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**PROCUREMENT OF EQUIPMENT & ITEMS
FOR LABORATORIES OF EXPORT INSPECTION AGENCY - CHENNAI**

- Tender Reference** : Tender No. EIA / CH / 2004 / 03 - 13
- Sale of Tender Document** : From 10.30 hours to 13.30 hours & 14.30 hours to 15.30 hours on a working day at the office of Export Inspection Agency - Chennai, 1st Floor, 213 Royapettah High Road, Chennai – 600 014
- Last date and time for sale of Tender Document** : 15.30 hrs up to 24th January 2005 at the office of Export Inspection Agency - Chennai, 1st Floor, 213 Royapettah High Road, Chennai – 600 014
- Last date and time for receipt of Bids** : Up to 17.00 hours on 3rd February 2005 at the office of Export Inspection Agency - Chennai, 1st Floor, 213 Royapettah High Road, Chennai – 600 014
- Opening of Technical Bid** : At 18.00.hours on 3rd February 2005 at the office of Export Inspection Agency - Chennai, 1st Floor, 213 Royapettah High Road, Chennai – 600 014
- Issued to** : M/S
- Payment Details** : Rs. 250/- / 500/- paid vide Demand Draft / Pay Order No: dated issued by
Receipt Book No. SI No. dated



EXPORT INSPECTION AGENCY – CHENNAI
(Ministry of Commerce & Industry, Government of India)
213 Royapettah High Road,
Chennai - 600 014

**Tender No: EIA / CH / 2004 / 03 - 13 - Supply of Equipment & Items for Laboratories
of EIA - Chennai**

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SECTION I: BACKGROUND

A. GENERAL

1. Abbreviations and Definitions Used

1.1 The following abbreviations have been used in this document.

BDS	:	Bid Data Sheet
BG	:	Background
EIA	:	Export Inspection Agency - Chennai
EIC	:	Export inspection Council of India
ITBCC	:	Instructions to Bidders including Conditions of Contract
OEM	:	Original Equipment Manufacturer

1.2 The following terms shall be interpreted as indicated below.

- (i) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with Contract Documents. The Contract Agreement and the Contract Documents shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.
- (ii) “Contract Documents” means the documents specified in ITBCC Clause 20.
- (iii) “Contract Agreement” means the copy of Purchase Order duly signed and dated by the successful bidder on each page.
- (iv) “Contract Price” means the price or prices as specified in the Contract Agreement.
- (v) “Tender Documents” refers to the collection of documents issued by the Purchaser to instruct and inform potential suppliers of the processes for bidding, selection of the winning bid and issue of purchase order, as well as the Contractual Conditions governing the relationship between the Purchaser and the Supplier.
- (vi) “Purchaser” means the person purchasing the Equipment, as specified in the BDS (Point 1).
- (vii) “Supplier” means the Company (s) whose bid to supply equipment (s) has been accepted by the Purchaser and is named as such in the Purchase Order.

- (viii) "Equipment" means the laboratory equipment to be supplied by the Supplier under the Contract together with the application and other software required for intended use of the equipment.
- (ix) "Materials" means all documentation in printed or printable form and all instructional and informational aides in any form and on any medium, provided to the Purchaser under the Contract for safe and satisfactory operation of the Equipment.
- (x) "Intellectual Property Rights" means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.
- (xi) "Delivery" means the transfer of the Equipment from the Supplier to the Purchaser.
- (xii) "Installation" means placing / mounting / assembling / of various sub assemblies / components / accessories of the Equipment in the laboratory of the purchaser and their interconnection to form the Equipment.
- (xiii) "Commissioning" refers to making operational the Equipment for the functions for which it is intended.
- (xiv) "Validation" means demonstration of the capability of the Equipment to repeatedly perform the functions for which it is intended, with specified degree of accuracy, sensitivity and precision.
- (xv) "Day" means calendar day of the Gregorian calendar.
- (xvi) "Week" means seven (7) consecutive Days, beginning Monday as is customary in India.
- (xvii) "Defect Liability Period" (also referred to as the "Warranty Period") means the period of validity of the warranties given by the Supplier commencing on the date of acceptance of Validation of the Equipment by the In-charge of the Laboratory, during which the Supplier is responsible for defects with respect to the Equipment (or its subassemblies, components and accessories) as provided in ITBCC Clause 27 (Defect Liability).

