

SECTION B

Request For Proposal

for

Agreement for Procurement of Power

For Medium Term
(Bid submission, e-Reverse Auction and L-1
Matching)

Issued by:
Noida Power Company Limited,
Commercial Complex, H-Block, Alpha-II Sector,
Greater Noida – 201 308 (U.P.)

22nd January, 2018

E-Tender No.:- NPCL/MediumTerm/LumpsumTariff/17-18/ET/

E-Reverse Auction No.:- NPCL/MediumTerm/LumpsumTariff/17-18/ET/

GLOSSARY

APP	As defined in Clause 1.1.2
Associate	As defined in Clause 2.1.12
Bank Guarantee	As defined in Clause 2.19.1
Bid(s)	As defined in Clause 1.2.2
Bidders	As defined in Clause 1.2.2
Bidding Documents	As defined in Clause 1.1.7
Bid Due Date	As defined in Clause 1.1.7
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.4
Bid Stage	As defined in Clause 1.2.1
Contract	As defined in Clause 1.1.5
FOO	As defined in Clause 1.1.1
Demand Draft	As defined in Clause 2.19.2
Developer	shall mean the owner of the Power Station from which the Trading Licensee shall supply the Power to the Utility(ies);
Government	Government of India/State
Lowest Bidder	As defined in Clause 1.2.6
LOA	As defined in Clause 3.3.5
PPP	Public Private Partnership
Project	As defined in Clause 1.1.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer
RFQ	As defined in Clause 2.1.2
Select Bidder	As defined in Clause 3.3.1
Supplier	As defined in Clause 1.1.2
Tariff	As defined in Clause 1.2.6
Trading Licensee(s)	shall mean the Applicant/Bidder which is an Electricity Trader or a Distribution Licensee in terms of the Electricity Act, 2003 and submits its Application on the basis of an exclusive power purchase agreement executed with the entity with identified generation source from where the power is proposed to be supplied by the Applicant/Bidder
Utility	As defined in Clause 1.1.1

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto hereinabove. The words and expressions beginning with capital letters and not defined herein, but defined in the RFQ, shall, unless repugnant to the context, have the meaning ascribed thereto therein.

NOIDA POWER COMPANY LIMITED

INTRODUCTION^S

1.1 Background

- 1.1.1 The Noida Power Company Limited (NPCL) (the “Utility”) is engaged in the distribution of electricity and as part of this endeavour, the Utility has decided to procure electricity from a power generating station that would dedicate a contracted capacity of 100 MW for production of electricity and supply thereof for a period of 16 (Sixteen) months on **Round-the-Clock** basis (the “Project”) through Public Private Partnership (the “PPP”) on Finance, Own and Operate (the "FOO") basis, and has therefore decided to carry out the Bidding Process for selection of a corporate entity as the Bidder to whom the contract may be awarded for production of electricity and supply thereof as per the terms and conditions specified in the Bidding Documents.

Brief particulars of the Project are as follows:

Requisition	Capacity Required (in MW)	Period when supply must commence	Delivery Point
RTC	100	01.12.2018	NPCL Periphery i.e. interconnection of NPCL with UPSTU

^S Instructions for Bidders

Note 1: The provisions in curly brackets shall be suitably modified by the Bidders after the RFP is issued. (See Appendix-IV)

Note 2: Blank spaces contain formats that are to be used by the Bidders after the RFP is issued. (See Appendix-IV)

Note 3: Footnotes marked “^S” in the relevant Clauses of the RFP are for guidance of the Bidders. In case of Appendices, the footnotes marked “^S” or in other non-numerical characters shall be omitted by the Bidders while submitting their respective Bids. (See Appendix-IV)

- 1.12 The Selected Bidder (the “Supplier”), shall be responsible for financing, construction, operation and maintenance of the Power Station for production of electricity and supply thereof and in case of Supplier being a Trading Licensee, it shall be responsible for supply of power from the Power Station, under and in accordance with the provisions of a medium-term Agreement for procurement of power (the “Agreement for Procurement of Power” or the “APP”) to be entered into between the Selected Bidder and the Utility in the form provided by the Utility as part of the Bidding Documents pursuant hereto.
- 1.13 The scope of work will broadly include financing, operation and maintenance of the Power Station and supply of power, and in case of the Supplier being a Trading Licensee, it shall be responsible for supply of power from the Power Station, in accordance with the terms in the APP.
- 1.14 Bidders may bid for the capacity specified in Clause 1.1.1, or a part thereof, not being less than 50% (fifty per cent) of such capacity or 100 (one hundred) MW, whichever is lower. The remaining capacity, if any, may be procured from other Bidders who are willing to match the lowest Bid.
- 1.15 The APP sets forth the detailed terms and conditions for grant of the contract to the Supplier, including the scope of the Supplier’s services and obligations (the “**Contract**”).
- 1.16 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Supplier set forth in the APP or the Utility’s rights to amend, alter, change, supplement or clarify the scope of work, the Contract to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Utility.
- 1.17 The Utility shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Utility pursuant to this RFP, as modified, altered, amended and clarified from time to time by the Utility, and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bids (the “**Bid Due Date**”).

