

HARYANA POWER GENERATION CORPORATION LIMITED



BIDDING DOCUMENTS

FOR

**FLUE GAS DESULPHURISATION (FGD) SYSTEM
PACKAGE**

FOR

RGTPP, HISAR (2X600 MW)

SECTION - VII

BOOK 3 OF 3

BIDDING DOCUMENT NO. : 31/CE/PLG/RGTPP/FGD-250

HARYANA POWER GENERATION CORPORATION LIMITED



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BOOK 3 OF 3

BIDDING DOCUMENT NO. : 31/CE/PLG/RGTPP/FGD-250

This document is meant for the exclusive purpose of bidding against this specification and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued.

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2. BID SECURITY FORM

2. Bid Security Form

Bank Guarantee

(To be stamped in accordance with Stamp Act,
if any, of the Country of the issuing Bank)

Bank Guarantee No.

Date.....

To,
[Employer's Name and Address]

Dear Sirs,

In accordance with Invitation for Bids under your Bidding Document No., M/s
..... having its Registered/Head Office at
..... (hereafter called the 'Bidder') wish to participate in the
said bid for [Name of Contract Package]

As an irrevocable bank guarantee against Bid Security for an amount of
(*). valid for..... days from
.....(**)..... required to be submitted by the Bidder as
a condition precedent for participation in the said bid which amount is liable to be forfeited on the
happening of any contingencies mentioned in the Bidding Documents.

We, the[Name & address of the Bank]
..... having our Head Office at (#)
..... guarantee and undertake to pay immediately on demand by [Name
of the Employer] (hereinafter called the Employer)the amount of
.....(*)..... without any reservation, protest, demand and recourse. Any such
demand made by the 'Employer' shall be conclusive and binding on us irrespective of any dispute
or difference raised by the Bidder.

This Guarantee shall be irrevocable and shall remain valid upto(@)..... If any
further extension of this guarantee is required, the same shall be extended to such required period
(not exceeding one year) on receiving instructions from M/s [Bidder's Name]
..... on whose behalf this guarantee is issued.

In witness whereof the Bank, through its authorised officer, has set its hand and stamp on
this.....day of.....201.....at.....

WITNESS :

.....
(Signature)

.....
(Signature)

.....
(Name)

.....
(Name)

.....
(Official Address)

.....
(Designation with
Bank Stamp)

Authorised vide
Power of Attorney No.....
Date.....

- NOTE : 1. (*) The amount shall be as specified in the Bid Data Sheets.
- (**) This shall be the date of opening of bids.
- (#) Complete mailing address of the Head Office of the Bank to be given.
- (@) This date shall be Ninety (90) days after the last date for which the bid is valid.
2. The Bank Guarantee shall be from a Bank as per provisions of the Bidding Documents.
3. The Stamp Paper of appropriate value shall be purchased in the name of Bidder/Bank issuing the guarantee.
4. While getting the Bank Guarantee issued, Bidders are required to ensure compliance to the points mentioned in Bank Guarantee Verification Checklist enclosed at Form-16 in the Bidding Documents. Bidders are required to fill up this Check List (Form-16) and enclose the same along with the Bank Guarantee.

2(a) Bid Security Form

(IN CASE OF BID FROM JOINT VENTURE)

Bank Guarantee

(To be stamped in accordance with Stamp Act,
if any, of the Country of the issuing Bank)

Bank Guarantee No.

Date.....

To:

[Employer's Name and Address]

Dear Sirs,

In accordance with Invitation for Bids under your Bid Document No., M/s..... having its Registered/Head Office at and M/s..... having its registered/head office at hereafter collectively called the 'Bidder') wish to participate in the said bid for *[Name of Contract Package]*.....

As an irrevocable bank guarantee against Bid Security for an amount of(*)..... valid for days from(**).....required to be submitted by the Bidder as a condition precedent for participation in the said bid which amount is liable to be forfeited on the happening of any contingencies mentioned in the Bidding Documents.

We, the *[Name & address of the Bank]* having our Head Office at (#) guarantee and undertake to pay immediately on demand by.....*[Name of the Employer]*..... the amount of(*).....without any reservation, protest, demand and recourse. Any such demand made by the 'Employer' shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder.

This Guarantee shall be irrevocable and shall remain valid upto (@)..... If any further extension of this guarantee is required, the same shall be extended to such required period (not exceeding one year) on receiving instructions from M/s and M/s..... on whose behalf this guarantee is issued.

In witness where of the Bank, through its authorised officer, has set its hand and stamp on this.....day of.....201at.....

.....

(Signature)

.....

(Name)

.....

(Designation with Bank Stamp)

Authorised Vide

Power of Attorney No.....

Date.....

- NOTE :
1. (*) The amount shall be as specified in the Bid Data Sheets.
(**) This shall be the date of opening of bids.
(#) Complete mailing address of the Head Office of the Bank to be given.
(@) This date shall be forty five (45) days after the last date for which the bid is valid.
 2. The Stamp Paper of appropriate value shall be purchased in the name of guarantee issuing Bank.
 3. While getting the Bank Guarantee issued, Bidders are required to ensure compliance to the points mentioned in Form 16-Form of Bank Guarantee Verification Check List enclosed in this Section of Bidding Documents. Further, Bidders are required to fill up this Form 16 and enclose the same with the Bank guarantee.

2(b) Bid Security Form

BID SECURITY - LETTER OF CREDIT

- NOT APPLICABLE -

3. (a) **FORM OF NOTIFICATION BY
THE EMPLOYER TO BIDDER**
- (b) **FORM OF SIGHT DRAFT**

3a. FORM OF NOTIFICATION BY THE EMPLOYER TO THE BIDDER

M/s.....

Ref : Your proposal against our IFB No.....
Forfeiture of Bid Guarantee amount.

Dear Sirs,

Whereas you have furnished as a part of your proposal the Bid Guarantee in the form of irrevocable and confirmed Letter of Credit No.....dated.....
.....for a sum of

(Bank's name)

.....payable to..... (Name of the Employer) on demand without any reservation, demur or protest, contest and recourse at.....

.....
(Name and place of Bank)

In terms of the aforesaid Bid Guarantee, we do hereby forfeit the Guarantee amount.

For..... (Name of the Employer)

(AUTHORISED SIGNATORY)

N.B. The Letter of Credit should not stipulate any other proforma of notification different from this format. No change whatsoever in the said proforma is acceptable to the Employer.

3b. FORM OF SIGHT DRAFT

Drawn under L.C. No.....dated.....

of

(Name of Bank that opened the L.C.)

At sight promptly pay to

(Name of the Bank at which L/C, is negotiable

.....or order sum of.....

for payment to the Employer)

(Amount of L/C)

for value received.

For..... (Name of the Employer)

(AUTHORISED SIGNATORY)

To,

(Name and Address of the
Bank which opened L.C.)

4. FORM OF NOTIFICATION OF AWARD

**4a. FORM OF 'NOTIFICATION OF AWARD OF CONTRACT'
FOR SUPPLY OF PLANT AND EQUIPMENT
(This form shall apply mutatis-mutandis for both
First Contract and Second Contract)**

NOTE : INSTRUCTIONS INDICATED IN ITALICS IN THIS NOTIFICATION OF AWARD ARE TO BE TAKEN CARE OF BY THE ISSUING AUTHORITY.

Ref. No. :

Date :

.....(Contractor's Name & Address).....
.....
.....
.....

Attn : Mr.....

**Sub : Notification of Award of Contract for Supply of..... (Package Name)
..... as per Bid Document No.....**

Dear Sir,

1.0 This has reference to the following :

- (i) Our Invitation for Bids (IFB) No.dated.....
- (ii) Bidding Documents for the subject package issued to you vide our letter no. dated..... comprising the following :

.....(List out all the Sections/Volumes of the Bidding Documents along with Tender Drawings etc. as issued to the bidder).....

Errata/Amendment No..... to..... **(Name of Section/Volume of the Bidding Documents to which Errata/Amendment pertains).....** issued to you vide our letter no.dated.....

(Applicable only if any Errata/Amendment to the Bidding Documents has been issued subsequently)

- (iii) Clarifications furnished to you on the Bidding Documents vide our letter no..... dated based on the query raised by **you/one of the prospective bidders. (Use as applicable)**

(Applicable only if any clarification to the Bidding Documents has been issued subsequently)

(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE MADE TO THE BIDDER AFTER ISSUANCE OF BIDDING DOCUMENTS UP TO THE DATE OF BID OPENING)

- (iv) Your Proposal for the subject package submitted vide your letter No. dated..... **and its modification vide letter no. dated (Delete if not applicable).**

- (v) Our Fax message/letter No. dated..... regarding extension of validity of bid and that of the Bank Guarantee towards Bid Security.

(Applicable only if any extension has been sought subsequently)

(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE MADE TO OR BY THE BIDDER AFTER BID OPENING)

- (vi) Our Fax message/letter No. dated..... inviting you for post bid discussions.

- (vii) Post bid discussions and meetings we had with you from to resulting into the following Minutes of Meeting enclosed herein with this Notification of Award :

- (a) Minutes of Meeting regarding Commercial issues (APPENDIX -
- (b) Minutes of Meeting on Technical issues (APPENDIX -
- (c) Minutes of Meeting regarding Work Schedule (APPENDIX -
- (d) Minutes of Meeting regarding Quality Assurance Aspects (APPENDIX - .)

2.0 We confirm having accepted your proposal submitted vide letter no. dated **and its modification vide letter no..... dated *(Delete if not applicable)*** read in conjunction with all the specifications, terms & conditions of the Bidding Documents, **Your subsequent letters *(Use if relevant)*** and agreed Minutes of Meeting referred to in para 1.0 above and award on you the Contract for the work of***(Indicate brief Scope of Work)***..... of..... ***(Name of Package)***for ***(Name of project)***..... as per Specification No. :..... (hereinafter referred to as the 'First Contract').

3.0 *We have also notified you vide our Notification of Award No. dated.....and Notification of Award No.....dated..... for award of 'First/Second Contract' and 'Third Contract' on you for the work of ***(Indicate brief scope of work of the First/Second Contract and Third Contract)***for***(Name of Package)***as per Bid Document No..... (hereinafter referred to as the 'Second Contract and 'Third Contract'). You shall also be fully responsible for the works to be executed under the 'Second Contract' and 'Third Contract' and it is expressly understood and agreed by you that any breach under the 'Second Contract' and/or 'Third Contract' shall automatically be deemed as a breach of this 'First Contract' and vice-versa and any such breach or occurrence or default giving us a right to terminate the 'Second Contract' and 'Third Contract' and/or recover damages thereunder, shall give us an absolute right to terminate this Contract and/or recover damages under this 'First Contract' as well and vice-versa. However, such breach or default or occurrence in the 'Second Contract' and/or 'Third Contract' shall not automatically relieve you of any of your responsibility/obligations under this 'First Contract'. It is also expressly understood and agreed by you that the equipment/materials to be supplied by you under this 'First Contract' when installed and commissioned under the 'Third Contract' shall give satisfactory performance in accordance with the provisions of the Contract.

* To be modified suitably in case of three contracts.

4.0 The total Contract Price for the entire scope of work under the Contract shall be(**Specify the amount and currency**)..... as per the following break up:

- (i) **Ex-manufacturing works/place of despatch price (both in India)/ CIF (Indian port of entry) price (Use as Applicable) for Main Equipment**
 - (ii) **Ex-manufacturing works/place of despatch price (both in India)/ CIF (Indian port of entry) price (Use as Applicable) for Mandatory Spares**
 - (iii) Type test charges
- TOTAL (i + ii + iii)
- (.....(**Specify the total amount in words**).....)

5.0 You shall prepare and finalise the Contract Documents for signing of the formal Contract Agreement and shall enter into the Contract Agreement with us, as per the proforma enclosed with the Bidding Documents, on non-judicial stamp paper of appropriate value within.....(**Specify**).....days from the date of this Notification of Award.

6.0 This Notification of Award is being issued to you in duplicate. We request you to return its duplicate copy duly signed and stamped on each page including all the enclosed Appendices, by the authorised signatory of your company as a proof of your acknowledgement and confirmation.

Please take the necessary action to commence the work and confirm action.

Yours faithfully,
for and on behalf of
.....(**Name of the Employer**).....

(Authorised Signatory)

Encl. : As above.

**4b. FORM OF 'NOTIFICATION OF AWARD OF CONTRACT' FOR
INSTALLATION OF PLANT AND EQUIPMENT**

NOTE : ***INSTRUCTIONS INDICATED IN ITALICS IN THIS NOTIFICATION OF AWARD ARE
TO BE TAKEN CARE OF BY THE ISSUING AUTHORITY.***

Ref. No. :

Date :

.....(***Contractor's Name & Address***).....
.....
.....
.....

Attn : Mr.....

Sub : Notification of Award of Contract for Inland Transportation, Insurance, Installation,
testing, commissioning and Conducting Guarantee tests of
(Package Name) as per Bid Document
No.....

Dear Sir,

1.0 This has reference to the following :

- (i) Our Invitation for Bids (IFB) No.dated.....
- (ii) Bidding Documents for the subject package issued to you vide our letter no.
..... dated..... comprising the following :

***.....(List out all the Sections/Volumes of the Bidding Documents along
with Tender Drawings etc. as issued to the bidder).....***

Errata/Amendment No..... to..... ***(Name of Section/Volume of
the Bidding Documents to which Errata/Amendment pertains)***..... issued to
you vide our letter no.dated.....

***(Applicable only if any Errata/Amendment to the Bidding Documents has been
issued subsequently)***

- (iii) Clarifications furnished to you on the Bidding Documents vide our letter no.....
dated based on the query raised by ***you/one of the prospective
bidders. (Use as applicable)***

***(Applicable only if any clarification to the Bidding Documents has been issued
subsequently)***

***(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE
MADE TO THE BIDDER AFTER ISSUANCE OF BIDDING DOCUMENTS UP TO THE
DATE OF BID OPENING)***

(iv) Your Proposal for the subject package submitted vide your letter No. dated..... **and its modification vide letter no. dated** **(Delete if not applicable).**

(v) Our Fax message/letter No. dated..... regarding extension of validity of bid and that of the Bank Guarantee towards Bid Security.

(Applicable only if any extension has been sought subsequently)

(INCLUDE AS FURTHER SUB-PARAGRAPHS ANY OTHER CORRESPONDENCE MADE TO OR BY THE BIDDER AFTER BID OPENING)

(vi) Our Fax message/letter No. dated..... inviting you for post bid discussions.

(vii) Post bid discussions and meetings we had with you from to resulting into the following Minutes of Meeting enclosed herein with this Notification of Award :

(a) Minutes of Meeting regarding Commercial issues (APPENDIX -)

(b) Minutes of Meeting on Technical issues (APPENDIX -)

(c) Minutes of Meeting regarding Work Schedule (APPENDIX -)

(d) Minutes of Meeting regarding Quality Assurance Aspects (APPENDIX-.)

2.0 We confirm having accepted your proposal submitted vide letter no. dated **and its modification vide letter no..... dated (Delete if not applicable)** read in conjunction with all the specifications, terms & conditions of the Bidding Documents, **Your subsequent letters (Use if relevant)** and agreed Minutes of Meeting referred to in para 1.0 above and award on you the Contract for the work of**(Indicate brief Scope of Work)**..... of..... **(Name of Package)**for **(Name of project)**..... as per Bid Document No. :..... (hereinafter referred to as the 'Third Contract').

3.0 *We have also notified you vide our Notification of Award No. dated.....and Notification of Award No..... dated..... for award of 'First Contract' and 'Second Contract' on you for the work of **(Indicate brief scope of work of the First Contract and Second Contract)** for..... **(Name of Package)**.....for**(Name of Project)**as per Bid Document No..... (hereinafter referred to as the 'First Contract' & 'Second Contract'). You shall also be fully responsible for the works to be executed under the 'First Contract' and 'Second Contract' and it is expressly understood and agreed by you that any breach under the 'First Contract' and/or 'Second Contract' shall automatically be deemed as a breach of this 'Third Contract' and vice-versa and any such breach or occurrence or default giving us a right to terminate the 'First Contract' and /or 'Second Contract' and/or recover damages thereunder, shall give us an absolute right to terminate this Contract and/or recover damages under this 'Third Contract' as well and vice-versa. However, such breach or default or occurrence in the 'First Contract' and/or 'Second Contract' shall not automatically relieve you of any of your responsibility/obligations under this 'Third Contract'. It is also expressly understood and agreed by you that the equipment/materials to be supplied by you under the

'First Contract' and 'Second Contract' when installed and commissioned under this 'Third Contract' shall give satisfactory performance in accordance with the provisions of the Contract.

* To be modified suitably in case of three contracts.

4.0 The total Contract Price for the entire scope of work under the Contract shall be(**Specify the amount and currency**)..... as per the following break up:

- (i) Inland transportation and inland transit insurance charges
including port clearance, port handling and port charges
(Delete if not applicable) for Main Equipment
- (ii) Inland transportation and inland transit insurance charges
including port clearance, port handling and port charges
(Delete if not applicable) for Mandatory Spares
- (iii) Unloading, storage and handling at site, installation, insurance covers other than inland transit insurance, testing, commissioning and conducting Performance Guarantee Tests and all other services as per contract documents

TOTAL (i + ii + iii)

(.....(**Specify the total amount in words**).....)

5.0 You shall prepare and finalise the Contract Documents for signing of the formal Contract Agreement and shall enter into the Contract Agreement with us, as per the proforma enclosed with the Bidding Documents, on non-judicial stamp paper of appropriate value within.....(**Specify**).....days from the date of this Notification of Award.

6.0 This Notification of Award is being issued to you in duplicate. We request you to return its duplicate copy duly signed and stamped on each page including all the enclosed Appendices, by the authorised signatory of your company as a proof of your acknowledgement and confirmation.

Please take the necessary action to commence the work and confirm action.

Yours faithfully,
for and on behalf of
.....(**Name of the Employer**).....

(Authorised Signatory)

Encl. : As above.

- Note : 1. This format is prepared presuming that there will be CIF/CIP Supply Contract (i.e. First Contract), Ex-works Supply Contract (i.e. Second Contract) and Installation Services Contract (i.e. Third Contract). In case of one Supply Contract (i.e. either CIF/CIP supply contract or Ex works supply contract), this format shall be suitably modified.
2. Separate Notification of Award will be issued for each Contract.

5. *FORM OF CONTRACT AGREEMENT*

5. Form of Contract Agreement

THIS CONTRACT AGREEMENT is made the _____ day of _____, 20_____.

BETWEEN

(1) *[Name of Employer]*, a corporation incorporated under the laws of *[country of Employer]* and having its principal place of business at *[address of Employer]* (hereinafter called "the Employer"), and
(2) *[name of Contractor]*, a corporation incorporated under the laws of *[country of Contractor]* and having its principal place of business at *[address of Contractor]* (hereinafter called "the Contractor")

WHEREAS the Employer desires to engage the Contractor to design, manufacture, test, deliver, install, complete and commission and conduct Performance Guarantee Tests of certain Facilities, viz. *[list of facilities]* ("the Facilities") and the Contractor have agreed to such engagement upon and subject to the terms and conditions hereinafter appearing.

NOW IT IS HEREBY AGREED as follows:

Article 1. Contract Documents

- 1.1 **Contract Documents** (Reference GCC Clause 2)
The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:
- (a) This Contract Agreement and the Appendices hereto
 - (b) Notification of Award
 - (c) Special Conditions of Contract
 - (d) General Conditions of Contract
 - (e) Technical Specifications and Drawings
 - (f) The Bid and Price Schedules submitted by the Contractor
 - (g) Procedures (as listed)
 - (h) Integrity Pact (IP) signed between the Employer and the Bidder/Contractor
- 1.2 **Order of Precedence** (Reference GCC Clause 2)
In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.
- 1.3 **Definitions** (Reference GCC Clause 1)
Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the General Conditions of Contract.

Article 2. Contract Price and Terms of Payment

- 2.1 **Contract Price** (Reference GCC Clause 11)
The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of: *[amount of foreign currency in words]*, *[amount in figures]*, and *[amount of local currency in words]*, *[amount in figures]*, or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 **Terms of Payment** (Reference GCC Clause 12)
The terms and procedures of payment according to which the Employer will reimburse the Contractor are given in Appendix 1 (Terms and Procedures of Payment) hereto.

**Article 3.
Effective Date
for Determining
Time for Completion**

3.1 **Effective Date** (Reference GCC Clause 1)
The Time of Completion of the Facilities shall be determined from the date of Notification of Award provided all of the following conditions have been fulfilled within a period of two (2) months from the date of said Notification of Award:

- (a) This Contract Agreement has been duly executed for and on behalf of the Employer and the Contractor;
- (b) The Contractor has submitted to the Employer the performance security, Security towards faithful performance of the Deed(s) of Joint undertaking (if applicable) and the advance payment guarantee (if applicable);
- (c) The Employer has paid the Contractor the Advance Payment (if applicable).

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of Notification of Award because of reasons attributable to the Employer, the Contract would become effective only from the date of fulfillment of all the above mentioned conditions and, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Completion and/or other relevant conditions of the Contract.

3.3 However, if any of the conditions listed under 3.1 above are not fulfilled within two (2) months from the date of notification of Award because of the reasons attributable to the contractor, the contract will become effective from the date of Notification of Award. In this case, contract Price and/or time of completion shall not be adjusted.

Article 4.