(xviii) “Force Majeure” means any event beyond the reasonable control of the Purchaser or of the Supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following:

- (a) war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;
- (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts;
- (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or *de jure* or *de facto* authority or ruler, or any other act or failure to act of any local state or national government authority;
- (d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;
- (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;

2. Organizational Background

2.1 The EIA is a statutory organization established by the Central Government under the Export (Inspection & Quality Control) Act, 1963 (22 of 1963). Operating under the technical and administrative control of the EIC, it provides quality control, pre - shipment inspection and laboratory testing services to the export trade located in the states of Andhra Pradesh & Tamilnadu and union territory of Pondichery through a network of eight offices. Its activities are supported by well equipped analytical laboratories.

3. Aims and Objectives of the exercise

3.1 In the era of WTO agreements, the developed countries are tightening their import control measures and it has become imperative for the developing countries to up grade their laboratories to demonstrate compliance to such standards.

3.2 The aim of this exercise is to modernize and enhance testing capability of the laboratories of EIA - Chennai so as to provide better and efficient services to the Indian exporters.

* * *

SECTION II: INSTRUCTIONS TO BIDDERS INCLUDING CONDITIONS OF CONTRACT

1. General

- 1.1 EIA (referred to as “the Purchaser” in this Tender Document) invites bids for supply, installation and commissioning of laboratory equipment & items for its laboratories at Bheemavaram & Visakhapatnam in Andhra Pradesh and Chennai & Tuticorin in Tamil Nadu.
- 1.2 Specifications, quantities of the equipment & items and the location to which they are to be supplied are given in Section IV of this document.
- 1.3 Bidders are free to offer both indigenous and imported equipments & items provided that they conform to the prescribed requirements.
- 1.4 Equipments with latest technology having digital control, graphic display and printout devices for test results will be given preference.
- 1.5 Equipments / Items should be provided with the Calibration Certificate, traceable to national / international standards, wherever applicable.

2. Fraud and Corruption

- 2.1 Bidders are expected to observe the highest standard of ethics during the procurement and execution of this Contract. In pursuit of this policy, the Purchaser:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “*corrupt practice*” means the offering, giving, receiving, or soliciting of any thing of value to influence the action in the procurement process or in Contract execution; and
 - (ii) “*fraudulent practice*” means a misrepresentation of facts in order to influence a procurement process or the execution of a Contract to the detriment of the Purchaser and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Purchaser of the benefits of competition;
 - (b) will reject a proposal for award if it determines that the Bidder being considered for award has engaged in corrupt or fraudulent practices in competing for the Contract.

3. Cost of Tender Document

- 3.1 Cost of Tender Document is Rs. 500/- per set (Rs. 600/- if required by post). The Tender Document is not transferable. Also, the cost of Tender Document is not refundable.

4. Amendment of Tender Document

- 4.1 At any time prior to the deadline for submission of bids, the Purchaser may, for any reason, modify the Tender Document by way of amendment (s).
- 4.2 Amendments will be intimated in writing to all Bidders that have received the Tender Document and shall be binding on them. Further, it will be assumed that the Bidder has taken into account such amendments while submitting the bid.

5. Documents Comprising the Bid

- 5.1 All bids must be substantially responsive and inline with industry's best practices. The bid submitted by the Bidder shall comprise the following:

- a. The Checklist (Form 1) duly completed.
- b. The Bid proper, duly signed on each page by a person duly authorized to bind the Bidder to the Contract;
- c. Bid Security furnished in accordance with ITBCC Clause 7;
- d. A list of all deviations in the Bid to the terms and conditions contained in the ITBCC and / or to the requirements specified in Section IV of the Tender Document, including the cost of such deviations, as per format given in Form 2;
- e. Bidder's company related information, as per format given in Form 3;
- f. A guarantee / undertaking from the OEM to the effect that
 - (i) the OEM does not plan to phase out the equipment / model offered in the next 3 years,
 - (ii) the OEM shall make available to the Purchaser the after sales service support for at least up to 5 years either directly or through its authorized service centre, and
 - (iii) the OEM shall make available to the Purchaser spare parts of the equipment for at least seven (7) years from the date of last dispatch.
- g. All necessary catalogues / technical literature / data as considered essential for full and correct evaluation of the equipment / item offered.
- h. Any other information, which the Bidder wishes to provide.

