



**RED ELÉCTRICA  
DE ESPAÑA**

**POLICY FOR PERFORMANCE BANK GUARANTEES  
IN FAVOUR OF RED ELECTRICA DE ESPAÑA S.A.U.**

APPROVED: DC RECURSOS  
REFERENCE: P.GARANTIAS  
EDITION: 2 / 21.MAY.2016



## **INTRODUCTION**

On 4 September, 2014, the first edition of the Policy for Performance Bank Guarantees in favour of Red Eléctrica S.A.U. was implemented. Said policy established, as a principle change, the requirement that all purchase orders exceeding €100,000 be guaranteed, be it through a Performance Bank Guarantee or by exercising retainage on invoice.

Taking into consideration the suggestions and concerns of our suppliers received over the past 2 years we have proceeded to review and modify said policy, resulting in the current edition set out in the present document (Edition 2 / 21.MAY.2016).

The main change that this edition incorporates is the basis for calculating the amount of the Global Performance Bank Guarantee. Said basis goes from being the ***Total Annual Amount of Orders Issued (ITAPE)*** to be the **Total Annual Amount of Certifications Issued (ITACE)**.

Thus the amount of the Global Performance Bank Guarantee better reflects the actual activity of suppliers in the period of reference.

Detailed below is the Policy for Performance Bank Guarantees, linked to acquisitions by means of contracts or purchase orders, in favour of REE S.A.U.

## **TYPES OF PERFORMANCE BANK GUARANTEES TO BE ESTABLISHED**

The type of PERFORMANCE BANK GUARANTEE a supplier shall provide REE in year "a" shall depend on the ***Total Annual Amount of Certifications Issued (ITACE)*** allotted by REE S.A.U. to the supplier in the year "a-1" as follows:

- A) Suppliers with **ITACE ≥ €500,000 during the previous year "a-1"** shall may establish a **Global Performance Bank Guarantee** that:
- i. Shall be in the amount of 10% of ***ITACE*** for said year "a-1" and in all cases for amounts equal to or exceeding €50,000.
  - ii. Shall guarantee the contracts signed between REE and the supplier for a period of 24 months as of the date of the issuance and delivery to REE S.A.U. of the **Global Performance Bank Guarantee**. It shall also guarantee all contracts subscribed during the 24 months preceding the date this Guarantee is established and whose associated works are still pending to be started, are in progress or under warranty; all of which shall require prior consent and express acceptance of this amendment to the GCC by the concerned supplier.
  - iii. After the first 24 months have elapsed, it may be renewed under the same coverage criteria and validity. In the event that renewal is deemed unnecessary, it shall be extended for a further 12 months to cover all works that are still pending to be started, are in progress or under warranty.



REE S.A.U. will establish a period of 4 months per year, whose start date will be promptly communicated to each supplier with sufficient advance notice, so that the supplier may deliver the **Global Performance Bank Guarantee** to REE S.A.U. After this period, if the supplier has failed to deliver said Guarantee, the supplier shall become subject to the conditions specified in **paragraph B** below.

**B)** For the remaining suppliers, for every **purchase order equal to or exceeding €100,000** shall preferably establish an **Individual Performance Bank Guarantee** that:

1. Shall guarantee at least 10% of the purchase order to which it is linked.
2. Shall remain in force up to 30 working days after the maturity date of the guarantee period linked to the works included in the purchase order.
3. Once the purchase order is issued, the supplier shall deliver the guarantee to REE S.A.U., at the latest together with the first supplier invoice.

In the event that said Guarantee is not delivered by the supplier by the deadline established, REE, S.A.U. shall proceed to withhold 10%, as a guarantee deposit, of the amounts of the first and subsequent invoices related to said purchase order, including those related to modifications due to price reviews or other circumstances that may affect it.

**C)** For all other purchase orders with amounts less than €100,000, apart from exceptions, no guarantee deposit will be required.

Whatever the amount of the guarantee deposit formalised, it shall be returned, after making the pertinent deductions from the same.

- In the case of Bank Guarantees, it shall be returned 30 days after the term of the same
- If the case of Retainages, it shall be returned 30 days after the maturity date of the performance guarantee linked to the works included in the purchase order

### **ANNUAL REVISION OF ITACE**

REE, S.A.U. shall revise annually, or if deemed necessary, more often, the ITACE of all its suppliers in such a way that:

- If the ITACE **increases**:
  1. Suppliers **without a Global Performance Bank Guarantee** that subsequently comply with the conditions defined in paragraph **A** shall establish a Performance Bank Guarantee in accordance to that set out in paragraph **A** and deliver it to REE, S.A.U..