It is expressly understood and agreed by and between the Contractor and the Employer that the Employer is entering into this Agreement solely on its own behalf and not on behalf of any other person or entity. In particular it is expressly understood and agreed that the Government of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Employer is an Independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable laws of India and the general principles of Contract Law. The Contractor expressly agrees, acknowledges and understands that the Employer is not an Agent, Representative or Delegate of the Govt. of India. It is Further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims

against the Government of India arising out of this Contract and covenants not to sue the Government of India as to any manner, claim, cause of action or thing whatsoever arising of or under this Agreement.

Article 5. Appendices

The Appendices listed in the attached list of Appendices shall be deemed to form an integral part of this Contract Agreement.

Reference in the Contract to any Appendix shall mean the Appendices attached hereto, and the Contract shall be read and construed accordingly.

IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

Signed by for and on behalf of the Employer

[Signature]

[Title]

in the presence of _____

Signed by for and on behalf of the Contractor

[Signature]

[Title]

in the presence of _____

CONTRACT AGREEMENT

dated the _____ day of _____, 20_____

BETWEEN

["the Employer"]

and

["the Contractor"]

APPENDICES

- Appendix 1 Terms and Procedures of Payment
- Appendix 2 Price Adjustment
- Appendix 3 Insurance Requirements
- Appendix 4 Time Schedule
- Appendix 5 List of Approved Subcontractors
- Appendix 6 Scope of Works and Supply by the Employer
- Appendix 7 List of Documents for Approval or Review
- Appendix 8 Functional Guarantees

TERMS AND PROCEDURES OF PAYMENT

In accordance with the provisions of GCC Clause 12 (Terms of Payment), the Employer shall pay the Contractor in the following manner and at the following times, on the basis of the Price Break down given in the Price Schedules. Payments will be made in the currencies quoted by the Bidder unless otherwise agreed between the parties. Application for payment in respect of part deliveries may be made by the Contractor as work proceeds.

TERMS OF PAYMENT

A. Schedule No.1 : Plant and Equipment (excluding Mandatory Spares Type Tests) quoted on CIF (Indian Port-of-entry) basis

In respect of Plant and Equipment (excluding mandatory spares) supplied from abroad the following payments shall be made : -

A1. For FOB Price Component of Plant and Equipment (excluding Mandatory Spares and Type Test):

- (I) Seventy Percent (70%) of FOB price component of the Contract price for each identified equipment shall be paid progressively on pro-rata basis upon receipt of material and physical verification at site on prorata basis on:
 - a. Acceptance of Notification of Award and Signing of the Contract Agreement.
 - b. Submission by the Main Contractor of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts (including the Contracts entered into with the Contractor's Assignee, if applicable in case of Foreign Contractor), and submission by the Assignee (if applicable in case of Foreign Contractor) of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts entered into with the Assignee, all initially valid upto ninety (90) days after the end of Defects Liability Period of all equipment covered under Contract. However in case of delay in Defect Liability Period, the validity of these Bank Guarantees shall be extended by the period of such delay. The proforma of Bank Guarantee is enclosed in Section-VII-Form of Performance Security.

- c. In case Deed of Joint Undertaking by the Contractor alongwith his Associate form part of the contract then submission of unconditional Bank Guarantee(s) from such Associate towards faithful performance of the Deed of Joint Undertaking for the amount specified in the respective Deed of joint Undertaking and valid upto ninety (90) days after end of Defect Liability Period of all equipment covered under the contract. The proforma of Bank Guarantee shall be as enclosed in Section-VII - Form of bank Guarantee by Associate.
 - d. Submission of a detailed PERT network based on the work schedule stipulated in Appendix-4 to Form of the Contract Agreement and its approval by the Employer.
 - e. production of invoices and satisfactory evidence of shipment (which shall be original Bill of Lading) including Material Despatch Clearance Certificate (MDCC) issued by the Employer's Corporate QA & I representative.
- (II) Twenty Percent (20%) of the total FOB price component of the Contract Price for each identified equipment shall be paid progressively on pro-rata basis on installation of the equipment and certification by the Project Manager of to this effect.
- (III) Ten Percent (10%) of FOB price component of the Contract price on Successful Completion of Performance Guarantee Tests of entire FGD System Package and issuance of Operational Acceptance Certificate by the Project Manager for the Units (5 percent for each unit of the plant).

Note: (1) The basis for pro-rata payment at (II) and (III) above shall be the billing break-up, to be mutually discussed and agreed upon.

- (2) (i) In case Installation Price (excluding Civil/Structural works price) is less than **15%** of the cumulative total of FOB & Ex-works Price of Main Equipment, the amount by which it is lower shall be retained proportionately from the FOB & Ex-works component of Contract price while releasing payments due on receipt of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid on pro-rata basis upon completion of installation of the respective equipment and its certification by the Project Manager.

(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the date, set for submission of Price bids shall be considered for the purpose of computing installation percentage /retention amount).

- (ii) In case the Civil Works Price (including Site Fabricated Structural works price) is less than **32%** of the cumulative total of FOB & Ex-works Price of Main Equipment, the amount by which it is lower shall be retained proportionately from the FOB & Ex-Works component of Contract price while releasing payments due on dispatch of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid on pro-rata basis upon completion of Civil Works including Structural works (if any) corresponding to the respective equipment and its certification by the Project Manager.

(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the date set for submission of Price bids shall be considered for the purpose of computing Civil Works percentage /retention amount).

A2 Ocean Freight and Marine Insurance Charges (excluding Mandatory Spares parts) for equipment covered above :

One Hundred percent (100%) Ocean Freight and Marine Insurance charges covered in Schedule-1 shall be paid upon shipment of equipment on pro-rata basis to the FOB price of the equipment shipped. The aggregate of all such pro-rata payments shall not exceed the total amount identified in the contract. However, whenever equipment wise Ocean Freight and Marine Insurance charges have been identified in the contract, the payment of Ocean Freight and Marine Insurance Charges shall be based on such charges identified in the contract against shipment of equipment.

B. Schedule No. 2 : Plant and Equipment (excluding Mandatory Spares & Type Tests) quoted on Ex-works (India) basis :

In respect of Plant and Equipment supplied from within the Employer's country the following payment shall be made :

B1. For Ex-works Price component of Plant and Equipment (excluding Mandatory Spares and Type Test):

- (I) Seventy Percent (70%) of Ex-Works Price component of the Contract price for each identified equipment shall be paid progressively on pro-rata basis upon receipt of material and physical verification at site on prorata basis on:

- (i) Acceptance of Notification of Award and Signing of the Contract Agreement.
 - (ii) Submission by the Main Contractor of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts (including the Contracts entered into with the Contractor's Assignee, if applicable in case of Foreign Contractor), and submission by the Assignee (if applicable in case of Foreign Contractor) of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts entered into with the Assignee, all initially valid upto ninety (90) days after the end of Defects Liability Period of all equipment covered under Contract. However in case of delay in Defect Liability Period, the validity of these Bank Guarantees shall be extended by the period of such delay. The proforma of Bank Guarantee is enclosed in Section-VII-Form of Performance Security.
 - (iii) In case Deed(s) of Joint Undertaking by the Contractor alongwith his Associate form part of the contract, then submission of unconditional Bank Guarantee from such Associate towards faithful performance of the Deed of Joint Undertaking for the amount specified in the respective Deed of Joint Undertaking and valid upto ninety (90) days after end of Defect Liability Period of all equipment covered under the contract. The proforma of Bank Guarantee shall be as enclosed in Section-VII-Form of Bank Guarantee by Associate.
 - (iv) Submission of a detailed PERT Network based on the work schedule stipulated in Appendix-4 to Form of the Contract Agreement and its approval by the Employer.
 - (v) production of invoices and satisfactory evidence of shipment which shall be original Good Receipt/Rail Receipt including Material Despatch Clearance Certificate (MDCC) issued by the Employer.
- (II) Twenty Percent (20%) of the total Ex-works price component of the Contract Price for each identified equipment shall be paid progressively on pro- rata basis on installation of the equipment and certification by the Project Manager to this effect.
- (III) Ten Percent (10%) of Ex-works price component of the Contract price on Successful Completion of Performance Guarantee Tests of entire System and issuance of Operational Acceptance Certificate by the Project Manager for the Units (5 percent for each unit of the Plant).

- Note: (1) The basis for pro-rata payment at (II) and (III) above shall be the billing break-up, to be mutually discussed and agreed upon.
- (2) (i) In case Installation Price (excluding Civil/Structural works price) is less than **15%** of the cumulative total of FOB & Ex-works Price of Main Equipment, the amount by which it is lower shall be retained proportionately from the FOB & Ex-works component of Contract price while releasing payments due on receipt of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid on pro-rata basis upon completion of installation of the respective equipment and its certification by the Project Manager.

(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the date set for submission of Price bids shall be considered for the purpose of computing installation percentage /retention amount).

- (ii) In case the Civil Works Price (including Site Fabricated Structural works price) is less than **32%** of the cumulative total of FOB & Ex-works Price of Main Equipment, the amount by which it is lower shall be retained proportionately from the FOB & Ex-Works component of Contract price while releasing payments due on dispatch of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid on pro-rata basis upon completion of Civil Works including Structural works (if any) corresponding to the respective equipment and its certification by the Project Manager.

(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the date set for submission of Price bids shall be considered for the purpose of computing Civil Works percentage /retention amount).

C. Schedule 1, 2 and 6 : Payment Terms for Mandatory Spares and Recommended Spares (When ordered)

The CIF price component of spares to be supplied from abroad and Ex-works price component of spares to be manufactured or fabricated within the Employer's country shall be paid as under : -

- (i) Eighty percent (80%) of CIF/Ex-works(India) price component of the spares : upon receipt and storage at site and on physical verifications by the Project Manager and against invoices and shipping documents along with Material Despatch Clearance Certificate (MDCC) issued by the Employer.
- (ii) Twenty(20%) of CIF/Ex-works(India) price component of the spares : on Successful Completion of Performance Guarantee Tests of entire FGD System and issuance of Operational Acceptance Certificate by the Project Manager.

D. Schedule No. 3 : Local Transportation

(a) All Plant and Equipment excluding Mandatory spares

One hundred Percent (100%) Local Transportation (including port clearance and port charges, and inland insurance charges) for the equipment covered in Schedule-1 and Schedule-2 shall be paid to the Contractor pro-rata to the value of the equipment received at site and on production of invoices by the Contractor. The aggregate of all such prorata payments shall, however, not exceed the total amount identified in the Contract for Local Transportation. However, wherever equipment wise local transportation charges (including insurance charges, Port clearance and Port charges) have been furnished by the Contractor, the payment shall be made after receipt of equipment at site based on the charges so identified in the Contract.

The above terms of payment shall be applicable for Foreign currency portion as well as Local currency portion of the Local Transportation component of the Contract Price, if any.

(b) Mandatory Spares & Recommended Spares (if ordered)

Hundred Percent (100%) Local Transportation (including inland insurance, port clearance and port charges) for the spares shall be paid to the Contractor pro- rata to the value of spares received at site and on production of invoices by the contractor. The aggregate of all such prorata payments shall, however, not exceed the total amount identified for the Contract of Local Transportation. However, wherever itemwise local transportation charges (including insurance charges, Port clearance and Port charges) have been furnished by the Contractor, the payment shall be made after receipt of spares at site based on the charges so identified in the Contract.

The above terms of payment shall be applicable for Foreign currency portion as well as Local currency portion of the Local Transportation component of the Contract Price, if any.

E. Schedule No. 4: Installation Services

(a) Erection Portion (of Plant and Equipment)

The Installation Services component shall be paid as under:

(l) **Eighty Percent (80%)** of the Erection Portion of installation Services component of contract price (excluding Civil & Structural works) will be made on pro-rata basis against progressive erection of the equipment on:

- a) Certification by the Project Manager for the quantum of work completed and by the Project Manager's field quality assurance & surveillance representative for the successful completion of quality check points involved in the quantum of work billed.
- b) Acceptance of Notification of Award(s) and Signing of Contract Agreement(s).
- c) On certification of the Engineer-in-Charge that the contractor has established their office at site and mobilised the plant and equipment specifically identified in Letter of Award (LOA / NOA) of the Contract.
- d) Submission by the Main Contractor of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts (including the Contracts entered into with the Contractor's Assignee, if applicable in case of Foreign Contractor), and submission by the Assignee (if applicable in case of Foreign Contractor) of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts entered into with the Assignee, all initially valid upto ninety (90) days after the end of Defects Liability Period of all equipment covered under Contract. However, in case of delay in Defect Liability Period, the validity of this Bank Guarantee shall be extended by the period of such delay. The proforma of Bank Guarantee is enclosed in Section-VII-Form of Performance Security.
- e) In case Deed of Joint Undertaking by the Contractor alongwith his Associate/Collaborator forms part of the Contract then submission of an unconditional Bank guarantee from such Associate / Collaborator towards faithful performance of the Deed of Joint Undertaking for an amount specified in the deed and initially valid upto ninety (90) days after the end of Defect Liability Period of all equipment covered under the Contract.

However, in case of delay in Defect Liability Period, the validity of this Bank Guarantee shall be extended by the period of such delay. The proforma of Bank Guarantee(s) shall be as enclosed in Section-VII.

- f) Submission of a detailed PERT Network based on the work schedule stipulated in Appendix-4 to Form of the Contract Agreement and its approval by the Employer.

- g) certification of Engineer-in-Charge that the Contractor has brought to site the Safety equipments & Safety Personal Protective Equipments as per minimum quantity specified in the Bidding Documents.

Note: The release of first progressive payment for installation services shall also be subject to submission of documentary evidence by the Contractor towards having taken the insurance policy(ies) in terms of relevant provisions of GCC Clause 34 (Insurance) and acceptance of same by the Project Manager.

- (II) (a) **Five Percent (5%)** of installation Services Component of contract price (excluding Civil & Structural works) on Completion of the Facilities including all associated auxiliaries and ancillary works for the First Unit & common facilities and issue of Completion Certificate by the Project Manager for the Unit.
- (b) **Five Percent (5%)** of installation Services Component of contract price (excluding Civil & Structural works) on Completion of the Facilities including all associated auxiliaries and ancillary works for the Second unit & common facilities and issue of Completion Certificate by the Project Manager for the Unit.
- (III) (a) **Five Percent (5%)** of installation Services Component of contract price (excluding Civil & Structural works) on successful Completion of Performance Guarantee Tests for the First unit & common facilities and issue of Operational Acceptance Certificate by the Project Manager for the Unit.
- (b) **Five Percent (5%)** of installation Services Component of contract price (excluding Civil & Structural works) on successful Completion of Performance Guarantee Tests for the Second Unit and issue of Operational Acceptance by the Project Manager for the Unit.

Note: The basis for the pro-rata payments above shall be the Billing Break up to be finalised subsequently after award of contract.

In case the Installation Price (excluding Civil/Structural works price) is more than 20% of the cumulative total of FOB & Ex-works Price of Main Equipment, the amount by which it is higher shall be retained while releasing progressive payments due on installation of equipment, and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid along with payment due on completion of Trial Operation / Completion of Facilities.

(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the date set for submission of Price bids shall be considered for the purpose of computing installation percentage /retention amount).

- E. (b) Civil Works Portion (including construction materials but Excluding Cost of Structurals)**

The Civil & Allied Works Price Components of the Contract Price shall be paid as under:

- (l) **Eighty percent (80%)** of the total Civil Works Price Component shall be paid progressively on
 - (a) certification by the Project Manager for the quantum of work completed and certification by the Project Manager's Field Quality Surveillance representative for the successful completion of quality check points involved in the quantum of work billed.
 - (b) Acceptance of Notification of Award(s) and Signing of Contract Agreement(s).
 - (c) On certification of the Engineer-in-Charge that the contractor has established their office at site and mobilised the plant and equipment specifically identified in Letter of Award (LOA / NOA) of the Contract.
 - (d) Submission by the Main Contractor of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts (including the Contracts entered into with the Contractor's Assignee, if applicable in case of Foreign Contractor), and submission by the Assignee (if applicable in case of Foreign Contractor) of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts entered into with the Assignee, all initially valid upto ninety (90) days after the end of Defects Liability Period of all equipment covered under Contract. However, in case of delay in Defect Liability Period, the validity of this Bank Guarantee shall be extended by the period of such delay. The proforma of Bank Guarantee is enclosed in Section-VII-Form of Performance Security.
 - (e) In case Deed of Joint Undertaking by the Contractor alongwith his Associate/Collaborator forms part of the Contract then submission of an unconditional Bank guarantee from such Associate / Collaborator towards faithful performance of the Deed of Joint Undertaking for an amount specified in the deed and initially valid upto ninety (90) days after the end of Defect Liability Period of all equipment covered under the Contract. However, in case of delay in Defect Liability Period, the validity of this Bank Guarantee shall be extended by the period of such delay. The proforma of Bank Guarantee(s) shall be as enclosed in Section-VII.
 - (f) Submission of a detailed PERT Network based on the work schedule stipulated in Appendix-4 to Form of the Contract Agreement and its approval by the Employer.
 - (g) On certification of Engineer-in-Charge that the Contractor has brought to site the Safety equipments & Safety Personal Protective Equipments as per minimum quantity specified in the Bidding Documents.

Note: The release of first progressive payment for civil works shall also be subject to submission of documentary evidence by the Contractor towards having taken the insurance policy(ies) in terms of relevant provisions of GCC Clause 34 (Insurance) and acceptance of same by the Project Manager.

- (II)(i) (a) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful Completion of the Facilities of the First unit and issuance of Completion Certificate by the Project Manager for the Unit.
- (b) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful Completion of the Facilities of the second Unit and issuance of Completion Certificate by the Project Manager for the Unit.
- (II)(ii) (a) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful completion of Performance Guarantee Test of the First unit and issuance of Operational Acceptance Certificate by the Project Manager for the Unit.
- (b) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful completion of Performance Guarantee Test of the second unit and issuance of Operational Acceptance Certificate by the Project Manager for the Unit.

Note: The basis for the pro-rata payments above shall be the Billing Break up to be finalised subsequently after award of contract.

E. (c) Structural works portion, including cost of materials, fabrication & erection

The Structural Works Price Component of the Contract Price shall be paid as under:

- (I) **Eighty Percent (80%)** of the total Civil Works Price Component shall be paid progressively on:
 - (a) certification by the Project Manager for the quantum of work completed and certification by the Project Manager's Field Quality Surveillance representative for the successful completion of quality check points involved in the quantum of work billed.
 - (b) Acceptance of Notification of Award(s) and Signing of Contract Agreement(s).
 - (c) On certification of the Engineer-in-Charge that the contractor has established their office at site and mobilised the plant and equipment specifically identified in Letter of Award (LOA / NOA) of the Contract.

(d) Submission by the Main Contractor of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts (including the Contracts entered into with the Contractor's Assignee, if applicable in case of Foreign Contractor), and submission by the Assignee (if applicable in case of Foreign Contractor) of an unconditional Bank Guarantee(s) towards Performance Security(s) in respect of all Contracts entered into with the Assignee, all initially valid upto ninety (90) days after the end of Defects Liability Period of all equipment covered under Contract. However, in case of delay in Defect Liability Period, the validity of this Bank Guarantee shall be extended by the period of such delay. The proforma of Bank Guarantee is enclosed in Section-VII-Form of Performance Security.

(e) In case Deed of Joint Undertaking by the Contractor alongwith his Associate/Collaborator forms part of the Contract then submission of an unconditional Bank guarantee from such Associate / Collaborator towards faithful performance of the Deed of Joint Undertaking for an amount specified in the deed and initially valid upto ninety (90) days after the end of Defect Liability Period of all equipment covered under the Contract.

However, in case of delay in Defect Liability Period, the validity of this Bank Guarantee shall be extended by the period of such delay. The proforma of Bank Guarantee(s) shall be as enclosed in Section-VII.

(f) Submission of a detailed PERT Network based on the work schedule stipulated in Appendix-4 to Form of the Contract Agreement and its approval by the Employer.

(g) On certification of Engineer-in-Charge that the Contractor has brought to site the Safety equipments & Safety Personal Protective Equipments as per minimum quantity specified in the Bidding Documents.

Note: The release of first progressive payment for civil works shall also be subject to submission of documentary evidence by the Contractor towards having taken the insurance policy(ies) in terms of relevant provisions of GCC Clause 34 (Insurance) and acceptance of same by the Project Manager.

(II)(i) (a) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful Completion of the Facilities of the First unit and issuance of Completion Certificate by the Project Manager for the Unit.

- (b) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful Completion of the Facilities of the second Unit and issuance of Completion Certificate by the Project Manager for the Unit.
- (II)(ii) (a) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful completion of Performance Guarantee Test of the First unit and issuance of Operational Acceptance Certificate by the Project Manager for the Unit.
- (b) **Five Percent (5%)** of total Civil Works Price component of Contract price shall be paid on successful completion of Performance Guarantee Test of the second unit and issuance of Operational Acceptance Certificate by the Project Manager for the Unit.

Note: The basis for the pro-rata payments at Sl. No. (III) above shall be the Billing Break up to be finalised subsequently after award of contract

Note for Para E. (b) & E. (c)

In case the Civil Works Price (including Site Fabricated Structural Works Price) is more than **42 %** of the cumulative total of FOB & Ex-works Price of Main Equipment, the amount by which it is higher shall be retained while releasing progressive payments due on completion of civil works (including Site Fabricated Structural works), and no interest shall be payable on the retained amount. The aforesaid retained amount shall be paid along with payment due on completion of Trial Operation / Completion of Facilities.

(If Prices are quoted in foreign currency then SBI Bills Selling exchange rate as on the date set for submission of Price bids shall be considered for the purpose of computing Civil Works percentage /retention amount).

F. Payment terms for Price Adjustment Amount

Contract shall be on firm price basis.