6. Bid Prices

- 6.1 Prices must be quoted separately for each equipment / item identified in Section IV of the Tender Document, in **Indian Rupees**.
- 6.2 Price quoted for equipment must be for free delivery to the site and include all incidental costs associated with packing, forwarding, freight, transit insurance

and delivery of equipment / item to the laboratory including its installation, commissioning, integration and validation.

6.3 Price of Annual Maintenance Contract of the equipment for three (3) years after the warranty period shall be quoted separately for each equipment.

6.4 Prices quoted by the Bidder shall be firm during the validity of the bid.

7. Bid Security

7.1 The Bidder shall furnish, as part of its bid, a bid security that shall be interest free and of the amount stipulated hereunder.

Sl	Equipment / Item	Bid Security

7.2 The bid security shall be in the form of a demand draft / pay order drawn in favour of "Export Inspection Agency - Chennai" and payable at Chennai. Separate Bid Security shall be furnished for each equipment / item.

7.3 Any bid not accompanied with the prescribed bid security shall be rejected by the Purchaser as non-responsive.

7.4 The bid security of the Bidders will be returned as promptly as possible, but not later than fifteen (15) days after the successful Bidder has furnished the required performance security.

7.5 The bid security may be forfeited:

(a) If a Bidder:

- (i) submits a bid totally non responsive to the requirements of the Tender Document,
- (ii) withdraws its bid during the period of bid validity specified in ITBCC Clause , or
- (iii) fails to accept the Purchaser's corrections of arithmetic errors (if any) in the Bidder's bid, in accordance with ITBCC Clause 14.2.

(b) In the case of the successful Bidder, if the Bidder fails to:

- (i) sign the Contract in accordance with ITBCC Clause 18; or
- (ii) furnish performance security in accordance with ITBCC Clause 19.

8. Period of Validity of Bids

8.1 Bids shall remain valid for a period specified in BDS (Point 2) after the date of deadline for submission of bids prescribed by the Purchaser.

9. Format and Signing of Bid

9.1 The bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the Contract. All pages of the bid shall be numbered and except for un-amended printed literature, shall be initialed by the person or persons signing the bid.

9.2 The bid shall contain no interlineations, erasures, or overwriting, except to correct errors made by the Bidder, in which case the person or persons signing the bid shall initial such corrections.

10. Sealing and Marking of Bids

10.1 The Bidder shall seal the Bid in a envelope. The envelope shall

- (a) be addressed to the Purchaser at the address given in the BDS (Point 3),
- (b) bear the reference number of the Tender Document and the name of the equipment / item ("Tender No. EIA / CH / 2004 / 03 - Supply of Equipment & Items for Laboratories of EIA - Chennai"), and
- (c) bear the name and address of the Bidder so that the bid can be returned unopened in case it is declared late in accordance with Clause 11.

10.2 If the envelope is not sealed and marked as required above, the Purchaser will assume no responsibility for the bid's misplacement or premature opening.

10.3 Cable / Facsimile or Fax / conditional Bids shall be rejected.

11. Deadline for Submission of Bids

11.1 Bids must be received by the Purchaser at the address specified in the Bid Data Sheet not later than the time and date stated in the BDS (Point 4). In case this date happens to be a declared holiday for the office of the Purchaser, Bids shall be received up to the appointed time on the next working day.

11.2 The Purchaser may, at its discretion, extend this deadline for submission of bids in which case all rights of the Purchaser and all obligations of the Bidders will thereafter be subject to the deadline as extended.

12. Late Bids

12.1 Any bid received by the Purchaser after the bid submission deadline prescribed by the Purchaser in the BDS (Point 4) for ITBCC Clause 11, shall be rejected and returned unopened to the Bidder.

13. Opening of Bids by Purchaser

- 13.1 The Bid shall be opened in the presence of Bidder's representatives who choose to be present at the time, date and location detailed in BDS (Point 5). Withdrawal notices received shall be read out and the envelope with the corresponding bid shall not be opened. In case this date happens to be a declared holiday for the office of the Purchaser, Bids shall be opened at the appointed time and location on the next working day.
- 13.2 During the opening of Bids, Bidder's name, presence or otherwise of the requisite bid security and such other details, as the Purchaser may consider appropriate, will be announced. No Bid shall be rejected except for late bids, which shall be returned unopened to the bidders, pursuant to ITBCC Clause 12.
- 13.3 Bids that are not opened and read out at the bid opening shall not be considered for further evaluation.

