedings have been commenced or are threatened, for the dissolution or winding up of the Seller.
- (ix) It has the required skill and expertise to carry out its obligations under the Contract
- (x) It has independently examined and has acquired actual knowledge of the contents of all documents and other material made available to it by the purchaser and has satisfied itself regarding such factors as port conditions, loading and unloading and transportation facilities, regulatory requirements, environmental, topographical, climatic, social and political conditions which could affect its ability to carry out its obligations under the Contract and that it shall not be eligible for any extension in time or increase in the Contract Price on account of any of the aforementioned.
- (xi) The representation and warranties set out in this Clause 20 are in addition to and do not limit or exclude any conditions or warranties contained in any other provision of the Contract or implied in this Contract by any law.

**20.2** The Seller hereby covenants, agrees and undertakes to the Purchaser that

- (i) It shall perform its obligations in accordance with the terms of the Contract in a timely and efficient manner;
- (ii) The Seller shall conduct all its obligations under the Contract with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent Seller.
- (iii) The Seller shall acquire in its or if required by the Purchaser in the Purchaser's name (as may be as necessary all permits, approvals, and/or licenses as required under Applicable Laws and from all local, state, or national government authorities or public service undertakings, for the performance of the Contract.
- (iv) The Seller shall comply with all Applicable Laws. The Applicable Laws will include all national, provincial, municipal, or other laws including any environmental laws that affect the performance of the Contract or are binding upon the Seller. The Seller shall indemnify and hold the Purchaser harmless from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation of such laws by the Seller or its personnel and from any illegal use of any resources by the Seller.

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- (v) The Seller shall provide and employ only such personnel who are skilled and experienced in their respective areas and supervisory staff who are competent to adequately supervise the work at hand.

**20.3** Any representations, warranties, declarations, covenants and undertakings made by the Seller in its Bid or pursuant thereto, shall be incorporated herein by reference and shall be deemed to be a representation, warranty, covenant or undertaking (as the case may be) under this Clause 20.

### **21.0 INDEMNITY**

The Seller agrees to indemnify and hold harmless the Purchaser, its directors, employees, agents and contractors from and against any and all Losses, claims or causes of action of any kind resulting from or arising out of (i) failure by the Seller to comply with any of its obligations or undertakings under the Contract; (ii) any fraud, misconduct, negligence, default or breach on the part of the Seller in performance of its obligations under the Contract (iii) any breach of any of its representations, warranties, covenants and obligations under the Contract; (iv) failure to comply with Applicable Law including import regulations and environmental laws (v) any environmental claims arising out of the transportation of Coal to the Destination TPS. The provisions of this Clause 21 of this Section II shall survive the termination of the Contract

### **22.0 NO WAIVER OF RIGHTS**

Neither the inspection by Mahagenco or any of their agents nor any order by Mahagenco for payment of money or any payment for or acceptance of, the whole or any part of the Works by Mahagenco, nor any extension of time, nor any possession taken by Mahagenco shall operate as a waiver of any provision of the Contract, or of any power reserved to Mahagenco, or any right to damages herein provided, nor shall any waiver of any breach in the Contract be held to be a waiver of any other or subsequent breach.

### **23.0 CERTIFICATE NOT TO AFFECT RIGHT OF MAHAGENCO AND LIABILITY OF SUCESSFUL BIDDER**

Neither the payment made by Mahagenco nor any extension of time for execution of obligations by the Seller under the Contract, granted by Mahagenco shall affect or prejudice the rights of Mahagenco against the Seller or relieve the Seller of his obligations for the due performance of the Contract, or be interpreted as approval of the Works done or discharge the liability of the Seller for the payment of damages whether due, ascertained, or certified or not, or any sum against the payment of which they are bound to indemnify Mahagenco, nor the acceptance by them of any sum paid affect or prejudice the rights of the Seller against Mahagenco

### **24.0 GRAFTS, COMMISSIONS, GIFTS ETC**

Any graft, commissions, gift or advantage given promised or offered by or on behalf of the Seller or their partner, agent, officers, director, employee or servant or any one on their behalf in relation to the obtaining or to the execution of this or any

## **SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04**

other Contract with Mahagenco shall in addition to any criminal liability which the seller may incur, subject the Seller to the cancellation of the Contract and all other contracts with the Purchaser and the Seller shall be liable to indemnify the Purchaser for any Loss on account of such cancellation. Mahagenco shall be entitled to deduct the amount/damages payable by the Seller from any monies otherwise due to the Seller under the Contract.

### **25.0 ENFORCEMENT OF TERMS**

The failure of a Party to enforce at any time any of the provisions of the Contract or any rights under the Contract or to exercise any option here in provided, shall in no way be construed to be a waiver of such provisions, rights or options or in any way to affect the validity of the Contract. The exercise by a Party of any of its rights herein shall not preclude or prejudice a Party from exercising the same or any other right it may have.

### **26.0 SUSPENSION OF WORK**

Mahagenco reserves the right to suspend and reinstate execution of the whole or any part of the works without invalidating the provisions of the Contract. Orders for suspension or reinstatement of the works will be issued by the authorized official of Mahagenco to the Seller in writing. The time for completion of the Works will be extended for a period equal to duration of the suspension. Mahagenco shall not be responsible for any liabilities on this account.

### **27.0 TERMINATION**

The Purchaser reserves the right to terminate the Contract by giving 7 days prior written notice of such termination to the Seller. The Purchaser shall not be liable to the Seller for any Loss, costs, damages or expenses, on account of the termination of the Contract.

### **28.0 DEFENSE OF SUITS**

If any action in court is brought against Mahagenco or its agent or its representative for the failure or neglect on the part of the Seller to perform any acts, matter, covenants or things under the Contract, or for damage or injury caused by the alleged omission or negligence on the part of the Seller, their agents, representatives or their Sub Contractors, Suppliers or employees, the Seller shall in all such cases indemnify and keep Mahagenco or their agent or their representative, harmless from all losses, damages, costs, expenses or decrees arising out of such action.