G. Schedule - 7 : Payment Terms for Taxes & Duties

- i) Indian Custom Duties or levies including Stamp Duty and Import License Fee levied by the Government of India or any State Government in India on the Plant and Equipment including Mandatory Spares supplied from abroad (covered in Schedule-1) and on recommended spares (when ordered) supplied from abroad and covered in Schedule No.6, which are to be imported into India and which will become the property of the Employer, shall be paid directly by the Employer to the Government of India or the concerned authorities. However, if the local laws require such payment of the custom duty/ GST to be made by the Contractor, the same shall be reimbursed to the Contractor on production of satisfactory evidence of having paid the custom duty amount to the concerned authorities.

- ii) Notwithstanding the above, if the Contractor chooses to ship the equipment in Shipper's Containers, then the custom duty levied on such empty Containers shall not be borne by the Employer and shall be borne and payable/reimbursable by the Contractor. Further, Anti-dumping duty, Countervailing duty on subsidised articles, Safeguard duty etc. and any other tax including GST, levies, cess etc. applicable on such additional duties, if imposed on Plant and Equipment including Type Test and Mandatory Spares/ Recommended Spares, shall be borne by the Contractor.
- iii) 100% of applicable Taxes and Duties (other than the custom duty & GST payable as in para (i) above) which are payable by the Employer under the Contract shall be paid/reimbursed to the Contractor or Assignee of foreign Contractor (if applicable) upon receipt of equipment/spares/services and on production of satisfactory documentary evidence by the Contractor/Assignee, as applicable. However, GST as applicable on Advance payment(if applicable) shall be paid to the Contractor along with the Advance sanctioned. The GST paid along with advance shall be adjusted prorata against the tax due upon supply of goods/services, based on the value of the respective goods/services.

H. Schedule-8A/8B (as applicable) Payment Terms for Type Test Charge:

100% of each Type Test Charges shall be paid to the Contractor upon conductance of the corresponding Type Test and Certification by the Engineer thereon.

- I. **Payment Terms for O&M Contract:** Details for O&M Service may be referred to in Technical Specification. O&M including supply of all spares for 2 years will be in bidder's scope. Payment for O&M charges will be paid in each year on monthly basis

Note:

- 1) In case the Contractor is a non resident/foreign company, the release of first progressive payment shall also be subject to submission of certificate/Ruling determining the applicable rate of Income Tax in terms of relevant provisions of GCC clause on Taxes & Duties and acceptance of same by the Engineer-in-Charge.

PAYMENT PROCEDURES

The Procedures to be followed in making application for, certifying and making payments shall be as follows :

1. Payment Schedule/Price Break-up for Payments

- 1.1 The Contractor shall prepare and submit to the Project Manager for approval, a break- up of the Contract Price in the currencies of the Contract. It is expected that the Contractor shall indicate the price of a single item in one currency only. However, if the Contractor intends to receive payment for some items in more than one currency, the Contractor would be required to furnish a separate breakup and payment for such items shall be made based on the agreed rates. The Contract Price break-up shall be interlinked with the agreed detailed PERT network of the Contract setting forth starting and completion dates for the various key phases of the Facilities. Any payment under the Contract, subsequent to Advance payment(if applicable), shall be made only after the Contractor's price break-up is approved by the Employer. The aggregate sum of the Contractor's price break-up shall be equal to the total Contract Price.
- 1.2 The Billing Breakup for Mandatory Spares shall be submitted to the Employer for approval as per the format enclosed as Annexure-1 to this Appendix indicating therein the details such as Make, Model number, Drawing/Datasheet number and Part number of all spare items. The relevant drawings/documents shall be submitted along with the Billing Break up.
- 1.3 The Contractor shall, by the 15th April of every year, furnish the BBU value of supplies sourced from Micro and Small Enterprises (MSEs) along with the total BBU value of supplies dispatched by it during the preceding financial year as per the format enclosed as Annexure-2 to this APPENDIX-1.

2. Currency of Payment

- 2.1 The Contract Price shall be paid in the currency or currencies in which the various price components have been stated and as incorporated in the Contract.

3. Application for Payment

- 3.1 The Contractor shall submit application for the payment in the proforma enclosed. The Contractor shall submit to the Project Manager separate application for payment in different currencies whenever payment is to be made in more than one currency.
- 3.2 Each such application shall state the amount claimed and shall set forth in details, the order of the Payment Schedule, particulars of the Facilities including the Facilities executed at Site and of the equipment shipped/brought on to the Site pursuant to the Contract upto the date mentioned in the application and for the period covered since the last preceeding certificate, if any.

3.3 Every interim payment certificate shall certify the Contract Value of the Facilities executed upto the date mentioned in the application for the payment certificate, provided that no sum shall be included in any interim payment certificate in respect of the Facilities that according to the decision of the Project Manager, does not comply with the Contract, or has been performed, at the date of certificate prematurely.

4. Due Dates for Payment

4.1 The advance payment amount(if applicable) shall be payable after fulfilment of all the conditions laid down in the Terms of Payment (Appendix 1 to the Contract Agreement) and receipt of the Contractor's invoice alongwith all necessary supporting documents for such advance payment(if applicable). Employer will make progressive payment as and when the payment is due as per the Terms of Payment set forth in Appendix 1 to the Contract Agreement. Progressive payment other than that under the letter of credit will become due and payable by the Project Manager within forty five (45) days from the date of receipt of Contractor's bill/invoice/debit note by the Employer, provided the documents submitted are complete in all respects.

5. Mode of Payment

5.1 The Employer will establish an irrevocable Letter of Credit (L/C) in favour of the Contractor through the Employer's Bank in Employer's country for payments due, as per Terms of Payment, on despatch of equipment i.e. Ex-works/CIF despatch of equipment and spares (including due payments towards ocean freight and marine insurance). The value of L/C will be as per payment schedule for each quarter and valid for a quarter. It will be the responsibility of the Contractor to utilise the L/C to the fullest extent. In case L/C has been established by the Employer and not utilised by the Contractor, for reasons of delay attributable to him, all reinstatement charges for the L/C for further period necessitated due to non-utilisation of L/C will be to the account of the Contractor.

5.2 The payment of the advance amount(if applicable), Type Test Charges if any, price adjustment amounts, all other supply payments, taxes and duties (wherever admissible) inland transportation (including port handling if any) insurance and the Installation Portion of the Facilities shall be made direct to the Contractor by the Employer and no L/C shall be established by the Employer for such payments. Wherever technically feasible, such payments shall be made electronically only as per details of Bank Account indicated in the contract, the contractor shall immediately inform the employer. The Contractor shall hold the employer harmless and employer shall not be liable for any direct, indirect or consequential loss or damage sustained by the bidder on account of any error in the information or change in Bank details provided to the employer in the prescribed form without information to employer duly acknowledged.

6.0 For payments related to Erection/ Civil/ Structural works

(i) The Contractor shall maintain a separate account with a Scheduled Bank at Site for the purpose of receiving all the payments under the Contract(s) and for utilization of payments received from the Employer for disbursement to sub- contractors, sub-vendors, PRW's etc., of the Contractor. The Contractor shall maintain separate books of accounts for all payments under this Contract and the Project Manager shall have access to these at all times.

(ii) **Account Tracking Mechanism**

In case the Contractor wants to withdraw funds from the above bank account for any purposes other than the Contract, he shall be required to submit an undertaking to the Project Manager certifying that all due statutory payments, labour payments and payments to all his sub-contractors have been disbursed corresponding to the total payment received by him under the Contract.

For tracking of payments received from the Employer, the Contractor shall also submit a monthly statement by 7th of every month certifying the transactions pertaining to the above account along with the purpose of such transactions. In case the Contractor transfers funds for any purposes other than the Contract, without prior consent of the Employer, it will constitute a breach of Contract by the Contractor.

(iii) In case the Contractor violates the above provisions, EMPLOYER will have the right to give suitable instructions to the Bank to regulate/ freeze the account.

FORM OF APPLICATION FOR PAYMENTS

Project :
Equipment Package : Date :
Name of Contractor : Contract No. :
Contract Value : Contract Name :
Unit Reference : Applicable Serial
Number
:

To.

.....*
(Name of Employer)

Dear Sir

APPLICATION FOR PAYMENT #

1. Pursuant to the above referred Contract Agreement dated.....
the undersigned hereby applies for payment of the sum of
.....
..
.....(Specify amount and currency in
which claim is made).
2. The above amount is on account of : (check whichever
applicable) Advance payment (Schedule **)
Interim payment as advance (Schedule **)
Progressive payment against despatch of equipment (Schedule **)
Progressive payment against receipt of equipment (Schedule **)
Progressive payment against Installation (Schedule **)
Ocean freight & marine insurance (Schedule **)
Inland transportation (Schedule **)
Inland Insurance

Price adjustment

Extra work not specified in contract
(Ref. Contract change order No.....)

Others (specify)
Final payment (Schedule **)

as detailed in the attached schedule(s) which form an integral part of this application.

3. The payment claimed is as per item(s) No.(s)..... of the payment schedule annexed to the above mentioned Contract.

4. The application consists of this page, a summary of claim statement (Schedule **), and the following signed schedules

1

2

3

The following documents are also enclosed :

1

2

3

Signature of Contractor/
authorised Signatory

* Application for payment will be made to 'Project Manager' as to be designated for this purpose at the time of Notification of Award.

Prepare separate application for claims in different currencies.

** Proforma for the Schedules will be mutually discussed and agreed to during the finalisation of the Contract Agreement.

Annexure-2 to APPENDIX-1

Proforma for details to be furnished by the Contractor by 15th April of every financial year of supplies sourced from MSEs dispatched during the preceding financial year.

Package Name:
Project Name:
Name of the Contractor:
COA No.:

Details of BBU value of supplies dispatched during the preceding financial year are furnished here below:

BBU value of total supplies dispatched (A) (in eqvt INR)	Out of the total supplies dispatched, BBU value of supplies sourced from MSEs (B) (in eqvt INR)	Percentage of supplies sourced from MSEs wrt total supplies dispatched (C = B*100/A) (%)
.....

In case of no supplies sourced from MSEs, mention 'NIL'.

I, on behalf of M/s (*Contractor*) hereby declare that the information furnished above is correct.

Signature.....
Name.....
Designation and
Seal.....

Annexure-3 to Appendix-1, Section-VII, Book 3 of 3

(To be executed on Non- Judicial Stamp Paper of Appropriate Value)

ESCROW AGREEMENT

ESCROW AGREEMENT (hereinafter referred to as this "**Agreement**") is entered into on this the ___ day of _____ 20__ at _____.

BETWEEN:

M/S _____ a Company incorporated under the laws of _____ and having its principal place of business at _____ (hereinafter referred to as the "**Employer**", which expression shall, unless it is repugnant to the subject or context thereof, include its successors and assigns) of the **FIRST PART**;

AND

M/S _____ a Company incorporated under the laws of _____ and having its principal place of business at _____ (hereinafter referred to as the "**Contractor**", which expression shall, unless it is repugnant to the subject or context thereof, include its successors, transferees and permitted assigns) of the **SECOND PART**;

AND

M/S _____, a body corporate incorporated under the laws of India and a banking company within the meaning of Section 5 (c) of the Banking Regulation Act, 1949 (10 of 1949) and having its registered office at _____ in its capacity as the Escrow Agent for the Contractor (hereinafter referred to as the "**Escrow Bank**", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) of the **THIRD PART**.

The Employer, the Contractor and the Escrow Bank are individually referred to as "**Party**" and collectively as "**Parties**".

WHEREAS:

A. The Employer vide IFB No. _____ dated _____ ("**Tender**") had invited _____ bids for _____ ("**Package**") for _____ ("**Project**").

B. Accordingly, the said "Contractor", submitted its bid in response to the above mentioned NIT.

C. Pursuant to the IFB and the bid submitted by the Successful Bidder / Contractor, the Employer issued the Notification of Award dated _____ bearing no. _____ ("**Notification of Award**") and executed Contract Agreement Reference No. _____ dated _____ (hereinafter called Contract).

- D.** In terms of Clause _____ of the Contract/ General Conditions of Contract/ Special Conditions of Contract, the Contractor is required to open and maintain separately an Escrow Account with the Escrow Bank.
- E.** The Contractor have approached _____ Bank to act as an escrow agent and the _____ Bank has agreed to act as the Escrow Bank under this Escrow Agreement; and
- F.** Accordingly Parties are desirous of executing this Escrow Agreement to set out the manner and procedure for operation of the escrow account and other matters in connection therewith.
- G.** All payments due under the Contract related to Erection/Civil/Structural works will be released by the Employer to the Contractor in the Escrow Account. The Contractor is required to make payment to suppliers of goods and services, statutory authorities, establishment expenses etc. as may be required in the successful performance of the Contract.
- H.** The Contractor is required to utilise the money collected in the Escrow Account in accordance with the waterfall mechanism set out in this Agreement.
- I.** In view of the aforesaid, the mutual covenants, and understandings setforth herein, the Parties wish to enter into this Agreement for setting out the terms and conditions to deal with all payments in accordance with the requirements set out in the Bid Document.

NOW, THEREFORE, in consideration of the premises herein set forth and other good and valid consideration, the receipt and adequacy of which are hereby expressly acknowledged, the Parties with the intent to be legally bound hereby agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

In this Agreement the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereafter respectively assigned to them.

Applicable Law means all applicable statutes, laws, by – laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any governmental authority or court or other law, rule or regulation, approval from the relevant governmental authority, government resolution, directive, or other government restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India.

Business Day means a day other than a Sunday or a bank holiday on which banks are normally open for business during banking business hours in Panchkula, India.

Contractor shall have the meaning as ascribed to it in Second Part

Employer shall have the meaning as ascribed to it in First Part.

Escrow **Account shall mean the account in the name and style of “_____” opened and maintained by the Contractor in terms of Section-V, Clause as Special Conditions of Contract No. 47 (General Condition of Contract Clause No. 12) with the Escrow Bank and operated in terms of this Escrow Agreement.**

Escrow Agreement shall mean this agreement, together with the schedules hereto, as may be amended, modified or supplemented from time to time, in accordance with its terms.

Escrow Bank shall have the meaning as ascribed to it in Third Part.

Notification of Award shall have the meaning as ascribed to it in Recital C.

Package shall have the meaning as ascribed to it in Recital A.

Project shall have the meaning as ascribed to it in Recital A.

Tender shall have the meaning as ascribed to it in Recital A.

1.2 PRINCIPLE OF CONSTRUCTIONS

In this Agreement, unless the context otherwise requires:

- (a) reference to an Account includes a reference to any sub – account of that Account;
- (b) reference to an "amendment" includes a supplement, modification, novation, replacement or re-enactment and "amended" is to be construed accordingly;
- (c) a reference to "authorization" includes an authorization, consent, clearance, approval, permission, resolution, license, exemption, filing and registration;
- (d) a reference to "control" includes the power to direct by contract or otherwise;
- (e) unless the context otherwise requires, the singular includes the plural and vice versa;
- (f) a reference to a Schedule is, unless indicated to the contrary, a reference to a schedule to this Agreement;
- (g) the words "other", "or otherwise" and "whatsoever" shall not be construed *ejusdem generis* or be construed as any limitation upon the generality of any preceding words or matters specifically referred to;
- (h) references to the word "includes" or "including" are to be construed without limitation;
- (n) all references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, substituted, novated or assigned from time to time;
- (o) any reference to a public organization shall be deemed to include any successor to such public organization or any organization or functions or responsibilities of such public organization;
- (p) "year" "month" and "day" wherever used in this Agreement imply that of English calendar;
- (q) words and abbreviations, which have, well known technical or trade / commercial meanings are used in the Agreement in accordance with such meanings;
- (r) A reference to times and dates in this Escrow Agreement are references to times and dates in India.
- (s) Any date or period as set out in any clause of this Escrow Agreement may be extended with the written consent of the Parties.
- (t) The Schedules form an integral and operative part of this Escrow Agreement and

references to this Escrow Agreement shall include references to the Schedules.

2. APPOINTMENT OF ESCROW BANK

Each of the parties acknowledges that the Escrow Bank has been appointed under this Escrow Agreement and that it shall discharge its functions in accordance with the terms of this Escrow Agreement. Escrow Bank hereby accepts the escrow arrangement hereby declared and provided upon the terms and conditions set forth in this Escrow Agreement.

3. ESTABLISHMENT OF THE ACCOUNTS

The Contractor has established with the Escrow Bank an account with its branch, the details of which are provided in **Schedule – II** hereto, titled the " Account". The Contractor acknowledges and agrees that it shall maintain the Escrow Account.

4. OPERATING PROCEDURES

The Employer, the Contractor and Escrow Bank, have prior to execution of this Agreement agreed on the detailed terms and conditions and Operating Procedures for the Escrow Account (as set out in **Schedule – III**), provided however, in the event of any inconsistency between this Agreement and such mandates, terms and conditions or procedures, this Agreement shall prevail.

Based on the request from the Contractor, the Employer will approve the list of suppliers of goods and services, statutory authorities, establishment expenses etc. to whom payments could be made and the same shall be shared with the Escrow Bank from time to time.

All transfers and payments pursuant to this Agreement shall be in a manner consistent with the operating procedures.

The Escrow Bank shall submit to the Employer the usage of monies withdrawn from the Escrow Account together with a monthly statement from the Escrow Bank evidencing receipt and withdrawal of funds into and from the Escrow Account.

The Employer shall be entitled to verify the usage of funds withdrawn from the Escrow Account.

At any time the Employer is entitled to seek an account statement from the Escrow Bank and such evidence of usage of funds by the Contractor from the Escrow Account as required by the Employer.

5. OBLIGATIONS OF THE CONTRACTOR

Nothing contained in this Agreement shall affect the obligations of the Contractor under the Bid Documents or Contract Agreement as set out above.

The Contractor shall simultaneously deliver a copy to the Employer of any notice or document delivered to the Escrow Bank pursuant to this Agreement.

6. ESCROW BANK SERVICE CHARGES AND EXPENSES

The Contractor shall pay, on demand, all the usual and customary service charges, transfer fees, account maintenance, account acceptance, statement,

investigation, funds transfer and any other charges as are levied by the Escrow Bank as mutually agreed and such other out of pocket expenses as are claimed by the Escrow Bank (collectively, the "**charges**") in connection with the Escrow Account. In addition the Contractor has agreed to pay one-time bank escrow service charges of Rs. _____ plus applicable service tax. Contractor shall deposit the one-time bank escrow service charges in to the Escrow Account within three Business Days of the opening of the Escrow Account and/ or shall deposit the charges from time to time of such demand by the Escrow Bank. In the event Contractor fails to make the timely payment to the Escrow Bank of the one-time bank escrow service charges and/or the charges, the Escrow Bank shall have the right to withdraw such amounts from the Escrow Account as is necessary for the payment of the one-time bank escrow service charges and charges, in which case Contractor shall replenish the Escrow Account with such amounts equivalent to the amounts withdrawn by the Escrow Bank within ____ Business Days of such withdrawal.

7. ESCROW BANKS'S DUTIES AND LIABILITIES

- 7.1** The Escrow Bank shall have only those duties, obligations and responsibilities expressly specified in this Escrow Agreement and shall have no duties, obligations or responsibilities which are implied or inferred by law or otherwise.
- 7.2** The duties of the Escrow Bank under this Escrow Agreement are purely ministerial, administrative and non-discretionary in nature. Neither Escrow Bank nor any of its directors, officers, agents and employees shall, by reason of anything contained in this Escrow Agreement, be deemed to be a trustee for or have any fiduciary relationship with the parties. Where the Escrow Bank has acted in accordance with this Escrow Agreement, it shall be deemed to have acted as if instructed to do so by the Employer
- 7.3** The Escrow Bank shall not be required to expend or risk any of its own funds or otherwise incur any liability, financial or otherwise, in the performance of any of its duties under this Escrow Agreement.
- 7.4** The Escrow Bank shall not be precluded by virtue of this Escrow Agreement (and neither shall any of its directors, officers, agents and employees or any company or persons in any other way associated with it be precluded) from entering into or being otherwise interested in any banking, commercial, financial or business contacts or in any other transactions or arrangements with the parties or any of their affiliates provided such transactions or arrangements are not contrary to the provisions of this Escrow Agreement.
- 7.5** The Escrow Bank shall not be bound or affected, in its capacity as Escrow Bank, in any way by the Agreement or any agreement or contract between Parties to which the Escrow Agent is not a party. The Escrow Bank, in its capacity as an escrow bank, is deemed not to have any knowledge of any provision of the Agreement or any other document unless the substance of such provisions is explicitly set forth in this Escrow Agreement. The Escrow Bank shall not in any way be required to determine whether or not the terms and conditions of the Agreement or any other agreement or contract between the Parties to which the Escrow Bank is not a party have been complied with. Furthermore, the Escrow Bank is deemed not to have any knowledge or notice of any fact or circumstance not specifically set forth in this Escrow Agreement.

