

Jawaharpur Vidyut Utpadan Nigam Ltd.

Vol II

Request for Proposal

for

Tariff Based Bidding Process for Procurement of Power on Long Term Basis from Power Station to be set up at Etah Tehsil in District Etah, Uttar Pradesh, India and operating on Domestic Coal

(As per Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensee)

Long Term Procurement (7 years and above)

Issued by

Jawaharpur Vidyut Utpadan Nigam Ltd.

Room No. 329, Planning Department, UPPCL, 3rd Floor,
Shakti Bhawan Extension, 14-Ashok Marg,
Lucknow – 226001
Uttar Pradesh, India

Ph: +91-522-2287867; Fax: +91-522-2288484/ 2287343; Email: cgm2plg@yahoo.co.in

Jawaharpur Vidyut Utpadan Nigam Ltd.
Room No. 329, Planning Department, UPPCL, 3rd Floor,
Shakti Bhawan Extension, 14-Ashok Marg, Lucknow – 226001
Uttar Pradesh, India
Ph: +91-522-2287867; Fax: +91-522-2288484/ 2287343; Email: cgm2plg@yahoo.co.in

Request for Proposal (RfP) for supply of power to Madhayanchal Vidyut Vitaran Nigam Ltd. (MVVNL) – Lucknow; Paschimanchal Vidyut Vitaran Nigam Ltd. (PVVNL) – Meerut; Purvanchal Vidyut Vitaran Nigam Ltd. (PuVVNL) – Varanasi and Dakshinanchal Vidyut Vitaran Nigam Ltd. (DVVNL) – Agra) in the Uttar Pradesh state in India issued by the Authorised Representative for and on behalf of the the Procurer as named in Annexure 1.

This RfP along with Annexures as per Table of Contents is issued to -

M/s. _____

NOTES:

1. This RfP, along with its Annexures, is not transferable. The RfP will be issued only to the Bidding Company or the Lead Member of the Bidding Consortium who have been shortlisted by the Authorised Representative based on their responses to RfQ.
2. Though adequate care has been taken while preparing this RfP, the Bidder shall satisfy himself/itself on receipt of the RfP document, that the RfP document is complete in all respects. Intimation of any discrepancy shall be given to this office immediately. If no intimation is received from any Bidder within ten (10) days from the date of issue of this RfP document, it shall be considered that the issued document, complete in all respects, have been received by the Bidder.
3. The Authorised Representative may modify, amend or supplement this RfP document, in accordance with the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees dated 19 January, 2005 (“**Bidding Guidelines**”) issued by the Ministry of Power, Government of India, as amended or revised till the Bid Deadline, after obtaining approval of the Appropriate Commission, if such approval is required under Law. Further, this RfP does not constitute a binding offer by the Authorised Representative nor does it constitute a

contract. This RfP may be withdrawn or cancelled by the Authorised Representative at any time without assigning any reasons thereof.

4. While this RfP has been prepared in good faith, neither the Procurer, Authorised Representative nor their directors or employees or advisors/consultants make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information contained herein, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this RfP, even if any loss or damage is caused to the Bidder by any act or omission on their part.
5. By purchasing the RfP, the purchaser of the RfP and each of the Member of a Consortium (collectively referred to as 'Covenantor'), shall be deemed to have confirmed that the Covenantor is fully satisfied with the process of evaluation of the RfQ Bid by the Authorised Representative and its decision regarding the qualification or disqualification or shortlisting of the Bidders for sale of the RfP. The Covenantor hereby expressly waives any and all objections or claims in respect thereof.

Chief Engineer (Project)Jawaharpur Vidyut Utpadan Nigam Ltd.

Room No. 329, Planning Department, UPPCL, 3rd Floor,

Shakti Bhawan Extension, 14-Ashok Marg, Lucknow – 226001

Uttar Pradesh, India

Ph: +91-522-2287867; Fax: +91-522-2288484/ 2287343; Email: cgm2plg@yahoo.co.in

Place:

Date:

Signature

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DEFINITIONS

Following capitalised terms used in this RfP; shall have the meanings given hereunder:

“Authorised Representative” shall mean Jawaharpur Vidyut Utpadan Nigam Ltd. the body corporate authorised by the Procurers to carry out the bid process for the selection of the Successful Bidder on their behalf;

“Additional Unit” means the additional 1x660MW Unit set up pursuant to the option exercised by the Seller in accordance with provisions of Annexure 1 of the model PPA and the Electricity Act 2003.

“Bid” shall mean Non-Financial Bid and Financial Bid submitted by the Bidders in accordance with the terms and conditions of this RfP;

“Bid Bond” shall mean the unconditional and irrevocable bank guarantee for Rs Thirty Nine Crores and Sixty Lakhs (39,60,00,000/-) submitted along with the Bid by the Bidder as per the provisions of Clause 2.12.1 of this RfP and as per the format prescribed in **Annexure 2**;

“Bid Deadline” shall mean the last date and time for submission of Bid in response to this RfP, specified in Clause 2.8.1;

“Bidder” shall mean Bidding Company (including its successors and legal assigns subject to fulfillment of conditions given in RfP) or Bidding Consortium (including successors and legal assigns of its Members subject to fulfillment of conditions given in RfP) who meet the qualifying criteria as specified in the RfQ and have been prequalified by Authorised Representative based on RfQ Bid for submission of RfP Bid and has duly purchased the RfP from the Authorised Representative;

“Bidding Company” shall have the meaning ascribed thereto in the RfQ;

“Bidding Consortium” shall have the meaning ascribed thereto in the RfQ;

“Bidding Guidelines” shall mean Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees, issued by Ministry of Power, Government of India under Electricity Act, 2003 on January 19, 2005 and as amended from time to time;

“Change in Ownership” shall mean change of ownership of the Bidder/Member in a Bidding Consortium by way of merger/ acquisition/ amalgamation/ reorganisation/ consolidation/demerger

“Conflict of Interest” A Bidder may be considered to to be in a conflict of interest with one or more Bidders in the same bidding process if they have a relationship with each other, directly or through a common entity, that puts them in a position to have access to information about or influence the Bid of another Bidder.

“Project Report” shall mean the report containing the initial information regarding the Project, Site and other details;

“Financial Bid” shall mean Envelope II of the Bid;

“Letter of Intent” or “LOI” shall mean the letter issued by the Authorised Representative to the Selected Bidder for award of the Project;

“Levelling Tariff” shall mean tariff calculated in accordance with the provisions of Clause 3.3.2;

“Non- Financial Bid” shall mean Envelope I of the Bid;

“Parent” shall mean a company which has at least twenty six per cent (26%) equity either directly or indirectly in the Bidding Company or Member in the Bidding Consortium;

“Permitted Assigns” shall mean the entities specified in Article 16.1 of PPA;

“Power Purchase Agreement” or “PPA” shall mean the agreement titled ‘Power Purchase Agreement’ proposed to be executed between the Procurer and Seller, an unsigned copy of which is attached hereto and marked as Format 1 Annexure 3, including all its schedules, Annexures and all amendments or modifications;

“Procurer” shall have the meaning ascribed thereto in Clause 1.1;

“Quoted Tariff” shall mean the sum total of Quoted Energy Charge and Quoted Capacity Charge;

“Quoted Capacity Charge” shall mean the sum total of Quoted Non Escalable Capacity Charge and Quoted Escalable Capacity Charge;

“Quoted Escalable Capacity Charge” shall mean as mentioned in Format 1 of Annexure 4;

“Quoted Non - Escalable Capacity Charge” shall mean as mentioned in Format 1 of Annexure 4;

“RfP Project Documents” shall mean the following documents to be entered into in respect of the Project, by the parties to the respective agreements:

- a) PPA;
- b) Default Escrow Agreement;
- c) Agreement to Hypothecate cum Deed of Hypothecation;
- d) Omitted;
- e) Share Purchase Agreement; and
- f) any other agreements designated as such, from time to time by the Procurer and the Authorised Representative;

“RfQ” shall mean the Request for Qualification document including the Annexures thereof issued by Jawaharpur Vidyut Utpadan Nigam Ltd on 11 June 2010 for Tariff Based Bidding Process for Procurement of Power on Long-Term Basis from Power Station to be setup at Etah Tehsil in District Etah, Uttar Pradesh, India based on Domestic Coal and shall include any modifications, amendments or alterations or clarifications thereto;

“RfP” shall mean this Request for Proposal along with all schedules, Annexures and RfP Project Documents attached hereto and shall include any modifications, amendments or alterations thereto;

“Seller” shall mean Jawaharpur Vidyut Utpadan Nigam Ltd a company incorporated under the Companies Act, 1956 and having its registered office at Lucknow for the purposes of development, finance, ownership, design, engineering, procurement, construction, commissioning, operation and maintenance of the Project in accordance with the RfP; Jawaharpur Vidyut Utpadan Nigam Ltd shall act as the Authorised Representative till acquisition of its 100% equity shareholding by the Selected Bidder.

“Successful Bidder” or **“Selected Bidder”** shall mean the Bidder selected pursuant to this RfP to set up the Project and supply electrical output therefrom to the Procurer through the Seller as per the terms of PPA and other RfP Project Documents;

“Supercritical Technology” shall mean technology with minimum steam parameters at steam turbine inlet as mentioned below:

main steam pressure	: 247 bar
main steam temperature	: 537 degree centigrade
reheat steam temperature	: 565 degree centigrade

“Ultimate Parent” shall have the meaning as ascribed thereto in Clause 2.7.1.1.

1. INTRODUCTION

- 1.1 The Authorised Representative, on behalf of Madhyanchal Vidyut Vitaran Nigam Ltd. (MVVNL) – Lucknow; Paschimanchal Vidyut Vitaran Nigam Ltd. (PVVNL) – Meerut; Purvanchal Vidyut Vitaran Nigam Ltd. (PuVVNL) – Varanasi and Dakshinanchal Vidyut Vitaran Nigam Ltd. (DVVNL) – Agra (hereinafter to be referred as the “Procurer acting through the Chief Engineer (Project) Room No. 329, Planning Department, UPPCL, 3rd Floor, Shakti Bhawan Extension, 14-Ashok Marg, Lucknow – 226001 Uttar Pradesh, India Ph: +91-522-2287867; Fax: +91-522-2288484/ 2287343; Email: cgm2plg@yahoo.co.in, which expression shall also include the successors and Permitted Assigns of the Procurer invites Bids for purchase of power on a long-term basis.
- 1.2 Any capitalised term, used but not defined in this RfP, shall have the meaning ascribed to such term in the PPA, other RfP Project Documents, RfQ, or the Bidding Guidelines, in that order. In the absence of availability of definitions in the foregoing references, the capitalised term shall be interpreted in accordance with the Electricity Act 2003, the CERC (Terms and Conditions of Tariff) Regulations 2009, Grid Code or any other relevant electricity law, rule or regulation prevalent in India, in that order.
- 1.3 The objective of the bidding process is to select a Successful Bidder for development of the Project as per the terms of the RfP. The Project will have a Contracted Capacity of minimum of [1240.8] MW and maximum of [1320] MW in accordance with the terms of the PPA. The Selected Bidder shall be responsible for ensuring that the Seller undertakes development, finance, ownership, design, engineering, procurement, construction, commissioning, operation and maintenance of the Project as per the terms of the RfP Project Documents. The Selected Bidder shall also ensure that all equipment and auxiliaries are suitable for operation in the frequency range of 47.5 to 51.5 Hz (-5% to +3% of rated frequency of 50.0 Hz).