### **29.0 CONFIDENTIALITY**

Each Party shall retain in confidence the contents of the Contract and any information obtained as a result of negotiation and performance of this Contract which either Party identifies to the other as being proprietary or confidential in nature, except that each Party may disclose such information to their respective professional and legal advisors, provided such persons agree to maintain the

## **SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04**

confidentiality of such information. It is understood, however, that such information may also be disclosed when required by any judicial or governmental authority or any other statutory authority or regulatory body who may rightfully demand the same. The provisions of the preceding paragraph shall not apply to:

- (i) Any information in the public domain otherwise than by breach of this Agreement;
- (ii) Information in the possession of the receiving Party thereof before divulgence as aforesaid, and which was not obtained under any obligation of confidentiality; and
- (iii) Information obtained from a third party who is free to divulge the same, which is not obtained under any obligation of confidentiality.

The provisions of this Clause shall survive the termination or expiry of the Contract

### **30.0 GOVERNING LANGUAGE:**

The Contract shall be written in English. All correspondence and other documents pertaining to the Contract, which are exchanged by the parties, shall be written in English only.

### **31.0 OPERATING OFFICER:**

The order will be finalised and placed by the Chief Engineer (FMC). Thereafter, this contract will be operated by the Dy. Chief Engineer (Gen. T, I&C), Maharashtra State Power Generation Co. Ltd. (MAHAGENCO), 'Vidyut Bhavan', Katol Road, Nagpur – 440 013 (Fax: +91 712-2524717) in all matters in respect of raising of demand, testing of coal, acceptance of coal, payment of bills of the seller, solving other disputes, if arises, regarding weighment of coal, testing of coal etc.

### **32.0 ISSUES RELATED TO ENVIRONMENT AUTHORITIES/PUBLIC:**

The issues related to environmental issues including public grievances (if any) due to transportation or handling of coal in transit during currency of the contract shall be exclusive responsibility of the Seller only.

### **33.0 INDEPENDENT CONTRACTOR**

The Seller shall at all times act as and be deemed to be an independent contractor for all purposes of the Contract and neither the Purchaser nor its subcontractors nor the employees of either, or its agents shall act as or be deemed to be employees, representatives, agents or partners of the Seller. The Seller shall not perform any act nor make any representation to any person to the effect that the Purchaser or any of its agents, representatives, sub-contractors or employees is the agent of the Seller. The Seller shall be solely responsible for its employees, agents and sub-contractors

**34.0 SET OFF**

The Purchaser shall have the right to set off any amounts owed by the Seller to the Purchaser, against amounts owed by the Purchaser to the Seller and shall promptly notify the Seller of the amounts being set off.

**35.0 AMENDMENTS**

No amendment or modification of the terms of the Contract shall be binding on the parties to the Contract unless the same is in writing and signed by all the parties to the Contract.

**36.0 SEVERABILITY AND RENEGOTIATIONS**

Should any provision of the Contract for any reason be declared invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid or unenforceable provision thereof eliminated. In the event any such provision of the Contract is declared invalid or unenforceable, the Parties shall promptly renegotiate in good faith new provisions to eliminate such invalidity or unenforceability and to restore the Contract to its original intent and effect.

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## SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04

### SUPPLY OF 2.0 LAKH MT NON-COKING (STEAM) COAL OF FOREIGN ORIGIN FOR NASIK, KHAPERKHEDA AND CHANDRAPUR THERMAL POWER STATIONS

#### SECTION – III: TECHNICAL SPECIFICATION

##### 1.0 COMMODITY:

Non-coking (Steam) coal of foreign origin is for use in generation of steam for Power Generation at Thermal Power Stations of MAHAGENCO.

##### 2.0 TECHNICAL SPECIFICATION OF COAL TO BE SUPPLIED:

###### (A) GENERAL SPECIFICATION OF COAL:

Sr. No.	Parameters	Limit of Range	Off-Spec Level
1	Gross Calorific Value K cal/Kg (Air Dried Basis):	5000 to 5500	Below 5000 Kcal/kg
2	Total Moisture (As Received Basis):	25-35 %	Above 35%
3	Ash (Air Dried Basis):	10-14 %	Above 17%
4	Total Sulphur (As Received Basis):	Max 1.0 %	Above 1.1%
5	Volatile Matter (Air Dried Basis):	Max 40 %	
6	Fixed Carbon (Air Dried Basis):	Max 60 %	
7	Grindability (HGI)	Min 45	
8	Ash Fusion Temperature IDT (Reducing Atmosphere):	Above 1200	
9	Size Distribution:0- 50 mm Size Above 50 mm	Max 5 %	Above 7%
10	Fines 0-3 mm	Max 20%	Above 25%

SPECIFICATIONS OF THE COAL MENTIONED ABOVE ARE GENERAL SPECIFICATION. HOWEVER, THE RATES SHOULD BE OFFERED ON PARAMETERS MENTIONED BELOW ONLY. **THE OFFER INDICATING RATES ON THE PARAMETERS OTHER THAN FOLLOWING IDENTIFIED PARAMETERS SHALL BE REJECTED**

## SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04

### **(B) PARAMETERS FOR PRICE BASIS:**

GROSS CALORIFIC VALUE (ADB):	5250 Kcal/kg.
ASH CONTENT (ADB)	14%
SULPHUR CONTENT (ADB)	1.0%
TOTAL MOISTURE (ARB)	30%

**(Note:** For receipt of off-spec coal, and in case of consumption of off-spec coal at TPS, only lower of quoted and actual of the inland transportation cost from port of entry to destination TPS indicated at Sr. no. 6 of Price bid (Annexure- IV), only shall be reimbursed. However, the liabilities, such as demurrage charges, supervision charges; etc for supply of the off-spec coal shall be recovered from the supplier.)