- 7.6** The Escrow Bank may, in good faith, accept and rely on any notice, instruction or other document received by it under this Escrow Agreement as conclusive evidence of the facts and of the validity of the instructions stated in it and as having been duly authorised, executed and delivered and need not make any further enquiry in relation to it. The Escrow Bank may act in conclusive reliance upon any instrument or signature believed by it, acting reasonably, to be genuine and may assume, acting reasonably, that any person purporting to give receipt, instruction or advice, make any statement, or execute any document in connection with the provisions of this Escrow Agreement has been duly authorised to do so. The Escrow Bank shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document.
- 7.7** The Escrow Bank shall not be liable to any person for any losses arising out of or in connection with the performance or non-performance of its obligations under this Escrow Agreement, except to the extent directly resulting from the wilful default or gross negligence of the Escrow Bank.
- 7.8** The Escrow Bank may execute any of its powers and perform any of its duties under this Escrow Agreement directly or through appointed agents or attorneys.
- 7.9** 'Force Majeure Event' means any event (including but not limited to an act of God, fire, epidemics, natural calamities; riots, civil commotion or unrest, terrorism, war, strikes or lockouts; expropriation or other governmental actions; any changes in applicable law or regulation including changes in market rules, currency restrictions, devaluations or fluctuations; market conditions affecting the execution or settlement of transactions or the value of assets; and breakdown, failure or malfunction of any telecommunication and information technology systems beyond the control of any Party which restricts or prohibits the performance of the obligations of such Party contemplated by this Agreement.

The Escrow Bank shall not be held liable for any loss or damage or failure to perform its obligations hereunder, or for any delay in complying with any duty or obligation, under or pursuant to this Agreement arising as a direct or indirect result of any Force Majeure Event.

- 7.10** The Escrow Bank may at its cost, consult with, and obtain advice from its lawyers or professional advisers over any question in relation to, and its duties under this Escrow Agreement. The Escrow Bank shall not incur any liability for taking any action or omitting any action in accordance with such advice.
- 7.11** The Escrow Bank does not have any proprietary or other interest in the Escrow Account, but is to serve as escrow holder only and having only possession thereof.
- 7.12** The Escrow Bank shall not be liable or responsible for obtaining any regulatory or governmental or other approval in connection with or in relation to the transactions contemplated herein and shall not be in any manner obliged to inquire or consider whether any regulatory or governmental approvals have been obtained.
- 7.13** The Escrow Bank shall not be obliged to supervise, control or perform any acts or responsibilities of the First Party or the Second Party or any other third party.

- 7.14** Any act to be done by the Escrow Bank shall be done only on a Business Day, during banking business hours, at _____, India and in the event that any day on which the Escrow Bank is required to do an act, under the terms of this Escrow Agreement, is a day on which banking business is not, or cannot for any reason be conducted, then the Escrow Bank shall do those acts on the next succeeding Business Day.
- 7.15** The Escrow Bank is under no duty to ensure that funds withdrawn from the Escrow Account are actually applied for the purpose for which they were withdrawn; neither the Escrow Bank nor any of its officers, employees or agents shall be required to make any distribution to the extent that the Escrow Amount is insufficient and shall incur no liability whatsoever from any non-distribution in such circumstances.
- 7.16** The Parties agree that the Escrow Bank shall not be, in any way, responsible or liable to the other Parties or any third person whatsoever, for deduction or withholding of any taxes in relation to the transaction for which the Escrow Account has been established pursuant hereto and the contractor acknowledge and confirm that they shall be solely and absolutely liable for any and all deductions or withholdings and payments of taxes, levies, cesses and all other statutory dues in relation thereto. The Contractors confirm that they shall be, jointly and severally, liable for payment of all stamp duties payable in relation to this Agreement as well as any other instruments executed pursuant hereto and the Escrow Bank shall not be responsible or liable for the same, under any circumstances.
- 7.17** The Parties agree that Escrow Bank is acting in its capacity as an escrow agent only and shall not be deemed to act as an investment, legal or tax adviser to the Parties in the performance of its obligations under the Escrow Agreement.
- 7.18** Notwithstanding what is stated herein, in no event shall the Escrow Bank be liable for incidental, indirect, special, punitive or consequential damages caused to the Parties.

8. NOTICE OF BREACH

The Escrow Bank to the best of its knowledge undertakes to the Employer that it shall notify the Employer of any breach by the Contractor of any of the provisions of this Agreement.

9. INDEMNITY

The Contractor shall indemnify and keep indemnified the Parties for any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, claims or disbursements of any kind or nature whatsoever which may be imposed upon, incurred by or asserted against the Parties in any way in connection with or arising out of the negotiation, preservation or enforcement of any rights under, or in carrying out its duties under this Agreement, other than those arising as a result of the Escrow Bank's gross negligence or willful default.

The Contractor shall indemnify and keep indemnified the Escrow Bank for any and all liabilities, obligations, losses, damages,

- (a) acting upon any request sent by facsimile, if such facsimile was found to be sent in an unauthorized manner; or
- (b) not acting upon any request if such facsimile was sent but not received by the concerned person of the Account Bank.

The obligations of the Contractor under this Agreement to indemnify and keep indemnified the parties shall survive the satisfaction, discharge or other termination of this Agreement and the resignation or removal of the Escrow Bank under this Agreement.

10. CONFIDENTIALITY

No Party may except as permitted by this Escrow Agreement, make public or disclose to any person any information about this Escrow Agreement.

The Obligations under this clause shall survive the termination or expiry of this agreement.

11. ASSIGNMENT

Save as provided in Clause ___ of the General Conditions of the Contract of the Employer, the Contractor shall not assign or transfer any part of their respective rights or obligations under this Agreement without the prior consent of the Employer, provided that this shall not prevent Employer from assigning or transferring its rights under this Agreement.

Nothing in this Agreement shall give to any other Person (other than the Parties hereto and their successors and permitted assigns) any benefit or any legal or equitable right or remedy under this Agreement.

This Agreement shall be binding on and shall inure to the benefit of the Parties hereto and the respective successors and permitted assigns.

12. NOTICES

All notices or other communications to be given under this agreement shall be made in writing to:

For the Employer:

(Name of the Employer)_____

Attention
Address

(Designation of Employee)_____

Fax No.
Tel No.

For the Contractor:

(Name of the Contractor)_____

Attention (Designation of
Employee) _____
Address _____

--.
Fax No. _____
Tel No. _____

For the Escrow Bank:

(Name of the Escrow Bank)

Attention (Designation of
Employee) _____
Address _____

Fax No. _____
Tel No. _____

Change of Address

Any Party may by notice change the addresses and / or addresses to which such notices and communications are to be delivered or mailed. Such change shall be effective when all the Parties have written notice of it.

14. WAIVER

No failure or delay on the part of the Employer in exercising any right, power or privilege hereunder or under Contract shall impair any such right, power or privilege or operate as a waiver the Employer would otherwise have. No notice to or demand on the Contractor in any case shall entitle the Contractor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Employer to any other or further action in any circumstances without notice or demand.

15. SEVERABILITY

If any provision of this Agreement is held invalid, unenforceable or illegal, the offending provision shall be severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect.

16. AMENDMENTS

No amendment to this Agreement shall be binding unless in writing and signed by the Parties.

17. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with Indian laws.

18. DISPUTE RESOLUTION

All matters, question, disputes, differences and/or claims arising out of and/or in concerning and/or in connection and/or in consequences or relating to this Contract whether or not obligations of either of both parties under this contract be subsisting at the time of such dispute and whether or not this Contract has been terminated or purported to be terminated or completed, shall be referred to the Sole Arbitrator to be appointed by the mutual consent from the panel of Arbitrators provided by HPGCL.

The firm may give consent on anyone from the panel. In case no consensus is arrived at between the parties then aggrieved party can approach the competent court of law for appointment of sole Arbitrator. The Award of the Arbitrator shall be final and binding on the parties to this Contract. Subject to aforementioned provisions, the provisions of Arbitration & Conciliation Act, 1996 as amended from time to time and rules made thereunder for the time being in force, shall apply to the Arbitration proceedings under this Clause.”

It has been agreed between both the parties that the fee of the Arbitrator shall be governed by Arbitration and Conciliation Act, 1996 as amended subject to condition that the fees shall not exceeds Rs. 10,00,000/-.

19. JURISDICTION

The parties irrevocably submit to exclusive jurisdiction of the Courts of Panchkula in all matters arising under this Agreement.

20. REGULATORY APPROVALS

The Contractor shall procure and shall thereafter maintain and comply with all regulatory approvals required for the establishment and operation of the Accounts and the making of any deposits, transfers or withdrawals and for the performance of its obligations under this Agreement.

21. NOTIFICATION OF BALANCES

Within ____ days following the end of each calendar month, the Escrow Bank shall notify the Employer of the balance in the Account and furnish a statement of the deposits into and payment out of the Accounts at the close of business of such calendar month.

22. COUNTERPARTS, ANNEXURES, SCHEDULES

This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

23. MISCELLENOUS

The Escrow Bank shall be responsible for maintaining a correct and complete record of all transactions, deposits, withdrawals or transfer of funds relating to the Accounts.

The Escrow Bank shall not make any transfer or withdrawal from the Escrow Account except as provided for in this Agreement.

SCHEDULE – I

1. First Part Details:
2. Second Part Details;
3. Third Part Details;

SCHEDULE – II
DETAILS OF ESCROW ACCOUNT

Particulars and Address of the Branch Office of the Escrow Bank for the Escrow Account	
IFSC Code	
Account Name and Account Number of Escrow Account	

SCHEDULE – III
TERMS & CONDITIONS
AND
OPERATING PROCEDURES

Deposits into Escrow Account

- All the Payments due under the Contract will be released by the Employer to the Contractor in this Escrow Account as per Terms of Payment agreed in the Contract.

Release/ Withdrawal of Funds from the Escrow Account

- Based on the request from the Contractor, the Employer will approve the list of suppliers of goods and services, statutory authorities, establishment expenses etc. to whom payments could be made and the same shall be shared with the Escrow Bank from time to time for releasing the funds.

Note: Detailed Operating Procedure in this schedule, shall be finalised between Employer, Contractor & Escrow Bank at the time of signing of this Agreement.

IN WITNESS WHEREOF the Contractor has caused its Common Seal to be affixed hereto on the date first above written, the Employer, and the Escrow Bank have caused the same and the said counterparts to be executed by the hand of an authorized official.

SIGNED AND DELIVERED BY (Name of Employer), the within named **EMPLOYER**, by the hand of _____ authorized representative of the Employer, who has been authorized to execute this Agreement.

THE COMMON SEAL OF

M/s _____
_____ the within named **CONTRACTOR**, has pursuant to the Resolutions of its Board of Directors passed in that behalf on _____

hereunto been affixed in the presence of MD and Company Secretary who has signed these presents in token thereof

SIGNED AND DELIVERED BY
_____, the within named **ESCROW BANK**, by the hand of
.....

Its Authorised Representative.

PRICE ADJUSTMENT

The contract price shall remain firm during the currency of the contract.

INSURANCE REQUIREMENTS

(I) Insurance to be taken by the Contractor:

In accordance with the provisions of GCC Clause 34, the Contractor shall at his expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurances set forth below in the sums and with the deductibles and other conditions specified herein. The identity of the insurers and the form of the policies shall be subject to the approval of the Employer, such approval not to be unreasonably withheld.

Insurance	Amount insured	Deductible	Conditions
A. Marine Cargo	<ul style="list-style-type: none"> (i) 110% of CIF value in case of Plant and Equipment (including all spare and Type Tests Charges) to be supplied from abroad/110% of Ex-works value in case of plant & equipment (including all spare and Type Test Charges) manufactured within the Employer's Country. (ii) Applicable taxes and duties (iii) Escalation 5% on (i) & (ii) 	Not applicable	<ul style="list-style-type: none"> (i) Employer to be named as coinsured (ii) Open policy (iii) All risk institute cargo clause 'A' (iv) War, SRCC, terrorism. (v) Institute replacement clause, special replacement clause (Air duty) and deferred unpacking clause (vi) Insurers right of subrogation against all parties (excluding carrier) waived. (vii) Warehouse to warehouse basis.
B. Installation all risk	<ul style="list-style-type: none"> (i) 110% of CIF value plus 110% of Ex-works value of plant & equipment (ii) Applicable taxes and duties (iii) Cost of indigenous procurement and free issue materials (iv) 10% escalation on (i) (ii) & (iii) (v) Cost of erection works 	Minimum as per insurance policy	<ul style="list-style-type: none"> (i) Installation risk, RSMTD, (ii) Air freight cover. (iii) Extra charge cover. (iv) Maintenance cover (v) Contractor's plant & machinery - Rs. 100 lakhs. (vi) Cross liability. (vii) Additional custom duty for imported machine (if any) for adequate value. (viii) Employer & Contractor's Sub-Contractor to be named as co-insured.
C. Third Party liability (Extension of MCE/EAR Policy)	For any one occurrence Rs. 50.00 lakhs	Nil	<ul style="list-style-type: none"> (i) Contractors, sub-contractors to be named as co-insured.

Insurance	Amount insured	Deductible	Conditions
D. Automobile liability			
(i) M.V. policy for motor vehicles, private cars & commercial vehicles		-----	As per local M.V. Act.
(ii) CPM policy for heavy construction equipment	Anything above Rs.100 lakhs covered under erection all risk policy		
E. Workmen's Compensation	_____	As per statute _____	
F. Employer's liability	_____	As per statute _____	Cumulative to workmen's compensation to cover liability not covered thereby.
G. Group personal insurance, for contractor's & sub-contractor's employees			

Note :

1. The Employer shall be named as co-insured under all insurance policies taken out by the Contractor pursuant to GCC 34.1 except for Third Party Liability, Workman's Compensation and Employer's Liability Insurances and the Contractor's Sub-Contractors shall be named as co-insured under all insurances policies taken out by the Contractor pursuant to GCC 34.1, except for the Cargo insurance during transport, Workman's Compensation and Employer's Liability Insurances. All insurers rights of subrogation against such co-insureds for losses or claims arising out of the performance of the Contract shall be waived under such policies.
2. Notwithstanding the insurance requirements mentioned above, it would be the Contractor's responsibility to take adequate insurance cover as may be pertinent to protect his interest and interest of the Employer. If at any point of time during execution of the Contract, the insurance policies are found to be inadequate, the Contractor shall take fresh insurance policies meeting aforesaid requirements. The Employer reserves the right to make suitable recovery from the Contractor, if any.

3. Any loss or damage to the Plant and Equipment during handling, transportation, storage, installation, commissioning, and all activities to be performed till the "Completion of Facilities" shall be to the account of the contractor. The Contractor shall be responsible for preference of all claims and make good the damages or loss by way of repairs and/or replacement of Plant and Equipment damaged or lost. Notwithstanding the extent of insurances cover and the amount of claim available from the underwriter, the Contractor shall be liable to make good the full replacement/rectification of all the equipment/materials and to ensure their availability as per project requirement without additional financial liability to the Employer.

The insurance should be in freely convertible currency and insurance policy to be taken should be on replacement value basis and/or incorporating appropriate insurance clause.

The Contractor shall follow local acts and laws as may be prevalent for insurance.

II) Insurances to be taken by the Employer.

The Employer shall take the insurance for its own employees, its stores and its machinery.

- III)** Upon grant of extension of time for completion by Employer, the Contractor shall promptly furnish documentary evidence to Project Manager towards extension of insurance policies for the period of time extension.

TIME SCHEDULE

The programme for furnishing and erecting (including testing and putting into satisfactory operation) the plant and equipment covered in the Contract shall be in the form of master Network identifying the keyphases in various areas of total works, like design, procurement, manufacture, field activities including civil construction works. In addition, key milestones dates (10 - 15 nos.) shall also be identified for the complete facilities under the subject Package. The Master Network shall conform to the following schedule date of completion:

Work Schedule for Flue Gas Desulphurization System Package for HPGCL- HISAR (2x600 MW).

Sl.No.	Activity/Description of Milestones	Duration in months from NOA	
		Start	Finish
A	Engineering Completion		
1.	Engineering for start of civil work and BOI order finalization,	00	02
2.	BOI engineering	-	03
B	Manufacturing & Supply		
3.	BOI Ordering	00	03
4.	Manufacturing & Supply of Equipments	-	14
5.	Manufacturing & Supply of gate, support structure, actuators etc. required for FGD inlet duct connection with ID-Chimney duct.	-	07
C	Civil and Structural Works of FGD		
6.	Initial mobilization	-	01
7.	Civil & Structural Works: Pilling, Civil & structural works for FGD system, Chimney, Limestone Handling System, Common Lime stone milling system, Absorber System, Gypsum Dewatering System Gypsum Handling System, Auxiliary Absorbent Tank, Process Water storage & Pumping System, Waste Water treatment system and associated cable trestles for air & water lines, slurry lines, steam line & waste water lines etc as per technical specification.	02	14
D	Equipment Erection		
8.	Equipment erection for FGD system, Limestone Grinding System, Absorber System, Gypsum Dewatering System, Auxiliary Absorbent Tank, Process Water storage & Pumping System, Waste Water treatment system etc. as per technical specification.	06	20
9.	Electrical and C&I: For FGD system, Limestone Handling System, Common Lime stone milling system, Absorber System, Gypsum Dewatering System, Gypsum Handling System, Auxiliary Absorbent Tank etc.	-	22
E	Commissioning of FGD		
10.	Commissioning as per definition in technical specification	-	24
F	Completion of facilities		27

Note:

- The schedule given above is for Unit#1 and Common facilities. The activities specific to subsequent Units shall be phased at an interval of 3 months, except for engineering activities which shall be completed along with Unit#1.
- Supply of mandatory spares needs to be ensured along with respective main equipment

- 1.0 This master network and the key milestone dates will be discussed and agreed before the execution of Notification of Award. Engineering Drawing and Data Submission Schedule shall also be discussed and finalised before the issue of Notification of Award.
- 2.0 After the Notification of Award, the contractor shall plan the sequence of work of manufacture and erection to meet the above stated dates of successful completion of commissioning of equipment and shall ensure all work, manufacture, shop testing, inspection and shipment of the equipment in accordance with the required construction/erection sequence.
- 3.0 Within one month of the Notification of Award, the Contractor shall submit to the Project Manager for his review and approval two copies (one reproducible and one print) of detailed network schedules with master network activities further exploded based on the Master Network mutually agreed by the Employer and Contractor, showing the logic and duration of the activities covered in the First, Second and Third Contracts in the following areas. Engineering, procurement, manufacturing and supply, detailed Engineering, procurement (including brought out items), manufacturing, despatch, shipment, receipt at site and activities related to erection and commissioning and completion.
- 4.0 Further, all engineering data related to civil input, interface engineering details requiring Employer's approval/information for shop manufactured items are to be given within the agreed schedule but in no case later than 45 days from the date of Notification of Award. For Bought Out Items, the contractor shall furnish the engineering input data to the Employer within the agreed schedule but in case later than 45 days from placement of respective purchase order on the sub-vendors.

5.0 Detailed Manufacturing Programme

Detailed Manufacturing PERT Network for all the manufacturing activities and Contractor/sub-Contractors works shall also be furnished within 60 days of Notification of Award. The manufacturing network shall be supported by detailed procurement programme for critical bought out item/raw materials.

6.0 Pre-Erection Activity Programme

The erection network will be supported by detailed Pre-erection activity programme covering the following :

- (A) Manpower Deployment
- (B) T&P Mobilisation
- (C) Detailed Site Mobilisation Plant

- 6.1 Any Tools & Plants (T&P) required for satisfactory execution of the Contract and to meet the time schedule specified in this Appendix-4 shall be mobilised by the Contractor as per direction of the Project Manager without any extra cost to the Employer. (The list of such essential Tools & Plants (T&P) to be deployed by the Contractor, if any finalised before Notification of Award, shall be enclosed as Appendix-4B to this Appendix-4).

- 7.0 Within one week of approval of the network schedule, the Contractor shall forward to the Project Manager, copies of the Computer Initial run-Data. The type of outputs and number of copies of each type to be supplied by the Contractor shall be determined by the Project Manager.

- 8.0 All the networks shall be updated every month or at a frequency mutually agreed upon. Within seven days following the Monthly Review, a progress meeting shall be held, whenever possible at the works, wherein the major items of the plant or equipment are being produced. The meeting will be attended by the Project Manager and responsible representative of Contractor that the Project Manager consider necessary for the meeting.
- 9.0 Access to the Contractor's and Sub-Contractor's work shall be granted to the Project Manager at all reasonable times for the purpose of ascertaining the progress.

APPENDIX - 4A TO APPENDIX - 4

MASTER NETWORK

[The Master Network as per para 1.0 of Appendix-4 shall be enclosed here as Appendix-4A to appendix-4]

APPENDIX - 4B TO APPENDIX - 4

LIST OF MINIMUM T&P AND SAFETY EQUIPMENTS & SAFETY PERSONAL PROTECTIVE EQUIPMENTS TO BE DEPLOYED BY THE CONTRACTOR

(i) Major T&Ps

A list of minimum no. of Major T&P required to be deployed necessarily by the bidder is furnished below. However, the actual deployment at site shall not be limited to these and additional T&P required to meet the work schedule shall be mobilised by the Contractor.

Sl. No.	Major T&P	Min. No. to be deployed	Period of Retention
			----- from to (months (months from NOA) from NOA)

The list of T&P alongwith the Schedule is to be duly filled up by the Bidder to ensure smooth execution of the works at site as per scope of the Contract.

(The list of T&P alongwith the schedule of their deployment, as finalised before Notification of Award shall be enclosed here as Appendix-4B to Appendix-4).

(ii) Safety Equipments & Safety Personal Protective Equipments

The list of minimum suggestive Safety Equipments & Safety Personal Protective Equipments to be deployed necessarily by the bidder is furnished below. However, the actual deployment at site shall not be limited to these and additional equipments if required shall be mobilised by the Contractor.

Sl. No.	Type and Description of the Equipment	Minimum Quantity
---------	---------------------------------------	------------------

LIST OF SUB-CONTRACTORS

PART 1. Nominated Sub-Contractors

In the event that the employer wishes to nominate any particular Sub-Contractors for the undertaking of any part or parts of the Works, these shall be identified and named by the Employer in the following schedule prior to the issue of the Bidding Documents.