The Selected Bidder shall purchase the entire shareholding of the Jawaharpur Vidyut Utpadan Nigam Ltd from Uttar Pradesh Power Corporation Limited and its nominees in accordance with the Share Purchase Agreement.

- 1.4 The Procurer through the Authorised Representative, has initiated development of the project at Etah Tehsil in District Etah, Uttar Pradesh, India and has completed the following:

Site identification and land acquisition required for the project: The Section 6 Notification in respect of Land for Jawaharpur TPP has been issued on 15th Dec. 2010 in respect of approx. 336 hec. area. Further approximately 14 Hact. Of Gram Sabha land is also being acquired. It is clarified that the land to be handed

over for the project to the Successful Bidder shall not exceed the approximate land required for the project, as approved by the Ministry of Environment & Forest (MoEF).

Environment clearance for the power station: The proposal was placed for determination of terms of reference for undertaking EIA/EMP study as per provisions of EIA notification 2006. Based on the information provided and presentation made, the Expert Appraisal Committee prescribed the specific TORs for undertaking detailed EIA study and preparation of EMP. Draft report of Rapid EIA has been prepared. The Draft EIA report including the summary Environment Impact Assessment report was prepared in accordance with terms and reference communicated by MoEF, and has been submitted to U.P. Pollution Control Board (UPPCB). The UPPCB has intimated that tentatively the public hearing for 2x660 MW Jawaharpur Thermal Power Project shall be held in Etah on 11th March, 2011.

Fuel arrangements: Application for coal linkage has been submitted to MoC, which is pending. It may also be recalled that in its order dated 18th May, 2010 against Petition No. 674 of 2010 the Hon'ble Commission (UPERC) had allowed JVUNL to initiate bid process with Rs. 1975 per ton, for transfer of fuel, subject to it being revised to determine price of fuel. Further, JVUNL had been directed that the Hon'ble Commission may be approached at least 30 days before bid submission date in case of revised transfer price of fuel.

In absence of coal linkage provision, alternatively, this project will be provided coal from the Chendipadda coal block under UCM Coal Company from the share allotted to UPRVUNL (share 50% i.e. 794.5 MT). A Consortium comprising of M/s Adani Enterprises Ltd. and M/s Saumya Mining Ltd. have been selected as mine developer cum operator at a price of Rs.1038 per ton of washed coal. The Taxes and Transportation Charges on the Coal shall be extra. The contract for mine development and operations for the Chhendipada coal block has been signed on 05th February, 2011. Two years for development of the Mines and further two years for operation of the Mine have been provided. The mine operator shall deliver washed coal quantity to the end use power project by washing of raw coal produced at coal block. For annual contracted capacity, a washing coal yield of 72% has been assumed. Accordingly, coal is likely to be available from the above coal block by February, 2015.

The annual coal quantity to be produced from Chendipadda Block before the washing of mining operation shall be i) 1st operating year – 2.50 MT ii) 2nd operating year 7.0 MT iii) 3rd operating year 15.0 MT. This coal block is located in District Angul of Orissa which is approx. 1100 km. from District Etah.

Water linkage: No objection and in-principle approval for drawal of 53 cusecs water from Lower Ganga Canal has been provided by GoUP.

Requisite Hydrological, geological, meteorological and seismological data necessary for preparation of Detailed Project Report (DPR): The Detailed Project Report for 2x660 MW Jawaharpur Thermal Power Project has already been prepared by consultant M/s Evonik Energy Service (India) Private Limited, Noida.

- 1.5 Omitted (Clause in SBD for Hydro Plant only).
- 1.6 The Procurer will transfer the Project site (details along with the site map enclosed in Annexure 5) to the Seller at a price of *to be intimated at least 15 days before the due date for submission of RFP*] Crore after signing the PPA
- 1.7 All Bidders are required to submit Bid in accordance with the instructions set forth in this RfP.

2. INFORMATION AND INSTRUCTIONS TO BIDDERS

2.1 *Purchase of power by Procurer*

The Procurer plan to procure Contracted Capacity to the extent of 1240.8 MW to 1320 MW at the Delivery Point as per the terms of the PPA and have appointed Jawaharpur Vidyut Utpadan Nigam Ltd. as their Authorised Representative for this purpose. The Jawaharpur Vidyut Utpadan Nigam Ltd. in its capacity as Seller shall execute the PPA and the other RfP Project Documents (except the SPA) with the concerned parties, including the Procurer, the Procurer Banks prior to the Bid Deadline. Bidders shall be provided with copies of such signed documents prior to submission of the Bids.

- 2.1 A In view of ensuring that power is available for the State of Uttar Pradesh, at most competitive tariff, as decided by the Government of Uttar Pradesh the selected developer will be allowed to establish Additional Unit at the selected plant location. To expedite the process, the Government of Uttar Pradesh shall facilitate the Land Acquisition and Water allocation for such Additional Unit. The arrangement of Fuel for the Additional Unit shall be the responsibility of the developer. The Procurers shall have the first right of refusal upto 20% (Twenty percent) of the aggregate capacity of the Additional Unit which may be commissioned by the developer within a period of two years from the commissioning of the last unit of the project. In the case of Additional Unit is commissioned after more than two years from the date of commissioning of last unit of the project, the Procurers shall have the first right of refusal upto 30% (Thirty percent) of the aggregate additional capacity from such generation unit as per provision under Annexure 1 of the model PPA. However, the tariff for purchase of energy by the Procurers from the Additional Unit would be the same as obtained through competitive bidding process for 2x660 MW capacity as directed by UPERC.
- 2.1.2 All Bidders are required to ensure compliance with the conditions mentioned in Format 3 of Annexure 6. In the event of non-fulfillment of any of the conditions specified in Format 3 of Annexure 6, the Bid may be considered by the Procurer/Authorised Representative to be non-responsive. The Bidders are allowed to change the Unit configuration after the Effective Date as per provisions of PPA. Provided that the configuration of the Unit sizes is in accordance with the provisions of the RfP.
- 2.1.3 A Fuel Supply Agreement (FSA) is proposed to be signed between the Jawaharpur Vidyut Utpadan Nigam Ltd. and the UCM Coal Company Ltd. Accordingly, it may be noted that for the bidding under Scenario 4, the Bidders will be notified on the applicability and timing of signing of a fuel supply agreement between M/s JVUNL and M/s UCM Coal Company Ltd. which will ensure the fuel supply to the project during the term of the PPA.

2.1.3A Upon acquisition of JVUNL by the Selected Bidder, any penalty for not procuring the minimum guaranteed fuel shall be borne by:

- i) The Procurer, if the availability of the Seller's generating plant has been more than the minimum offtake guaranteed by the Procurer; and
- ii) The Seller, if the availability of Seller's generating plant has been less than the minimum availability guaranteed by the Seller.

The list of the RfP Project Documents and certain obligations of the parties regarding the same are provided below.

2.1.3.1 The drafts of the following RfP Project Documents have been attached to this RfP:-

- a) PPA as Format 1 Annexure 3;
- b) Default Escrow Agreement, as Format 2 Annexure 3;
- c) Agreement to Hypothecate Cum Deed of Hypothecation as Format 3 Annexure 3;
- d) Not Applicable
- e) Share Purchase Agreement

Upon finalisation of the RfP Project Documents after the amendments envisaged in Clause 2.6.1, all the RfP Project Documents except Share Purchase Agreement shall be executed by the concerned parties and the Authorised Representative shall deliver copies of these executed RfP Project Documents to the Bidders at least fifteen (15) days prior to the Bid Deadline.

The PPA and the other RfP Project Documents shall be signed in required number of originals so as to ensure that one original is retained by each Procurer and one original is retained by the Seller.

2.1.3.2 Within sixty (60) days of the issue of the Letter of Intent, the Selected Bidder shall:

- i) furnish to the Procurer the Performance Guarantee in accordance with Clause 2.13.1;
- ii) execute the Share Purchase Agreement;
- iii) after fulfilling the conditions specified in sub-clauses (i) and (ii) above, purchase from Uttar Pradesh Power Corporation Limited and its nominees on the Closing Date, who shall sell to the Selected Bidder, One hundred percent (100%) of the equity shareholding of the Jawaharpur Vidyut Utpadan Nigam Ltd. for the price calculated on basis of the amount of consideration intimated under Clause 1.6, and pay all the applicable stamp duties as per the requirements of the law.

Provided that if any obligation of Procurer under Clause 1.4, have not been complied with, the above period of sixty days shall be extended, on a day for day basis till the end of the Bid validity period.

Provided further that, after the date of acquisition of one hundred percent (100%) of the equity shareholding of Jawaharpur Vidyut Utpadan Nigam Ltd. by the Selected Bidder, (a) the authority of the Authorised Representative in respect of the bid process shall forthwith cease and any actions to be taken thereafter will be undertaken by the Procurer themselves or through any other authorised representatives of the Procurer, (b) all rights and obligations of the Authorised Representative in its capacity as an Authorised Representative of the Procurer shall be of the Procurer, (c) all other rights and obligations of Jawaharpur Vidyut Utpadan Nigam Ltd. shall be of the Seller and (d) any decisions taken by Jawaharpur Vidyut Utpadan Nigam Ltd. as the Authorised Representative prior to the Effective Date, shall continue to be binding on Procurer .

- 2.1.4 If the Successful Bidder fails or refuses to comply with its obligations under Clause 2.1.3.2 and provided Uttar Pradesh Power Corporation Limited and its nominees are willing to sell the one hundred percent (100%) equity shareholding of Jawaharpur Vidyut Utpadan Nigam Ltd. to the Selected Bidder, such failure or refusal on the part of the Selected Bidder shall constitute sufficient grounds for cancellation of the Letter of Intent and the Procurer shall be entitled to invoke the Bid Bond of the Selected Bidder.

2.2 *Point of contact in case of Bidding Consortium*

- 2.2.1 In case of Bid being submitted by a Bidding Consortium, the Lead Member of the Consortium will be the single point of contact for the purposes of the RfP, till the Effective Date. Any dispute amongst the Consortium Members shall not be the responsibility of the Procurer and/or Authorised Representative and no financial burden shall pass on to the Procurer and/or Authorised Representative on this account.

2.3 Evacuation of Power

- 2.3.1 The Seller shall supply power at the Delivery Point and the responsibility for evacuation of power beyond the Delivery Point will be of the Procurer as per the PPA.
- 2.3.2 The Procurer shall ensure that the CTU/ STU/ other transmission licensee connect to the Power Station at the Delivery Point for evacuation of its Contracted Capacity.
- 2.3.3 The Bidder shall be responsible for obtaining all the necessary clearances consents and permits required for completion and operation of the Project during the term of PPA, other than what is relevant to the task completed by the Procurer/Distribution Licensee /Authorised Representative

2.4 Tariff

The Tariff shall be as specified in the PPA and shall be payable in Indian Rupees only. The Bidder shall quote Quoted Tariff for each Contract Year during the term of the PPA as per Format 1 of Annexure 4.