### **3.0 PRICE ADJUSTMENT:**

For any deviations in the results of analysis at TPS premises and Central Laboratory, MAHAGENCO, Nagpur/ IIA's NABL lab as the case may be, than the quality specification indicated for the purpose of evaluation of all the bids on common footing mentioned at 2.0 (B) above, the price will be adjusted as under:

#### **i) Gross Calorific Value (ADB):**

The gross calorific value of coal shall be 5250 K Cal/kg. For coal having GCV below 5250 Kcal/kg up to 5000 Kcal/kg, the penalty shall be @ Rs.100/- per MT for fall of 100 Kcal/kg. Penalty shall be levied on prorata basis. Coal received having GCV below 5000 Kcal/kg shall be treated as off-spec coal

In case GCV is obtained more than 5250 Kcal/kg then Premium shall be paid @ Rs.40/- per MT/100 Kcal/kg limited to 5500 Kcal/kg. Premium shall be paid on prorata basis. For GCV greater than 5500 Kcal/kg, premium for 5500Kcal/kg only shall be paid.

#### **ii) Sulphur (ADB):**

The sulphur content in the coal should be limited to 1.0% and there will not be any penalty for sulphur content in the coal received upto 1.0%. The penalty for sulphur content above 1.0% shall be @ Rs.5/- per MT for every 0.01% rise on fraction prorata basis upto 1.1%. Please note that coal having sulphur content less than 1.0% will be ignored. Coal received having sulphur content above 1.1% shall be treated off-spec coal.

#### **iii) Total Moisture (ARB):**

There will be prorata reduction in weight for coal having total moisture (ARB) above 30% upto 35%. The decrease in total moisture below the guaranteed value shall be ignored. Coal received having total moisture above 35% shall be treated off-spec coal.

## SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04

### iv) Ash content (ADB):

Penalty for every one percent (%) increase in ash above 14% will be @ Rs.150/MT. This will be applicable for fraction prorata of every percentage (%) also. The ash content below the guaranteed value shall be ignored. Coal received having Ash content above 17% shall be treated off-spec coal.

### v) Fines:

If the quantity of fines exceeds 20% of quantity supplied, the penalty of 0.3% of FOR price for every rise in the 1% of fines shall be levied up to 25%. Coal received having fines above 25% shall be treated as off-spec coal.

## 4.0 TECHNICAL INFORMATION:

4.1 Copies of Indian Standards on sampling and analytical procedures (IS: 1350-PART-I 1984, IS: 1350 PART-II-1970 and IS: 436 PART-I Section-I 1964) are available from the Indian Standards Institution at the following address:

KOLKATA	:	Eastern Regional Office, 5, Chowringhee Approach, Kolkata – 700 072.
MUMBAI	:	Western Regional Office, Novelty Chamber, Grant Road, Mumbai – 400 007.
CHENNAI	:	South Regional Office, C.I.T. Campus, Adyar, Chennai – 600 020.
NEW DELHI	:	Head Quarters, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi – 110 002.

### 4.2 Certificate for No Deviation:

The bidder shall submit the Certificate for No Deviation strictly as per Annexure-VI. **Unless this is done, the coal offered shall be considered as not complying in every respect with the terms and conditions of this bid specification and offer shall be summarily rejected.**

## 5.0 SAMPLING AND ANALYSIS (LOADING END):

Each consignment should be accompanied by certificates of sampling and analysis as per BIS or any other International Standards mutually agreed upon by internationally accepted Agency. The certificates shall contain the necessary details including conformity of size stipulations of contract. The certificates shall be arranged by the seller at his cost. For the purpose of contract, sampling and analysis at respective destination Power Stations shall be binding on both the

## SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04

parties. The charges incurred on account of sampling analysis at destination end shall be borne by the purchaser.

### 6.0 FACILITIES FOR TEST AND EXAMINATION (LOADING END):

The purchaser shall have the right at his own expenses to be represented at the time of sampling, weighment and analysis. The seller shall provide/arrange without extra charge, any such materials and equipments, tools and labour and maintenance of every kind of which purchaser or his Indian Representative may consider necessary for any test and examination which he or his Indian Representative shall require to be made of the processed material at the premises of the seller or port of loading.

### 7.0 SAMPLING AND ANALYSIS DURING SUPPLY:

#### a) Load Port Analysis:

The supplier at his cost for each consignment should provide certificate of Sampling and Analysis at the load port. The same should contain **detailed sub-lot wise analysis results obtained** of following parameters:

- i) Size of coal.
- ii) Gross calorific value in K Cal/kg.
- iii) Total moisture percentage.
- iv) Inherent moisture percentage.
- v) Ash content max. Percentage.
- vi) Volatile matter percentage.
- vii) Fixed carbon percentage.
- viii) Ultimate analysis of coal.
- ix) Sulphur percentage.
- x) Grindability of coal according to Hard Grove Index (HGI)
- xi) Ash fusion point °C Hemispherical.(under reducing atmosphere)

#### b) Final Analysis at the Destination Thermal Power Station:

For the purpose of the contract, sampling and analysis at the destination thermal power station shall be undertaken for each consignment on rake-to-rake basis by Independent Inspection Agency appointed by Mahagenco, which shall be binding on both the parties. Based on the results obtained from analysis, the payment for coal delivered shall be released after adjustment for penalties (if any). Sampling and analysis shall be carried out as per Bureau of Indian Standards.

The results of sampling and analysis carried out at TPS of Mahagenco shall be considered in addition to the results of sampling and analysis by IIA(s). The results beneficial to Mahagenco shall be considered for

## SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04

payment purpose. The supplier shall jointly witness the sampling and analysis at all the places.

It is mandatory for the Seller's representative to witness and sign the protocol of the sampling and analysis at the destination power station (s) as well as at Nagpur Lab/ IIA's NABL lab as the case may be. If the Seller fails to depute his representative for sampling & analysis or the representative remains absent at the time of collection of samples and analysis or the Seller's representative does not sign the protocol of sampling and analysis at destination power station (s) and laboratory, the sampling and analysis carried out by the IIA shall be final and binding on the Seller. In such case the supplier shall not be liable to raise dispute for referee.

The Seller shall collect the certificate of results of sampling and analysis from the office of Dy. CE (TI &C), Nagpur, within stipulated time period of 18 days from date of sampling.