2. Suppliers **with a Global Performance Bank Guarantee** in force at the time of review of the ITACE, and that, after the review, are found to exceed by 40% the **ITACE** used for the calculation of the amount of the Performance Guarantee in force, shall replace it with another one totalling 10% of the **ITACE** of the previous year.
- If the ITACE **decreases**:
    1. Suppliers that at the time of renewal of the **Global Performance Bank Guarantee** do not comply with the conditions specified in paragraph **A** shall be subject to paragraph **B** with regard to the purchase orders issued thereafter. Notwithstanding the foregoing, in the event that there should be at that time any works pending to be started, in progress or under warranty linked to previous purchase orders, the **Global Performance Bank Guarantee** in force shall be extended for 12 months or the time necessary until said works are completed and received to the satisfaction of REE, S.A.U..
    2. Suppliers with a **Global Performance Bank Guarantee** currently in force and without orders to guarantee shall be subject to paragraph **B**.

The **Global Performance Bank Guarantee** and **Individual Performance Bank Guarantee** models are available in Annexes I and II to this document.

#### **RENEWAL OF THE GLOBAL PERFORMANCE BANK GUARANTEE**

When the renewal of the existing **Global Performance Bank Guarantee** is deemed applicable, the supplier shall send, 30 calendar days before its date of expiry, the new Performance Bank Guarantee updating its validity and coverage in the terms and conditions set forth in this document.

Otherwise, the provider shall be subject to the provisions set out in paragraph **B** above.

Notwithstanding the foregoing, for those purchase orders under warranty that had been invoiced in full and have been formalized during the 24 months preceding the date of expiry of the Global Performance Bank Guarantee, the supplier shall formalize Individual Performance Bank Guarantees; in the event that the supplier fails to deliver the relevant Individual Performance Bank Guarantees before the date of expiry of the guarantee in force, REE S.A.U. shall be authorized to execute the **Global Performance Bank Guarantee** in force due to breach of the General Conditions of Contract.



### **EXCEPTIONS**

Exceptionally and without prejudice to the aforementioned, REE, S.A.U. may:

- Request Individual Performance Bank Guarantees or exercise retainage on Invoice for certain purchase orders, not covered by a Global Performance Bank Guarantee, whose amount does not exceed €100,000 when its criticality requires it.
- Request Individual Performance Bank Guarantees or exercise retainage on Invoice for certain purchase orders, covered by Global Performance Bank Guarantee, whose amount or criticality require it.



## ANNEX I – POLICY FOR THE MANAGEMENT OF PERFORMANCE BANK GUARANTEES OF RED ELÉCTRICA

### GLOBAL PERFORMANCE BANK GUARANTEE MODEL

The GUARANTOR, (Name of bank/entity) \_\_\_\_\_, with Tax Identification Number (C.I.F.) \_\_\_\_\_, whose registered office is at (address of bank/entity) \_\_\_\_\_ and on its behalf and representation Mr./Ms. \_\_\_\_\_, bestowed with sufficient power to be bound by this act, given through public deed delivered by the Notary of \_\_\_\_\_ (Bar Association of \_\_\_\_\_), Mr./Ms. \_\_\_\_\_ on \_\_\_\_\_ and filed under number \_\_\_\_\_ / \_\_\_\_\_ of said Notary's record.

The GUARANTOR unconditionally and irrevocably, jointly and severally GUARANTEES, with the express waiver of the benefit of division and discussion, to \_\_\_\_\_ before RED ELÉCTRICA DE ESPAÑA, S.A.U., with Tax Identification Number (C.I.F.) A-85309219, whose registered office is at Paseo Conde de los Gaitanes 177, Alcobendas (Madrid - Spain), up to the amount of \_\_\_\_\_ Euros, guaranteeing due fulfilment of:

(i) All obligations undertaken in the contracts entered between the two parties during the 24 months preceding the date of issuance of this Guarantee and whose works are pending to start, are in progress or under warranty;

In addition to (ii) the obligations undertaken in connection with the contracts signed by both parties during the 24 months following the date of issuance of this document.

The validity of this performance guarantee shall be 24 months from date of its issuance.