14. Preliminary Examination of Bids

- 14.1 The Purchaser will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required security has been furnished, whether the documents have been properly signed, and whether the bids are generally in order.
- 14.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price, which is obtained by multiplying the unit price and quantity, or between subtotals and the total price, *the unit or subtotal price shall prevail*, and the total price shall be corrected. If there is a discrepancy between words and figures, *the amount in words shall prevail*. If a Bidder does not accept the correction of errors, its bid will be rejected and its bid security may be forfeited.
- 14.3 The Purchaser may waive any minor nonconformity, or irregularity in a bid that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 14.4 The Purchaser will also determine whether each bid is complete, and is substantially responsive to the Tender Document. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the Tender Document without material deviations, exceptions, objections, conditionality or reservations. A material deviation, exception, objection, conditionality, or reservation is:
- (a) one that limits in any substantial way the scope, quality, or performance of the Equipment; or
 - (b) one that limits, in any substantial way that is inconsistent with the Tender Document, the Purchaser's rights or the successful Bidder's obligations under the Contract; and
 - (c) one that the acceptance of which would unfairly affect the competitive position of other Bidders who have submitted substantially responsive bids.

14.5 If a bid is not substantially responsive, it shall be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the nonconformity. The Purchaser's determination of bid responsiveness will be based on the contents of the bid itself and any written clarifications submitted by the Bidder in accordance with ITBCC Clause 15.

15. Clarification of Bids

15.1 During the bid evaluation, the Purchaser may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the price or substance of the bid shall be sought, offered, or permitted.

16. Award Criteria

16.1 The Purchaser will evaluate and compare the bids that have been determined to be substantially responsive, pursuant to ITBCC Clause 14. The Purchaser will award the Contract to the Bidder whose bid has been determined to be substantially responsive and the Lowest Evaluated Bid.

16.2 The Bid of the lowest bid amount shall be termed the Lowest Evaluated Bid and eligible for Contract award. If the Bid Amount is the same for two Bidders then the Purchaser will determine the award of the Contract on the basis of some parameters that will be determined by the Purchaser.

17. Purchaser's Right to Accept / Reject / Modify Bids

17.1 The Purchaser reserves the right to accept or reject any bid or to annul the bidding process and reject all bids at any time prior to Contract award, without thereby incurring any liability to the Bidders.

17.2 The Purchaser reserves the right to reject a bid in case past experience in respect of performance of equipment earlier supplied or service support earlier rendered by the bidder and / or the OEM was not satisfactory.

17.3 The Purchaser reserves the right to negotiate with the Bidder having the Lowest Evaluated Bid, both in terms of the price and in terms of the technical configuration proposed by the Bidder.

18. Award of Purchase Order & Contract Agreement

18.1 Prior to the expiration of the period of bid validity, the Purchaser will issue the Purchase Order to the successful Bidder in writing.

18.2 No more than seven (07) days following receipt of the Purchase Order, the successful Bidder shall sign and date its copy on each page and return it to the Purchaser, along with the Performance Security, pursuant to ITBCC Clause 19.

18.3 Copy of Purchase Order duly signed and dated by the successful Bidder on each page shall constitute the Contract Agreement.

18.4 Upon the successful Bidder's furnishing of the copy of the Purchase Order duly signed on each page and the performance security pursuant to ITBCC Clause 19, the Purchaser will promptly notify each unsuccessful Bidder and will discharge their bid security, pursuant to ITBCC Clause 7.

19. Performance Security

19.1 Not more than seven (7) days following receipt of notification of award from the Purchaser, the successful Bidder shall furnish the performance security in the amount specified in the BDS (Point 6). This security will be valid for thirty (30) days after the date of completion of warranty period.

19.2 The security shall be in one of the following forms:

- (a) A bank guarantee (in the format as provided in Form 4 of the bidding documents) issued by a Indian Scheduled bank acceptable to the Purchaser
- (b) A Demand Draft / Bankers Cheque drawn in favour of Export Inspection Agency - Chennai, payable at Chennai.

19.3 The security shall automatically become null and void once all the obligations of the Supplier under the Contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the Supplier not later than fifteen (15) days after its expiration.