Executive Chemist / authority nominated by CE, TPS send all related data for quantity measurement, the sample packets along with the respective results of total moisture and fines to Nagpur Lab/ IIA's lab within 3 days from the date of sampling.

Protocol at each TPS shall consist of the details as sampling procedure, results of total moisture and fines etc. Protocol at Coal office, Nagpur/ IIA's laboratory shall consist of the results of the sampling and analysis. It is mandatory for Seller's representative, IIA and Mahagenco's representative to sign the protocol at each TPS and Nagpur Lab/ IIA's lab.

The procedure for sample collection at destination will be as below:

- a. For coal supplied through BOX 'N' wagons: Coal samples at TPS, shall be drawn from each rake and prepared for analysis by the IIA in the presence of representative of the Mahagenco in accordance with the applicable BIS standards for sampling and testing including IS: 1350-PART-I 1984, IS: 1350 PART-II-1970 and IS: 436 PART-I Section-I 1964' ,IS 437 :1979
- b. The quality of coal of foreign origin shall be determined by drawing coal samples from railway wagons on receipt of at TPS before unloading or from belt after unloading on rake to rake basis as per BIS/ASTM. The samples will be collected manually or by Auto Mechanical sampler.(Auger/cross belt)
- c. For coal supplied through BOBR wagons: Coal samples at TPS, shall be drawn from each rake and prepared for analysis by the IIA in the presence of representative of the Mahagenco. The samples are collected through trolleys or Auto Mechanical sampler from bottom side of wagons using random sampling method.

Sieve analysis of the gross sample to be done for determination of fines.

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If the coal is found wet, the gross sample may be dried suitably to arrive at correct determination of fines. Care should be taken that the sample is free flowing during sieving and not sticking to sieve. The sample to be air dried in case of moist/wet coal so that sieving is not affected.

Sampling for the purpose of determination of Total Moisture shall be drawn during crushing through primary jaw crusher at the TPS in presence of representatives of Mahagenco and Seller. The referee sampling for Total Moisture and Fines is not applicable.

The pulverized sample drawn after reduction shall be divided into three (3) parts and shall be distributed as follows:

- (i) One part of the sample will be taken by IIA for analysis at their end;
- (ii) Second part of the sample shall be taken by Mahagenco for analysis at their end; and
- (iii) The third part of the sample will be retained as the "**Referee Sample**". Such Referee Sample shall be kept under joint lock and under joint custody of IIA and the Mahagenco, to be used for future reference and/or testing;

IIA shall analyze its portion of the coal sample drawn at the Destination Thermal Power Station end, for the Technical Specifications and parameters mentioned in this Section III, at a laboratory as may be identified by Mahagenco and shall issue the test results.

IIA shall provide a complete analysis report including proximate analysis, ultimate analysis (sulphur only) and issue a certificate of analysis to the procurer within 15 days after date of sampling. The above report shall include all parameters as mentioned by the BIS standards and those mentioned by the procurer.

### c) **Referee Sample:**

In case the test results by IIA of the coal sample(s) other than total moisture and fines, analyzed by IIA is not acceptable to the Seller, subject to witnessing and signing the protocol of the sampling and analysis at destination power station (s) as well as at Nagpur laboratory/ IIA's NABL laboratory, the Seller may request for the Referee Sample to be forwarded to the laboratories of Referee nominated by Mahagenco for coal analysis as per the applicable BIS standards, with proper reasons in written for not accepting the results, within three (3) days from the date of signing of protocol. If the Seller does not make a written request with proper reasons for not accepting the result within the aforementioned period of 3 days, the analysis results in the protocol register maintained in the office of Dy.C.E.(T&IC) Nagpur shall be deemed to have been accepted by the Seller and shall be binding on the Seller

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If Seller's representatives raise any written objection with proper reasons for not accepting the results, within 3 days from the date of signing of protocol register, Purchaser will decide the technical suitability of the objections raised and if the same is found reasonable, the Seller's request for referee may be considered.

It is specifically agreed by the Purchaser and the Seller, that the results of the analysis by the Referee of such Referee Sample shall be final and binding on the Seller and Mahagenco. The cost of analysis of the Referee Sample by the Referee shall be borne by the Seller.

A token amount towards cost of analysis of the Referee Sample shall be taken from the Seller. On the receipt of the results from referee lab, difference in amount between token amount paid and actual cost of analysis of referee sample shall be adjusted accordingly.

### d) **Application Of Results:**

The results arrived above shall be applied on rake-to-rake basis for payment purposes. Successful bidders are requested to note that each rake is unit/consignment and therefore, preparation of bills by the seller and finalisation of bills shall be on rake-to-rake basis. Price Adjustment shall also be worked out on rake-to-rake basis.

## 8.0 **DETERMINATION OF WEIGHT:**

The weight determination shall be done at the Thermal Power Station end. The weight determined at the destination TPS end, on mechanical or electronic weighbridge as the case may be, shall be taken for payment purpose. The payment shall be made on the basis of RR weight and weight determined at the TPS end whichever is less. The final and conclusive weight shall be subject to corrections against moisture content as per stipulations of Clause 3.0 (iii) above. The weight such determined shall not be open for any arbitration. Seller may have representative of his own choice to be present, at all times, while unloading of the material at the weighbridge at his own cost.

## 9.0 **DEFINITIONS OF TERMS USED IN SAMPLING AND ANALYSIS PROCEDURE OF COAL:**

The definitions of various terms given in the Technical Specifications are as under:

**9.1 Air Dried Basis (ADB):** Reporting of any parameter on "Air Dried Basis" implies that laboratory test sample has been prepared in accordance with BIS Specification "IS: 436 Part-I Sec. I of 1964", Clause No.10 & then air dried in accordance with BIS Specifications IS 1350 (Part I)-1984, Clause No.4.2.3 and analysed for the required parameters.

**9.2 As Received Basis (ARB):** Parameter reported on as Received Basis implies that parameters determined on Air Dried Basis are converted on as adjusted moisture or total moisture content of the consignment.