In compliance with that stated, (Name of bank/entity) undertakes to pay RED ELÉCTRICA DE ESPAÑA, S.A.U., upon first demand and without any delay, the requested amount, at any time as of this date, up to the maximum amount above stated, upon simple written demand signed by a person bestowed with enough power to do so.

RED ELÉCTRICA DE ESPAÑA, S.A.U. is authorized, at any time from this date to request execution of this performance guarantee, in whole or in part in successive steps, without it being necessary to deliver the original of this performance guarantee. Should a partial execution occur, the performance guarantee shall remain in force under the same conditions for the remainder of the guarantee.

Waiving any other jurisdiction to which it may be entitled, the guarantor expressly submits itself to the jurisdiction and competence of the tribunals of Madrid (Spain) for the settlement of any doubts, issues, disputes or incidents that may arise, directly or indirectly, regarding the fulfilment or breach of the obligations set out herein.



This performance guarantee has been registered, on this very day, in the Spanish Special Register of Guarantees with number \_\_\_\_\_.

In \_\_\_\_\_, on \_\_\_\_\_ of \_\_\_\_\_ of \_\_\_\_\_.

Signature:

#### AUTHORISED ENTITIES

\*Any Spanish or foreign bank entity of recognized standing in the sector with a permanent branch office in Spain.

The acceptance of this Bank Guarantee by Red Eléctrica de España S.A.U. is conditional on the solvency of the guarantor bank.



## ANNEX II – POLICY FOR THE MANAGEMENT OF PERFORMANCE BANK GUARANTEES OF RED ELÉCTRICA

### INDIVIDUAL PERFORMANCE BANK GUARANTEE MODEL

The GUARANTOR, (Name of bank/entity) \_\_\_\_\_, with Tax Identification Number (C.I.F.) \_\_\_\_\_, whose registered office is at (address of bank/entity) \_\_\_\_\_ and on its behalf and representation Mr./Ms. \_\_\_\_\_, bestowed with sufficient power to be bound by this act, given through public deed delivered by the Notary of \_\_\_\_\_ (Bar Association of \_\_\_\_\_), Mr./Ms. \_\_\_\_\_ on \_\_\_\_\_ and filed under number \_\_\_\_\_ / \_\_\_\_\_ of said Notary's record.

The GUARANTOR unconditionally and irrevocably, jointly and severally GUARANTEES, with the express waiver of the benefit of division and discussion, to \_\_\_\_\_ before RED ELÉCTRICA DE ESPAÑA, S.A.U., with Tax Identification Number (C.I.F.) A-85309219, whose registered office is at Paseo Conde de los Gaitanes 177, Alcobendas (Madrid - Spain), up to the amount of \_\_\_\_\_ Euros, guaranteeing due fulfilment of all the obligations undertaken by \_\_\_\_\_ in virtue of the contract/order \_\_\_\_\_ and with reference number \_\_\_\_\_ subscribed to/accepted by both Parties on \_\_\_\_\_.

In compliance with that stated, (Name of bank/entity) undertakes to pay RED ELÉCTRICA DE ESPAÑA, S.A.U., upon first demand and without any delay, the requested amount, , at any time as of this date, up to the maximum amount above stated, upon simple written demand signed by a person bestowed with enough power to do so.

RED ELÉCTRICA DE ESPAÑA, S.A.U. is authorized, at any time from this date to request execution of this performance guarantee, in whole or in part in successive steps, without it being necessary to deliver the original of this performance guarantee. Should a partial execution occur, the performance guarantee shall remain in force under the same conditions for the remainder of the guarantee.

The validity of the performance guarantee herein shall be extended until (date) \_\_\_/\_\_\_/\_\_\_, date which is thirty days after the date on which the guarantee period expires.

Waiving any other jurisdiction to which it may be entitled, the guarantor expressly submits itself to the jurisdiction and competence of the tribunals of Madrid (Spain) for the settlement of any doubts, issues, disputes or incidents that may arise, directly or indirectly, regarding the fulfilment or breach of the obligations set out herein.





This performance guarantee has been registered, on this very day, in the Spanish Special Register of Guarantees with number \_\_\_\_\_.

In \_\_\_\_\_, on \_\_\_\_\_ of \_\_\_\_\_ of \_\_\_\_\_.

Signature:

#### AUTHORISED ENTITIES

\*Any Spanish or foreign bank entity of recognized standing in the sector with a permanent branch office in Spain.

The acceptance of this Bank Guarantee by Red Eléctrica de España S.A.U. is conditional on the solvency of the guarantor bank.