

PERFORMANCE BOND

The President of India
(acting through the
Director. Purchase and stores)
Department of Atomic Energy.
Vikram Sarabhai Bhavan,
Anushaktinagar
Mumbai -400094.

1. WHEREAS on or about the _____ day of _____ M/s. _____ (foreign supplier) having its office at _____ (hereinafter referred to as the Contractor) entered into an agreement bearing no _____ (hereinafter referred to as 'The Contract')with the President of India acting through the Director. Purchase and Stores, Directorate of Purchase and Stores, Department of Atomic Energy (hereinafter referred to as 'The Government') for the supply of _____ (hereinafter referred to as The Equipment). The Contract recognizes that M/s. _____ (Indian agent) of the Contractor in India will furnish a Performance Bond on behalf of the Contractor for satisfactory functioning of the equipment during warranty period while releasing 100% payment to the Contractor.

2. AND WHEREAS under the terms and conditions of the contract an amount of _____ (_____) only representing 100% payment of the FOB value of the contract is to be paid to the contractor after reducing the agency commission subject to the Indian Agent furnishing a Bank Guarantee on behalf of the Contractor for 10% of order value amounting to _____ in a manner herein contained duly executed by a Scheduled/Nationalised Bank towards satisfactory performance of the equipment during warranty period, viz _____ months from the date of commissioning of the said equipment or _____ months from the date of despatch of the last lot of consignment whichever is earlier.

3. NOW WE the _____ (bank) on behalf of M/s. _____ (Indian agent) in consideration of the promises and the payment of the said sum of _____ (_____) only) by the Government to the Contractor do hereby agree and undertake to pay to the Director, Purchase & Stores. Department of Atomic Energy on behalf of the Government the amount due and payable under the guarantee without any demur, merely on a demand from the Director, Purchase and Stores, Department of Atomic Energy stating that the amount claimed is due by way of loss or damage caused to or suffered by the Government by reason of unsatisfactory performance of the equipment during the warranty period. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding _____ (_____) only)

4. WE undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) or their subsidiary companies, in any suit or proceedings pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Contractor (s) shall have no claim against us for making such payment.

5. WE HEREBY further agree that the decision of the Director. Purchase and Stores, Department of Atomic Energy as to whether the said equipment is giving satisfactory performance or not during the warranty period and as to the amount of damages suffered by the Government on account of unsatisfactory performance of the said equipment shall be final and binding on us.

6. AND WE, the _____ (bank) do hereby agree that our liability hereinunder shall not be discharged by virtue of any agreement between the Government and the Contractor or their subsidiary company whether with or without our knowledge and/or consent or by reason of the Government showing any indulgence or forbearance to the Contractor whether as to payment, time for performance, or any other matter whatsoever relating to the contract which but for this provision would amount to discharge of the surety under the law.

7. THIS guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s) or their subsidiary company.

8. OUR Guarantee shall remain in force until _____ and unless a claim under the guarantee is lodged with us within six months from that date, all rights of the Government under the guarantee shall be forfeited and we shall be relieved and discharged from all our liabilities hereunder.

Dated the _____ day of _____ 200.

for (indicate the name of Bank with Postal address & Fax number)

Note - Kindly incorporate specific validity date of your bank guarantee towards performance bond strictly as per our warranty clause no. _____ of Purchase Order i.e. for the period of -----months from the date of installation of equipment(s) or -----months from the date of despatch of last lot of consignment(s) which ever is earlier with extra 6 months grace period for lodging the claim.