

Tender Notification for

**“IMPLEMENTATION OF SAP DISASTER
RECOVERY (DR) SYSTEM IN BYPL”**

NIT NO: CMC/BY/19-20/RB/RD/057

Due Date for Submission of Tender: 26.12.2019

BSES YAMUNA POWER LIMITED,

**Shaktikiran Building, Karkardooma, New Delhi-110032
Corporate Identification Number: U40109DL2001PLC111525
Telephone Number: +91 11 41239419/41239171
Website: www.bsedelhi.com**



BSES Yamuna Power Limited

INDEX

SECTION – I: REQUEST FOR QUOTATION

SECTION – II: INSTRUCTIONS TO BIDDER

SECTION – III: TERMS AND CONDITIONS

SECTION – IV: SCOPE OF WORK

SECTION – V: PRICE FORMAT

ANNEXURE -A : BID FORM

**ANNEXURE-B : PROFORMA OF CONTRACT PERFORMANCE BANK
GUARANTEE**

ANNEXURE-C : FORMAT FOR EMD BANK GUARANTEE

ANNEXURE-D TERMS & CONDITIONS FOR REVERSE AUCTION

ANNEXURE -E : NON-DISCLOSURE AGREEMENT

ANNEXURE-F : COMMUNICATION DETAILS



BSES Yamuna Power Limited

SECTION I

REQUEST FOR QUOTATION

1.1 GENERAL

BSES Yamuna Power Limited invites sealed tenders in 2 envelopes for **Implementation of SAP Disaster Recovery System in BYPL**

The bidder must qualify the requirements as specified in clause 1.3 stated below. **The sealed envelopes shall be duly superscribed as-**

“Implementation of SAP Disaster Recovery System in BYPL”

“NIT NO CMC/BY/19-20/RB/RD/057 ”

1.1.1 BYPL invites sealed tenders from eligible Tenderers for the above-mentioned work (clause 1.01).

Estimated cost of work	: Rs 60 Lakhs
Earnest money Deposit	: Rs 1.20 Lac
Cost of Tender form (Non- Refundable)	: Rs.1180/-
Duration of the Work	: 8 Months
Pre-Bid meeting	: 13.12.2019 (14:30 HRS)
Date & time of Submission of Tender	: 26.12.2019 till 15:00 HRS
Date & time of opening of Tender (Opening of technical bid)	: 26.12.2019 till 16:30 HRS

The tender document can be obtained from address given below against submission of non-refundable demand draft of **Rs.1180/-** drawn in favour of BSES Yamuna Power Ltd, payable at Delhi:

**Head of Department
Contracts & Material Deptt.
BSES Yamuna Power Ltd
3rd Floor, A Block
Shaktikiran Building, Karkardooma
New Delhi - 110032**

The tender papers will be issued on all working days upto the date as mentioned above. The tender documents & detail terms and conditions can also be downloaded from the website www.bsesdelhi.com. In case tender papers are downloaded from the above website, then the bidder has to enclose a separate demand draft covering the cost of bid documents.

1.2 POINTS TO BE NOTED



BSES Yamuna Power Limited

- 1.2.1 Works envisaged under this contract are required to be executed in all respects up to the period of completion mentioned above.
- 1.2.2 Only those agencies, who fulfill the qualifying criteria as mentioned in clause 1.3, should submit the tender documents.
- 1.2.3 Tender document consists of the following:
- Request for quotation/ Notice Inviting Tender
 - Instructions to Tenderers
 - Commercial Terms & conditions
 - Bill of Quantities/ Price Format
- 1.2.4 The Contract shall be governed by the documents listed in para 1.2.3 above.
- 1.2.5 BSES Yamuna Power Ltd reserves the right to accept/reject any or all Tenders without assigning any reason thereof and alter the quantity of materials mentioned in the Tender documents at the time of placing purchase/ work orders. Tender will be summarily rejected if:
- If **Earnest Money Deposit (EMD)** of requisite amount is not deposited in shape of Bank Draft/Pay Order/BG drawn in favour of BSES Yamuna Power Ltd, payable at Delhi.
 - Tender is received after due date and time.

1.3 Qualifying Criteria:

The prospective bidder must qualify all of the following requirements to be eligible to participate in the bidding: *(All below mentioned criteria should met simultaneously)*. Bidders who meet following requirements will be considered as successful bidder and management has a right to disqualify those bidders who do not meet these requirements

Prequalification criteria for bidders		
Parameter	Requirement Description	Supporting documents
Financial stability of the bidder	1. The bidder should have minimum annual turnover of Rs. 100 Crores in each of the last three financial years (i.e. 2016-17, 2017-18, 2018-19).	Documentary evidence in form of certificate from CA in practice
	2. The firm should have a positive net worth in each of the last three financial years(i.e. 2016-17, 2017-18 and 2018-19)	Documentary evidence in form of certificate from CA in practice
Taxes and compliance	1. The bidder should be a public/private limited company registered under Companies Act, 1956 for a minimum period of seven years in India.	Documentary evidence of certificates
	2. The bidder should have a valid Registration/ GST Certificate, PAN Card and should be registered with the appropriate authorities for	Documentary evidence of certificates



BSES Yamuna Power Limited

	all applicable statutory taxes/duties in India	
Blacklisted	The company should not be currently blacklisted by any Govt. Department or PSU Enterprise in India or abroad	Self-declaration by bidder
Existence	Company should have been in existence in the last 5 years	Certificate of incorporation
Local Presence	The Bidder should be preferred having office in Delhi NCR	Shops & Establishment Certificate from Appropriate Authority
Full Cycle Implementation Experience as Primary Contractor	The Bidder must have full cycle experience of implementation of SAP DR including ECC, ISU and BW in at least two organizations in last three years (period ending Bid submission date)	Self-declaration by bidder along with Client name and project details
Availability of Manpower	<ol style="list-style-type: none">1. The allocated Project Manager should be on the roll of Bidder and should have experience of implementation of SAP DR including ECC, ISU and BW for at least 2 projects2. At least two of the functional resources deployed should have handled SAP DR implementation / migration project3. The bidder should have experience in providing 24x7x365 Technical support service for DR services and should have in-house L3 technical expertise	CV's of In-House resources planned for deployment on the project to be attached

The bidder shall submit all necessary documentary evidence to establish that the Bidder meets the above qualifying requirements.

Please Note:

- a) Firms who are debarred/ blacklisted in other utilities in India will not be considered.
- b) Bids received from Joint Ventures / consortium shall not be considered
- c) Company reserves the right to carry out capability assessment of the Bidders and company's decision shall be final in this regard.

Also, the Bidder shall furnish the following commercial & technical information along with the tender:

- a) Latest audited balance sheet
- b) Details of constitution of the company (Proprietary/ Limited. Along with details)
- c) Memorandum & Articles of Association of the Company
- d) Organization Chart of the company



BSES Yamuna Power Limited

- e) Experience details with credentials
- g) Turnover certificate issued by C.A for the last three Financial Years.

BYPL reserves the right to waive minor deviation if they do not materially affect the ability of the bidder to perform the order.

1.4 Bidding and Award Process:-

Bidders are requested to submit their offer strictly in line with this tender document. NO DEVIATION IS ACCEPTABLE. BYPL shall response to the clarifications raised by various bidders and the same will be distributed to all participating bidders through website.

1.4.1 BID SUBMISSION:

The bidders are required to submit the bid in 2 (two) parts and submit in original + one copy to the following address

Head of Department
Contracts & Material Deptt.
BSES Yamuna Power Ltd
3rd Floor, A Block
Shaktikiran Building, Karkardooma
New Delhi 110032

PART A: TECHNICAL BID comprising of following:

- EMD of requisite amount
- Non-refundable separate demand draft for Rs. 1180/- In case the forms are downloaded from the website
- Documentary evidence in support of qualifying criteria
- Technical Literature if any.
- Any other relevant document
- Acceptance to Commercial Terms and Conditions viz Delivery schedule/period, Payment terms, BG etc
- Acceptance to Technical Specifications

PART B: FINANCIAL BID comprising of

* Prices strictly in the Format (1 original only) enclosed in **SECTION V**



BSES Yamuna Power Limited

1.5 TIME SCHEDULE

The bidders should complete the following within the dates specified as under:

S. No.	Steps	Comprising of	Due date
1	Pre-Bid meeting	All Queries related to RFQ	13.12.2019 Time: 14:30 Hrs At BYPL Corporate office , Karkardooma
2	PART A Technical and Commercial Bid submission	EMD of requisite amount Non-refundable demand draft for Rs. 1180/- In case the forms are downloaded from the website Documentary evidence in support of qualifying criteria Any other relevant document Acceptance to Commercial Terms and Conditions , Payment terms, BG etc.	26.12.2019 Time: 15:00 Hrs
3	PART B Financial Bid	Price strictly in the Format enclosed (Section VI) indicating Break up regarding basic price, taxes & duties etc.	Successful bidders will be intimated through website

This is a two part bid process. Bidders are to submit the bids in 2(two) parts.

Both these parts should be furnished in separate sealed covers super scribing NIT no. DUE DATE OF SUBMISSION, with particulars as **PART-A TECHNICAL BID & COMMERCIAL TERMS & CONDITIONS** and **Part-B FINANCIAL BID** and these sealed envelopes should again be placed in another sealed envelope which should be super scribed with —“Tender Notice No. & Due date of opening“. The same shall be submitted before the due date & time specified.

Part – A: Technical Bid should not contain any cost information whatsoever and shall be submitted within the due date **as mentioned in clause 1.01**. After technical evaluation, the list of qualified tenderers will be posted immediately on BSES website.

Note: Soft copy of technical bid should also be submitted in pen drive

PART B: This envelope will be opened after technical evaluation and only of the qualified bidders.

Notwithstanding anything stated above, the Company reserves the right to assess bidders' capability to perform the contract, should the circumstances warrant such assessment in the overall interest of the Company. In this regard the decision of the Company is final.

Reverse Auction :



BSES Yamuna Power Limited

Reverse auction shall be conducted for finalization of contract and the details of the price bid shall not be shared with bidders.

The Techno- commercially qualified bidders will participate in reverse auction through SAP-SRM tool. The reverse auction process shall be governed by the terms and conditions enclosed as Annexure-D in this tender document. Training/details shall be provided to bidders before participation in auction.

In case RA is not conducted/ concluded for any reasons, a "final no regret" financial bid in a sealed envelope will be called for from all qualified bidders.

BIDS RECEIVED AFTER DUE DATE AND TIME SHALL BE LIABLE TO REJECTION

1.4.2 Award Decision

a) Company intends to award the business on a lowest bid basis, so contractors are encouraged to submit the bid competitively. The decision to place order/LOI solely depends on Company on the cost competitiveness across multiple lots, quality, delivery and bidder's capacity, in addition to other factors that Company may deem relevant.

b) The Company reserves all the rights to award the contract to one or more bidders so as to meet the delivery requirement or nullify the award decision without any reason.

c) In case any contractor is found unsatisfactory during the execution process, the award will be cancelled and BYPL reserves the right to award other contractors who are found fit.

d) The Company will award the Contract to the successful Bidder whose Bid has been Determined to be the lowest evaluated responsive Bid, provided further that the Bidder has been determined to be qualified to satisfactorily perform the Contract. Company reserves the right to award order to other bidders in the tender, provided it is required for progress of project & provided the bidders agree to come to the lowest rate.

Please note that abnormally higher or abnormally lower bids shall not be considered with respect to estimated cost. The criteria decided by BYPL on this shall be final and bound on the bidders.

"Nil/Zero" Margin or Administrative Service Charges of Bidders will be considered as "Unresponsive". Abnormally higher or abnormally lower bids shall not be considered with respect to estimated cost. The criteria decided by BYPL on this shall be final and binding on the bidders and will not be open for discussion under any circumstances. Therefore, the bidding firms are advised to quote their Margin / Administrative Service Charges accordingly.

1.4.3 Market Integrity

We have a fair and competitive marketplace. The rules for bidders are outlined in the Terms & Conditions. Bidders must agree to these rules prior to participating. In addition to other remedies available, we reserves the right to exclude a bidder from participating in future markets due to the bidder’s violation of any of the rules or obligations contained in the Terms & Condition. Bidders who violate the marketplace rules or engage in behavior that disrupts the fair execution of the marketplace restricts a bidder to length of time, depending upon the seriousness of the violation. Examples of violations include, but are not limited to:

- Failure to honor prices submitted to the market place.
- Breach of the terms of the published in Request for Quotation/NIT.

1.4.4 Confidentiality

All information contained in this RFQ is confidential and may not be disclosed, published or advertised in any manner without written authorization from BYPL. This includes all bidding information submitted.

All RFQ documents remain the property of BYPL and all bidders are required to return these documents to BYPL upon request.

Bidders who do not honor these confidentiality provisions will be excluded from participating in future bidding events.