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- 9.3 Total Moisture (TM):** The coal, which has been exposed, to contact with water in seam or in washery or coal wetted by rain may carry free or visible water. This water plus the moisture within the material is known as "Total Moisture." Unit is in percentage (%).
- 9.4 Inherent Moisture:** Inherent Moisture is the residual moisture remaining in coal particles once the surface or free moisture has been removed. It is a part of chemical composition of coal. It is also called the seam moisture. Unit is in percentage (%).
- 9.5 Ash Content:** Ash content is non-combustible material remaining after the moisture; volatile matter and carbon are removed or burnt away. Unit is in percentage (%).
- 9.6 Volatile Matters:** Any combustible matter in the coal which becomes gaseous, when coal is heated from room temperature to  $900 + 10^{\circ}\text{C}$  is "Volatile Matter." Unit is in percentage (%).
- 9.7 Sulphur Content:** Sulphur content is combustible portion of total sulphur (Sulphate Sulphur, Pyrite Sulphur and Organic Sulphur) released when coal is burnt. Unit is in percentage (%).
- 9.8 Gross Calorific Value (GCV):** Calorific value is the basic standard of value of any fuel and it is a measure of heating power. It is the number of heat units liberated when a unit mass of coal is burned completely in Oxygen. Measurement Unit is Kcal/kg.
- 9.9 Standard Sample:** Standard sample or standard Reference Material is a sample with certified values of parameters such as Ash content, Sulphur content, Gross Calorific value etc. These certified values are based on measurements using proven analytical methods and techniques. Standard samples are used in the calibration of apparatus and evaluation of techniques employed in analysis of coal.
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**ANNEXURE – I**

**PROFORMA FOR BANK GUARANTEE AGAINST BID SECURITY (EMD)**

(Bank Guarantee is to be submitted on Indian non-judicial stamp paper of Rs. 200/-)

In accordance with invitation to Bid against Bid Specification No. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 for the supply of non-coking (steam) coal for Nasik, Khaparkheda and Chandrapur Thermal Power Station of Maharashtra State Power Generation Co. Ltd. (MAHAGENCO). M/s. \_\_\_\_\_ having its registered office at \_\_\_\_\_ wish/wishes to participate in the said bid. Per the aforementioned Bid Specification, the bidder is required to furnish a Bank Guarantee for the sum of \_\_\_\_\_ valid for a minimum period of 120 (One hundred and Twenty days) days from [ ] (i.e. the date of opening of bids) is required to be submitted by the Bidder. We, [ ] (name of the bank), hereby unconditionally and irrevocably guarantee and undertake that during the period commencing from the date of issuance of this guarantee till the last date of validity of this guarantee, to immediately pay, claims if any under this guarantee at Mumbai on written request by Maharashtra State Power Generation Co. Ltd., Prakashgad, Bandra (East) Mumbai, India the amount of \_\_\_\_\_ ( In words \_\_\_\_\_ only) to the said Company without any reservation or protest. This guarantee would remain valid up to \_\_ (date) \_\_ 16.00 hrs. IST and if any further extension to this is required, the same will be extended on receiving instructions from M/s. \_\_\_\_\_ on whose behalf this guarantee has been issued.

Signature :

Name :

Designation :

Seal of the Bank :

**ANNEXURE – II**

**PROFORMA FOR POWER OF ATTORNEY**

**(From bidder to their person  
to be submitted in original)**

Date:

**TO WHOMSOEVER IT MAY CONCERN**

**KNOW ALL MEN BY THESE PRESENTS**, that we, (Name of the Bidder) a Company/ Corporation/ Firm organized and existing under and by virtue of the laws of (Name of bidder's country) and having its registered office and principal office at [ ] (address of the bidder) do hereby irrevocably constitute, appoint, and authorise the under mentioned persons who are employed with us, as our true and lawful attorneys to in our name and on our behalf prepare, make, sign and submit the bid proposals and other documents, certificates, undertakings and papers to be executed and delivered by us, and to do all such acts, deeds and things as are necessary or required in relation to the tender issued by the Maharashtra State Power Generation Co. Ltd. vide Bid Specification No. MAHAGENCO/ CE/ FMC/ IMP.COAL/2011-12/T-04 for supply of 2.00 Lakh MT of non coking steam coal of foreign origin for Nasik, Khaparkheda and Chandrapur Thermal Power Stations.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said attorneys pursuant to and in exercise of the powers conferred by this power of attorney and that all acts, deeds and things done by our said attorneys in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

Signature of Person authorised

Name

Designation

Company's Name

Signature of the Person Authorised

Name

Designation

Company's Name

Signature of the Person authorised

Name

Designation

Company's name

**SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04**

**IN WITNESS WHEREOF**, we, (name of the company), the above named principal have executed this power of attorney and have caused the company seal to be affixed hereunto by (name and designation of company director) in the presence of [ ] on (date, month and year).

Signature

Name

Designation

Common Seal of Company

**Notes:**

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Also, wherever required, the company should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the company.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.

**ANNEXURE - III  
PROFORMA FOR TECHNO-COMMERCIAL BID  
(To be submitted on the letterhead of the bidder/)**

To  
Maharashtra State Power Generation Co. Ltd.  
2<sup>nd</sup> Floor, Prakashgad, Plot No.G-9,  
Bandra (East) Mumbai – 400 051.India

I/We the undersigned have carefully examined and understood the Bid Specification bearing specification No. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 (the “**Bid Specifications**”) and the terms and conditions set out in the Bid Specifications. I/We hereby agree to supply the below mentioned item(s) described in the schedule of materials (or such portion thereof as Maharashtra State Power Generation Co. Ltd., may accept) in conformity with the Bid Specifications , from the sources of supply offered and acceptable to Maharashtra State Power Generation Co. Ltd. in accordance with the terms and conditions set out in the Bid Specifications and in the Contract (as defined in Clause 1, Section II of the Bid Specifications).