Full details shall be given of the part of the Works to be executed, and the names and addresses of the Sub-Contractors to whom the part of the Works is to be sub-contracted by the Bidder. Where more than one name is given for any part of the Work, the Bidder shall be free to select any of the named Sub-Contractors for that part.

The Employer shall be responsible for ensuring that any Nominated Sub-contractor complies with the requirements of ITB Clause 2 (Eligible Bidders), but the Bidder shall be responsible for ensuring that any work. Materials or Services to be provided by the Nominated Sub-Contractor comply with the requirements of ITB Clause 2 (Eligible Plant and Services).

Item of Work	Nominated Sub-Contractor
--------------	--------------------------

NIL

PART 2 Approved Sub-Contractors

(Prior to award of Contract the following details shall be completed indicating those Sub-contractors proposed by the Bidder in Attachment-5 to his Bid which are approved by the Employer for engagement by the Contractor during the performance of the Works).

The following Sub-Contractors are approved for carrying out the item of work indicated. Where more than one Sub-contractor is listed, the Contractor is free to choose between them but he must notify the Employer of his choice in good time prior to appointing any selected Sub-Contractor. In accordance with Clause GCC 19.1, the Contractor is free to submit proposals for additional Sub-Contractors from time to time. No Sub-Contracts shall be placed with any such additional Sub-Contractors until they have been approved in writing by the Employer and their names added to this list of Approved Sub-Contractors.

Item of Work	Approved Sub-Contractors	Nationality
--------------	--------------------------	-------------

SCOPE OF WORKS AND SUPPLY BY THE EMPLOYER

Refer Part-D of Technical Specification (Section-VI)

LIST OF DOCUMENTS FOR REVIEW AND APPROVAL

A. Approval

1.

2.

3.

B. Review

1.

2.

3.

Note : This list of documents required for approval/review by the Employer shall be finalised during the contractstage.

FUNCTIONAL GUARANTEES

The functional guarantees and liquidated damages shall be as per Part-A of Section-VI (Technical Specifications). The contents of this Appendix shall, however, be finalized at the time of award of Contract.

6. PERFORMANCE SECURITY FORM

6. Performance Security Form

(To be stamped in accordance with the Stamp Act,
if any, of the Country of the issuing Bank) :

Bank Guarantee No.....

Date.....

To,
[Employer's Name & Address]

Dear Sirs,

In consideration of the*[Employer's Name]*..... (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s*[Contractor's Name]*..... with its Registered /Head Office at (hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Employer's Notification of Award No. dated..... and the same having been unequivocally accepted by the contractor, resulting into a Contract bearing No..... dated valued at for*[Name of the Contract]*..... hereinafter called the Contract..... and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to(*).....% (..... percent) of the said value of the Contract to the Employer.

We*[Name & Address of the Bank]*.....having its Head Office at.....(hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all monies payable by the Contractor to the extent of(*)..... as aforesaid at any time upto(@)..... *[days/month/year]* without any demur, reservation, contest, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Bank shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ninety (90) days after expiry of its validity.

The Employer shall have the fullest liberty, without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission

on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to(*)..... and it shall remain in force upto and including(@)..... and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s.....[Contractor's Name]..... on whose behalf this guarantee has been given.

Dated this day of 20..... at.....

(Signature).....

(Name).....

.....
(Designation with Bank Stamp)

Authorised Vide Power
of Attorney No.....
Dated.....

- Notes :**
1. (*) This sum shall be ten percent (10%) of the Contract Price.
(@) This date will be ninety (90) days after the end of Defect Liability Period as specified in the Contract.
 2. The Bank Guarantee shall be from a Bank as per provisions of Section-V (SCC) of the bidding documents.
 3. The stamp papers of appropriate value shall be purchased in the name of guarantee issuing Bank or the Party on whose behalf the BG is being issued. The Bank Guarantee shall be issued on a stamp paper of value as applicable in the State(s) where the BG is submitted or is to be acted upon or is executed, whichever is higher.
 4. While getting the Bank Guarantee issued, the contractor is required to ensure compliance to the points mentioned in Form 16-Form of Bank Guarantee Verification Check List enclosed with the bidding documents. Further, the Contractor is required to fill up this Form 16 and enclose the same along with the Bank Guarantee.

6a. Performance Security Form

(In case of Contract awarded to Joint Venture)

- NOT APPLICABLE -

**7. BANK GUARANTEE FORM
FOR ADVANCE PAYMENT**

- (i) FOR SUPPLY - CIF / EX-WORKS PORTION**
- (ii) FOR INSTALLATION SERVICES PORTION**

**7(i). Bank Guarantee Form for Advance Payment
(For Supply FOB/Ex-Works)**

(To be stamped in accordance with the Stamp Act,
if any, of the Country of the issuing Bank) :

(NOT APPLICABLE)

To,
[Employer's Name & Address]

Bank Guarantee No.....
Date.....

Dear Sir,

In consideration of[Employer's Name]..... (hereinafter referred to as the 'Employer', which expression shall, unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/s.....[Contractor's Name]..... with its Registered/Head Office at (hereinafter referred to as the 'Contractor' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a Contract, by issue of Employer's Notification of Award No. dated and the same having been unequivocally accepted by the Contractor, resulting into a Contract bearing No. dated..... valued at for[Name of Contract](hereinafter called the 'Contract') and the Employer having agreed to make an advance payment to the Contractor for performance of the above Contract amounting (in words and figures) as an Advance against Bank Guarantee to be furnished by the Contractor.

We.....[Name and address of the Bank]..... having its Head Office at (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, immediately on demand any or, all monies payable by the Contractor to the extent of[advance amount]..... as aforesaid at any time upto(@)..... without any demur, reservation, contest, recourse or protest and/ or without any reference to the Contractor. Any such demand made by the Employer on the Bank shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ninety (90) days after expiry of its validity.

The Employer shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee, from time to time to vary the advance or to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is limited to[advance amount]..... and it shall remain in force upto and including(@)..... and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s.....[Contractor's Name]..... on whose behalf this guarantee has been given.

Dated this day of 20 at

(Signature).....

(Name)

.....
(Designation with Bank Stamp)

Authorised Vide Power
of Attorney No.....

Dated.....

- Notes:**
1. (@) This date shall be ninety (90) days beyond the date of Completion of the Facilities covered under the Contract.
 2. The Bank Guarantee shall be from a Bank as per provisions of Section-V (SCC) of the bidding documents.
 3. The stamp papers of appropriate value shall be purchased in the name of guarantee issuing Bank or the Party on whose behalf the BG is being issued. The Bank Guarantee shall be issued on a stamp paper of value as applicable in the State(s) where the BG is submitted or is to be acted upon or is executed, whichever is higher.
 4. While getting the Bank Guarantee issued, the contractor is required to ensure compliance to the points mentioned in Form 16-Form of Bank Guarantee Verification Check List enclosed with the bidding documents. Further, the Contractor is required to fill up this Form 16 and enclose the same with the Bank Guarantee.

**7.(ii) Bank Guarantee Form for Advance Payment (For
Installation Services/Civil Works/Structural Works)**

(To be stamped in accordance with Stamp Act
if any, of the Country of the issuing Bank)
(NOT APPLICABLE)

Bank Guarantee No.....
Date.....

To,
[Employer's Name & Address]

Dear Sir,

In consideration of[Employer's Name]..... (hereinafter referred to as the 'Employer', which expression shall, unless repugnant to the context or meaning thereof include its successors, administrators and assigns) having awarded to M/s.....[Contractor's Name]..... with its Registered/Head Office at (hereinafter referred to as the 'Contractor' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), a Contract, by issue of Employer's Notification of Award No. dated and the same having been unequivocally accepted by the Contractor, resulting into a Contract bearing No. dated..... valued at for[Name of Contract](hereinafter called the 'Contract') and the Employer having agreed to make an an interest bearing advance ('said Advance') to the Contractor amounting to (in words and figures).... in terms of the said Contract for performance of the above Contract against Bank Guarantee to be furnished by the Contractor.

We.....[Name and address of the Bank]..... having its Head Office at (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, immediately on demand any or, all monies payable by the Contractor to the extent of[110% of advance amount]..... as aforesaid along with interest @ 12.20% per annum on the Advance amount released by the Employer calculated from the date of release of the said advance by the Employer to the Contractor, at any time upto(#)..... without any demur, reservation, contest, recourse or protest and/ or without any reference to the Contractor. Any such demand made by the Employer on the Bank shall be conclusive and binding as to the amount and interest claimed by the Employer under this guarantee notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes not to revoke this guarantee during its currency without previous consent of the Employer and further agrees that the guarantee herein contained shall be enforceable till ninety (90) days after expiry of its validity.

The Employer shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee, from time to time to vary the advance or to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the Employer at its option shall be entitled to enforce this Guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Contractor and notwithstanding any security or other guarantee that the Employer may have in relation to the Contractor's liabilities.

Notwithstanding anything contained hereinabove our liability under this guarantee is limited to[110% of advance amount]..... along with interest on the advance amount released by the Employer as aforesaid and it shall remain in force up to and including(#)..... and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s..... [Contractor's Name]..... on whose behalf this guarantee has been given.

Dated this day of 20 at

(Signature).....

(Name).....

.....
(Designation with Bank Stamp)

Attorney as per Power
of Attorney No.....

Dated.....

- Notes:**
1. (#) This date shall be ninety (90) days beyond the date of Completion of the Facilities.
 2. The Bank Guarantee shall be from a Bank as per provisions of Section-V (SCC) of the Bidding Documents.
 3. The stamp papers of appropriate value shall be purchased in the name of guarantee issuing Bank or the Party on whose behalf the BG is being issued. The Bank Guarantee shall be issued on a stamp paper of value as applicable in the State(s) where the BG is submitted or is to be acted upon or is executed, whichever is higher.
 4. While getting the Bank Guarantee issued, the contractor is required to ensure compliance to the points mentioned in Form 16 - Form of Bank Guarantee Verification Check List. Further, the Contractor is required to fill up this Form 16 and enclose the same with the Bank Guarantee.

7(iii) Bank Guarantee Form for Advance Payment

(In case of Contract awarded to Joint Venture)

- NOT APPLICABLE -

8. FORM OF COMPLETION CERTIFICATE

8. Form of Completion Certificate

Date: _____

IFB No: _____

[Name of Contract]

To: [Name and address of Contractor]

Dear Sirs,

Pursuant to GCC Clause 24 (Commissioning and Completion of the Facilities) of the General Conditions of the Contract entered into between yourselves and the Employer dated [date], relating to the [brief description of the facilities], we hereby notify you that the following part(s) of the Facilities was (were) complete on the date specified below, and that, in accordance with the terms of the Contract, the Employer hereby takes over the said part(s) of the Facilities, together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the Facilities or part thereof: [description]
2. Date of Completion: [date]

However, you are required to complete the outstanding items listed in the attachment hereto as soon as practicable.

This letter does not relieve you of your obligation to complete the execution of the Facilities including Performance Guarantee Test(s) in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

Title
(Project Manager)

9. FORM OF OPERATIONAL ACCEPTANCE CERTIFICATE

9. Form of Operational Acceptance Certificate

Date :

IFB No:

[Name of Contract]

To: *[Name and address of Contractor]*

Dear Sirs,

Pursuant to GCC Sub-Clause 25.2 (Operational Acceptance) of the General Conditions of the Contract entered into between yourselves and the Employer dated *[date]*, relating to the *[brief description of the facilities]*, we hereby notify you that the Functional Guarantees of the following part(s) of the Facilities were satisfactorily attained on the date specified below.

1. Description of the Facilities or part thereof: *[description]*
2. Date of Operational Acceptance : *[date]*

This letter does not relieve you of your obligation to complete the execution of the Facilities in accordance with the Contract nor of your obligations during the Defect Liability Period.

Very truly yours,

Title
(Project Manager)

10. FORM OF TRUST RECEIPT

**10. FORM OF TRUST RECEIPT FOR PLANT,
EQUIPMENT AND MATERIALS RECEIVED**

We M/s (*Contractor's Name*)..... having our Principal place of business athaving been awarded a Contract No..... dated for (*Contract Name*)..... by (*Name of Employer*) do hereby acknowledge the receipt of the Plant, Equipment and Materials as are fully described and mentioned under Documents of Title/RR/LR etc. and in the schedule annexed hereto, which shall form an integral part of this receipt as "Trustee" of (*Name of Employer*). The aforesaid materials etc. so received by us shall be exclusively used in the successful performance of the aforesaid Contract and for no other purpose whatsoever. We undertake not to create any charge, lien or encumbrance over the aforesaid materials etc, in favour of any other person/institution(s)/Banks.

For M/s
(*Contractor's Name*)

Dated :

(AUTHORISED SIGNATORY)

**11. FORM OF INDEMNITY-CUM-UNDERTAKING
AGREEMENT**

**11a. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT
FOR THE EQUIPMENTS
HANDED OVER BY THE EMPLOYER
FOR PERFORMANCE OF CONTRACT
(Entire Equipment Consignment in one lot)**

(On Non-Judicial Stamp Paper of appropriate value)

INDEMNITY-CUM-UNDERTAKING AGREEMENT

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT is made this day of 20 between (*Contractor's Name*) a Company /Partnership Firm / Proprietary Concern incorporated under the laws of having its Registered Office at (hereinafter called as 'Contractor' which expression shall include its successors and permitted assigns) and (*Name of Employer*), a Company incorporated under the Indian Companies Act having its Registered Office at and its project at (hereinafter called "....." / "*Employer*" which expression shall include its successors and assigns) :

WHEREAS the 'Employer' has awarded to the 'Contractor' a Contract forvide its Notification of Award/Contract No.....dated and its Amendment No. and Amendment No....., (*applicable when amendments have been issued*) (hereinafter called the "Contract") in terms of which@..... is required to hand over various Equipments to the 'Contractor' for execution of the Contract.

And WHEREAS by virtue of Clause No..... of the said Contract, the 'Contractor' and the 'Employer' are required to execute an Indemnity-cum-Undertaking Agreement for the Equipments handed over to the 'Contractor' by@..... for the purpose of performance of the Contract/Erection Portion of the Contract (hereinafter called the "Equipments")

AND THEREFORE, This Indemnity-cum-Undertaking Agreement witnesseth as follows:

1. That in consideration of various Equipments as mentioned in the Contract, a list where of is also annexed to this Indemnity-cum-Undertaking Agreement at Schedule-A, valued at (*Currency and amount in Figures*)..... (*Currency and amount in words*) handed over to the 'Contractor' for the purpose of performance of the Contract, the 'Contractor' hereby undertakes to indemnify and shall keep the 'Employer' indemnified, for the full value of the Equipments. The Contractor hereby acknowledges actual receipt of the Equipments, etc. as per despatch title documents handed over to the 'Contractor' as detailed in the Schedule appended hereto. The 'Contractor' shall hold such Equipments, etc. in trust as a "Trustee" for and on behalf of the 'Employer'

@ Fill in abbreviated name of Employer.

2. That the 'Contractor' is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Equipments at@..... project site against all risks whatsoever till the Equipments are duly used/erected in accordance with the terms of the Contract and the plant/package duly erected and commissioned in accordance with the terms of the Contract is taken over by the 'Employer' The 'Contractor' undertakes to keep the 'Employer' harmless against any loss or damage that may be caused to the Equipments.
3. The 'Contractor' undertakes that the Equipments shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the Equipments shall be utilised for any other work or purpose whatsoever. It is clearly understood by the 'Contractor' that non-observance of the obligations under this Indemnity-cum-Undertaking Agreement by the 'Contractor' shall inter-alia constitute a criminal breach of trust on the part of the 'Contractor' for all intents and purpose including legal/penal consequences.
4. That the 'Employer' is and shall remain the exclusive owner of the Equipments free from all encumbrances, charges or liens of any kind, whatsoever. The Equipments shall at all times be open to inspection and checking by the Project Manager or other employees/agents authorised by the 'Employer' in this regard. Further the 'Employer' shall always be free at all times to take possession of the Equipments in whatever form the Equipments may be, if in its opinion, the Equipments are likely to be endangered, misutilised or converted to uses other than those specified in the Contract, by any acts of omission or commission on the part of the 'Contractor' or any other person or on account of any reason whatsoever and the 'Contractor' binds himself and undertakes to comply with the directions of demand of the 'Employer' to return the Equipments without any demur or reservation.
5. That this Indemnity-cum-Undertaking Agreement is irrevocable. If at any time any loss or damage occurs to the Equipments or the same or any part thereof is misutilised in any manner whatsoever, then the 'Contractor' hereby agrees that the decision of the Project Manager of the 'Employer' as to assessment of loss or damage to the Equipments shall be final and binding on the 'Contractor'. The 'Contractor' binds itself and undertakes to replace the lost and/or damaged Equipments at its own cost and/or shall pay the amount of loss to the 'Employer' without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to the 'Employer' against the 'Contractor' under the Contract and under this Indemnity-cum-Undertaking Agreement.
6. NOW THE CONDITION of this Indemnity-cum-Undertaking Agreement is that if the 'Contractor' shall duly and punctually comply with the terms and conditions of this Indemnity-cum-Undertaking Agreement to the satisfaction of the 'Employer', THEN, the above Indemnity-cum-Undertaking Agreement shall become void after the due performance of the Contract, but otherwise, it shall remain in full force and virtue.

@ Fill in abbreviated name of Employer.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer' have hereunto set their hand through their authorised representative, the day, month and year first above mentioned.

For and on behalf of

.....
(Contractor's Name)

Signature
Name
Designation of
Authorised representative *

WITNESS :

1. Signature
2. Name
3. Address

For and on behalf of

.....
(Employer's name)

Signature
Name
Designation of
Authorised representative *

WITNESS :

1. Signature
2. Name
3. Address

* Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a Photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement . In case of Employer, by the authorized representative of the Employer.

SCHEDULE - A

Particulars of the Equipments handed over	Quantity	Particulars of Despatch Title Documents	Carrier	Value of the Equip- ments	Signature of Attorney in token of receipt
		RR/GR/Bill of Lading No & Date			

**11b. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT FOR THE EQUIPMENTS
HANDED OVER IN INSTALMENTS BY THE
EMPLOYER FOR PERFORMANCE OF CONTRACT**

(On Non-Judicial Stamp Paper of appropriate value)

INDEMNITY-CUM-UNDERTAKING AGREEMENT

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT is made thisday of..... 20 between(*Contractor's Name*) a Company /Partnership Firm / Proprietary Concern incorporated under the laws of having its Registered Office at (hereinafter called as 'Contractor' which expression shall include its successors and permitted assigns) and(*Name of Employer*), a Company incorporated under the Indian Companies Act having its Registered Office at and its project at (hereinafter called "....." / '*Employer*' which expression shall include its successors and assigns):

WHEREAS the 'Employer' has awarded to the 'Contractor' a Contract forvide its Notification of Award/Contract No.....dated and its Amendment No. and Amendment No....., (*applicable when amendments have been issued*) (hereinafter called the "Contract") in terms of which@..... is required to hand over various Equipments to the 'Contractor' for execution of the Contract.

And WHEREAS by virtue of Clause No..... of the said Contract, the 'Contractor' and the 'Employer' are required to execute an Indemnity-cum-Undertaking Agreement for the Equipments handed over to the 'Contractor' by@..... for the purpose of performance of the Contract/Erection Portion of the Contract (hereinafter called the "Equipments")

NOW THEREFORE, This Indemnity-cum-Undertaking Agreement witnesseth as follows:

1. That in consideration of various Equipments as mentioned in the Contract, valued at (*Currency and amount in figures*)..... (*Currency and amount in words*) to be handed over to the 'Contractor' in instalments from time to time for the purpose of performance of the Contract, the 'Contractor' hereby undertakes to indemnify and shall keep the 'Employer' indemnified, for the full value of the Equipments. The Contractor hereby acknowledges actual receipt of the initial instalment of the Equipments, etc. as per details in the Schedule appended hereto. Further, the 'Contractor' agrees to acknowledge actual receipt of the subsequent instalments of the Equipments, etc. as required by@..... in the form of Schedules consecutively numbered which shall be attached to this Indemnity-cum-Undertaking Agreement so as to form integral parts of this Indemnity-cum-Undertaking Agreement. The 'Contractor' shall hold such Equipments, etc. in trust as a "Trustee" for and on behalf of the 'Employer'.

@ Fill in abbreviated name of Employer.

2. That the 'Contractor' is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Equipments at@..... project site against all risks whatsoever till the Equipments are duly used/erected in accordance with the terms of the Contract and the plant/package duly erected and commissioned in accordance with the terms of the Contract, is taken over by the 'Employer'. The 'Contractor' undertakes to keep the 'Employer' harmless against any loss or damage that may be caused to the Equipments.
3. The 'Contractor' undertakes that the Equipments shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the Equipments shall be utilised for any other work or purpose whatsoever. It is clearly understood by the 'Contractor' that non-observance of the obligations under this Indemnity-cum-Undertaking Agreement by the 'Contractor' shall inter-alia constitute a criminal breach of trust on the part of the 'Contractor' for all intents and purpose including legal/penal consequences.
4. That the 'Employer' is and shall remain the exclusive owner of the Equipments free from all encumbrances, charges or liens of any kind, whatsoever. The Equipments shall at all times be open to inspection and checking by the Project Manager or other employees/agents authorised by the 'Employer' in this regard. Further, the 'Employer' shall always be free at all times to take possession of the Equipments in whatever form the Equipments may be, if in its opinion, the Equipments are likely to be endangered, misutilised or converted to uses other than those specified in the Contract, by any acts of omission or commission on the part of the 'Contractor' or any other person or on account of any reason whatsoever and the 'Contractor' binds himself and undertakes to comply with the directions of demand of the 'Employer' to return the Equipments without any demur or reservation.
5. That this Indemnity-cum-Undertaking Agreement is irrevocable. If at any time any loss or damage occurs to the Equipments or the same or any part thereof is mis-utilised in any manner whatsoever, then the 'Contractor' hereby agrees that the decision of the Project Manager of the 'Employer' as to assessment of loss or damage to the Equipments shall be final and binding on the 'Contractor'. The 'Contractor' binds itself and undertakes to replace the lost and/or damaged Equipments at its own cost and/or shall pay the amount of loss to the 'Employer' without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to the 'Employer' against the 'Contractor' under the Contract and under this Indemnity-cum-Undertaking Agreement.
6. NOW THE CONDITION of this Indemnity-cum-Undertaking Agreement is that if the 'Contractor' shall duly and punctually comply with the terms and conditions of this Indemnity-cum-Undertaking Agreement to the satisfaction of the 'Employer', THEN, the above Indemnity-cum-Undertaking Agreement shall become void after the due performance of the Contract, but otherwise, it shall remain in full force and virtue.

