

## **Reply to the Queries: Tender TE09/2016 – Setting up of a Power Plant on BOO basis**

### **1. Failure to Execute Agreement**

Please clarify the reasoning behind Clause 7.6 of the Special Conditions for Contract: *“Contractor/Successful Bidder failing to execute the order placed on them to the satisfaction of MBL under the terms and conditions set forth therein, will be liable to make good the loss sustained by MBL, consequent to the placing of fresh orders elsewhere at lower rate. In the event of such failure, the difference between the price accepted in the Agreement already entered into and the price at which fresh orders have been placed at a later date, consequent to non-fulfilment of the Agreement will be recovered from the Contractor/Successful Bidder.”*

We understood that MBL would be protected in such circumstances by the EMD and the Performance Bank Guarantee. The PBG in particular is a substantial amount, which we believed was calculated so as to reflect the risk of non-performance. It seems unusual in the market to have both a substantial performance guarantee as well such payments of “consequential damages”, which could amount to substantial sums of money, which could be almost as large as the total amount due under the coal purchase contract. We would in any case appreciate an opportunity to discuss the wording of this requirement.

**Answer : The clause 7.6.1 has been amended and should be read as follows**

**Contractor/Successful Bidder failing to execute the agreement to the satisfaction of MBL under the terms and conditions set forth therein, shall have the Performance Bank Guarantee encashed.**

### **Format 13 – Covering Letter for Capacity of the Plant Offered**

Please indicate what this letter should contain. Format 13 in the Invitation to Tender does not discuss plant capacity and appears to be substantially identical to Format 2 – the Covering Letter for Techno-Commercial Bid.

**Answer : To submit both the format**

### **2. Format 8 – Performance Bank Guarantee**

The Performance Bank Guarantee will not be required until our Bid is accepted. Format 8 is not included in the checklist and appears to be for our information regarding future requirements. Please confirm that our Bid is not required to contain Format 8.

**Answer: At this stage Format 8 is not required**

3. **Eligibility Criteria 5.2.2 and 5.2.4**

Criterion 5.2.2 appears to be a statement of policy regarding any future assignment of position. Criterion 5.2.4 appears to be a future requirement for the selected bidder. Please confirm that it will be sufficient for our Bid to acknowledge these two criteria and confirm our intent to meet them in due course, should we be selected as winning bidder.

**Answer : you can meet them in due course**

4. **Checklist Items 20 and 25 regarding EMD**

Please confirm our impression that Items 20 and 25 cover the same requirement.

**Answer : They are the same requirement**

5. **EMD forfeited in circumstances out of Bidder's control**

As drafted, MBL reserves the right to forfeit the EMD "if the Successful Bidder fails to sign the Agreement and/or submit the Performance Bank Guarantee". However certain legitimate factors beyond the control of the Successful Bidder could prevent the Successful Bidder from reasonably signing the Agreement and/or submitting the Performance Bank Guarantee. For example, (i) if EDM changes its policies and decline to enter into a PPA with the Project; or (ii) the members of the ICVL consortium choose to close the Benga Mine. We therefore propose placing additional conditions on forfeit the EMD.

*Please confirm acceptance of additional conditionality in the criteria for forfeiting the EMD, to carve out instances or events beyond the control of the Bidder, that prohibit completion of the Agreement or submitting of the Bank Guarantee.*

**Clause 6.12 (c) (Additional conditionality added)**

EMD shall not be forfeited if instances or events beyond the control of the Bidder, prevent the bidder from entering into the Agreement or submitting of the Performance Bank Guarantee e.g. if EDM changes its policies and declines to enter into a PPA with the Project.

6. **MBL Granting Security**

The eventual Successful Bidder will make a large investment and incur significant liabilities, while remaining exposed to the performance of MBL under the contract. We therefore believe it would be reasonable for MBL to provide certain security to support its performance obligations.

*Please confirm what security MBL will provide to the successful Bidder to underpin its fuel supply and other obligations, which are necessary for completion of the Agreement and the Project?*

**Answer : MBL shall be signing Fuel supply agreement with the party once Successful Bidder is selected**

**7. Prevailing power demand situation in Mozambique.**

**Answer:-The peak demand along the years in the country was: 481MW in 2009, 534MW in 2010, 610MW in 2011, 706 in 2012, 761 in 2013, 831MW in 2014.**

**8. Broader outline of Regulatory framework for Electricity Sector in Mozambique.**

**The Council of Ministers with responsibility for setting policies, strategies and regulatory tools to enable the development of natural resources for economic benefits in association with environmental responsibility.**

**The Ministry of Energy and Mineral Resources, supervising the electricity portfolio including New and Renewable Energies (NREs) and also in charge of oil and refined oil products (liquid fuels), natural gas, and coal among other mineral resources;**

**CNELEC (Conselho Nacional de Electricidade), the electricity independent regulator. Its scope is under revision with the aim of broadening and strengthening its role. It is expected that the outcome will be an overall energy sector Independent Regulator whose scope will be extended to the distribution of natural gas and liquid fuels.**

**EDM EP, a state-owned and vertically integrated utility that is responsible for the generation, procurement, transmission, distribution and sale of electricity. A great portion of the rural and peri-urban electrification program via grid extension is being implemented and sustained by the utility.**

**Hydroelétrica de Cahora Bassa (HCB), an IPP owned by The Mozambican state (85%), Companhia Eléctrica do Zambeze (CEZA – 7.5%) and Redes Energéticas Mozambique Nacionais (REN) of Portugal (7.5%) respectively. HCB owns and operates a hydro power plant with a long-term Power Purchase Agreement (PPA) with ESKOM of South Africa, EDM as well as ZESA of Zimbabwe to whom it supplies power via an HVAC line owned by EDM.**

**Mozambique Transmission Company – MOTRACO was created as a joint venture transmission company between Eskom, EDM and Swaziland Electricity Board (SEB) with the status of a partnership between public and private entities, with each company owning 1/3 of the shares. In essence MOTRACO operates and maintains the 400 kV network system based on the network's 400 KV transmission parallel lines.**

FUNAE, established as a public institution in charge of developing, producing and making use of different forms of low cost power production and distribution for off grid rural electrification. It promotes the conservation, rational and sustainable management of power resources.

INP (Instituto Nacional do Petroleo) sharing a regulatory role in the Oil and Natural Gas Subsectors with the Ministry of Energy and Mineral Resources. ENH (Empresa Nacional de Hidrocarbonetos), a state owned company for the development (extraction, transformation and distribution) of hydrocarbon resources. It was established in 1981 as a state company changing to a Public Company in 1997.

CMH (Companhia Mocambicana de Hidrocarbonetos); a private company in the natural gas sector with a number of projects with SASOL, a South African concessionaire of the onshore gas deposits in Temane and Pande, Inhambane.

PETROMOC, responsible for the commercialization of refined oil fuel

MGC (Matola Gas Company), a company distributing gas to industries and transports in the Matola and Maputo areas.

9. **Suggestion for person/entity from which the details about above information can be sought.**

Answer : EDM, EP and The Ministry of Energy and Mineral Resources