Item No.	Item Description	Quantity Advertised (MT)	Quantity Offered (MT)
1.	Supply of non-coking (steam) coal of foreign origin to Nasik TPS	50,000	
2	Supply of non-coking (steam) coal of foreign origin to Khaparkheda TPS	50,000	
3.	Supply of non-coking (steam) coal of foreign origin to Chandrapur Super TPS	1,00,000	

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

Signature

Name:

Designation:

Name & address of the bidder:

Seal of the firm

**SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04**

**ANNEXURE IV (1) to IV (3)  
Separate for (Item 1 to 3)**

**PROFORMA FOR BREAKUP OF FOR DESTINATION PRICE  
ITEM NO.: \_\_\_ - SUPPLY OF NON-COKING (STEAM) COAL OF FOREIGN ORIGIN  
CONFORMING TO TECHNICAL SPECIFICATION, i.e. SECTION - III OF BID  
SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 TO    (name)     
THERMAL POWER STATION**

Sr.No	Particulars	Unit	Amount
1	CIF price	(Rs./MT)	
2	Entry Port Handling (Including stevedoring) and Clearance till loading into rakes at nearest railway siding, excluding service tax	(Rs./MT)	
3	Customs Duty @ 5.15% or actual applicable rate of 101% of CIF cost. (inclusive of cess if any)	(Rs./MT)	
4	Countervailing Duty (CVD) (inclusive of cess if any)	(Rs./MT)	
5	Clean Energy Cess	(Rs./MT)	
6	Transport cost from port of Entry to Destination TPS	(Rs./MT)	
7	Amount of M VAT/ CST against form 'C' (strike out whichever is not applicable) @ ___ %	(Rs./MT)	
8	Total Price FOR <u>   (name)   </u> TPS (1+2+3+4+5+6+7)	(Rs./MT)	

**ANNEXURE - V**  
**PROFORMA FOR BANK GUARANTEE AGAINST SECURITY CUM**  
**PERFORMANCE GUARANTEE**  
(To be signed on Indian non-judicial stamp paper of appropriate stamp duty)

THIS DEED OF GUARANTEE (the “**Guarantee**”) is executed on this the [●] day of [●] at [●] by [●] [Name of the Bank] having its registered office at [●], hereinafter referred to as the “**Guarantor**” which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns;

**In favour of**

Maharashtra State Power Generation Co. Ltd. a company incorporated in India, registered under the Companies Act, 1956 and having its registered office at at 2<sup>nd</sup> Floor, Prakashgad, Plot No. G9, Prof. AK Marg, Bandra (East), Mumbai – 400 051, India (hereinafter referred to as “**Mahagenco**”), which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors and assigns.

**WHEREAS**

Pursuant to its bid submitted in response to the tender issued by Mahagenco vide Bid Specification No. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 (the “**Bid Specifications**”), [ ] (the “**Seller**”) has been awarded the supply contract for supply of [ ] Million MT of non-coking steam coal of foreign origin vide letter of award dated [ ] issued by Mahagenco.

A. In terms of Clause 6 contained in Section II of the Bid Specifications, the Seller is required to furnish to Mahagenco, an irrevocable bank guarantee for an amount of Rs. [●] as security for due and punctual performance/discharge of its obligations under the Contract (as defined in Clause 1 (*Definitions*) of Section II of the Bid Specifications).

At the request of the Seller, the Guarantor has agreed to provide guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Seller of its obligations under the Contract.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

- (1) The Guarantor does hereby irrevocably guarantee the due and punctual performance by the Seller of all its obligations under the Contract.
- (2) The Guarantor at the request of the Seller does hereby undertake to pay Mahagenco an amount not exceeding Rs. [●] against any loss or damage caused to or suffered or would be caused or suffered by Mahagenco by reasons of any breach by the Seller of any of the terms or conditions contained in the Contract or any failure by the Seller to perform its obligations in accordance with the terms of the Contract or by reason of the failure by the Seller's to enter into and execute the Contract.

## **SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04**

- (3) The Guarantor does hereby undertake to pay the amounts due and payable under this Guarantee without any demur merely on demand from Mahagenco stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by Mahagenco by reasons of breach by the Seller of any of the terms or conditions contained in the Contract or by reason of the Seller's failure to perform the obligations stipulated in the Contract, or by reason of the failure by the Seller's to enter into and execute the Contract. Any such demand made on the Guarantor shall be conclusive and binding as regards the amount due and payable by the Guarantor under this Guarantee. The Guarantor shall not have to go into the veracity of any breach or failure on the part of the Seller or validity of the demand so made by Mahagenco and the Guarantor shall be liable to pay the amount specified in the demand made by Mahagenco notwithstanding any direction to the contrary given by the Seller or any other person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof. However, the liability of the Guarantor under this guarantee shall be restricted to an amount not exceeding Rs. [●].
- (4) The Guarantor hereby undertakes to pay to Mahagenco any amount so demanded within a week notwithstanding any dispute or disputes raised by the Seller in any suit or proceeding pending before any court or tribunal relating thereto the liability of the Guarantor under this present being absolute and unequivocal. The payment so made by the Guarantor under this Guarantee shall be a valid discharge of its liability for payment thereunder and the Seller shall have no claim against the Guarantor for making such payment.
- (5) The Guarantor further agrees that the guarantee herein contained shall remain in force until 120 days after the date of receipt of the last consignment at a destination thermal power station under the Contract. Mahagenco shall have the right to extend the Guarantee for a further period of 90 days by given a written request for such extension to the Guarantor, and the Guarantor shall extend the term of the Guarantee by a further period of 90 days upon receipt of the Pruchaser's request for an extension, without any reference to the Seller. Unless a demand or claim under this guarantee is made in writing on the Guarantor within 6 (six) months from the date of expiry of Guarantee, Mahagenco's shall cease to have the right to make any further claims under this Guarantee and the Guarantor shall be discharged from all liabilities under this guarantee thereafter.
- (6) In order to give effect to this Guarantee, Mahagenco shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Contract or other documents or by postponement/non-exercise/delayed exercise of any of its rights by Mahagenco. The Guarantor further agrees with Mahagenco that Mahagenco shall have the fullest liberty, without the consent of the Guarantor and without affecting in any manner the obligations of the Guarantor hereunder, to vary any of the terms and conditions of the Contract or to extend time of performance by the Seller and to forbear or enforce any of the terms and conditions relating to the Contract and the Guarantor shall not be relieved from its liability by reasons of any such variation or extension being granted to the Seller or for any forbearance, act or commission on the part of Mahagenco or on account of postponement, non-

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exercise, delayed exercise of any of its rights by Mahagenco or any indulgence by Mahagenco to the Seller or by such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving the Guarantor.