@ Fill in abbreviated name of Employer.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer' have hereunto set their hand through their authorised representative, the day, month and year first above mentioned.

For and on behalf of
.....
(Contractor's Name)

For and on behalf of
.....
(Employer's name)

Signature
Name

Signature
Name

Designation of
Authorised representative *

Designation of
Authorised representative *

WITNESS :

- 1. Signature
- 2. Name
- 3. Address

WITNESS :

- 1. Signature
- 2. Name
- 3. Address

* Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement . In case of Employer, by the authorized representative of the Employer.

SCHEDULE No.1

Particulars of the Equipments handed over	Quantity	Particulars of Despatch Title Documents	Value of the Equip- ments	Signature of Attorney in token of receipt
--	-----------------	--	--	--

RR/GR/Bill of Lading No & Date	Carrier
---	----------------

(Please number subsequent schedules)

12. FORM OF AUTHORISATION LETTER

12. FORM OF AUTHORISATION LETTER

(NAME OF EMPLOYER)

(PROJECT)

REF. NO. :

DATE :

To,

M/s (Contractor's Name).....

Ref : Contract No..... Dated

for[Contract Name].....

awarded by (Name of Employer)

Dear Sirs,

Kindly refer to Contract No..... Dated for(Contract Name) You are hereby authorised on behalf of(Name of Employer) having its registered office atand its Project at to take physical delivery of materials/equipments covered under despatch Document/ Consignment Note no.....

*dated and as detailed in the enclosed Schedule for the sole purpose of successful performance of the aforesaid contract and for no other purposes, whatsoever.

(Signature of Project Authority)

(Designation :

Date

ENCL : as above

* Mention LR/RR No.

**SCHEDULE OF MATERIAL/EQUIPMENT COVERED UNDER
DESPATCH TITLE DOCUMENT (RR NO./ LR NO.)**

Sl. No.	Contract Name	NOA No./ Contract Agreement No.	Description of Materials/ Equipments	Spec. No.	Qty.	Value	Remarks
---------	---------------	---------------------------------	--------------------------------------	-----------	------	-------	---------

(SIGNATURE OF THE PROJECT
AUTHORITY)

(Designation).....

Date).....

13. FORM OF DEED OF JOINT UNDERTAKING

Attached as a separate file

**14. FORM OF BANK GUARANTEE
BY ASSOCIATE/COLLABORATOR**

**14. PROFORMA FOR BANK GUARANTEE
TO BE FURNISHED BY THE EXECUTANT OF DEED
JOINT UNDERTAKING OTHER THAN CONTRACTOR**

(To be stamped in accordance with the Stamp Act,
if any, of the Country of the issuing Bank) :

[To be on non-judicial stamp paper of Rupees One Hundred Only (INR 100/-) or appropriate value as per Stamp Act relevant to place of execution, duly signed on each page.]

Ref.: _____

Bank Guarantee No.: _____

Date: _____

To,

The Chief Engineer/ Planning

Haryana Power Generation Corporation Limited (HPGCL)
C-4, Shakti Bhawan , Sector-6
Panchkula -134109, Haryana

BANK GUARANTEE FOR CONTRACT PERFORMANCE

WHEREAS Haryana Power Generation Corporation Limited, a Company incorporated under the Companies Act, 1956, having its Registered Office at Panchkula, Haryana (India) (Hereinafter referred to as the "Company" which expression shall unless repugnant to the context include its successors, executors, administrators, legal representatives and assigns) shall install Flue Gas Desulphurisation (FGD) System Package at RGTPP, Hisar (2X600 MW), Haryana (India) (Hereinafter referred to as "Project").

WHEREAS the Company has placed a Letter of Intent datedas also a Contractdated(hereinafter called the CONTRACT) on;registered in India under the Companies Act, 1956, having its Registered Office..... (Hereinafter referred to as the "Contractor") for installation/ setting up of the said Project on the terms, specifications and conditions specified therein for (scope of work), which shall include any amendments/alterations made in the Tender Document thereto before the date of submission of the Tender by the Company, which has been unequivocally accepted by (the "Contractor").

AND WHEREAS in conformity with the provisions of Clause No. -----of the said CONTRACT, the "Contractor" has agreed to furnish an unconditional Bank Guarantee for an amount equivalent to 10% of the EPC Contract Price i.e. Rs..... against any loss or damage, costs, charges and expenses caused to or suffered by Company by reason of non-performance and fulfilment or for any breach on the part of the Contractor of any of the terms and conditions of the referred Tender Document/Contract Agreement.

We, _____ Bank, further agree that the Company shall be the sole judge whether the said Contractor has failed to perform or fulfil the O&M scope of work and the extent of loss, damage, cost, charges and expenses suffered or incurred or would be suffered or incurred by the Company on account thereof and we waive in favour of the Company all the rights and defences to which we as Guarantors and/or the Contractor may be entitled to.

AND WHEREAS the Company has agreed to accept a Bank Guarantee for Rs from Bank having its Head Office at

Through its Branch..... (hereinafter referred to as the "Bank" which expression shall unless repugnant to the context include its successors and permitted assigns).

In consideration of the above, the "Bank" hereby unconditionally and irrevocably guarantees and undertakes as a direct responsibility, to pay to the Company merely on demand any amount not exceeding Rs. without any demure, reservation, recourse, contest or protest and / or without reference to the "Contractor".

Any such demand made by the "Company" on the "Bank" shall be conclusive and binding notwithstanding any difference between Company and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The bank undertakes not to revoke this guarantee herein contained and shall continue to be enforceable till the Company discharge this guarantee.

The decision of the Company as to whether the "Contractor" has fulfilled its obligation or not under the CONTRACT shall be final and binding on the "Bank" and the "Contractor".

The Company shall have the fullest liberty without affecting in any way the liability of "the Bank" under this guarantee from time to time to extend the time for performance of the Contract by the "Contractor". The Company shall have the fullest liberty without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the "Contractor", and to exercise the same at any time in any manner, and either to enforce or to forebear to enforce any covenants contained or implied in the Contract between the Company and "the Contractor" or any other course of remedy or security available to the Company. The Bank shall not be released of its obligations under these presents by any exercise by the Company of its liberty with reference to matters aforesaid or any of them or by reason of any other act or forbearance to other acts of omission or commission on the part of the Company of any other indulgence shown by the Company or by any other matter or thing whatsoever which under the law would, but for this provision, have the effect of relieving the Bank.

The Bank also agrees that the Company at its opinion shall be entitled to enforce this guarantee against the Bank as a principle debtor, in the first instance without proceeding against "the Contractor", and notwithstanding any security or other guarantee that the Company may have in relation to "the Contractor's" liabilities.

This Guarantee shall be valid for a period of {Refer NIT} days from [the date of both A) Completion of Facilities and B) Successful Operational Acceptance Test, whichever is later,] i.e. upto The Guarantee herein contained shall be a continuing Guarantee and shall not be affected by any change in the constitution of the "Bank" or of the "Contractor". This Guarantee shall be in addition to and shall not affect or be affected by any other security now or hereafter held by the Company and the Company at its discretion and without any further consent from the Bank and without affecting the liability of the "Bank" and other indulgence to or make other arrangements with the Contractor and nothing done or omitted to be done by the Company in pursuance of any authority contained in this guarantee shall affect or discharge the liability of the Bank.

NOTWITHSTANDING anything herein before above contained, the liability of the Bank under this Guarantee shall be restricted to Rs..... <10% of the EPC Contract Price> and the Guarantee shall remain in force up to and including _____ [One year plus **45 days** from the date of both A) Completion of Facilities and B) Successful Operational Acceptance Test, whichever is later],

This Bank Guarantee shall be revalidated automatically till the Operational & Maintenance Period is over.

Bank undertakes not to revoke this guarantee during its currency except with the previous expressed consent of the Company in writing and agrees that any change in the constitution of the Bank or the Contractor shall not discharge our liability hereunder.

IN WITNESS WHEREOF we have set our hands and seal hereunder at this..... day of At

For, _____ Bank,

Signature: _____
Name: _____
Designation: _____
Address: _____

Power of Attorney No. _____

Banker's Stamp and Full address

**FORM OF JOINT VENTURE/CONSORTIUM
AGREEMENT**

[NOT APPLICABLE]

**15. FORM OF BANK GUARANTEE
VERIFICATION CHECK LIST**

BANK GUARANTEE VERFICATION CHECKLIST

1. Bank Guarantee No.
2. Issuing Bank
3. Amount of BG
4. Nature of BG & No. of Pages
5. Validity of BG
6. Package Description
7. Party & Contracts Ref.
8. Bank Reference

CHECK LIST

S.No.	Details of Checks	Yes/No
a)	Is the BG on non-judicial stamp paper of appropriate value, as per Stamp Act?	
b)	Whether date, purpose of purchase and name of the purchaser are indicated on the stamp paper? (The date of purchase of stamp paper should be of any date on or before the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued. The stamp papers (other than e-stamp paper) should be duly signed by the stamp vendor).	
c)	In case of BGs from Banks abroad, has the BG been executed on Letter Head of the Bank	
d)	Has the executing Officer of BG indicated his name, designation and Power of Attorney No. / Signing Power No. on the BG?	
e)	Is each page of BG duly signed/initialed by executant and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars under seal of Bank as required in the prescribed proforma?	

S.No.	Details of Checks	Yes/No
f)	Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bidding Documents?	
g)	Are the factual details such as Bidding Documents No./Specification No., Amount of BG, Validity of BG correctly mentioned in the BG?	
h)	Whether overwriting / cutting if any on the BG have been properly authenticated under signature & seal of executants?	
i)	Whether the BG has been issued by a Bank in line with the provisions of Bidding Documents?	
j)	In case BG has been issued by a Bank other than those specified in Bidding Document, is the BG confirmed by a Bank in India acceptable as per Bidding Documents?	

Date : _____ Signature

Place : _____ Printed Name

Note : The Bidder is required to fill up this form and enclose along with the Bank Guarantee.

**17. FORM OF VALIDITY EXTENSION
OF BANK GUARANTEE**

FORM OF VALIDITY EXTENSION OF BANK GUARANTEE
(On Non-judicial stamp paper of appropriate value)

Ref. No. :

Dated:

@ _____

Dear Sirs,

Subject : Extension of Bank Guarantee No. dtd..... for.....
[indicate value of bank guarantee] favouring yourselves,
expiring on..... on account of M/s.....(Name of Bidder)
..... in respect of Contract for (Insert package name)
for (Insert Project name) project, Contract No.
..... dated.....

(herinafter called original Bank Gaurantee).

At the request of M/s..... we Bank branch
office at and having its Head Office at
..... do hereby extend our liability under the above mentioned
Bank Guarantee No..... dt for a further period
of..... Years/Months from to expire on

Except as provided above, all other terms and conditions of original Bank Guarantee
No..... dated..... shall remain unaltered and binding.

Please treat this as an integral part of the original guarantee to which it would be deemed to have
been attached.

Date :

.....
(Signature)

.....
(Name)

.....
(Designation with Bank Stamp)

Authorised vide
Power of Attorney No.....
Date.....

Dated.....

SEAL OF BANK

1. @ The extension of the Bank Guarantee should be forwarded to the Unit/Project/Corporate Centre from where the extension has been sought.
2. The stamp papers of appropriate value shall be purchased in the name of guarantee issuing Bank or the Party on whose behalf the BG is being issued. The Bank Guarantee shall be issued on a stamp paper of value as applicable in the State(s) where the BG is submitted or is to be acted upon or is executed, whichever is higher.

**18. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT [FOR
REMOVAL / DISPOSAL OF SCRAP / SURPLUS MATERIAL]**

**18. FORM OF INDEMNITY-CUM-UNDERTAKING AGREEMENT WITH REGARD TO
REMOVAL/DISPOSAL OF SCRAP/SURPLUS MATERIAL**

(TO BE EXECUTED ON STAMP PAPER OF APPROPRIATE VALUE)

INDEMNITY-CUM-UNDERTAKING AGREEMENT

THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT executed thisday of..... 20 between(Name of Company) a Company /Partnership Firm / Proprietary Concern incorporated under the laws of having its Registered Office(s) at (Office Address) hereinafter called the 'Contractor' (which expression shall, unless excluded by or repugnant to the context, be deemed to mean and include its successors, administrators, executors and permitted assigns)

AND

M/s. having its registered office at (hereinafter referred to as 'Employer').

1. 'Employer' has awarded the 'Contractor', contract for execution of work ("Scope of Work") as mentioned in the contract agreement no. dated, entered into between 'Employer' and 'Contractor', relating to (Name & Address of Project/Station) (hereinafter called 'the Project').
2. The 'Contractor' for the purpose of execution of its Scope of Work had from time to time procured and stored (Details of Material) at the Project Site.
3. After completion of the Scope of Work by 'Contractor', it has been identified that scrap (Details of Scrap Material & its quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to 'Contractor' is lying at the said Project Site.
4. Now, the scrap (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to the 'Contractor', requires to be removed by 'Contractor' from the Project Site.

NOW THEREFORE THIS INDEMNITY-CUM-UNDERTAKING AGREEMENT WITNESSETH AS UNDER:

1. That 'Contractor' by way of this Indemnity-cum-Undertaking Agreement requests 'Employer' to issue necessary exit gate pass(es) in favour of 'Contractor' for removal of scrap..... (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to 'Contractor', from the project.

2. That as per Employer's procedure, 'Contractor' shall ensure loading of trucks for clearing of its scrap (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) by itself, as aforesaid, under the supervision of CISF personnel.
3. That 'Contractor' in consideration of the premises above, for itself and its respective, executors, administrators and assigns, jointly and severally agree and undertake from time to time and at all times hereafter to indemnify 'Employer' and keep 'Employer' indemnified from and against all claims, demands, actions, liabilities and expenses which may be made or taken against or incurred by 'Employer' by reason of the issue of necessary gate pass(es) by 'Employer' and permitting 'Contractor' to remove scrap (Details of Scrap Material & its Quantity) and/or surplus (Details of Surplus Material & its Quantity) belonging to 'Contractor', from the project.
4. That 'Contractor' undertakes to indemnify and keep 'Employer' harmless from any act of omission or negligence on the part of the 'Contractor' in following the statutory requirements with regard to removal/disposal of scrap and surplus belonging to 'Contractor', from the Project Site aforesaid, by the 'Contractor'. Further, in case the laws require 'Employer' to take prior permission of the relevant Authorities before handing over the scrap and/or surplus to the 'Contractor', the same shall be obtained by the 'Contractor' on behalf of 'Employer'.

IN WITNESS WHEREOF, the 'Contractor' and the 'Employer', through their authorized representative, have executed these presents on the Day, Month and Year first mentioned above at (Name of the Place)

For and on behalf of
.....
(Contractor's Name)

For and on behalf of
.....
(Employer's name)

Signature
Name
Designation of
Authorised representative *

Signature
Name
Designation of
Authorised representative *

WITNESS :

1. Signature
2. Name
3. Address

WITNESS :

1. Signature
2. Name
3. Address

- * Indemnity-cum-Undertaking Agreement are to be executed by the authorised person and (i) in case of contracting Company under common seal of the Company or (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity-cum-Undertaking Agreement , (iii) In case of (ii), the original Power of Attorney if it is specifically for this Contract or a photostat copy of the Power of Attorney if it is General Power of Attorney and such documents should be attached to Indemnity-cum-Undertaking Agreement . In case of Employer, by the authorized representative of the Employer.

Route 2 (Cl. 1.2.1): Wet Limestone based Flue Gas Desulphurisation System Manufacturer with Collaboration and Technology Transfer Agreement with QFGDM

1	13A11	Applicable for Wet Limestone based Flue Gas Desulphurisation System Manufacturer who meets the requirements of Clause 3.1.2.1, item 3 of BDS with Collaboration and Technology Transfer Agreement with QFGDM meeting requirements of Clause 3.1.1.1, item 3 of BDS.
2	13A12	Applicable for Wet Limestone based Flue Gas Desulphurisation System Manufacturer who meets the requirements of Clause 3.1.2.1, item 3 of BDS with Collaboration and Technology Transfer Agreement with QFGDM [as per Note 4 (ii) of Clause 3.1.0.0, item 3 of BDS] meeting requirements of Clause 3.1.1.1, item 3 of BDS.

Route 3 (Cl. 1.3.1 (a)): Steam Generator Manufacturer with Collaboration and Technology Transfer Agreement with QFGDM

1	13B11	Applicable for Steam Generator Manufacturer who meets the requirements of Clause 3.1.3.1(a), item 3 of BDS with Collaboration and Technology Transfer Agreement with QFGDM meeting requirements of Clause 3.1.1.1, item 3 of BDS.
2	13B12	Applicable for Steam Generator Manufacturer who meets the requirements of Clause 3.1.3.1(a), item 3 of BDS with Collaboration and Technology Transfer Agreement with QFGDM [as per Note 4 (ii) of Clause 3.1.0.0, item 3 of BDS] meeting requirements of Clause 3.1.1.1, item 3 of BDS.

Route 3(Cl. 1.3.1 (b)): Indian JV Company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM

1	13B13	Applicable for Indian JV Company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM meeting requirements of Clause 3.1.1.1, item 3 of BDS.
2	13B14	Applicable for Indian JV Company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM [as per Note 4 (ii) of Clause 3.1.0.0, item 3 of BDS] meeting requirements of Clause 3.1.1.1, item 3 of BDS.

Route 3 (Cl. 1.3.1 (c)): Indian Subsidiary company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM

1	13B15	Applicable for Indian Subsidiary company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM meeting requirements of Clause 3.1.1.1, item 3 of BDS.
2	13B16	Applicable for Indian Subsidiary company of Steam Generator manufacturer or QFGDM with Collaboration and Technology Transfer Agreement with QFGDM [as per Note 4 (ii) of Clause 3.1.0.0, item 3 of BDS] meeting requirements of Clause 3.1.1.1, item 3 of BDS.

Route 4: EPC Organization with Collaboration and Technology Transfer Agreement with QFGDM

1	13C11	Applicable for EPC Organization who meets the requirements of Clause 3.1.4.1, item 3 of BDS with Collaboration and Technology Transfer Agreement with QFGDM meeting requirements of Clause 3.1.1.1, item 3 of BDS.
2	13C12	Applicable for EPC Organization who meets the requirements of Clause 3.1.4.1, item 3 of BDS with Collaboration and Technology Transfer Agreement with QFGDM [where QFGDM is a Holding Company as per Note 4 (ii) of Clause 3.1.0.0, item 3 of BDS] meeting requirements of Clause 3.1.1.1, item 3 of BDS.

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION
SYSTEM AS PER CLAUSE 6.1.2.3, CLAUSE 6 OF INVITATION FOR BID (IFB)
(ROUTE 2)
(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR MEETING THE REQUIREMENTS OF CLAUSE 6.1.2.1, CLAUSE 6 OF INVITATION FOR BID (IFB) AND THE COLLABORATOR WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this..... day ofTwo thousand..... by M/s..... a Company incorporated under having its Registered Office at..... (hereinafter called the "Bidder/Contractor", which expression shall include its successors, administrators, executors and permitted assigns) and

M/s a Company incorporated under..... having its Registered Office at..... (hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM)"/Collaborator, which expression shall include its successors, administrators, executors and permitted assigns)

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization System (FGD) Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.2.2, CLAUSE 6 of IFB of Bidding Documents, stipulate that the bidder, who meets the requirement of Clause 6.1.2.1, CLAUSE 6 of IFB, should have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, CLAUSE 6 of IFB on its own and the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM.

WHEREAS M/s(Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization System (FGD) Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS the Bidder and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of all the contractual obligations including the technical guarantees for the Complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, including meeting the technical guarantees and characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/ Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250 and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.

- (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
- (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
- (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

- 4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.

5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250 and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall furnish "as Security" an on demand Performance Bank Guarantees in favour of the Employer as per provisions of the Bidding Documents. The value of such Bank Guarantees shall be equal to Two percent (2%) of the total contract price of the Contract signed between the Contractor and Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantee shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s
(Bidder/Contractor)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :.....

Designation :

Common Seal of the Company
.....

For M/s.....

(QFGDM)

.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name:.....

Designation:

Common Seal of the Company
.....