19.4 Failure of the successful Bidder to comply with the requirements of ITBCC Clauses 19.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security, in which event the Purchaser may make the award to the next lowest evaluated bid submitted by a qualified Bidder or call for new bids.

20. Contract Documents

20.1 Subject to Clause ITBCC 20.2 all documents forming part of the Contract (and all parts of these documents) are intended to be correlative, complementary, and mutually explanatory. The Contract shall be read as a whole.

20.2 The order of precedence of the Contract documents will be as follows:

- (i) Contract Agreement
- (ii) All other Forms (except Form 4)
- (iii) Equipments and their Requirements
- (iv) Supplier's Bid
- (v) Tender Document

21. Amendment to Contract

21.1 No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party to the Contract.

22. Supplier's Responsibilities

22.1 Unless otherwise expressly limited in the ITBCC or Equipment & their Requirements, the Supplier's obligations involve

- Supply of Equipment / items given in Section IV of Tender Document,
- Making operational the Equipment (installation, commissioning, integration & validation of Equipment),
- Training, at the cost of Supplier, of personnel in operation and day – to – day maintenance of the Equipment,
- Supply of Material (instruction / operation / service / maintenance manuals including drawings & circuit diagrams and application notes), Calibration Certificates (where applicable, traceable to national / international standards) and any other documents specified in the Contract, and
- Maintenance of the equipment after the warranty period.

22.2 The Supplier shall, unless specifically excluded in the Contract, perform all such work and / or supply all such items, services and materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for installation & commissioning, integration & validation of Equipment as if such work and / or items and materials were expressly mentioned in the Contract.

22.3 The Supplier shall comply with all laws in force in India. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Supplier. The Supplier shall indemnify and hold harmless the Purchaser from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation of such laws by the Supplier.

23. Time for Supply, Installation, Commissioning and Validation of the Equipment

23.1 The Supplier shall supply the Equipment within the period specified in the BDS (Point 7).

23.2 The Supplier shall thereafter proceed with its installation & commissioning, integration and validation and demonstrate operational acceptance of the

Equipment within the period specified in the BDS (Point 8), or within such extended time to which the Supplier shall be entitled under ITBCC Clause 30.

24. Terms of Payment

- 24.1 Ninety percent (90%) of the cost of equipment / item shall be released by the Purchaser within fifteen (15) days of receipt of such a request in writing from the Supplier, accompanied by a certificate from the laboratory In - charge to the effect that the quantities ordered have been received and that the equipment / item has been installed & commissioned satisfactorily.
- 24.2 Ten percent (10%) of the cost of equipment / item shall be released by the Purchaser within fifteen (15) days of receipt of such a request in writing from the Supplier, accompanied by a certificate from the laboratory In - charge to the effect that the required training has been imparted and the equipment / item is operating satisfactorily after validation.
- 24.3 Payment for annual maintenance contract after the warranty period shall be released at the end of each quarter.
- 24.4 If any time before the delivery of the equipments, it is found that the same equipments have been offered to another party in India at a lower rate, payment shall be restricted to that extent.

25. Taxes and Duties

- 25.1 Unless specifically mentioned in the Bid and provided in the Contract, the Supplier shall bear and pay all taxes, duties, levies, and charges assessed on the Supplier by all municipal, state, or national government authorities, in connection with the Goods and Services supplied under the Contract.

26. Penalties

- 26.1 Time is the essence of the contract. The Supplier guarantees that it shall complete all activities in accordance with the time limits specified in ITBCC Clause 23.
- 26.2 If the Supplier fails to complete any of the activities in accordance with the time specified for it, or any extension of the time granted by the Purchaser, the Supplier shall pay to the Purchaser penalties at the rate specified in the BDS (Point 9) as a percentage of the Contract Price.
- 26.3 The Purchaser reserves the right to terminate the contract if the Supplier defaults on any of the time limits by more than four (4) weeks. In such a situation, Performance Security tendered by the Supplier shall be forfeited.

27. Defect Liability

- 27.1 The Supplier warrants that the Equipment, including all subassemblies and components provided, shall be free from defects in the design, engineering / manufacturing, workmanship and performance that prevent the Equipment and

/or any of its subassemblies and components from fulfilling the Equipment Requirements or that limit in a material fashion the operation, reliability, accuracy, sensitivity and precision of the Equipment, its subassemblies and components. Commercial warranty provisions of products supplied under the Contract shall apply to the extent that they do not conflict with the provisions of this Contract.