Each of the Procurer shall provide Letter of Credit and Collateral Arrangement as per the terms of the PPA.

This Quoted Tariff of the Selected Bidder shall be inserted in Schedule 11 of PPA

2.5 Pre-bid Meeting

- 2.5.1 The Bidder or his authorised representative is invited to attend Pre-bid meeting. Date and time for Pre-bid meeting shall be as provided in Clause 2.8.2 or such other date and time as notified by the Authorised Representative.
- 2.5.2 The purpose of the pre-bid meeting will be to clarify any issues regarding the RfP.
- 2.5.3 The Bidders may seek clarifications or suggest amendments to RfP Project Documents in writing, through a letter or by fax (and also soft copy by e-mail) to reach the Authorised Representative (in both cases thereof) at the address indicated in Clause 2.16 within the date and time mentioned in Clause 2.8.2. For any such clarifications or amendments the Bidder should adhere to the format enclosed in Annexure 7. Authorised Representative is not under any obligation to respond to any clarifications sought by the Bidders or consider amendments suggested by the Bidders.

Further, in case Bidders need any clarifications after the issuance of amendments, they should ensure that written request for such clarification is delivered to the Authorised Representative, , at least fifteen (15) days prior to the Bid Deadline as

mentioned in clause 2.8.2. Authorised Representative may issue clarifications only, as per its sole discretion, which are considered reasonable by it. Any such clarification issued shall be sent to the all Bidders to whom the RfP has been issued. Clarifications sought after this date shall not be considered in any manner and shall be deemed not to have been received.

2.5.4 Non-attendance at the Pre-bid meeting will not be a cause for disqualification of a Bidder.

2.6 Amendment of RfP

2.6.1 Any time after the issue of RfP mentioned in Clause 2.8.2, the Authorised Representative may, for any reason, whether at its own initiative or in response to a clarification requested by any Bidder, modify or amend the RfP (including RfP Project Documents), including the timelines specified in RfP.

2.6.2 The amendment to the RfP shall be notified in writing through a letter or fax or e-mail to all the Bidders and shall be binding on them.

2.6.3 All such amendments shall be issued at least sixty (60) days prior to Bid Deadline in accordance with the Bidding Guidelines.

2.6.4 In order to give Bidders reasonable time to take the above amendments into account in preparing their Bids, Authorised Representative may, at its discretion, extend the Bid Deadline.

2.7 The Bidding Process

2.7.1 Bid Formats

2.7.1.1 The Bids in response to this RfP will be submitted by the Bidders in two envelopes, in the manner provided in Clause 2.10:

Envelope I – Non- Financial Bid comprising of:

1. Board Resolutions, as per prescribed formats enclosed as Annexure 8, duly certified by the Company Secretary or the Director of the relevant Bidder, as applicable to the Bidder and mentioned hereunder,

(a) Board Resolution from the Bidding Company (and any investing Affiliate / Parent/ Ultimate Parent) committing one hundred percent (100%) in aggregate of the equity requirement of the Seller for the Project / Board Resolutions from each of the Consortium Members (and any investing Affiliate / Parent / Ultimate Parent) together in aggregate committing to one hundred percent (100%) of equity requirement of the Seller for the Project (In case of Bidding Consortium): - As per Format 1 of Annexure 8; and

(b) Board Resolutions from a Parent and /or Affiliate (whose technical and / or financial credentials were used at the time of RfQ), of the Bidding Company / any Member of the Bidding Consortium, undertaking to invest the entire amount as committed by Bidding Company / Bidding Consortium Member in event of failure of the same to make such investment. or Board Resolution of Ultimate Parent for total equity investment commitment on behalf of the Parent and all Affiliates (of the Bidding Company/ any Member of the Bidding Consortium) whose technical and / or financial credentials were used at the time of RfQ.
As per Format 2 of Annexure 8;

Provided further that in case the Ultimate Parent is also the Bidding Company / Consortium Member, no Board Resolution as per Format 2 of Annexure 8 shall be required. However, in such a case, a certificate from the Bidding Company / Consortium Member, confirming the Ultimate Parent status is to be provided.

Ultimate Parent shall mean a company which owns at least twenty six percent (26%) equity either directly or indirectly in the Parent and Affiliates.

For clarity sake, illustrations identifying which Board Resolution shall be applicable in typical cases are provided in Annexure 12 B.

2. Bid Bond;
3. Bidders Undertakings and other details (as per prescribed Formats 1, 2 and 3 of Annexure 6);
4. Covering Letter (as per prescribed Format enclosed as Annexure 9);
5. Original Power of Attorney issued by the Bidding Company or the Lead Member of the Consortium, as the case may be, in favour of the person signing the Bid, in the form attached hereto as Format 1 of Annexure 10. Additionally, in case of a Bidding Consortium, the Power of Attorney in favour of the Lead Member issued by the other Members of the Consortium, shall be provided in original as per format attached hereto as Format 2 of Annexure 10. Provided that in the event the Bidding Company or the Lead Member of the Consortium or any Member of the Bidding Consortium, as the case may be, is a foreign entity, it may submit Board Resolutions in place of Power of Attorney for the purpose of fulfilling the requirements under this clause.

Provided further that such Board Resolutions shall be supported by an unqualified opinion issued by the legal counsel of such foreign entity stating that the Board Resolutions are in compliance with the applicable laws of the

respective jurisdictions of the issuing company and the authorizations granted therein are true and valid.

6. Undertaking in the prescribed format in Annexure 10A from the Parent and/or Affiliate, of the Bidding Company/ any Member of the Bidding Consortium, whose technical and financial credentials have been provided in the Bid submitted in response to the RfQ, or

Undertaking of the Ultimate Parent, in the prescribed format in Annexure 10A, for total equity investment commitment of the Parent and all Affiliates (of the Bidding Company/ any Member of the Bidding Consortium) whose technical and financial credentials had also been provided in the Bid submitted in response to the RfQ. Provided further, in case the Ultimate Parent is also the Bidding Company, no such Undertaking shall be required.

7. A disclosure statement as per Annexure 15 regarding participation of any related companies in this bidding process.

Envelope II– Financial Bid (as per prescribed format enclosed as Format 1 of Annexure 4).

2.7.1.2 Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from referring to any other document for providing any information required in the prescribed format.

2.7.1.3 The Bidder should note that:

- a) If the Bidder/ Member in a Bidding Consortium conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its Bid, in any manner whatsoever, the Procurer/Authorised Representative reserves the right to reject such Bid and/or cancel the Letter of Intent, if issued.
- b) If for any reason the Bid of the Bidder with lowest evaluated Levellised Tariff is rejected or Letter of Intent issued to such Bidder is cancelled, the Authorised Representative may-
 - i) invite best reduced financial bids from those Bidders whose Bids are responsive and valid on that date; or
 - ii) annul the bid process ; or
 - iii) take any such measure as may be deemed fit in the sole discretion of the Authorised Representative

If such event is discovered after the Effective Date, consequences specified in PPA shall apply.

- c) Bid submitted by the Bidder, within the Bid Deadline, shall become the property of the Procurer and the Authorised Representative and the Procurer and the Authorised Representative shall have no obligation to return the same to the Bidder.

2.7.1.4 The Bidder shall inter-alia take into account the following while preparing and submitting the Financial Bid:-

1. The Bidder shall quote the Quoted Escalable Capacity Charge and Quoted Non-Escalable Capacity Charges. The Bidder shall also quote the following Quoted Energy Charges. In case of Quoted Escalable Capacity Charges, the Bidder shall quote charges only for the first Contract Year after Scheduled COD of first Unit.

In case where captive coal block is provided	In case where imported fuel is arranged by Seller	In case where domestic fuel is arranged by Seller	In case where fuel linkage is provided by Procurer	In case of Hydro Power Projects
Scenario 1 NOT APPLICABLE	Scenario 2 NOT APPLICABLE	Scenario 3 NOT APPLICABLE	Scenario 4	Scenario 5 NOT APPLICABLE
			Net Quoted Heat Rate (kCal/kWhr)	

Note: 1) No adjustment shall be provided for heat rate degradation.

2. Ratio of minimum and maximum Quoted Capacity Charges during the term of PPA shall not be less than zero point seven (0.7) and this ratio shall be applied only at the Bid evaluation stage on the Quoted Capacity Charges after duly escalating the Quoted Escalable Capacity Charge on the basis of the escalation rates specified in Clause 3.3.1.3.

3. The Quoted Tariff in Format 1 of Annexure 4 shall be an all inclusive tariff and no exclusions shall be allowed. The Bidder shall take into account all costs including capital and operating costs, statutory taxes, duties, levies while quoting such tariff. Availability of the inputs necessary for generation of power should be ensured by the Seller at the Project Site and all costs involved in procuring the inputs (including statutory taxes, duties, levies thereof) at the Project Site must be reflected in the Quoted Tariff.

4. Bidders are required to insert the Contract Years, commencing from the Scheduled COD of the first Unit, in the Format 1 of Annexure 4. For instance, if the Scheduled COD of first Unit is on June 1, 2011, then Contract Year corresponding to such date shall be 2011-2012. Thereafter, the Contract Year shall be in terms of subsequent financial years (April 1 to March 31) i.e. the next Contract Year shall be 2012-2013 and so on.

Provided that the last Contract Year in the Format 1 of Annexure 4 shall be the financial year (i.e. April 1 to March 31) in which the [25]th anniversary of the Scheduled COD of the First Unit occurs. For the avoidance of doubt, in case the Scheduled COD of the First Unit occurs on June 1, 2013 then the [25]th anniversary of the Scheduled COD of the First Unit shall occur on June 1, 20[38], i.e. in the Contract Year 20[38]-[39].

5. Bidders shall have the option to quote firm Quoted Energy Charges and/or firm Quoted Capacity Charges for the term of the PPA, i.e. where the Quoted Escalable Energy Charges and/or Quoted Escalable Capacity Charges shall be 'nil' for all the Contract Years.
6. The Bidders should factor the cost of the secondary fuel into the Quoted Tariff and no separate reimbursement shall be allowed on this account.
7. The Bidders may note that although fuel linkage has been applied and request for prioritisation has been made based on achieved milestones, fuel linkage for the project has not yet been obtained. In the RFQ stage, the Bidders were intimated that alternatively coal will be provided from Chendipada coal block under UCM Coal Company Ltd. from the share allocated to UPRVUNL. It has been decided, in context of the 55 days RFP submission timeline, to proceed in the RFP with the Scenario-4 i.e. in case where fuel linkage is provided. It may also be noted that for the bidding under Scenario 4, the Bidders will be shortly notified on the applicability and timing of signing of a fuel supply agreement between M/s JVUNL and M/s UCM Coal Company Ltd.

In case fuel linkage is obtained any time before the bid submission deadline then, a revised RFP will be issued with Scenario-4 as applicable for fuel linkage. In such an event, the bid submission deadline shall be shifted by at least 30 days which is aligned to the directives as per UPERC order dated 21.05.2010. Further, "the revised transfer price of fuel shall be intimated to the Hon'ble Commission at least 30 days before RFP bid submission date."