- (7) This Guarantee shall not be discharged due to the change in the constitution or winding up of the Guarantor or the Seller or any absorption, merger or amalgamation of the Seller/ the Guarantor with any other person.
- (8) The Guarantor has the power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under [●].
- (9) The Guarantor lastly undertakes not to revoke this guarantee during its currency except with the prior consent of Mahagenco in writing.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED by [●] Bank  
by the hand of Shri [●]  
its [●] and authorized official.

Dated, the [●] day of [●] for [●]

Name:  
Designation:

Bank Seal:

**ANNEXURE – VI**

**CERTIFICATE OF ‘NO DEVIATION’**

It is hereby confirmed that we wish to take no deviation in respect of terms and conditions of Bid Specifications. Any information contradicting terms and conditions of the Bid Specification that might have been mentioned elsewhere in our bid is inadvertent and shall be treated as withdrawn.

(Signature of the Authorized  
Signatory)

(Name)

(Designation)

**ANNEXURE - VII**

**PROFORMA FOR CONTRACT AGREEMENT**

**CONTRACT FOR SUPPLY OF [●] MT OF NON-COKING STEAM COAL  
OF FOREIGN ORIGIN**

**(To be signed on Indian non-judicial stamp paper of appropriate stamp duty )**

This coal supply contract (the “**Contract**”) is made on \_\_\_\_\_ the day of \_\_\_\_\_ 2011 at \_\_\_\_\_ between Maharashtra State Power Generation Co. Ltd., a company registered under Indian Companies Act, 1956 and having its registered office at 2<sup>nd</sup> Floor, Prakashgad, plot No. G9, Prof. AK Marg, Bandra (East) Mumbai, India (hereinafter called and referred to as “**the Purchaser**”) of the one part and M/s. \_\_\_\_\_, a company registered under \_\_\_\_\_ Act and having its registered office at \_\_\_\_\_ (hereinafter called and referred to as “**the Seller**”) of the other part.

**WHEREAS**

- A. The Purchaser had invited bids in response to its Bid Specification No. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 (the “**Bid Specifications**”) from eligible bidders for supply of coal in accordance with the terms and conditions set forth in the Bid Specifications including the technical specifications/quality parameters set forth in Section III of the Bid Specification. The Seller has submitted its Bid in response to the Bid Specifications and the Purchaser has accepted the Seller’s Bid and has issued letter of award dated [ ] to the Seller for supply of the Coal upto the Coal Quantity (as defined in Clause 1) stipulated in this Contract.
- B. The Purchaser and the Seller now proposes to enter into this Contract to record the terms and conditions on which, the Seller shall supply Coal to the Purchaser.

**NOW THIS AGREEMENT WITNESSES AS FOLLOWS:**

**1) Definitions & Interpretation**

In this Contract words and expressions unless defined herein shall have the same meanings as are respectively assigned to them in the General Terms and conditions of Contract set forth in Schedule A. The following terms shall have the meaning set forth hereunder

“**Coal Quantity**” shall have the meaning set forth in Clause 2;

## SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04

“**Contract**” shall mean the supply contract executed amongst the Purchaser and the Seller and includes all schedules, annexures, attachments to this Contract and amendments to this Contract effected in accordance with the provisions of the Contract.

“**Contract Price**” shall be the contract price as set forth in Schedule B;

“**Discharge Port**” shall mean [●];

“**Destination TPS**” shall mean [●];

“**Origin**” shall mean coal of foreign origin;

- 2) **Scope of Work:** The Seller shall supply Coal conforming to the Technical Specification set forth in Section – III of the Bid Specifications, in accordance with the terms of this Contract to the Destination Thermal Power Stations on FOR TPS Destination basis. The total quantity of Coal to be supplied under this Contract by the Seller is [ ] Million MT (“**Coal Quantity**”).
- 3) **Consideration:** In consideration of the Seller delivering Coal conforming to the Technical Specifications set forth in Schedule D at the Destination TPS in accordance with the terms of the Contract, the Purchaser shall pay to the Seller the Contract Price, in accordance with the terms of the Contract.
- 4) The Contract shall constitute of this Proforma for Contract Agreement and all the following documents appended to this Contract as Schedules which shall be deemed to form and be read and construed as an integral part of the Contract viz.:
  - a) Detailed terms and conditions applicable for this Contract<sup>1</sup> along with General Terms and Conditions (Section – II of Bid Specification No. MAHAGENCO/CE/FMC/ IMP.COAL/2011-12/T-04 including amendments thereto if any): Schedule ‘A’. Any reference in the Contract to ‘Section II’ or ‘Section II of the Bid Specifications’ shall be construed to be a reference to the General Terms and Conditions of Contract set forth in Schedule A. It is clarified that in case of any inconsistency between the detailed terms and conditions and the General Terms and Conditions, the detailed terms and conditions shall prevail.
  - b) Contract Price: Schedule ‘B’. It is clarified that in case of any inconsistency between this Schedule C and any other provision of the Contract, with respect to the contents of this Schedule B, the provisions of this Schedule B shall prevail.
  - c) Schedule of requirement and delivery: Schedule – ‘C’. It is clarified that in case of any inconsistency between this Schedule C and any other provision of the Contract, with respect to the contents of this Schedule C, the provisions of this Schedule C shall prevail.

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<sup>1</sup> Any additional terms in respect of the Contract and any amendments to the General Terms and Conditions set out in Section II of the Bid Specifications shall be set out in the detailed terms of contract.