- 27.2 The Warranty Period shall commence from the date of validation of the Equipment and shall extend for the length of time specified in the BDS (Point 10).
- 27.3 If during the Warranty Period any defect, as described in ITBCC Clause 27.1, should be found in the Equipment, the Supplier shall promptly, at its sole cost, repair or otherwise make good such defect as well as any damage to the Equipment caused by such defect. Any defective Equipment, Subassembly or component that has been replaced by the Supplier shall remain the property of the Supplier.
- 27.4 Response time for attending to defects shall be six (6) hours after they are reported to the Supplier or its designated service agent. If the Equipment cannot be used for more than a day by reason of such defect and /or making good of such defect, the Warranty Period for the Equipment shall be extended by a period equal to the period during which the Equipment could not be used by the Purchaser because of such defect and /or making good of such defect.

28. Intellectual Property Rights Warranty and Indemnity

- 28.1 The Supplier hereby represents and warrants that the Equipment as supplied, installed & commissioned along with its Application Software and copying of Manuals & other documents provided to the Purchaser in accordance with the Contract does not and will not infringe any Intellectual Property Rights held by any third party.
- 28.2 The Supplier shall indemnify and hold harmless the Purchaser from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability), that the Purchaser may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights in accordance with ITBCC Clause 28.1.

29. Effect of Force Majeure

- 29.1 If the Supplier is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the Purchaser in writing of the occurrence of such event and the circumstances of the event of Force Majeure within ten (10) days after the occurrence of such event.
- 29.2 The Supplier, when affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its performance of the Contract and to fulfill its obligations under the Contract, but without prejudice to Purchaser's right to terminate the Contract under ITBCC Clause 29.4.
- 29.3 No delay or non-performance by the Supplier caused by the occurrence of any event of Force Majeure shall:

- (a) constitute a default or breach of the Contract;
- (b) (subject to ITBCC Clauses 29.1 and 29.2) give rise to any claim for damages or additional cost or expense occasioned by the delay or non-performance;

if, and to the extent that, such delay or non-performance is caused by the occurrence of an event of Force Majeure.

29.4 If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than thirty (15) days or an aggregate period of more than sixty (30) days on account of one or more events of Force Majeure, the Purchaser shall have the right to terminate the Contract by giving a notice to the Supplier.

30. Extension of Time Limits for supply & making operational the Equipment

30.1 The time limit for supply, installation & commissioning, integration & validation shall be extended if the Supplier is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following

- (a) Any occurrence of Force Majeure as provided in ITBCC Clause 29 (Force Majeure);
- (b) Any other matter specifically mentioned in the Contract;

by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Supplier.

31. Assignment

31.1 The Supplier shall not, without the express prior written consent of the Purchaser, assign to any third party the Contract or any part thereof, or any right, benefit, obligation, or interest therein or there under, except that the Supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

32. Governing Law

32.1 The Contract shall be governed by and interpreted in accordance with the laws of India.

33. Settlement of Disputes

33.1 Any dispute or claim arising out of / relating to this Contract or the breach, termination or the invalidity thereof, shall be settled by the Hon'ble Courts of Justice at Chennai.

SECTION III: BID DATA SHEET

- 1 BG 1.2 (vi) The Purchaser is:
Export Inspection Agency - Chennai
- 2 ITBCC 8.1 Period of Bid Validity:
The Bids shall be valid for a period of ninety (90) days from the date of deadline for the submission of bids
- 3 ITBCC 10.1 (a) Purchaser's address is:
**Export Inspection Agency - Chennai
(Ministry of Commerce & Industry, Government of India)
1st Floor - 213 Royapettah High Road,
Chennai - 600 014**
- 4 ITBCC 11.1 The deadline for the submission of bids is:
ITBCC 12.1
Time: 17.00 hours; Date: 3rd February 2005
- 5 ITBCC 13.1 Time, date and location for opening of Bids:
Time: 18.00 hours; Date: 3rd February 2005
**Export Inspection Agency - Chennai
(Ministry of Commerce & Industry, Government of India)
1st Floor - 213 Royapettah High Road,
Chennai - 600 014**
- 6 ITBCC 19.1 Amount of Performance Security:
The Supplier shall provide a performance security equal to 10% of the Contract value (excluding the value of annual maintenance charges)
- 7 ITBCC 23.1 The deadline for supply of the equipment is:
Four (4) weeks from date of signing of copy of Purchase Order by the Bidder
- 8 ITBCC 23.2 The deadline for validation of equipment is:
Two (2) weeks from the deadline for supply of equipment