2.7.2 Bidder to inform himself fully

- 2.7.2.1 The Bidder shall make independent enquiry and satisfy itself with respect to all the required information, inputs, conditions and circumstances and factors that may have any effect on his Bid. While submitting the Bid the Bidder shall be

deemed to have inspected and examined the site conditions (including but not limited to its surroundings, its geological condition, the adequacy of the road and rail links to the Site and the availability of adequate supplies of water), examined the laws and regulations in force in India, the transportation facilities available in India, the grid conditions, the conditions of roads, bridges, ports, etc. for unloading and/or transporting heavy pieces of material and has based its design, equipment size and fixed its price taking into account all such relevant conditions and also the risks, contingencies and other circumstances which may influence or affect the supply of power. Accordingly, the Bidder acknowledges that, on being selected as Successful Bidder and on acquisition of the Seller, the Seller shall not be relieved from any of its obligations under the RfP Project Documents nor shall the Seller be entitled to any extension of time or financial compensation by reason of the unsuitability of the Site for whatever reason.

- 2.7.2.2 In their own interest, the Bidders are requested to familiarize themselves with the Electricity Act, 2003, the Income Tax Act 1961, the Companies Act, 1956, the Customs Act, the Foreign Exchange Management Act, IEGC, the regulations framed by regulatory commissions and all other related acts, laws, rules and regulations prevalent in India. The Authorised Representative shall not entertain any request for clarifications from the Bidders regarding the same. Non-awareness of these laws or such information shall not be a reason for the Bidder to request for extension of the Bid Deadline. The Bidder undertakes and agrees that before submission of its Bid all such factors, as generally brought out above, have been fully investigated and considered while submitting the Bid.
- 2.7.2.3 The Procurers and Authorised Representative shall not permit any change in any time schedule mentioned in this RfP or any financial adjustment arising due to lack of clear information on matters such as Site conditions, laws and regulations and other related information and/or its effect on the Bid.
- 2.7.2.4 Bidders may note that the Project may qualify for “carbon finance” through Clean Development Mechanism (“CDM”) of UNFCCC or any other carbon trading mechanism namely EU-TS etc. resulting in additional revenue stream in terms of Certified Emission Reductions (“CERs”) which are a tradeable commodity. Bidders may like to consider such benefits while quoting Quoted Tariff. Bidders are required to make necessary assessment of possibility of availing “carbon finance” benefits on their own. However, it may be noted that the Procurer and Authorised Representative do not take any responsibility or liability on this account whatsoever.
- 2.7.2.5 Bidders may also note that the Seller may raise debt funds for the Project on a project finance basis. However, it is clarified that the Bidder and/or its Affiliates and/or its Parent and/or Ultimate Parent are free to guarantee or provide additional security in respect of the debt funds raised by the Seller for the Project.
- 2.7.2.6 The technical requirements of integrated grid operation are specified in the Indian Electricity Grid Code (IEGC). The Bidders should particularly acquaint

themselves with the requirements of connection conditions, operating code for Regional Grids, Scheduling and Dispatch code etc. The Bidders are also advised to fully familiarize themselves with the real time grid conditions in the country. Information regarding grid parameters such as voltage and frequency is readily available on the websites of Regional Load Dispatch Centres. The protection trip setting of the generation on under frequency df/dt and defense plan are coordinated at the RPC forum in consultation with all stakeholders duly taking into account the design parameters of the various machines.

2.7.3 Change in Bidding Consortium

- 2.7.3.1 In case of a request for change in the Bidding Consortium or change from Bidding Company to Bidding Consortium or Change in Ownership, the provisions of clause 2.5.1.4 and 2.5.1.5 of the RfQ shall mutatis mutandis apply. In addition the Bidder, shall submit all information required to be submitted by the Bidder as stipulated in the RfQ and in the formats specified in RfQ, for fulfilling the qualification criteria specified in the RfQ except that period for which such information is to be submitted shall apply with respect to the date which is seven days before the date of request for change in consortium. The Authorised Representative reserves the right to seek additional information from the Bidder, if considered necessary, during the course of evaluation of such request for change.
- 2.7.3.2 In case of non compliance with any of the conditions of clauses 2.5.1.4 and 2.5.1.5 of the RfQ, the Authorised Representative reserves the right to reject the Bid or cancel the Letter of Intent, if issued and the provisions of clause 2.7.1.3 of this RfP shall apply.

2.7.4 Minimum Equity holding/Equity Lock-In

- 2.7.4.1 The aggregate equity share holding of the Selected Bidder in the issued and paid up equity share capital of the Seller shall not be less than the following:
- a) Fifty One percent (51%) up to a period of (2) two years after COD of the Power Station; and
 - b) Twenty Six (26%) for a period of three (3) years thereafter.

It is clarified that if any of the entity/entities mentioned in serial number 6 of Clause 2.7.1.1 make equity investment in the Seller, the minimum shareholding requirements specified in this Clause 2.7.4.1, shall apply to such entity/entities. It is also clarified that in case the Selected Bidder is a Bidding Consortium, then the members (other than the Lead Member) of the such Bidding Consortium shall be allowed to divest their equity as long as the other remaining members

(which shall always include the Lead Member) hold the minimum equity specified in a) and b) above. It is further clarified that in case equity is held by the Affiliates, Parent or Ultimate Parent, subject to the proviso below, the Selected Bidder shall be permitted to transfer its shareholding in the Seller to its Affiliate/s or Ultimate Parent. If any such shareholding entity, qualifying as an Affiliate/Ultimate Parent, is likely to cease to meet the criteria to qualify as an Affiliate/Ultimate Parent, the shares held by such entity shall be transferred to another Affiliate/Ultimate Parent.

Provided further, the Lead Member of the Consortium or Bidding Company shall compulsorily hold at least twenty six percent (26%) of the total paid equity share capital of the Seller for at least five (5) years post COD of the Power Station, where after Lead Member or Bidding Company shall have the right to disinvest its entire equity holding in the Seller. In case the Lead Member or Bidding Company is holding equity through Affiliate/s, Ultimate Parent or Parent, such restriction shall apply to such entities.

All transfers of shareholding of the Seller by any of the entities referred to above, shall be after prior written intimation to the Procurer, of at least thirty (30) days.

- 2.7.4.2 The Selected Bidder may invest in the equity share capital of the Seller through its Affiliate(s) or Ultimate Parent or Parent. If the Selected Bidder so invests through any Affiliate(s) or Ultimate Parent or Parent, the Selected Bidder shall be liable to ensure that minimum equity holding/lock-in limits specified above are still maintained. For this purpose, the effective shareholding of such Selected Bidder in the Seller shall be considered as follows:-

For computation of effective Equity holding, the Equity holding of the Selected Bidder or its Ultimate Parent in such Affiliate(s) or Parent and the equity holding of such Affiliate(s) or Ultimate Parent in the Seller shall be computed in accordance with the example given below:

If the Parent or the Ultimate Parent of the Selected Bidder A directly holds thirty percent (30%) of the equity in the Seller, then holding of Selected Bidder A in the Seller shall be thirty percent (30%);

If Selected Bidder A holds thirty percent (30%) of the Affiliate and the Affiliate holds fifty percent (50%) in the Seller, then, for the purposes of ascertaining the minimum equity/equity lock-in requirements specified above, the effective holding of Selected Bidder A in the Seller shall be fifteen percent (15%), (i.e. $30\% * 50\%$);

2.7.4.3 The provisions as contained in this clause 2.7.4 and Article 18.18 of PPA shall override the terms of the Joint Deed Agreement submitted as a part of RfQ.

2.8 Due dates

2.8.1 The Bidders should submit the Bids so as to reach the following address by [1500] hrs (IST) on [to be inserted later]:

Chief Engineer (Project)
Room No. 329, Planning Department, UPPCL, 3rd Floor, Shakti Bhawan Extension,
14-Ashok Marg, Lucknow – 226001
Uttar Pradesh, India
Ph: +91-522-2287867;
Fax: +91-522-2288484/ 2287343;
Email: cgm2plg@yahoo.co.in

2.8.2 Important timelines are mentioned below:

S. No.	Event	Deadline
1.	Issuance of RFP	T ⁰
2.	Bid clarification, conferences etc.	T ⁰ + 10
3.	Final clarification and revision of RFP	T ⁰ + 25
4.	RFP bid submission	T ⁰ + 55
5.	Evaluation of bids and issue of Letter of Intent (LoI)	T ⁰ + 75
6.	PPA becomes effective: Signing of Agreements: i) Power purchase agreement, escrow agreement, hypothecation agreement and any other agreement as applicable (prior to last date of submission of the RFP bids) ii) Signing of share purchase agreement and transfer of SPV	T ⁰ + 40 T ⁰ + 135

2.9 Validity of the Bid

2.9.1 The Bidder shall submit the Bid which shall remain valid for a period of one hundred eighty (180) days from the Bid Deadline. The Authorised Representative reserves the right to reject any Bid which does not meet the aforementioned validity requirement.

2.9.2 The Authorised Representative may solicit the Bidder's consent for an extension of the period of validity of the Bid, not exceeding sixty (60) days. The request and the response, thereafter, shall be in writing. In the event the Bidder refuses to extend the Bid validity as requested by the Authorised Representative, the Authorised Representative shall not be entitled to invoke the Bid Bond. A Bidder accepting Authorised Representative's request for validity extension shall not be permitted to modify its Bid and such Bidder shall, accordingly, extend the validity

of the Bid Bond as requested by the Authorised Representative within seven (7) days of such request, failing which the Bid shall not be considered as valid.

2.10 Method of submission

2.10.1 Bids are to be submitted in single sealed cover envelope (as mentioned in Clause 2.10.2) containing Envelope I and Envelope II each one duly sealed separately. Envelope I and Envelope II should be transcribed in the following way;

Envelope I transcript - “Bid for supply of power to Procurer/Authorised Representative
Bidder’s Name- _____”
Due for opening on _____
Envelope I: Non Financial Bid ”

Envelope II transcript - “Bid for supply of power to Procurer/Authorised Representative
Bidder’s Name _____
Due for opening on _____
Envelope II: Financial Bid ”

2.10.2 The two sealed Envelopes (mentioned in Clause 2.10.1) for the Bid submitted by Bidders should be packed in a single sealed cover envelope, with the following superscript:

“Bid for supply of power to Authorised Representative ”
Bidder’s name _____ Due for opening on _____

The Bidder has the option of sending its Bid either by registered post or speed post, or courier, or by hand delivery, so as to reach the Authorised Representative at the designated address by the Bid Deadline. Bids submitted by telex/telegram/fax/e-mail shall not be considered under any circumstances. Authorised Representative shall not be responsible for any delay in receipt of the Bids. Any Bid received by Authorised Representative after the Bid Deadline shall be returned unopened.

- 2.10.3 It may be noted that Non-financial Bid (Envelope I) shall not contain any information/document relating to Financial Bid. If Non-financial Bid contains any such information/documents, the Authorised Representative shall not be responsible for premature opening of the Financial Bid.

All pages of the Bid submitted and corrections, if any, must be signed by the authorised signatory on behalf of the Bidder. It is clarified that the same authorised signatory shall sign all pages of the Bid.