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.**
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.**
- iii) * Bidder to strike out, whichever is not applicable.**

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION SYSTEM AS PER CLAUSE 6.1.2.3 ALONGWITH NOTE 4 OF CLAUSE 6.1.0.0, CLAUSE 6 OF INVITATION FOR BID (IFB)
(ROUTE 2)**

ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR MEETING THE REQUIREMENTS OF CLAUSE 6.1.2.1, CLAUSE 6 OF INVITATION FOR BID AND THE COLLABORATOR (A HOLDING COMPANY ALONG WITH ITS SUBSIDIARIES) WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated underhaving its Registered Office at.....(hereinafter called the "Bidder/Contractor", which expression shall include its successors, administrators, executors and permitted assigns) and

M/s a Company registered under having its Registered Office at, (the holding company), which expression shall include its successors, administrators, executors and permitted assigns) and M/s a Company registered under having its Registered Office at, (the Subsidiary no.1), which expression shall include its successors, administrators, executors and permitted assigns) & M/s a Company registered under having its Registered Office at, (the Subsidiary no.2), which expression shall include its successors, administrators, executors and permitted assigns), collectively meeting the requirement of QFGDM as per Note (4) (i) for clause 6.1.0.0 of QR. (hereinafter collectively called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" ("QFGDM") meeting the requirements stipulated in clause 6.1.1.1

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.2.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, who meets the requirement of Clause 6.1.2.1, clause 6 of IFB, should have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM. Further as per note 4 of clause 6.1.0.0, Clause 6 of IFB, the Holding Company and all such subsidiaries collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii) shall necessarily be part of the DJU being submitted by the Bidder.

WHEREAS M/s(Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization System (FGD) Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS the Bidder and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of the Complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL of HPGCL including meeting the technical guarantees and Characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization System Package at RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurisation System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.
 - (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue

Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.

- (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
- (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

- 4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.

5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii), shall each be required to furnish separate on demand bank guarantees as per the format enclosed with the bidding documents. Such Bank Guarantees shall be for an amount aggregating 2% of the total contract price of the Flue Gas Desulphurization System Package for the awarded project divided equally among Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM, in favour of the Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantees shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s.....
(Bidder/Contractor)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :.....

Designation :
Common Seal of the Company

.....

For M/s.....
(Qualified Wet Limestone Based Flue Gas
Desulphurization System Manufacturer i.e. HOLDING
COMPANY)

.....
(Name in Block Letters)

.....
(Official Address)

.....
(Signature of the authorized representative)

Name:.....

Designation:

Common Seal of the Company
.....

WITNESS :

1.....

.....
(Official Address)

For M/s
(*SUBSIDIARY 1 OF HOLDING COMPANY)

.....
(Signature of the Authorized
Representative)

Name.....

Designation.....

Common Seal of the Company
.....

WITNESS :

1.....

.....
(Official Address)

For M/s
(*SUBSIDIARY 2 OF HOLDING COMPANY)

.....
(Signature of the Authorized
Representative)

Name.....

Designation.....

Common Seal of the Company
.....

WITNESS :

1.....

.....
(Official Address)

For M/s
(*SUBSIDIARY 3 OF HOLDING COMPANY)

.....
(Signature of the Authorized
Representative)

Name.....

Designation.....

Common Seal of the Company
.....

Notes:

- i) **Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.**
- ii) **The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.**
- iii) **The Bidder shall submit board resolution of Holding Company along with the Deed of Joint Undertaking stating that in case of any likely change of management control of any of its subsidiaries, the bidder shall arrange for signing of DJU and bank guarantees by all such subsidiaries, before the change in management control actually occurs. Such bank guarantees to be furnished by the Holding Company and entities, for an amount aggregating to 2% of the total contract price of the Package divided equally among them, in addition to the contract performance security to be furnished by the Bidder.**
- iv) *** Bidder to strike out, whichever is not applicable.**

FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION SYSTEM AS PER CLAUSE 6.1.3.3, CLAUSE 6 OF INVITATION FOR BID (IFB)

(ROUTE 3)

(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (a), CLAUSE 6 OF INVITATION FOR BID AND THE COLLABORATOR WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated under..... having its Registered Office at.....(hereinafter called the "Bidder/Contractor", which expression shall include its successors, administrators, executors and permitted assigns) and

M/s a Company incorporated under having its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM) Collaborator, which expression shall include its successors, administrators, executors and permitted assigns)

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.3.2, Clause 6 of IFB of Bidding Documents, stipulate that the bidder, who meets the requirement of Clause 6.1.3.1 (a), Clause 6 of IFB, should have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, Clause 6 of IFB on its own and the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM.

WHEREAS M/s (Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS the Bidder and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, including meeting the technical guarantees and Characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/ Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization Package, as specified under the said Contract(s) to the satisfaction of the

Employer.

2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.
 - (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
 - (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
 - (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/

Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.
5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall furnish "as Security" an on demand Performance Bank Guarantees in favour of the Employer as per provisions of the Bidding Documents. The value of such Bank Guarantees shall be equal to Two percent (2%) of the total contract price of the Contract signed between the Contractor and Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantee shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank

Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.

- 7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
- 8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
- 9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s
(Bidder/Contractor)

Witness :

1.....
(Name in Block Letters)
.....
(Official Address)

.....
(Signature of the authorized representative)

Name :

Designation :

Common Seal of the Company
.....

For M/s.....
(QFGDM)

.....
(Name in Block Letters)
.....
(Official Address)

.....
(Signature of the authorized representative)

Name:.....

Designation:

Common Seal of the Company
.....

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.
- iii) * Bidder to strike out, whichever is not applicable.

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION SYSTEM AS PER CLAUSE 6.1.3.3 ALONGWITH NOTE 4 OF CLAUSE 6.1.0.0, CLAUSE 6 OF INVITATION FOR BID (IFB)
(ROUTE 3)**

(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (a), CLAUSE 6 OF INVITATION FOR BID AND THE COLLABORATOR (A HOLDING COMPANY ALONG WITH ITS SUBSIDIARIES) WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated underhaving its Registered Office at.....(hereinafter called the "Bidder/Contractor", which expression shall include its successors, administrators, executors and permitted assigns) and

M/s a Company incorporated under having its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM) Collaborator Holding Company", which expression shall include its successors, administrators, executors and permitted assigns)

*M/s a Company registered under having its Registered Office at, (the holding company), which expression shall include its successors, administrators, executors and permitted assigns) and M/s a Company registered under having its Registered Office at, (the Subsidiary no.1), which expression shall include its successors, administrators, executors and permitted assigns) & M/s a Company registered under having its Registered Office at, (the Subsidiary no.2), which expression shall include its successors, administrators, executors and permitted assigns), collectively meeting the requirement of QFGDM as per Note (4) (i) for clause 6.1.0.0 of QR. (hereinafter collectively called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" ("QFGDM") meeting the requirements stipulated in clause 6.1.1.1

* in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.3.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, who meets the requirement of Clause 6.1.3.1 (a), clause 6 of IFB, should have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM. Further as per note 4 of clause 6.1.0.0, clause 6 of IFB, the Holding Company and all such subsidiaries collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii) shall necessarily be part of the DJU being submitted by the Bidder.

WHEREAS M/s (Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS the Bidder and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary (ies) are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL including meeting the technical guarantees and characteristics, as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies), do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies), do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary (ies) jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, Subsidiary(ies) nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or Subsidiary(ies).

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.

- (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
- (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
- (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary (ies) shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary (ies) will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies), design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

- 4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary (ies) do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance

Guarantees as well as other obligations of the Contractor in terms of the Contract.

5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary(ies) will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii), shall each be required to furnish separate on demand bank guarantees as per the format enclosed with the bidding documents. Such Bank Guarantees shall be for an amount aggregating 2% of the total contract price of the Flue Gas Desulphurization System Package for the awarded project divided equally among Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM, in favour of the Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantees shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, Subsidiary (ies) and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, Subsidiary (ies) and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s.....
(Bidder/Contractor)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :.....

Designation :

Common Seal of the Company

.....

For M/s.....

(Qualified Wet Limestone Based Flue Gas
Desulphurization System Manufacturer i.e. HOLDING
COMPANY)

.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name:.....

Designation:

Common Seal of the Company
.....

WITNESS :

For M/s
(*SUBSIDIARY 1 OF HOLDING COMPANY)

1.....

.....
(Signature of the Authorized
Representative)

.....
(Official Address)

Name.....
Designation.....
Common Seal of the Company
.....

WITNESS :

For M/s
(*SUBSIDIARY 2 OF HOLDING COMPANY)

1.....

.....
(Signature of the Authorized
Representative)

.....
(Official Address)

Name.....
Designation.....
Common Seal of the Company
.....

WITNESS :

For M/s
(*SUBSIDIARY 3 OF HOLDING COMPANY)

1.....

.....
(Signature of the Authorized
Representative)

.....
(Official Address)

Name.....
Designation.....
Common Seal of the Company
.....

Notes:

- i) **Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.**
- ii) **The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.**
- iii) **The Bidder shall submit board resolution of Holding Company along with the Deed of Joint Undertaking stating that in case of any likely change of management control of any of its subsidiaries, the bidder shall arrange for signing of DJU and bank guarantees by all such subsidiaries, before the change in management control actually occurs. Such bank guarantees to be furnished by the Holding Company and entities, for an amount aggregating to 2% of the total contract price of the Package divided equally among them, in addition to the contract performance security to be furnished by the Bidder.**
- iv) *** Bidder to strike out, whichever is not applicable.**

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION
SYSTEM AS PER CLAUSE 6.1.3.3, CLAUSE 6 OF INVITATION FOR BID (IFB)**

(ROUTE 3)

(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR (INDIAN JOINT VENTURE COMPANY) MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (b), CLAUSE 6 OF INVITATION FOR BID AND THE COLLABORATOR WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] AND THE PROMOTER(S) HAVING 25% OR HIGHER EQUITY PARTICIPATION IN THE INDIAN JOINT VENTURE COMPANY FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand by M/s..... a Company incorporated under..... having its Registered Office at.....(hereinafter called the "Bidder/Contractor/Indian Joint Venture (JV) Company", which expression shall include its successors, administrators, executors and permitted assigns) AND

M/s a Company incorporated under having its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM)Collaborator, which expression shall include its successors, administrators, executors and permitted assigns) AND

M/s a Company incorporated under having its Registered Office at.....and having 25% or higher equity participation in the Bidder/Contractor (hereinafter called the "PROMOTER", which expression shall include its successors, administrators, executors and permitted assigns),

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.3.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, meeting the requirement of Clause 6.1.3.1 (b), clause 6 of IFB shall have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and the other Promoter of the Indian Joint Venture (JV) Company having 25% or higher equity participation in the Bidder, meeting the requirement of Clause 6.1.3.1 (b), clause 6 of IFB and furnish a Deed of Joint Undertaking. Further, the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM.

WHEREAS M/s (Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

WHEREAS M/s (Bidder/Contractor), a Joint Venture Company incorporated in India under the Companies Act of India, as on the date of Techno-Commercial Bid opening, promoted by (i) M/s., an Indian Company registered in India under the Companies Act of India and(ii) M/s..... *a Steam Generator Manufacturer meeting the requirement of Clause 6.1.3.1 (a), clause 6 of IFB or *a QFGDM meeting the requirement of Clause 6.1.1.1, clause 6 of IFB, created for the purpose of manufacturing/supplying in India steam generator sets/ Flue Gas Desulphurization System and other Promoter *M/s.....(hereinafter called "PROMOTER") having 25% or higher equity participation in the Bidder/ Contractor meeting the requirements specified in Clause 6.1.3.1 (b), clause 6 of IFB.

AND WHEREAS the Bidder (Joint Venture Company), Qualified Wet Limestone Based Flue Gas Desulphurisation System Manufacturer and the PROMOTER are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of all the contractual obligations of the FGD System including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL, including meeting the technical guarantees and characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER and the Contractor jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever and the Contractor.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.

- (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
- (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
- (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.
5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall furnish "as Security" an on demand Performance Bank Guarantees in favour of the Employer as per provisions of the Bidding Documents. The value of such Bank Guarantees shall be equal to Two percent (2%) of the total contract price of the Contract signed between the Contractor and Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantee shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, the PROMOTER and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s

(Bidder/Contractor)

Witness:

1.....

(Name in Block Letters)

.....

(Signature of the authorized representative)

.....

(Official Address)

Name :.....

Designation :

Common Seal of the Company

Witness :

For M/s
(QFGDM)

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :

Designation :

Common Seal of the Company

For M/s
(PROMOTER)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :

Designation :

Common Seal of the Company

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorised signatory, shall be furnished alongwith this Deed of Joint Undertaking.
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.
- iii) * Bidder to strike out, whichever is not applicable.

FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION SYSTEM AS PER CLAUSE 6.1.3.3, ALONG WITH NOTE 4 OF CLAUSE 6.1.0.0, CLAUSE 6 OF INVITATION FOR BID (IFB)

(ROUTE 3)

(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR (INDIAN JOINT VENTURE COMPANY) MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (b), CLAUSE 6 OF INVITATION FOR BID AND THE COLLABORATOR (A HOLDING COMPANY ALONG WITH ITS SUBSIDIARIES AS PER NOTE 4 OF CLAUSE 6.1.0.0) WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] AND THE OTHER PROMOTER OF THE INDIAN JOINT VENTURE COMPANY HAVING A STAKE OF 25% OR MORE IN THE INDIAN JOINT VENTURE COMPANY FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated under..... having its Registered Office at..... (hereinafter called the "Bidder/Contractor/Indian Joint Venture (JV) Company", which expression shall include its successors, administrators, executors and permitted assigns) AND

M/sa Company incorporated underhaving its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM)Collaborator, which expression shall include its successors, administrators, executors and permitted assigns) AND

*M/s a Company registered under having its Registered Office at (the holding company), which expression shall include its successors, administrators, executors and permitted assigns) and *M/s a Company registered under having its Registered Office at (the Subsidiary no.1), which expression shall include its successors, administrators, executors and permitted assigns) & *M/s a Company registered under having its Registered Office at (the Subsidiary no.2), which expression shall include its successors, administrators, executors and permitted assigns), collectively meeting the requirement of QFGDM as per Note (4) (i) for clause 6.1.0.0 of QR. (hereinafter collectively called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" ("QFGDM") meeting the requirements stipulated in clause 6.1.1.1 AND

M/sa Company incorporated underhaving its Registered Office at.....and having 25% or higher equity participation in the Bidder/ Contractor (hereinafter called the "PROMOTER", which expression shall include its successors, administrators, executors and permitted assigns),

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.3.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, meeting the requirement of Clause 6.1.3.1 (b), clause 6 of IFB shall have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and the other Promoter of the Indian Joint Venture (JV) Company having 25% or higher equity participation in the Bidder, meeting the requirement of Clause 6.1.3.1 (b), clause 6 of IFB and furnish a Deed of Joint Undertaking. Further, the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM. Further as per note 4 of clause 6.1.0.0, clause 6 of IFB, the Holding Company and all such subsidiaries collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii) shall necessarily be part of the DJU being submitted by the Bidder.

WHEREAS M/s (Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

WHEREAS M/s (Bidder/Contractor), a Joint Venture Company incorporated in India under the Companies Act of India, as on the date of Techno-Commercial Bid opening, has been set up by *M/s....., *a Steam Generator Manufacturer meeting the requirement of Clause 6.1.3.1 (a), clause 6 of IFB *OR *a QFGDM meeting the requirement of Clause 6.1.1.1, clause 6 of IFB, and other Promoter meeting the requirements specified in Clause 6.1.3.1 (b), clause 6 of IFB & having a stake of 25% or more in the Bidder/ Contractor i.e. M/s... (hereinafter called "PROMOTER").

AND WHEREAS the Bidder (Joint Venture Company), *the Steam Generator Manufacturer, Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, including meeting the technical guarantees and Characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER and the Contractor jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever and the Contractor.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
- (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.
 - (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
 - (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.

Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.
4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.
5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, Holding company and all its Subsidiary (ies) collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii), shall each be required to furnish separate on demand bank guarantees as per the format enclosed with the bidding documents. Such Bank Guarantees shall be for an amount aggregating 2% of the total contract price of the Flue Gas Desulphurization System Package for the awarded project divided equally among Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM, in favour of the Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantees shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.

- 8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
- 9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, the PROMOTER and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s.....
(Bidder/Contractor)

Witness :

For M/s
(PROMOTER)

Witness :

1.....
(Name in Block Letters)

.....
(Official Address)

.....
(Signature of the authorized representative)

Name :.....

Designation :

Common Seal of the Company

For M/s
(QFGDM i.e. HOLDING COMPANY)

Witness :

1.....
(Name in Block Letters)

.....
(Official Address)

.....
(Signature of the authorized representative)

Name :.....

Designation :

Common Seal of the Company
.....

For M/s
(*SUBSIDIARY 1 OF HOLDING COMPANY)

WITNESS :

1.....

.....
(Official Address)

.....
(Signature of the Authorized Representative)
Name.....
Designation.....
Common Seal of the Company
.....

WITNESS:

1.....

.....
(Official Address)

For M/s.....
(*SUBSIDIARY 2 OF HOLDING COMPANY)

.....
(Signature of the Authorized
Representative)

Name.....

Designation.....

Common Seal of the Company

.....

For M/s

(*SUBSIDIARY 3 OF HOLDING COMPANY)

WITNESS :

1.....

.....
(Official Address)

.....
(Signature of the Authorized
Representative)

Name.....

Designation.....

Common Seal of the Company

.....

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwiththis Deed of Joint Undertaking.**
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.**
- iii) The Bidder shall submit board resolution of Holding Company along with the Deed of Joint Undertaking stating that in case of any likely change of management control of any of its subsidiaries, the bidder shall arrange for signing of DJU and bank guarantees by all such subsidiaries, before the change in management control actually occurs. Such bank guarantees to be furnished by the Holding Company and entities, for an amount aggregating to 2% of the total contract price of the Package divided equally among them, in addition to the contract performance security to be furnished by the Bidder.**
- iv) * Bidder to strike out, whichever is not applicable.**

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION
SYSTEM AS PER CLAUSE 6.1.3.3, CLAUSE 6 OF INVITATION FOR BID (IFB)**

**(ROUTE 3)
(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR (INDIAN SUBSIDIARY COMPANY OF A *STEAM GENERATOR MANUFACTURER *OR * QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM), MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (c), CLAUSE 6 OF INVITATION FOR BID AND THE COLLABORATOR WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION FOR BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] *AND THE PROMOTER(S) HAVING 25% OR HIGHER EQUITY PARTICIPATION IN THE *SUBSIDIARY COMPANY/ *JV COMPANY (AS THE CASE MAY BE) & MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (c), CLAUSE 6 OF INVITATION FOR BID FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand by M/s..... a Company incorporated under.....having its Registered Office at..... (hereinafter called the "Bidder/Contractor/Indian Subsidiary Company", which expression shall include its successors, administrators, executors and permitted assigns) AND

M/s a Company incorporated under having its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM) Collaborator, which expression shall include its successors, administrators, executors and permitted assigns) AND

*M/s a Company incorporated under having its Registered Office at....., *M/s a Company incorporated under having its Registered Office at.....,and having 25% or higher equity participation in the Bidder/ Contractor (hereinafter called the "PROMOTER(S)", which expression shall include its successors, administrators, executors and permitted assigns),

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.3.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, meeting the requirement of Clause 6.1.3.1 (c), clause 6 of IFB shall have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and the Promoter(s) having 25% or higher equity participation in the Bidder, and furnish a Deed of Joint Undertaking. Further, the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings released by such QFGDM.

WHEREAS M/s (Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization System (FGD) Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

WHEREAS M/s (Bidder/Contractor), an Indian Subsidiary Company of

M/s , a *Steam Generator Manufacturer meeting the requirement of Clause 6.1.3.1 (a), clause 6 of IFB / *Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer meeting the requirement of Clause 6.1.1.1, clause 6 of IFB, registered in India under the Companies Act of India, as on the date of Techno-Commercial Bid opening, for manufacturing/ supply of *Steam Generator Sets/ *Flue Gas Desulphurisation System, meeting the requirement of Clause 6.1.3.1 (c), clause 6 of IFB whose other Promoter(s) having 25% or higher equity participation in the Bidder/ Contractor i.e. *M/s... , *M/s... (hereinafter called "PROMOTER(s)").

AND WHEREAS the Bidder, Qualified Wet Limestone Based Flue Gas Desulphurisation System Manufacturer and the PROMOTER(S)(s) are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, including meeting the technical guarantees and characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/ Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S), do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S), do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) and the Contractor jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever and the Contractor.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S), nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S).

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:

- (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
- (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.
- (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
- (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
- (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurisation System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract

shall be the joint and severally responsibility of the Contractor and Collaborator.

4. We, the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.
5. We, the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall furnish "as Security" an on demand Performance Bank Guarantees in favour of the Employer as per provisions of the Bidding Documents. The value of such Bank Guarantees shall be equal to Two percent (2%) of the total contract price of the Contract signed between the Contractor and Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantee shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250 under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, the PROMOTER(S) and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s

(Bidder/Contractor)

Witness :

1.....

(Name in Block Letters)

.....

(Official Address)

.....

(Signature of the authorized representative)

Name :.....

Designation :

Common Seal of the Company

For M/s
(QFGDM)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :

Designation :

Common Seal of the Company

For M/s
(PROMOTER(s))

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :

Designation :

Common Seal of the Company

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.
- iii) * Bidder to strike out, whichever is not applicable.