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- d) Technical Specification (Section – III of bid specification No. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04 including amendments thereto if any): Schedule – ‘D’. Any reference in the Contract to ‘Technical Specifications’ or ‘Section III’ of ‘Section III of the Bid Specifications’ shall be construed to be a reference to Schedule D.
  - e) The Purchaser’s Notification of Award of Contract/Letter of Award: Schedule – ‘E’
  - f) Correspondence exchanged between the parties as indicated in the ‘All Reference Schedule’: Schedule ‘F’
  - g) Security – cum – Performance guarantee bond acceptance letter No. \_\_\_\_\_ Dated \_\_\_\_\_ : Schedule – ‘G’
- 5) Entire Agreement: This Contract constitutes the entire agreement between the Parties hereto with respect to the subject matter of this Contract and supersedes all prior agreements and undertakings, both written and oral, with respect to the subject matter hereof except as otherwise expressly provided herein.
- 6) Notices
- (a) Notices or other communication required or permitted to be given or made hereunder by a Party shall be in writing and delivered personally or by registered post or by courier service or by fax addressed to the intended recipient at its address specified hereinbelow or to such other address as any Party may from time to time notify in writing to the other Party.

To the Purchaser:

[ *Insert Address* ]

Kind Attn:  
Fax:  
Phone:  
Email:

To the Seller:

[*Insert Address* ]

Kind Attn:  
Fax:  
Phone:  
Email:

- (b) Any such notice, demand or communication shall be in English and shall, unless the contrary is proved, be deemed to have been served, if given or made by fax, on the next following Business Day in the place of receipt or, if given or made by

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registered post 7 (seven) days after posting. In proving the same, it shall be sufficient to show, in the case of a letter, that the envelope containing the letter was correctly addressed and handed over by personal delivery or by courier service and, in the case of a fax, the fax confirmation receipt.

### 7) Costs

All costs and expenses in respect of execution of this Contract including stamp duty costs (if any) shall be borne by the Seller.

### 8) Counterparts

This Contract may be executed simultaneously in any number of counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument

### 9) Severance

The validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired if any provision of this Contract is rendered void, illegal or unenforceable in any respect under any law. Should any provision of this Contract be or become ineffective for reasons beyond the control of the Parties, the Parties shall use reasonable endeavours to agree upon a new provision, which shall as nearly as possible have the same commercial effect as the ineffective provision.

### 10) No Waiver

No waiver of any provision of this Contract or consent to any departure from it by any party shall be effective unless it is in writing. A waiver or consent shall be effective only for the purpose for which it is given. No default or delay on the part of any Party in exercising any rights, powers or privileges operates as a waiver of any right, nor does a single or partial exercise of a right preclude any exercise of other rights, powers or privileges.

**IN WITNESS** whereof the parties hereto have caused this Contract to be executed in accordance with their respective laws the day and year first above written.

**SPECIFICATION NO. MAHAGENCO/CE/FMC/IMP.COAL/2011-12/T-04**

**FOR MAHARASHTRA STATE POWER GENERATION CO. LTD.,**

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Authorised Signatory

Name:

Designation:

In the presence of

Name:

Address:

**FOR [ SELLER]**

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Authorised Signatory

Name:

Designation:

In the presence of

Name:

Address:

**ANNEXURE – VIII**  
**LIST OF BANKS**

1. Allahabad Bank
2. Andhra Bank
3. Bank of Baroda,
4. Bank of India
5. Bank of Maharashtra
6. Canara Bank
7. Central Bank of India
8. Corporation Bank
9. Syndicate Bank
10. UCO Bank
11. Union Bank of India
12. United Bank of India
13. Vijaya Bank,
14. Dena Bank
15. Indian Bank
16. Indian Overseas Bank
17. Punjab and Sind Bank
18. State Bank of India
19. State Bank of Bikaner and Jaipur
20. State Bank of Hyderabad
21. State Bank of Indore
22. State Bank of Mysore
23. State Bank of Patiala
24. Punjab National Bank
25. HDFC Bank Ltd.
26. Oriental Bank of Commence
27. State Bank of Travancore
28. State Bank of Saurashtra
29. ICICI Bank Ltd.
30. IDBI Bank Ltd.
31. Axis Bank Ltd.
32. Any other Scheduled Commercial Bank notified by Reserve Bank of India.

**ANNEXURE-IX**

**DETAILS OF BANK ACCOUNT FOR RELEASE OF PAYMENT  
THROUGH ELECTRONIC FUND TRANSFER SYSTEM.  
(TO BE FURNISHED BY THE BIDDER ON ITS LETTER HEAD**

**VENDOR CODE \_\_\_\_\_ (TO BE FILLED IN BY  
MAHAGENCO) THE BANK ACCOUNT DETAILS ARE FURNISHED AS BELOW :**

We \_\_\_\_\_ (Name of the Bidder) hereby request you to give our payments by crediting our bank account directly by E-Payment mode as per account details given below. We hereby undertake to intimate Mahagenco in case of any change in particulars given below and will not hold Mahagenco responsible for any delay/default due to any technical reasons beyond Mahagenco's control :-

Bank Account Number : \_\_\_\_\_  
RTGS/NEFT/IFSC CODE NAME : \_\_\_\_\_  
OF THE BANK : \_\_\_\_\_  
ADDRESS OF THE BRANCH OF THE BANK : \_\_\_\_\_  
BRANCH CODE : \_\_\_\_\_  
ACCOUNT TYPE (SAVING/CURRENT/OTHERS) : \_\_\_\_\_  
E-MAIL/FAX NO.OF THE BRANCH OF THE BANK : \_\_\_\_\_

A BLANK CHEQUE  
(CANCELLED) IS ENCLOSED HEREWITH.

I/WE hereby declare that the particulars given above are correct and complete. If the transaction is delayed or credit is not affected at all for reasons of incomplete or incorrect information, I/We would not hold Mahagenco responsible.

Date : \_\_\_\_\_ Signature of Authorized

Signatory BANK CERTIFICATION :

It is certified that above mentioned beneficiary holds a bank account No. \_\_\_\_\_ with our branch and the bank particulars mentioned above are correct.

Date \_\_\_\_\_ Authorised Signatory  
Authorisation  
No. \_\_\_\_\_  
Name  
Official Seal/Stamp