- 2.10.4 Bid shall be submitted in 1 original + [2] photo copies which are duly attested by the Bidder. No change or supplemental information to a Bid will be accepted after the Bid Deadline, unless the same is requested for by the Authorised Representative. Provided that a Bidder shall always have the right to withdraw or modify its Bid before the Bid Deadline and in such a case if the bid is withdrawn, its Bid shall be returned unopened.

- 2.10.5 If the outer cover envelope or Envelope I or Envelope II is not sealed and not transcribed as required, the Authorised Representative will assume no responsibility for the Bid's misplacement or premature opening.

2.11 Preparation cost

- 2.11.1 The Bidder shall be responsible for all the costs associated with the preparation of the Bid and participation in discussions and attending Pre-bid meetings, etc. The Authorised Representative shall not be responsible in any way for such costs, regardless of the conduct or outcome of this bid process.

- 2.11.2 The cost of this RfP (inclusive of VAT @ 12.5%) is Rs.11,25,000 (Rupees Eleven lakhs twenty five thousand only) or USD 25,000 (U.S. Dollar Twenty five thousand only) which shall be non-refundable. This amount shall be payable by a crossed demand draft or banker's cheque drawn in favour of Authorised Representative.

2.12 Bid Bond

- 2.12.1 Each Bidder shall submit the Bid accompanied by Bid Bond issued by any of the banks listed in Annexure 12. The Bid Bond shall be valid for a period of seventy (70) days beyond the validity of the Bid.

2.12.2 Subject to the provisions of Clause 2.1.4, the Bid Bond may be invoked by the Procurer on account of any of the following:

Failure to execute the SPA as per the provisions of Clause 2.1.3.2; or

- Failure to furnish the Performance Guarantee as per Clause 2.1.3.2 and Clause 2.13; or
- The Bid Bond shall also be invoked by the Procurer for submission of wrong information by the Bidder or making any misrepresentation in Bid as mentioned in Clause 2.7.1.3.

Intimation of the reasons of the invocation of the Bid Bond shall be given to the Selected Bidder within three (3) working days after such invocation.

2.12.3 Return of Bid Bond

- i. Bid Bonds of all the Bidders whose Bids are declared non-responsive shall be returned within a period of thirty (30) days after the date on which Financial Bids are opened.
- ii. The Bid Bond of all unsuccessful Bidders shall be returned and released by the Procurer within a period of thirty (30) days of the occurrence of the earlier of the following:
 - a) submission of the Performance Guarantee and purchase of 100% equity of the Seller by the Successful Bidder as per the provisions of the Project Documents (as applicable);
 - b) Expiry of the Bid Validity/extended validity of unsuccessful Bidders.

2.12.4 The Bid Bond of the Successful Bidder shall be returned on submission of Performance Guarantee as per Clause 2.13 and the provisions of the PPA.

2.13 Performance Guarantee

2.13.1 The Selected Bidder, on behalf of the Seller, shall provide to the Procurer within the time period as specified in Clause 2.1.3.2, the Performance Guarantee in the format provided in the Annexure 11, for an aggregate amount of Rs 99 Crores (99,00,00,000), [which shall be provided separately to each of the Procurer for the amount calculated pro-rata (and rounded off to the nearest one lakh with the principle that amounts below Rs.50,000 shall be rounded down and amounts of Rs.50,000 and above shall be rounded up) , in the ratio of their then existing Allocated Contracted Capacities]. The Performance Guarantee shall be initially valid for a period of three (3) months after the Scheduled COD of the Power Station and thereafter shall be dealt with in accordance with the provisions of

the PPA. The Performance Guarantee shall be issued only by the banks listed in Annexure 12.

- 2.13.2 In case the Selected Bidder is unable to obtain the Performance Guarantee for the total amount of Rs. 99,00,00,000/- (Ninety Nine Crores) from any one bank specified in Annexure 12, the Selected Bidder may obtain the same from not more than three (3) banks specified in Annexure 12 subject however to the apportionment as provided in Clause 2.13.1.

2.14 Bidders may note that

- 2.14.1 Language of the Bid shall be English only.
- 2.14.2 Bidders shall mention the name of the contact person and complete address of the Bidder in the covering letter as per Annexure 9.
- 2.14.3 The Authorised Representative may, at its sole discretion, ask for additional information and/or seek clarifications from a Bidder after the Bid Deadline, inter alia, for the purposes of removal of inconsistencies or infirmities in its Bid.
- 2.14.4 Non submission and/or submission of incomplete data/ information required under the provisions of RfQ and RfP shall not be construed as waiver on the part of Authorised Representative of the obligation of the Bidder to furnish the said data/information unless the waiver is in writing.

2.15 Opening of Bids

- 2.15.1 Envelope I and Envelope II will be opened as per the following time schedule and at the venue where the Bids are required to be submitted, in the presence of one representative from such Bidders who wish to be present:

Opening of Envelope I: [1600] hours (IST) on [insert date]
Opening of Envelope II: [] hours (IST) on [insert date]

or such other dates as may be intimated by the Authorised Representative to the Bidders

- 2.15.2 The following information from each Bid will be read out to all the Bidders at the time of opening of Envelope I and Envelope II:
- i) Name of the Bidding Company/ Consortium Members in case of Bidding Consortium (Format 2 of Annexure 6) (applicable only for Envelope I)
 - ii) Details of Format 3 of Annexure 6 (applicable only for Envelope I)
 - iii) Details of Bid Bond (applicable only for Envelope I)

iv) Quoted Tariff (applicable only for Envelope II)

2.16 Enquiries

Clarifications under Clause 2.5.3 may be sought from:

<i>Address of the Office</i> Chief Engineer (Project) Room No. 329, Planning Department, UPPCL, 3rd Floor, Shakti Bhawan Extension, 14-Ashok Marg, Lucknow – 226001 Uttar Pradesh, India	Tel: 91-522-2287867 Fax 91-522-2288484/ 2287343 Email: cgm2plg@yahoo.co.in
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2.17 Confidentiality

2.17.1 The Parties undertake to hold in confidence this RfP and Project Documents and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

- (a) to their professional advisors;
- (b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
- (c) disclosures required under Law.

without the prior written consent of the other Parties.

Provided that the Seller agrees and acknowledges that any of the Procurers may at any time, disclose the terms and conditions of the RfP and the Project Documents to any person, to the extent stipulated under the Law or the Bidding Guidelines.

2.18 Right of the Procurer to reject any Bid

The Authorised Representative reserve the right to reject all or any of the Bids or cancel the RfP without assigning any reasons whatsoever and without any liability.

3 EVALUATION CRITERIA

3.1 Bid Evaluation

3.1.1 The Bid evaluation process comprises of the following three steps:

1. Step I – Responsiveness check (Envelope I)
2. Step II - Evaluation of Financial Bids (Envelope II)
3. Step III– Successful Bidder selection

3.2 Step I - Responsiveness check

The Non-Financial Bids submitted by Bidders/ Bidding Consortium shall be initially scrutinized to establish “Responsiveness”. Subject to Clause 2.14.3, any of the following conditions may cause the Bid to be considered “Non-responsive”, at the sole discretion of the Procurer/Authorised Representative:

- i) Bid not meeting any of the conditions mentioned in Format 3 of Annexure 6; or
- ii) Applicable Board Resolutions, as provided in Clause 2.7.1.1 above, not being submitted; or
- iii) Bid not accompanied by a valid Bid Bond; or
- iv) Bid not signed by authorised signatory in the manner and to the extent indicated in this RfP as per Clause 2.10.3 and non submission of Power of Attorney;/ or
- v) Bid validity being less than that required as per Clause 2.9 of this RfP; or
- vi) Bid not containing Format 1 (Bidders’ Undertakings) of Annexure 6; or
- vii) Bid being conditional
- viii) Any request for change in composition of a Consortium or change from Bidding Company to Bidding Consortium or Change in Ownership has not been permitted by the Procurer/ Authorised Representative.
- ix) Bids having Conflict of Interest
- x)

3.3 Step II - Evaluation of Financial Bids

3.3.1 General

3.3.1.1 Envelope II of Bids which have been accepted for opening by Authorised Representative, based on the responsiveness check as specified above in Clause 3.2, shall be opened in presence of the representatives of the Bidders, who wish to be present, as per the timelines indicated in Clause 2.15.1. The financial evaluation of Financial Bids will be carried out based on information furnished in Envelope II. Provided however, in case Envelope II of only one Bidder remains after the responsiveness check (Step I) under Clause 3.2.1, the Envelope II of such Bidder shall not be opened and the matter shall be referred to Uttar Pradesh

Electricity Regulatory Commission and the selection of the Bidder shall then be at the sole discretion of the Uttar Pradesh Electricity Regulatory Commission.

3.3.1.2 The Financial Bids would be compared on the basis of Quoted Tariff for the term of the PPA, as mentioned hereafter.

3.3.1.3 The Bidders shall quote the different components of Quoted Tariff as specified in Format 1 of Annexure 4. Based on the Quoted Tariff provided by the Bidders, the Levellised Tariff (in Rs. Per Kwh) of each Bid shall be calculated for the term of the PPA as per the methodology mentioned below:

- (a) For the purposes of comparison of Financial Bids, the Quoted Escalable Capacity Charge and Quoted Escalable Energy Charges of each Bidder shall be uniformly escalated as per the inflation / escalation rates mentioned below. For the actual tariff payment, however, such factors shall be applied as per the provisions of the PPA.

Head	Value
1. Annual escalation rate applicable to Quoted Escalable Capacity Charges	This shall be the rate notified by the CERC applicable on the day which is seven (7) days prior to Bid Deadline
2. Annual escalation rate applicable to Quoted Escalable Energy Charges coal	This shall be the rate notified by the CERC applicable on the day which is seven (7) days prior to Bid Deadline
3. Annual escalation rate applicable to Quoted Escalable Fuel Energy Charges (applicable in case of imported fuel)	Not Applicable
4. Annual escalation rate applicable to Quoted Escalable Transportation Energy Charges (applicable in case of imported fuel)	Not Applicable
5. Annual escalation rate applicable to Quoted Escalable Fuel Handling Energy Charges (applicable in case of imported fuel)	Not Applicable
6. Gross Calorific Value of Fuel (Kcal/kg) [Applicable in case where fuel is arranged by Procurer]	4,200 Kcal/ Kg
7. Price of Fuel as on Bid Deadline (Rs/MT) [Applicable in case where fuel is arranged by Procurer]	Tentative price of fuel is Rs. 1975/ton [Revised transfer price of fuel to be intimated 30 days

	<i>before the Bid Deadline]</i>
8. Omitted	-
9. Omitted	-
10. Discount Rate for Levellised Tariff	This shall be the rate notified by the CERC applicable on the day which is seven (7) days before Bid Deadline

- (b) The factor at Sl. No. 1 in the above table shall be applied from the Scheduled COD of the first Unit and the factor at Sl. No. 2 shall be applied from the Bid Deadline. Further, all the factors (mentioned in Sl. No. 1 and 2) shall be applied as at the mid point of each Contract Year.

3.3.2 Computing levellised tariffs

- 3.3.2.1 The escalated Quoted Tariffs (Rs. Per kWh) of each of the Bidders for each Contract Year for the term of PPA, calculated as per provisions of Clause 3.3.1.3, shall then be discounted upto the assumed commissioning date of the entire Contracted Capacity mentioned in Clause 3.3.2.2, by applying the discount factors (based on the discount rate as mentioned in Clause 3.3.1.3 above) and such aggregate discounted value for the term of the PPA shall be divided by the sum of such discount factors so as to calculate the Levellised Tariff of each Bidder.
- 3.3.2.2 The Levellised Tariff shall be calculated by assuming uniformly for all Bidders that entire Contracted Capacity has been Commissioned on the date which is 48 months for Unit I and 53 months for Unit II from the date PPA becomes effective.. The Bidders are required to quote tariffs for a period of 25 years from COD of first Unit. For the purposes of actual payment, the tariff for the Contract Years beyond the 25 years from the COD of the first Unit shall be the Quoted Tariff of the 25th year from the COD of the first Unit with applicable escalation.

The methodology of computation of Levellised Tariff is explained in the example provided in Annexure 13.

3.4 Step III– Successful Bidder Selection

- 3.4.1.1 The Levellised Tariff calculated as per Clause 3.3.2.1 shall be ranked from the lowest to the highest and the Bidder with lowest Levellised Tariff shall be declared as the Successful Bidder and the Letter of Intent shall be issued to such Successful Bidder, subject to Clause 3.4.1.2.
- 3.4.1.2 If the Successful Bidder, to whom the Letter of Intent has been issued does not fulfill any of the conditions specified in Clause 2.1.3.2, then in accordance with provisions of clause 2.1.4, the Procurer/Authorised Representative reserve the

right to cancel the Letter of Intent. Further, in such a case, the provisions of clause 2.7.1.3 shall apply.

- 3.4.1.3 The Authorised Representative, in its own discretion, has the right to reject any or all Bids if the Quoted Tariffs are not aligned to the prevailing market prices.

ANNEXURE 1

List of Procurers

1. Madhayanchal Vidyut Vitaran Nigam Ltd. (MVVNL) – Lucknow;
2. Paschimanchal Vidyut Vitaran Nigam Ltd. (PVVNL) – Meerut;
3. Purvanchal Vidyut Vitaran Nigam Ltd. (PuVVNL) – Varanasi; and
4. Dakshinanchal Vidyut Vitaran Nigam Ltd. (DVVNL) – Agra

ANNEXURE 2

FORMAT FOR BID BOND

Format of the Bid Bond

FORMAT OF THE UNCONDITIONAL AND IRREVOCABLE BANK GUARANTEE FOR BID BOND

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign entities submitting Bids are required to follow the applicable law in their country)

In consideration of the [Insert name of the Bidder] submitting the Bid inter alia for setting up the Power Station of the capacity of 1320. MW, at Etah Tehsil in District Etah, Uttar Pradesh, India for supply of power there from on long term basis, in response to the RfP dated _____ issued by Authorised Representative and Authorised Representative considering such Bid of[insert the name of the Bidder] as per the terms of the RfP, the _____ [insert name of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to *Dakhsinanchal Vidyut Vitran Nigam Ltd.* (hereinafter referred to as "Lead Procurer") at [Insert Name of the Place from the address of the Lead Procurer] forthwith on demand in writing from *Dakhsinanchal Vidyut Vitran Nigam Ltd.* or any Officer authorised by it in this behalf, any amount upto and not exceeding Rupees Thirty Nine Crores and Sixty Lakhs [derived on the basis of Rs. 3 Lakhs per MW of maximum capacity proposed to be procured] only, on behalf of M/s. _____ [Insert name of the Bidder] .

This guarantee shall be valid and binding on this Bank up to and including _____ and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between concerned parties.

Our liability under this Guarantee is restricted to Rupees Thirty Nine Crores and Sixty Lakhs only. Our Guarantee shall remain in force until _____. The Lead Procurer shall be entitled to invoke this Guarantee until [Insert Date which is 30 days after the date in the preceding sentence].

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by the Lead Procurer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Lead Procurer.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by the Bidder or any other person. The Guarantor Bank shall not require Lead Procurer to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Lead Procurer in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly Lead Procurer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder to enforce any security held by Lead Procurer or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. 39,60,00,000/- _____ (Rs. Thirty Nine Crores and Sixty Lakhs _____ only) and it shall remain in force until _____ [Date to be inserted on the basis of clause 2.12.1 of RfP] with an additional claim period of 30 days thereafter. We are liable to pay the guaranteed amount or any part thereof under this BANK GUARANTEE only if the Procurer serves upon us a written claim or demand.

Signature _____

Name _____

Power of Attorney No. _____

For

_____ [Insert Name of the Bank] _____

Banker's Stamp and Full Address.

Dated this ____ day of ____, 20__

ANNEXURE 3

FORMATS FOR RfP PROJECT DOCUMENTS

FORMAT 1:- PPA

FORMAT 2:- DEFAULT ESCROW AGREEMENT

FORMAT 3:- AGREEMENT TO HYPOTHECATE Cum DEED OF HYPOTHECATION

FORMAT 4: - SHARE PURCHASE AGREEMENT

ANNEXURE 4

FORMATS FOR FINANCIAL BID

Format 1: Quoted Tariff

Bid for supply of power to Procurer (as applicable for Scenario 4 mentioned in Clause 2.7.1.4)

Contract Year	Commencement Date of Contract Year	End Date of Contract Year	Quoted Non-Escalable Capacity Charges (Rs./kwh) for Scenario 1,2,3, 4 &5	Quoted Escalable Capacity Charges (Rs./kwh) for Scenario 1,2,3, 4 &5	Quoted Non-Escalable Energy Charges (Rs./kwh) [Scenario 1 & 3] Not Applicable	Quoted Escalable Energy Charges (Rs./kwh) [Scenario 1 & 3] Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Quoted Heat Rate (Kcal/kwh) [Scenario 4]	Not Applicable
	Scheduled COD of first Unit	March 31												
	April 1	March 31		Same as above									Same as above	
	April 1	March 31		Same as above									Same as above	
	April 1	March 31		Same as above									Same as above	
	April 1	March 31		Same as above									Same as above	
	April 1	March 31		Same as above									Same as above	

ANNEXURE 5

SITE DETAILS ALONG WITH SITE MAP

ANNEXURE 6

UNDERTAKINGS, SCHEDULED COD AND CONTRACTED CAPACITY

Format 1: Bidders' Undertakings

[On the Letter Head of the Bidding Company/Lead Member of Bidding Consortium]

To.

Jawaharpur Vidyut Utpadan Nigam Ltd.

Dear Sir,

Sub: Bidders' Undertakings for Bid for supply to Procurer/

We hereby undertake on our own behalf and on behalf of the Seller, that if selected as the Successful Bidder for the Project:

1. We give our unconditional acceptance to the RfP Project Documents issued by Authorised Representative as a part of the RfP dated , as amended and executed. We shall execute Share Purchase Agreement as per the provisions of the RfP.
2. We have submitted our Financial Bid strictly as per the formats provided in Annexure 4 of the RfP, without any deviations, conditions and without mentioning any assumptions or notes for the Financial Bid in the said Annexure.
3. We have submitted the Bid on the terms and conditions contained in the RfP and we hereby confirm our acceptance of all the terms and conditions of RfP.
4. Our Bid (including Financial Bid) is valid upto the period required under Clause 2.9 of the RfP.
5. Our Bid (including Financial Bid) has been duly signed by authorised signatory and sealed in the manner and to the extent indicated in this RfP and the Power of Attorney/Board Resolution as per Clause 2.7.1.1 in requisite format as per RfP has been enclosed in original with this undertaking.

6. We have assumed that if we are selected as the Successful Bidder, the provisions of the Joint Deed Agreement submitted at the time of RfQ, to the extent and only in relation to equity lock in and our liability thereof shall get modified to give effect to the provisions of clause 2.7.4.1 of RfP and Article 18.16 of PPA.(Applicable only in case of a Bidding Consortium)
7. We agree to sell our entire shareholding in the Seller as per the provisions of article 3.3.3 A of the PPA.
8. We confirm that our Bid meets all the conditions specified in Format 3 of Annexure 6 of RfP namely:
 - a) The Scheduled COD of the first Unit shall not be later than 48 (forty eight) months from the Effective Date as defined in PPA, subject to the provisions of the PPA.
 - b) The Scheduled COD of the Power Station shall not be later than [53 (fifty three)] months from the Effective Date as defined in PPA, subject to the provisions of the PPA.
 - c) Difference in Scheduled COD of any two successive Units shall not exceed a period of [5 (five)] months, subject to the provisions of the PPA.
 - d) The sum total of the Contracted Capacities of all the Units shall not be less than [1240.8] MW and more than [1320] MW at the Delivery Point.
- e) The Units shall be based on Supercritical Technology
9. We confirm that our Financial Bid conforms to all the conditions in the RfP including:
 - a) Ratio of minimum and maximum Quoted Capacity Charges during the Contract Years for which Tariff has been quoted by the Bidder in Format 1 of Annexure 4 of the Bid shall not be less than zero point seven (0.7) as provided in Clause 2.7.1.4 item 2.
 - b) Financial Bid is in the prescribed Format I of Annexure 4, shall be submitted duly signed by the Authorised Signatory
 - c) Financial Bid is unconditional
 - d) Only one Financial Bid is submitted by the Bidder
10. We confirm that the project will be based only on imported coal (if applicable)
11. We have neither made any statement nor provided any information in this Bid, which to the best of our knowledge is materially inaccurate or misleading. Further, all the confirmations, declarations and representations made in our Bid are true and accurate. In case this is found to be incorrect after our acquisition of Jawaharpur Vidyut Utpadan Nigam Ltd pursuant to our selection as Selected Bidder, we agree that the same would be treated as a Seller's event of default under PPA, and consequent provisions of PPA shall apply.

Signature and name of Authorised Person in whose name Power of Attorney/Board Resolution as per Clause 2.7.1.1 is issued

Original Power of Attorney/Board Resolution as per Clause 2.7.1.1 is enclosed. Rubber stamp of the Bidder to be affixed.

Format 2: Executive Summary

1.1.a Name of the Bidding Company/ Bidding Consortium

1.1.b Name of the Lead Member in the case of a Bidding Consortium

1.2 Details of the Bidding Consortium

S. No.	Name of the Company	% of equity Participation	Role Envisaged

Note:- If the Selected Bidder proposes to invest in the equity share capital of the Seller in accordance with Clause 2.7.4.2, through its Affiliate(s) or Ultimate Parent or Parent, the Bidder should indicate the percentage of the shareholding proposed to be held by such Affiliate(s) or Ultimate Parent or Parent in the Seller. In this case, the Bidder shall also provide the details of the proposed/actual equity shareholding of the Selected Bidder or Ultimate Parent or Parent in the said Affiliate(s).

Signature and Name of Authorised Person in whose name Power of Attorney/Board Resolution as per Clause 2.7.1.1 has been issued

Format 3: Scheduled COD and Contracted Capacity

Unit	Gross Capacity of Unit (in MW)	Contracted Capacity of Unit (in MW)	Scheduled COD of Unit (in months from Effective Date)
First			
Second			

Last			
All Units			

Important Conditions:

1. The Scheduled COD of the first Unit shall not be later than [48 (forty eight)] months from the Effective Date as defined in PPA, subject to the provisions of the PPA.
2. The Scheduled COD of the Power Station shall not be later than [53 (fifty three)] months from the Effective Date as defined in PPA, subject to the provisions of the PPA.
3. Difference in Scheduled COD of any two successive Units shall not exceed a period of [5 (five)] months, subject to the provisions of the PPA
4. The sum total of the Contracted Capacities of all the Units shall not be less than [1240.8] MW at the Delivery Point.

Signature and Name of Authorised Person in whose name Power of Attorney/Board Resolution as per Clause 2.7.1.1 has been issued

ANNEXURE 7

Format for Clarifications /Amendments on the RfP

(Applicable only for the Pre-Bid meeting before submission of the Bid in response to the RfP)

Sr No.	Document	Clause No. and Existing provision	Clarification required	Suggested text for the amendment	Rationale for the Clarification or Amendment

Signature _____
For

Bidder's Rubber Stamp and Full Address.

(Note : This format shall be used for submission of requests for clarifications/amendments on the draft RfP)

ANNEXURE 8

FORMATS FOR BOARD RESOLUTIONS

Format 1

Format of the Board Resolution for the Bidding Company and each member of the Consortium

[Reference Clause 2.7.1.1 of the RfP]

The Board, after discussion, at the duly convened Meeting on _____ [insert date], with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 1956, passed the following Resolution:

RESOLVED THAT pursuant to the provisions of the Companies Act, 1956 and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded for investment of..... percent (..... %) of the total equity share capital requirements of the Seller representing the entire amount proposed to be invested by the Company for the [Insert name of the Project], partly by acquisition of the existing equity shares from [Insert Name of Share Seller] and partly by subscribing to the new equity shares, as per the terms of the RfP.

FURTHER RESOLVED THAT approval of the Board be and is hereby accorded to contribute such further amount over and above the said percentage limit to the extent becoming necessary towards the total equity share obligatory on the part of the Company pursuant to the terms and conditions contained in the Joint Deed Agreement dated _____executed by the Company as per the provisions of RfQ. **

[Note: In the event, the investing entity is an Affiliate or Parent or Ultimate Parent of the Selected Bidder, the following paras in the Board Resolution shall also be passed;]

RESOLVED THAT the Board hereby acknowledges the Board Resolution *dated* _____ passed by the [Name of the *Affiliate(s)/Parent/Ultimate Parent*] regarding the investment of.....percent(.....%)of the total equity share capital requirements of the Seller, which is to be invested by the [Name of the Affiliate(s)/ Parent/Ultimate Parent] for the [Insert name of the Project], partly by acquisition of the existing equity shares from [Insert Name of Share Seller] and partly by subscribing to the new equity shares, as per the terms of the RfP.

FURTHER RESOLVED THAT _____, be and is hereby authorised to enter into take all the steps required to be taken by the Company in this regard, including in particular, signing of the Bid, making changes thereto and submitting amended Bid, all the related documents, certified copy of this Board Resolution or letter, undertakings etc, required to be submitted to Authorised Representative as part of the RfP or such other documents as may be necessary in this regard.

Certified True Copy

Notes:-

1. This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary or any of the authorised Directors of the Company and the rubber stamp for the Company shall be affixed.
2. The contents of the format should be suitably re-worded indicating the identity of the entity passing the resolution i.e. the Bidding Company, each Member of the Bidding Consortium.
3. This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act 1956 may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit a certificate signed by a person authorized by law of the Bidder's country certifying that the resolution has been provided in compliance with the applicable local laws outside India and that this format has been modified only to the limited extent to comply with applicable foreign law.

*****Applicable only for Bidding Consortium. To be adopted by Lead Member***

Format 2

Format for the Board Resolution of Affiliate/s and Parent or Ultimate Parent

The Board, after discussion, at the duly convened Meeting on _____ [insert date], with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 1956, passed the following Resolution:

RESOLVED THAT pursuant to the provisions of the Companies Act, 1956 and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded for issuing an Undertaking to the Authorised Representative named in the RfP, in the format specified in the RfP issued by Authorised Representative, draft of which is attached hereto and initialed by the Chairman whereby the Company undertakes to invest % of the total equity share capital requirements of the Seller, as per the terms of the RfP, representing the entire amount proposed to be invested by [insert the name of the Bidder or member] for the said Project, in case of failure of [insert the name of the Bidder or member] to make such investment”.

FURTHER RESOLVED THAT the Board hereby acknowledges the Board Resolution dated _____ passed by [Name of the Bidder/Member in a Consortium] regarding the reiteration of the terms and conditions of the Joint Deed Agreement dated _____ including in particular the obligations of [Name of the Selected Bidder] pertaining to joint and several liability to the extent of 100% equity contribution to the project, i.e., for both its own liability as well as the liability of all the other members of the consortium, viz., [Insert names of all the other Members in a Consortium for the Bid] and consent of the Board is hereby accorded for issuing an Undertaking to the Authorised Representative (named in the RfP, in the format specified in the RfP issued by Authorised Representative draft of which is attached hereto and initialed by the Chairman whereby the Company undertakes to invest 100 % of the total equity share capital requirements of the Seller, as per the terms of the said Joint Deed Agreement.**

FURTHER RESOLVED THAT _____, be and is hereby authorised to enter into and take all the steps required to be taken by the Company in this regard, including in particular, signing the said Undertaking, issuing the same to the Authorised Representative of all the related documents, certified copy of this Board resolution or letter, undertakings etc, required to be submitted to Authorised Representative as part of the RfP or such other documents as may be necessary in this regard.

Certified True Copy

Notes:-

1. This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary or any of the authorised Directors of the Company and the rubber stamp for the Company shall be affixed.
2. The contents of the format should be suitably re-worded indicating the identity of the entity passing the resolution i.e. the Bidding Company, each Member of the Bidding Consortium.
3. This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act 1956 may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit a certificate signed by a person authorized by law of the Bidder's country certifying that the resolution has been provided in compliance with the applicable local laws outside India and that this format has been modified only to the limited extent to comply with applicable foreign law.

***** Applicable only for Consortium to be adopted only by the Affiliate/Parent /Ultimate Parent of the Lead Member in a Bidding Consortium***

ANNEXURE 9

FORMAT OF COVERING LETTER

[On the Letter Head of the Bidding Company/Lead Member of the Bidding Consortium]

Bidder's Name:

Full Address:

Telephone No.:

E-mail address:

Fax / No.:

To

[Jawaharpur Vidyut Utpadan Nigam Ltd]

Sub: Bid for Supply of Power to Procurer

Dear Sir,

We, the undersigned Bidder having read and examined in detail the RfP for supply of power on long term basis from [Project location], hereby submit our Bid comprising of Financial Bid and Non-Financial Bid.

1) Bid Bond

We have enclosed a Bid Bond of Rs. 39,60,00,000 only in the form of bank guarantee no. _____ dated _____ as per your proforma (Annexure 5) from a _____ (insert name of bank providing Bid Bond) and valid upto _____ in terms of Clause 2.12 of the RfP.

2) Acceptance

We hereby unconditionally and irrevocably agree and accept that the decision made by the Procurer/Authorised Representative or the Procurer regarding any matter regarding or arising out of the RfP shall be binding on us. We hereby expressly waive any and all claims in respect of Bid process.

3) Familiarity With Relevant Indian Laws & Regulations

We confirm that we have studied the provisions of relevant Indian laws and regulations as required to enable us to quote for this Bid and execute the SPA, if awarded. We further undertake and agree that all such factors as mentioned in Clause 2.7.2 of RfP have been fully examined and considered while submitting the Bid.

4) Contact Person

Details of contact person as required under Clause 2.14.2 furnished as under:

Name
Designation
Company
Address
Phone Nos.
Fax Nos.
E-mail address

We are enclosing herewith Envelope I and Envelope II containing duly signed formats each one duly sealed separately, in 1 original + [insert number] copies (duly attested) as desired by you in your RfP for your consideration.

Dated the _____ day of _____ of 20

Thanking you,
We remain,

Yours faithfully,

Name and Signature of Authorised Person in whose name Power of Attorney/Board Resolution as per Clause 2.7.1.1 is issued

ANNEXURE 10

FORMATS OF POWER OF ATTORNEY

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. The foreign Bidder to follow the applicable law in their country)

Format 1: Power of Attorney to be provided by the Bidding Company/Lead Member in favour of its representative

Know all men by these presents, We.....(name and address of the registered office) do hereby constitute, appoint and authorise Mr. / Ms.....(name and residential address) as our true and lawful attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to submission of our Bid for the Project in response to the Request For Proposal dated issued by Jawaharpur Vidyut Utpadan Nigam Ltd ('RfP'), including signing and submission of the Bid and all documents specified in the RfP, including, undertakings, letters, certificates, acceptances, clarifications, guarantees, etc, making representations to the Authorised Representative and providing information / responses to the Authorised Representative, representing us in all matters before the Authorised Representative, and generally dealing with the Authorised Representative in all matters in connection with our Bid for the said Project.

We hereby agree to ratify all acts, deeds and things done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

All the terms used herein but not defined shall have the meaning ascribed to such terms under the RfP.

Signed by the within named
_____ [Insert the name of the executant]
through the hand of
Mr. _____
duly authorised signatory

Dated this ___ day of 2011

Accepted

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

Attested

(signature of Executant)
(Name, designation and Address
of the Executant)

Signature and stamp of
Notary of the place of execution

Note:

- (1) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and the same should be under common seal of the executant affixed in accordance with the applicable procedure. Further, the person whose signatures are to be provided on the Power of Attorney shall be duly authorised by the executant(s) in this regard.

Format 2: Power of Attorney to be provided by each of the other members of the Consortium in favour of the Lead Member

WHEREAS Jawaharpur Vidyut Utpadan Nigam Ltd have issued Request For Qualification on 11 June 2010 ('RfQ') and Request For Proposal dated ('RfP') for inviting the bids in respect of setting up of power station at Etah Tehsil in District Etah, Uttar Pradesh, India and supply of power there from to the Procurer named in the RfP on the terms and contained in the RfP and the RfP Project Documents (as defined in RfP);

AND WHEREAS _____, _____, _____ and _____ [Insert names of all members of Consortium] the members of the Consortium are desirous of submitting Bid in response to the RfP, and if selected, undertaking the project as per the terms of RfP and RfP Project Documents;

AND WHEREAS all the members of the Consortium have agreed under the Joint Deed Agreement dated _____ entered into between all the members and submitted to Jawaharpur Vidyut Utpadan Nigam Ltd in response to the RfQ, to appoint _____ [Insert the name] as Lead Member to represent all the other members of the Consortium for all matters regarding the RfP and the Bid;

AND WHEREAS pursuant to the terms of the RfP, we hereby designate M/s _____ (insert name of the Lead Member) as the Lead Member to represent us in all matters regarding the Bid and the RfP, in the manner stated below:-

Know all men by these presents, We.....
(name and address of the registered office) do hereby constitute, appoint and authorise[name and registered office address of the Lead Member], which is one of the members of the Consortium, to act as the Lead Member and our true and lawful attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to submission of Consortium's Bid for the Project in response to the Request For Proposal dated issued by Jawaharpur Vidyut Utpadan Nigam Ltd ('RfP'), including signing and submission of the Bid and all documents specified in the RfP, including, undertakings, letters, certificates, acceptances, clarifications, guarantees, etc, making representations to the Authorised Representative, and providing information / responses to the Authorised Representative representing us and the Consortium in all matters before the Authorised Representative and generally dealing with the Authorised Representative in all matters in connection with our Bid for the said Project, till completion of the bidding process.

....in accordance with the RfP and signing of Share Purchase Agreement.

We hereby agree to ratify all acts, deeds and things done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

All the terms used herein but not defined shall have the meaning ascribed to such terms under the RfP.

Signed by the within named
_____ [Insert the name of the executant]
through the hand of
Mr. _____
duly authorised signatory

Dated this ___ day of 2010

Accepted

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

Attested

(signature of Executant)
(Name, designation and Address
of the Executant)

Signature and stamp of
Notary of the place of execution

Note:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and the same should be under common seal of the executant affixed in accordance with the applicable procedure. Further, the person whose signatures are to be provided on the Power of Attorney shall be duly authorised by the executant(s) in this regard.

ANNEXURE 10A

FORMAT OF UNDERTAKING

[On the Letter Head of the Parent /Affiliates/Ultimate Parent]

Name:
Full Address:
Telephone No.:
E-mail address:
Fax / No.:

To

Jawaharpur Vidyut Utpadan Nigam Ltd _____

Sub: Undertaking for equity investment

Dear Sir,

We refer to the Request For Qualification 11 June 2010 ('RfQ') and Request For Proposal dated ('RfP') issued by you regarding setting up of Project at Etah Tehsil in District Etah, Uttar Pradesh, India for supply of electrical output there from on long term basis.

We have carefully read and examined in detail the RfQ and the RfP, including in particular, Clause 3.3.4 of the RfQ and Clause 2.7.1.1 of the RfP, regarding submission of an undertaking regarding the investment in the equity share capital of the Jawaharpur Vidyut Utpadan Nigam Ltd. We have also noted the amount of the equity investment required in the Seller for the Project by the [Insert the name of the Bidder or the Consortium Member] for the Project.

In view of the above, we hereby undertake to you and confirm that in the event of failure of [Insert the name of the Bidder or the Consortium Member] to invest in full or in part, in the equity share capital of the Seller as specified in the RfQ and/or RfP [and/or the Joint Deed Agreement to the extent applicable]***, we shall invest the said amount not invested by [Insert the name of the Bidder or the Consortium Member] in the proposed Special Purpose Vehicle to be formed for the Project.

We have attached hereto certified true copy of the Board Resolution whereby the Board of Directors of our Company has approved issue of this Undertaking by the Company.

All the terms used herein but not defined, shall have the meaning as ascribed to the said terms under the RfP.

Signature and Name of the Authorised representative of the Company

Company rubber stamp/seal

***** *The language in [] may be added in case of Lead Member in a Bidding Consortium***

ANNEXURE 11

Format for Performance Guarantee

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign entities submitting Bids are required to follow the applicable law in their country)

In consideration of the [Insert name of the Selected Bidder or Selected Bidder on behalf of the Seller] agreeing to undertake the obligations under the PPA dated [insert] and other RfP Project Documents, regarding setting up the Power Station of the capacity of 1,320 MW, at Etah Tehsil in District Etah, Uttar Pradesh, India for supply of power there from on long term basis, the _____ [insert name of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to [Insert Name of the Procurer] at [insert the Place from the address of the respective Procurer indicated in PPA] forthwith on demand in writing from [Name of the Procurer] or any Officer authorised by it in this behalf, any amount upto and not exceeding Rupees _____ only [Insert the amount of the bank guarantee in respect of the respective Procurer as per the terms of PPA], on behalf of M/s. _____ [Insert name of the Seller or the Selected Bidder on behalf of the Seller].

This guarantee shall be valid and binding on this Bank up to and including _____ and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only). Our Guarantee shall remain in force until _____. The Procurer shall be entitled to invoke this Guarantee till _____ [Insert date which is 30 days after the date in the preceding sentence].

The Guarantor Bank hereby agrees and acknowledges that the Procurer shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by the Procurer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Procurer.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by Authorised Representative and [Insert name of the Selected Bidder] and/or any other person. The Guarantor Bank shall not require the Procurer to justify the invocation of this BANK GUARANTEE, nor shall the

Guarantor Bank have any recourse against the Procurer in respect of any payment made hereunder

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly the Procurer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Jawaharpur Vidyut Utpadan Nigam Ltd or the Selected Bidder, to make any claim against or any demand on Jawaharpur Vidyut Utpadan Nigam Ltd or the Selected Bidder or to give any notice to Jawaharpur Vidyut Utpadan Nigam Ltd or the Selected Bidder or to enforce any security held by the Procurer or to exercise, levy or enforce any distress, diligence or other process against Jawaharpur Vidyut Utpadan Nigam Ltd or the Selected Bidder.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the Procurer and may be assigned, in whole or in part, (whether absolutely or by way of security) by Procurer to any entity to whom the Procurer is entitled to assign its rights and obligations under the PPA.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only) and it shall remain in force until _____ [Date to be inserted on the basis of Article 3.1.1 of PPA] with an additional claim period of thirty (30) days thereafter . We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if the Procurer serves upon us a written claim or demand.

Signature _____
Name _____
Power of Attorney No. _____

For
_____ [Insert Name of the Bank] _____

Banker's Stamp and Full Address.

Dated this ____ day of ____, 20__

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Note: The Performance Guarantee may be submitted by the Bidder on behalf of the Project Company or the Seller

ANNEXURE 12

LIST OF BANKS

LIST OF BANKS

Scheduled Commercial Banks

SBI and Associates

1. State Bank of India
2. State Bank of Bikaner and Jaipur
3. State Bank of Hyderabad
4. State Bank of Indore
5. State Bank of Mysore
6. State Bank of Patiala
7. State Bank of Saurashtra
8. State Bank of Travancore

Nationalised Banks

1. Allahabad Bank
2. Andhra Bank
3. Bank of India
4. Bank of Maharashtra
5. Bank of Baroda
6. Canara Bank
7. Central Bank of India
8. Corporation Bank
9. Dena Bank
10. Indian Bank
11. Indian Overseas Bank
12. Oriental Bank of Commerce
13. Punjab National Bank
14. Punjab and Sind Bank

15. Syndicate Bank
16. Union Bank of India
17. United Bank of India
18. UCO Bank
19. Vijaya Bank

Foreign Banks

- 1 BNP Paribas
- 2 Citi Bank N.A.
- 3 Deutsche Bank A.G.
- 4 The Hongkong and Shanghai Banking Corporation Ltd.
- 5 Standard Chartered Bank
- 6 ABN Amro Bank N.V.
- 7 UFJ Bank Ltd.
- 8 Sumitomo Mitsui Banking Corporation
- 9 Societe Generale
- 10 Barclays Bank
- 11 Bank of Novascotia

Scheduled Private Banks

- 1 ING Vysya Bank Ltd.
- 2 ICICI Bank Ltd.
- 3 HDFC Bank Ltd.
- 4 IDBI Bank Ltd
- 5 Axis Bank
- 6 Kotak Mahindra Bank

[Note: The Authorized Representative is authorized to modify the aforesaid list of Banks as deemed fit. Such modification shall not be construed as a change in standard bidding documents.]

ANNEXURE 13

Illustration of the Bid Evaluation/Computation of Levelling Tariff

Please insert an illustration worksheet

ANNEXURE 14

Illustration for Applicable Board Resolutions Requirements under 2.7.1.1

Investor in the Seller	Entities (other than Bidder) whose credentials (financial and/or technical) used by the Bidder for meeting RfQ criteria	Applicable Board Resolutions	Requirement of Undertaking (Annexure 10A)
Bidder himself for 100% equity	None	a) Format 1 of Annexure 8 – Resolution* 1 and 4 from the Bidder	No
Bidder himself for 100% equity	Affiliate and/or Parent and/or Ultimate Parent	a) Format 1 of Annexure 8 – Resolution* 1 and 4 from the Bidder b) Format 2 of Annexure 8 by either Parent/ Affiliate(s) whose credentials have been used, or Ultimate Parent. Provided, if the Bidder himself is the Ultimate Parent, then Format 2 need not be provided.	Yes, by either Parent/ Affiliate(s) whose credentials have been used, or Ultimate Parent. Provided, if the Bidder himself is the Ultimate Parent, then the undertaking need not be provided
Bidder himself + others (Affiliate and/or Parent and/or Ultimate Parent) in aggregate holding 100% equity	None	a) Format 1 of Annexure 8 – Resolution* 1, 3 and 4 from the Bidder. b) Format 1 of Annexure 8 – Resolution* 1 from the Affiliate and/or Parent and/or Ultimate Parent investing in the equity	None
Bidder himself + others (Affiliate and/or Parent and/or Ultimate Parent) in aggregate holding 100% equity	Affiliate and/or Parent and/or Ultimate Parent	a) Format 1 of Annexure 8 – Resolution* 1, 3 and 4 from the Bidder. b) Format 1 of Annexure 8 – Resolution* 1 from the Affiliate and/or Parent and/or Ultimate Parent investing in the equity c) Format 2 of Annexure 8 by either Parent/ Affiliate(s) whose	Yes, by either Parent/ Affiliate(s) whose credentials have been used, or Ultimate Parent

		credentials have been used, Ultimate Parent	
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*Note:

1. Resolution No. 1 - the second para of the Format No 1, Annexure 8 starting with “RESOLVED THAT pursuant to the provisions”
2. Resolution No. 3 - the third para (immediately below the note) of the Format No 1, Annexure 8 starting with “RESOLVED THAT he Board hereby acknowledges”
3. Resolution No. 4 – the fourth para of the Format No 1, Annexure 8 starting with “FURTHER RESOLVED THAT”
4. Wherever, the Resolution No. 3 is required to be submitted, it should be supported by a separate resolution for investment in equity by the concerned entity in the format as per Resolution No. 1.

Annexure 15

FORMAT OF DISCLOSURE

[On the letter head of Bidding Company/Each Member in a Bidding Consortium]

Disclosure

We hereby declare that the following companies with which we/ have direct or indirect relationship are also separately participating in this Bid process as per following details

S.No.	Name of the Company	Relationship
1.		
2.		
3.		

In case there is no such company in the column "name of the company" write "Nil"

Further we confirm that we don't have any Conflict of Interest with any other company participating in this bid process.

*Signature of
Chief Executive Officer/Managing
Director/Full-time Director/Manager**

1. *The above disclosure should be signed and certified as true by the Chief Executive Officer/Managing Director or full time Director of the Bidding Company or Member, in case of a Consortium/ Manager*.*

* In the light of the provisions of sections 2(24) and 269 of the Companies Act, 1956, certification by a Manager of the Company will also be permissible subject to the following two conditions:

(a) The Company should confirm through a copy of Board Resolution attested by Company Secretary that the concerned person is appointed as Manager as defined under the Companies Act, 1956 for the purpose in question.

(b) The Company Secretary also certifies that the Company does not have a Managing Director or CEO.