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION SYSTEM AS PER CLAUSE 6.1.3.3, ALONG WITH NOTE 4 OF CLAUSE 6.1.0.0, CLAUSE 6 OF INVITATION OF BID (IFB)
(ROUTE 3)
(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)**

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR (INDIAN SUBSIDIARY COMPANY OF A *STEAM GENERATOR MANUFACTURER *OR *QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM), MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (c), CLAUSE 6 OF INVITATION OF BID AND THE COLLABORATOR (A HOLDING COMPANY ALONG WITH ITS SUBSIDIARIES COLLECTIVELY MEETING THE REQUIREMENT OF QFGDM AS PER NOTE 4 OF CLAUSE 6.1.0.0) WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION OF BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] *AND THE PROMOTER(S) HAVING 25% OR HIGHER EQUITY PARTICIPATION IN THE *SUBSIDIARY COMPANY/ *JV COMPANY (AS THE CASE MAY BE) & MEETING THE REQUIREMENTS OF CLAUSE 6.1.3.1 (c), CLAUSE 6 OF INVITATION OF BID FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated underhaving its Registered Office at.....(hereinafter called the "Bidder/Contractor/Indian Subsidiary Company", which expression shall include its successors, administrators, executors and permitted assigns) AND

M/s a Company incorporated under having its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM) Collaborator Holding Company", which expression shall include its successors, administrators, executors and permitted assigns) AND

*M/s a Company registered under having its Registered Office at, (the holding company), which expression shall include its successors, administrators, executors and permitted assigns) and *M/s a Company registered under having its Registered Office at, (the Subsidiary no.1), which expression shall include its successors, administrators, executors and permitted assigns) & *M/s a Company registered under having its Registered Office at, (the Subsidiary no.2), which expression shall include its successors, administrators, executors and permitted assigns), collectively meeting the requirement of QFGDM as per Note (4) (i) for clause 6.1.0.0 of QR. (hereinafter collectively called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" ("QFGDM") meeting the requirements stipulated in clause 6.1.1.1 AND

*M/s a Company incorporated under having its Registered Office at....., *M/s a Company incorporated under having its Registered Office at.....and having 25% or higher equity participation in the Bidder/ Contractor (hereinafter called the "PROMOTER(S)", which expression shall include its successors, administrators, executors and permitted assigns),

* in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.3.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, meeting the requirement of Clause 6.1.3.1 (c), clause 6 of IFB shall have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and the Promoter(s) of the Bidder having 25% or higher equity participation in the Bidder, and furnish a Deed of Joint Undertaking. Further, the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings released by such QFGDM. Further as per note 4 iii) of clause 6.1.0.0, clause 6 of IFB the Holding Company and all such subsidiaries collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii) shall necessarily be part of the DJU being submitted by the Bidder.

WHEREAS M/s (Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

WHEREAS M/s (Bidder/Contractor), an Indian Subsidiary Company of M/s....., a *Steam Generator Manufacturer meeting the requirement of Clause 6.1.3.1 (a), clause 6 of IFB / *Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer meeting the requirement of Clause 6.1.1.1, clause 6 of IFB, registered in India under the Companies Act of India, as on the date of Techno-Commercial Bid opening, for manufacturing/ supply of *Steam Generator Sets/ *Flue Gas Desulphurization System, meeting the requirement of Clause 6.1.3.1 (c), clause 6 of IFB whose other Promoter(s) having 25% or higher equity participation in the Bidder/ Contractor i.e. *M/s... , *M/s..... (hereinafter called "PROMOTER(s)").

AND WHEREAS the Bidder, Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, including meeting the technical guarantees and characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/ Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S), do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S), do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) and the Contractor jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever and the Contractor.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S), nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S).

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
- (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.
 - (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
 - (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
 - (v) Provide manufacturing/fabrication drawings for absorber including its internals.
Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.
 - (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.
For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.
 - (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
 - (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.
4. We, the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.
 5. We, the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
 6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii), shall each be required to furnish separate on demand bank guarantees as per the format enclosed with the bidding documents. Such Bank Guarantees shall be for an amount aggregating 2% of the total contract price of the Flue Gas Desulphurization System Package for the awarded project divided equally among Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM, in favour of the Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantees shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
 7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
 8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the PROMOTER(S) and the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
 9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and Subsidiary (ies), the PROMOTER(S) and the Contractor, through their authorised representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s.....

(Bidder/Contractor)

Witness :

1.....

.....

(Name in Block Letters)

(Signature of the authorized representative)

.....
(Official Address)

Name :.....

Designation:

Common Seal of the Company
.....

For M/s
(QFGDM i.e. HOLDING COMPANY)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :.....

Designation :

Common Seal of the Company

For M/s
(*SUBSIDIARY 1 OF HOLDING COMPANY)

WITNESS :

1.....

.....
(Signature of the Authorized Representative)

.....
(Official Address)

Name.....

Designation.....

Common Seal of the Company

.....

For M/s (*SUBSIDIARY 2 OF HOLDING COMPANY)

WITNESS :

1.....

.....
(Signature of the Authorised Representative)

.....
(OfficialAddress)

Name.....

Designation.....

Common Seal of the Company

For M/s (*SUBSIDIARY 3 OF HOLDING COMPANY)

WITNESS :

1.....

.....
(Signature of the Authorised Representative)

.....
(OfficialAddress)

Name.....

Designation.....

Common Seal of the Company

.....

For M/s
(PROMOTER(S))

Witness :

1.....
(Name in Block Letters)
.....
(Official Address)

.....
(Signature of the authorized representative)

Name :.....

Designation :

Common Seal of the Company

For M/s
(*other Promoter having 25% or higher equity participation in the Bidder/ Contractor)

Witness :

1.....
(Name in Block Letters)
.....
(Official Address)

.....
(Signature of the authorized representative)

Name :.....

Designation :

Common Seal of the Company

Notes:

- i) **Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.**
- ii) **The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.**
- iii) **The Bidder shall submit board resolution of Holding Company along with the Deed of Joint Undertaking stating that in case of any likely change of management control of any of its subsidiaries, the bidder shall arrange for signing of DJU and bank guarantees by all such subsidiaries, before the change in management control actually occurs. Such bank guarantees to be furnished by the Holding Company and entities, for an amount aggregating to 2% of the total contract price of the Package divided equally among them, in addition to the contract performance security to be furnished by the Bidder.**
- iv) *** Bidder to strike out, whichever is not applicable.**

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS
DESULPHURISATION SYSTEM AS PER CLAUSE 6.1.4.3, CLAUSE 6 OF INVITATION
OF BID (IFB)**

(ROUTE 4)

(ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR MEETING THE REQUIREMENTS OF CLAUSE 6.1.4.1, CLAUSE 6 OF INVITATION OF BID AND THE COLLABORATOR WHO MEETS THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION OF BID (IFB) [AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM)] FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated underhaving its Registered Office at.....(hereinafter called the "Bidder/Contractor", which expression shall include its successors, administrators, executors and permitted assigns) and

M/sa Company incorporated under having its Registered Office at.....(hereinafter called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer (QFGDM) Collaborator, which expression shall include its successors, administrators, executors and permitted assigns),

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.4.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, as an Engineering, Procurement and Construction (EPC) organization, who meets the requirement of Clause 6.1.4.1, clause 6 of IFB, should have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and furnish a Deed of Joint Undertaking. Further, the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings of such QFGDM.

WHEREAS M/s(Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS the Bidder, and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of all the contractual obligations including the technical guarantees for complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250, including meeting the technical guarantees and characteristics as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/ Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor, and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete

Flue Gas Desulphurization Package, as specified under the said Contract(s) to the satisfaction of the Employer.

2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor, jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.
 - (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
 - (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
 - (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the

Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

4. We, the Contractor, and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other obligations of the Contractor in terms of the Contract.
5. We, the Contractor, and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall furnish "as Security" an on demand Performance Bank Guarantees in favour of the Employer as per provisions of the Bidding Documents. The value of such Bank Guarantees shall be equal to Two percent (2%) of the total contract price of the Contract signed between the Contractor and Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantee shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.

7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor, agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s
(Bidder/Contractor)

Witness :

1.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name :.....

Designation :

Common Seal of the Company

For M/s.....
(QFGDM)

.....
(Name in Block Letters)

.....
(Signature of the authorized representative)

.....
(Official Address)

Name:.....

Designation:

Common Seal of the Company

.....

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.
- iii) * Bidder to strike out, whichever is not applicable.

**FORM OF DEED OF JOINT UNDERTAKING FOR THE COMPLETE FLUE GAS DESULPHURISATION
SYSTEM AS PER CLAUSE 6.1.4.3 ALONGWITH NOTE 4 OF CLAUSE 6.1.0.0, CLAUSE 6 OF
INVITATION OF BID (IFB)
(ROUTE 4)**

ON NON-JUDICIAL STAMP PAPER OF APPROPRIATE VALUE)

DEED OF JOINT UNDERTAKING TO BE EXECUTED BY THE BIDDER/ CONTRACTOR MEETING THE REQUIREMENTS OF CLAUSE 6.1.4.3, CLAUSE 6 OF INVITATION OF BID AND THE COLLABORATOR (A HOLDING COMPANY ALONG WITH ITS SUBSIDIARIES COLLECTIVELY MEETING THE REQUIREMENT OF CLAUSE 6.1.1.1, CLAUSE 6 OF INVITATION OF BID (IFB) AS A QUALIFIED WET LIMESTONE BASED FLUE GAS DESULPHURISATION SYSTEM MANUFACTURER (QFGDM) AS PER NOTE 4 OF CLAUSE 6.1.0.0) FOR SUCCESSFUL PERFORMANCE OF THE FGD SYSTEM INCLUDING MEETING THE TECHNICAL GUARANTEES

The DEED OF UNDERTAKING executed this day ofTwo thousand..... by M/s..... a Company incorporated underhaving its Registered Office at.....(hereinafter called the "Bidder/Contractor", which expression shall include its successors, administrators, executors and permitted assigns) and

*M/s a Company registered under having its Registered Office at, (the holding company), which expression shall include its successors, administrators, executors and permitted assigns) and *M/s a Company registered under having its Registered Office at, (the Subsidiary no.1), which expression shall include its successors, administrators, executors and permitted assigns) and *M/s a Company registered under having its Registered Office at, (the Subsidiary no.2), which expression shall include its successors, administrators, executors and permitted assigns), collectively meeting the requirement of QFGDM as per Note (4) (i) for clause 6.1.0.0 of QR. (hereinafter collectively called "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" ("QFGDM") meeting the requirements stipulated in clause 6.1.1.1.

*in favour of HPGCL, Office of the Chief Engineer/ Planning, Haryana Power Generation Corporation Limited (HPGCL), C-4, Shakti Bhawan, Sector-6, Panchkula -134109 (hereinafter called "HPGCL" or "Employer" which expression shall include its successors, administrators, executors and assigns).

WHEREAS, the Employer invited Bids for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS clause 6.1.4.2, clause 6 of IFB of Bidding Documents, stipulate that the bidder, as an Engineering, Procurement and Construction (EPC) organization who meets the requirement of Clause 6.1.4.1, clause 6 of IFB, should have a valid ongoing collaboration and technology transfer agreement with "Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer" meeting the requirements of Clause 6.1.1.1, clause 6 of IFB on its own and furnish a Deed of Joint Undertaking. Further, the bidder shall either source the FGD system from such manufacturer or manufacture/get manufactured the FGD System as per the design and manufacturing drawings released by such QFGDM. Further as per note 4 of clause 6.1.0.0, clause 6 of IFB, the Holding Company and all such subsidiaries collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii) shall necessarily be part of the DJU being submitted by the Bidder.

WHEREAS M/s(Bidder) is submitting its proposal in response to the aforesaid Invitation for Bid by the Employer for Flue Gas Desulphurization (FGD) System Package for RGTPP, Hisar (2x600MW) of HPGCL vide its Bidding Document No. 31/CE/PLG/RGTPP/FGD-250.

AND WHEREAS the Bidder, and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer are required to jointly execute and furnish along with the bid an irrevocable Deed of Joint Undertaking and be jointly and severally liable and bound on to the Employer for the successful performance of complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL including meeting the technical guarantees and characteristics, as per bidding documents, in the event, the Bid is accepted by the Employer resulting into a Contract/Contracts.

NOW THEREFORE, THIS DEED WITNESSETH AS UNDER:

1. That in consideration of the award of the Contract(s) by the Employer to the Contractor, we the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, do hereby declare and undertake that we shall be jointly and severally responsible to the Employer for the execution and successful performance of all the contractual obligations including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL, as specified under the said Contract(s) to the satisfaction of the Employer.
2. In case of any breach of the Contract committed by the Contractor, we the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and, do hereby undertake, declare and confirm that we shall be fully responsible for the successful performance of the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and undertake to carry out all obligations and responsibilities stipulated in the Contract, including the technical guarantees for the complete Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL. Further if the Employer sustains any loss or damage on account of any breach of the Contract, we Contractor, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer jointly and severally undertake to promptly indemnify, and pay such loss/damages caused to the Employer on its written demand without any demur, reservation, contest or protest in any manner whatsoever.

The liability of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be limited to an amount equivalent to **10% of the Contract Price (without GST)** for complete Flue Gas Desulphurization (FGD) System.

This is without prejudice to any rights of the Employer against the Contractor under the Contract and/or guarantees. It shall not be necessary or obligatory for the Employer to first proceed against the Contractor before proceeding against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, nor any extension of time or any relaxation given by the Employer to the Contractor would prejudice any rights of the Employer under this Deed of Joint Undertaking to proceed against the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer.

3. Without prejudice to the generality of the Undertaking in paragraph 1 above, the manner of achieving the objectives set forth in paragraph 1 above shall be as follows:
 - (a) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete engineering, preparation of all designs, design calculations, design documents/ drawings and manufacturing drawings for the Absorber including all its internals; preparation of all P&IDs & process flow diagrams; Selection of auxiliaries, and interfacing/ integrating Absorber with their auxiliaries so as to ensure satisfactory, reliable, safe and trouble free performance of all Absorber and auxiliaries meeting all stipulated technical requirements as well as all guaranteed parameters specified in the Contract for Wet Limestone based Flue Gas Desulphurization System.
 - (b) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be specifically responsible for the following:
 - (i) Complete design of Absorber including selection/design of Absorber material, lining & all internals; complete mass flow balance as well as design of structural/supporting system including selection of material & accessories etc.
 - (ii) Selection of auxiliaries for Wet Limestone based Flue Gas Desulphurization System including preparation of purchase specification for critical auxiliaries viz Slurry Recirculation pumps, Oxidation Blowers, Wet limestone Grinding mills, Slurry pumps, Agitators, Hydro-cyclones, Vacuum Belt Filters, slurry valves & piping.

- (iii) Design of controls, protections and interlocks for all the auxiliaries for Wet Limestone based Flue Gas Desulphurization System including Absorber for their safe and reliable operation as integral units with other equipments of the Main Plant.
- (iv) Providing all design data required by the Contractor to carry out design/ selection of balance equipment/ system including all civil inputs for foundation design, site construction, structural work etc. for Wet Limestone based Flue Gas Desulphurization System and for their proper interfacing and integration.
- (v) Provide manufacturing/fabrication drawings for absorber including its internals.

Further, we, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall extend our quality surveillance/ supervision/ quality control to the Contractor during manufacture, erection, commissioning and performance testing, both at Contractor's and/ or at Employer's Station site. Without prejudice to the overall responsibilities of the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer for successful commissioning and performance of Wet Limestone based Flue Gas Desulphurization System, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall depute its technical experts from time to time to the Contractor's/ Sub-vendor's works/ Employer's Station site, as mutually agreed upon between the Employer and the Contractor in accordance with the stipulation of the Contracts.

- (c) We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of manufacture of all equipments/ main assemblies/ components for incorporation in the Wet Limestone based Flue Gas Desulphurization System.

For the items to be manufactured by the contractor at his/or his vendor's works as per the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer , design & manufacturing drawings released by us, the Collaborator shall ensure completeness and correctness of the design, data, document and information in every detail provided to the Contractor which would result in the same quality of equipment as if manufactured at Qualified Wet Limestone Based Flue Gas Desulphurization System.

Manufacturer or its Sub-vendor's works and shall meet Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer acceptance.

- (d) We the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall be fully responsible for complete for design, engineering, supply, installation, putting in to satisfactory operation and carrying out the guarantee tests for Wet Limestone Based Flue Gas Desulphurization System to the satisfaction of the Employer.

Further, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall ensure proper design, manufacture, installation, testing and successful performance of the Wet Limestone Based Flue Gas Desulphurization System under the said Contract in accordance with stipulations of Bidding Documents and if necessary, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer shall advise the Contractor/ his Sub-Vendor suitable modifications of design and implement necessary corrective measures to discharge the obligations under the contract.

- (e) In the event the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor fail to demonstrate that the Wet Limestone Based Flue Gas Desulphurization System meets the guaranteed parameters and demonstration parameters as specified in the contract, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor shall promptly carry out all the corrective measures related to engineering services at their own expense and shall promptly provide corrected design to the Employer.
- (f) Implementation of the corrected design and all other necessary repairs, replacements, rectification or modifications to the Wet Limestone Based Flue Gas Desulphurization System and payment of financial liabilities and penalties and fulfillment of all other contractual obligations as provided under the contract shall be the joint and severally responsibility of the Contractor and Collaborator.

4. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer do hereby undertake and confirm that this Deed of Joint Undertaking shall be irrevocable and shall not be revoked till ninety (90) days after the expiry of defect liability period of the plant under the Contract and further stipulate that the Undertaking herein contained shall terminate after ninety (90) days upon satisfactory completion of such defect liability period. We further agree that this undertaking shall be without any prejudice to the various liabilities of the Contractor, including the Contract Performance Guarantees as well as other

obligations of the Contractor in terms of the Contract.

5. We, the Contractor and the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer will be fully responsible for the quality of all equipment/main assemblies/components manufactured at their works or at their Vendor's works or constructed at site, and their repairs or replacement if necessary for incorporation in the relevant system(s) of Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL and timely delivery thereof to meet the completion schedule under the Contract.
6. In case of Award, in addition to the Contractor's Performance Bank Guarantee furnished by the Contractor, Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM as per Note (4) (i) & (ii), shall each be required to furnish separate on demand bank guarantees as per the format enclosed with the bidding documents. Such Bank Guarantees shall be for an amount aggregating 2% of the total contract price of the Flue Gas Desulphurization System Package for the awarded project divided equally among Holding company and its Subsidiary (ies) collectively meeting the requirements of QFGDM, in favour of the Employer and it shall be towards guaranteeing the faithful performance/compliance of this Deed of Joint Undertaking in accordance with the terms and conditions specified herein. The Bank Guarantees shall be unconditional, irrevocable and valid for entire period of contract, i.e. till ninety (90) days beyond the end of the Defect Liability period of the Flue Gas Desulphurization (FGD) System Package at RGTPP, Hisar (2x600MW) of HPGCL under the Contract. In case of delay in completion of the defect liability period, the validity at this Bank Guarantee shall be extended by the period of such delay. The Bank Guarantee amount shall be promptly paid to the Employer on demand without any demur, reservation, protest or contest.
7. Any dispute that may arise in connection with this Deed of Joint Undertaking shall be settled as per arbitration procedure/rules mentioned in the Contract documents. This Deed of Joint Undertaking shall be construed and interpreted in accordance with the Laws of India. The Courts of Panchkula shall have exclusive jurisdiction in all matters arising under the Contract.
8. We, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer, the Contractor agree that this Deed of Joint Undertaking shall be irrevocable and shall form an integral part of the Contract. We further agree that this Deed of Joint Undertaking shall continue to be enforceable till the successful completion of Contract and till the Employer discharge it.
9. That this Deed shall be operative from the effective date of the NOA.

IN WITNESS WHEREOF, the Qualified Wet Limestone Based Flue Gas Desulphurization System Manufacturer and the Contractor, through their authorized representatives, have executed these present and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

For M/s

(Bidder/Contractor)

Witness :

1.....

(Name in Block Letters)

.....

(Official Address)

.....

(Signature of the authorized representative)

Name :.....

Designation :

Common Seal of the Company

.....

For M/s.....

(HOLDING COMPANY)

.....

.....

(Name in Block Letters)
.....

(Official Address)

(Signature of the authorized representative)

Name:.....

Designation:

Common Seal of the Company

For M/s..... (*SUBSIDIARY 1 OF
HOLDINGCOMPANY)

WITNESS :

1.....

.....

(Signature of the Authorised Representative)

Name.....

Designation.....

Common Seal of the Company .

.....

For M/s..... (*SUBSIDIARY 2 OF
HOLDINGCOMPANY)

(Official Address)

WITNESS :

1.....

.....

(Signature of the Authorised Representative)

Name.....

Designation.....

Common Seal of the Company

.....

For M/s..... (*SUBSIDIARY 3 OF
HOLDINGCOMPANY)

(Official Address)

WITNESS :

1.....

.....

(Signature of the Authorised Representative)

Name.....

Designation.....

Common Seal of the Company

.....

(Official Address)

Notes:

- i) Power of Attorney of each of the person signing the Deed of Joint Undertaking and Board resolution in regard of POA of Authorized signatory, shall be furnished alongwith this Deed of Joint Undertaking.**
- ii) The list of banks which are acceptable to Employer for issuing Bank Guarantee in this regard is indicated in Annexure-I to SCC.**
- iii) The Bidder shall submit board resolution of Holding Company along with the Deed of Joint Undertaking stating that in case of any likely change of management control of any of its subsidiaries, the bidder shall arrange for signing of DJU and bank guarantees by all such subsidiaries, before the change in management control actually occurs. Such bank guarantees to be furnished by the Holding Company and entities, for an amount aggregating to 2% of the total contract price of the Package divided equally among them, in addition to the contract performance security to be furnished by the Bidder.**
- iv) * Bidder to strike out, whichever is not applicable.**