9 ITBCC 26.2 Rate for Penalties:

The Supplier shall pay the Purchaser Penalties at the rate of 1.0% per week of the Contract value (excluding the value of annual maintenance charges)

10 ITBCC 27.2 Warranty Period:

The period of warranty shall be twenty four (24) months after validation

SECTION IV: EQUIPMENT AND THEIR REQUIREMENTS

A. SCOPE OF SUPPLY

1. Brief Scope of Supply

1.1 Scope of supply would include:

- (i) Supply, installation, commissioning, integration and validation of Equipment required by the Purchaser, along with standard / essential spares.
- (ii) Supply of optional spares and accessories that may be required for operation of the equipment after warranty period.
- (iii) Supply of Material (instruction / operation / service / maintenance manuals including drawings & circuit diagrams and application notes), Calibration Certificates (where applicable, traceable to National / International standards), etc.
- (iv) Training of personnel in operation & related applications and day - to - day maintenance of the Equipment, and
- (v) Maintenance of the equipment for at least three (3) years after expiry of the warranty period.

B. EQUIPMENTS AND THEIR REQUIREMENTS

1.

SECTION V: FORMS

Form # 1**Checklist**

**Subject: Tender No: EIA / CH / 2004 / 03 - Supply of Equipment & Items for
Laboratories of EIA - Chennai**

Sl	Check	Yes / No
1.	Instructions to the bidders & conditions of contract read & understood?	
2.	Technical requirements of the equipment read & understood?	
3.	Bid proper signed on each page by authorized person?	
4.	Requirements of the purchaser addressed in the bid?	
5.	Interlineations or erasures in the bid?	
6.	Overwriting in the bid countersigned?	
7.	Bid Security furnished?	
8.	Separate Bid Security furnished for each equipment / item?	
9.	DD / PO for Bid Security drawn in favour of "Export Inspection Agency - Chennai", payable at "Chennai"?	
10.	List of deviations furnished in Form 2?	
11.	Company related information furnished in Form 3?	
12.	Authorization for signing the Bid?	
13.	Guarantee / undertaking from the OEM furnished?	
14.	Necessary catalogues / technical literature furnished?	
15.	Prices quoted in Indian Rupees?	
16.	Prices quoted separately for each equipment / item?	
17.	Price for AMC after warranty period quoted?	

Signature _____
Name _____
Designation _____

Date: _____
Place: _____
Seal of Company _____

Form # 2

**Subject: Tender No: EIA / CH / 2004 / 03 - Supply of Equipment & Items for
Laboratories of EIA - Chennai**

Deviations & their Cost

The deviations from the terms & conditions of your Tender Document, our justification for the deviations and the related costs are as follows:

Clause No.	Condition	Deviation	Cost of Deviations

Signature _____

Name _____

Designation _____

Date: _____

Place: _____

Seal of Company _____

Form # 3

**Subject: Tender No: EIA / CH / 2004 / 03 - Supply of Equipment & Items for
Laboratories of EIA - Chennai**

PROFILE OF THE BIDDER

(To be furnished with the BID)

1.	Company Profile	
	Name	
	Address of the registered office	
	Name & Designation of CEO	
	Contact numbers of CEO	
	Nature of Business	
	Years of operations in India	
	Location of offices in India	
2.	Alliances for the purpose of this Bid	
	Details of alliance(s)	
	Type of alliance(s)	
3.	Experience / Credentials	
	Number of similar units installed in India	
	Number of similar units installed in Chennai	
	* List of satisfied customers in India	
4.	Service Support in India	
	Location of service centers	
	Number of trained service engineers	
	Number of trained service engineers exclusively dedicated to each equipment offered	
	Number of trained service engineers for the equipments offered stationed in Chennai	
	Number of application specialists	
	Whether the OEM makes available any service support in India	
5.	Availability of spares in India	
	Whether the service set up maintains stock of essential spares in India	
	Lead time for supply of essential spares	

