

Tender Notification for

**“RATE CONTRACT FOR PROVIDING PULL AND PUSH SMS
SERVICES FOR TWO YEARS IN BRPL”**

NIT NO: CMC/BR/21-22/RB/AR/KB/945 DT: 05.10.2021

Due Date for Submission of Tender: 25.10.2021

BSES RAJDHANI POWER LIMITED,

BSES Bhawan, Nehru Place, New Delhi-110019

Corporate Identification Number: U40109DL2001PLC111527

Telephone Number: +91 11 4920 7239

Website: www.bsesdelhi.com

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

SECTION - I

REQUEST FOR QUOTATION

1.1 GENERAL

BSES Rajdhani Power Limited invites sealed tenders in 2 envelopes for **“PROVIDING PULL AND PUSH SMS SERVICES IN BRPL”**

1.01 The bidder must qualify the requirements as specified in clause 1.3 stated below.

The sealed envelopes shall be duly super scribed as- RATE CONTRACT FOR PROVIDING PULL AND PUSH SMS SERVICES FOR TWO YEARS IN BRPL”

“NIT NO: CMC/BR/21-22/RB/AR/KB/945 DT: 05.10.2021 Due Date 25.10.2021”

BRPL invites sealed tenders from eligible bidders for the above-mentioned work (clause 1.1).

Estimated cost of work	: Rs.2,40,00,000 (Including GST) for 1 Year (Initial order will be given for One (1) Year and extend for next one (1) Year on performance basis.
Earnest money Deposit	: Rs.4,80,000/-
Cost of Tender form (Non- Refundable)	: Rs.1180/- (Including GST)
Validity Period	: 2 Years (from date of issuance of order)
Tender documents on sale	: 04.10.2021 (working days)
Date & time of Submission of Tender	: 25.10.2021 till 15:00 HRS
Date & time of opening of Tender (Opening of technical bid)	: 25.10.2021 till 15:30 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 Rajdhani Power Ltd, payable at Delhi:

**Head of Department
Contracts & Material Dept.
BSES Rajdhani Power Limited
1st Floor, “C” Block, BSES Bhawan
Nehru Place
New Delhi -110019**

The tender papers will be issued on all working days up to the date mentioned in clause 1.01. 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

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 full fill 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 bidders
- Commercial Terms & conditions, annexures
- Bill of Quantities/ Price Format / Bid form/BG Format

1.2.4 The Contract shall be governed by the documents listed in para 1.2.3 above.

BSES Rajdhani 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:

- (i) If **Earnest Money Deposit (EMD)** of requisite amount is not deposited in shape of Bank Draft/Pay Order /BG drawn in favour of **BSES Rajdhani Power Ltd**, payable at Delhi.
- (ii) The offer does not contain "FOR NEW DELHI" price indicating break-up towards all taxes, duties etc.
- (iii) Complete Technical details are not enclosed.
- (iv) Tender will be received after due date and time.

1.3 Qualification Criteria:-

The prospective bidder must qualify all of the following requirements to be eligible to participate in the bidding. 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.

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 BRPL in the past & other utilities in India will not be considered.
- b) Company reserves the right to carry out technical capability/ infrastructure assessment of the Bidders by factory/office inspection or by any other means and company's decision shall be final in this regard.
- c) No joint ventures/ consortiums are allowed.

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

- a) Audited Balance sheet for last three Financial years.
- b) Detail of Banker & Cash Credit limit
- c) Details of constitution of the company (Proprietary/ Limited/ Pvt. Ltd. Along with details)
- d) Memorandum & Articles of Association of the Company
- e) Organization Chart of the company
- f) Experience details with credentials
- g) Turnover certificate issued by C.A for the last three (3) Financial Years.
- h) Income Tax return for last 3 years

1.4 Bidding and Award Process:-

Bidders are requested to submit their offer strictly in line with this tender document. NO DEVIATION IS ACCEPTABLE. BRPL 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 Rajdhani Power Ltd
1st Floor, "C" Block, BSES Bhawan
Nehru Place
New Delhi-110019

PART A : TECHNICAL BID comprising of following:

- 1) EMD of requisite amount

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

The technical bid shall also contain this tender Document with all pages signed & stamped with bidder's seal as an acceptance to the terms & conditions mentioned in this tender document.

PART B: **FINANCIAL BID** comprising of Prices strictly in the Format enclosed in SECTION V

TIME SCHEDULE

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

S. No.	Steps	Comprising of	Due date
1	Technical/Commercial Queries, if any	All Queries related to RFQ- to be mailed to the following: 1. Virender.Pathak@relianceada.com 2. Kuber.bhatia@relianceada.com	14.10.2021
2	PART-A Technical and Commercial Bid	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.	25.10.2021
3	PART B Financial Bid	Price strictly in the Format enclosed (Section V) indicating Break up regarding basic price, taxes & duties etc.	25.10.2021
4	Date of Pre Bid Meeting	webex at https://bsesbrpl.webex.com/bsesbrpl/j.php?MTID=me0bd84c1831ffa08a9204fcda4675bcb	14.10.2021 1500hrs

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.

Sr. No	Category	Evaluation Parameters
<u>TECHNICAL QUALIFYING CRITERIA</u>		
1	The bidding company should have experience in providing SMS gateway services for the last five years in India. The solution offered should be running successfully in current locations.	A copy of the performance certificate & work order should be submitted in this regard.
2	The Bidder should be in this line of activity and should have executed similar projects in at least three institution / utilities in India. The solution offered should be currently running successfully in at least three Public/Private Sector Scheduled Commercial Bank in India.	Bidder has to submit copy of latest performance certificate & work order from Bank's/ Similar financial institutions & experience certificate from such clients.

3	Bidder should have direct tie up/arrangements with minimum three telecom service providers/operators for within India services and minimum two for international operation.	Copies of currently valid Agreements and Certificates with the telecom operators with which it has direct connectivity. Undertaking to be provided by bidder to renew agreement up to the validity of bank's rate contract.
4	The Bidder should have Disaster Recovery capability to send alerts from at least two geographical locations for ensuring business continuity. Bidder to provide address of locations from where SMS alerts can be sent.	Full Address Proof and contact details for two different locations to be submitted in this regard as per the availability of such locations.
5	Bidder should have a capability to handle at least 60 lacs Real Time SMS alerts per day for banking transactions of Banks.	Bidder to submit latest (previous month's) invoice paid by respective banks.
		Invoices raised should clearly mention the volume of Real Time SMS Alerts for establishing capability to handle at least 60 lacs Real Time SMS alerts per day for banking transactions of Banks.
		Invoices raised by the bidder to clients other than banks would not be considered for establishing the capability to handle at least 60 lacs real time SMS alerts per day.
6	The Bidder should be able to allocate a minimum throughput 2500 SMS/sec to BSES Rajdhani Power Limited.	1. Certificates to this effect from the telecom operator[s] should be submitted with whom bidder has the tie up to deliver SMS Alerts.
7	The bidder should be registered telemarketer as per TRAI guidelines or have the arrangement to deliver SMS through any registered telemarketers only.	Certified copy of registration as registered telemarketer as per TRAI guidelines
8	Delivery of SMS alerts should be ensured to all National/International locations without any exception.	Undertaking
9	Bidder should have Active-Active Setup for Messaging in two locations in India which fall under different seismic zones.	Site Addresses with Contact Details to be shared along with Proof of Address
10	The bidder should have a valid latest ISO Certificate or similar certification (SSAE16, PC DSS) for information Security management as of bid submission date.	The bidder should submit a copy of valid ISO certificates.
FINANCIAL QUALIFICATION CRITERIA		
1	The bidder should be a public/private limited company registered under Companies Act, 1956.	The attested copies of Certificate of Incorporation issued by the Registrar of Companies is to be submitted.
2	The bidder should have minimum net worth of Rs. 5 crores during last 3 financial year i.e. 2018-19, 2019-20, 2020-2021 and should have registered a turnover of Rs. 50 Crore or more for each year during the financial years . 2018-19, 2019-20, 2020-2021	UDIN based CA Certificate & the Audited Balance Sheet and Profit & Loss Statement for financial years . 2018-19, 2019-20, 2020-2021. are to be submitted as documentary evidence.

3	The bidder should be a profit making entity for each year during the last 3 financial years . 2018-19, 2019-20, 2020-2021	UDIN based CA Certificate & the Audited Balance Sheet and Profit & Loss Statement for financial years . 2018-19, 2019-20, 2020-2021 are to be submitted as documentary evidence.
4	Bidder must provide proof of having solvency of an amount equal to Rs. 50 Lacs from any nationalized/ scheduled commercial bank. It should not be older than 01.04.2021.	
5	Entities that have been debarred/ blacklisted by any Private/central/state government institution including electricity boards in India will not be considered; in this regard a written statement has to be provided on bidder's letterhead along with other documents.	In this regard a written affidavit has to be provided along with other documents
6	Bidder should have valid Registration No. of GSTIN. Bidder should have PAN No & should fulfill all statutory compliances like PF, ESI registration etc which are required for providing such services.	
7	Bidder should have valid Registration No. of GST Tax, whichever is Applicable	
8	The bidder should submit an undertaking for "No Litigation" is pending with BRPL or its Group Companies.	
9	The bidder should give an undertaking on their letterhead that all the documents/certificates/information submitted by them against the tender are genuine/true/correct and the copies of documents have been made from the original document/s. Further in case any of the documents/certificates/information submitted by the bidder is found to be false or forged, BRPL at its sole discretion shall be free to take all actions as permitted under law, including forfeiture of EMD and disqualification from participation in the future tenders for 1 year in BRPL & its group companies.	
10	Company reserves the right to carry out capability assessment of the Bidders and company's decision shall be final in this regard without assigning the reasons thereof and preference will be given to the Bidders who have worked with utility companies.	
11	Please note that by participation in tender and submission of bid, the bidder authorize BRPL to verify the bidder's credentials like work order copies, performance certificates etc. submitted by the bidder from the respective issuing client. If required, BRPL may also direct the bidder to provide the required contact details of the client who can confirm the authenticity of the documents submitted to facilitate the verification process within the timelines provided by BRPL. That upon demand the bidder shall be providing such details to BRPL within timelines provided by BRPL. Further in case any of the documents/certificates/information submitted by the bidder is found to be false or forged or the default from the side of bidder in providing the details for verification, BRPL at its sole Discretion shall be free to take all actions as permitted under law, including forfeiture of EMD disqualification from participation in the future tenders for 1 year in BRPL & its group companies.	

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

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

- ✓ Last three Financial Years (FY 18-19, FY 19-20 & FY 20 -21) financial statement

- ✓ Bidder to submit UDIN based CA Certificate showing upto date all statutory compliance like GST returns i.e upto FY 20-21
- ✓ PF, ESI registration copy
- ✓ Details of constitution of the company (Proprietary/ Limited. Along with details)
- ✓ Memorandum & Articles of Association of the Company
- ✓ Organization Chart of the company
- ✓ Experience details with credentials
- ✓ No of Employees detail
- ✓ Premises Detail and addresses across India.

Please note: For Existing vendors of BRPL, evaluation will also include the performance in the existing contracts via-a-vis performance in terms of complains, Compliance parameters and wages disbursement by Vendors. BRPL reserves the right to disqualify their bid based on the above performance parameters in spite of them meeting the above qualification criteria. The decision of BRPL shall be final & binding on the bidder. BRPL may ask for any other document as may be required to substantiate/ justify the submissions made by bidders.

BSES reserves the right to disqualify in spite of the bidders meeting the above QC. The decision of BRPL shall be final & binding on the bidder.

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

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

BID SUBMISSION:

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

**Head of Department
Contracts & Material Dept.
BSES RAJDHANI Power Ltd
1st Floor, C Block
BSES Bhawan, Nehru Place
New Delhi 110019**

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
- Complete Tender document, duly signed & stamped as acceptance to Commercial Terms and Conditions viz Delivery schedule/period, Payment terms, BG etc
- Acceptance to Technical Specifications if any

PART B: **FINANCIAL BID** comprising of

- Prices strictly in the Format enclosed in SECTION IV
- The bid in a two part as prescribed above.
- Bidders are to submit the bids in 2(two) 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 1.02**. Technical evaluation qualification may be based on

physical verification of the bidder's site. After technical evaluation, the list of qualified tenders will be posted immediately on BSES website.

- **PART B** :: This envelope will be opened after technical evaluation and only of the technically qualified bidders and the date of opening of the same shall be intimated in due course of time.
- 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.

FINANCIAL BID EVALUATION THROUGH REVERSE AUCTION:

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

The 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-A in this tender document. Training/details shall be provided to bidders before participation in auction. In case the Reverse Auction is not conducted/concluded for any reasons, then a "final no regret price" will be called for from 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.

1.4.2 Award Decision

- a) Company intends to award the business on a lowest bid basis, so bidders 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 BRPL 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.

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 market place rules or engage in behavior that disrupts the fair execution of the market place 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 BRPL. This includes all bidding information submitted.

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

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

1.4.1 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) – Sh Nitin Galande Copy to :Head (Contracts)	Head (Contracts) – Sh Ananda Raj
Mail ID	Nitin.Galande@relianceada.com	Ananda.Raj@relianceada.com
Address	IT deptt IIIrd-Floor,D-BLOCK, BSES Bhawan, BSES Rajdhani Power Ltd , Nehru Place, New Delhi	C&M Deptt., BSES Rajdhani Power Ltd, I Floor, "D" Block, BSES Bhawan Nehru Place, New Delhi

SECTION – II: INSTRUCTION TO BIDDERS**1.0 GENERAL**

BSES Rajdhani Power Ltd, hereinafter referred to as "The Company" are desirous of awarding work for "**RATE CONTRACT FOR PROVIDING PULL AND PUSH SMS SERVICES FOR TWO YEARS IN BRPL**". The Company has now floated tender for this work in BRPL as notified earlier in this bid document.

- 1.1 All the Bids shall be prepared and submitted in accordance with these instructions.
- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 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.
- 1.6 The company reserves the right to split the order among various successful tenders in any manner chooses without assigning any reason whatsoever.

2.0 SCOPE OF CONTRACT

The complete scope of work has been defined in relevant section of this tender document.

3.0 DISCLAIMER

- 3.1 This Document includes statements, which reflect various assumptions, which may or may not be correct. 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.
- 3.2 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 arising in any way from the selection process for the work.
- 3.3 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.
- 3.4 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).

3 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

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

SECTION – I: REQUEST FOR QUOTATION
SECTION – II: INSTRUCTIONS TO BIDDER
SECTION – III: TERMS AND CONDITION
SECTION – IV: BILL OF QUANTITY/PRICE FORMAT
SECTION – V: BID FORM
SECTION – VI: FORMAT FOR EMD BANK GUARANTEE
SECTION – VII: PROFORMA OF CONTRACT PERFORMANCE BANK GUARANTEE
SECTION – VIII : CHECK LIST

- 5.2 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.

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

The bidder shall furnish, as part of its bid, an 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 Rajdhani Power Ltd, payable at Delhi.
- (b) BG from nationalized / Scheduled bank in favour of BSES Rajdhani Power Limited valid for 6(six) months after last date of receipt of tenders

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 lower bidder shall be refunded within 8 (Eight) weeks after award of the work.

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

The EMD may be forfeited in case of:
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/Work Order, (or)
- (ii) Furnish the required performance security BG; within the stipulated period (or)

(C) If the bidder is found to have submitted false or forged any of the documents/certificates/information .

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.**

Penalty

10.1 Percentage of delivery: The Contractor must be able to complete 97% delivery failing to which a penalty of 5% of the invoice value shall be levied

10.2. For continuous default of any parameters set out in the contract, contract can be reviewed at any time & can also be terminated after issuing a valid notice.

10.3. Penalties at Operational Stage

The bidder should have the facility to manage the priorities to different type of SMS Alerts being sent by BRPL and deliver the alerts as per the SLA defined.

SMS Category	Description	Delivery time
OTP	Higher Priority alerts	Within 15 seconds
Transactional	Transactional / Batch SMS in real time	Within 30 seconds
Promotional	Promotional SMS in BULK minimum batch size of 1 lakh SMS.	Within 120 minutes

SN	Parameter	Measurement	Penalty
1	Delay in SMS delivery to desired recipients as per data provided by BRPL	Based on report provided in MIS subjected to cross verification by BRPL	A sum @10% (Ten percent) per SMS charges X number of desired recipients
2	Non-delivery of the SMS to desired recipients as per data provided by BRPL	Based on report provided in MIS subjected to cross verification by BRPL	A sum @10% (Ten percent) per SMS charges X number of desired recipients
3	Deficiency in SMS reporting data in MIS reports	Based on report provided in MIS subjected to cross verification by BRPL	Deduction of an amount @10% (Ten percent) of Monthly Billing.
4	Up-time of its SMS gateway services	ensure 99% up time during the billing period for its SMS gateway services excluding the planned downtime*	Deduction of an amount @10% (Ten percent) of Monthly Billing.
5	Instance where above all parameters are associated		Max. Deduction up to @20% (Twenty percent) of Monthly Billing

*An advance notice of at least 48 hrs. shall require to be given by the bidder for any planned downtime activities.

Note:

- The penalties, if applicable, shall be deducted from the Monthly payment against the invoices of the selected bidder.
- The maximum 'operational penalty' that can be deducted from the monthly invoice would be maximum 20% of that invoice amount. Further, in case the value of total 'Operational penalties', is 20% or more of the Monthly service charges for 3 consecutive times, the contract may be terminated and the performance guarantee may be forfeited.

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.
- 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.

B. SUBMISSION OF BIDS

1.0 SEALING AND MARKING OF BIDS

- 1.1 Bid submission: One original (hard copies) + one copy(photocopy) of all the Bid Documents shall be sealed and submitted to the Company before the closing time for submission of the bid.
- 1.2 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“.
- 1.3 The Bidder has the option of sending the Bids in person. Bids submitted by Email 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.

2.0 DEADLINE FOR SUBMISSION OF BIDS

- 2.1 The original Bid must be timely received by the Company at the address specified in Section-I
- 2.2 The Company may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Documents in accordance with Clause9.0,in which case all rights and obligations of the Company and Bidders previously subject to the deadline will there after be subject to the deadline as extended.

3.0 ONE BID PER BIDDER

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

4.0 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.

5.0 MODIFICATIONS AND WITHDRAWAL OF BIDS

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

C. EVALUATION OF BID

1.1 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.

1.2 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.

2.0 PRELIMINARY EXAMINATION OF BIDS / RESPONSIVENESS

- 2.1 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.
- 2.2 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.
- 2.3 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 deviation.
- 2.4 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.

3.0 EVALUATION AND COMPARISON OF BIDS

- 3.1 The evaluation of Bids shall be done based on the delivered cost competitiveness basis.
- 3.2 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 of Bidders with Techno-commercially Acceptable Bids shall be considered for final evaluation.

- 3.3 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) Contract completion schedule
 - (b) Conformance to Qualifying Criteria
 - (c) No Deviations from Bidding Documents

Bidders shall base their Bid price on the terms and conditions specified in the Bidding Documents. No deviations from the terms and conditions and specifications of the tender shall be acceptable.

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

D. AWARD OF CONTRACT

1.0 CONTACTING THE COMPANY

- 1.1 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.
- 1.2 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.

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

- 3.0 **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 to other bidders in the tender, provided it is required for progress of project & provided he 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 BRPL on this shall be final and binding on the bidders.

4.0 THE COMPANY'S RIGHT TO VARY QUANTITIES

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

- 5.0 **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.

6.0 CORRUPT OR FRAUDULENT PRACTICES

- 6.1 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 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.

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

SECTION – III: TERMS AND CONDITIONS

1.0 DEFINITIONS & INTERPRETATION:

1. Definition: The following terms & expressions as used in this Contract order shall have the meaning defined and interpreted here under:

1.1. Company: The terms "Company" shall mean BSES RAJDHANI Power Limited having its office at BSES Bhawan, Nehru Place, New Delhi-110019 and shall include its authorized representatives, Agents, successors and assigns.

1.2 Contractor: shall mean the successful bidder / vendor to whom the contract will be awarded and shall include its authorized representative, agents, successors, and assigns.

1.3 CONTRACT SPECIFICATION: The terms "CONTRACT Specification" shall mean the Technical specification of the work as agreed by contractor and description of work as detailed and all such particulars mentioned directly/referred to or implied as such in the contract.

1.4 SITE: The terms "Site" shall mean the working location in BRPL area.

1.5 ENGINEER IN CHARGE: "Engineer In-charge" means the Company's authorized representative for the purpose of carrying out the work. For this Work Order Engineer In-charge shall be Head-Admin or his nominated representative.

1.6 Good Industry Practice: means the exercise of that degree of skill, diligence and prudence which is expected from a skilled, experienced and recognized contractor engaged in the same type of undertaking similar to the one undertaken by the Contractor and acting generally in accordance with the prevailing laws, rules, regulations, codes and industry standards.

1.7 Effective Date: means the date when Contractor through its authorized representative places its signature on the duplicate copy of this contract.

1.8 Rate: The unit rates for the work to be carried out at site shall be as per finalized unit rates through tender and payable by the Company to the Contractor for the due, complete and proper performance of the jobs covered under this contract.

2.0. EXAMINATION OF SITE AND LOCAL CONDITIONS:

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

3.0. LANGUAGE AND MEASUREMENT:

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

4.0 . BRPL Obligations:

- 4.1 The Company's Business Process department shall provide the Contractor a tentative schedule to provide the required manpower in a month.
- 4.2 BRPL shall provide all other necessary & relevant information from time to time to the contractor in order to satisfactory performance of the service as set out in this Agreement.
- 4.3 The supplies of above shall only on communication through written / e-mail by Officer-in-charge (or their nominated representative).
- 4.4 BRPL shall ensure that all payments and outgoings for all the goods / services rendered by the contractor are made to the Contractor on time as per terms of the agreement.

4. Contractor's Scope of Work:

As per section – IV of this tender document.

5. EFFECTIVE DATE AND VALIDITY:

The award of work shall be as and when the requirement comes. The Rates will become effective for all purposes from the releasing of LOI and shall remain valid for a period of two year.

This order shall become effective for all purposes from date of issuance and continue to remain in force for a period of Two year. **The contract performance shall be reviewed after 1 year from the date of issuance for continuity of the validity of the contract based on the performance assessment.**

After expiry of the validity period, it may be extended/renewed/replaced for such further period on such terms and conditions as may be mutually agreed to between the COMPANY and the CONTRACTOR. If no agreement is reached between the parties before the expiry of this Agreement, the said Agreement shall automatically lapse after expiry of the contract.

6. TAX & DUTIES:

Prices shall be inclusive of all taxes and duties including labour cess (Except GST). However, Income Tax 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 introduces by central Govt. / State Govt. of shall be reimbursed/recovered to/from Contractor against documentary evidence and proof.

7. CONTRACT PERFORMANCE BANK GUARANTEE

7.1 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.

7.2 The Contract Performance Bank Guarantee shall be shall be of 10% of the total value of order and shall be valid till contract validity, plus three (3) months towards claim period.

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

7.4 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.

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

8.0 TERMS OF PAYMENT:

The payment shall be made as under:

For push based SMS services : 100% payment shall be released on monthly basis (On SMS Delivery) on submission of bill & furnishing of daily reports duly verified by Officer In-charge.

For pull based SMS services : 100% payment shall be released as a one time payment annually against the bill raised within 30 days from the day bill is raised.

The contractor shall submit the invoice along with the checklist (to be provided by BRPL) duly filled in. The contractor shall also furnish the daily reports as per scope of work defined under section-IV alongwith with the monthly bills (Format to be provided by BRPL). Invoice shall be processed and payment shall be made to contractor on certification of Officer in Charge for compliance to check Point's given in check list. The check list shall be provided by Officer in Charge.

Payment terms shall be within 30 days from receipt of invoice supported by BRPL certification.

9. Guarantee:

The Contractor shall guarantee that workmanship shall be of finest quality and shall be suitable for the purpose for which the same is to be used.

10. Indemnification:

10.1 The Contractor shall indemnify at all times BRPL and hold harmless all directors and employees of BRPL against any claims, law suits or damages occurring as a result of the award of this contract or due to the operation, maintenance and administration of this contract and against costs and expenses, if any incurred by us in connection therewith and prejudice to make any recovery.

10.2 That The Contractor shall keep BRPL fully indemnified from and against all claims, costs and charges to which BRPL shall be subject to and all expenses to which BRPL may be put in respect of the personal injuries to Contractors employees arising out of, or occasioned during the terms of this agreement due to Contractors negligence or negligence of its employees.

10.3 The Contractor shall also indemnify and keep BRPL indemnified against all losses, claims, costs, damages that BRPL may be subjected to on account of Contractor not complying with statutory requirements as stated herein above.

11. ASSIGNMENT

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 BRPL and upon such terms as are mutually agreed by both the parties hereto. BRPL 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.

12. 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.

13. 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.

14. MOBILISATION:

The Contractor shall have to mobilize their Plants & Equipments, Tools & Tackles, Work Labour Force, project team including Engineering Staff and materials required for execution of work within seven days (7) of receipt of LOI or Work Order whichever is earlier.

15. INDEPENDENT CONTRACTOR :

Nothing in the Work Order shall be deemed to constitute either party (BRPL 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.

16. 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.

17. 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

18. Governing Law 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.

18.2 Dispute Resolution Mechanism:

All disputes and differences arising out of or in connection with this Agreement shall be resolved amicably by mutual discussion within 30 days. If the dispute cannot be resolved by mutual discussions and agreement the parties will take such dispute to an arbitral panel comprising three arbitrators. The parties shall be entitled to appoint one arbitrator each and the two arbitrators so appointed shall appoint the third arbitrator who shall act as presiding arbitrator. The party seeking to invoke arbitration shall appoint its arbitrator in its notice of arbitration. The other party shall appoint its arbitrator and intimate the same within thirty days of the receipt of the notice of arbitration. In the event that such party fails to appoint its arbitrator within the specified period the arbitrator named in the notice for arbitration shall decide the dispute as the sole arbitrator. The 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. The award of the arbitral panel shall be final and binding on all parties. The arbitration proceedings shall be conducted in English.

19. Representation, Warranties And Guarantees:

The Contractor hereby represents warrants and guarantees that:

- i) It is a legally recognized 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.

20.0 RESPONSIBILITY OF CONTRACTOR

The Contractor shall be solely liable and responsible for

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

20.2 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.

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

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

20.6 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.

21.00 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.
- iii. **ID CARD:** No contractor will issue any ID cards to their staff on their own .All ID Cards for the workforce will be issued by BRPL Security ID Card Cell only.

Contractors should maintain the records of Identity Cards of their employees and whenever any employee quits / is removed then his/her Identity card should be collected & submitted to BRPL Security ID Card Cell.

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 BRPL Security before start of the contract.

- iv. The contractor to deploy their manpower immediately for carrying out the work as specified above.

- v. 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 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.
- vi. The contractor shall not deploy the manpower below the age of 18 years.
- vii. The contractor shall not deploy the female manpower between 7 pm to 6 am
- viii. 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.
- ix. All safety wears required for the contractor's manpower during the execution of work such as safety shoes, safety helmets, hand gloves, safety belt, dust mask, goggles etc. must be provided by the contractor at his own cost and he shall ensure that his employees regularly use such safety gears while executing company's work.
- x. 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.
- xi. The contractor shall give a written declaration / undertaking on or before 15th of the following month that he has complied with the following
 - has paid minimum wages to his manpower as per the rate notified from time to time by the Government of National Capital Territory of Delhi.
 - deduct and deposited ESI and PF contribution. Copies of the same shall be submitted
 - Contractor shall disburse the salary of his staff through ECS only.
- xii. The contractor shall submit a list of persons engaged by him for these work mentioning their qualifications, experience and residential address. In case of any revision, the same shall be informed to the Engineer in charge immediately in writing.
- xiii. The company reserves the right to demand the contractor's services on holidays as well as beyond the normal working hours.
- xiv. 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.
- xv. The contractor shall be liable for payment of all taxes and duties as applicable, to the State/ Central Govt. or any local authority.

- xvi. 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.
- xvii. 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):
- 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.

TECHNICAL INFORMATION/DATA:

The COMPANY and the CONTRACTOR, to the extent of their respective rights permitting to do so, shall exchange such technical information and data as is reasonably required by each party to perform its obligations and responsibilities. The COMPANY and the CONTRACTOR will keep each other in confidence and to use the same degree of care as it uses with respect to its own proprietary data to prevent its disclosure to third parties of all technical and confidential information. The technical information, drawings, records and other document shall not be copied, transferred, traced or divulged and / or disclosed to third party in full / part not misused in any other form. These technical information, drawing etc. shall be returned to the COMPANY with all approved copies and duplicates. In the event of any breach, the CONTRACTOR shall indemnify the COMPANY against any loss, cost of damages or claim by any party in respect of such breach.

Non Disclosure Agreement

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

20.0 CONFIDENTIAL INFORMATION

That any information concerning the COMPANY which is designated in writing as proprietary and confidential, the VENDER shall not publish or otherwise disclose it to others.

The VENDER shall, at all times use their best endeavour to keep confidential all information. Accordingly, the VENDER shall not disclose the same to any other person, provided that the provisions of this section shall not apply to information which:

was furnished prior to the signing of Agreement / issuance of this tender document, without restriction ;

is or becomes knowledge available within the public domain (other than by breach of the foregoing obligation of confidentiality) ;

is received by either the COMPANY or the VENDER from a third party without restriction is independently developed by either the COMPANY or the VENDER provided that (i) nothing herein shall limit the right of the COMPANY to provide any information regarding the VENDER or any other person who has executed a confidentiality undertaking to the COMPANY covering the VENDER confidential information that is substantially similar to the provision of this section or otherwise with the VENDER's consent; and (ii) the VENDER may provide to their employee any information necessary to carry out the services.

21.0 ASSIGNMENT:

Notwithstanding anything contained here to the contrary, the CONTRACTOR shall not assign or sublet or transfer all or any of its rights or obligations under this Agreement to any other party. The CONTRACTOR shall perform its obligations in a manner consistent with the job requirements to the satisfaction of the COMPANY.

22.0 COMPLIANCE OF APPLICABLE LABOUR LAWS INCLUDING SAFETY RULES AND REGULATIONS:

The CONTRACTOR confirms and undertakes to comply with all applicable Labour Laws/Model Standing Orders and other statutory provisions as applicable in discharging its functions and duties under these presents and under specific Work Orders and fully observe applicable safety rules and regulations. The CONTRACTOR will provide protective safety equipments to its employees / workmen deployed. It will be also obligatory on the

The CONTRACTOR shall ensure adequate safety precautions at site as required under the law of the land and shall be entirely responsible for the complete safety of its workmen as well as other workers, public, equipment, structures etc. at site.

22.0 STATUTORY OBLIGATIONS:

22.1 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, 1948, 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.

22.2 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.

23.00 WORKMEN COMPENSATION:

The Contactor shall take at his own cost insurance policy under the Workman Compensation Act to cover such workers who are not covered under ESI and PF by the CONTRACTOR 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.

32.0 ARBITRATION:

To the best of their ability, the parties hereto shall endeavor to resolve amicably between themselves all disputes arising in connection with the proposed Agreement. If the same remain unresolved, within fifteen (15) 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 a sole arbitrator to be appointed by the company. The decision of the arbitrator is final and binding upon both the parties. The arbitration proceeding shall be conducted in accordance with the provisions of the Indian Arbitration & Conciliation Act, 1996 and the venue of such arbitration shall be New Delhi only.

33.0 INDEMNIFICATION:

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:

- a) any breach non-observance or non-performance by contractor or its employees or agents of any of the provisions of this Work Order.
- b) any act or omission of contractor or its employees or agents.
- c) 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.

Contractor shall at all times indemnify COMPANY against all liabilities to other persons, including he employees or agents of COMPANY or contractor for bodily injury, damage to property or other loss which may arise out of or in consequence of the execution or completion of Works and against all costs charges and expenses that may be occasioned to COMPANY by the claims of such person.

34.0 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.

35.0 NOTICE:

All notices required or provided for in this Agreement shall be in writing and shall be deemed to have been duly and properly served upon the parties hereto if delivered against acknowledgement or by registered mail with acknowledgement due at the address mentioned herein:

BSES Rajdhani Power Ltd.

BSES Bhawan, Nehru Place,

New Delhi-110 019

36.0 PERFORMANCE:

The performance of the CONTRACTOR shall be reviewed by the company for the work done by the CONTRACTOR. If the performance of CONTRACTOR not found to be satisfactory, the contract shall be terminated and communicated to all concerned.

37.0 ENTIRE AGREEMENT:

This Agreement including all Schedules attached hereto contains the complete understanding between the COMPANY

25.00 STAFF AND WORKMAN

- (I) It shall be responsibility of contractor, if applicable:
- (a) To obtain Contract Labour License from the concerned authorities and maintain proper liaison with them. Necessary Forms for obtaining Labour License would be issued by the company. However you will bear all expenses for obtaining Labour license and registration in PF Department for your scope of work. You will deposit PF of your staff/laborer each month and all related documents should be furnished to us.
 - b) To obtain workman insurance cover against deployment of workers etc.
- (II) To maintain, proper records relating to workmen employed, in the form of various Registers, namely,
- a) Register of workmen.
 - b) Register of muster roll.
 - c) Register of overtime.
 - d) Register of wages.
 - e) Any other register as per latest amendment Labour Act.

The records shall be in the prescribed formats only.

(III) To disburse monthly wages to your workers/ supervisors in time and in the presence of Company representatives or as directed by the Labour authorities.

(IV) To maintain proper liaison with the Project authorities, local police and all other government and local bodies.

(V) To pay your workmen at least not less than the minimum prescribed wages as per state/Central Labour laws as may be, applicable. The contractor shall, be responsible for compliance of all the provisions of minimum Wages Act, PF, ESIC Act workmen Compensation Act and Contract Labour Regulation & Abolition Act the rules made there under. In case of non- compliance of the statutory requirements. The company would take necessary action at the risk and cost of the Contractor.

(VI) To employ required number of skilled/semi-skilled and unskilled workmen as per site requirement to complete the entire project as per schedule. To provide safety shoes, safety helmets, safety belts, gloves etc. to your worker/staff as per requirement during erection work.

(VII) To employ necessary engineering and supervisory staff for completion of the Project in time. While day-to-day management of the site and supervision of the works shall be the responsibility of your Engineer - In charge, he will report to the Engineer in charge to assist him to discharge the overall responsibility of the execution of the project.

26.00 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 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.

27.00 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
- (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
- (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.

28.00 RECOVERIES:

In the event of any money becoming recoverable under this Work Order, from and payable by the Contractor to the BRPL, the BRPL 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 BRPL are not sufficient to cover the full amount recoverable the Contractor shall, on demand, make payment of such remaining amount to BRPL. The reason for any such deduction shall be informed to the contractor by BRPL immediately.

29.00 WAIVER

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

30.00 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 party's 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:

Effect of any natural element or other acts of God, 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:

- (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.

31. SECRECY CLAUSE:

31.1 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.

31.2 These technical information, drawing and other related documents shall be returned to BRPL 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.

31.3 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.

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

31.5 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.

32. 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.

33. Liens:

In case of any claim pertaining to the work and responsibility of the Contractor for which BRPL might become liable, it shall have the right to cover such claim amount from the Contractor.

34. Performance:

The performance of the Contractor shall be reviewed on monthly basis for the work done by the Contractor during this period. If the performance of Contractor not found to be satisfactory, this agreement shall be terminated. If the agreement is not validated after completion of the quarter this agreement shall be automatically treated as cancelled.

TERMINATION: 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.

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.

PRIORITY OF CONTRACT DOCUMENTS:

The several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies, the same shall be explained and adjusted by the company, who shall thereupon issue to the Contractor, instructions thereon..In such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows:

- (I) This Contract Agreement
- (ii) The Letter of Acceptance/ Intent
- (iii) Agreed Minutes of the Tender Negotiation Meetings.
- (iv) Agreed Minutes of the Tender Technical Meetings .
- (v) The Priced Bill of Quantities
- (vi) The Technical Specifications / Scope of work
- (vii) The Tender document, including all Appendices and/or Addenda, Corrigendum the latest taking precedence.

In the event of any conflict between the above-mentioned documents, the more stringent requirement or conditions which shall be favourable to the owner shall govern and the Owners decision shall be final and binding upon the parties.

35. Termination:

During the course of the execution, if at any time the BRPL observe and forms an opinion that the work under the order is not being performed in accordance with the terms of this Agreement and the performance of the Contractor not found satisfactory, the BRPL reserves its right to cancel/ terminate this Agreement giving 15 days notice without assigning any reason and the BRPL will recover all damages including losses occurred due to loss of time from the Contractor. On receipt of such notice the contractor shall immediately stop all activities related to the work terminated.

This is without prejudice to other rights under the terms of contract. The Contractor shall hand over the BRPL all drawing/documents prepared for this contract up to the date of cancellation of agreement.

36. Premature Termination:

The agreement can be terminated by BRPL before the expiry of its term under the following conditions:

- i) The Contractor fails to perform as per the agreement.
- ii) It is found by BRPL that the Contractor has intentionally manipulated or corrupted the data, or disclosed any of the contents of the details to any third party.
- iii) The Contractor repudiates this order or otherwise evidences intention not to be bound by this agreement;
- iv) The Contractor assigns, mortgages, or charges or purports to assign, mortgage, or charge any of its obligations or rights in contravention to the provisions of this order; or, transfers any of its obligations in contravention to the provisions of this agreement.
- v) The Contractor breaches the Secrecy Clause.
- vi) If at any stage during the tenure of the agreement, Contractor is found to be involved or indulging or even attempting illegal, unlawful action or activities or some fraudulent or even trying to take or ask bribe from any consumer or to give bribe official/staff or misuse or abuse any data of BRPL.

BRPL shall be entitled to deduct from any money due or to become due to the Contractor, money paid or payable by way of compensation as aforesaid or cost or expenses connection with any claims there to and the Contractor shall abide by the decision of BRPL as to the sum payable by the Contractor under the provision of this clause.

37.00 EVENTS OF DEFAULT

37.01 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 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.

37.02 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, the contractor shall be liable to COMPANY for any additional costs that may be incurred by COMPANY for the execution of the Work.

38.00 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

39. 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.

40. 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.

41. VENDOR CODE OF CONDUCT

Contractor confirms to have gone through the Policy of BRPL on legal and ethical code required to be followed by vendors encapsulated in the "Vendor Code of Conduct" displayed on the official website of BRPL (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.

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

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

42. 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 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. SCOPE OF WORK:

SMS Services (SMS Traffic - Transactional and Promotional) including Push and Pull (With multiple keyword e.g. NC, MB, DUPBILL etc.) based SMS. No Charges for HTTP API Setup and short code or long code would be paid by BRPL.

1.1 The Contractor will provide the Pull (With multiple keyword e.g. NC, MB, DUPBILL etc.) & Push Based SMS services for BSES Rajdhani Power Ltd.

1.2 The Contractor will have responsibility to provide this facility on behalf of the Company as directed by the company.

1.3 The scope mentioned above is indicative only. The systems & services shall be complete in all respects, although not mentioned but are necessary or usual for its efficient performance and satisfactory trouble free operation as per standard trade and professional practice will be deemed to be included in the scope of services and no extra price shall be paid for them.

In case of any fault or discrepancies in the services mentioned, the contractor shall provide an alternative immediately at the cost of the Contractor.

2. Service Level Agreement

a) Percentage of delivery:

The vendor must be able to complete 97% delivery within 5min for each batch of at least 20,000 no. SMS failing to which a penalty of 5 % of the invoice shall be levied.

b) Delivery time period:

Delivery to operator: within 10 seconds

Delivery to handset: within 60 seconds

c) Delivery end points

The platform unavailability should not be more than half an hour a day

d) In case the message fails to be delivered even after maximum retries, the message can be killed as per the timelines specified by the company and the same shall be reflected in the MIS report

e) MIS report:

A customized report shall be provided by the service provider on daily basis which shall include the following heads.

1. DATE_HOUR
2. PCODE
3. ACODE
4. TAG NAME
5. SENDER ID
6. SUBMITTED TO CONTRACTOR
7. DND REJECTION
8. CONTRACTOR ACCEPTED
9. DELIVERED
10. FAILED
11. BLANK_DN

In addition to the above the vendor should provide the Latency and Failure report
No escalation and variation shall be allowed. The prices are firm and final during the tenure of this agreement.

Note: Bidder to ensure SMS Security from source to destination, failing the same Service Provider liable for legal action from BRPL.

SCOPE OF WORK, PRODUCT & TECHNICAL SPECIFICATIONS

- i. The SMS Services should cover the facilities like Push Service and Pull SMS (With multiple keyword e.g. NC, MB, DUPBILL etc.) using short / long code / VMN. Our present and predicted future volume of SMS is as under:

SMS Category	Description of SMS	Delivery Time	Existing Estimated Volume * Per Month
Priority 1	Domestic & High Priority SMS (e.g., OTP SMS)	Within 30 Sec	
Priority 2	Domestic & Transactional SMS (e.g., Transaction SMS)	Within 3 Min	
Priority 3	Domestic Bulk and Promotional SMS	Within 2 Hours	

* These volumes are only an estimate and Buyer does not guarantee this volume of business.

- ii. The bidder should have capabilities to send SMS to all GSM, CDMA handsets and to all telecom operators operating in India and abroad without any exception. The Bidder should provide dedicated services for OTP and OSP SMS sent to the Buyer's customer.
- iii. The bidder shall be responsible for delivery of real time SMS alerts on 24*7 basis as per the requirement of the Buyer.
- iv. The bidder shall be responsible for providing after-sales support and service on 24*7 basis for resolution of complaints related to Bulk / Individual SMS Services.
- v. The code (long code/short code/VMN) allotted to the Buyer should be easily memorable and

accessible to Buyer customers, both domestic and international, through all the telecom operators across the globe on 24*7 basis.

- vi. The bidder shall ensure that SMS message whose content does not exceeds 160 characters, should be delivered as a single message on receiver's handset, unless there is dependency on the receiver' mobile handset.
- vii. The initial contract period will be 2 (two) years with provision of further extension by another 1 (One) year with the same terms and conditions subject to satisfactory performance. The Buyer will review the performance each year.
- viii. Bidder should be able to provide a robust campaign manager to integrate interactive mobile marketing campaigns on short code or extended codes.
- ix. The Bidder should have solution to provide SMS in minimum 15 Regional Languages or more.
- x. The bidder has to route all messages sent by the Buyer as "Transaction Messages" without necessitating the scrubbing against National Customer Preference Register (NCPR) introduced by TRAI unless specified otherwise.
- xi. The bidder should be capable of sending voice messages or email messages in case of failure in sending SMS message. For this bidder should have in-house capabilities of sending voice message and E mail messages.
- xii. Delivery of SMS alerts should be ensured to all National/International locations without any exception.
- xiii. The bidder should use their own "SMS Gateway Services" to deliver the messages to the SMSCs directly. The Re-sellers of SMS Gateway Services are not eligible to participate in the RFP. The bidder must have its own Level III / Tier III DC and DR located in India for providing SMS gateway services. The Bidder should have DR capability to send SMS from at least two different seismic zones in two different geographical locations for ensuring business continuity.
- xiv. The bidder should have 24x7 Technical support office/representative in Delhi to provide onsite support immediately on call.
- xv. The bidder should have proper test infrastructure with capability of end to end testing of all integration with Buyer applications.
- xvi. Bidder to maintain the data with regard to SMS sent for at least 1 Year. The data maintained should have the following minimum fields:
 - Mobile Number/MSISDN
 - Complete Message text
 - Bearer (GSM/CDMA)
 - National/International
 - Sender Name/ID
 - Date/time of SMS received at the gateway
 - Date/time of SMS send to the operator
 - Date/time of SMS delivered to the end subscriber
 - Final Status of the SMS Status description

- xvii. DND compliance will be the responsibility of the Bidder/Service Provider. Buyer will not enter into any contract with any telecom, carrier or service provider. The bidder shall be the single point of contact for the Buyer.
- xviii. Bidder should provide an online portal with the following capabilities.
- The portal should provide access to the logs for a period of previous 30 days at any given point of time.
 - The portal should be available to the Buyer users 24x7.
 - The Portal should provide filters on dates, mobile numbers and departments etc.

SMS PRODUCT SPECIFICATION

The solution should have the following features:

- The solution offered should provide Push and Pull based SMS alert services to the Buyer.
- The solution should be capable of sending messages in SMPP (Short Message Peer to Peer Protocol) and/or HTTPS-API with/without XML support to the Buyer with multiple accounts and it should be the primary channel for communication.
- The bidder's system/solution should handle URL based communication, both secured (https) and normal (http) based communication and the messages should be delivered to a specific port, if the port is provided in URL.
- Delivery reports need to be sent using SMPP or HTTPS-API in prescribed format as required by the Buyer. The solution offered should provide secure encrypted connection for delivery of outgoing/incoming alerts with guaranteed delivery.
- The SMS services should be scalable to meet the requirements of the Buyer for next 2 years from the date of placing Purchase Order, considering the similar growth year on year basis.
- The bidder should have the facility of assigning priorities to different type of SMS Alerts being sent by the Buyer and deliver the alerts as per the priorities defined by the Buyer.
- The solution should be capable of checking and blocking duplicate/multiple SMS delivery to customers.
- The Solution should be able to send auto e-mails to the designated administrator(s) and User Department wise of the Buyer with the following data/statistics of overall Buyer Group on daily basis:
 - Date
 - Category
 - Total SMS Pushed
 - Total Successful SMS
 - Total Failed/Expired SMS
 - Total SMS for which delivery reports not received
 - Total Invalid SMS
 - Total DNDs
- The bidder should have a ticketing mechanism for logging and tracking all the complaints raised by the Buyer.

10. For promotional SMSs, solution should provide features including but not limited to below, in addition to other features specified in the RFP:
- Online Website/Portal based access
 - Menu Driven Graphical User Interface (GUI) based access
 - User ID/Password based access to website/portal
 - Facility of Admin Users to create/modify/delete/maintain users for various locations within Buyer
 - Sending SMS to one/many mobile numbers
 - Upload of Mobile Numbers through Excel and Txt formats
 - Scheduling SMS
 - Provision of Web-based reports for download in Excel/Txt/PDF format
 - MIS for promotional SMS user ID wise, period wise, date wise, status wise (delivered, undelivered) etc. for SMS alerts sent.
11. The messaging platform must be able to send, receive and process various categories of SMS services like Broadcast, Scheduled, Events and Interactive SMS etc.
12. The messaging platform must support SMS to email service wherein emails are sent to intended recipient e.g. Integration with critical servers for reporting message in the event of system failure.
13. Bidder should be able to provide PUSH & PULL (With multiple keyword e.g. NC, MB, DUPBILL etc.) SMS services on a 5 digit short code and also have the facility to provide options for 6 digits to 10 digit extended codes.
14. In case any of the successful bidder is different than the current SMS vendor of the Buyer, then the solution offered by the new bidder to run parallel to the existing system of the Buyer for 2 months. The contract will be awarded to the new bidder only upon satisfactory performance of the solution.

SECTION- V- PRICE FORMAT

ITEM DESCRIPTION	UNIT	RATE without GST (in Rs.)	GST (in %)	RATE WITH GST (in Rs.)
Push Based Transactional SMS	100 SMS			
Push based Promotional SMS	100 SMS			
One Time annual Charges - Pull SMS	LUMPSUM			

Please Note:

1. No additional charges such as Charges for HTTP, API Setup , Short code or long code shall be paid by BRPL.

Name of Bidder:

Contact No:

Company Name:

Seal & Signature:

ANNEXURE- A

BID FORM

To

Head of Department

Contracts & Material Deptt.

BSES Rajdhani Power Ltd

I Floor, "C" Block, BSES Bhawan

Nehru Place, New Delhi-110019

Sir,

1. We understand that BRPL 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..... 2017
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 Rajdhani Power Limited

Whereas BSES RAJDHANI 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 - % of the Contract Value to the Purchaser on or before

And whereas the Bank under instructions from the Supplier has agreed to guarantee 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 % 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 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 of 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 % of the Contract Value ie. 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 2021 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 Rajdhani Power Ltd., with its Corporate Office at BSES Bhawan, Nehru Place, New Delhi-110019, (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 is 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, BRPL 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) BRPL 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) BRPL will make every effort to make the bid process transparent. However, the award decision by BRPL would be final and binding on the bidder.
- 3) The bidder agrees to non-disclosure of trade information regarding the purchase, identity of BRPL, 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 BRPL.
- 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 BRPL.
- 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 BRPL 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 BRPL.
- 11) The bidder shall submit a detailed price breakup sheet of the final prices in the format as required by BRPL 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 ----- ("Effective Date"), is made by and between:

BSES Rajdhani Power Ltd., a company incorporated under the Companies Act, and having its registered office at _BSES Bhawan, Nehru Place, New Delhi – 110019 (hereinafter referred to as "**BRPL**");

and

XXXXXXXXXXXXXXXXXX a company incorporated under the Companies Act, having its registered office at _____ (herein after referred to as "**VENDOR**");

BRPL and VENDOR 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 -----, the vendor may be disclosed to the information including the data of consumers, it may consider proprietary and confidential.

BRPL 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:

1. "Confidential Information" shall mean all information of the Disclosing Party/BRPL, 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 BRPL. 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 BRPL 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 BRPL'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 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 BRPL 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 BRPL or its consumers, without the BRPL's prior written consent.
 - (g) ensure that, except for the purposes of this agreement, all copies of Information shall only be reproduced after BRPL'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 become 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 BRPL 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". BRPL does not make any warranties, express, implied or otherwise, including without limitation warranties regarding non-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 BRPL from pursuing similar or other discussions with third Parties. Nothing herein shall obligate or otherwise commit BRPL 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 BRPL, BRPL 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 BRPL, VENDOR shall promptly deliver to BRPL all Confidential Information and after confirmation as to receipt from BRPL further intimation to BRPL, 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 BRPL in any public announcements, promotional, marketing, sales materials or efforts or otherwise without the prior written consent of BRPL.
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.
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.
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 Rajdhani Power Ltd.

Name:

Name:

Title:

Title:

Witnesses:

Witnesses:

1.

1.

2.

2.

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

CHECK LIST

SI No	Item Description	YES/NO
1	INDEX	YES/NO
2	COVERING LETTER	YES/NO
3	BID FORM (UNPRICED) DULY SIGNED (2 COPIES IN DUPLICATE)	YES/NO
4	TENDER DOCUMENTS SEALED & STAMPED AS AN ACCEPTANCE TO COMMERCIAL TERMS AND CONDITIONS	YES/NO
5	FINANCIAL BID (IN SEALED ENVELOPE – 1 ORIGINAL)	YES/NO
6	EMD IN PRESCRIBED FORMAT	YES/NO
7	DEMAND DRAFT OF RS 1180/- DRAWN IN FAVOUR OF BSES RAJDHANI POWER LTD, Payable at New Delhi	YES/NO
9	POWER OF ATTORNEY/AUTHORISATION LETTER FOR SIGNING THE BID	YES/NO