1.4.5 Non Disclosure Agreement :

Successful bidders will sign an NDA (Non Disclosure Agreement) as per the format in Annexure – E..

1.5 Contact Information

Technical clarification, if any, as regards this RFQ shall be sought in writing and sent by post/courier to following address.

	Technical	Commercial
Contact Person	Head (IT), BYPL Copy to :Head (Contracts)	Head (Contracts)
Mail ID	anish.kalucha@relianceada.com	kulbir.ahluwalia@relianceada.com
Address	BSES Yamuna Power Ltd, 3rd Floor, “C” Block, Shaktikiran Building Karkardooma New Delhi-110032	C&M Deptt., BSES Yamuna Power Ltd, 3rd Floor, “A” Block, Shaktikiran Building Karkardooma New Delhi-110032



BSES Yamuna Power Limited

SECTION – II:

INSTRUCTION TO BIDDERS

1.0 GENERAL

BSES Yamuna Power Ltd, hereinafter referred to as “The Company “are desirous of awarding work for **“Implementation of SAP Disaster Recovery System in BYPL”** The Company has now floated tender for this work in BYPL as notified earlier in this bid document

2.0 SCOPE OF WORK

The scope of work is **“Implementation of SAP Disaster Recovery in BYPL “**. For details refer **Section – IV**.

3.0 DISCLAIMER

- 3.01 This Document includes statements, which reflect various assumptions, which may or may not be accurate / realistic. Each Bidder/Bidding Consortium should conduct its own estimation and analysis and should check the accuracy, reliability and completeness of the information in this Document and obtain independent advice from appropriate sources in their own interest.
- 3.02 Neither Company nor its employees will have any liability whatsoever to any Bidder or any other person under the law or contract, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage whatsoever which may arise from or be incurred or suffered in connection with anything contained in this Document, any matter deemed to form part of this Document, provision of Services and any other information supplied by or on behalf of Company or its employees, or otherwise a rising in any way from the selection process for the work.
- 3.03 Though adequate care has been taken while issuing the Bid document, the Bidder should satisfy itself that Documents are complete in all respects. Intimation of any discrepancy shall be given to this office immediately.
- 3.04 This Document and the information contained herein are Strictly Confidential and are for the use of only the person(s) to whom it is issued. It may not be copied or distributed by the recipient to third parties (other than in confidence to the recipient’s professional advisors).



BSES Yamuna Power Limited

4 COST OF BIDDING

The Bidder shall bear all cost associated with the preparation and submission of its Bid and the company will in no case be responsible or liable for those costs.

5. BIDDING DOCUMENTS

5.01 The Scope of Work, Bidding Procedures and Contract Terms are described in the Bidding Documents. In addition to the covering letter accompanying Bidding Documents, the Bidding Documents include:

Request for Quotation (RFQ)	- Section I
Instructions to Bidders (ITB)	- Section II
Terms & Conditions	- Section III
Scope of work	- Section IV
Price Format	- Section V

5.02 The Bidder is expected to examine the Bidding Documents, including all Instructions, Forms, Terms and Specifications. Failure to furnish all information required by the Bidding Documents or submission of a Bid not substantially responsive to the Bidding Documents in every respect will may result in the rejection of the Bid.

6.0 AMENDMENT OF BIDDING DOCUMENTS

6.01 At any time prior to the deadline for submission of Bids, the Company may for any reasons, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the Bidding Documents by Amendment.

6.02 The Amendment shall be part of the Bidding Documents, pursuant to Clause 5.01, and it will be notified in writing by Fax/e-mail to all the Bidders who have received the Bidding Documents and confirmed their participation to Bid, and will be binding on them.

6.03 In order to afford prospective Bidders reasonable time in which to take the Amendment into account in preparing their Bids, the Company may, at its discretion, extend the deadline for the submission of Bids.

7.0 PREPARATION OF BIDS

7.0 LANGUAGE OF BID

The Bid prepared by the Bidder, and all correspondence and documents relating to the Bid exchanged by the Bidder and the Company, shall be written in the English Language. Any printed literature furnished by the Bidder may be written in another Language, provided that this literature is accompanied by an English translation, in which case, for purposes of interpretation of the Bid, the English translation shall govern.



BSES Yamuna Power Limited

8.0 DOCUMENTS COMPRISING THE BID

The Bid prepared and submitted by the Bidder shall comprise the following components:

- (a) Bid Form ,Price & other Schedules (STRICTLY AS PER FORMAT) and Technical Data Sheets completed in accordance with Technical Specification.
- (b) All the Bids must be accompanied with the required EMD as mentioned in the Section-I against each tender.

9.0 BID FORM

9.01 The Bidder shall submit" Original 'Bid Form and the appropriate Price Schedules and technical specifications enclosed with the Bidding Documents.

9.02 EMD

Pursuant to Clause 8.0(b) above, the bidder shall furnish, as part of its bid, a EMD of requisite amount as already specified in the Section-I. The EMD is required to protect the Company against the risk of Bidder's conduct which would warrant forfeiture. The EMD shall be denominated in any of the following form:

- (a) Demand Draft/Pay Order drawn in favour of BSES Yamuna Power Ltd, payable at Delhi.
- (b) BG from a scheduled /nationalized bank in favour of BSES Yamuna Power Limited

The EMD shall be valid for 3 months from the last date of receipt of tenders. If however the tender is not finalized within 3 months, the bidders shall be required to suitably extend the EMD.

The bidders who are not technically qualified, EMD shall be refunded after price bid opening.

Earnest money given by all the bidders who are techno commercially qualified except the lowest bidder shall be refunded within 8 (Eight) weeks after award of the work.

The amount of EMD by the lowest bidder shall be returned on submission of CPBG as per tender terms.

Notwithstanding Clause 9.02(b) above, the Company may solicit the Bidder's consent to an extension of the Period of EMD Validity

The EMD may be forfeited in case of:



BSES Yamuna Power Limited

- (a) If the Bidder withdraws its bid during the period of bid validity specified by the Bidder in the Bid Form or
- (b) In the case of a successful Bidder, if the Bidder does not
 - (i) Accept the Purchase Order, or
 - (ii) Furnish the required performance security BG.
- (C) Misrepresentation of facts influencing the bidding process.

10.0 BID PRICES

- 10.01 Bidders shall quote for the entire Scope of work with prices for individual items. The tenderer is required, at his expense, to obtain all the information he may require to enable him to submit his tender including necessary visits to the site to ascertain the local conditions, procurement of necessary materials, labour, etc., requirements of the local/government/public authorities in such matters. Prices quoted by the Bidder shall be "Firm" and not subject to any price adjustment during the performance of the Contract. **A Bid submitted with an adjustable price/PVC will be treated as non-responsive and rejected.**

11.0 BID CURRENCIES

Prices shall be quoted in Indian Rupees Only.

12.0 PERIOD OF VALIDITY OF BIDS

- 12.01 Bids shall remain valid & open for acceptance for a period of 120 days from the date of opening of the Bid.
- 12.02 Notwithstanding Clause 12.01 above, the Company may solicit the Bidder's consent to an extension of the Period of Bid Validity. The request and the responses thereto shall be made in writing and sent by Fax/post/courier

13.0 ALTERNATIVE BIDS

Bidders shall submit Bids, which comply with the Bidding Documents. Alternative Bids will not be considered. The attention of Bidders is drawn to the provisions regarding the rejection of Bids in the terms and conditions, which are not substantially responsive to the requirements of the Bidding Documents.

14.0 FORMAT AND SIGNING OF BID

- 14.01 The original Bid Form and accompanying documents(as specified in Clause 9.0),clearly marked "Original Bid", must be received by the Company at the date, time and place specified pursuant to Clauses15.0 and16.0.
- 14.02 The original copy of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder. Such authorization shall be indicated by written Power-of-Attorney accompanying the Bid.



BSES Yamuna Power Limited

14.03 The Bid shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

D. SUBMISSION OF BIDS

15.0 SEALING AND MARKING OF BIDS

15.01 Bid submission: One original (hard copies) of all the Bid Documents shall be sealed and submitted to the Company before the closing time for submission of the bid.

15.02 The Technical Documents and the EMD shall be enclosed in a sealed envelope and the said envelope shall be superscribed with — Technical Bid & Commercial Terms & Conditions “. The price bid shall be inside another sealed envelope with superscribed —“Financial Bid “. Both these envelopes shall be sealed inside another big envelope. All the envelopes should bear the Name and Address of the Bidder and marking for the Original. The envelopes should be superscribed with —“Tender Notice No. & Due date of opening“.

15.03 The Bidder has the option of sending the Bids in person. Bids submitted by Email/Telex/Telegram /Fax will be rejected. No request from any Bidder to the Company to collect the proposals from Courier/Airlines/Cargo Agents etc shall be entertained by the Company.

16.0 DEADLINE FOR SUBMISSION OF BIDS

16.01 The original Bid must be timely received by the Company at the address specified in Section-I

16.02 The Company may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Documents in accordance with Clause 9.0, in which case all rights and obligations of the Company and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended

17.0 ONE BID PER BIDDER

Each Bidder shall submit only one Bid by itself. No Joint Venture/Consortium is acceptable. A Bidder who submits or participates in more than one Bid will cause all those Bids to be rejected.

18.0 LATE BIDS

Any Bid received by the Company after the deadline for submission of Bids prescribed by the Company, pursuant to Clause 16.0, will be declared "Late" and rejected and returned unopened to the Bidder.



BSES Yamuna Power Limited

19.0 MODIFICATIONS AND WITHDRAWAL OF BIDS

19.01 The Bidder is not allowed to modify or withdraw its Bid after the Bid's submission.

E. EVALUATION OF BID

20.0 PROCESS TO BE CONFIDENTIAL

Information relating to the examination, clarification, evaluation and comparison of Bids and recommendations for the award of a contract shall not be disclosed to Bidders or any other persons not officially concerned with such process. Any effort by a Bidder to influence the Company's processing of Bids or award decisions may result in the rejection of the Bidder's Bid.

21.0 CLARIFICATION OF BIDS

To assist in the examination, evaluation and comparison of Bids, the Company may, at its discretion, ask the Bidder for a clarification of its Bid. All responses to requests for clarification shall be in writing and no change in the price or substance of the Bid shall be sought, offered or permitted.

22.0 PRELIMINARY EXAMINATION OF BIDS / RESPONSIVENESS

22.01 Company will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Bids are generally in order.

22.02 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price per item that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price per item will be corrected. If there is a discrepancy between the Total Amount and the sum of the total price per item, the sum of the total price per item shall prevail and the Total Amount will be corrected.

22.03 Prior to the detailed evaluation, Company will determine the substantial responsiveness of each Bid to the Bidding Documents including production capability and acceptable quality of the Goods offered. A substantially responsive Bid is one, which conforms to all the terms and conditions of the Bidding Documents without material deviation.

22.04 Bid determined as not substantially responsive will be rejected by the Company and/or the Company and may not subsequently be made responsive by the Bidder by correction of the non-conformity.

23.0 EVALUATION AND COMPARISON OF BIDS

23.01 The evaluation of Bids shall be done based on the delivered cost competitiveness



BSES Yamuna Power Limited

basis.

23.02 The evaluation of the Bids shall be a stage-wise procedure. The following stages are identified for evaluation purposes: In the first stage, the Bids would be subjected to a responsiveness check. The Technical Proposals and the Conditional ties of the Bidders would be evaluated.

Subsequently, the Financial Proposals along with Supplementary Financial Proposals, if any, of Bidders with Techno-commercially Acceptable Bids shall be considered for final evaluation.

23.03 The Company's evaluation of a Bid will take into account, in addition to the Bid price, the following factors, in the manner and to the extent indicated in this Clause:

- (a) Work completion schedule
- (b) Conformance to Qualifying Criteria
- (c) Deviations from Bidding Documents

Bidders shall base their Bid price on the terms and conditions specified in the Bidding Documents.

The cost of all quantifiable deviations and omissions from the specification, terms and conditions specified in Bidding Documents shall be evaluated. The Company will make its own assessment of the cost of any deviation for the purpose of ensuring fair comparison of Bids.

23.04 Any adjustments in price, which result from the above procedures, shall be added for the purposes of comparative evaluation only to arrive at an "Evaluated Bid Price". Bid Prices quoted by Bidders shall remain unaltered.

F. AWARD OF CONTRACT

24.0 CONTACTING THE COMPANY

24.01 From the time of Bid opening to the time of contract award, if any Bidder wishes to contact the Company on any matter related to the Bid, it should do so in writing.

24.02 Any effort by a Bidder to influence the Company and/or in the Company's decisions in respect of Bid evaluation, Bid comparison or Contract Award, will result in the rejection of the Bidder's Bid.

25.00 THE COMPANY'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS

The Company reserves the right to accept or reject any Bid and to annul the Bidding process and reject all Bids at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation



BSES Yamuna Power Limited

to inform the affected Bidder or Bidders of the grounds for the Company's action.

26.0 AWARD OF CONTRACT

The Company will award the Contract to the successful Bidder whose Bid has been Determined to be the lowest-evaluated responsive Bid, provided further that the Bidder has been determined to be qualified to satisfactorily perform the Contract. Company reserves the right to award order other bidders in the tender, provided it is required for progress of project & provided the bidder agrees to come to the lowest rate.

Please note that abnormally higher or abnormally lower bids shall not be considered with respect to estimated cost. The criteria decided by BYPL on this shall be final and bound on the bidders.

"Nil/Zero" Margin or Administrative Service Charges of Bidders will be considered as "Unresponsive". Abnormally higher or abnormally lower bids shall not be considered with respect to estimated cost. The criteria decided by BYPL on this shall be final and binding on the bidders and will not be open for discussion under any circumstances. Therefore, the bidding firms are advised to quote their Margin / Administrative Service Charges accordingly.

27.0 THE COMPANY'S RIGHT TO VARY QUANTITIES

The Company reserves the right to vary the quantity i.e. increase or decrease the numbers/quantities without any change in terms and conditions during the execution of the Order.

28.0 LETTER OF INTENT/ NOTIFICATION OF AWARD

The letter of intent/ Notification of Award shall be issued to the successful Bidder whose bids have been considered responsive, techno-commercially acceptable and evaluated to be the lowest (L1). The successful Bidder shall be required to furnish a letter of acceptance within 7 days of issue of the letter of intent /Notification of Award by Company.

29.0 CORRUPT OR FRADULENT PRACTICES

29.01 The Company requires that the Bidders observe the highest standard of ethics during the procurement and execution of the Project. In pursuance of this policy, the Company:

(a) Defines, for the purposes of this provision, the terms set forth below as follows:

"Corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything



BSES Yamuna Power Limited

of value to influence the action of any such official in the procurement process or in contract execution; and

"Fraudulent practice" means a misrepresentation of facts in order to influence a award process or the execution of a contract to the detriment of the Company, and includes collusive practice among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial non -competitive levels and to deprive the Company of the benefits of free and open competition.

(b) Will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question ;

(c) Will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.

29.02 Furthermore, Bidders shall be aware of the provision stated in the Terms and Conditions of Contract.



BSES Yamuna Power Limited

SECTION – III

TERMS AND CONDITIONS

1.0 General Instructions:

- 1.01 All the Bids shall be prepared and submitted in accordance with these instructions.
- 1.02 Bidder shall bear all costs associated with the preparation and delivery of its Bid, and the Company will in no case shall be responsible or liable for these costs.
- 1.03 The Bid should be submitted by the Bidder in whose name the bid document has been issued and under no circumstances it shall be transferred/ sold to the other party.
- 1.04 The Company reserves the right to request for any additional information and also reserves the right to reject the proposal of any Bidder, if in the opinion of the Company, the data in support of RFQ requirement is incomplete.
- 1.05 The Bidder is expected to examine all instructions, forms, terms & conditions and specifications in the Bid Documents. Failure to furnish all information required in the Bid Documents or submission of a Bid not substantially responsive to the Bid Documents in every respect may result in rejection of the Bid. However, the Company's decision in regard to the responsiveness and rejection of bids shall be final and binding without any obligation, financial or otherwise, on the Company.
- 1.06 Quantity mentioned in SECTION-IV is the total quantity. The company reserves the right to split the order among various successful tenderers in any manner he chooses without assigning any reason whatsoever

2.0 COMMERCIAL TERMS & CONDITIONS:

1. Definition:

The following terms shall have the meaning hereby assigned to them except where the context otherwise requires:

- a) **Company** shall mean **BSES Yamuna Power Limited**, having its office at Shaktikiran Building, Karkardooma, New Delhi – 110032 and shall include its authorized representatives, agents, successors and assigns.
- b) **Bidder** shall mean the firm who quotes against this bid enquiry issued by the company.
- c) **Letter of Acceptance** shall mean the official notice issued by the company notifying the bidder that his proposal has been accepted and it shall include amendments thereto, if any, issued by the company. The "Letter of Acceptance" issued by the



BSES Yamuna Power Limited

company shall be binding on the bidder. The date of Letter of Acceptance shall be taken as the effective date of the commencement of contract.

- d) **Month** shall mean the calendar month and **Day** shall mean the calendar day.
- e) **Codes and Standards** shall mean all the applicable codes and standards as indicated in the Specification.
- f) **Offer Sheet** shall mean Bidder's firm offer submitted to BYPL in accordance with the specification.
- g) **Contract Period** shall mean the period during which the **Contract** shall be executed as agreed between the contractor and the company in the Contract inclusive of extended contract period for reason beyond the control of the Supplier and/or Purchaser due to force majeure.
- h) **Acceptance** shall mean and deemed to include one or more of the following as will be stipulated in the specification:
 - i) The written acceptance of material by the inspector at contractors works to ship the materials.
 - ii) Acceptance of material at Purchaser site stores after its receipt and due inspection/ testing and release of material acceptance voucher.
 - iii) Where the scope of the contract includes supplying, acceptance shall mean issue of necessary equipment / material takeover receipt after installation & commissioning and final acceptance.
- i) **Rate** : The unit rates for the work to be carried out at site shall be as per finalized unit rates through tender. The finalized rates shall be firm for the entire duration of work to be carried out by the Contractor under the work order and are not subject to escalation for any reason whatsoever.
- j) **Contract Specification** shall mean the Technical specification of the work as agreed by you and description of work and all such particulars mentioned directly/referred to or implied as such in the contract.
- k) **Engineer in Charge (EIC)** shall be the person authorized by the Company or from time to time duly appointed by the Company for the purpose of the contract.
- l) **Contractor** shall mean the successful Tenderer / vendor to whom the contract has been awarded.
- m) **Sub-Contractor** shall mean the persons, firm or company to whom any part of the contract has been sublet by the Contractor with the prior written consent of the Company.



BSES Yamuna Power Limited

- n) **Contract**, shall mean and include the general terms and conditions, technical specifications, drawings, priced bill of quantities, schedule of rates and prices, if any, tender, Company's letter of intent, the work order and any correspondence letters concerned to the tender, when completed.
- o) **Site**, shall mean the actual place in over or under which, permanent works or temporary works is to be executed by the Contractor.
- p) **Contract Price** shall mean the sum named in the letter of acceptance, subject to such additions thereto and /or deductions there from as may be made under the provisions hereinafter contained.
- q) **Temporary Works** shall mean all temporary works of every kind required in or about the execution or maintenance of the works.
- r) **Permanent Works** shall mean the permanent works to be executed and maintained in accordance with the Contract.
- s) **Specifications** shall mean collectively all the terms and stipulations contained in those portions of this bid document known as RFQ, Commercial Terms & Condition, Instructions to Bidders, Technical Specifications and the Amendments, Revisions, Deletions or Additions, as may be made by the Purchaser from time to time.
- t) **Drawings** shall mean the drawings issued along with this tender and any modification in such drawings issued by the Structural Consultant/ the Company from time to time.
- u) **Approved**, shall mean approved in writing by Company including subsequent written confirmation of previous verbal approval and "approval" means approval in writing by Company, including as aforesaid.
- v) **Language and Measurement:**
The contract issued to the contractor by the company and all correspondence and documents relating to the contract placed on the contractor shall be written in English language.

Metric System shall be followed for all dimensions, units etc.
- x) **Cost:**The word "Cost" shall be deemed to be all inclusive, firm price basis and also including overhead costs and all taxes whether on or off the site.

3. ENGINEER IN-CHARGE:

The term "Engineer In-Charge" shall mean the Company's nominated representative for the purpose of carrying out the work. For this order Engineer In Charge shall be Head (IT) or his nominated representative.

4. EXAMINATION OF SITE AND LOCAL CONDITIONS:

The contractor is deemed to have visited all the sites comes under BYPL licensed area under the work order and ascertained therefore all site conditions and information pertaining to his work. The company shall not accept any claim whatsoever arising out of the difficulties at site/terrain/local conditions, if any.

5. LANGUAGE AND MEASUREMENT:

The work order issued to the contractor by the company and all correspondence and documents relating to the work order placed on the Contractor shall be written in English language. Metric System shall be followed for all dimension, units etc.

6.0 RESPONSIBILITY OF CONTRACTOR

The Contractor shall be solely liable and responsible for

6.1 Failure to follow any reasonable instructions of the Company of which the Contractor has to notice.

6.2 Carry out any other job, which is not listed above but which falls within the general purview of work, as may be instructed by the Engineer-In-Charge.

6.3 The contractor shall be responsible to supervise the work to ensure uninterrupted Services rendered and for proper co-ordination with BYPL. The contractor shall submit a daily report to Officer-in-Charge regarding daily activity undertaken by Contractor and progress made by Contractor.

6.4 Contractor shall submit details of employees engaged in the work. Contractor employees shall not represent them as BSES employee in any manner.

6.6 Pay the taxes or duties payable to the Government or any other local authority in connection with all the work provided for in this contract.

7.0 CONTRACT PRICE

7.1) Rate shall be decided through this tender as per the attached price format

The rate will remain firm and final for the entire duration of work to be carried out by the Contractor, and are not subject to any escalation and variation for any reason whatsoever.

Contractor shall, at no point of time, claim or have the right to claim any additional fees, expenses or charges of any nature whatsoever, other than the rates set out above . In the event that Contractor is at any time in material breach of any provision of this Contract, then notwithstanding any provision to the contrary contained herein, and without prejudice to any of its rights under this Contract or under any applicable law, BYPL shall have no obligation to make payments to Contractor in respect of the Services until such material breach is cured to the satisfaction of BYPL in accordance with the provisions of this Contract.

7.2) The prices/rates quoted for each item/work in the BOQ shall be inclusive of all direct and indirect costs, insurances, statutory charges, statutory fees, royalties, taxes on quarried items, duties, only GST shall be shown separately. i.e.incidental charges, cost of complying to other local authorities etc., and any other costs that may be involved in completing the works as required, fulfillment of all obligations under the Contract and to the satisfaction of the Company.

7.3) The rates quoted for each item/work in the BOQ by the Contractor shall remain firm until the successful completion of the Contract as certified by the Engineer In Charge including any extension (s) of time that may have been granted to the contractor under the scope of this Contract and shall not be subject to escalation on any account. The rates quoted for each item/work in the BOQ shall be deemed to include and cover all cost, expenses and liabilities to every description and all risk of every kind to be taken in executing, completing and handing over the work to the satisfaction of the Company.

7.4) The Contractor shall on his own and at his own expense obtain all necessary permits and permissions to execute the job, including required registrations, agent's etc. to perform its obligation under this Contract and shall indemnify the Company in all related matters.

8.0 VALUE OF THE WORK ORDER:

Value of work order will be worked out on the basis of finalized rates

9.0 TAX & DUTIES:

Prices shall be inclusive of all taxes and duties including labour cess (Except GST). However, IT as per applicable rate will be deducted from your bills as Tax Deduction at Source (TDS).

GST at actual shall be paid extra on submission of GST Registration and self declaration on your letter head stating that you have deposited/or will deposit the Tax as per the applicable GST laws. You shall furnish your GST registration number.

Any statutory variations i.e. increase/decrease in Taxes / Duties introduced by central Govt. / State Govt. shall be reimbursed/recovered to/from Contractor against documentary evidence and proof.

10.0) EFFECTIVE DATE OF CONTRACT & PERIOD:

The date of the issuance of the Letter of Acceptance/Purchase Order shall be treated as the effective date of the commencement of Contract.

The entire project shall be completed within 8 months from LOI date. 3 months post go-live support shall be provided from the date of completion of project. .

11.0 CONTRACT PERFORMANCE BANK GUARANTEE

11.1 CONTRACTOR shall furnish the Contract Performance Bank Guarantee in the prescribed format (Appendix I) within 15 days from the date of issue of Order for due performance of the provisions of Work Order.

11.2 The Contract Performance Bank Guarantee shall be of 10% of the total value of order and shall be valid for 1 year from the date of "go-live", plus 3 months.

11.3 The Contract Performance Bank Guarantee shall be issued from any nationalized/scheduled bank as per company format.

11.4 The Company shall reserve the right to invoke the bank guarantee unconditionally and without recourse to the Contractor, if there is failure to perform any part of the Contract for whatsoever reason. This clause is pertaining to performance of contractual obligations and the decision of Company shall be final in this regard.

11.5 In the event, in Company sole judgment, the Contractor has fulfilled all its obligations under this Contract, Company shall release the Contract performance bank



BSES Yamuna Power Limited

guarantee without interest, within seven (7) days from the last date up to which the performance bank guarantee is to be kept valid or if it is assessed by the Company that Contractor has not fulfilled its obligation then the performance bank guarantee shall be extended by the Contractor till that period as requested by the Company.

12.0 TERMS OF PAYMENT:

The payment will be milestone based, Refer table below for milestones

Vendor will raise invoice to BSES at the completion of the milestone as defined in the table below.

Milestone payments shall be made in full upon the successful completion of the milestone. In the event that only a minor portion of a milestone is not fully completed, invoicing for partial payment of the milestone will be entirely to BYPL discretion. Payment terms shall be within 45 days from receipt of invoice supported by BYPL certification of completion of milestone.

The payment shall be made as under :

Payment Terms

Milestone Number	Milestone Description
MS-1	10% for of Pricing schedule shall be released as mobilization advance subject to fulfillment of following pre-requisites: <ul style="list-style-type: none">i. Submission of PBG for 10% of contract valueii. Submission of ABG of equivalent amount valid till 30 daysiii. Acceptance of purchase orderiv. Project preparation (Resource mobilization, Project Kick off, core team finalization and submission of project plan)
MS-2	10% of Pricing schedule shall be released subject to fulfillment of following pre-requisites: <ul style="list-style-type: none">i. Detailed arhitecture and implementation plan including requirements of Network, Hardware, Software Licenses etc. and respective Sign Off by BYPL
MS-3	40% of contact value of Pricing schedule shall be released subject to fulfillment of following pre-requisites: <ul style="list-style-type: none">i. Complete DR Implementation including Software and Systems implementation, Data Migration, DR Configuration and Replication, Backup Systems configuration and Integrtaions to the required systems as per the approved plan



BSES Yamuna Power Limited

MS-4	20% of contract value of Pricing schedule shall be released subject to fulfillment of following pre-requisites: i. Successful DR Drill And Roll Back
MS-5	10% of contract value of Pricing schedule shall be released subject to fulfillment of following pre-requisites: i. Documentation and Training
MS-6	10% of contract value of Pricing schedule shall be released subject to fulfillment of following pre-requisites: i. Project Go Live ii. Project Stabilization period of 2 months Operational Acceptance Test

Note: Milestone payments shall be made in full upon the successful completion of the milestone. In the event that only a minor portion of a milestone is not fully completed, invoicing for partial payment of the milestone will be entirely to BYPL discretion. Payment terms shall be within 45 days from receipt of invoice supported by BYPL certification of completion of milestone

13.0 WARRANTY/DEFECTS LIABILITY PERIOD

13.1 The bidder to provide Post Go live support for 3 Months..

13.2 The Defect liability period shall be 3 months from the date of go live. If during the defects liability period any materials / items are found to be defective, these shall be replaced or rectified by the bidder at his own cost within 30 days from the date of receipt of intimation.

14.00 PRICE BASIS :

a) Bidder to quote their prices on Lumpsum basis .

15.00 EVENTS OF DEFAULT

15.01 EVENTS OF DEFAULTS:

COMPANY may, without prejudice to any of its other rights or remedies under the Work Order or in law, terminate the whole or any part of this Work Order by giving written notice to the Contractor, if in the opinion of COMPANY, contractor has neglected to proceed with the works with due diligence or commits a breach of any of



BSES Yamuna Power Limited

the provisions of this work order including but not limited to any of the following cases:

- a) Fails to complete execution of work within the terms specified in this work order.
- b) Fails to complete works in accordance with the approved schedule of works.
- c) Fails to meet requirements of specifications, drawings, and designs as approved by COMPANY.
- d) Fails to comply with any reasonable instructions or orders issued by COMPANY in connection with the works.
- e) Fails to comply with any of the terms or conditions of this work order.
- f) Fails or refusing to pay any amounts due under the Contract.
- g) Becomes insolvent or unable to pay its debts when due, or commits any act of bankruptcy, such as filing any petition in any bankruptcy, winding-up or reorganization proceeding, or acknowledges in writing its insolvency or inability to pay its debts; or the Supplier's creditors file any petition relating to bankruptcy of Supplier.
- h) Fails or refuses to perform or observe any term or condition of the Contract and such failure is not remediable or, if remediable, continues for a period of 30 days after receipt by the Supplier of notice of such failure from the company.

15.02 CONSEQUENCES OF DEFAULT

- (a) If an Event of Default shall occur and be continuing, company may forthwith terminate the Contract by written notice.
- (b) In the event of an Event of Default, company may, without prejudice to any other right granted to it by law, or the Contract, take any or all of the following actions;
 - (i) Present for to the relevant bank the Performance Bond;
 - (ii) Purchase the same or similar Commodities from any third party; and/or
 - (iii) Recover any losses and/or additional expenses company may incur as a result of contractor's default.

In the event COMPANY terminates this work order, in whole or in part, on the occurrence of any event of default, COMPANY reserves the right to engage any other subcontractor or agency to complete the work or any part thereof, and in addition to any other right COMPANY may have under this work order or in law



BSES Yamuna Power Limited

including without limitation the right to penalize for delay under clause 45.0 of this work order, the contractor shall be liable to COMPANY for any additional costs that may be incurred by COMPANY for the execution of the Work

16.00 WORK COMPLETION CERTIFICATION, HANDING OVER

The work carried out by the Contractor under this order has to be certified by Engineer In-charge for satisfactory completion of work allotted to the contractor with respect to specifications / Field Quality Procedures as per applicable standards. In case of modification/correction to be carried out, contractor shall carry out the said modifications/correction without additional cost. The Contractor shall remain in close contact with Engineer In-Charge at site to report the general findings of the fieldwork during the initial as well as later stage of the work at site.

The contractor shall be solely responsible for any shortage or damage of materials issued to them handling of and / or in storage and erection at site and cost of the same will be recovered from the contractor as certified by Engineer In-Charge. Contractor must submit a periodical material reconciliation statement in the approval format with every Running Bill raise by him or end of every month whichever is earlier. The contractor shall maintain an accurate and exhaustive record detailing out the list of all items received by him for the purpose of erection and keep such record open for the inspection of the company.

17.00 HUMAN RESOURCE ISSUES:

- i. The contractor would execute these works through their own resources.
- ii. The contractor shall bear all expenses/cost to be incurred towards salary, allowances, perks, traveling allowances, advances, insurance, safety measures, security, transportation and all other misc. expenses etc. of their employees/workmen during period. Also, the contractor shall be sole responsible for making payment for Hospitalization, Compensation thereof in case of any accident & injury. Penalty will be imposed on the vendor in case of violation of the above rule.

Contractors shall submit the detail list of the employees that they are going to be hire to BYPL Security before start of the contract.

- iii. The contractor to deploy their manpower immediately for carrying out the work as specified above.
- iv. The contractor should ensure that there are no disputes regarding service, payment etc of the persons engaged by him, anytime during the execution of the contract. At



BSES Yamuna Power Limited

no point of time during the execution of contract, the contractor's employees shall insist upon the company for employment, wages, and allowances or any other related matter, payment etc.

- v. The contractor shall not deploy the manpower below the age of 18 years and the educational qualification should be commensurate with the responsibilities to be assigned to the Contractors employees.
- vi. The contractor shall not deploy the female manpower between 7 pm to 6 am
- vii. The contractor shall be directly responsible for any / all disputes arising between him and his persons and keep the company indemnified against all losses , damages and claims arising thereof . The contractor shall resolve any dispute of their manpower. All the legal dues of their manpower is to be paid on due date or within 8 days on the termination of manpower.
- viii. The contractor shall be responsible for discipline of his manpower and shall adhere to the disciplinary procedure set by the company at site. The company shall be at liberty to object to the presence of any representative or employees of the contractor at the site, if in the opinion of the company such manpower has done any act of misconduct or negligence or otherwise undesirable, then the contractor shall remove such a person objected to and provide a competent replacement immediately.
- ix. The contractor will ensure that none of their person is engaged in any unlawful activities subversive of the company's interest failing which suitable action may be taken against the contractor as per the terms and condition of this Agreement.
- x. The contractor shall be liable for payment of all taxes and duties as applicable, to the State/ Central Govt. or any local authority.
- xi. The contractor's employees shall not be treated as company's employees / persons for any purpose whatsoever & facilities/ benefits applicable to the company's employees shall not be applicable to contractor's employees. If due to any reasons whatsoever the company is made liable to meet any obligation under any of the laws & enactment etc, for any reason whatsoever the same shall be recovered from the contractor or from any of the bills payable to him or failing which it shall be recovered as per law.
- xii. The contractor shall be responsible and shall comply with the provision of all the STATUTORY ACTS APPLICABLE. Special attention of the contractor is drawn towards the compliance of provision of the following statutes: (along with the latest amendments/additions):



BSES Yamuna Power Limited

- a) The Child Labour (Prohibition and Regulation) Act, 1986.
- b) The Contract Labour (Regulation and Abolition) Act, 1970.
- c) The Employee's Pension Scheme, 1995.
- d) The Employee's Provident Funds and miscellaneous provisions Act, 1952.
- e) The Employees State Insurance Act, 1948.
- f) The Equal Remuneration Act 1976.
- g) The Industrial Disputes Act, 1947.
- h) The Maternity Benefit Act 1961
- i) The Minimum Wages Act, 1948
- j) The Payment of Bonus Act, 1965.
- k) The Payment of Gratuity Act, 1972.
- l) The payment of Wages Act, 1936.
- m) The Delhi Shops & Establishment Act, 1954.
- n) The Workmen's Compensation Act. 1923.
- o) The Employer's Liability Act, 1938.

18.0 STATUTORY OBLIGATIONS:

18.1 The Contractor shall take all steps, necessary to comply with the various applicable laws/rules/regulations/ notifications, including, but not limited to, the provisions of Contract Labour (Regulation and Abolition Act), 1970 as amended, Minimum wages Act, 1984, Workman Compensation Act, 1923, Employee State Insurance Act, 1948 ('ESI'), Public Provident Fund Act, 1968, Payment of Bonus Act, 1965, Copyright Act, 1957, Patents Act, 1970, Trade Marks Act, 1999 and all other applicable laws and rules framed there under including any statutory approval required from the Central/State Governments, Ministry of Labour in relation to the Contractor's employee/ labourer/ workmen deployed to perform the Services under this Work Order.

18.2 The Contractor shall, prior to commencement of the jobs under this Work Order, furnish to the Company the permanent Provident Fund Code number and ESI of its employees.

19.00 WORKMEN COMPENSATION:

The Contractor shall take insurance policy under the Workman Compensation Act to cover such workers who are not covered under ESI and PF by the CONTRACTOR



BSES Yamuna Power Limited

however engaged to undertake the jobs covered under this order and a copy of this insurance policy will be given to Company for reference and records. This insurance policy shall be kept valid at all times. In case there are no worker involve other than those who are covered under ESI and PF by the CONTRACTOR, the CONTRACTOR shall certify for the same.

The CONTRACTOR shall keep the COMPANY indemnified at all times, against all claims of compensation under the provisions of Workmen Compensation Act 1923 as amended from time to time or any compensation payable under any other law for the time being involving workmen engaged by the CONTRACTOR in carrying out the job involved and against costs and expenses, if any, incurred by the COMPANY in connection therewith and without prejudice to make any recovery.

The COMPANY shall be entitled to deduct from any money due to or to become due to the CONTRACTOR, moneys paid or payable by way of compensation as aforesaid or cost or expenses in connection with any claims thereto and the CONTRACTOR shall abide by the decision of the COMPANY as to the sum payable by the CONTRACTOR under the provisions of this clause

20.00 THIRD PARTY INSURANCE:

The Contractor shall, prior to commencement of the jobs under this Work Order, take out a comprehensive insurance policy against any damage or loss or injury which may occur to any property or to any person or any employee or representative of any outside agency/ company engaged or not engaged for the performance of the Services and arising out of the execution of the work or temporary work or in carrying out of jobs under this Work Order.

21.00 ACCIDENTAL INSURANCE POLICY FOR LIFE COVER:

Before commencing the execution of the work the CONTRACTOR shall take Accidental insurance policy for the staff engaged by him for this work to insure against any loss of life which may occur during the contract for the work of the COMPANY. The policy shall have coverage of Rs. 10 Lacs (Table C- Death + Permanent Total Disability + Partial permanent Disability due to external accidents). The Contractor shall be responsible for on the spot same day claim settlement with the victim's legal heirs without waiting for settlement by insurance claim without any liability on BYPL. The premium amount for



BSES Yamuna Power Limited

such life cover policy shall be borne by the contractor. The contractor shall furnish copy of policy when demanded by BYPL.

22.0 REPRESENTATION, WARRANTIES AND GUARANTEES :

The contractor hereby represents warrants and guarantees that :

- i) It is legally recognised entity under the laws of India;
- ii) The contract contains valid and binding obligations and is enforceable in accordance with the terms hereof;
- iii) It has studied the technical feasibility, site conditions and other prevailing conditions and all other operational details and based on these studies carried out, has agreed to provide to the company the services as contemplated in this contract;
- iv) It has appraised itself of all applicable rules and regulations, and shall at all times comply with such rules and regulations;
- v) It shall procure vehicles and manpower suitable for the purposes of this contract to render services as contemplated in this contract;
- vi) The services would be conducted in a safe and efficient manner at the site and at all times in compliance with Good Industry Practices and requirements of the company;
- vii) It shall duly pay the duties, taxes and levies as are set out in this contract, which are to be paid by the contractor;

There is no action, suit or proceeding, at law or in equity, or to the best of its knowledge, any official investigation before or by any governmental authority, arbitration tribunal or other body pending or, to the best of its knowledge, threatened against or affecting it or any of its property, rights or assets, which could reasonably be expected to result in a material adverse effect on its ability to perform its obligations under this contract or on the validity or enforceability of this contract.

23.00 SAFETY CODE:

The Contractor shall ensure adequate safety precautions at site as required under the law of the land to facilitate safe working during the execution of work and shall be



BSES Yamuna Power Limited

entirely responsible for the complete safety of their workmen as well as other workers at site and premises during execution of contract.

The contractor shall observe the safety requirements as laid down in the contract and in case of sub-contract (only after written approval of company), it shall be the responsibility of main contractor that all safety requirements are followed by the employees and staff of the sub-contractor.

The contractor employing two hundred employees or more, including contract workers, shall have a safety co-ordinator in order to ensure the implementation of safety requirements of the contract and a contractor with lesser number of employees, including contract workers, shall nominate one of his employees to act as safety co-ordinator who shall liaise with the safety officer on matters relating to safety and his name shall be displayed on the notice board at a prominent place at the work site.

The contractor shall be responsible for non-compliance of the safety measures, implications, injuries, fatalities and compensation arising out of such situations or incidents.

In case of any accident, the contractor shall immediately submit a statement of the same to the owner and the safety officer, containing the details of the accident, any injury or casualties, extent of property damage and remedial action taken to prevent recurrence and in addition, the contractor shall submit a monthly statement of the accidents to the owner at the end of each month.

24.00 ENVIRONMENTAL, HEALTH & SAFETY PLAN:

Contractor will make ensure that the Environment, Health & Safety (EHS) requirements are clearly understood and faithfully implemented at all levels at site as per instruction of Company. Contractors must comply with these requirements:

- (i) Comply with all of the elements of the EHS Plan and any regulations applicable to the work
- (ii) Comply with the procedures provided in the interests of Environment, Health and Safety



BSES Yamuna Power Limited

(iii) Ensure that all of their employees designated to work are properly trained and competent

(iii) Ensure that all plant and equipment they bring on to site has been inspected and serviced in accordance with legal requirement and manufacturer's or suppliers' instructions

(iiiA) Ensure that no confidential information is disseminated or used /misused by the employees of the Contractor.

(iv) Make arrangements to ensure that all employees designated to work on or visit the site present themselves for site induction prior to commencement of work

(v) Provide details of any hazardous substances to be brought onsite

(vi) Ensure that a responsible person accompanies any of their visitors to site

All contractors' staff is accountable for the following:

1. Use the correct tools and equipment for the job and use safety equipment and protective clothing supplied, e.g. helmets, goggles, ear protection, etc. as instructed
2. Keep tools in good condition
3. Report to the Supervisor any unsafe or unhealthy condition or any defects in plant or equipment
4. Develop a concern for safety for themselves and for others
5. Prohibit horseplay
6. Not to operate any item of plant unless they have been specifically trained and are authorized to do so.

25.00 INDEMNITY:

Notwithstanding contrary to anything contained in this RFQ, Supplier shall at his costs and risks make good any loss or damage to the property of the Purchaser and/or the other Supplier engaged by the Purchaser and/or the employees of the Purchaser and/or employees of the other Supplier engaged by the Purchaser whatsoever arising out of the negligence of the Supplier while performing the obligations under this contract.

Contractor shall indemnify and save harmless Company against and from any and all liabilities, claims, damages, losses or expenses arising due to or resulting from:



BSES Yamuna Power Limited

25.1) any breach, non-observance or non-performance by contractor or its employees or agents of any of the provisions of this Contract.

25.2) any act or omission by contractor or its employees or agents.

25.3) any negligence or breach of duty on the part of contractor, its employees or agents including any wrongful use by it or them of any property or goods belonging to or by Company or any other third party at site including adjoining neighbors.

25.4) Contractor shall at all times indemnify Company against all liabilities to other persons, including employees or agents of Company or other contractors for bodily injury, damage to property or other loss which may arise out of or in consequence of the execution or completion of Project and against all costs charges and expenses that may arise

26.0 ASSIGNMENT

Assignment by Contractor :

This Work Order shall not be assigned either fully or in part by the Contractor to any third party without the consent, in writing, of the BYPL and upon such terms as are mutually agreed by both the parties hereto. BYPL may, in whole or in part, assign this Work Order to its affiliates, without the prior written consent of the Contractor. In the event this Work Order is assigned under the terms of this Clause, the assignees of the respective parties shall be bound by the terms and conditions of this Work Order and shall, if deemed necessary by the parties at the time of such assignment, undertake in writing to be so bound by this Work Order.

Assignment by BYPL

The Work Order/Contract/Agreement, and the rights and obligations of BYPL under the Work Order/Contract/Agreement shall be assignable to Affiliates, associate company, joint venture or any other company including change in Management Control and BYPL's lenders without consent of the Contractor. Upon written notice issued within seven Business Days (07 days) by BYPL , the Work Order/Contract/Agreement shall deemed to be Assigned to the third party under this Article/Clause. This Clause shall fulfill its meaning notwithstanding the acceptance of notice by the Contractor and BYPL shall not be obliged to the Contractor after seven days (07) of issue of notice.

27.0 SUB-CONTRACTING / SUBLETTING:

CONTRACTOR shall not assign or transfer the whole or any part of this Work Order or any other benefits accruing there from nor shall it subcontract / sublet the whole or any part of the Works without the prior written consent of COMPANY.

In the event the contractor assigns this work order, contractor's assignees shall be bound by the terms and conditions of this work order and shall , if deemed necessary by COMPANY at the time of such assignment, undertake in writing to be so bound by this Work Order.

Notwithstanding the subletting / subcontracting of any portion of the works, contractor shall remain wholly responsible for the carrying out, completion and satisfactory execution of Works in all respects in accordance with this Work Order, specification, approved drawings and data sheets.

28.0 AWARD / SUBLETTING OF CONTRACT:

The Contractor will not be permitted to sublet his job in whole or Part without the prior written permission of the Company. The Contractor shall submit to the Company a list of Sub-Contractor, suppliers (not less than three names) for the approval of the Company. The Company may approve all or any of the names or reject all names, which in his opinion do not meet the prerequisite qualifications. The Contractor shall re-submit a fresh list of names for approval. Further in the event that none of the names submitted by the contractor are acceptable to the Company, the Company may suggest names to the Contractor and it shall be binding upon the Contractor to accept the names suggested.

29.00 RECOVERIES:

In the event of any money becoming recoverable under this Work Order, from and payable by the Contractor to the BYPL, the BYPL shall be entitled to recover such sum by deducting in part or in whole from any sum payable or thereafter may become payable to the Contractor under this or any other Work Order. In the event that the amount deducted by the BYPL are not sufficient to cover the full amount recoverable the Contractor shall, on demand, make payment of such remaining amount to BYPL. The reason for any such deduction shall be informed to the contractor by BYPL immediately.

30.00 WAIVER

Failure to enforce any condition herein contained shall not operate as a waiver of the condition itself or any subsequent breach thereof.

31.00 MOBILISATION:

The Contractor shall have to mobilize their Project team for execution of work within seven days (7) of receipt of LOI or Work Order whichever is earlier.

32.00 DAMAGE OF PRIVATE PROPERTIES / LIFE:

The Contractor shall be responsible for all risk to the works to be performed under its obligation under the Contract and for trespassers, and shall make good at his own expenses all losses and damages whether to the works, themselves, or to any other property of the company or the lives, persons or property of other forms, whatsoever cause, in connection with the works, although all reasonable and proper precautions may have been taken by the contractor, and in case Company is called upon to make good any such costs, loss or damages or to pay compensation to any person(s) sustaining damages by reason of any act, or any negligence or omission on the part of the Contractor, the amount of any costs or charges (including costs and charges towards legal proceedings) which the Company may incur in reference thereto, shall be charged to the Contractor. The Contractor shall reimburse such costs immediately to the Company.

33.00 APPROACHES:

The Contractor shall have to make his own arrangements for all approaches to the site required for transporting his men and material to site of work. The Company shall entertain no payment or claims on account of "Making of Approaches".

34.0 SITE OFFICE AND SITE FACILITIES:

The Contractor shall also make his own arrangement for the accommodation/conveyance requirements for its staff. The storage of arrangements



BSES Yamuna Power Limited

shall be subject to IS: 4082. All the incoming and outgoing materials, equipment, tools, tackles and any other items related to said work shall be entered into the register kept for this purpose and shall be in the safe custody of Contractor, however company does not hold any responsibility for any loss or damage caused to Contractor's material etc.

34.01 The Contractor shall strictly control the labour so that the site is not polluted, made dirty or littered with debris, wastes or the likes.

34.02 Any person, labour found creating mess or litter or pollution shall be removed from the site immediately at the Contractors cost and shall also be subject to penalty at the discretion of the EIC.

35.00 INDEPENDENT CONTRACTOR

Nothing in the Work Order shall be deemed to constitute either party (BYPL or Contractor) a partner, agent or legal representative of the other party, or to create any fiduciary relationship between the parties. The Contractor is and shall remain an independent contractor in the performance of its obligations hereunder, maintaining complete control of its employees, agents, sub-Contractors and operations required for performance of the obligations under the Work Order.

36.00 GOVERNING LAWS AND JURISDICTION:

This proposed Agreement shall be construed in accordance with and governed by Laws of India. The courts of Delhi shall have the exclusive jurisdiction in all matters arising under this Agreement.

37.00 LIQUIDATED DAMAGES:

In the event of the Contractor's failure to complete the work or any part thereof within the Contract Period including the interim milestone dates, the Contractor shall be liable to pay the Company liquidated damages calculated at the rate of **1 (one) % of the contract value per week of delay or part thereof subject to a maximum of 10 (ten) % of the contract value**, for the period between the Date for Contractual Completion and the Date of Actual Completion as certified by the EIC.

The Company may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies in its possession, which are due or which may become due to the Contractor. The levy payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works on time or from



BSES Yamuna Power Limited

any other part of his obligation and liabilities under the Contract. Once the maximum is reached, the Company reserves the right for termination of contract without any liabilities to the Company.

38.00 EXTENSION OF TIME LIMIT & TIME OVER RUN:

If delay is not attributable to the Contractor, the extension of time may be considered at the discretion of the Company without prejudice to the right of the Company for recovery of liquidated damages. This is also subject to the Contractor having taken sufficient precautions to mitigate the delay and submitted to the Company a full-detailed particular of any extension of time to which he may consider himself entitled within 10 days after such work has been commenced or such circumstances have arisen. The extension of time may be granted but without any financial increment in the contract price to the Company.

39.00 RELEASE OF INFORMATION AND CONFIDENTIALITY:

The Contractor shall not communicate or use in advertising, publicity, sales release or in any medium photograph or reproduction of the works under this contract, or description of the site, dimensions, quantity or any other information concerning the works unless prior written permission is obtained from Company. The Contractor shall keep all the information obtained directly or indirectly through appointment of this contract confidential and shall not reveal the same to any other party without the prior written permission of the Company. The technical information, drawing and other related documents forming part of order and the information obtained during the course of execution under this order shall be the Company's exclusive property and shall not be used for any other purpose except for the execution of the order. The technical information, drawings, records and other documents shall not be copied, transferred, or divulged and/or disclosed to third party in full/part, not misused in any form whatsoever except to the extent for the execution of this order.

This technical information, drawing and other related documents shall be returned to the Company with all approved copies and duplicates including drawing/plans as are prepared by the Contactor during the execution of this order, if any, immediately after they have been used for agreed purpose.

In the event of any breach of these provisions, the contractor shall indemnify the Company against any loss, cost or damage or claim by any party in respect of such breach.

40.00 SITE REPRESENTATIVE, SITE SUPERVISION AND ADVANCE INTIMATION:

40.1) The Contractor shall have to appoint and authorize a Site In Charge/ Project Manager (PM) along with its project team, who shall be available always at site till the completion of the contract as certified by the Company's Engineer In Charge (EIC).



BSES Yamuna Power Limited

- 40.2) The Contractor shall be responsible for supervising the works by employing competent and experienced engineers and support teams to inspect the work and check the quality of work to ensure that the work is carried out in accordance with the drawings, specifications and instructions of the EIC. Such inspection and supervision shall not relieve the Contractor from any of his obligations towards use of material, workmanship, sequence of working and completion of project as per the stipulated period.
- 40.3) On receipt of the LOI or Work Order whichever is earlier, the Contractor shall furnish to the Company, for approval, the proposed site setup with list of Engineers, Supervisors and other staff to be deployed by him with their dates of joining.
- 40.4) The Contractor's Project Manager shall obtain the written approval and instructions from the EIC prior to commencement of any works at site. The PM shall give written advance intimation to EIC for approval of all activities including deployment of resources, procurement of materials, concrete pours etc.

41.00 CO-ORDINATION WITH OTHER AGENCIES:

The Contractor shall execute the work in strict consultation with the Company and in co-ordination with other agencies appointed by the Company who will also simultaneously execute the components of work allotted to them.

The Contractor at his own cost shall also extend their site facilities, plant and equipments on written request of the Company/ EIC for use by other contractors appointed by the Company.

42.00 MAINTENANCE OF WORK:

The Contractor shall maintain in perfect condition all works executed till the completion of the entire work allotted to him. Where phased handing-over of completed portion of the work is required, the provisions mentioned herein will apply to each phase.

43.00 ARBITRATION:

To the best of their ability, the parties hereto shall endeavor to resolve amicably between themselves all disputes arising in connection with this work order. If the same remain unresolved within thirty (30) days of the matter being raised by either party, either party may refer the dispute for settlement by arbitration. The arbitration to be undertaken by two arbitrators, one each to be appointed by either party. The arbitrators appointed by both the parties shall mutually nominate a person to act as umpire before entering upon the reference in the event of a difference between the two arbitrators and the award of the said umpire in such a contingency shall be final and binding upon the parties. The



BSES Yamuna Power Limited

arbitration proceeding shall be conducted in accordance with this provisions of the Indian Arbitration & Conciliation Act, 1996 and the venue of such arbitration shall be city of New Delhi only.

44.00 FORCE MAJEURE:

a) General:

An "Event of Force Majeure" shall mean any event or circumstance not within the reasonable control, of the Party affected, but only if and to the extent that:

Such event or circumstance, despite the exercise of reasonable diligence, could not have been prevented, avoided or reasonably foreseen by such Party;

Such event or circumstance materially and adversely affects the ability of the affected Party to perform its obligations under this Contract, and the affected Party has taken all reasonable precautions, due care and reasonable alternative measures in order to prevent or avoid the effect of such event on the affected partys ability to perform its obligations under this Contract and to mitigate the consequences thereof. For the avoidance of doubt, if such event or circumstance would not have materially and adversely affected the performance of the affected party had such affected party followed good industry practice, such event or circumstance shall not constitute force majeure.

Such event is not the direct or indirect result of the failure of such Party to perform any of its obligations under this Contract; and

Such Party has given the other Party prompt notice describing such events, the effect thereof and the actions being taken in order to comply with Article 14.1

b) Specific Events of Force Majeure:

Subject to the provisions of Article 14.1, Events of Force Majeure shall include only the following to the extent that they or their consequences satisfy the above requirements:

The following events and circumstances:



BSES Yamuna Power Limited

Effect of any natural calamities or other Acts of God beyond the control of the Contractor, including but not limited to storm, flood, earthquake, lightning, cyclone, landslides or other natural disasters, and

Explosions or fires

Public disorder, insurrection, rebellion, sabotage, riots or violent demonstrations of a local character;

Declaration of the Site as war zone.

Any order, regulation, directive, requirement from any Governmental, legislative, executive or judicial authority.

c) Notice of Events of Force Majeure

If a force majeure event prevents a party from performing any obligations under the Contract in part or in full, that party shall:

Immediately notify the other party in writing of the force majeure events within 2 working days of the occurrence of the force majeure event

Be entitled to suspend performance of the obligation under the Contract which is affected by force majeure event for the duration of the force majeure event

Use all reasonable efforts to resume full performance of the obligation as soon as practicable

Keep the other party informed of all such efforts to resume full performance of the obligation on a regular basis

Provide prompt notice of the resumption of full performance or obligation to the other party.

d) Mitigation of events of force majeure:

The Contractor shall:



BSES Yamuna Power Limited

(i) Make all reasonable efforts to prevent and reduce to a minimum and mitigate the effect of any delay occasioned by an Event of Force Majeure, including applying other ways in which to perform the Contract;

(ii) Use its best efforts to ensure resumption of normal performance after the termination of any Event of Force Majeure and shall perform its obligations to the maximum extent practicable as agreed between the Parties; and

(iii) Keep the Company informed at regular intervals of the circumstances concerning the event of Force Majeure, with best estimates as to its likely continuation and what measures or contingency planning it is taking to mitigate and or terminate the Event of Force Majeure.

e) Burden of proof:

In the event that the Parties are unable in good faith to agree that a Force Majeure event has occurred to an affected party, the parties shall resolve their dispute in accordance with the provisions of this Contract. The burden of proof as to whether or not a force majeure event has occurred shall be upon the party claiming that the force majeure event has occurred and that it is the affected party.

f) Terminations for certain events of force majeure:

If any obligation of any Party under the Contract is or is reasonably expected to be delayed or prevented by a Force Majeure event for a continuous period of more than 1 (one) month during the Term of the Contract the Contract shall be terminated at the discretion of the Company and neither Party shall be liable to the other for any consequences arising on account of such termination.

45.00 RISK & COST:

If the Contractor fails to execute the work as per specification / as per the direction of Engineer's In-charge within the scheduled period and even after the extended period, the contract shall get cancel and company reserves the right to get the work executed from any other source at the Risk & Cost of the Contractor. The Extra Expenditure so incurred shall be debited to the Contractor.

46.00 SECRECY CLAUSE:

55.1 The technical information, drawing and other related documents forming part of this Work Order and the information obtained during the course of investigation under this Work Order shall be the Company's exclusive property and shall not be used for any other purpose except for the execution of this Work Order. The technical information drawing, records and other document shall not be copied, transferred, or divulged and/or disclosed to third party in full/part, not misused in any form whatsoever except to the extent for the execution of this Work Order.

55.2 These technical information, drawing and other related documents shall be returned to the Company with all approved copies and duplicates including drawing/plans as are prepared by the Contractor during the executions of this Work Order, if any, immediately after they have been used for agreed and approved purpose.

55.3 In the event of any breach of this provision, the Contractor shall indemnify the Company against any loss, cost or damage or claim by any party in respect of such breach.

55.4 The provisions of this Clause shall remain effective for a period of five (5) years from the expiry or termination of this Work Order.

55.5 The Contractor shall not use the name of the Company in any manner either for credit arrangement or otherwise and it is agreed that the Company shall not in any way be responsible for the debts, liabilities or obligations of the Contractor and/or his employees.

47.00 NOTICE:

All notices, requests, consents, waivers or other communication required or permitted hereunder shall be in writing and in English and shall be deemed properly served: (i) if delivered by hand and received by an authorized employee or officer of the Party, (ii) 3 days after being given to a reputed courier with a reliable system for tracking delivery, (iii) upon receipt of confirmation receipt when sent by facsimile; or (iv) 14 days after the date of dispatch by certified or registered mail, postage prepaid, return receipt requested; (v) when sent by electronic mail. All notices and other communication shall be addressed as follows:

A Party may change its address and/or addressee for notification purposes at any time during the term hereof by giving the other Party written notice in accordance with the terms hereof and the date on which such change will become effective.

48.00 ENTIRE AGREEMENT:

This Agreement including all Schedules attached hereto contains the complete understanding between the COMPANY and the CONTRACTOR with respect to the matters contained herein and supersedes all other agreements, whether written or oral with respect to the matters contained herein.

49.00 Infringements of Third-party Rights

The contractor shall indemnify the Company from and against all claims, proceedings, damages, costs and expenses arising from the infringement of patent rights and intellectual property rights of third-parties and intellectual property rights of third-parties with respect to the subject of the contract.

50.00 AMENDMENT:

Any modification, amendment or other change to this Agreement shall be affected only by a written instrument signed by the authorized representatives of both the COMPANY and the CONTRACTOR.

51.00 NON-EXCLUSIVITY

The award of this order to the Contractor shall not preclude the Company from awarding the same order for similar work at the same rates, or on any terms and conditions to other party or parties. The Company at its discretion can place the order on any other party.

52.00 VENDOR CODE OF CONDUCT

Contractor confirms to have gone through the Policy of BYPL on legal and ethical code required to be followed by vendors encapsulated in the "Vendor Code of Conduct" displayed on the official website of BYPL (www.bsesdelhi.com) also, which shall be treated as a part of the WO.

Contractor undertakes that he shall adhere to the Vendor code of Conduct and also agrees that any violation of the Vendor Code of Conduct shall be treated as breach of the WO.



BSES Yamuna Power Limited

In event of any such breach, irrespective of whether it causes any loss/damage, company (BYPL) shall have the right to recover loss/damage from Contractor.

The Contractor hereby indemnifies and agrees to keep indemnified the company (BYPL) against any claim/litigation arising out of any violation of Vendor Code of Conduct by the Contractor or its officers, agents & representatives etc.

53.0 TERMINATION OF CONTRACT:

If in case the Contractor;

- a) becomes bankrupt or insolvent, has a receiving order issued against it compounds with its creditors, or if the Contractor is a corporation a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction) a receiver is appointed over any part of its undertaking or assets or if the Contractor takes or suffers any other analogous action in consequence of debt.
- b) Assigns or transfers the Contract or any right or interest therein in violation of the provision of given work to sub-contractor.
- c) In the judgment of the Company, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this Sub-clause

“Corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in Contract execution.

“Fraudulent practice” means misrepresentation of facts in order to influence a procurement process or the execution of a Contract detriment to Company and includes collusive practice among Tenderers (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Purchaser of the benefits of free and open competition.

- d) Has abandoned or repudiated the Contract
- e) Has without valid reason failed to commence work on the Facilities promptly or has suspended days after receiving a written instruction from the Company to proceed.
- f) Persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause.



BSES Yamuna Power Limited

- g) Refuses or is unable to provide sufficient materials, services or labour to execute and complete the Facilities in the manner specified in the program furnished and at rate of progress that give reasonable assurance to the Company that the Contractor can attain completion of the Facilities by the time for completion.

The Company may, without prejudice to any other rights it may possess under the Contract, give a notice to the Contractor stating the nature of the default and requiring the Contractor to remedy the same. If the Contractor fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice the Company may terminate the Contract forthwith by giving a notice of termination to the Contractor.

In case, Contractor fails to carry out the work as specified in the schedule or left in between, it will be got done through any other agency at contractors' risk and cost, the same shall be recovered from the amount payable to the Contractor.

In case the Contractor fails to start work / to carry out the work within the specified period i.e. mutually agreed schedule and the work is not found to be satisfactory, the Company reserves the right to terminate the contract, at any stage without assigning any reasons thereof. In such case, the Company shall have the right to forfeit the entire / part amount of EMD / Security Deposit.

Termination for owner's convenience : The owner at any time terminate the contract for any reason, by giving the contractor a notice of termination. Upon receipt of the notice of termination, the contractor shall either within 14 days of receipt of such notice, or on the date specified in the notice of termination, carry out the following : Cease all further work, except for such work as the owner may specify in the notice of termination for the sole purpose of protecting that part of the facilities already executed, or any work required to leave the site in a clean and safe condition.

- Terminate all subcontracts, except as mentioned below.
- Remove all Contractor's equipment from the site, repatriate the contractor's and its sub-contractor's personnel from the site, remove from the site any wreckage, rubbish and debris of any kind, and leave the whole of the site in a clean and safe condition.
- Deliver to the owner the parts of the facilities executed by the contractor up to date of termination.
- To the extent legally possible, assign to the owner all right , title and benefit of the contractor to the facilities and to the plant and equipment as at the date of termination, and as may be required by the owner, in any subcontracts concluded between the contractor and its sub-contractors.
- Deliver to the owner all non-proprietary drawings, specifications and other documents prepared by the contractor or its sub-contractors as at date of termination in connection with the facilities.

In the event of termination of the contract by the owner, under this clause, the owner shall pay to the contractor the following amounts after setting off the owner's claim if any under the contract:



BSES Yamuna Power Limited

- a) The contract price, properly attributable to the parts of the facilities executed by the contractor as of the date of termination.
- b) The costs reasonably incurred by the contractor in the removal of the contractor's equipment from the site and in the repatriation of the contractor's and its sub contractors personnel.
- c) Pre- approved and reasonable cost of satisfying all other obligations, commitments and claims that the contractor may in good faith have undertaken with third parties in connection with the contract and that are not covered above.

54.0) VARIATIONS AND EXTRA ITEMS

54.1) The Contractor shall carry out and complete the works in every respect in accordance with this Contract and in accordance with the directions and to the satisfaction of the Engineer in charge.

54.2) The Engineer In Charge may, at his discretion, from time to time, issue further drawings and/ or written instructions, details, directions and explanations which are herein after referred to as "EIC's Instructions" in regard to:

- a) The variation or modification of the design, quality, specification or quantity of works or the omission or substitution of any work.
- b) The timing or sequencing of work.
- c) Any discrepancy between the drawing and / or the Bill of Quantities and / or Specifications.
- d) The removal from the site of any materials/ equipment/ resources brought thereon by the Contractor and the substitution of the same thereof.
- e) The Execution of additional works of any kind necessary of the completion of the work.
- f) The removal and /or re-execution of any works executed by the Contractor.
- g) The substitution from the site of the works of any person employed there upon.
- h) The amending and making good of any defects under clause "Defects Liability"
- i) The opening up for inspection of any work covered up.
- j) Changes in lines, levels, positions and dimensions of any part of the Work.

54.3) The Contractor shall forthwith comply with and duly execute any work comprised in such EIC's instructions provided always that verbal instructions, directions and explanations given to the Contractor or his supervisor upon the works by the Engineer In Charge shall if involving a variation be confirmed in writing by the Contractor within seven days and the Engineer in charge's written approval is obtained.

54.4) If compliance with the Engineer In Charge's Instructions as aforesaid involves work beyond that contemplated by the Contract, then unless the same were issued owing to some breach of this Contract by the Contractor, the EIC shall pay to the Contractor the cost of the said work as an extra to be valued and as hereinafter provided.

- 54.5) No such variation shall in any way vitiate or invalidate the Contract but the value, if any, of all such variations shall be taken into account in ascertaining the amount of the final certification.
- 54.6) No such variations shall be carried out by the Contractor without instructions, in writing from the Engineer in charge. Provided that no instructions in writing shall be required for increase or decrease in the quantity of any work where such increase or decrease is not the result of an instruction given under this clause, but is the result of the quantities exceeding or being less than those stated in the Bill of Quantities. If the Engineer in charge shall consider it desirable to give any instructions verbally, the Contractor shall comply with such an instruction and any confirmation in writing of such verbal instruction given by the Engineer in charge whether before or after the carrying out of such work, shall be deemed to be an instruction in writing within the meaning of this clause. Provided further that if the Contractor shall within 7 days confirm in writing to the Engineer in charge and such confirmation shall not be contradicted in writing within 30 days by the Engineer in charge, it shall be deemed to be an instruction in writing by the Engineer in charge.
- 54.7) In cases where the items of works are not accepted as complete, or not fully in accordance with the Specification, the Engineer in Charge shall make payments of such items at such reduced rates, as he may consider reasonable in approval of Interim Bills and the Final Bill.
- 54.8) The quantities of the various kinds of work to be done and materials to be furnished under this Contract as listed in the Bill of Quantities are estimated and approximate only and shall be subject to re-measurement upon completion. The Contractor shall make no claim for anticipated profits, for loss of profits or for damages because no work is ordered under certain items or because of a difference between the quantities of the various kinds of work to be done or materials actually delivered and the estimated quantities set forth in the Bill of Quantities.
- 54.9) The rate/ prices quoted by the Contractor in the Bills of Quantities shall be firm irrespective of any variation in the quantities of individual items of work and / or in the Total Contract Sum.

55.00 ACCEPTANCE:

Acceptance of the CONTRACT implies and includes acceptance of all terms and conditions enumerated in the CONTRACT in the technical specification and drawings made available to Contractor consisting of general conditions, detailed scope of work, detailed technical specification & detailed equipment, drawing. Complete scope of work and the Contractors and Company contractual obligation are strictly limited to the terms



BSES Yamuna Power Limited

set out in the CONTRACT. No amendments to the concluded CONTRACT shall be binding unless agreed to in writing for such amendment by both the parties.

SECTION- IV

SCOPE OF WORK

1. Introduction

BSES Yamuna Power Ltd. is a leading Power distribution companies distributing power to about 1.7 million consumers in Delhi with an annual increase of about 4% – 6%. BYPL is presently using SAP ERP for its enterprise resource planning, SAP – ISU for its Metering, Billing and Collections requirements and SAP – BW for the Reporting requirements. All these are critical systems supporting the operations of the company

This document details requirement for implementing Disaster Recovery Site for the SAP systems

2. Existing Scenario

Currently following major SAP systems are operational from DAKC, Mumbai

- SAP ISU
- SAP R3
- SAP BIW
- SAP SRM
- SAP HR
- SAP PI

We are majorly using the SUN Solaris platform as servers and have taken Storage on Demand from IDC. The current SAP DC Infrastructure is located at IDC Mumbai.



BSES Yamuna Power Limited

3. RFP Objective

BYPL intends to implement In-Premise SAP DR to support business continuity requirements. Detailed qualifying requirements, scope of work and technical specifications are specified below.

4. Scope of SAP DR implementation

4.1 The scope of this RFP is to implement In-Premise SAP DR for BSES Yamuna Power Ltd (BYPL) at its Data Centre at Karkardooma.

4.2 The SAP DR solution will include - Study of existing SAP landscape, Undertake Solution Design, Suggest the complete landscape including backup requirements covering required Hardware, Network and Software Licenses, Configuration and Implementation of the solution including OS and Other Software, Data Migration, Customization, Integration with other systems, Documentation- Technical and User manuals, Conducting testing- Unit testing, Integration testing, End-to-End System Operational acceptance testing of entire SAP DR, provide support during 'Go Live', Technical training, User training etc. for successful implementation of SAP DR in BYPL (BYPL will plan for procurement of all the recommended Hardware and Software Licenses themselves).

4.3 Submit detailed implementation methodology and technical architecture & solution for this project and get it approved by BYPL before taking it forward.

4.4 The technical solution should include-

4.4.1 Complete BOM for network, hardware and software including servers, licenses, SAN storage etc.

4.4.2 Storage and Backup requirement for DR to cater growth of 10% annual increase for 5 years.

4.4.3 Approach on DC and DR replication should support RPO of 15-30 mins and RTO of 6 hrs. and defining of bandwidth requirement for RTO and RPO

4.5 Bidder will be required to take up implementation of OS, DB and Other Software including SAP, DRM Suite etc.



BSES Yamuna Power Limited

4.6 Bidder to undertake Application and Data Migration from DC to DR, Database backup, File storage & Application backup movement and restoration from DC to DR with complete functionalities.

4.7 Undertake Mock Drill with End-to-end testing for failover between DC to DR and demonstrate SAP operations through DR site for the BYPL users

4.7.1 Undertake Mock Drill including roll back to DC

4.7.2 Bidder to ensure that system is made operational from DR Site for a minimum of 7 days

4.8 The bidder is expected to optimize the hardware by considering BYPL existing landscape (bidder can get details from BYPL if required).

4.9 Knowledge transfer and training for DR operations

4.9.1 IT Functional & Technical teams training including advanced level training on DR management.

4.10 Provide with names and profiles of the resources being deployed with the bid document.

5 Project Timelines

The complete project will be delivered in 6 - 8 months from date of start of project.

BOQ (Bill of Quantity) and Commercial Bid

S. No	Line Item	Qty.	UoM	Unit Rate (Rs)	App. Taxes	Total All Inclusive Value (Rs)
1	Cost of DR System Implementation and Integration with Other Systems respectively	1	LOT			



BSES Yamuna Power Limited

SECTION- V-

PRICE FORMAT

S. No	Line Item	Qty.	UoM	Unit Rate (Rs)	GST (in%)	GST (in Rs)	Total All Inclusive Value (Rs)
1	Cost of DR System Implementation and Integration with Other Systems respectively	1	Lot				



BSES Yamuna Power Limited

ANNEXURE- A

BID FORM

To

Head of Department
Contracts & Material Deptt.
BSES Yamuna Power Ltd
3rd Floor, "A" Block, Shaktikiran Building
Karkardooma, New Delhi-110032
Sir,

1. We understand that BYPL is desirous of carrying out in its licensed distribution network area in Delhi
2. If our Bid is accepted, we undertake to provide our services as per completion schedule mentioned in the tender document from the date of award of work order/letter of intent
3. .If our Bid is accepted, we will furnish a performance bank guarantee as mentioned in the RFQ for due performance of the Contract in accordance with the Terms and Conditions.
4. We agree to abide by this Bid for a period of 120 days from the due date of bid submission and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Unless and until Letter of Intent is issued, this Bid, together with your written acceptance thereof, shall constitute a binding contract between us.
6. We understand that you are not bound to accept the lowest, or any bid you may receive.

There is provision for Resolution of Disputes under this Contract, in accordance with the Laws and Jurisdiction of Contract.

Dated this..... day of..... 2019

Signature..... In the capacity of
.....duly authorized to
sign for and on behalf of(IN BLOCK

CAPITALS).....

ANNEXURE-B

PROFORMA OF CONTRACT PERFORMANCE BANK GUARANTEE

PROFORMA OF CONTRACT PERFORMANCE BANK GUARANTEE
(TO BE ISSUED ON RS 100/- STAMP PAPER)

Bank Guarantee No.

Place:

Date:

To

BSES Yamuna Power Limited

Whereas BSES YAMUNA POWER LTD (hereinafter referred to as the "Purchaser", which expression shall unless repugnant to the context or meaning thereof include its successors, administrators and assigns) has awarded to M/s..... with its Registered/Head Office at(hereinafter referred to as the "Supplier" which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a contract no. dated (the Contract); And whereas the value of the Contract is Rs. (The Contract Value).And whereas it is a condition of the Contract that the Supplier shall provide a Performance Bank Guarantee for the due and faithful performance of the entire Contract for a sum equivalent to 10 % of the Contract Value to the Purchaser on or before

And whereas the Bank under instructions from the Supplier has agreed to guarantee the due performance of the Contract.

Now it is agreed as follows:

1. we (Name of the Bank) having its Head Office at (hereinafter referred to as the Bank, which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) shall indemnify and keep indemnified the Purchaser for, and guarantee and undertake to pay to the Purchaser immediately on written demand, a sum equivalent to 10% of the Contract Value

as aforesaid at any time upto (day/month/year) without any demur, reservation, contest, recourse or protest and/or without any reference to the Supplier, against all losses, damages, costs and expenses that may be caused to or suffered by the Purchaser by reason of any default on the part of the Supplier in performing and observing any and all the terms and conditions of the Contract or breach on the part of the Supplier of terms or conditions of the Contract.

2. The demand shall consist only of an original letter issued by Purchaser stating that the Supplier has failed to fulfill its obligations under the Contract. Such demand made by the Purchaser on the Bank shall be conclusive and binding notwithstanding any difference or dispute between the Purchaser and the Supplier or any difference or dispute pending before any Court, Tribunal, Arbitrator or any other authority.

3. The Bank undertakes not to revoke this guarantee during its currency without previous written consent of the Purchaser and further agrees that the guarantee herein contained shall continue to be enforceable during the period that would be taken for satisfactory performance and fulfillment in all respects of the Contract or in the event of any dispute between the Purchaser and Supplier until the dispute is settled (provided



BSES Yamuna Power Limited

that the claim/demand under this guarantee is lodged /referred during the currency of this guarantee) or till the Purchaser discharges this guarantee whichever is earlier.

4. The Purchaser shall have the fullest liberty without affecting in any way the liability of the Bank under this guarantee from time to time to extend the time for performance of the Contract by the Supplier. The Purchaser shall have the fullest liberty, without affecting the liability of the Bank under this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Supplier, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract. or any other course or remedy or security available to the Purchaser. The Bank shall not be released of its obligations under these presents by any exercise by the Purchaser of its liberty with reference: to the matters aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Purchaser or any other indulgence shown by the Purchaser or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

5. The Bank agrees that the Purchaser and its option shall be entitled to enforce this guarantee against the Bank as a principal debtor, in the first instance without proceeding against the Supplier and notwithstanding any security or other guarantee that the Purchaser may have in relation to the Supplier's liabilities.

6. Notwithstanding anything contained hereinabove the liability of the Bank under this guarantee is restricted to a sum equivalent to 10% of the Contract Value i.e. Rs.(Rupees) and it shall remain in force upto and including . Unless a demand to enforce a claim under this guarantee is made against the Bank within 3 months from the the above date of expiry i.e. up to all the rights of the Purchaser under the said guarantee shall be forfeited and the Bank shall be released and discharged from all liabilities thereafter.

7. This Performance Bank Guarantee shall be governed by the laws of India.

Dated this Witness
day of 2019 at

- 1. For Bank
- 2. Signature Name

Power of Attorney No:

Banker's Seal

ANNEXURE-C

FORMAT FOR EMD BANK GUARANTEE

(To be issued in a Non Judicial Stamp Paper of Rs.50/-purchased in the name of the bank)

Whereas [name of the Bidder] (herein after called the "Bidder") has submitted its bid dated [date of submission of bid] for the supply of [name and/or description of the goods] (here after called the "Bid").

KNOW ALL PEOPLE by these presents that WE [name of bank] at [Branch Name and address], having our registered office at [address of the registered office of the bank] (herein after called the "Bank"), are bound unto BSES Yamuna Power Ltd., with its Corporate Office at Shaktikiran Building Karkardooma, New Delhi-110032, (herein after called —the "Purchaser") in the sum of Rs..... (Rupees..... only) for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors, and assigns by these presents.

Sealed with the Common Seal of the said Bank this _____ day of _____ 2017 _____.

THE CONDITIONS of this obligation are:

- 1 If the Bidder withdraws its Bid during the period of bid validity specified by the Bidder on the Bid Form ; or
2. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity:
 - (a) Fails or refuses to execute the Contract Form, if required; or
 - (b) Fails or refuses to furnish the performance security, In accordance with the

Instructions to Bidders/ Terms and Conditions;

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that its demand the purchaser will note that amount claimed by it is due to it, owing to the occurrence of one or both of the two condition(s), specifying the occurred condition or condition(s).

This guarantee will remain valid for 6(six) months after last date of receipt of tenders, and any demand in respect thereof should reach the Bank not later than the above date.

(Stamp & signature of the bank)

Signature of the witness

ANNEXURE – D

TERMS & CONDITIONS FOR REVERSE AUCTION

In a bid to make our entire procurement process more fair and transparent, BYPL intends to use the reverse auctions through SAP-SRM tool as an integral part of the entire tendering process. All the bidders who are found as techno- Commercially qualified based on the tender requirements shall be eligible to participate in the reverse auction event. Reverse auction shall be governed by following terms and conditions:

1) BYPL shall provide the user id and password to the authorized representative of the bidder. (Duly signed Authorization Letter in lieu of the same shall be submitted along with the bid).

2) BYPL will make every effort to make the bid process transparent. However, the award decision by BYPL would be final and binding on the bidder.

3)The bidder agrees to non-disclosure of trade information regarding the purchase, identity of BYPL, bid process, bid technology, bid documentation and bid details.

4)The bidder is advised to understand the auto bid process to safeguard themselves against any possibility of non-participation in the auction event.

5) Bidders are further advised to ensure availability of the entire infrastructure as required at their end to participate in the auction event. Inability to bid due to telephone line glitch, Internet response issues, software or hardware hangs; power failure or any other reason shall not be the responsibility of BYPL.

6) In case the bidder fails to participate in the auction event due any reason whatsoever, it shall be presumed that the bidder has no further discounts to offer and the initial bid as submitted by the bidder as a part of the tender shall be considered as the bidder's final no regret offer. Any offline price bids received from a bidder in lieu of non-participation in the auction event shall be out rightly rejected by BYPL.

7) The bidder shall be prepared with competitive price quotes on the day of the bidding event

8) The prices as quoted by the bidder during the auction event shall be inclusive of all the applicable taxes, duties and levies and shall be FOR at BYPL site/ store

9) The prices submitted by a bidder during the auction event shall be binding on the bidder.

10) No requests for time extension of the auction event shall be considered by BYPL.



BSES Yamuna Power Limited

11) The bidder shall submit a detailed price breakup sheet of the final prices in the format as required by BYPL within two days of completion of the auction. In the detailed price breakup; in case, the bid for any line item is more than that submitted in the initial bid (received as a part of tender), the item rate as mentioned in the initial price bid shall be binding on the bidder.

12) In case RA is not conducted/concluded for any reason, a "final no regret" financial bid in a sealed envelope will be called for from all qualified bidders.

ANNEXURE-E

(To be on a non-judicial stamp paper of Rs.100/-)

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“Agreement”), dated this ... day of 2020 (“Effective Date”), is made by and between:

BSES Yamuna Power Ltd., a company incorporated under the Companies Act, and having its registered office at Shaktikiran Building, Karkardooma, New Delhi – 110032 (hereinafter referred to as “**BYPL**”);

and

XXXXXXXXXXXXXXXXXX a company incorporated under the Companies Act, having its registered office at _____ (herein after referred as “**CONTRACTOR**”);

BYPL and CONTRACTOR will collectively be referred to as “Parties” and individually as “Party” and shall, wherever the context admits, mean and include their respective successors-in-interest and permitted assigns..

WHEREAS, during the course of discussions among the Parties relating to award of work order to vendor for door to door survey of consumers, the vendor may be disclosed to the information including the data of consumers, it may consider proprietary and confidential.

BYPL disclosing the information shall be referred to as “Disclosing Party” and the VENDOR receiving the information shall be referred to as the “Recipient/Receiving Party”.

NOW IN CONSIDERATION OF THE PREMISES, AND MUTUAL AGREEMENTS CONTAINED HEREIN, DISCLOSING PARTY AND RECIPIENT PARTY AGREE AS FOLLOWS:



BSES Yamuna Power Limited

1. "Confidential Information" shall mean all information of the Disclosing Party/BYPL, including any commercial, financial, technical or other information relating to the past, present and future research, development, business activities, products, and services of the Disclosing Party, which is disclosed to the Recipient in connection with the Business Purpose (whether disclosed orally or in any other form whatsoever, including without limitation data, drawings, films, documents and computer readable media) and which is marked or otherwise designated as confidential or proprietary or is reasonably understood to be of confidential or proprietary nature. This will include all information/data collected from the consumers of BYPL. Any discussions, whether formal or informal, between the Parties in respect of the subject matter hereof are embodied in the definition of the Confidential Information. Oral disclosures of the Information may be reduced to writing by the Disclosing Party and designated as confidential to the Receiving Party within thirty (30) days of it being disclosed.
2. The Vendor undertakes the following in respect of Confidential Information for which it is the Recipient:
 - (a) To treat Confidential Information of BYPL and Its consumers as confidential, using the same degree of care as it uses for its own confidential information of like kind, but no event less than reasonable care;
 - (b) Not without the BYPL's prior written consent, to communicate or disclose any Confidential Information to any person except:
 - (i) only to those employees of the Recipient's organization, on a reasonable need to know basis, who are concerned with the Business Purpose;
 - (ii) where the Recipient is ordered by a court of competent jurisdiction to do so, or there is a statutory obligation to do so, except that the Recipient shall promptly inform the Disclosing Party in writing before any disclosure and shall provide the Disclosing Party reasonable assistance so that Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement before any disclosure under such order or obligation is made; and
 - (c) to ensure that all Parties mentioned in paragraph (b) above are made aware, prior to the disclosure of such Confidential Information, of the confidential nature thereof and agree to hold such Confidential Information in strict confidence in accordance with the terms of this



BSES Yamuna Power Limited

Agreement and to use its reasonable endeavours to ensure that such Parties comply with their obligations.

- (d) not to use or circulate such Confidential Information within its own organisation except solely to the extent necessary for the Business Purpose or any other purpose BYPL may hereafter expressly authorise in writing;
 - (e) to effect and maintain adequate security measures to safeguard such Confidential Information from unauthorised access, disclosure, use and misappropriation and to notify the Disclosing Party of any unauthorized use of disclosure; and
 - (f) not to copy or reproduce the Confidential Information of BYPL or its consumers, without the BYPL's prior written consent.
 - (g) ensure that, except for the purposes of this agreement, all copies of Information shall only be reproduced after BYPL's prior written consent, may bear the original legend, marking, stamp or other positive written identification on the face thereof indicating that the Information therein is proprietary information of the Disclosing Party.
3. The above restrictions shall not apply to information (including, but not limited to, ideas, concepts, know-how, techniques, and methodologies) that: (a) is or has becomes publicly known or part of the public domain through no fault of the Recipient; (b) is lawfully received from a third Party without any restriction and without any obligation of confidentiality; (c) is already known to the Recipient with no obligation of confidentiality to the Disclosing Party; (d) is independently developed by Recipient without use of or reference to the Confidential Information; or (e) is approved for release by written authorization of Disclosing Party.
4. Confidential Information shall be deemed the property of the Disclosing Party. Nothing contained in this Agreement or disclosure of the Confidential Information shall be construed as granting to or conferring on the Vendor any rights by BYPL or otherwise, expressly or impliedly, to any patents, trade secrets, copyrights, trademarks or other rights in the Confidential Information. All confidential information is provided "as is". BYPL does not make any warranties, express, implied or otherwise, including without limitation warranties regarding non-



BSES Yamuna Power Limited

infringement, trademark, copyright, patent or any other intellectual property right or accuracy, completeness or performance.

5. The Parties agree that the provision of Confidential Information hereunder and any discussions held in connection with the Business Purpose shall not prevent BYPL from pursuing similar or other discussions with third Parties. Nothing herein shall obligate or otherwise commit BYPL to purchase any product or service from Vendor. It is agreed by Vendor that it shall not be claiming any right over the said confidential information/data. It is agreed by Vendor that in case of preparation of reports/charts/PPTs containing the data under the ownership of BYPL, BYPL shall be having ownership rights over the said reports/charts/PPTs.
6. Within ninety (90) days after the completion or termination of the Business Purpose, work order or request of BYPL, VENDOR shall promptly deliver to BYPL all Confidential Information and after confirmation as to receipt from BYPL further intimation to BYPL, all copies thereof and destroy or erase any Confidential Information contained in any materials and documentation, including all originals, copies, computer data files, word processing files, letters, or other computer storage files, prepared by or on behalf of the Recipient.
7. Vendor shall not make or permit others to make any reference to the subject matter of the Agreement, or the Confidential Information or use the name, trade name, trademark, logo, acronym or other designation of BYPL in any public announcements, promotional, marketing, sales materials or efforts or otherwise without the prior written consent of BYPL.
8. All disputes arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall, unless amicably settled between the Parties, be finally settled by arbitration according to the provisions of Arbitration & Conciliation Act, 2016 and/or any statutory modifications thereof by an arbitral tribunal consisting of Sole Arbitrator jointly appointed by parties and in case of parties failing to agree the appointment of sole arbitrator, the sole arbitrator shall be appointed in terms of the provisions of Arbitration & Conciliation Act . The seat of arbitration shall be at Delhi. The procedural law of this place shall apply where the Rules are silent. The arbitration proceedings shall be conducted in English.



BSES Yamuna Power Limited

9. Nothing in this Agreement is intended to confer any benefit on any third Party or any right to enforce any term of this Agreement. This Agreement shall come into force upon execution by the Parties and shall remain valid till the continuance of work order. The rights and obligations of the Parties which have accrued prior to termination shall, however, survive the termination of this Agreement for a period of One (1) years. This Agreement shall be governed by and construed in accordance with the laws of India, without giving effect to conflict of law rules.
10. Neither Party may assign its rights or delegate its duties or obligations under this Agreement without prior written consent of the other Party. Any attempt to do so is void. This Agreement may not be modified or amended except by the mutual written agreement of the Parties.
11. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the Party against which it is sought to be enforced.
12. The Parties agree that this Agreement is the complete and exclusive statement of the agreement between the Parties relating to the subject matter of the Agreement. This Agreement supersedes all requests for proposals, proposals or other prior or contemporaneous agreements, oral or written, and all other communications between the Parties relating to the subject matter hereof.
13. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other provisions hereof or the whole of this Agreement, but such provision shall be deemed modified to the extent necessary in the court's opinion to render such provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties herein set forth.
14. Where this Agreement is to be, amongst others, admitted as evidence, for the purposes of legal proceedings of any nature in any forum, copies of this Agreement, certified to be true copies by authorized personnel of the Parties shall be deemed original solely for such purpose.
15. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.



BSES Yamuna Power Limited

16. That the excutory of this instant agreement do hereby confirm and declare that they have standing and competent right to execute this instant agreement and there is no other/further stipulation, which is in contradiction to the terms of this agreement and/or prevent/restrict the execution and/or operation of the terms of this agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

XXXXXXXXXXXXXXXXXXXX

BSES Yamuna Power Ltd.

Name:

Name: _____

Title:

Title:

Witnesses:

Witnesses:

1.

1.

2.

2.



BSES Yamuna Power Limited

ANNEXURE-F

Communication Details

Bidder should furnish the below details for future communication:-

<u>GENERAL INFORMATION</u>	
NAME OF COMPANY	
POSTAL ADDRESS	

FOR TECHNICAL QUERY:		
CONTACT PERSON & DESIGNATION	NAME	DESIGNATION
E-MAIL	MOBILE NO	TELEPHONE NO

FOR COMMERCIAL QUERY:		
CONTACT PERSON & DESIGNATION	NAME	DESIGNATION
E-MAIL	MOBILE NO	TELEPHONE NO