1.2 Brief description of Bidding Process

- 1.21 The Utility has adopted a two-stage bidding process (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project. The first stage (the "e-Tender Stage") of the process involves pre-qualification of interested parties in accordance with the provisions of the Section A and opening of the Bid of the pre-qualified and short-listed Bidders in accordance with this Section B. At the end of this e-Tender Stage, system will send an email to all qualified Bidders which are eligible to

participate in the second stage of the bidding process i.e. the e-Reverse Auction Stage. The Bid shall be valid for a period of not less than 120 days (one hundred twenty days) from the Bid Due Date.

- 1.22 The Bidding Documents include the draft APP for the Project which is enclosed. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP, will be deemed to form part of the Bidding Documents.
- 1.23 A Bidder is required to deposit, along with its Bid, a bid security of **Rs. 5 lakh (Rupees five lakh) per MW** of capacity offered by the Bidder (the "**Bid Security**"), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the APP. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Utility or may be deposited online through NEFT/RTGS payment at the DEEP Portal. The demand draft shall be kept valid for a period not less than 180 (one hundred and eighty) days from the Bid Due Date, by submitting another demand draft before expiry of the existing demand draft and may be further extended as may be mutually agreed between the Utility and the Bidder from time to time. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security
- 1.24 During the e-Tender Stage, Bidders are invited to examine the Bidding Documents in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Contract including implementation of the Project.
- 1.25 Bids are invited for the Project on the basis of a tariff to be offered by a Bidder for and in respect of the Project. For the purposes of evaluation hereunder, the Base Fixed Charge and Base Variable Charge shall constitute the tariff for the Power Station (the "Tariff"). [The cost of Fuel, transportation/transit thereof, transmission charges and the transmission losses / supply from Hydro-electric Power Station or for Lump sum Tariff, generating cost of electricity, the transmission charges and the transmission losses, shall form part of the Base Variable Charge.] The contract period shall be pre- determined and specified in the Bidding Documents.

In this RFP, the term "Lowest Bidder" shall mean the Bidder who is offering the lowest Tariff.

- 1.26 In e-Reverse Auction Stage, the lowest Bid received in the e-Tender Stage shall be displayed to the Bidders on the DEEP Portal and thereafter any subsequent lowest bid in e-Reverse Auction Stage on a real time basis. During the e-Reverse Auction Stage, the Bidders will have the option of reducing the Tariff quoted by them at e-Tender Stage in their Bids in decrements of 1 (one) paise or multiples thereof and to increase the quantum quoted by them at e-Tender Stage by 1 MW or multiples thereof. At the end of the e-Reverse Auction, lowest bidder will be identified by the system, the system will check all bids received in e-Tender and e-Reverse Auction and identify the Bidder who has quoted the lowest Tariff therein ("**Lowest Bidder**").
- 1.27 Generally, the Lowest Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of this RFP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason or in case the capacity required as per Clause 1.1.1 is not fully met by the Lowest Bidder. All other bidders will be asked to match the Lowest Bid in the system ("**L-1 Matching**"). In L-1 Matching round, the Bidders will be displayed the bid of the Lowest Bidder ("**Lowest Bid**") and available quantity, they will be required to input the quantity in MW that they wish to supply at the Lowest Bid. At the end of L-1 Matching round, system will allocate power to bidders in the order as they were at the end of e-Reverse Auction (like L-1, L-2 , L-3 cumulative in e-Tender and e-Reverse Auction Stage) for the quantity bid by Lowest Bidder in e-Reverse Auction and other bidders in L-1 Matching. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Utility may, in its discretion, either invite fresh Bids from the remaining Bidders or annul the Bidding Process. Further, it is clarified that any single Bidder cannot quote part capacity from different power stations.
- 1.28 The Supplier shall, in consideration of its investment and services, be entitled to receive a Tariff comprising of Fixed Charge and a Variable Charge.
- 1.29 Details of the process to be followed at the e-Tender Stage and the e-Reverse Auction Stage and the terms thereof are spelt out in this RFP.
- 1.210 Any queries or request for additional information concerning this RFP shall be submitted in writing [online at the DEEP Portal or by speed post/courier/special messenger or by e-mail attaching the queries in Microsoft word file so as to reach the officer designated in Clause 2.10.4] by the specified date. The envelopes/ communication shall clearly bear the following identification/ title:

"Queries/Request for Additional Information: RFP for Procurement of Power on Medium Term Basis "

1.3 Schedule of Bidding Process

The Utility shall endeavour to adhere to the following schedule:

	Event Description	Date and Time
1	Date and time of Start of e-Tender Stage	22-Jan-18
2	Last date and time for receiving queries on RFQ and RFP	05-Feb-18
3	Pre-Bid Meeting	12-Feb-18
4	Utility response to queries latest by	19-Feb-18
5	Last date and time of submission of e-Tender (including Section A and Section B) – Bid Due Date	06-Mar-18
6	Opening of Application	06-Mar-18
7	Intimation to short-listed and pre-qualified Bidders for opening of their Bids	14-Mar-18
8	Opening of Bids of those Bidders who are short-listed and pre-qualified in the RFQ Process.	23-Mar-18
9	Start of e-Reverse Auction	23-Mar-18
10	Close of e-Reverse Auction	23-Mar-18
11	L-1 Matching	23-Mar-18
12	Letter of Award (LOA)	30-Mar-18
13	Validity of Bids	06-Jul-18
14	Signing of APP	06-Apr-18

1.4 Pre-Bid Meeting

The date, time and venue of the Pre-Bid Meeting shall be:

Date: 12.02.2018

Time: 11:00 Hrs.

**Venue: Noida Power Company Limited,
Knowledge Park – IV, Greater Noida (Near Wipro)**

2. INSTRUCTIONS TO BIDDERS

A. General

2.1 General Terms of Bidding

- 2.1.1 No Bidder shall submit more than one Bid for the Project.
- 2.1.2 Unless the context otherwise requires, the terms not defined in this Section B, but defined in Section A of this Bidding Document shall have the meaning assigned thereto in Section A.
- 2.1.3 The Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Any variations or deviations found subsequently shall not confer any right on the Bidders, and the Utility shall have no liability whatsoever in relation to or arising out of any variations or deviations detected subsequently.
- 2.1.4 Notwithstanding anything to the contrary contained in this Section B, the detailed terms specified in the draft APP shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the APP.
- 2.1.5 The Bid should be furnished in the format at Appendix–I, clearly indicating the Bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.1.6 The Bid shall consist of a Tariff to be quoted by the Bidder, as per the terms and conditions of this Section B and the provisions of the APP.
- 2.1.7 The Bidder shall deposit a Bid Security as specified in Clause 1.2.4 of this Section B. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee acceptable to the Utility, as per format at Appendix–II or through NEFT/RTGS payment online at DEEP Portal.
- 2.1.8 The validity period of the Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (sixty) days from the Bid Due Date except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the APP.
- 2.1.9 The Bidder should submit a Power of Attorney as per the format at Appendix– III, authorising the signatory of the Bid to commit the Bidder.

- 2.1.10 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.11 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.12 The documents including this Section B and all attached documents, provided by the Utility are and shall remain or become the property of the Utility and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.12 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Utility will not return to the Bidders any Bid, document or any information provided along therewith.

For purposes of this Section B, Associate means, in relation to the Bidder, a person who controls, is controlled by, or is under the common control with such Bidder (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- 2.1.13 This Bidding Document is not transferable.
- 2.1.14 Any award of Contract pursuant to this Section B shall be subject to the terms of Bidding Document.
- 2.1.15 Other Bid conditions shall include:
- (1) The prospective Bidders should have achieved CoD before the last date of submission of bids.
 - (2) A copy of certificate of CoD of the plant to be provided by prospective Bidders to ascertain that the offered power would be supplied w.e.f. 01.12.2018 without fail.
 - (3) In case the bidder being an electricity trading licensee then the trader(s) should be a category I or Category II Trader having a valid license as on due date of bidding. The Trader(s) should submit a valid license from CERC/SERC for Interstate/Intra state trading of electricity. The trader shall also attach a photocopy of the same along with the bid.

2.2 Change in Ownership

By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed

that in the event of a change in control of an Associate or the Developer (in case of the Bidder being a Trading Licensee), whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of pre- qualification under and in accordance with Section A, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Utility forthwith along with all relevant particulars about the same and the Utility may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the APP but prior to the Appointed Date of the Project, it would, notwithstanding anything to the contrary contained in the APP, be deemed to be a breach of the APP, and the same shall be liable to be terminated without the Utility being liable in any manner whatsoever to the Supplier. In such an event, notwithstanding anything to the contrary contained in the APP, the Utility shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or the APP or otherwise.

2.3 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Utility will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.4 Verification of information

- 2.4.1 Bidders are encouraged to submit their respective Bids after familiarising themselves with the information and physical conditions relevant to the Project, including the transmission capacity, applicable laws and regulations, and any other matter considered relevant by them.
- 2.4.2 It shall be deemed that by submitting a Bid, the Bidder has:
- (a) made a complete and careful examination of the Bidding Documents;
 - (b) received all relevant information requested from the Utility;
 - (c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Utility relating to any of the matters referred to in Clause 2.4.1 above;
 - (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.4.1 hereinabove necessary and required for
 - (e) submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
 - (f) acknowledged and agreed that inadequacy, lack of completeness or incorrectness

of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.4.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Utility, or a ground for termination of the APP by the Supplier; and

(g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.4.3 The Utility shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Bidding Document or the Bidding Process, including any error or mistake therein or in any information or data given by the Utility.

2.5 Verification and Disqualification

2.5.1 The Utility reserves the right to verify all statements, information and documents submitted by the Bidder in response to the document, the RFQ or RFP and the Bidder shall, when so required by the Utility, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Utility shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Utility thereunder.

2.5.2 The Utility reserves the right to reject any Bid and appropriate the Bid Security if

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Utility, the supplemental information sought by the Utility for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then the Utility reserves the right to:

- (i) invite the remaining Bidders to submit their Bids in accordance with Clauses 4.4;
or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Utility, including annulment of the Bidding Process.

2.5.3 In case it is found during the evaluation or at any time before signing of the APP or after its execution and during the period of subsistence thereof, including the Contract thereby granted by the Utility, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Supplier either by issue of the LOA or entering into of the APP, and if the Selected Bidder has already been issued the LOA or has entered into the APP, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Section B, be liable to be

terminated, by a communication in writing by the Utility to the Selected Bidder or the Supplier, as the case may be, without the Utility being liable in any manner whatsoever to the Selected Bidder or Supplier. In such an event, the Utility shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or the APP, or otherwise.

B. DOCUMENTS

2.6 Contents of the RFP

2.6.1 This RFP comprises the Glossary, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.8.

Invitation for Bids

Section 1.	Introduction
Section 2.	Instructions to Bidders
Section 3.	Evaluation of Bids
Section 4.	Fraud and Corrupt Practices
Section 5.	Pre-Bid Meeting
Section 6.	Miscellaneous

Appendices

- I. Letter comprising the Bid
- II. Bank Guarantee for Bid Security
- III. Power of Attorney for signing of Bid

2.6.2 The draft APP provided by the Utility as part of the Bidding Documents shall be deemed to be part of this Document.

2.7 Clarifications

2.7.1 Bidders requiring any clarification on the RFP may notify the Utility in writing online at the DEEP Portal or by speed post/courier/ special messenger and e-mail attaching the queries in Microsoft word file in accordance with Clause 1.2.10. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3 of the RFP. The Utility shall endeavour to respond to the queries within the period specified therein, but no later than 7 (seven) days prior to the Bid Due Date. The responses will be sent by e-mail. The Utility will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2.7.2 The Utility shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Utility reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Utility to respond to any question or to provide any clarification.

2.7.3 The Utility may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Utility shall be deemed to be part of the Bidding Document. Verbal clarifications and information given by Utility or its employees or representatives shall not in any way or manner be binding on the Utility

2.8 Amendment of RFP

2.8.1 At any time prior to the Bid Due Date, the Utility may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

2.8.2 Any Addendum issued hereunder will be in writing and shall be available at the DEEP Portal. The Bidders are advised to check the DEEP Portal for any amendments or notifications.

2.8.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Utility may, in its sole discretion, extend the Bid Due Date^s.

C. PREPARATION AND SUBMISSION OF BIDS

2.9 Format and Signing of Bid

2.9.1 The Bidder shall provide all the information sought under this RFP. The Utility will evaluate only those Bids that are received in the required formats on the DEEP Portal and complete in all respects.

2.9.2 The Bid shall be uploaded and submitted only on the DEEP Portal, signed by a valid digital signature of the authorized signatory of the Bidder. No hard copies of the same shall be separately submitted, unless as otherwise provided herein. All documents shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid.

2.10 Sealing and Marking of Bids

2.10.1 The Bidder shall submit the Bid in the format specified herein at the DEEP Portal only.

2.10.2 The documents accompanying the Bid shall be submitted in original to the designated contact mentioned at Clause 1.2.11. The documents shall include:

^s While extending the Bid Due Date on account of an addendum, the Utility shall have due regard for the time required by Bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Bid Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

- (a) Bid Security in the format at Appendix–II;
- (b) Power of Attorney for signing of Bid in the format at Appendix–III; and
- (c) A copy of draft APP with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (b) hereinabove.

2.10.3 A true copy of the documents accompanying the Bid, as specified in Clause 2.10.2 (a), (b) and (c) above, shall be uploaded together and a copy of draft APP as specified in Clause 2.10.2 (c) shall be uploaded separately. The pages in copy shall be numbered serially and every page shall be initialed in blue ink by the authorised signatory of the Bidder.

2.10.4 The Bidders shall send the hard copy of all the original documents stated at Clause 2.10.2 in an envelope clearly indicating the name and address of the Bidder, addressed to:

ATTN. OF:	Mr. Rajiv Goyal
DESIGNATION	General Manager
ADDRESS:	Noida Power Company Limited, Commercial Complex, H-Block, Alpha-II Sector, Greater Noida – 201 310
FAX NO:	0120-2333518
E-MAIL ADDRESS	powertrading@noidapower.com

Such hard copies should reach the aforementioned address within 5 days after the opening of the Application in accordance with Clause 1.3 of this RFP. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.10.4, the hard copies submitted shall prevail.

2.10.5 If the Bids are not uploaded and signed as instructed above, the Utility assumes no responsibility for rejection of the Bid submitted and consequent losses, if any, suffered by the Bidder.

2.10.6 Bids submitted by fax or e-mail shall not be entertained and shall be rejected.

2.10.7 In the e-Tender stage, all Bidders after uploading on the DEEP Portal the Application and the Bid as per the RFP and digitally signing the same must click on ‘Final submit’ button to finally submit their Application and Bid, without clicking the ‘Final submit’ button the system will not consider the Application or the Bid.

2.11 Bid Due Date

2.11.1 Bids should be submitted online latest by the Bid Due Date and time specified on the DEEP Portal in the manner and form as detailed in this Section B. A system generated email shall be sent to the Bidder as a receipt thereof.

2.11.2 The Utility may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.8 uniformly for all Bidders.

2.12 Late Bids

Applications will not be accepted for submission at the DEEP Portal after the time specified on the Bid Due Date.

2.13 Contents of the Bid

2.13.1 The Bid shall be furnished in the format at Appendix–I and shall consist of a Tariff to be quoted by the Bidder. The Bidder shall specify (in Indian Rupee) the Tariff to undertake the Project in accordance with this RFP and the provisions of the APP.

2.13.2 Generally, the Project will be awarded to the Lowest Bidder after the completion of process under Clause 1.2.6 and Clause 1.2.7 above.

2.13.3 The opening of Bids and acceptance thereof shall be substantially in accordance with this Section B.

2.13.4 The draft APP shall be deemed to be part of the Bid.

2.14 Modifications/ Substitution/ Withdrawal of Bids

2.14.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that such modification, substitution or withdrawal is made prior to the Bid Due Date. The DEEP Portal shall provide the option to Bidders, after submission of the Bid as per this Bidding Document, to withdraw and delete Bids. Clicking on withdraw Bid, will withdraw the Bidder's Bid and no further submission will be allowed whatsoever. While clicking on Delete Bid, will delete all the encrypted data saved on the DEEP Portal and the Bidder may submit fresh Bids prior to the Bid Due Date.

2.14.2 However notwithstanding this Clause, all bids submitted in e-Reverse Auction Stage and L1 Matching will be considered final and cannot be modified after the bid has been accepted by the system. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

2.14.3 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Utility, shall be disregarded.

2.15 Rejection of Bids

2.15.1 Notwithstanding anything contained in this Section B, the Utility reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.15.2 The Utility reserves the right not to proceed with the Bidding Process at any time,

without notice or liability, and to reject any Bid without assigning any reasons.

2.16 Validity of Bids

The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Utility.

2.17 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Utility in relation to, or matters arising out of, or concerning the Bidding Process. The Utility will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Utility may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Utility or as may be required by law or in connection with any legal process.

2.18 Correspondence with the Bidder

Save and except as provided in this Section B, the Utility shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

B. BID SECURITY

2.19 Bid Security

2.19.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of a bank guarantee or e-bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one thousand crore), in favour of the Utility in the format at Appendix-II (the "Bank Guarantee") and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

2.19.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Utility and payable at Delhi NCR (the "Demand Draft") or may be payable online to Utility through NEFT/RTGS payment. The Utility shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

- 2.19.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Utility as non-responsive.
- 2.19.4 Save and except as provided in Clauses 1.2.3 and 1.2.4 above, the Bid Security of unsuccessful Bidders will be returned by the Utility, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Utility, and in any case within 60 (sixty) days from the Bid Due Date. Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Utility give the name and address of the person in whose favour the said demand draft shall be drawn by the Utility for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.
- 2.19.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the Supplier signing the APP and furnishing the Performance Security in accordance with the provisions thereof. The Utility may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the APP.
- 2.19.6 The Utility shall be entitled to forfeit and appropriate the Bid Security as Damages *inter alia* in any of the events specified in Clause 2.19.7 herein below. The Bidder, by submitting its Bid pursuant to this Section B, shall be deemed to have acknowledged and confirmed that the Utility will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this Section B. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.19.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or under the APP, or otherwise, if,:
- a. a Bidder submits a non-responsive Bid;
 - b. a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this Section B;
 - c. a Bidder withdraws its Bid during the period of Bid validity as specified in this SECTION B and as extended by mutual consent of the respective Bidder(s) and the Utility;
 - d. the Selected Bidder fails within the specified time limit-
 - i. to sign and return the duplicate copy of LOA;
 - ii. to sign the APP; or
 - iii. to furnish the Performance Security within the period prescribed therefor in the APP; or

- e. the Selected Bidder, having signed the APP, commits any breach thereof prior to furnishing the Performance Security.

3. EVALUATION OF BIDS

3.1 Opening and Evaluation of Bids

- 3.1.1 The Utility shall open the Bids at **11:00 hours IST** on the Bid Due Date, at the place specified in Clause 1.2.10 and in the presence of the Bidders who choose to attend.
- 3.1.2 The Utility will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Clause 3.
- 3.1.3 To facilitate evaluation of Bids, the Utility may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness

- 3.2.1 Prior to evaluation of Bids, the Utility shall determine whether each Bid is responsive to the requirements of this Section B. A Bid shall be considered responsive only if:
 - a. it is received as per the format at Appendix-I;
 - b. it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.11.2;
 - c. it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.9 and 2.10;
 - d. it is accompanied by the Bid Security as specified in Clause 2.1.7;
 - e. it is accompanied by the Power(s) of Attorney as specified in Clause 2.1.9;
 - f. it contains all the information (complete in all respects) as requested in this Section B and/or Bidding Documents (in formats same as those specified);
 - g. it does not contain any condition or qualification; and
 - h. it is not non-responsive in terms hereof.
- 3.2.2 The Utility reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Utility in respect of such Bid. Provided, however, that the Utility may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

4. E-Reverse Auction

41. After the opening of the Bids of the Bidders who have qualified in the evaluation of their Applications, the system will rank the Bidders according to their Tariffs quoted in their Bids. The Bidder with the highest Tariff in the Bid will be called the “H1 Bidder”. The system will then analyze all the capacity of power (in MW) offered by the Bidders in the e-Tender Stage. If the total quoted capacity is greater than twice the Capacity Required by the Utility, the H1 Bidder will be eliminated provided that the total quoted capacity after elimination is not less than or equal to twice the Capacity Required.
42. The shortlisted Bidders after elimination in e-Tender stage will be intimated individually by system generated emails only. The e-Reverse Auction shall start within 120 minutes of opening of the RFP bids and shall continue for a period of next 120 minutes with auto extension of 10 minutes, as applicable.

Provided that during the last 10 (ten) minutes before the scheduled close time of e-Reverse auction, if a price bid is received which is lower than the lowest prevailing price bid recorded in the system during e-Reverse auction, the close time of e-Reverse auction will be automatically extended by 10 (ten) minutes from the time of the last price bid received. This process of auto extension will continue till there is a period of 10 (ten) minutes during which no price bid is received which is lower than the prevailing lowest price bid.

43. During the e-Reverse Auction Stage, the Bidders will have the option of reducing the Tariff quoted by them at e-Tender Stage in their Bids in decrements of 1 (one) paise or multiples thereof and to increase the quantum of capacity quoted by them at e-Tender Stage by 1 MW or multiples thereof.
44. After the completion of e-Reverse Auction, the prevailing lowest Tariff would be visible to all the Bidders (“**Lowest Tariff**”) and a time period of 30 minutes shall be given to all the Bidders qualified at e-Tender Stage for matching the Lowest Tariff (“**L-1 Matching**”). The Bidders matching the Lowest Tariff will also be required to give the break-up of the Tariff. The list after completion of L-1 Matching would also include the name, quantum offered and Tariff quoted by those qualified Bidder(s) who have not changed the quantum of power and Tariff from e-Tender stage to e-Reverse Auction stage.

5. Selection of Bidder

- 5.1. Subject to the provisions of Clause 2.15.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the Lowest Tariff offered to the Utility after e-Reverse Auction, in conformity with the provisions of Clause 5.8 shall be declared as the selected Bidder(s) (the “**Selected Bidder(s)**”). In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 5.2. In the event that two or more Bidders quote the same amount of Tariff for (a) the full Capacity Required; (b) one full Capacity Required and other part of the Capacity Required; (c) Capacity totalling more than the Capacity Required and (d) Capacity totalling to the Capacity Required (the "Tie Bidders"), the Utility shall identify the Selected Bidder under (a) by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend; under (b) by declaring the Bidder who has offered full Capacity Required as the Selected Bidder; under (c) by declaring the Bidder with maximum Capacity as first Selected Bidder and other Bidder as second Selected Bidder with remaining Capacity and under (d) by declaring both the Bidders as the Selected Bidder with respective Capacity.
- 5.3. In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance or the capacity required is not met by the Lowest Bidder (the “first round of bidding”), the Utility may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the “second round of bidding”). If in the second round of bidding (i.e. L-1 Matching), only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof.
- 5.4. In the event that no Bidder offers to match the Lowest Bidder in the second round of bidding as specified in Clause 5.3, the Utility may, in its discretion, invite fresh Bids (the “third round of bidding”) from all Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are lower than the Bid of the second lowest Bidder in the first round of bidding.
- 5.5. After selection, a Letter of Award (the “LOA”) shall be issued, in duplicate, by the Utility to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of

the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Utility may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

- 5.6. After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Supplier to execute the APP within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the APP.

5.7. Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Utility makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Utility and/ or their employees/ representatives on matters related to the Bids under consideration.

5.8. Bid Parameter

- 5.8.1. The Bid shall comprise the Tariff offered by the Bidder for production and supply of electricity to the Utility in accordance with the provisions of the APP. The Tariff comprising the Bid shall be offered in accordance with the provisions of Clause 5.8.2.

5.8.2 (a) *Lumpsum Tariff*

The Bidder shall quote a Base Variable Charge comprising the generating cost of electricity, the transmission charges and the transmission losses. Based on its Bid, a lumpsum tariff shall be paid to the Supplier comprising of (a) a Variable Charge, and (b) a Fixed Charge as per the provisions of Clause 12.3.1 of the APP. The Tariff shall be revised as per the terms of the APP. The Bid for the Project shall, therefore, comprise the Base Fixed Charge and the Base Variable Charge and the Bidder seeking the lowest Tariff shall be the Selected Bidder.

Explanation: In case the Bidder is a Trading Licensee, the provisions of Sub-clauses (a) related to the source/supply of Fuel shall mean the source/supply of Fuel, as applicable to the Developer.

6. FRAUD AND CORRUPT PRACTICES

- 6.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the APP. Notwithstanding anything to the contrary contained herein, or in the LOA or the APP, the Utility may reject a Bid, withdraw the LOA, or terminate the APP, as the case may be, without being liable in any manner whatsoever to the Bidder or Supplier, as the case may be, if it determines that the Bidder or Supplier, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Utility shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or the APP, or otherwise.
- 6.2 Without prejudice to the rights of the Utility under Clause 6.1 hereinabove and the rights and remedies which the Utility may have under the LOA or the APP, or otherwise if a Bidder or Supplier, as the case may be, is found by the Utility to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the APP, such Bidder or Supplier shall not be eligible to participate in any tender or RFP issued by the Utility during a period of 2 (two) years from the date such Bidder or Supplier, as the case may be, is found by the Utility to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 6.3 For the purposes of this Clause 6, the following terms shall have the meaning hereinafter respectively assigned to them:
- a “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Utility who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the APP or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Utility, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the APP, as the case may be, any person in respect of any matter relating to the Project or the LOA or the APP, who at any time has been or is a legal, financial or technical adviser of the Utility in relation to any matter concerning the Project;

- b. “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- c. “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- d. “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Utility with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- e. “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

7. PRE-BID MEETING

- 7.1 Pre-Bid meeting of the Bidders shall be convened at the designated date, time and place. Only those persons who have registered at the e-Bidding Portal for participating in the Bidding Process shall be allowed to participate in the Pre-Bid meetings. A maximum of five representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 7.2 During the course of Pre-Bid meeting(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Utility. The Utility shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- 7.3 In case the Utility desires to have the pre-bid meeting online at e-Bidding Portal, the Pre-bid meeting will take place as per the schedule specified in this Bidding Document. A report of the Pre-Bid meeting shall be prepared online and be made available to all the participating Bidders.

8. MISCELLANEOUS

- 8.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Utility has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 8.2 The Utility, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) retain any information and/ or evidence submitted to the Utility by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 8.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Utility, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 8.4 The Section B and Section A are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Section B, in the event of any conflict between them the priority shall be in the following order:
- (a) the Section B;
 - (b) the Section A.
- i.e. the Section B at (a) above shall prevail over the Section A at (b) above.

APPENDIX – I

Letter comprising the Bid

(Refer Clauses 2.1.5 and 2.13 in section B, signed copy to be submitted to Utility and uploaded with Bid)

Dated:

**The General Manager (Projects & Power Trading),
Noida Power Company Limited,
Commercial Complex, H-Block, Alpha-II Sector,
Greater Noida – 201 308 (Uttar Pradesh)**

Sub: Bid forProject

Dear Sir,

1. With reference to your Bidding Document dated, comprising of the RFQ & RFP, I/we, having examined the Bidding Document and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Utility will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Supplier for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Supplier for the development, construction, operation and maintenance of the aforesaid Project and for sale of power to the Utility.
4. I/ We shall make available to the Utility any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Utility to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we or our Associates and the Developer (to be inserted in case of a Trading Licensee being the Bidder) have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - 7.1 I/ We have examined and have no reservations to the Bidding Document, including any Addendum issued by the Utility; and

- 7.2 I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 6.3 of Section B of the Bidding Document, in respect of any tender or Section B issued by or any agreement entered into with the Utility or any other public sector enterprise or any government, Central or State; and
- 7.3 I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of Section B of the Bidding Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
- 7.4 the undertakings given by us along with the Application in response to the Section A for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.15 of Section B of the Bidding Document.
9. I/ We believe that we satisfy the Net Worth criteria and meet the requirements as specified in Section A of the Bidding Document.
10. I/ We declare that we or our Associates are not a Member of a/ any other Bidder submitting a Bid for the Project.
11. I/We declare that the Developer is not a Bidder or Member of any other Bidder applying for pre-qualification where I/We as Trading Licensee am/are applying for pre-qualification.⁵
12. I/ We certify that in regard to matters other than security and integrity of the country, we or any of our Associates and the Developer (to be inserted in case of a Trading Licensee being the Bidder) have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
13. I/ We further certify that in regard to matters relating to security and integrity of the country, we or any of our Associates and the Developer (to be inserted in case of a Trading Licensee being the Bidder) have not been charge-sheeted by any agency of the Government or convicted by a Court.
14. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates and the Developer (to be inserted in case of a

⁵ Applicable only if the Applicant is a Trading Licensee.

Trading Licensee being the Bidder) or against our CEO or any of our directors/ managers/ employees⁵.

15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Utility of the same immediately.
16. I/ We acknowledge and agree that in the event of a change in control of an Associate and the Developer (to be inserted in case of a Trading Licensee being the Bidder) whose Technical Capacity and/ or in the event of a change in control of an Associate whose Financial Capacity was taken into consideration for the purposes of pre-qualification under and in accordance with Section A, I/We shall inform the Utility forthwith along with all relevant particulars and the Utility may, in its sole discretion, disqualify or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the APP but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the APP shall be liable to be terminated without the Utility being liable to us in any manner whatsoever.
17. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Utility in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
18. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a APP in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
19. I/ We have studied all the Bidding Documents carefully and also surveyed the Site. We understand that except to the extent as expressly set forth in the APP, we shall have no claim, right or title arising out of any documents or information provided to us by the Utility or in respect of any matter arising out of or relating to the Bidding Process including the award of Contract.
20. I/ We offer a Bid Security of Rs..... (Rupeesonly) to the Utility in accordance with Section B of the Bidding Document.
21. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.⁴²

⁵ In case the Applicant is unable to provide the certification specified in para 13, it may precede the paragraph by the words, viz. "Except as specified in Schedule **** hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Utility will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are of a nature that could cast a doubt on the ability or suitability of the Applicant to undertake the Project.

22. The documents accompanying the Bid, as specified in Clause 2.10.2 of Section B of the Bidding Document, have been submitted online at the e-Bidding Portal.
23. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Document. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to me/us or our Bid is not opened or rejected.
24. The Tariff has been quoted by me/us after taking into consideration all the terms and conditions stated in the bidding document, draft APP, our own estimates of costs and revenues, and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.
25. I/ We agree and undertake to abide by all the terms and conditions of the Bidding Document.
26. I/ We undertake to feed electric supply into the grid at a point that is economical and efficient, as determined by the RLDC or SLDC, as the case may be.
27. I/ We undertake to bear the transmission charges and transmission losses upto the point of delivery of electricity to the Utility from out of the Tariff offered below and in accordance with the terms to be set forth in the APP.
28. I/We offer a Capacity of {...MW} from {Capacity, Name and address of the Project} which conforms to Clause 1.1.4 of Section A of the Bidding Document out of the Capacity Required of {... MW} given under Clause 1.1.1 of Section A of the Bidding Document.
29. I/ We shall keep this offer valid for 60 (sixty) days from the Bid Due Date specified in the Bidding document.
- 30. I/ We hereby submit the following Bid and offer, as on the Bid Due Date, in accordance with the provisions of the APP and Clause 5.8 of this RFP:**

(c) A Tariff of Rs.....and paise.....\$ (Rupees.....and paise.....) per kWh comprising a Base Variable Charge of Rs.....and paise.....\$ (Rupeesand paise) per kWh including (i) Rs.....and paise...\$ (Rupees.....and paise.....) per kWh as the cost of generation (ii) Rs.....and paise...\$ (Rupees.....and paise.....) per kWh as the cost of transmission charge and (iii) Rs.....and paise...\$ (Rupees.....and paise.....) per kWh as the cost of transmission loss

In witness thereof, I/we submit this Bid under and in accordance with the terms of this document.

Yours faithfully,

Place:

Date: (Signature, name and designation of the Authorised signatory)
Name and seal of Bidder

APPENDIX – II
Bank Guarantee for Bid Security
(Refer Clauses 2.1.7 and 2.19.1)

B.G. No. Dated:

1. In consideration of you,, having its office at, (hereinafter referred to as the “Utility”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of(a company registered under the Companies Act, 1956/2013) and having its registered office at ((hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the Project (hereinafter referred to as the “Project”) pursuant to the Bidding Document dated issued in respect of the Project and other related documents including without limitation the draft Agreement for Procurement of Power (the “APP”) (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of Section B of the Bidding Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Document (including the RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Utility an amount of Rs. (Rupees only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Utility stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Utility is disputed by the Bidder or not, merely on the first demand from the Utility stating that the amount claimed is due to the Utility by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupeesonly).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Utility and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Utility shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Utility that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Utility and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Utility shall be entitled to treat the Bank as the principal debtor. The Utility shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Utility, and the Bank shall not be released from its liability under these presents by any exercise by the Utility of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Utility or any indulgence by the Utility to the said Bidder or by any change in the constitution of the Utility or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for the Utility to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Utility may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Utility in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. crore (Rupees crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Utility serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [..... (indicate date falling 180 days from the Bid Due Date)].

Signed and Delivered by Bank
By the hand of Mr./Ms, its .. and authorised official.

(Signature of the Authorised Signatory)
(Official Seal)

APPENDIX – III
Power of Attorney for signing of Bid
(Refer Clause 2.1.9)

Know all men by these presents, We, ... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./Ms (Name), son/daughter/wife of ... and presently residing at, who is presently employed with us and holding the position of, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the ***** Project proposed or being developed by the ***** (the “Utility”) including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Utility, representing us in all matters before the Utility, signing and execution of all contracts including the Agreement for Procurement of Power (APP) and undertakings consequent to acceptance of our Bid, and generally dealing with the Utility in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the APP with the Utility.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ..., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20...

For.....

(Signature, name, designation and address)

Appendix - III

Page 2

Affixation of Common Seal

Witnesses:

1.

2.

Accepted

Notarised

(Signature, name, designation and address of the Attorney)

Notes:

1. *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
2. *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
3. *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

APPENDIX - IV

LIST OF BID-SPECIFIC CLAUSES^{\$}

A. Clauses with currency-based footnotes

1. Introduction.
2. Clause 2.8.3: Amendment of RFP
3. Appendix I: Letter comprising the Bid: Paragraph 11, 14 and 30.
4. Appendix IV: List of Bid-Specific Clauses
5. Appendix V: List of Project – Specific Provisions

Note: The above footnotes marked “\$” shall not be deleted. They shall remain in the RFP to be issued to the prospective Bidders.

B. Appendices with non-numeric footnotes

All non-numeric footnotes shall be retained in the RFP for guidance of the Bidders. These shall be omitted by the Bidders while submitting their respective Bids.

C. Appendices with blank spaces

All blank spaces in Appendices shall be retained in the RFP. These shall be filled up when the format of the respective Appendix is used.

⁵ This Appendix-IV contains a list of clauses and appendices that would need to be suitably modified for reflecting applicant-specific provisions. This Appendix-IV may, therefore, be included in the RFP document to be issued to prospective Applicants. The blank spaces in Appendices may be filled up by the Applicant and the footnotes may be deleted when it submits its proposal