* Testimonials from three satisfied customers may be attached

Signature _____
Name _____
Designation _____

Date: _____

Place: _____

Seal of Company _____

Form # 4

FORM OF PERFORMANCE SECURITY (GUARANTEE) BY BANK
(Refer Clause 19.1 of “Instructions to Bidders”)

1. This deed of Guarantee made this day of _____ between Bank of _____ (hereinafter called the “Bank”) of the one part, and Export Inspection Agency - Chennai (hereinafter called “the Purchaser”) of the other part.
2. Whereas the Purchaser has awarded the contract for Supply, Installation, Commissioning, Integration and Validation of _____ (name of the equipment) (hereinafter called the contract) to _____ (hereinafter called the Supplier); (Name of the Supplier)
3. AND WHEREAS the Supplier is bound by the said Contract to submit to the Purchaser a Performance Security for a total amount of Rs. _____ (Amount in figures and words).
4. Now, I / we the undersigned, being fully authorized to sign and to incur obligations for and on behalf of and in the name of _____ (Full name of Bank), hereby declare that the said Bank will guarantee the Purchaser the full amount of Rs. _____ (Amount in figures and Words) as stated above.
5. After the Supplier has signed the aforementioned Contract with the Purchaser, the Bank is engaged to pay the Purchaser, any amount up to and inclusive of the aforementioned full amount upon written order from the Purchaser to indemnify the Purchaser for any liability of damage resulting from any defects or shortcomings of the Supplier under the Contract mentioned above, whether these defects or shortcomings are actual or estimated. The Bank will deliver the money required by the Purchaser immediately on demand without delay without reference to the Supplier and without the necessity of a previous notice or of judicial or administrative procedures and without it being necessary to prove to the Bank the liability or damages resulting from any defects or shortcomings of the Supplier. The Bank shall pay to the Purchaser any money so demanded notwithstanding any dispute/disputes raised by the Supplier in any suit or proceedings pending before any Court relating thereto and the liability under this guarantee shall be absolute and unequivocal.
6. This Guarantee is valid for a period of months from the date of signing. [initial period for which this Guarantee will be valid must be for at least thirty (30) days longer than the anticipated expiry date of warranty period as stated in ITBCC Clause 27]
7. At any time during the period in which this Guarantee is still valid, if the Purchaser agrees to grant a time extension to the Supplier or if the Supplier fails to complete the work within the time of completion as stated in the Contract, or fails to discharge himself of the liability or damages as stated under Para 5 above, the Bank shall extend this Guarantee under the same conditions for the required time on demand by the Purchaser and at the cost of the Supplier.

8. The Guarantee hereinbefore contained shall not be affected by any change in the Constitution of the Bank or of the Supplier.
9. The neglect or forbearance of the Purchaser in enforcement of payment of any moneys, the payment whereof is intended to be hereby secured or the giving of time by the Purchaser for the payment hereof shall in no way relieve the bank of its liability under this deed.
10. The expressions “the Purchaser”, “the Bank” and “the Supplier” hereinbefore used shall include their respective successors and assigns.

In witness whereof I/We of the bank have signed and sealed this guarantee on the -----
--- day of ----- (Month & year) being herewith duly authorized.

**For and on behalf of
the _____ Bank.
Signature of authorised**

Bank official
Name :
Designation :
Stamp/Seal of the Bank :

Signed, sealed and delivered
for and on behalf of the
Bank by the above
named _____ in
the presence of :

Witness 1.
Signature
Name
Address

Witness 2.
Signature
Name
Address

Form # 5

Particulars of Authorization

To,
Export Inspection Agency - Chennai
213 Royapettah High Road,
Chennai - 600 014

**Subject: Tender No: EIA / CH / 2004 / 03 - Supply of Equipment & Items for
Laboratories of EIA - Chennai**

Dear Sirs,

Particulars of Authorization of the person signing these documents on behalf of the bidder are as follows:

1. Name, Designation & Address of the authorized person.
.....
.....
.....
2. Name, Designation & Address of the authorizing person.
.....
.....
.....
3. Detail of documents showing that the persons mentioned in entry (2) above, is authorized to issue such a Authority.
.....
.....

(Please enclose the original authorization document.)

Signature:

in the capacity of :

Duly authorized to sign for and on behalf of: