

**STANDARD  
REQUEST FOR PROPOSAL  
FOR  
PROCUREMENT OF POWER FOR 'MEDIUM TERM'**

**Under Case – 1 Bidding Procedure**

**THROUGH**

**TARIFF BASED COMPETITIVE BIDDING PROCESS**

**(As per Bidding Guidelines, issued by the Government of India, for  
Determination of Tariff by Bidding Process for Procurement of Power by  
Distribution Licensees)**

**FOR MEETING THE BASE LOAD REQUIREMENTS OF  
MPSEZ Utilities Private Limited**

**Issued by**

**MPSEZ UTILITIES PRIVATE LIMITED  
Adani House, Near Mithakhali Circle,  
Navrangpura, Ahmedabad – 380 009  
GUJARAT, INDIA**

**1<sup>st</sup> October, 2011**

**MPSEZ UTILITIES PRIVATE LIMITED  
Adani House, Near Mithakhali Circle, Navrangpura,  
Ahmedabad – 380 009, (GUJARAT), INDIA**

**Request for Proposal (hereinafter referred to as RFP) for medium term procurement of power under Case – 1 bidding procedure through tariff based competitive bidding (as per Bidding Guidelines, issued by the Government of India, for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees) for meeting the base load requirements of MPSEZ Utilities Private Limited in the state of Gujarat.**

This RFP is issued to: –

**M/s**

**Issued by:**

**Name: Sh. Pankaj Modi  
Designation: Director  
Address: MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Ahmedabad – 380 009 (GUJARAT), INDIA  
Phone: 079 -25557321  
Fax: 079 -25555603, 25556490  
Email: muplbid@mundrasez.com  
Date: 1<sup>st</sup> October, 2011**

## REQUEST FOR PROPOSAL NOTIFICATION FOR SUPPLY OF POWER

### MPSEZ UTILITIES PRIVATE LIMITED

1. The **MPSEZ Utilities Private Limited**, hereinafter referred to as the “Procurer”, acting through **Sh. Pankaj Modi, Director, MPSEZ Utilities Private Limited, Adani House, Near Mithakhali Circle, Ahmedabad – 380 009 (GUJARAT)**, hereby invites interested companies and/or Bidding Consortium and or any Consortium Member thereof (“Bidders”) to purchase the Request for Proposal (RFP) to participate in the bidding process for the selection of Successful Bidder(s) for procurement of power for medium term through tariff based competitive bidding process under Case – 1 bidding procedure for meeting its base load power requirements on the basis of international competitive bidding in accordance with the “Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees” issued by Government of India, Ministry of Power under Section – 63 of the Electricity Act, 2003 and as amended from time to time. The responsibility of the Successful Bidder(s) would be to supply power to the Procurer as per the terms and conditions of the RFP Documents.

**2. Bidding Process:**

The Procurer seeks to qualify and select Successful Bidder(s) for supply of power as aforesaid through this bidding process. For the purpose of selection of the Successful Bidder(s), Bidders shall be required to submit both Non-Financial Bid and Financial Bid simultaneously in a single stage bidding process as per the timelines mentioned in para 10 of this notification. Bidders who meet the Qualification Requirement as specified in Clause 2.1 of the RFP will be Qualified Bidders and the Financial Bids of all such Qualified Bidders shall be opened and evaluated as per provisions of Clause 3.4 of the RFP for the purpose of selection of Successful Bidder(s).

**3. Procurement of power**

Procurer intends to procure 30 MW to 170\* MW power ( $\pm 20\%$ ) as per the details given below at the Delivery Point for a period of 4 years from the Scheduled Delivery Date in accordance with the terms of the Power Purchase Agreement (PPA). This procurement of power is being done under Case – 1 bidding procedure.

(Fig. are in MW)

| Sr. No | Period              | 2012-13 | 2013-14 | 2014-15 | 2015-16 |
|--------|---------------------|---------|---------|---------|---------|
| 1      | April to June       | 30      | 45      | 95      | 170     |
| 2      | July to September   | 30      | 60      | 105     | 170     |
| 3      | October to December | 35      | 65      | 120     | 170     |
| 4      | January to March    | 35      | 70      | 135     | 170     |

4. **Technology:** The Bidder is free to choose any power generation technology, including but not limited to sub-critical / supercritical, open / combined cycle, etc.

5. **Fuel:** The choice of fuel, including but not limited to coal or gas, it’s sourcing and transportation is left entirely to the discretion of the Bidder. The Successful Bidder(s) shall bear complete responsibility to tie up the fuel linkage and the infrastructural requirements for fuel transportation, handling and storage.

**6. Power generation source:** Bidders are free to supply from any source of power generation including but not limited to hydel power. In case supply of power is proposed from a hydel source the hydrology risk shall be entirely borne by the Bidders. However, if the available capacity of the Seller from a generating station is in excess of the total Contracted Capacity of the Seller, then this excess capacity shall be at the disposal of the Seller.

**7. Commencement of supply of power:**

The Successful Bidder(s) shall have to commence the supply of power on the Scheduled Delivery Date in accordance with the provisions of the PPA.

**8. Tariff:**

The tariff shall be payable by the Procurer in Indian Rupees, as per provisions of the PPA. Bidders shall quote the tariff as per the pre-specified structure mentioned in the RFP.

**9. Issue of RFP:**

The detailed terms and conditions for qualification of the Bidders and for Bid submission are indicated in the RFP. All those interested in purchasing the RFP may respond in writing to the Procurer at the address given in para 11 below with a non-refundable fee of Rs. 25,000/- (Rupees Twenty Five Thousands only) or 500/- US Dollars (US Dollars Five Hundred Only), in the form of a demand draft / banker's cheque / pay order drawn in favor of MPSEZ Utilities Private Limited, payable at Ahmedabad latest by 16/10/11. The RFP shall be issued to the Bidders on any working day from 01/10/11 to 16/10/11 between 1000 hours (IST) to 1700 hours (IST) by MPSEZ Utilities Private Limited on written request and against payment of the above mentioned fee by any Bidder. In case where Bidders request the documents to be sent by post, the Procurer shall promptly dispatch the RFP to such Bidder by registered mail/air mail only upon receipt of written request and payment of the above mentioned fee by such Bidders. The Procurer shall, under no circumstances, be held responsible for late delivery or loss of documents so mailed. The RFP can also be downloaded from [www.mundraport.com](http://www.mundraport.com). However, in such case interested Bidder can submit the Bid only on submission of non refundable fee of Rs 25,000/- (Rupees Twenty Five Thousands only) or 500/- US Dollars (US Dollars Five Hundred Only) as mentioned above separately along with the Bid.

**10. Receipt and Opening of Bid:**

Bid must be delivered to the address as given in para 11 of this notification on or before 15:00 hours (IST) on 15/12/11 and the Non- Financial Bid will be opened on the same day at 15:30 hours (IST), in the presence of Bidder's representatives who wish to attend. If it is a public holiday on the last date for submission of the Bid, the submission and the receipt of the Bid shall be on the next working day at the place of submission of Bid, on which day the Non-Financial Bid received shall be opened. The Financial Bid shall be opened as per the time schedule given in Clause 2.14.1 of the RFP.

**11. Nodal Person for enquiries and clarifications**

All correspondence, clarifications in respect of the RFP and submission of the Bid shall be addressed to:

Name: Sh. Pankaj Modi  
Designation: Director  
Address: MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Ahmedabad – 380 009 (GUJARAT), INDIA  
Tel.: 079 -25557321  
Fax: 079 -25555603, 25556490  
Email: muplbid@mundrasez.com

**12.** All capitalized words and expressions used in this notification but not defined herein shall have the same meaning as ascribed to them in the RFP.

**DISCLAIMER**

1. This Request for Proposal (RFP) document is not an agreement or offer by the MPSEZ Utilities Private Limited to the prospective Bidders or any other party. The purpose of this RFP is to provide interested parties with information to assist the formulation of their Bid. This RFP is based on material and information available in public domain.
2. This RFP, along with its Formats, is not transferable. The RFP and the information contained therein is to be used only by the person to whom it is issued. Save and except as provided in Clause 2.18 of the RFP, it shall not be copied or distributed by the recipient to third parties. In the event that the recipient does not continue with its involvement in the bidding process in accordance with this RFP, this RFP must be kept confidential.
3. While this RFP has been prepared in good faith, neither the Procurer or its employees or advisors/consultants make any representation or warranty express or implied as to the accuracy, reliability or completeness of the information contained in this RFP.
4. Neither the Procurer, its employees nor its advisors / consultants will have any liability to any Bidder or any other person under the law of contract, tort, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in this RFP, any matter deemed to form part of this RFP, the award for supply of power, the information supplied by or on behalf of Procurer or its employees, any advisors/consultants or otherwise arising in any way from the selection process for the said supply of power.

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## DEFINITIONS

Any capitalized term, used but not defined in this RFP, shall have the meaning ascribed to such term in the RFP Documents, or the Bidding Guidelines, in that order. In absence of availability of definitions in the foregoing references, the capitalized terms shall be interpreted in accordance with the Electricity Act 2003, the CERC (Terms and Conditions of Tariff) Regulations 2004, Grid Code or any other relevant electricity law, rule or regulation prevalent in India, as amended or re-enacted from time to time, in that order.

**The following terms are defined for use in this RFP:**

**“Affiliate”** shall mean a company that either directly or indirectly

i. controls or

ii. is controlled by or

iii. is under common control with

a Bidding Company (in the case of a single company) or a Member (in the case of a Consortium) and **“control”** means ownership by one company of at least twenty six percent (26%) of the voting rights of the other company. As an illustration a chart is annexed hereto as Format 5.12;

**“Appropriate Commission”** shall mean the CERC, or the SERC or the Joint Commission referred to in Section 83 of the Electricity Act 2003, as the case may be;

**“Base Load”** shall mean the required quantum of power as specified by the Procurer at Sr. No. 4 of Clause 1.3.1 of this RFP;

**“Bid”** shall mean the Non-Financial Bid and the Financial Bid submitted by the Bidder, in response to this RFP, in accordance with the terms and conditions hereof.

**“Bidder”** shall mean Bidding Company or a Bidding Consortium submitting the Bid. Any reference to the Bidder includes Bidding Company / Bidding Consortium/ Consortium, Member of a Bidding Consortium including its successors, executors and permitted assigns and Lead Member of the Bidding Consortium jointly and severally, as the context may require”;

**“Bidding Company”** shall refer to such single company that has submitted the Bid in accordance with the provisions of this RFP;

**“Bidding Consortium” or “Consortium”** shall refer to a group of companies that has collectively submitted the Bid in accordance with the provisions of this RFP;

**“Bid Bond”** shall mean the unconditional and irrevocable bank guarantee to be submitted along with the Bid by the Bidder under Clause 2.12 of this RFP, as per the prescribed Format 4.9;

**“Bid Deadline”** shall mean the last date and time for submission of Bid in response to this RFP as specified in Clause 2.8 of this RFP;

**“Bidding Guidelines”** shall mean the “Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees” issued by Government of India, Ministry of Power dated 19<sup>th</sup> Jan 2005 under Section – 63 of Electricity Act and as amended from time to time till the Bid Deadline;

**“Case -1 Bidding Procedure”** shall have the meaning as ascribed thereto in the Bidding Guidelines;

“**CERC**” shall mean the Central Electricity Regulatory Commission of India constituted under sub – section (1) of Section-76 of the Electricity Act, 2003 or its successors;

“**Conflict of Interest**” A Bidder may be considered to be in a Conflict of Interest with one or more Bidders in the same bidding process under this RFP if they have a relationship with each other, directly or indirectly through a common company, that puts them in a position to have access to information about or influence the Bid of another Bidder;

“**Consents, Clearances and Permits**” shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/or supply of power;

“**Contracted Capacity**” shall mean the net capacity of power (in MW) contracted between the Seller and the Procurer at the Interconnection Point as provided in the Selected Bid as per Format 4.10 of this RFP;

“**Contract Performance Guarantee (CPG)**” shall have the meaning as per Clause 2.13 of this RFP;

“**Contract Year**” shall mean the period beginning on the Scheduled Delivery Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that the last Contract Year shall end on the last day of the term of the PPA;

“**CTU**” or “**Central Transmission Utility**” shall mean the utility notified by the Central Government under Section-38 of the Electricity Act 2003;

“**CTU Interface**” shall mean the point where

- i. the power from the power station switchyard bus of the Seller shall be injected into the interstate transmission system OR
- ii. the dedicated transmission line of the Seller shall connect the power station *of the Seller to the interstate transmission system* OR
- iii. the intrastate transmission system of the Seller’s state shall connect to the interstate transmission system for the purpose of transmitting power from the Seller’s power station;

“**Delivery Point**” shall mean the STU Interface(s) within the region of the Procurer, where power is delivered to the Procurer after it is injected by the Seller at the Interconnection Point;

“**Effective Date**” shall mean the date from which the PPA becomes effective;

“**Electricity Act 2003**” shall mean the Electricity Act, 2003 and any rules, amendments, regulation, notifications, guidelines or policies issued there under from time to time.

“**Financial Bid**” shall mean Envelope II of the Bid, containing the Bidder’s Quoted Tariff as per the Format 4.10 of this RFP;

“**Financially Evaluated Entity**” shall mean the company which has been evaluated for the satisfaction of the financial requirement set forth in Clause 2.1.2.1 hereof;

“**Grid Code**” / “**IEGC**” or “**State Grid Code**” shall mean the Grid Code specified by the Central Commission under clause (h) of sub-section (1) of Section 79 of the Electricity Act and/or the State Grid Code as specified by the concerned State Commission referred under clause

(h) of sub-section (1) of Section 86 of the Electricity Act, as applicable;

**“Injection Point”** in relation to each Financial Bid by a Bidder, shall mean either the CTU Interface or the Delivery Point as specified by the Bidder in Format 4.10 of this RFP;

**“Interconnection Point”** shall mean the point where the power from the power station switchyard bus of the Seller is injected into the interstate/intrastate transmission system(including the dedicated transmission line connecting the power station with the interstate/intrastate transmission system);

**“Law”** shall have the same meaning as ascribed thereto in the PPA;

**“Lead Member of the Bidding Consortium” or “Lead Member”** shall mean the Member which commits at least 51% equity stake in the Project Company and so designated by other Member(s) of the Bidding Consortium in accordance with the Consortium Agreement specified in Format 4.3 of this RFP;

**“Letter of Intent” or “LOI”** shall mean the letter to be issued by the Procurer to the Successful Bidder(s) for supply of power pursuant to Clause 3.5 of the RFP;

**“Levelized Tariff”** shall mean the tariff calculated in accordance with the provisions of Clause 3.4.7 of the RFP;

**“Member of a Bidding Consortium” or “Member” or “Consortium Member”** shall mean each company in the Bidding Consortium which has executed the Consortium Agreement as provided in Format 4.3 of this RFP;

**“Minimum Bid Capacity”** shall mean the minimum capacity in MW specified by the Procurer in Clause 1.3.1, for which the Bidder is required to submit its Bid;

**“Non Financial Bid”** shall mean Envelope I of the Bid containing the documents as specified in Clause 2.4.1.1 of the RFP;

**“Normative Availability”** shall carry the same meaning as defined in the PPA;

**“Parent Company”** shall mean a company that holds at least twenty six percent (26%) of the paid - up equity capital directly or indirectly in the Bidding Company or in the Member of a Bidding Consortium, as the case may be;

**“PPA”<sup>1</sup>** shall mean the agreement to be entered into between the Procurer and the Seller pursuant to which the Seller shall supply power to the Procurer as per the terms and conditions specified therein and a draft of which is attached hereto and marked as Enclosure 1 of Format 5.5 of this RFP, including all its schedules, annexures, and all amendments or modifications;

**“Procurer”** shall mean the entity as specified in Clause 1.1 of this RFP;

**“Project Company”** shall mean the company, incorporated by the Bidder as per Indian laws, in accordance with Clause 2.2.8;

**“Qualification Requirements”** shall mean the qualification requirements as set forth in Clause 2.1 of this RFP;

**“Qualified Bidder(s)”** shall mean the Bidder(s) who, after evaluation of their Non Financial Bid as per Clauses 3.2 and 3.3, stand qualified for opening and evaluation of their Financial Bid;

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

**“Quoted Energy Charges”** shall mean the sum total of Quoted Escalable Energy Charges and Quoted Non Escalable Energy Charges;

**“Quoted Escalable Energy Charges”** shall mean the charges quoted by the Bidder in column no. 7 or column no. 9 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Escalable Capacity Charges”** shall mean the charges as quoted by the Bidder in column no. 5 of its Financial Bid as per Format 4.10 of this RFP;

**“Quoted Escalable Fuel Handling Charges”** shall mean the charges as quoted by the Bidder in column no. 15 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B) (ix) of this RFP);

**“Quoted Escalable Inland Transportation Charges”** shall mean the charges as quoted by the Bidder in column no. 11 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Escalable Overseas Transportation Charges”** shall mean the charges as quoted by the Bidder in column no. 13 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Non Escalable Capacity Charges”** shall mean the charges as quoted by the Bidder in column no. 4 of its Financial Bid as per Format 4.10 of this RFP;

**“Quoted Non Escalable Energy Charges”** shall mean the charges as quoted by the Bidder in column no. 6 or column no. 8 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Non Escalable Fuel Handling Charges”** shall mean the charges as quoted by the Bidder in column no. 14 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Non Escalable Inland Transportation Charges”** shall mean the charges as quoted by the Bidder in column no. 10 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Non Escalable Overseas Transportation Charges”** shall mean the charges as quoted by the Bidder in column no. 12 of its Financial Bid as per Format 4.10 of this RFP (applicable as per Clause 2.4.1.1(B)(ix) of this RFP);

**“Quoted Tariff”** shall mean the sum total of Quoted Capacity Charges and Quoted Energy Charges, as applicable, quoted by the Bidder as per the prescribed Format 4.10 and shall be construed to be at the Interconnection Point as mentioned in its Bid;

<sup>1</sup> In case the Successful Bidder is supplying power from more than one generation source, then separate PPAs need to be executed for each such generation source.

**“Requisitioned Capacity”** means the total aggregate power of 30 MW to 170 MW proposed to be contracted by the Procurer with the Successful Bidder(s) through this bidding process for supply at the Delivery Point for the term of the PPA as per the terms and conditions specified therein;

**“RFP”** shall mean this Request for Proposal dated 01/10/2011 along with all formats and RFP Documents attached hereto and shall include any modifications, amendments alterations or clarifications thereto;

**“RFP Documents”** shall mean the following documents to be entered into by the parties to the respective agreements in connection with the supply of power:

- a) PPA;
- b) Default Escrow Agreement;
- c) Agreement to Hypothecate-cum-deed of Hypothecation; and
- d) any other agreements designated as such, from time to time by the Procurer;

**“Scheduled Delivery Date”** shall mean 01/04/2012..... on which the Seller is required to start delivering the power at the Delivery Point as per the terms and conditions of the PPA;  
*[Note: In case of Requisitioned Capacity being equal to or greater than 500 MW, the Procurer shall have the option to decide the Scheduled Delivery Date which shall not be less than four (4) years from the Effective Date. For Requisitioned Capacity less than 500 MW, the Scheduled Delivery Date shall be decided by the Procurer. However, the Scheduled Delivery Date can be preponed on mutual consent of the Seller and the Procurer.]*

*[Insert this definition, if applicable]* **“Seasonal Load”** shall mean the requirement of power as specified by the Procurer at Sr. No. 4 of Clause 1.3.1 of this RFP;

**“Seller”** shall mean the Successful Bidder/or the Project Company, as the case may be who submit the Contract Performance Guarantee and executes the PPA and other RFP Documents with the Procurer and who shall be responsible for supplying power to the Procurer at the Delivery Point for the term of the PPA as per the terms and conditions specified therein;

**“SERC”** shall mean the State Electricity Regulatory Commission of any state in India constituted under Section-82 of the Electricity Act, 2003 or its successors, and includes a Joint Commission constituted under sub-section (1) of Section 83 of the Electricity Act 2003;

**“Statutory Auditor”** shall mean the auditor of a Company appointed under the provisions of the Companies Act, 1956 or under the provisions of any other applicable governing law;

**“STU”** or **“State Transmission Utility”** shall mean the board or the government company specified as such by the State Government under sub-section (1) of Section 39 of the Act;

**“STU Interface(s)”** shall mean the point(s) at which the CTU network is connected to the intrastate transmission system of the Procurer’s State, and at which the Procurer agree to receive power up to the Requisitioned Capacity; For generation source in the same state as that of the Procurer, the STU Interface shall be the bus-bar of the generating station from which power is contracted to be supplied, at an appropriate voltage level as specified by the STU.

**“Successful Bidder(s)”** shall mean the Bidder(s) selected by the Procurer pursuant to this RFP for supply of power by itself or through the Project Company as per the terms of the RFP Documents, and to whom a Letter of Intent has been issued;

**“Tariff”** shall mean the tariff as computed in accordance with Schedule 4 of the PPA;

**“Trading Licensee”** shall mean the Bidder which is an Electricity Trader and submits its Bid on the basis of an exclusive power purchase agreement executed with the entity developing the generation source from where the power is proposed to be supplied by the Bidder;

**“Ultimate Parent Company”** shall mean a company which directly or indirectly owns at least twenty six percent (26%) paid up equity capital in the Bidding Company or Member of a Consortium, (as the case may be) and/or in the Financially Evaluated Entity and such Bidding Company or Member of a Consortium, (as the case may be) and/or the Financially Evaluated Entity shall be under the direct control or indirectly under the common control of such company;

# **SECTION - 1**

# **INTRODUCTION**

## SECTION 1 1.

### INTRODUCTION

- 1.1 The MPSEZ Utilities Private Limited, hereinafter referred to as the Procurer, acting through **Sh. Pankaj Modi, Director, MPSEZ Utilities Private Limited, Adani House, Near Mithakhali Circle, Ahmedabad – 380 009 GUJARAT, INDIA** hereby invites interested Bidders to purchase the RFP to participate in the bidding process for the selection of Successful Bidder(s) for procurement of power for medium term through tariff based competitive bidding process under Case – 1 bidding procedure for meeting its base load power requirements on the basis of international competitive bidding in accordance with the Bidding Guidelines. The responsibility of the Successful Bidder(s) shall be to supply power to the Procurer as per the terms and conditions of the RFP Documents.
- 1.2 The Procurer propose to select the Bidder(s) having the prescribed qualifications and whose Quoted Tariff is determined to be acceptable as per the provisions of Clause 3.5 to become Seller(s). The Seller(s) shall supply power to the Procurer pursuant to and as per the terms and conditions of the PPA to be signed between the Procurer and the Seller. The Procurer shall pay to the Seller(s), the Quoted Tariff of the Successful Bidder(s) which has been adopted by the *Gujarat Electricity Regulatory Commission* as per the terms and conditions of the PPA.

### 1.3 Power Procurement

#### 1.3.1 Scope

This bidding process is being carried out under Case – 1 bidding procedure as mentioned in the Bidding Guidelines, according to which the Bidder is free to choose any power generation source, any power generation technology and fuel type for supply of power. Further, all Bidders shall indicate the source of power generation from where the Contracted Capacity would be delivered and the type of fuel which shall be used. Supply of power is permitted from operational power plants or from power plants proposed to be commissioned on or before the Scheduled Delivery Date, subject to availability of reliable power over the term of the PPA.

Brief scope of power procurement is given as under:

| Sr. No | Scope                             | Details   |         |         |         |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
|--------|-----------------------------------|---|---------|---------|---------|---------|---------|---------|---|------------|----|----|----|-----|---|------------|----|----|-----|-----|---|------------|----|----|-----|-----|---|------------|----|----|-----|-----|
| 1.     | Contract Period (in Years)        | 4 years   |         |         |         |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 2.     | Requisitioned Capacity (MW)       | <p>30 MW to 170 MW* as per Annexure – I for <i>base load</i> supply of power.</p> <table border="1"> <thead> <tr> <th>Sr. No</th> <th>Period</th> <th>2012-13</th> <th>2013-14</th> <th>2014-15</th> <th>2015-16</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Apr to Jun</td> <td>30</td> <td>45</td> <td>95</td> <td>170</td> </tr> <tr> <td>2</td> <td>Jul to Sep</td> <td>30</td> <td>60</td> <td>105</td> <td>170</td> </tr> <tr> <td>3</td> <td>Oct to Dec</td> <td>35</td> <td>65</td> <td>120</td> <td>170</td> </tr> <tr> <td>4</td> <td>Jan to Mar</td> <td>35</td> <td>70</td> <td>135</td> <td>170</td> </tr> </tbody> </table> <p>During the evaluation of Bids and based on the competitiveness of the bid process, the Procurer retains the right to increase or decrease the Requisitioned Capacity by a quantum of twenty percent (20%) of the quantum indicated herein.</p> | Sr. No  | Period  | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 1 | Apr to Jun | 30 | 45 | 95 | 170 | 2 | Jul to Sep | 30 | 60 | 105 | 170 | 3 | Oct to Dec | 35 | 65 | 120 | 170 | 4 | Jan to Mar | 35 | 70 | 135 | 170 |
| Sr. No | Period                            | 2012-13   | 2013-14 | 2014-15 | 2015-16 |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 1      | Apr to Jun                        | 30  | 45      | 95      | 170     |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 2      | Jul to Sep                        | 30  | 60      | 105     | 170     |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 3      | Oct to Dec                        | 35  | 65      | 120     | 170     |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 4      | Jan to Mar                        | 35  | 70      | 135     | 170     |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 3.     | Minimum Bid Capacity <sup>2</sup> | 30 MW   |         |         |         |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |
| 4.     | Load Requirement                  | “Base Load”   |         |         |         |         |         |         |   |            |    |    |    |     |   |            |    |    |     |     |   |            |    |    |     |     |   |            |    |    |     |     |

<sup>2</sup> The Minimum Bid Capacity shall be decided by the Procurer, which may generally be the lower of the two values: 10% of the Requisitioned Capacity or 50 MW. However, the Procurer shall be free to determine any quantum of power as the Minimum Bid Capacity.

| Sr. No | Scope                   | Details  |
|--------|-------------------------|--|
| 5.     | Scheduled Delivery Date | 01/04/2012 However, the Scheduled Delivery Date can be preponed on mutual consent of the Seller and the Procurer, subject to availability of transmission capacity, as per the provisions of the PPA.  |
| 6.     | Interconnection Point   | Bidders shall submit their Quoted Tariff at the Interconnection Point and specify the same in the Financial Bid as per Format 4.10 of this RFP; The PPA shall be signed between the Successful Bidder / Project Company and the Procurer for the Contracted Capacity at the Interconnection Point.   |
| 7.     | Injection Point         | <p>Bidders shall specify in their Financial Bid, the Injection Point nearest to their generation source which shall be used for evaluation purpose.;</p> <ul style="list-style-type: none"> <li>• In case of Injection Point being a CTU Interface, applicable transmission charges and transmission losses up to the Delivery Point shall be considered along with the Quoted Tariff for evaluation. The transmission charges for any intrastate transmission link connecting the Interconnection Point to the Injection Point shall be borne by the Seller and no transmission charges for such intrastate transmission link shall be payable by the Procurer. However percentage loss level of such intrastate transmission link shall be specified by the Bidder in its Financial Bid and shall be considered for evaluation.</li> <li>• In case of Injection Point being a Delivery Point, no transmission charges or losses shall be considered for evaluation.</li> </ul> |

| Sr. No | Scope                         | Details   |
|--------|-------------------------------|---|
| 8.     | Transmission Losses           | The transmission losses from the Interconnection Point to the Delivery Point shall be borne by the Procurer.  |
| 9.     | Arranging Transmission Access | <p>The 'Seller(s)' shall be responsible for arranging transmission access from the Injection Point to the Delivery Point. Such arrangement shall be as per the regulations specified by the Appropriate Commission, as amended from time to time.</p> <p>The 'Seller(s)' shall initiate action for development of the requisite transmission system from Injection Point to the Delivery Point by co-coordinating with the CTU and concerned STU in accordance with the relevant regulations of the Appropriate Commission.</p> <p>The Seller shall be wholly responsible to arrange transmission access from the Interconnection Point to the Injection Point.</p> <p>The Procurer shall be wholly responsible to arrange transmission access from the station switchyard of the generation source in case of the generating source being in the same state as that of the Procurer.</p> |
| 10.    | Transmission Charges          | <p>“For transmission of power from the Injection Point to the Delivery Point, the Seller(s) shall be responsible to enter into a commercial arrangement with the CTU/STU, as the case may be, to bear the transmission charges as notified by the CERC/SERC, as the case may be, from time to time. Further, the Seller(s) shall then claim the reimbursement of such Transmission Charges from the Procurer.</p> <p>Transmission Charges, if any, for transmitting power from the Interconnection Point to the Injection Point shall be borne by the Seller and shall not be reimbursed by the Procurer.</p>   |

### 1.3.2 Evacuation of Power

The responsibility for evacuation of power beyond the Delivery Point will be of the Procurer, who shall ensure the interconnectivity of STU Interface(s) for evacuation of power.

### 1.3.3 Deleted

1.3. Details of the Procurer containing the following information are enclosed separately as per Format 5.2 of this RFP;

- a) Last three years of the available audited accounts
- b) Last three years of the aggregate technical and commercial losses
- c) Details regarding existing tariff structure, consumer base
- d) Business Forecast [To be inserted as per discretion of the Procurer]
- e) Details relating to escrow arrangement

Note : For points b), c) and d) please refer GERC MYT Order for MUPL - Case No. 1070 of 2011, dtd. 18<sup>th</sup> August 2011.

- 1.3.5 In accordance with Para 3.1 (i) of the Bidding Guidelines, the Procurer has already sent an intimation to the Appropriate Commission about the initiation of the bidding process.

**SECTION - 2**  
**INFORMATION**  
**AND**  
**INSTRUCTIONS**  
**FOR BIDDERS**

## SECTION – 2

### 2.1 INFORMATION AND INSTRUCTIONS FOR BIDDERS

#### Qualification Requirements

2.1.1 The Bidder should be a corporate entity duly incorporated under the relevant laws. Subject to Clauses 2.1.3 and 2.1.4, the Bidder must meet the Qualification Requirements independently as Bidding Company or as a Bidding Consortium with one of the Members acting as the Lead Member of the Bidding Consortium. Bidder will be declared as a Qualified Bidder based on meeting the Qualification Requirements specified below and as demonstrated based on the documentary evidence submitted by the Bidder in the Bid. Further, a Bidding Consortium can participate in the bidding process if any Member of the Consortium has purchased the RFP.

*[Note: A bidding company can be a generation company, a transmission licensee (owning generation facilities), a distribution company, a Trading Licensee or any other corporate entity which is willing to participate in the bidding process for providing supply of power to the Procurer.]*

2.1.2 The Bidder must fulfill the following Qualification Requirements specified in Clause 2.1.2.1 and 2.1.2.2:

2.1.2.1 **Networth:** Networth should be equal to or greater than the value **calculated at the rate of Rs. 0.50 Crore per MW of capacity offered by the Bidder in its Bid or equivalent USD** *[Calculated as per provisions mentioned in Note below]*. The computation of networth shall be based on unconsolidated audited annual accounts of any of the last three (3) financial years immediately preceding the Bid Deadline.

**[Note:** For the Qualification Requirements, if data is provided by the Bidders in foreign currency, equivalent rupees of Networth will be calculated using bills selling exchange rates (card rate) USD / INR of State Bank of India prevailing on the date of closing of the accounts for the respective financial year as certified by the Bidders' banker.

For currency other than USD, Bidders shall convert such currency into USD as per the exchange rates certified by their banker prevailing on the relevant date and used for such conversion.

If the exchange rate for any of the above dates is not available, the rate for the immediately available previous day shall be taken into account.]

In case of more than one Financial Bid being submitted by the Bidder, the Networth must be fulfilled by such Bidder for the sum total of the capacities being offered by it in its Financial Bids.

Networth shall be computed in the following manner by the Bidder:

**Networth**

|           |   |
|-----------|---|
| =         | Paid up share capital   |
| Add:      | Reserves  |
| Subtract: | Revaluation Reserves  |
| Subtract: | Intangible Assets   |
| Subtract: | Miscellaneous Expenditures to the extent not written off and carry forward losses |

For the purposes of meeting financial requirements, only unconsolidated audited annual accounts shall be used. However, audited consolidated annual accounts of the Bidder may be used for the purpose of financial requirements provided the Bidder has at least twenty six percent (26%) equity in each company whose accounts are merged in the audited consolidated accounts and provided further that the financial capability of such companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of the Bid.

Bidders shall furnish documentary evidence as per the Format 4.6 (A), duly certified by Managing Director / Chief Executive Officer / Director/Manager, being a full time director on the Board of the Company and the Statutory Auditor in support of their financial capability.

**2.1.2.2 Consents, Clearances and Permits:** The Bidder shall submit documentary evidence with regards to the following (In case the Bidder is an Trading Licensee, the Bidder shall ensure that the entity developing the power station has obtained such Consents, Clearances and Permits and the Bidder shall submit documentary evidence regarding the same in its Bid):

a) Land: Requirement of land would be considered as indicated in the proposal filed with the competent authority for seeking environmental clearance.

(I) To the extent land is to be acquired under the Land Acquisition Act, 1894, the Bidder shall submit copy of notification issued for such land under Section 4 of the Land Acquisition Act, 1894.

(II) For the part of land excluding that to be acquired under Land Acquisition Act 1894, the Bidder shall furnish documentary evidence for land in the form of certificate by concerned and competent revenue/ registration authority for the allotment/ lease (lease period to be more than the life of power plant)/ ownership/ vesting of at least one-third of the area of such land. (For the sake of clarity an illustration for meeting this requirement is attached at Format 5.13)

These evidences shall be supported by a duly notarized sworn affidavit from the developer listing the total land allotted/ under ownership/ lease/vested/ acquired for the power station. The affidavit shall certify that the documentary evidence provided by the Bidder in relation to land is true and correct copy of the originals.

b) Fuel:

> In case of domestic coal, the Bidder shall have made firm arrangements for fuel tie up either by way of mine allocation or fuel linkage. Such arrangement shall

be for the quantity of fuel, required upto the phase of the power station from which the power is proposed to be supplied, at Normative Availability for the term of the PPA.

In case the Bidder proposes use of blended coal, the Bidder shall be required to meet the criteria separately for domestic & imported coal as provided in the Qualifying Requirements in the ratio of the blending proposed.

- > In case of imported coal, the Bidder shall have either acquired mines having proven reserves for at least fifty percent (50%) of the quantity of coal required to generate power from the power station at Normative Availability for the total installed capacity OR shall have fuel supply agreement for at least fifty percent (50%) of the quantity of fuel required for a term of at least five (5) years or the term of the PPA (whichever is less) to generate power from the generation source for the total installed capacity for the term of the PPA.
  - > In case of domestic gas, the Bidder shall have made firm arrangements for fuel tie up by way of long term fuel supply agreement for the period & quantity as per Government of India guidelines for gas allocation, required upto the phase of power station from which the power is proposed to be supplied..
  - > In case of RLNG, the Bidder shall have made firm arrangements for fuel tie up by way of fuel supply agreement for at least fifty percent (50%) of the quantity of fuel required for a term of at least five (5) years or the term of the PPA (whichever is less) to generate power from the generation source for the total installed capacity for the term of the PPA.
- c) Water: The Bidder shall have obtained in-principle approval from the concerned state irrigation department or any other relevant authority, as may be applicable, for the quantity of water required for the power station.
- d) Environmental Clearance: The Bidder shall have submitted the requisite proposal, for the environmental clearance, to the concerned administrative authority responsible for according final approval in the central / state govt. as the case may be.
- e) Forest Clearance: (if applicable for the land of power station) The Bidder shall have submitted the requisite proposal, for the forest clearance, to the concerned administrative authority responsible for according final approval in the central / state govt., as the case may be.
- f) If the identified generation source is an existing power station, the Bidder shall submit the documentary evidence regarding commissioning of the power station and available surplus capacity equivalent to the capacity offered in its Bid in lieu of the requirements specified above in this Clause 2.1.2.2 (a) to (e).
- g) If the Bidder is a Trading Licensee, it shall have executed exclusive power purchase agreement(s) for the quantity of power offered in its Bid and shall provide a copy of the same as part of its Bid.

The documentary evidence as per Format 4.6 (B) shall be duly certified by Managing Director / Chief Executive Officer / Director/Manager, being a full time director on the

Board of the Company in support of the above Consents, Clearances and Permits and other requirements.

- 2.1.2.3 In case the Bidder is a Bidding Company and wishes to incorporate a Project Company, all such Consents, Clearances and Permits if obtained in the name of a company other than the Project Company, the Bidder shall be responsible to get these Consents, Clearances and Permits transferred in the name of the Project Company in the event of being selected as the Successful Bidder.

In case the Bidder is a Bidding Consortium, all such Consents, Clearances and Permits shall be obtained in the name of the Lead Member and the Bidder shall be responsible to get these Consents, Clearances and Permits transferred in the name of the Project Company in the event of being selected as the Successful Bidder.

- 2.1.2.4 The Bidder shall undertake (as per Format 4.7) not to submit any other bid, on the basis of the same generation source and quantum of power from such source as mentioned in its Bid, in any bid process till the time of selection of Successful Bidder and issue of LOI or the termination of the process, whichever is earlier subject to a maximum period of one hundred and twenty (120) days from the Bid Deadline. If the Bidder is a Trading Licensee, it shall undertake (as per Format 4.7) not to submit any bid, on the basis of power purchase agreement submitted along with its Bid for the same quantum of power and generation source specified therein, in any bid process till the time of selection of Successful Bidder and issue of LOI or the termination of the process, whichever is earlier subject to a maximum of period of one hundred and twenty (120) days from the Bid Deadline.

Bidders shall furnish the undertaking as per Format 4.7, duly certified by Managing Director / Chief Executive Officer / Director/Manager, being a full time director on the Board of the Company.

- 2.1.3 If the Bid is submitted by a Bidding Consortium the financial requirement shall be met individually and collectively by all the Members in the Bidding Consortium. The financial requirement to be met by each Member of the Bidding Consortium shall be computed in proportion to the equity commitment made by each of them in the Project Company as per the Consortium Agreement (Format 4.3), forming part of its Non Financial Bid. Any Consortium, if selected as the Successful Bidder, shall, for the purpose of supply of power, incorporate a Project Company with equity participation by the Members as provided in the Consortium Agreement (Format 4.3) within fifteen (15) days of the issue of Letter of Intent.

- 2.1.4 Any Bidding Company may choose to incorporate a Project Company for the purpose of supply of power. If a Bidding Company desires to incorporate a Project Company, it shall indicate this in Format 4.5.

The Bidder may seek qualification on the basis of financial capability of its Parent Company and / or its Affiliate(s) for the purpose of meeting the Qualification Requirements. In case of the Bidder being a Bidding Consortium, any Member may seek qualification on the basis of financial capability of its Parent Company and / or its Affiliate(s). The financial capability of a particular Parent Company (ies) and / or

Affiliates shall not be used by more than one Bidder.

The determination of the relationship of Parent Company or Affiliate with the Bidding Company or with the Member of the Bidding Consortium, including the Lead Member, shall be as existing on the date seven (7) days prior to the Bid Deadline. Documentary evidence in form of a certification from a practicing Company Secretary or Statutory Auditor to establish such relationship shall be furnished by the Bidder along with the Bid.

If the Financially Evaluated Entity is an entity other than the Bidding Company or a Member of a Bidding Consortium, the Bidding Company or Member relying on such Financially Evaluated Entity will have to submit a legally binding undertaking supported by a Board resolution as per Format 4.8, from the Financially Evaluated Entity or its Parent Company / Ultimate Parent Company, as the case may be, that the obligation of the Bidding Company or the Member of the Consortium to submit a Contract Performance Guarantee, if selected, shall be deemed to be the obligations of the Financially Evaluated Entity or its Parent Company / Ultimate Parent Company, as the case may be, and in the event of any default whatsoever by the Successful Bidder in submitting the Contract Performance Guarantee, the same shall be submitted by such Financially Evaluated Entity or by the Parent Company / Ultimate Parent Company, as the case may be.

- 2.1.6 A Bidder shall submit only one response in the same bidding process, individually as Bidding Company or as a Member of a Bidding Consortium (including the Lead Member). It is further clarified that any of the Parent Company / Affiliate / Ultimate Parent Company of the Bidding Company or a Member of a Bidding Consortium shall not separately participate directly or indirectly in the same bidding process. Further, if any Bidder has a Conflict of Interest with other Bidder(s) participating in the same bidding process, the Bid of all such Bidder(s) shall be rejected.
- 2.1.7 Notwithstanding anything stated above, the Procurer reserves the right to verify the authenticity of the documents submitted for meeting the Qualification Requirements and may request for any additional information / documents. The Procurer reserves the right at its sole discretion to contact the Bidder's bank, lenders, financing institutions and any other persons as necessary to verify the Bidder's information/documents for the purpose of qualification.
- 2.1.8 (a) If at any stage of the bidding process, any order / ruling is found to have been passed in the last one (1) year preceding the Bid Deadline by an Appropriate Commission or a Competent Court of Law against any Bidder or its Affiliates for its material breach of any contract for supply of power having duration of contract in excess of one (1) year to any licensee in India, Bids from such Bidders shall be liable to be rejected. All Bidders shall confirm in accordance with Format 4.1 that no such order(s) / ruling(s) have been passed by an Appropriate Commission or a Competent Court of Law against it or its Affiliates.
- (b) If the bid security submitted by the Bidder or its Affiliates has been forfeited either partly or wholly in any bid process under Case-1 or Case -2 bidding procedure in the last one (1) year preceding the Bid Deadline, the Bids of such Bidders shall be liable for rejection. The Bidder shall confirm in accordance with Format 4.1 that the bid security submitted by the Bidder or its Affiliates has not been forfeited.

Provided that this clause of disqualification shall be applicable with regard to Bids submitted after the issuance of Standard Bid Document - Case 1 on 27.03.2009.

Provided further that after Bid Deadline, if any such ruling is passed against any Bidder or its Affiliates for its material breach of any contract for supply of power having duration of contract in excess of one (1) year to any licensee in India or bid security mentioned at 2.1.8 (b) above is forfeited, at any time prior to issuance of LoI, the Bid of such Bidder shall be liable to be rejected and the consequences of clause 2.5 (b) shall apply.

It shall be the responsibility of the Bidder to inform the Procurer regarding the passing of such order or forfeiture of bid security, failing which consequences of clause 2.5 (a) shall apply.

- 2.1.9 The Qualified Bidder(s) will be required to continue to maintain compliance with the Qualification Requirements throughout the bidding process and till the execution of the PPA. Where the Financially Evaluated Entity is not the Bidding Company or a Member of a Bidding Consortium, as the case may be, the Bidding Company or Member shall continue to be an Affiliate of the Financially Evaluated Entity till execution of the PPA. Failure to comply with the aforesaid provisions shall make the Bid liable for rejection at any stage.

## **2.2 Submission of Bid by the Bidder**

- 2.2.1 The information and/or documents shall be submitted by the Bidder as per the formats specified in Section 4 (Formats for RFP) of this document.
- 2.2.2 Strict adherence to the formats wherever specified, is required. Wherever, information has been sought in specified formats, the Bidder shall refrain from referring to brochures / pamphlets. Non-adherence to formats and / or submission of incomplete information may be a ground for declaring the Bid as non-responsive. Each format has to be duly signed and stamped by the authorized signatory of the Bidder.
- 2.2.3 The Bidder shall furnish documentary evidence in support of meeting Qualification Requirements to the satisfaction of the Procurer and shall furnish unconsolidated / consolidated audited annual accounts in support of meeting financial requirement, which shall consist of unabridged balance sheet, profit and loss account, profit appropriation account, auditors report, etc., as the case may be, of Bidding Company or each Member of a Consortium or Financially Evaluated Entity for the last three (3) financial years immediately preceding the Bid Deadline for the purpose of calculation of Networth.
- 2.2.4 Bid submitted by a Bidding Consortium
- 2.2.4.1 The Bid shall contain a legally enforceable Consortium Agreement entered amongst the Members in the Bidding Consortium, designating one of the Members to be the Lead Member (as per Format 4.3). There shall be only one Lead Member which shall continue to hold fifty one percent (51%) equity in the Project Company up to a period of two (2) years after commencement of supply of power and twenty six (26%) for a period of three (3) years thereafter as per provisions of Clause 2.7 of this RFP and

Article 13.2 of the PPA. Each Member of the Bidding Consortium shall duly sign the Consortium Agreement making it liable for raising the required funds for its respective equity investment commitment as specified in the Consortium Agreement. In the absence of a duly executed Consortium Agreement, the Bid will not be considered for evaluation and will be rejected.

Provided however that the Lead Member of the Bidding Consortium shall be liable to the extent of one hundred percent (100%) of the total proposed commitment of equity investment in the Project Company, i.e., for both its own liability as well as the liability of the other Members.

Provided further that the Consortium Agreement shall not be amended without the prior written approval of the Procurer.

2.2.4.2 The Lead Member shall designate one person to represent the Consortium in its dealings with the Procurer. The person designated by the Lead Member shall be authorized through a Power of Attorney (as per Format 4.2 (a)) to perform all tasks including, but not limited to providing information, responding to enquiries, signing of Bid on behalf of the Consortium, etc. Additionally, the Bid shall also contain a Power of Attorney in original (as per Format 4.2 (b)) in favor of the Lead Member issued by the other Members of the Consortium.

2.2.4.3 The Bid shall also contain signed letter of consent as per Format 4.4 from each Member of the Consortium confirming that the Bid has been reviewed and each element of the Bid is agreed to by them including but not limited to the investment commitment in the Project Company.

2.2.4.4 Point of contact in case of Bidding Consortium

In case of Bid being submitted by a Consortium, the Lead Member of the Consortium shall be the single point of contact for the purposes of the Bid process, before the date of signing of last of the RFP Documents. Settlement of any dispute amongst the Consortium Members shall not be the responsibility of the Procurer and the Procurer shall not bear any liability whatsoever on this account.

2.2.5 Bid submitted by a Bidding Company

2.2.5.1 The Bidding Company should designate one person to represent the Bidding Company in its dealings with the Procurer. The person should be authorized to perform all tasks including, but not limited to providing information, responding to enquiries, signing of Bid etc. The Bidding Company should submit, along with Bid, a Power of Attorney in original (as per Format 4.2 (a)), authorizing the signatory of the Bid.

## 2.2.6 Clarifications and Pre-bid Meeting

- 2.2.6.1 The Procurer will not enter into any correspondence with the Bidders, except to furnish clarifications on the RFP and RFP Documents, if necessary. The Bidders may seek clarifications or suggest amendments to RFP and RFP Documents in writing, through a letter or by fax (and also soft copy by e-mail) to reach the Procurer at the address, date and time mentioned in Clause 2.8. For any such clarifications or amendments, the Bidder should adhere to the Format 5.6 of the RFP. For the avoidance of any doubt, it is hereby clarified that there shall be no extension in the Bid Deadline on account of clarifications sought in accordance with this Clause 2.2.6.
- 2.2.6.2 The Bidder(s) or their authorized representative(s) is / are invited to attend pre-bid meeting(s), which will take place on date(s) as specified in Clause 2.8 , or any such other date as notified by the Procurer. The time and venue of such meeting would be intimated at a later stage.
- 2.2.6.3 The purpose of the pre-bid meeting will be to clarify any issues regarding the RFP, including in particular, issues raised in writing by the Bidders as per the provisions of Clause 2.2.6.1.
- 2.2.6.4 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.
- 2.2.6.5 The Procurer is not under any obligation to entertain / respond to suggestions made or to incorporate modifications sought for.
- 2.2.7 The drafts of the following RFP Documents have been attached to this RFP;
- a. PPA as per Format 5.5 Enclosure -1;
  - b. Default Escrow Agreement as per Format 5.5 Enclosure -2;
  - c. Agreement to Hypothecate-cum-deed of Hypothecation as per Format 5.5 Enclosure -3.
- Upon finalization of the RFP Documents after the amendments as envisaged in Clause 2.3, the Procurer shall initial all the pages of the PPA and the other RFP Documents and deliver copies of the same to the Bidders at least forty five (45) days prior to the Bid Deadline.
- The RFP Documents shall be signed in required number of originals so as to ensure that one original is retained by each party to the agreement(s).

## 2.2.8 Incorporation of a Project Company

- 2.2.8.1 In case of the Successful Bidder being a Bidding Consortium, it shall, within fifteen (15) days of the issue of the Letter of Intent, incorporate a Project Company provided such a Project Company has not been incorporated by the Bidder prior to the submission of the Bid. In case the Project Company has already been incorporated prior to the submission of the Bid as specified in the Consortium Agreement such Project Company shall be responsible to execute the RFP Documents. The investment in the Project Company shall be as per provisions of the Consortium Agreement and shall be subject to the provisions of Clause 2.7 of this RFP.

In case of the Successful Bidder being Bidding Company and choosing to incorporate a Project Company for supply of power, it shall incorporate the Project Company

within fifteen (15) days of the issue of the Letter of Intent. In case the Project Company has already been formed by such Bidding Company prior to the submission of the Bid, the Bidding Company shall provide the details of such Project Company in its Bid. The investment in such Project Company incorporated by the Successful Bidder may be from any of the Affiliates and / or Ultimate Parent and shall be subject to the provisions of Clause 2.7 of this RFP.

2.2.8.2 The Project Company shall execute the RFP Documents and be responsible for supply of power to the Procurer as per the provisions of the PPA.

2.2.9 Within thirty (30) days of the issue of the Letter of Intent, the Successful Bidder/ Project Company, as the case may be, shall:

- a. Provide a valid Contract Performance Guarantee as per the provisions of Clause 2.13 of this RFP; and thereafter
- b. Execute the PPA and other RFP Documents in required number of originals so as to ensure that one original is retained by each party to the agreement(s).

Provided that, if for any reason attributable to the Procurer, the above activities are not completed by the Successful Bidder(s)/ Project Company within the above period of thirty (30) days of the issue of Letter of Intent as mentioned in this Clause, such period of thirty (30) days shall be extended, on a day for day basis till the end of the Bid validity period.

If the generation source of the Successful Bidder is in the same state as that of the Procurer or the Successful Bidder intends to connect its generation source to the STU Interface through a dedicated transmission line, then within thirty (30) days of the issue of the Letter of Intent, the Procurer and the Successful Bidder/Project Company shall be jointly responsible for agreement on the Delivery Point(s) for supplying power to the Procurer and for incorporating the same in the PPA.

2.2.10 All stamp duties payable for executing the RFP Documents shall be borne by the Successful Bidder.

2.2.11 If the Successful Bidder(s) / Project Company fails or refuses to comply with any of its obligations under Clauses 2.2.8 and 2.2.9, and provided that the Procurer and / or other parties to the respective RFP Documents are willing to execute the said documents, such failure or refusal on the part of the Successful Bidder/ Project Company shall constitute sufficient grounds for cancellation of the Letter of Intent. In such cases, the Procurer shall be entitled to invoke the Bid Bond of the Successful Bidder(s) / Project Company.

### **2.3 Amendment of RFP**

2.3.1 The Procurer, for any reason, whether at its own initiative or in response to clarifications requested by any Bidder may modify the RFP, including the timelines specified in Clause 2.8.2, by issuance of addendum / modification / errata and / or a revised document. Revisions or amendments in the Bidding Guidelines may cause the Procurer to modify, amend or supplement this RFP, including the RFP Documents to be in conformance with the Bidding Guidelines. Such document shall be notified in writing through a letter or fax or e-mail to all the entities to which the RFP has been issued and shall be binding on them. Such documents shall also be made available on the same website,

[www.mundraport.com](http://www.mundraport.com). The Procurer shall not be responsible for any delay in receipt of the addendum / modification / errata and / or revised document and receipt of the same by the Bidders shall be presumed by the Procurer upon taking all reasonable steps to notify the Bidders in accordance with the means mentioned in the preceding sentence. In order to provide reasonable time to the Bidders to take the modification into account in preparing their Bid, or for any other reasons, the Procurer may, at its discretion, extend the Bid Deadline. Late receipt of any addendum / modification / errata and / or revised document will not relieve the Bidder from being bound by that modification or the Bid Deadline. All such amendments/modifications shall be issued at least forty-five (45) days prior to the Bid Deadline.

- 2.3.2 In case Bidders need any further clarifications not involving any amendments in respect of the final RFP and RFP Documents, they should ensure that written request for such clarification is delivered to the Procurer at least fifteen (15) days prior to the Bid Deadline as mentioned in Clause 2.8, the Procurer may issue clarifications only, at its sole discretion, which is considered reasonable by it. Any such clarification issued shall be sent to all the Bidders to whom the RFP has been issued. Such clarifications shall also be made available on the same website, [www.mundraport.com](http://www.mundraport.com). Clarifications sought after this date shall not be considered in any manner and shall be deemed not to have been received. There shall be no extension in Bid Deadline on account of clarifications sought as per this clause.

## 2.4 Bidding Process

### 2.4.1 Bid Formats

- 2.4.1.1 The Bid in response to this RFP shall be submitted by the Bidders in the manner provided in Clause 2.10. The Bid shall comprise of the following:

**(A) Envelope I – Non- Financial Bid comprising of:**

- i. Covering Letter as per prescribed Format 4.1
- ii. Original power of attorney issued by the Bidding Company or the Lead Member of the Consortium, as the case may be, in favor of the authorized person signing the Bid, in the form attached hereto as Format 4.2.(a). Additionally, in case of a Bidding Consortium, the Bid should also contain a Power of Attorney in original (as per Format 4.2 (b)) in favor of the Lead Member issued by the other Members of the Consortium.

Provided that in the event the Bidding Company 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 above requirements ;

Provided further that such Board resolutions, as specified above, in case of a foreign entity, 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. In the case of a foreign entity, in the event, any and/or all of the documents/resolutions are in any other language other than English, then a duly notarized copy of such translation shall also be required to be submitted.

- iii. Consortium Agreement as per prescribed Format 4.3;

- iv. Letter of Consent from the Consortium Members as per prescribed Format 4.4;
- v. Bidder's composition and ownership structure as per prescribed Format 4.5;
- vi. Details for meeting Qualification Requirement as per the prescribed Format 4.6 along with documentary evidence for the same as specified in Clause 2.1;
- vii. Bidders' Undertaking as per the prescribed Format 4.7 (A) and Undertakings from the Financially Evaluated Entity or its Parent Company / Ultimate Parent Company as per Format 4.7 (B);  
 Provided further, in case the Bidding Company or Member of a Consortium, (as the case may be) holds at least twenty-six percent (26%) equity in such Financially Evaluated Entity, whose credentials have been considered for the purpose of meeting the Qualification Requirements as per the RFP, undertaking as per Format 4.7 (B) shall not be required from the Financially Evaluated Entity;
- viii. Board Resolution of the Financially Evaluated Entity of the Bidding Company or each Member of the Bidding Consortium as per prescribed Format 4.8, duly certified by the Company Secretary or the Managing Director undertaking to provide the entire Contract Performance Guarantee in the event of failure of the Bidding Company / Member of the Consortium to do so; or  
 Board Resolution of the Parent or Ultimate Parent of the Financially Evaluated Entity referred to above, as per prescribed Format 4.8, duly certified by the Company Secretary or the Managing Director undertaking to provide the entire Contract Performance Guarantee in the event of failure of the Bidding Company / Member of the Consortium to do so.  
 Provided that such Board resolutions, as specified above, in case of a foreign entity, 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.
- ix. Bid Bond, as per the prescribed format 4.9;
- x. Checklist for Bid submission requirements as prescribed in Format 4.11;
- xi. Disclosure as per Format 4.12 regarding participation of any related companies in this bidding process;
- xii. Details of generation source and primary fuel as prescribed in Format 4.13;
- xiii. Initialed RFP Documents as per Format 5.5.
- xiv. In case Bidder is offering capacity from more than one generation source, following formats shall be submitted separately for each generation source and placed in Envelope I.  
 i) Format 4.6 B -Format of Qualification Requirement (As per clause 2.1.2.2)  
 ii) Board Resolution as per format 4.8  
 iii) Bid Bond as per Format 4.9  
 iv) Details of the generation source and the primary fuel as per Format 4.13

**(B) Envelope II – Financial Bid as per Format 4.10.**

The Bidder shall inter-alia take into account the following while preparing and submitting the Financial Bid as per the prescribed Format 4.10, duly signed by an authorized signatory.

- i. The Bidder shall submit their Quoted Tariff at the Interconnection Point and shall specify the same in its Financial Bid as prescribed in Format 4.10 of this RFP;
- ii. More than one Bid can be submitted by the Bidder for supply of power provided that not more than one Bid from a Bidder is from the same generation source and each Bid is separately submitted in accordance with this Clause 2.4.1.1. For these purposes, more than one unit at the same plant location but using different fuel/different fuel source shall be considered as the same generation source.
- iii. The Qualification Requirements for the Bidder would be evaluated for the total quantum of power offered by a Bidder from various generation sources:-
- iv. The Bidder may quote for any quantum of power up to the Requisitioned Capacity for the entire term of the PPA, subject to the Minimum Bid Capacity.
- v. From each generation source, the Bidder may submit fractions of total capacity offered which it is willing to supply at the same quoted tariff as specified in Format 4.10.
- vi. The Bidder shall quote the Quoted Escalable Capacity Charges and Quoted Non Escalable Capacity Charges. In case of Quoted Escalable Capacity Charges, the Bidder shall quote charges only for the first Contract Year after commencement of supply of power as per the terms of the PPA.
- vii. The Quoted Escalable Capacity Charges and Quoted Non Escalable Capacity Charges for each Contract Year shall be based on the Normative Availability and shall include the cost of secondary fuel.
- viii. Bidders shall have the option to quote firm Quoted Capacity Charges and / or firm Quoted Energy Charges for the term of the PPA, i.e. where the Quoted Escalable Capacity Charges and / or Quoted Escalable Energy Charges shall be 'nil' for all the Contract Years.
- ix. The Bidder shall quote the following Quoted Energy Charges as applicable.

| <b>Scenario 1</b>                                      | <b>Scenario 2</b>                                 | <b>Scenario 3</b>                                 | <b>Scenario 4</b>                                       | <b>Scenario 5</b>   | <b>Scenario 6</b>                         | <b>Scenario 7</b>                                |
|--|---|---|---|---|---|--|
| <b>Power generation source with captive coal block</b> | <b>Power generation source linkage based coal</b> | <b>Power generation source with imported coal</b> | <b>Power generation source with imported gas (RLNG)</b> | <b>Power generation source with domestic (pipeline) gas</b> | <b>Power generation source with hydro</b> | <b>Power generation source with Blended Coal</b> |
|  |   |   |   |   |   | For Domestic Coal Component                      |
| Quoted Non-Escalable Energy Charge(in                  | Quoted Non-Escalable Energy Charge(in             | Quoted Non-Escalable Energy Charge (in Rs/kWh)    | Quoted Non-Escalable Energy Charge (in Rs/ kWh)         | Quoted Non-Escalable Energy Charge (in Rs/kWh)              |   | Quoted Non Escalable Energy Charges (in          |

| Scenario 1   | Scenario 2   | Scenario 3   | Scenario 4  | Scenario 5   | Scenario 6                                | Scenario 7   |
|--|--|--|---|--|---|--|
| <b>Power generation source with captive coal block</b>         | <b>Power generation source linkage based coal</b>              | <b>Power generation source with imported coal</b>                | <b>Power generation source with imported gas (RLNG)</b>           | <b>Power generation source with domestic (pipeline) gas</b>    | <b>Power generation source with hydro</b> | <b>Power generation source with Blended Coal</b>                 |
| Rs./kWh)   | Rs./kWh)   |  |   |  |   | Rs./kWh)   |
| Quoted Non Escalable Inland Transportation Charge (in Rs./kWh) | Quoted Non Escalable Inland Transportation Charge (in Rs./kWh) | Quoted Non Escalable Overseas Transportation Charge (in Rs./kWh) | Quoted Non Escalable Overseas Transportation Charge (in Rs./kWh)* | Quoted Non Escalable Inland Transportation Charge (in Rs./kWh) |   | Quoted Non Escalable Inland Transportation Charge (in Rs./kWh)   |
|  |  | Quoted Non Escalable Inland Transportation Charge (in Rs./kWh)   | Quoted Non Escalable Inland Transportation Charge (in Rs./kWh)    |  |   |  |
|  |  | Quoted Non-Escalable Fuel Handling Energy Charge (in Rs./kWh)    | Quoted Non-Escalable Fuel Handling Energy Charge (in Rs./kWh)     |  |   | For Imported Coal Component :                                    |
|  |  |  |   |  |   | Quoted Non-Escalable Energy Charge (in Rs./kWh)#                 |
|  |  |  |   |  |   | Quoted Non Escalable Overseas Transportation Charge (in Rs./kWh) |
|  |  |  |   |  |   | Quoted Non Escalable Inland Transportation Charge (in Rs./kWh)   |
|  |  |  |   |  |   | Quoted Non-Escalable Fuel Handling Energy Charge (in Rs./kWh)    |

\* in case of medium term procurement, the Quoted Escalable and Non Escalable components of Energy Charges and Overseas Transportation Charges in Scenarios 3, 4, 5 and 7 shall be quoted and paid in Rs./ kWh only. Foreign exchange risk shall be borne by the Seller.

- x. Ratio of minimum and maximum Quoted Capacity Charges during the term of the 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 3.4.4.
- xi. The Quoted Tariff, as in Format 4.10, shall be an all inclusive Tariff up to the Interconnection Point and no exclusions shall be allowed. The Bidder shall take into account all costs including capital and operating costs, statutory taxes, levies, duties while quoting such Tariff. It shall also include any applicable transmission costs and transmission losses from the generation source up to the Interconnection Point. Availability of the inputs necessary for supply of power shall be ensured by the Seller and all costs involved in procuring the inputs (including statutory taxes, duties, levies thereof) at the plant location must be reflected in the Quoted Tariff. Appropriate transmission charges from the Injection Point to the Delivery Point as per Format 5.10 shall be added for Bid evaluation purpose.
- xii. The Bidders should factor in the cost of the secondary fuel into the Quoted Tariff and no separate reimbursement shall be allowed on this account.

#### 2.4.1.2 Commencement of Supply of Power to Procurer

The Seller shall at all times be responsible, at its own cost and risk for the commencement of supply power to the Procurer as per the terms of the PPA.

- #### 2.4.1.3
- Wherever information has been sought in specified formats, the Bidders shall furnish 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.

### 2.5 The Bidder should note that:

- (a) If any Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its Bid, in any manner whatsoever in order to create circumstances for the acceptance of its Bid, the Procurer reserves the right to reject such Bid or cancel the Letter of Intent, if issued. If such event is discovered after the Effective Date, consequences specified in the PPA shall apply.
- (b) If for any reason the Bid of any Successful Bidder is rejected or Letter of Intent issued to such Successful Bidder is cancelled, the Procurer may:
  - i. Consider the next lowest Financial Bid from other than the Successful Bidder(s) whose Bids are responsive and valid; or
  - ii. Annul the bid process; or
  - iii. Take any such measure as may be deemed fit in the sole discretion of the Procurer , as applicable]
- (c) The Procurer reserves the right to accept the offer of the Bidder for any quantum of power up to the quantum offered by it, subject to the Minimum Bid Capacity, and considering the balance Requisitioned Capacity (after considering the quantum of power offered by Successful Bidder(s) in Clause 3.5.3).

- (d) Bid submitted by the Bidders, within the Bid Deadline, shall become the property of the Procurer and shall not be returned to the Bidders;
- (e) Language of the Bid shall be English only;
- (f) Bidders shall mention the name of the contact person and complete address of the Bidder in the covering letter as per Format 4.1;
- (g) The Procurer may, at its sole discretion, ask for additional information/ document 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. However, no change in the substance of the Quoted Tariff shall be sought or permitted by the Procurer.
- (h) Non submission and / or submission of incomplete data / information required under the provisions of the RFP shall not be construed as waiver on the part of the Procurer of the obligation of the Bidders to furnish the said data / information unless the waiver is in writing.
- (i) The Procurer may verify the Bidder's financial data by checking with the Bidder's lenders / bankers / financing institutions / any other person as necessary.
- (j) The Bidders shall satisfy themselves, on receipt of the RFP, that the RFP is complete in all respects. Intimation of any discrepancy shall be given to the Procurer at the address provided in para 10 of the notification to this RFP immediately. If no intimation is received from any Bidder within ten (10) days from the date of issue of this RFP or from the date on which it was made available on [www.mundraport.com](http://www.mundraport.com), it shall be considered that the issued document, complete in all respects, has been received by the Bidder.
- (k) This RFP document includes statements, which reflect the various assumptions arrived at by the Procurer in order to give a reflection of the current status in the RFP. These assumptions may not be entirely relied upon by the Bidders in making their own assessments. This RFP does not purport to contain all the information each Bidder may require and may not be appropriate for all persons. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP and obtain independent advice from appropriate sources.

## **2.6 Bidder to inform itself fully**

2.6.1 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 its Bid. Once the Bidder has submitted the Bid, the Bidder shall be deemed to have examined the laws and regulations in force in India, the grid conditions, 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, it shall not be relieved from any of its obligations under the RFP Documents nor shall be entitled to any extension of time for commencement of supply or financial compensation for any reason whatsoever.

2.6.2 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 India. 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.

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 1999, IEGC, the Environment Protection Act 1986 and Forest (Conservation) Act 1980, the Land Acquisition Act 1984, the regulations framed by regulatory commissions and all other related acts, laws, rules and regulations prevalent in India, as amended from time to time. The Procurer 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 in Bid Deadline. The Bidder undertakes and agrees that, before submission of its Bid; all such factors as generally stated above, have been fully investigated and considered while submitting the Bid.

- 2.6.3 The Bidder shall familiarize itself with the procedures and time frames required to obtain all Consents, Clearances and Permits required for the supply of power to Procurer. The Procurer shall have no liability to obtain any of the Consents, Clearances and Permits required for setting up of the generation facilities and/ or supply of power.

## **2.7 Minimum Equity holding/Equity Lock-In**

- 2.7.1 The aggregate equity share holding of the .....[Insert Lead Member in case the Successful Bidder is a Bidding Consortium OR the Successful Bidder in case the Successful Bidder is a Bidding Company] in the issued and paid up equity share capital of the Seller shall not be less than the following:

Fifty one percent (51%) from Effective Date up to a period of two (2) years after commencement of supply of power; and Twenty Six (26%) for a period of three (3) years thereafter.

- 2.7.2 Similarly, in case of the Successful Bidder being a Bidding Company, the minimum aggregate equity share holding of the investing entity(ies) in the issued and paid up equity share capital of the Project Company, if formed, shall be the same as specified in Clause 2.7.1.
- 2.7.3 In case of a Bidding Consortium, any Member, other than the Lead Member, shall be allowed to divest its equity as long as the other remaining Members (which shall always include the Lead Member) hold the minimum equity specified in Clause 2.7.1 (a) and (b) above. In case of a Bidding Company, any investing entity(ies) shall be allowed to divest its equity as long as the other remaining investing entity(ies) hold the minimum aggregate equity specified in Clause 2.7.1(a) and (b) above.
- 2.7.4 The Successful Bidder may invest in the equity share capital of the Project Company through its Affiliate(s) or Ultimate Parent Company or Parent Company (ies). If the

Successful Bidder so invests through any Affiliate(s) or Ultimate Parent Company or Parent Company (ies), the Successful Bidder shall be liable to ensure that minimum equity holding/lock-in limits specified above are still maintained.

- 2.7.5 If equity is held by the Affiliates, Parent Company or Ultimate Parent Company, then such Affiliate, Parent Company or Ultimate Parent Company shall be permitted to transfer its shareholding in the Project Company to another Affiliate or to the Parent Company / Ultimate Parent Company. If any such shareholding entity, qualifying as an Affiliate/ Parent Company/ Ultimate Parent Company, is likely to cease to meet the criteria to qualify as an Affiliate / Parent Company / Ultimate Parent Company, the shares held by such entity shall be transferred to another Affiliate / Parent Company / Ultimate Parent Company.

All transfers of shareholding of the Project Company by any of the entities referred to above shall be after prior written permission from the Procurer.

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

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

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

- 2.7.7 The provisions as contained in this clause and Article 15.2 of PPA shall override the terms of the Consortium Agreement submitted as a part of Bid.
- 2.7.8 The provisions contained in Clause 2.7.1 to Clause 2.7.6 shall not be applicable if the Bidding Company is a Trading Licensee or in case of a Bidding Company bidding on its own name, meeting all Qualification Requirements on its own and not forming a separate Project Company. However the Trading Licensee in such case shall ensure that similar provisions as contained in Clause 2.7.1 to Clause 2.7.6 are incorporated in the exclusive power purchase agreement submitted by the Trading Licensee along with its Bid. In such case, the aforesaid provisions shall be applicable with respect to the majority investor in the entity developing the generation source from where the power is proposed to be supplied by the Bidder as mentioned in the Bid by the Trading Licensee. Such majority investor shall be identified and specified in the power purchase agreement submitted by the Trading Licensee.

## 2.8 Due Dates

- 2.8.1 The Bidders should submit the Bids so as to reach the address specified below by 1500 hrs (IST) on 15/12/2011:

**Sh. Pankaj Modi**  
Director  
MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle.  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

- 2.8.2 The following shall be the time schedule for completion of the bidding process

| Event   | Dates  |
|---|--|
| Date of issue of RFP  | 1-Oct-11   |
| Submission of written clarification/amendments if any, on the RFP / RFP Documents by the Bidders. | 16-Oct-11  |
| Last Date for Registration by the Bidders   | 16-Oct-11  |
| Pre-Bid Meeting(s) (if required)  | After Submission of Written clarifications and before issue of revised RFP |
| Revision of RFP and RFP Documents (if required) and issuance of revised RFP and RFP Documents     | 31-Oct-11  |
| Bid submission and opening of Non Financial Bid   | 15-Dec-11  |
| Opening of Financial Bid of Qualified Bidders   | 30-Dec-11  |
| Shortlisting of Successful Bidder(s) and issue of LOI   | 9-Jan-12   |
| Signing of RFP Documents  | 29-Jan-12  |

- 2.8.3 The duration for a Bid process shall not exceed a maximum duration of 195 days, irrespective of any modification/ amendment to the RFP and/or RFP Documents. In the event that the Bid process has not been completed in such time limit, the Procurer shall obtain approval from the Appropriate Commission for extension or the cancellation of the same.

## 2.9 Validity of the Bid

- 2.9.1 The Bidder shall submit the Bid which shall remain valid up to one hundred and twenty (120) days after the Bid Deadline (“**Bid Validity**”). The Procurer reserve the right to reject any Bid which does not meet the aforementioned validity requirement.
- 2.9.2 The Procurer may solicit the Bidders’ consent for an extension of the period of validity of the Bid. The request and the response in this regard shall be in writing. In the event any Bidder refuses to extend its Bid validity as requested by the Procurer, the Procurer shall not be entitled to invoke the Bid Bond. A Bidder accepting the Procurer request for validity extension shall not be permitted to modify its Bid and such Bidder shall

[

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accordingly, extend the validity of the Bid Bond as requested by the Procurer and further undertake not to participate in any bid process as per Clause 2.1.2.4 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 a single closed cover envelope (as mentioned in Clause 2.10.2) containing Envelope I (Non-Financial Bid) and Envelope II (Financial Bid) each one duly closed separately. Envelope I (Non-Financial Bid) and Envelope II (Financial Bid) should be transcript in the following way;

### **Envelope I (Non-Financial Bid) superscript -**

“Bid for selection of Seller(s) for procurement of power on medium term basis under Case – 1 bidding procedure

Name of the Bidder -

Due for opening on .....

Envelope I: Non Financial Bid”

### **Envelope II (Financial Bid) superscript -**

“Bid for selection of Seller(s) for procurement of power on medium term basis under Case – 1 bidding procedure

Name of the Bidder

.....

Due for opening on: .....

Envelope II: Financial Bid ” In case the Bidder is offering capacity from more than one generation source, the Financial Bid from different sources should be sealed in separated envelopes and these envelopes shall be placed in Envelope II.

2.10.2 Envelope I (Non-Financial Bid) and Envelope II (Financial Bid) (mentioned in Clause 2.10.1) for the Bid to be submitted by Bidders should be packed in a single closed cover envelope, with the following superscript:

“Bid for selection of Seller(s) for procurement of power on medium term basis under Case – 1 bidding procedure”

Due for opening on \_\_\_\_\_ [*Insert date of opening of Non-Financial Bid*]

***Shri Pankaj Modi***

Director

MPSEZ Utilities Private Limited

Adani House, Near Mithakhali Circle.

Navrangpura,

Ahmedabad -380 009

Gujarat, India

“Name of the Bidder .....” *[Insert name of Bidder]*

- 2.10.3 The Bidders have the option of sending their Bid either by registered post; or speed post; or courier; or by hand delivery, so as to reach the Procurer by the Bid Deadline. Bids submitted by telex / telegram / fax / e-mail shall not be considered under any circumstances. The Procurer shall not be responsible for any delay in receipt of the Bid. Any Bid received after the Bid Deadline shall be returned unopened.
- 2.10.4 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 Procurer shall not be responsible for premature opening of the Financial Bid.
- 2.10.5 All pages of the Bid, except for the Bid Bond (format 4.9), and any other document executed on non-judicial stamp paper, forming part of the Bid and corrections in the Bid, if any, must be signed by the authorized signatory on behalf of the Bidder. It is clarified that the same authorized signatory shall sign all pages of the Bid. However, any published document submitted with the Bid shall be signed by the authorized signatory at least on the first and last page of such document.
- 2.10.6 Bidders shall submit the Bid one (1) original plus 1 (One) copy, duly signed by the authorized signatory of the Bidder. The original Bid shall be clearly marked “ORIGINAL”, and all other copies are to be clearly marked “COPY OF BID”. In the event of any discrepancy between the original and the accompanying copies, only the original shall prevail.
- 2.10.7 No change or supplemental information to a Bid will be accepted after the Bid Deadline, unless the same is requested for by the Procurer as per Clause 2.5 (g).  
Provided that a Bidder shall always have the right to withdraw or modify its Bid before the Bid Deadline. In cases where the Bid is withdrawn by the Bidder before the Bid Deadline, then such Bid shall be returned unopened.
- 2.10.8 If the outer cover envelope or Envelope I (Non-Financial Bid) or Envelope II (Financial Bid) is not closed and not transcribed as per the specified requirement, the Procurer 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, and finalization and execution of the RFP Documents, etc., the Procurer shall not be responsible in any way for such costs, regardless of the conduct or outcome of this Bid process.
- 2.11.2 All those interested in purchasing the RFP may write to the Procurer with a non-refundable fee of Rs. 25000 /- (Rupees Twenty Five Thousands only) or 500/- US Dollars (US Dollars Five Hundred only), in the form of a demand draft / banker's cheque / pay order drawn in favor of MPSEZ Utilities Private Limited, payable at Ahmedabad latest by 16/10/2011 (last date of sale of RFP). The RFP shall be issued to a Bidder on

any working day from 01/10/2011 to 16/10/2011 (last date of sale of RFP) between 1000 hours (IST) to 1700 hours (IST) by the Procurer, on written request and against payment of the above mentioned fee. In case where a Bidder requests the RFP and RFP Documents to be sent by post, the Procurer shall promptly dispatch the RFP and RFP Documents to such Bidder by registered mail/ air mail only upon receipt of written request and payment of the above mentioned fee from such Bidder. The Procurer shall, under no circumstances, be held responsible for late delivery or loss of documents so mailed. The RFP and RFP Documents can also be downloaded from [www.mundraport.com](http://www.mundraport.com). However, in such case the Bidder can submit the Bid only on submission of a non refundable fee of Rs 25000 /- (Rupees Twenty Five Thousands only) or 500/- US Dollars (US Dollars Five Hundred Only) as mentioned above separately along with the Bid.

## 2.12 Bid Bond

2.12.1 Each Bidder shall submit the Bid accompanied by Bid Bond, as per Format 4.9 issued by any of the Banks listed in Format 5.8. In the case of a Consortium, the Lead Member shall furnish the Bid Bond as stipulated in the RFP, on behalf of the Consortium Members as per the Consortium Agreement. In case the Bidder is offering capacity from more than one generation source, the Bid Bond shall be submitted separately for each capacity. The Bid Bond shall be valid for a period of thirty (30) days beyond the validity of the Bid.

2.12.2 The Bid Bond, may be invoked by the Procurer or its authorized representative, without any notice, demure, or any other legal process upon occurrence of any of the following:

- *[Insert in case the Successful Bidder is a Bidding Company choosing to incorporate a Project Company and in case of a Bidding Consortium: "Failure to incorporate the Project Company as a legal entity within fifteen(15) days of issue of Letter of Intent, or,"]*
- Failure to furnish the Contract Performance Guarantee as per Clause 2.13; or
- Failure to execute the RFP Documents subject to the provisions of Clause 2.2.11; or
- Bidder submitting any wrong information or making any misrepresentation in Bid as mentioned in Clause 2.5.

2.12.3 The Bid Bonds of all Bidders, whose Bids are declared non-responsive, shall be returned and released by the Procurer within thirty (30) days after the date on which the Financial Bids are opened.

2.12.4 The Bid Bonds 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 Contract Performance Guarantee as per Clause 2.13 of the RFP and the execution of the RFP Documents (as applicable) by the Successful Bidder(s); or
- b) Expiry of the Bid Validity/extended validity of Bid of unsuccessful Bidders; or

2.12.5 The Bid Bonds of all Bidders shall be returned and released by the Procurer within a period of thirty (30) days of the occurrence of the termination/cancellation of Bid process by the Procurer.

2.12.6 The Bid Bond of the Successful Bidder(s) shall be returned on the submission of Contract Performance Guarantee as per Clause 2.13 of the RFP and the provisions of the PPA.

### **2.13 Contract Performance Guarantee (CPG)**

2.13.1 Within thirty (30) days of issue of Letter of Intent, the Successful Bidder(s) either on his/their own behalf or on behalf of the Seller, shall provide *to the Procurer*, the Contract Performance Guarantee calculated on the basis of Rs. 30 lakhs/MW of the total Contracted Capacity of the Successful Bidder and as prescribed in Format 5.7. In case of the Successful Bidder being a Bidding Consortium, the Lead Member shall be responsible for ensuring the submission of the CPG on behalf of all the Consortium Members. The Contract Performance Guarantee shall be initially valid for a period of three (3) months after the Scheduled Delivery Date and thereafter shall be dealt with in accordance with the provisions of the PPA. The Contract Performance Guarantee shall be issued by any of the banks listed in Format 5.8.

2.13.2 In case the Successful Bidder is unable to obtain the Contract Performance Guarantee for the total amount from any one bank specified in Format 5.8, the Successful Bidder may obtain the same from not more than three (3) banks specified in Format 5.8.

2.13.3 Non submission of the CPG by the Successful Bidder(s) as per the provisions of Clause 2.13 may lead to the invocation of the Bid Bond, cancellation of the Letter of Intent of such Successful Bidder(s) by the Procurer, and thereafter, the provisions of Clause 2.5 (b) shall be applicable.

2.13.4 Deleted .

2.13.5 Deleted

2.13.6 Deleted

### **2.14 Opening of Bids**

2.14.1 Envelope I (Non-Financial Bid) and Envelope II (Financial Bid) shall be opened as per the following time schedule and at the venue where the Bids are required to be submitted, as specified in Clause 2.8, in the presence of one representative from each of such Bidders who wish to be present:

Opening of Envelope I (Non-Financial Bid): 1530 hours (IST) on 15/12/2011

Opening of Envelope II (Financial Bid): 1500 hours (IST) on 30/12/2011 or such other dates as may be intimated by the Procurer to the Bidders.

In the event of any of above dates falling on a day which is not a working day or which is a public holiday, the Bid shall be opened on the next working day at the same venue and time.

2.14.2 The following information from each Bid shall be read out to all the Bidders at the time of opening of Envelope I (Non-Financial Bid) and Envelope II (Financial Bid):

- Name of the Bidder including Members of the Bidding Consortium, if applicable
- Details of the Bid Bond (applicable only for Envelope I)
- Quantum of power offered and its source (applicable only for Envelope II)

- Details of Injection Point
- Quoted Tariff (applicable only for Envelope II)

## **2.15 Right to withdraw the RFP and to reject any Bid**

2.15.1 This RFP may be withdrawn or cancelled by the Procurer at any time without assigning any reasons thereof. The Procurer further reserves the right, at its complete discretion, to reject any or all of the Bids without assigning any reasons whatsoever and without incurring any liability on any account.

## **2.16 Enquiries**

2.16.1 Written clarifications on the RFP and RFP Documents as per Clause 2.2.6 may be sought from:

Director  
 MPSEZ Utilities Private Limited  
 Adani House, Near Mithakhali Circle,  
 Navrangpura,  
 Ahmedabad -380 009  
 Gujarat, India  
 Telephone: 079-25557321  
 Fax: 079-25555603, 25556490  
 E-mail: muplbid@mundrasez.com

2.17 The Procurer reserve the right to interpret the Bid submitted by the Bidder in accordance with the provisions of this RFP and make its own judgment regarding the interpretation of the same. In this regard the Procurer shall have no liability towards any Bidder and no Bidder shall have any recourse to the Procurer with respect to the selection process. The Procurer shall evaluate the Bids using the evaluation process specified in Section 3, at its sole discretion. The Procurer's decision in this regard shall be final and binding on the Bidders.

## **2.18 Confidentiality**

2.18.1 The parties undertake to hold in confidence this RFP and RFP 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;
- c) disclosures required under applicable Law, without the prior written consent of the other parties of the concerned agreements.

Provided that the Successful Bidder(s) agrees and acknowledges that the Procurer may at any time, disclose the terms and conditions of the RFP and RFP Documents to any person, to the extent stipulated under the applicable Law or the Bidding Guidelines.

## **2.19 Fraudulent and Corrupt Practices**

2.19.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bid process and subsequent to the issue of the

LOI. Notwithstanding anything to the contrary contained herein, or in the LOI, the Procurer shall reject a Bid, withdraw the LOI, as the case may be, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bid process. In such an event, the Procurer shall forfeit the Bid Bond, without prejudice to any other right or remedy that may be available to the Procurer hereunder or otherwise.

Without prejudice to the rights of the Procurer under Clause 2.19 hereinabove and the rights and remedies which the Procurer may have under the LOI, if a Bidder is found by the Procurer to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bid process, or after the issue of the LOI, such Bidder shall not be eligible to participate in any tender or RFP issued by the Procurer, during a period of two (2) years from the date such Bidder is found by the Procurer to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

2.19.3 For the purposes of this Clause 2.19, the following terms shall have the meaning hereinafter respectively assigned to them:

(a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bid process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Procurer who is or has been associated or dealt in any manner, directly or indirectly with the Bid process or the LOI or has dealt with matters concerning the PPA or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Procurer, shall be deemed to constitute influencing the actions of a person connected with the Bid Process); or (ii) engaging in any manner whatsoever, whether during the Bid Process or after the issue of the LOI or after the execution of the PPA, as the case may be, any person in respect of any matter relating to the project or the LOI or the PPA, who at any time has been or is a legal, financial or technical adviser of the Procurer in relation to any matter concerning the Project;

(b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bid process;

(c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bid process;

(d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Procurer with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bid process; or (ii) having a Conflict of Interest; and

(e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bid process;

# **SECTION - 3**

# **EVALUATION**

# **CRITERIA**

## SECTION 3.3. EVALUATION CRITERIA

### 3.1 Bid Evaluation

The evaluation Process comprises the following four steps:

- Step I - Responsiveness check of Non Financial Bid
- Step II - Evaluation of Bidder's fulfillment of Qualification Requirements as per Clause 2.1
- Step III - Evaluation of Financial Bid
- Step IV - Successful Bidder(s) selection

### 3.2 STEP I - Responsiveness check of Non Financial Bid

The Non Financial Bid submitted by Bidders shall be scrutinized to establish responsiveness to the requirements laid down in the RFP. Subject to Clause 2.5 (g), any of the following may cause the Bid to be considered "Non-responsive", at the sole discretion of Procurer:

- Bids that are incomplete, i.e. not accompanied by any of the applicable formats inter alia covering letter, power of attorney supported by a board resolution as per Clause 2.4.1.1, applicable board resolutions, applicable undertakings, format for disclosure, valid Bid Bond, Consortium Agreement;
- Bid not signed by authorized signatory and / or stamped in the manner indicated in this RFP;
- Material inconsistencies in the information / documents submitted by the Bidder, affecting the Qualification Requirements;
- Information not submitted in the formats specified in this RFP;
- A Bidder submitting more than one Bid from the same generation source or participating in more than one Bid as a Member of Bidding Consortium;
- Bid validity being less than that required as per Clause 2.9 of this RFP;
- Bid being conditional in nature;
- Bid not received by the Bid Deadline;
- Bid having Conflict of Interest;
- More than one Member of the Bidding Consortium or a Bidding Company using the credentials of the same Parent Company / Affiliate;
- Bidder delaying in submission of additional information or clarifications sought by Procurer as applicable;
- Bidder makes any misrepresentation as specified in Clause 2.5.

Each Bid shall be checked for compliance with the submission requirements set forth in this RFP before the evaluation of Bidder's fulfillment of Qualification Requirement is taken up. Format 4.11 shall be used to check whether each Bidder meets the stipulated requirements.

### 3.3 STEP II- Evaluation of Bidder's fulfillment of Qualification Requirements

- 3.3.1 Evaluation of Bidder's Qualification will be carried out based on the information furnished by the Bidder as per the prescribed Format 4.6 and related documentary evidence in support of meeting the Qualification Requirements as specified in Clause 2.1. Non-availability of information and related documentary evidence for the satisfaction of Qualification Requirements may cause the Bid to be non-responsive.

### 3.4 Step III - Evaluation of Financial Bid

- 3.4.1 Financial Bids (Envelope II) of the Qualified Bidders shall be opened in presence of the representatives of such Qualified Bidders, who wish to be present, as per the timelines indicated in Clause 2.14, or such other date as may be intimated by Procurer to the Bidders. The evaluation of Financial Bid shall be carried out based on the information furnished in Envelope II (Financial Bid).

Provided however, in case Envelope II of only one Qualified Bidder OR two Qualified Bidders having any affiliate company or companies of the Procurer remain(s) after the responsiveness check (Step I), the Envelope II of such Bidder(s) shall not be opened and the matter shall be referred to Appropriate Commission and the selection of the Successful Bidder shall then be at the sole discretion of the Appropriate Commission.

- 3.4.2 The Financial Bids submitted by the Bidders shall be scrutinized to ensure conformity with the provisions of Clause 2.4.1.1 (B) of this RFP. Any Bid not meeting any of the requirements as per Clause 2.4.1.1 (B) of this RFP may cause the Bid to be considered "Non-responsive" at the sole decision of the Procurer. Financial Bid not in conformity with the requirement of Sl. No. (iv) and (x) of Clause 2.4.1.1 (B) of this RFP shall be rejected.
- 3.4.3 The Bidders shall quote the different components of Tariff as specified in Format 4.10. Based on the Quoted Tariff provided by the Bidders, the Levelized Tariff shall be calculated for the term of the PPA as per the methodology mentioned below.
- 3.4.4 For the purpose of comparison of Financial Bids, the escalable components of Quoted Tariff of each Bidder shall be uniformly escalated as per the relevant inflation / escalation rates mentioned below. For the actual Tariff payment, such factors shall be applied as per the provisions of the PPA.

| Head   | Value  |
|--|--|
| <b>General</b>   |  |
| 1. Annual escalation rate applicable to Quoted Escalable Capacity Charge | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline  |
| 2. Discount Rate for computation of Levelised Tariff                     | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline  |
| 3. Annual escalation rate applicable to normative Transmission Charges   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |

| Head   | Value   |
|--|---|
| <b>Captive Coal Block/ Linkage Based Coal</b>  |   |
| 4. Annual escalation rate applicable to Quoted Escalable Energy Charges (for captive coal block)   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline   |
| 5. Annual escalation rate applicable to Quoted Escalable Energy Charges (for linkage based coal)   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline   |
| 6. Annual escalation rate applicable to Quoted Escalable Inland Transportation Charges   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline.  |
| <b>Imported Coal</b>   |   |
| 7. Annual escalation rate applicable to Quoted Escalable Energy Charges  | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline   |
| 8. Annual escalation rate applicable to Quoted Escalable Overseas Transportation Charges   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline   |
| 9. Annual escalation rate applicable to Quoted Escalable Inland Transportation Charges   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline.  |
| 10. Annual escalation rate applicable to Quoted Escalable Fuel Handling Charges  | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline   |
| 11. Base Exchange Rate for Quoted Escalable and Non-Escalable Energy Charge and Escalable and Non-Escalable Overseas Transportation Charge (Rs. / US\$)  | This shall be the simple average of fifteen (15) SBI TT Selling rate for last fifteen (15) days (for fifteen (15) such days for which exchange rates are published by SBI), seven (7) days before Bid Deadline (excluding Bid Deadline) for which such exchange rates are published by SBI. |
| 12. Rupee appreciation/depreciation rate with respect to US\$ applied to Quoted Non Escalable and Escalable Energy Charges and Escalable and Non-Escalable Overseas Transportation Charge (Rs. / US\$) | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline   |

| Head   | Value  |
|--|--|
| <b>Imported gas (R-LNG)</b>  |  |
| 13. Annual escalation rate applicable to Quoted Escalable Energy Charges   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |
| 14. Annual escalation rate applicable to Quoted Escalable Overseas Transportation Charges  | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |
| 15. Annual escalation rate applicable to Quoted Escalable Inland Transportation Charges  | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |
| 16. Annual escalation rate applicable to Quoted Escalable Fuel Handling Charges  | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |
| 17. Rupee appreciation/ depreciation rate with respect to US\$ applied to Quoted Escalable and Non Escalable Energy Charges and Escalable and Non-Escalable Oversea Transportation Charge (Rs. / US\$) | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline  |
| <b>Domestic (Pipeline) Gas</b>   |  |
| 18. Annual escalation rate applicable to Quoted Escalable Energy Charges   | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |
| 19. Annual escalation rate applicable to Quoted Escalable Inland Transportation Charges  | This shall be the rate notified by CERC applicable on the day which is seven (7) days prior to Bid Deadline. |

The factor at Sl. No. 1 in the above table shall be applied from the Scheduled Delivery Date and the factors at Sl. No. 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18 and 19 shall be applied from the Bid Deadline (as applicable). Further all the factors mentioned in Sl No. 1, 4, 5, 6 15 and 16 shall be applied as at the midpoint of each Contract Year.

3.4.5 Applicable transmission charges shall be added to such escalated Quoted Tariff as described below.

### 3.4.6 Transmission Charges

The Injection Point specified by the Bidder in its Financial Bid shall be used to add the applicable transmission charges.

- a) In case of Injection Point being a CTU Interface, applicable transmission charges as specified in Format 5.10 from such CTU Interface up to the

Delivery Point with appropriate escalation shall be added to the escalated Quoted Tariff.

- b) Transmission Charges, if any, for transmitting power from the Interconnection Point to the Injection Point shall be borne by the Seller and no transmission charges for such intrastate transmission link shall neither be added for evaluation nor shall be payable by the Procurer during the term of the PPA.
- c) In case of Injection Point being a Delivery Point, no transmission charges shall be added.
- d) *Deleted*

### 3.4.7 Transmission Loss

The escalated Quoted Tariffs (Rs./kWh) of each of the Bidders for **each year** of the term of the PPA, calculated as per provisions of Clause 3.4.4 and after adding applicable escalated transmission charges, shall then be adjusted for the applicable transmission losses in the following manner:

Adjusted escalated Quoted Tariff (in Rs/ kWh) = escalated Quoted Tariff (in Rs/ kWh as calculated in Clause 3.4.4 and after adding applicable escalated transmission charges) \* Aggregate Adjustment Factor (AAF):

where,

Aggregate Adjustment Factor (AAF) = (AF)1 \* (AF)2 \* ..... \* (AF)n and

Adjustment Factor (AF) = 1/ ((1-applicable transmission loss (in %))/100)

The applicable transmission loss (in %) shall comprise of

- a) the transmission loss (in %) for the intrastate transmission link connecting the Interconnection Point to the Injection Point, if applicable and specified by the Bidder in Format 4.10; and
- b) the applicable normative transmission loss (in %) from the Injection Point to the Delivery Point for the regions involved and as provided in Format 5.11 of this RFP

### 3.4.8 Computing Levelized Tariff

The adjusted escalated Quoted Tariffs (Rs./kWh) as calculated in Clause 3.4.7 above for each Bidder for the term of PPA, shall then be discounted upto the Scheduled Delivery Date mentioned in Clause 1.3.1, by applying the discount factors (based on the Discount Rate as mentioned in Clause 3.4.4 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 Levelized Tariff of each Bidder.

The Levelized Tariff shall be calculated by assuming uniformly for all Bidders that power shall get delivered on the Scheduled Delivery Date.

- 3.4.9 For the ease of submission and clarity of Bidders, the methodology of computation of Levelized Tariff is presented in the Format 5.9 of this RFP. Bidders are required to go through this illustration carefully and seek clarifications if required.

### **3.5 STEP IV – Successful Bidder(s) Selection**

- 3.5.1 Bids qualifying in Step III shall only be evaluated in this stage.
- 3.5.2 The Levelized Tariff calculated as per Clause 3.4.7 for all Financial Bids of Qualified Bidders shall be ranked from the lowest to the highest.
- 3.5.3 The Bidder with the lowest Levelized Tariff shall be declared as the Successful Bidder for the quantum of power (in MW) offered by such Bidder in its Financial Bid.
- 3.5.4 The selection process of the Successful Bidder as mentioned above in Clause 3.5.3 shall be repeated for all the remaining Financial Bids of Qualified Bidders until the entire Requisitioned Capacity is met or until the time when the balance of the Requisitioned Capacity is less than the Minimum Bid Capacity.
- 3.5.5 At any step in the process in Clause 3.5.4, in case the Requisitioned Capacity has not been achieved and the offered capacity of the Bidder with the lowest Levelized Tariff amongst the remaining Financial Bids is larger than the balance Requisitioned Capacity, any fraction or combination of fractions offered by such Bidder shall be considered for selection, towards meeting the Requisitioned Capacity.
- 3.5.6 The selection process shall stand completed once the Requisitioned Capacity has been achieved through the summation of the quantum offered by the Successful Bidders or when the balance of the Requisitioned Capacity is less than the Minimum Bid Capacity.
- Provided however in case only one Bidder remains at any step of the selection process and the balance Requisitioned Capacity exceeds the Minimum Bid Capacity, Financial Bid(s) of such Bidder shall be referred to Appropriate Commission and the selection of the Bidder shall then be at the sole discretion of the Appropriate Commission.
- 3.5.7 At any step during the selection of Successful Bidder(s) in accordance with Clauses 3.5.2 to 3.5.6, the Procurer reserves the right to increase / decrease the Requisitioned Capacity by up to twenty percent (20%) of the quantum indicated in Clause 1.3.1 to achieve the balance Requisitioned Capacity and select the Successful Bidder with the lowest Levelized Tariff amongst the remaining Bids. Any increase / decrease in the Requisitioned Capacity exceeding twenty percent (20%) of the quantum in Clause 1.3.1, can be made only with the approval of the Appropriate Commission.
- 3.5.8 The Letter(s) of Intent shall be issued to all such Successful Bidder(s) selected as per the provisions of this Clause 3.5.
- 3.5.9 There shall be no negotiation on the Quoted Tariff between the Procurer and the Bidder(s) during the process of evaluation.
- 3.5.10 Each Successful Bidder shall unconditionally accept the LOI, and record on one (1) copy of the LOI, “Accepted Unconditionally”, under the signature of the authorized signatory of the Successful Bidder and return such copy to the Procurer within seven (7) days of issue of LOI.
- 3.5.11 If the Successful Bidder, to whom the Letter of Intent has been issued does not fulfill any of the conditions specified in Clauses 2.2.8 and 2.2.9, the Procurer reserves the right to annul the award of the Letter of Intent of such Successful Bidder. Further, in such a case,

the provisions of Clause 2.5 (b) shall apply.

3.5.12 The Procurer, in its own discretion, has the right to reject all Bids if the Quoted Tariff are not aligned to the prevailing market prices.

**SECTION - 4**  
**FORMAT FOR**  
**BID SUBMISSION**

## SECTION – 4

### 4. FORMATS FOR BID SUBMISSION

The following formats are required to be submitted as part of the Bid. These formats are designed to demonstrate the Bidder's compliance with the Qualification Requirements set forth in Clause 2.1 of Section 2 and other Bid submission requirements specified in the RFP.

- i. Format of Covering Letter (Envelope I)
  - ii. Formats for Power of Attorney (Envelope I)
  - iii. Format for the Consortium Agreement (Envelope I)
  - iv. Format for Letter of Consent from Consortium Members (Envelope I)
  - v. Format for Bidder's composition and ownership structure (Envelope I)
  - vi. Format for Qualification Requirement (Envelope I)
  - vii. Format of Undertakings (Envelope I)
  - viii. Format for Board Resolutions (Envelope I)
  - ix. Format for Bid Bond (Envelope I)
  - x. Format for Financial Bid (Envelope II)
  - xi. Format of checklist for Bid submission requirements (Envelope I)
  - xii. Format for Disclosure (Envelope I)
  - xiii. Details of source of power and representative fuel(Envelope I)
  - xiv. Format for certificate of relationship of Parent Company or Affiliate with the Bidding Company or with the Member of the Bidding Consortium, including the Lead Member (Envelope I)
- A Bidder may use additional sheets to submit the information for its detailed response.

#### 4.1 Format of Covering Letter

**(The covering letter should be on the Letter Head of the Bidding Company/ Lead Member of the Bidding Consortium)**

**Date:** \_\_\_\_\_

**From :** \_\_\_\_\_ **(Insert name and address of Bidding Company/ Lead Member of the Bidding Consortium)**

\_\_\_\_\_

**Tel.#: \_\_\_\_\_**

**Fax#: \_\_\_\_\_**

**E-mail address# \_\_\_\_\_**

To

**Director**  
MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

**Sub: Bid for supply of power on medium term basis through tariff based competitive bidding process under Case-1 bidding procedure in response to RFP dated 01/10/2011**

Dear Sir,

We, the undersigned ..... [*insert name of the 'Bidder'*] having read, examined and understood in detail the RFP and RFP Documents for supply of power on medium term basis through tariff based competitive bidding process for meeting the requirements of the Procurer hereby submit our Bid comprising of Financial Bid and Non-Financial Bid. We confirm that neither we nor any of our Parent Company/ Affiliate/ Ultimate Parent Company has submitted Bid other than this Bid directly or indirectly in response to the aforesaid RFP.

1. We give our unconditional acceptance to the RFP, dated **01/10/2011** and RFP Documents attached thereto, issued by the Procurer, as amended. In token of our acceptance to the RFP Documents, the same have been initialed by us and enclosed to the Bid. We shall ensure that the Seller shall execute such RFP Documents as per the provisions of the RFP and provisions of such RFP Documents shall be binding on us.

#### 2. Bid Bond

We have enclosed a Bid Bond of Rs. .... (Insert Amount), in the form of bank guarantee no.....(Insert number of the bank guarantee) dated ..... [Insert date of bank guarantee] as per Format 4.9 from ..... (Insert name of bank providing Bid Bond) and valid up to.....in terms of Clause 2.12 of this RFP. The offered quantum of power by us is ..... MW (Insert total capacity offered)

(Details of Bid bond to be given separately in case the Bidder is offering capacity from more than one generation source)

3. We have submitted our Financial Bid strictly as per Format 4.10 of this RFP, without any deviations, conditions and without mentioning any assumptions or notes for the Financial Bid in the said format.

**4. Acceptance**

We hereby unconditionally and irrevocably agree and accept that the decision made by the Procurer in respect of 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.

We confirm that there are no litigations or disputes against us, which materially affect our ability to fulfill our obligations with regard to supply of power.

**5. Familiarity with Relevant Indian Laws & Regulations**

We confirm that we have studied the provisions of the relevant Indian laws and regulations as required to enable us to submit this Bid and execute the RFP Documents, in the event of our selection as Successful Bidder. We further undertake and agree that all such factors as mentioned in Clause 2.6 of RFP have been fully examined and considered while submitting the Bid.

**6. Contact Person**

Details of the contact person are furnished as under:

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

7. We are enclosing herewith the Non Financial Bid (Envelope I) and Financial Bid (Envelope II) containing duly signed formats, each one duly closed separately, in one (1) original + one (1) copy (duly attested) as desired by you in the RFP for your consideration.

8. It is confirmed that our Bid is consistent with all the requirements of submission as stated in the RFP and subsequent communications from the Procurer.

9. The information submitted in our Bid is complete, strictly as per the requirements stipulated in the RFP and is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our Bid.

10. We confirm that all the terms and conditions of our Bid are valid for acceptance for a period of one hundred and twenty (120) days from the Bid Deadline.

11. We confirm that we have not taken any deviation so as to be deemed non-responsive with respect to the provisions stipulated in Clause 2.4.1, of this RFP.

12. We confirm that no order / ruling has been passed by an Appropriate Commission or a competent court against us or any of our Affiliates in the preceding one (1) year from the Bid Deadline for breach of any contract for supply of power having duration of contract in excess of one (1) year and that the bid security submitted by the us or any of our Affiliates has not been forfeited, either partly or wholly, in any bid process under Case-1 or case -2 bidding

procedure for procurement of power, in the preceding one (1) year from the Bid Deadline to any licensee in India as per the provisions of Clause 2.1.8.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20...

Thanking you,

We remain,

Yours faithfully,

**Name, Designation and Signature of Authorized Person in whose name Power of Attorney / Board Resolution as per Clause 2.4.1.1 is issued**

**4.2 Formats for Power of Attorney**

**POWER OF ATTORNEY**

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

**a) Power of Attorney to be provided by the Bidding Company/ Lead Member in favor of its representative as evidence of authorized signatory’s authority.**

Know all men by these presents, We .....(name and address of the registered office of the Bidding Company or Lead Member of the Bidding Consortium, as applicable) do hereby constitute, appoint and authorize Mr./Ms.....(name and residential address) who is presently employed with us and holding the position of ..... 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 supply of power on ‘medium’ term basis through tariff based competitive bidding process for meeting the requirements of **MPSEZ Utilities Private Limited** in the country of India in response to the RFP dated 01/10/2011 issued by “*Procurer*”, including signing and submission of the Bid and all other documents related to the Bid, including but not limited to undertakings, letters, certificates, acceptances, clarifications, guarantees or any other document which the Procurer may require us to submit. The aforesaid Attorney is further authorized for making representations to the “*Procurer*”, and providing information / responses to “*Procurer*”, representing us in all matters before “*Procurer*”, and generally dealing with “*Procurer*” in all matters in connection with our Bid till the completion of the bidding process as per the terms of the RFP.

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 be binding on us 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 company]**

**through the hand of**

Mr. ....

**duly authorized by the Board to issue such Power of Attorney**

**Dated this ..... day of .....**

**Accepted**

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

**Attested**

**(Signature of the executant)**  
**(Name, designation and address of the executant)**

.....  
**Signature and stamp of Notary of the place of execution**

**Common seal of ..... has been affixed in my/our presence pursuant to Board of Director’s Resolution dated.....**

**WITNESS**

1. ....  
(Signature)

**Name** .....

**Designation** ..... .....

2. ....  
(Signature)

**Name** .....

**Designation** ..... .....

**Notes:**

- (1) The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and 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 authorized by the executant(s) in this regard.
- (1) The person authorized under this Power of Attorney, in the case of the Bidding Company/Lead Member being a public company, or a private company which is a subsidiary of a public company, in terms of the Companies Act, 1956, with a paid up share capital of more than Rupees five crores, should be the Managing Director/ whole time director/manager appointed under section 269 of the Companies Act, 1956. In all

other cases the person authorized should be a director duly authorized by a board resolution duly passed by the company. In case of the Bidding Company/Lead Member being a foreign company, the same shall be signed by a person of equivalent position

- (3) In the event, power of attorney has been executed outside India, the same needs to be duly notarized by a notary public of the jurisdiction where it is executed.
- (4) Also, wherever required, the executant(s) should submit for verification the extract of the chartered documents and documents such as a Board resolution / power of attorney, in favour of the person executing this power of attorney for delegation of power hereunder on behalf of the executant(s).

**b) Power of Attorney to be provided by each of the Members of the Consortium (other than the Lead Member) in favor of the Lead Member**

**WHEREAS** “*Procurer*” have issued Request For Proposal (RFP) on 01/10/2011 for inviting Bids in respect of supply of power to the Procurer named in the RFP on the terms and contained in the RFP and the RFP Documents (as defined in RFP);

**AND WHEREAS** ....., ..... and ..... (Insert names of all Members of Consortium) the Members of the Consortium are desirous of submitting a Bid in response to the RFP, and if selected, undertaking the responsibility of supplying the contracted capacity of power to the Procurer as per the terms of the RFP Documents;

**AND WHEREAS** all the Members of the Consortium have agreed under the Consortium Agreement dated ..... entered into between all the Members and submitted along with the Bid to appoint ..... (Insert the name and address of the Lead Member) as Lead Member to represent all the Members of the Consortium for all matters regarding the RFP and the RFP documents and the Bid;

**AND WHEREAS** pursuant to the terms of the RFP and the Consortium Agreement, we, the Members of the Consortium 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 ..... (Insert name and address of the registered office of the Member 1), ..... (Insert name and address of the registered office of the Member 2) ..... (Insert name and address of the registered office of the Member n) 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 in response to the Request For Proposal dated **01/10/2011** issued by the “*Procurer*” including signing and submission of the Bid and all documents related to the Bid as specified in the RFP, including but not limited to undertakings, letters, certificates, acceptances, clarifications, guarantees or any other document, which the Procurer may require us to submit. The aforesaid Attorney shall be further authorized for making representations to the “*Procurer*” named in the RFP, and providing information / responses to the “*Procurer*” named in the RFP, representing us and the Consortium in all matters before the “*Procurer*” named in the RFP, and generally dealing with the “*Procurer*” named in the RFP in all matters in connection with our Bid, till completion of the bidding process in accordance with the RFP.

We, as Members of the Consortium, 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 be binding on us 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 company]  
**through the hand of**  
Mr. ....  
**duly authorized by the Board to issue such Power of Attorney**

**Dated this ..... day of .....**

**Accepted**

**Signature of Attorney**

(Name, designation and address of the Attorney)

**Attested**

.....  
(Signature of the executant)  
(Name, designation and address of the executant)

.....  
**Signature and stamp of Notary of the place of execution**

**Common seal of ..... has been affixed in my/our presence pursuant to Board of Director’s Resolution dated.....**

**WITNESS:**

1. ....  
(Signature)  
Name .....  
Designation ..... .....

2. ....  
(Signature)  
Name .....  
Designation ..... .....

Notes:

- (1) The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and 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 authorized by the executant(s) in this regard.
- (2) The person authorized under this Power of Attorney, in the case of the Member being a public company, or a private company which is a subsidiary of a public company, in terms of the Companies Act, 1956, with a paid up share capital of more than Rupees five crores, should be the Managing Director/ whole time director/manager appointed under section 269 of the Companies Act, 1956. In all other cases the person authorized should be a director duly authorized by a board resolution duly passed by the company.

In case of the Bidding Company/Lead Member being a foreign company, the same shall be signed by a person of equivalent position

- (3) In the event, power of attorney has been executed outside India, the same needs to be duly notarized by a notary public of the jurisdiction where it is executed.
- (4) Also, wherever required, the executant(s) should submit for verification the extract of the chartered documents and documents such as a Board resolution / power of attorney, in favour of the person executing this power of attorney for delegation of power hereunder on behalf of the executant(s).

### 4.3 Format for the Consortium Agreement

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

**FORM OF CONSORTIUM AGREEMENT BETWEEN**  
M/S ..... , M/S ..... ,  
M/S ..... AND M/S .....  
FOR (.....)  
AS PER CLAUSE 2.2.4

**THIS Consortium Agreement** (hereinafter referred to as “Agreement”) executed on this day of Two thousand between M/s a company incorporated under the laws of ..... and having its Registered Office at ..... (hereinafter called the "**Party 1**”, which expression shall include its successors, executors and permitted assigns), M/s a company incorporated under the laws of ..... and having its Registered Office at ..... (hereinafter called the "**Party 2**”, which expression shall include its successors, executors and permitted assigns) and M/s a Company incorporated under the laws of ..... and having its Registered Office at ..... (hereinafter called the "**Party n**", which expression shall include its successors, executors and permitted assigns) (The Bidding Consortium should list the name, address of its registered office and other details of all the Consortium Members) for the purpose of submitting the Bid in response to the RFP and in the event of selection as Successful Bidder to comply with the requirements as specified in the RFP and ensure execution of the RFP Documents as may be required to be entered into with the “*Procurer*”.

Party 1, Party 2, and Party n are hereinafter collectively referred to as the “Parties” and individually as a “Party”.

**WHEREAS** the “*Procurer*” desired to procure power on medium term basis through tariff based competitive bidding process.

**WHEREAS**, the “*Procurer*” had invited Bids, vide RFP dated 01/10/2011 issued to.....  
[Insert the name of purchaser of RFP]

**AND WHEREAS** Clause 2.2.4 of the RFP stipulates that the Bidders qualifying on the strength of a Bidding Consortium shall submit a legally enforceable Consortium Agreement in a format specified in the RFP, whereby the Consortium Members undertake to be liable for their respective equity investment commitment for the formation of a Project Company and undertake to submit the Contract Performance Guarantee as required as per the provisions of the RFP, as specified herein.

**NOW THEREFORE, THIS INDENTURE WITNESSTH AS UNDER:**

In consideration of the above premises and agreement all the parties in this Consortium do hereby mutually agree as follows:

1. In consideration of the selection of the Consortium as the Successful Bidder by the "Procurer", we the Members of the Consortium and Parties to the Consortium Agreement do hereby unequivocally agree that M/s (Insert name of the Lead Member) shall act as the Lead Member as defined in the RFP for self and agent for and on behalf of ..... (the names of all the other Members of the Consortium to be filled in here).
2. The Lead Member is hereby authorized by the Members of Consortium and Parties to the Consortium Agreement to bind the Consortium and receive instructions for and on behalf of all Members.
3. The Lead Member shall be liable and responsible for ensuring the individual and collective commitment of each of the Members of the Consortium in discharging all their respective equity obligations. Each Consortium Member further undertakes to be individually liable for the performance of its part of the obligations without in any way limiting the scope of collective liability envisaged in this Agreement.
4. (Insert as applicable) The Consortium shall be responsible to incorporate a Project Company as a legal entity as per the provisions of the RFP, within fifteen (15) days of issue of LOI provided such a Project Company has not been incorporated by the Bidder prior to the submission of the Bid.

**OR**

The Consortium has incorporated a Project Company by the name ..... (Insert name of the Project Company) to undertake the responsibilities and obligations for supply of power as per the provisions of the RFP Documents.

The percentage of equity holding of each Member of the Consortium in the Project Company shall be/is as follows:

| Name         | Percentage of equity holding in the Project Company |
|--------------|---|
| Party 1      | ....  |
| ....         | ....  |
| Party n      | ....  |
| <b>Total</b> | <b>100%</b>   |

**[Note: The percentage equity holding for any Consortium Member cannot be zero in the above table. Lead Member's percentage equity holding cannot be less than 51% from the Effective Date up to a period of two (2) years after commencement of supply of power and twenty-six (26%) for a period of three (3) years thereafter.]**

[If the Bidder is offering capacity from different sources, the above table has to be filled in separately for each generation source.]

5. In case of any breach of any of the equity investment commitment as specified under clause 5 above by any of the Consortium Members for the formation of the Project Company, the Lead Member shall be liable to meet the equity obligation.
6. Except as specified in the Agreement, it is agreed that sharing of responsibilities as aforesaid and equity investment obligations thereto shall not in any way be a limitation of responsibility of the Lead Member under these presents.
7. It is further specifically agreed that the financial liability for equity contribution of Lead Member shall, not be limited in any way so as to restrict or limit its liabilities. The Lead Member shall be liable irrespective of their scope of work or financial commitments.
8. This Consortium Agreement shall be construed and interpreted in accordance with the Laws of India and courts at Ahmedabad alone shall have the exclusive jurisdiction in all matters relating thereto and arising there under.
9. It is hereby agreed that the Lead Member shall furnish the Bid Bond, as stipulated in the RFP, on behalf of the Consortium.
10. It is hereby agreed that in case of selection of Bidding Consortium as the Successful Bidder, the Parties to this Consortium Agreement do hereby agree that they shall furnish the Contract Performance Guarantee on behalf of the Seller in favor of the Procurer, as stipulated in the RFP and PPA. The Lead Member shall be responsible for ensuring the submission of the CPG on behalf of all the Consortium Members.
11. It is further expressly agreed that the Consortium Agreement shall be irrevocable and, for the Successful Bidder, shall remain valid over the term of the PPA, unless expressly agreed to the contrary by the Procurer.
12. The Lead Member is authorized and shall be fully responsible for the accuracy and veracity of the representations and information submitted by the Consortium Members respectively from time to time in response to the RFP for the purposes of the Bid.
13. It is expressly understood and agreed between the Members that the responsibilities and obligations of each of the Members shall be as delineated as annexed hereto as Annexure-I forming integral part of this Agreement. It is further agreed by the Members that the above sharing of responsibilities and obligations shall not in any way be a limitation of joint and several responsibilities and liabilities of the Members, with regards to all matters relating to the supply of power envisaged in the RFP Documents.
14. It is clearly agreed that the Lead Member shall ensure performance under the agreements and if one or more Consortium Members fail to perform its /their respective obligations under the agreement(s), the same shall be deemed to be a default by all the Consortium Members.
15. It is hereby expressly agreed between the Parties to this Consortium Agreement that neither Party shall assign or delegate its rights, duties or obligations under this Agreement except with prior written consent of the Procurer.

This Consortium Agreement

- (a) has been duly executed and delivered on behalf of each Party hereto and constitutes the legal, valid, binding and enforceable obligation of each such Party,
- (b) sets forth the entire understanding of the Parties hereto with respect to the subject matter hereof;
- (c) may not be amended or modified except in writing signed by each of the Parties and with prior written consent of Procurer:

**IN WITNESS WHEREOF**, the Parties to the Consortium Agreement have, through their authorized representatives, executed these presents and affixed common seals of their respective companies on the Day, Month and Year first mentioned above.

Common Seal of .....  
has been affixed in my/our  
presence pursuant to the  
Board of Director's resolution  
dated .....

For and on behalf of  
Consortium Member (party 1)  
M/s.....

.....  
(Signature)  
  
Name: .....  
Designation:.....

.....  
(Signature of authorized  
representative)  
Name: .....  
Designation: .....  
Place: .....  
Date: .....

**Witness :**

1.  
.....  
(Signature)  
Name .....  
Designation.....

2.  
.....  
(Signature)  
Name .....  
Designation.....

Common Seal of .....  
has been affixed in my/our

For and on behalf of  
Consortium Member (Party n)

<sup>3</sup> Separate witness for each Consortium Member should fill in the details.

presence pursuant to the  
Board of Director's  
resolution dated .....

M/s.....

.....  
(Signature)

.....  
(Signature of authorized  
representative)

Name:  
Designation:

Name:  
Designation:  
Place:  
Date:

**WITNESS**

1.  
(Signature)  
Name .....  
Designation.....

2. ....  
(Signature)  
Name .....  
Designation.....

**Attested:**

.....  
(Signature)  
(Notary Public)  
Place: .....

Date: .....

**4.4 Format for Letter of Consent from Consortium Members**

**(On the letter head of each Member of the Consortium including Lead Member)**

**Date:** \_\_\_\_\_

**From :** \_\_\_\_\_

**Tel. #:**

**Fax #:**

**E-mail address#:**

**To,**

**Director**

MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle.  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

**Sub: Request for Proposal, dated 01/10/2011 for ‘medium’ term procurement of power under Case – 1 bidding procedure through tariff based competitive bidding.**

We, the undersigned Member of ..... (Insert name of the Bidding Consortium) have read, examined and understood the RFP and RFP Documents for the selection of Bidder(s) as prospective Seller(s) of power through tariff based competitive bidding (as per Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees) for meeting the Base load requirements for supply to **MPSEZ Utilities Private Limited**. We hereby confirm our concurrence with the RFP including in particular the Consortium Agreement and the Bid submitted by ..... (Insert name of the Lead Member) in response to the RFP. We confirm that the Bid has been reviewed and each element of the Bid is agreed to including but not limited to the investment commitment in the Project Company.

The details of contact person are furnished as under:

Name .....  
Designation .....  
Name of the Company .....  
Address .....  
Phone Nos .....  
Fax Nos .....  
E mail Address .....

Dated the ..... day of ..... of 20...

Thanking you,

Yours faithfully,

.....  
(Signature, Name, Designation of Authorized Signatory of Consortium Member and  
Company's Seal

Business Address:  
Name and address of principal officer.

**4.5 Format for Bidder’s composition and ownership structure If the Bidder is a Consortium, please provide this information for each Member including Lead Member.**

**• Corporate Details:**

Please provide the following information for the Bidder.

a. Company’s Name, Address, Nationality and Director’s details:

Name: \_\_\_\_\_

Registered/Principal Address: \_\_\_\_\_

Website Address: \_\_\_\_\_

Corporate Identification Number, if any: \_\_\_\_\_

Country of Origin: \_\_\_\_\_

Address for Correspondence: .....  
.....  
.....

b. Year of Incorporation: \_\_\_\_\_

c. Company's Business Activities:

d. Name of the authorized representative:

e. Telephone Number: \_\_\_\_\_

f. Email Address: \_\_\_\_\_

g. Telefax Number: \_\_\_\_\_

h. Status as a Bidder:

- (i) Bidding Company
- (ii) Lead Member of the Bidding Consortium
- (iii) Member of the Bidding Consortium

Note: (tick the applicable serial number)

i. Company's Local Address in India (if incorporated outside India):  
\_\_\_\_\_

- j. Please provide the following documents:
  - (i) Copy of the Memorandum and Articles of Association and certificate of incorporation or other equivalent organizational document (as applicable in the case of a foreign company), including their amendments, certified by the company secretary of the Bidding Company/each Member of the Consortium (as Attachment 1)
  - (ii) Authority letter in favor of “*Procurer*” from the Bidding Company/each Member of the Consortium (as per format specified below) authorizing “*Procurer*” as applicable] to seek reference from their respective bankers, lenders, financing institutions and any other person as given below in the Format for Authorization, as per Clause 2.1.7 of the RFP.
- k. (Insert this point in case of Bidder being a Bidding Company) Whether the Bidder wishes to form a Project Company for the supply of power? ..... (Yes/No)
- l. (Insert this point in case of Bidder being a Bidding Company) Whether the Bidder has already formed a Project Company:.....(Yes/No)  
If Yes, the details of the Project Company as follows:
  - i) Name of the Project Company .....
  - ii) Name of the Equity Holder .....
  - iii) Type and No. of Shares owned .....
  - iv) % of equity holding .....
  - v) Extent of voting control(%) .....
  - vi) Date of incorporation .....

**• Details of Ownership Structure:**

Details of persons owning 10% or more of the total paid up equity of the Bidding Company / each Member of the Consortium.

Name of the Bidding Company/ Member of the Consortium: .....

Status of equity holding as on .....

| Name of Equity Holder | Type and Number of Shares owned | % of Equity Holding | Extent of Voting Control (%) |
|-----------------------|---------------------------------|---------------------|------------------------------|
| 1.                    |                                 |                     |                              |
| 2.                    |                                 |                     |                              |
| 3.                    |                                 |                     |                              |
| 4.                    |                                 |                     |                              |
| 5.                    |                                 |                     |                              |
| 6                     |                                 |                     |                              |
| ....                  |                                 |                     |                              |

**Notes:**

1. Status of equity holding should be provided not earlier than 30 (thirty) days prior to Bid Deadline.
2. The above table is to be filled in separately for each Consortium Member if applicable.

- **Documents submitted in support of establishing the relationship with the Parent Company / Affiliate with the Bidding Company or with the Member of the Bidding Consortium (including Lead Member) in terms of the provisions of Clause 2.1.5 of this RFP:**

- 1.....
- 2.....
- 3.....
- 4.....

**For and on behalf of Bidding Company/ Member of the Consortium**

M/s.....

.....  
(Signature of authorized representative  
Name:.....  
Designation:.....  
Stamp:.....

Date:.....  
Place: .....

**FORMAT FOR AUTHORISATION**

(On Non – judicial stamp paper duly attested by Notary Public)

**(In case of Bidding Consortium to be given separately by each Member)**

The undersigned hereby authorize(s) and request(s) all our Bankers, a list of which is attached herewith as Annexure A hereto, including its subsidiaries and branches, any person, firm, corporation or authority to furnish pertinent information deemed necessary and requested by “*Procurer*” to verify the authenticity of the documents / information submitted by us for meeting the Qualification Requirements in respect of our Bid for procurement of power on medium term basis through tariff based competitive bidding process for meeting the requirements of **MPSEZ Utilities Private Limited** and / or regarding our financial standing and general reputation.

For and on behalf of M/s..... (Insert Name of Bidding Company or Member of the Consortium)

.....  
Signature and Name of the authorized representative of the Company

Company rubber stamp/seal

.....  
(Signature of Notary Public)

(Name and Address of the Attorney)

Place:.....

Date:.....

## **Annexure A List of Bankers**

**4.6 A : FORMAT FOR QUALIFICATION REQUIREMENT (AS PER CLAUSE 2.1.2.1)**

**To,**  
**Director**  
 MPSEZ Utilities Private Limited  
 Adani House, Near Mithakhali Circle,  
 Navrangpura,  
 Ahmedabad -380 009  
 Gujarat, India

**Dear Sir,**

**Sub: Bid for procurement of power on medium term basis through tariff based competitive bidding process in response to the RFP dated 01/10/2011.**

We submit our Bid / Bids for the total capacity of ..... MW [Insert total offered capacity in MW; for Bids from multiple generation source, mention sum total of offered capacity across all offers] for which we submit details of our Qualification Requirements.

| <b>Generation source</b>               | <b>Offered Capacity in MW</b> |
|--|-------------------------------|
| 1                                      | .....MW                       |
| 2                                      | .....MW                       |
| ...                                    |                               |
| <b>Total of all Generation sources</b> | <b>.....MW</b>                |

**[Note: Applicable in case of Bidding Company]**

We certify that the Financially Evaluated Entity (ies) had a Networth of Rs. .... Crore or equivalent USD\* computed as per instructions provided in Clause 2.1.2 of this RFP based on unconsolidated audited annual accounts (refer Note-2 below) of any of the last three (3) financial years immediately preceding the Bid Deadline.

| <b>Name of Financially Evaluated Entity**</b> | <b>Relationship with Bidding Company***</b> | <b>Networth (Rs. Crore)#</b> | <b>Financial Year</b> |
|---|---|------------------------------|-----------------------|
| 1   |   |                              |                       |
| 2   |   |                              |                       |
| 3   |   |                              |                       |
| ....  |   |                              |                       |
| <b>Total Networth</b>                         |   |                              |                       |

\* Equivalent USD shall be calculated as per provisions of Clause 2.1.2

\*\* The Financially Evaluated Entity may be the Bidding Company itself

\*\*\* The column for "Relationship with Bidding Company" is to be filled in only in case

financial capability of Parent Company and/ or Affiliate has been used for meeting Qualification Requirements.

# In case a Bidder offers capacity from more than one generation source, the Networth shall be computed and evaluated on the basis of the sum total of the capacities offered by the Bidder .

**[Note: Applicable in case of Bidding Consortium]**

We certify that the Financially Evaluated Entity (ies) had a Networth of Rs. .... Crore or equivalent USD\* computed as per instructions provided in Clause 2.1.2 of the RFP and based on unconsolidated audited annual accounts (refer Note-2 below) of any of the last three (3) financial years immediately preceding the Bid Deadline.

Generation Source : -----

| Name of Consortium Member | Equity commitment in the Project Company (%) | Networth of Member (Rs.Crore) (As per table below) | Networth Requirement to be met by the Member in proportion to the equity commitment (Rs.Crore) (Total Networth requirement * % at Column no. 2 ) | Whether the Member meets the Networth Requirement |
|---------------------------|--|--|--|---|
| (1)                       | (2)  | (3)  | (4)  | (5)   |
| 1                         |  |  |  | Yes/No  |
| 2                         |  |  |  | Yes/No  |
| ..                        |  |  |  | Yes/No  |
| <b>Total Networth</b>     |  |  |  |   |

**Note:** The total Networth requirement will be calculated based on the offered capacity in MW x Rs. 0.5 crores

[If a Bidder is offering capacity from different sources, the above table has to be filled in separately for each generation source.]

**Member – I (Lead Member)**

**(Note: Similar particulars for each Member of the Consortium is to be furnished, duly certified by the Member’s Statutory Auditors)**

- i. Name of Member:
- ii. Total Networth requirement: Rs \_\_\_\_\_ crores
- iii. Percentage of equity commitment for the Project Company by the Member \_\_\_%
- iv. Networth requirement for the Member\*\*\*: Rs. \_\_\_\_\_ crores.

| <b>Name of Financially Evaluated Entity**</b> | <b>Relationship with Members of Bidding Consortium ***</b> | <b>Networth (Rs. Crore) ****</b> | <b>Financial Year</b> |
|---|--|----------------------------------|-----------------------|
| 1   |  |                                  |                       |
| 2   |  |                                  |                       |
| 3   |  |                                  |                       |
| ....  |  |                                  |                       |
| <b>Total Networth</b>                         |  |                                  |                       |

\* Equivalent USD shall be calculated as per provisions of Clause 2.1.2

\*\* The Financially Evaluated Entity may be a Member of the Bidding Consortium itself

\*\*\* The column for "Relationship with Bidding Consortium" is to be filled in only in case financial capability of Parent Company and/ or Affiliate has been used for meeting Qualification Requirements.

\*\*\*\* Networth requirement to be met by a Member shall be in proportion to the equity commitment of the Member for the Project Company and in case of more than one Financial Bid submitted by the Bidding Consortium, the Networth shall be computed and evaluated on the basis of the sum total of the capacities offered by the Bidder in its Financial Bids.

**Yours faithfully**

*(Signature and stamp (on each page) of Managing Director /Chief Executive Officer /Manager [refer Notes 3 and 4 below] of Bidding Company/ Member of Consortium)*

**Name:**

**Date:**

**Place:**

*(Signature and Stamp (on each page) of Statutory Auditors of Bidding Company/ Member of Consortium)*

**Name:**

**Date:**

**Place:**

Please also affix common seal of Bidding Company/ Member in a Bidding Consortium

Common Seal of .....

has been affixed in my/our presence pursuant to the

Board of Director's

resolution dated .....

.....

(Signature)

Name:

Designation:

**WITNESS:**

1. ....  
(Signature)

Name .....

Designation .....

Date:

2. ....  
(Signature)

Name .....

Designation .....

Date:

**Notes:**

1. Along with the above format, in a separate sheet, please provide details of computation of Networth duly certified by Statutory Auditor.
2. Audited consolidated annual accounts of the Bidder may also be used for the purpose of financial criteria provided the Bidder has at least 26% equity in each company whose accounts are merged in the audited consolidated accounts and provided further that the financial capability of such companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of the Bid.
3. Managing Director/ Chief Executive Officer, being a full time director on the Board of the Bidding Company/ Member in case of a Consortium.
4. In case of Manager, the Company should confirm through a copy of Board Resolution attested by Company Secretary that the concerned person is appointed as Manager as appointed under Section 269 of the Companies Act, for the purpose in question. The Company Secretary shall also certify that the Company does not have a Managing Director or Chief Executive Officer. In case of the Bidding Company/Member being a foreign company, the same shall be signed by a person of equivalent position.

**B FORMAT FOR QUALIFICATION REQUIREMENT (AS PER CLAUSE 2.1.2.2)**

(This format should be on the Letter Head of the Bidding Company/ Lead Member of the Bidding Consortium)

To,

*Director*  
MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

Dear Sir,

**Sub: Bid for procurement of power on medium term basis through tariff based competitive bidding process in response to the RFP dated 01/10/2011.**

We hereby submit following details/documents in support of meeting the Qualification Requirements prescribed in Clause 2.1.2.2. [In Case the Bidder is a Trading Licensee, the Bidder shall ensure that the entity developing the power station has obtained the Consents, Clearances and Permits and the Bidder shall submit documentary evidence regarding the same in its Bid.]

1 **Land:**

- (a) In case the total land, is being acquired under the Land Acquisition Act 1894: We declare that the total land, as indicated in the application filed with the competent authority for seeking environmental clearance, is being acquired under the Land Acquisition Act 1894 and copy of notification issued for such land under Section 4 of the Land Acquisition Act, 1894 is enclosed.
- (b) In case land is not being acquired under Land Acquisition Act 1894: We declare that the Area of land allotted/ or for which lease has been executed for a period of --- [indicate no. of years]/ or taken under possession or/ which is under ownership/ vesting is: ..... [Insert the area of land]

We declare that the aforesaid area is at least one-third of the total area of the land as indicated in the application filed with the competent authority for seeking environmental clearance. The documentary evidence along with duly notarized sworn affidavit as mentioned in clause 2.1.2.2 (a) are enclosed. (c) In case the total land is proposed to be acquired under both the provision (a) & (b): For --- Acres of land being acquired under Land Acquisition Act 1894, Section 4 notification is enclosed, and

For the part of land excluding that to be acquired under Land Acquisition Act 1894, area of land allotted/ on lease for a period of ---[indicate no. of years]/ in ownership/vesting is .....Acres, which is at least one-third of balance land as indicated in the application filed with the competent authority for seeking environmental clearance along with documentary evidence and a duly notarized sworn affidavit as mentioned in clause 2.1.2.2 (a) are enclosed.

**2 Fuel:**

- > Domestic coal: Name of the allocated block and its proven reserves (in case of coal block allocation):

In case of fuel linkage, the approval of fuel arrangement:

The quantity of coal arranged by way of coal block allocation and/or fuel linkage as required upto the phase of the power station from which the power is proposed to be supplied, at Normative Availability for the term of the PPA and supporting computation for the same:

Particulars of documents enclosed in support of the above:

- > Imported coal : Name of the mine acquired or owned and country:  
Proven reserves of the mine (in case of mine allocation):  
At least fifty percent (50%) of the quantity of coal required for the power station at Normative Availability on an annual basis and supporting computation for the same:  
OR  
Copy of the fuel supply agreement (s) for at least fifty percent (50%) of the total the quantity of coal required for a term of at least five (5) years or the term of the PPA (whichever is less) for the power station at Normative Availability on an annual basis:

Particulars of documents enclosed in support of the above:

- > Blended Coal: Blending proposed  
Domestic: ---%  
Imported: ----%  
Total: 100%  
Declaration of details as specified for Domestic coal & Imported coal and documents in support of the same enclosed: (The Bidder shall be required to meet the criteria separately for domestic & imported coal as provided in the Qualifying Requirements in the ratio of the blending proposed.)

- > Domestic (piped) Gas: Quantity of gas required at Normative Availability on an annual basis for the period and quantity as per Government of India guidelines for gas allocation, upto the phase of power station from which the power is proposed to be supplied. Please provide a copy of the fuel supply agreement (s) for the period and quantity, upto the phase of Power Station as per Government of India guidelines for gas allocation and supporting computation for the same. (Enclose copy attested by the authorized signatory of the Bid)

- > RLNG (Imported gas): At least fifty percent (50%) of the quantity of gas required for the power station at Normative Availability on an annual basis and supporting computation for the same Copy of the fuel supply agreement (s) for the quantity of gas required for a term of at least five (5) years or the term of the PPA (which ever is less) for the power station at Normative Availability on an annual basis. (Enclose copy attested by the authorized signatory of the Bid)

- 3 Water: In-principle approval from the concerned state irrigation department or any other relevant authority for the quantity of water required for the power station. (Enclose copy attested by the authorized signatory of the Bid)
- 4 Environmental Clearance: (Enclose copy attested by the authorized signatory of the Bid) Copy of the proposal for environmental clearance submitted to the concerned administrative authority responsible for according final approval in the central/state govt. as the case may be.
- 5 Forest Clearance: (Enclose copy attested by the authorized signatory of the Bid) Copy of the proposal for forest clearance (only in case where forest land to be acquired for power station) submitted to the concerned administrative authority responsible for according final approval in the central/state govt. as the case may be.
- 6 In case of existing power station: Documentary evidence regarding commissioning of the power station and available surplus capacity equivalent to the capacity offered in our Bid.

**(Insert in case of Bidder being a Trading Licensee:** (Enclose copy attested by the authorized signatory of the Bid): Copy of the exclusive power purchase agreement executed by the Trading Licensee with the supplier of power.)

**Yours faithfully**

*(Signature and stamp (on each page) of Managing Director /Chief Executive Officer /Manager [refer Notes 1 and 2 below] of Bidding Company/ Member of Consortium)*

**Name:**

**Date:**

**Place:**

Please also affix common seal of Bidding Company/ Member in a Bidding Consortium

Common Seal of .....  
 has been affixed in my/our  
 presence pursuant to the  
 Board of Director's  
 resolution dated .....

.....  
 (Signature)  
 Name:  
 Designation:

**WITNESS:**

1. ....  
(Signature)

Name .....

Designation .....

Date:

2. ....  
(Signature)

Name .....

Designation .....

Date:

**Notes:**

1. Managing Director/ Chief Executive Officer, being a full time director on the Board of the Bidding Company/ Member in case of a Consortium.
2. In case of Manager, the Company should confirm through a copy of Board Resolution attested by Company Secretary that the concerned person is appointed as Manager as appointed under Section 269 of the Companies Act, for the purpose in question. The Company Secretary shall also certify that the Company does not have a Managing Director or Chief Executive Officer. In case of the Bidding Company/Member being a foreign company, the same shall be signed by a person of equivalent position

**4.7 Format of Undertaking (A) Bidder's Undertaking [On the Letter Head of the Bidding Company/Lead Member of Bidding Consortium]**

To,

**Director**

MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

Dear Sir,

**Sub: Bidders' Undertakings for Bid for supply of power to Procurer in response to the RFP dated 01/10/2011**

1. We give our unconditional acceptance to the RFP and RFP Documents issued by Procurer as a part of the RFP dated 01/10/2011, and as amended. We shall ensure that the Seller shall execute such RFP Documents as per the provisions of the RFP.
2. We have submitted our Financial Bid(s) strictly as per Format 4.10 of the RFP, without any deviations, conditions and without mentioning any assumptions or notes for the Financial Bid in the said format.
3. We have submitted the Bid on the terms and conditions contained in the RFP.
4. Our Bid (including Financial Bid) is valid up to the period required under Clause 2.9 of the RFP.
5. Our Bid (including Financial Bid) has been duly signed by authorised signatory and closed in the manner and to the extent indicated in the RFP and the Power of Attorney/ Board Resolution as per Clause 2.4.1.1 in requisite format as per RFP has been enclosed in original with this undertaking.
6. *(Insert in case the Bidder is not a Trading Licensee)* "We undertake that we shall not submit any bid, on the basis of the same generation source and quantum of power from such source as mentioned in our Bid, in any other bid process till the time of selection of Successful Bidder and issue of LOI or the termination of the process, whichever is earlier, subject to a maximum of period of one hundred and twenty (120) days from the Bid Deadline."  
*(Insert in case the Bidder is a Trading Licensee)* "We undertake that we shall not submit any bid, on the basis of power purchase agreement submitted along with our Bid for the same quantum of power and generation source specified therein, for any other bid process till the selection of the Successful Bidder(s) and issue of LOI, or till the termination of the process, whichever is earlier, subject to a maximum of period of one hundred and twenty (120) days from the Bid Deadline.
7. *(Insert in case the Bidder is a Trading Licensee)* We undertake that the power purchase agreement submitted by us as part of the Non Financial Bid is for the exclusive purpose of supplying power to the Procurer under this bid process.

8. (Insert in case of incorporation of Project Company by the Bidding Company/Bidding Consortium) We undertake that if we are selected as the Successful Bidder we shall transfer all Consents, Clearances and Permits in the name of the Project Company within the period specified in the PPA, if such Consents, Clearances and Permits have been obtained in the name of a company other than the Project Company prior to the submission of our Bid.
9. We have assumed that if we are selected as the Successful Bidder, the provisions of the Consortium Agreement submitted along with the Bid, 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 of the RFP and Article 15.2 of the PPA. (Applicable only in case of a Bidding Consortium)
10. We confirm that our Bid meets the following conditions:
- a) The Scheduled Delivery Date is not later than the date specified in the RFP, subject to the provisions of the PPA.
  - b) The quantum of power offered in our Bid is equal to or greater than the Minimum Bid Capacity and is for the following offered capacity.

| <b>Generation Source</b>               | <b>Offered Capacity in MW</b> |
|--|-------------------------------|
| 1                                      | .....MW                       |
| 2                                      | .....MW                       |
| ...                                    |                               |
| <b>Total of all Generation Sources</b> | <b>.....MW</b>                |

11. We confirm that the Financial Bid(s) conform(s) 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 in Format 4.10 of the Bid is not less than zero point seven (0.7) as provided in Clause 2.4.1.1(B)(x) of the RFP.
  - b) Financial Bid(s) is/are in the prescribed Format 4.10, and is submitted duly signed by the authorised signatory
  - c) Financial Bid(s) is/are unconditional
12. 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 selection as Successful 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 signatory in whose name Power of Attorney/ Board Resolution as per Clause 2.4.1.1 is issued**

Original Power of Attorney/ Board Resolution as per Clause 2.4.1.1 is enclosed.

**Rubber stamp of the Bidder to be affixed.**

**(B) Undertaking from the Financially Evaluated Entity or its Parent Company/  
Ultimate Parent Company  
(On the Letter Head of the Financially Evaluated Entity or its Parent Company/  
Ultimate Parent Company)**

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

**To,**  
**Director**  
MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

**Dear Sir,**

We refer to the Request for Proposal dated 01/10/2011 issued by you for procurement of power for medium term basis through tariff based competitive bidding process for meeting the requirements of Procurer.

(Insert in case of Bidding Company:

“We have carefully read and examined in detail the RFP, including in particular, Clause 2.4.1.1 of the RFP, regarding submission of an undertaking, as per the prescribed Format 4.7 (B).

We have also noted the amount of the Contract Performance Guarantee required to be submitted as per Clause 2.13 of the RFP by the ..... (Insert the name of the Bidding Company) for the supply of power in the event of it being selected as the Successful Bidder”.

In view of the above, we hereby undertake to you and confirm that in the event of failure of ..... (Insert name of the Bidding Company) to submit the Contract Performance Guarantee in full or in part at any stage, as specified in the RFP, we shall submit the Contract Performance Guarantee for the amount not submitted by ..... (Insert name of the Bidding Company]”.)

(Insert in case of Member of a Consortium:

“We have carefully read and examined in detail the RFP, including in particular, Clause 2.4.1.1 of the RFP, regarding submission of an undertaking, as per the prescribed Format 4.7(B).

We confirm that M/s. .... (Insert name of Bidding Company / Consortium Member) has been authorized by us to use our financial capability for meeting the Qualification Requirements as specified in Clause 2.1 of the RFP referred to above.

We have also noted the amount of the Contract Performance Guarantee required to be

submitted as per Clause 2.13 of the RFP by the ..... (Insert the name of the Consortium Member) for the supply of power in the event of it being selected as the Successful Bidder”).

In view of the above, we hereby undertake to you and confirm that in the event of failure of ..... (Insert name of the Consortium Member) to submit the Contract Performance Guarantee on behalf of the Seller in full or in part at any stage, as specified in the RFP, we shall submit the Contract Performance Guarantee for the amount not submitted by ..... (Insert name of the Consortium Member]”).).

**[Note: Insert the following para in case of a Bidding Consortium OR a Bidding Company opting to invest through a Project Company]**

:

“We have carefully read and examined in detail the RFP, including in particular, Clause 2.4.1.1 of the RFP, regarding submission of an undertaking, as per the prescribed Format 4.7 (B).

We have also noted the amount of the equity investment required to be made in the Project Company by the ..... (Insert the name of the Bidding Company/Consortium Member) to be incorporated to undertake the obligations under the PPA for the supply of power.

In view of the above, we hereby undertake to you and confirm that in the event of failure of ..... (Insert name of the Bidding Company/Member of the Consortium) to invest in full or in part, in the equity share capital of the Project Company as specified in the Bid, we shall invest the said amount not invested by ..... (Insert name of the Bidding Company/Member of the Consortium).]”).

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 of Chief Executive Officer / Managing Director / Manager [Refer Notes]**

**Common seal of ..... has been affixed in my/our presence pursuant to Board of Director’s Resolution dated.....**

**WITNESS**

- 1. ....  
**(Signature)**  
**Name** .....  
**Designation** ..... ..
- 2. ....  
**(Signature)**  
**Name** .....  
**Designation** ..... ..

**Notes:**

1. Managing Director/ Chief Executive Officer, being a full time director in the Board of the Bidding Company/ Member of a Consortium.
2. In case of Manager, the Company should confirm through a copy of Board Resolution attested by Company Secretary that the concerned person is appointed as Manager as appointed under Section 269 of the Companies Act, 1956 for the purpose in question. The Company Secretary shall also certify that the Company does not have a Managing Director or Chief Executive Officer. In case of the Bidding Company/Member being a foreign company, the same shall be signed by a person of equivalent position.

## 4.8 Format for Board Resolution

### **Format for the Board resolution to be passed by each Financially Evaluated Entity/ its Parent Company /Ultimate Parent Company.**

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:

**1. 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 Procurer, in the format specified in the RFP, draft of which is attached hereto and initialled by the Chairman whereby the company undertakes to provide the ..... percent (... %) [Insert 100% in case of Bidding Company and percent of equity investment in the Project Company in case of Member of Consortium] of the Contract Performance Guarantee, as per the terms and conditions of the RFP, representing the total amount of Contract Performance Guarantee required to be provided by the ..... (Insert the name of the Bidding Company / Consortium Member), in case of failure of the ..... (Insert the name of the Bidding Company / Consortium Member) to provide such Contract Performance Guarantee.

**[Note: Insert the following para in case of a Bidding Company opting to invest through a Project Company or a Consortium]**

**2. FURTHER 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 Procurer whereby the company undertakes to invest equity in the Project Company to the extent of ..... percent (... %), as per the terms and conditions of the RFP, representing the amount of equity required to be provided by ..... (Insert the name of the Bidding Company / Consortium Member), in case of failure of ..... (Insert the name of the Bidding Company / Consortium Member) to invest such equity.

**3. FURTHER RESOLVED THAT** Mr/Ms....., be and is hereby authorized to take all the steps required to be taken by the Company for submission of Bid, including in particular, signing the Bid, making changes thereto and submitting amended Bid, all the documents related to the Bid, certified copy of this Board resolution or letter or undertakings etc, required to be submitted to the Procurer as part of the Bid or such other documents as may be necessary in this regard.

**[Note: In the event the Bidder is a Bidding Consortium, the following Board resolution no. 4 also needs to be passed by the Lead Member of the Bidding Consortium]**

**4. FURTHER RESOLVED THAT** approval of the Board be and is hereby accorded to contribute such additional amount over and above the percentage limit (specified for the

Lead Member in the Consortium Agreement) to the extent becoming necessary towards the total equity share in the Project Company, obligatory on the part of the Consortium pursuant to the terms and conditions contained in the Consortium Agreement dated ..... executed by the Consortium as per the provisions of the RFP.

**[Note: The following resolution no. 5 is to be provided by the Bidding Company /Lead Member of the Consortium only]**

**5. FURTHER RESOLVED THAT** Mr/Ms....., be and is hereby authorized to take all the steps required to be taken by the Company for submission of Bid, including in particular, signing the Bid, making changes thereto and submitting amended Bid, all the documents related to the Bid, certified copy of this Board resolution or letter or undertakings etc, required to be submitted to the Procurer as part of the Bid or such other documents as may be necessary in this regard.

**Certified True Copy**

**Signature and stamp of Company Secretary / Managing Director of Financially Evaluated Entity/ its Parent Company /Ultimate Parent Company**

**Notes:**

- 1) This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary / Managing Director of the Financially Evaluated Entity/ its Parent Company /Ultimate Parent Company.
- 2) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.
- 3) In case of the Board resolution being provided by a company incorporated in India, the Board resolution needs to be notarized by a notified notary. In the event the Board resolution is from a company incorporated outside India, the same needs to be duly notarized in its jurisdiction.
- 4) 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 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.

#### 4.9 Format for 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 **supply of power on ‘medium’ term basis through tariff based competitive bidding process for meeting the requirements of Procurer** in response to the RFP dated 01/10/2011 issued by **MPSEZ Utilities Private Limited**, (hereinafter referred to as Procurer) and such Procurer agreeing to consider the Bid of ..... [*Insert the name of the Bidder*] as per the terms of the RFP, the ..... (Insert name and address of the bank issuing the Bid Bond, and address of the head office) (here in after referred to as “Guarantor Bank”) hereby agrees unequivocally, irrevocably and unconditionally to pay to the Procurer or its authorized representative at Ahmedabad forthwith on demand in writing from the Procurer or any representative authorized by it in this behalf an amount not exceeding Rupees (Rs) only [Insert amount not less than that derived on the basis of Rs. 3 lakhs per MW multiplied with the total quantum of power offered by the Bidder], on behalf of M/s. ....[Insert name of the Bidder].

This guarantee shall be valid and binding on the Guarantor Bank up to and including ..... (Insert date of validity of Bid Bond in accordance with Clause 2.12 of this RFP) and shall not be terminable by notice or any change in the constitution of the Guarantor Bank 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 ..... (Rs... ..) only. Our Guarantee shall remain in force until ..... [Date to be inserted by Procurer] or its authorized representative 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 from the Procurer or its authorized representative, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Procurer or its authorized representative.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection, disputes, or disparities raised by the Bidder or any other person. The Guarantor Bank shall not require MPSEZ Utilities Private Limited or its authorized representative to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Procurer or its authorized representative in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Ahmedabad shall have exclusive jurisdiction.

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, liquidation, winding up, dissolution 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 or its authorized representative 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 "Procurer" or its authorized representative or to exercise, levy or enforce any distress, diligence or other process against the 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 the Procurer to any entity to whom it is entitled to assign its rights and obligations under the RFP Documents.

The Guarantor Bank hereby agrees and acknowledges that **MPSEZ Utilities Private Limited** shall have a right to invoke this Bank Guarantee either in part or in full, as it may deem fit.

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 Clause 2.12 of RFP], 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 "Procurer" or its authorized representative serves upon us a written claim or demand.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this ..... day of ..... at .....

**Witness:**

1. ....

**Signature**

Signature

Name and address.

Name:

2. ....

Designation with Bank Stamp

Signature

Name and address

Attorney as per power of attorney No. ....

For:

..... [Insert Name of the Bank]

**Banker's Stamp and Full Address:**

Dated this ..... day of ..... 20.....

Note: The Stamp Paper should be in the name of the Executing Bank.

**4.10 Format for Financial Bid**

- **Total capacity of power (in MW) offered by the Bidder: ..... MW (..... MW) [To be inserted both in words and figures]**
- **Fractions of the offered total capacity of power (in MW)\* (insert as applicable) (Refer ‘b’ of instructions below):**
  - .....MW (..... MW) [To be inserted both in words and figures],
  - ..... MW (..... MW) [To be inserted both in words and figures],
  - ..... MW (..... MW) [To be inserted both in words and figures].
- **Name of the Interconnection Point ..... (To be inserted by the Bidder)**
- **Name of the Injection Point ..... (To be inserted by the Bidder)\*\***
- **Region and State in which the Injection Point is located ..... (To be inserted by the Bidder)**
- **Whether the STU system be used to transmit power between the Interconnection Point and the Injection Point?: (Insert “Yes” or “No”)**
- **Details of proposed Delivery Point(s).....(To be inserted by the Bidder only in case the generation source of the Bidder is in the same state as that of the Procurer or the Bidder intends to connect its generation source to the STU Interface through a dedicated transmission line)**
- **% Transmission loss in STU system\*\*\* ..... (To be inserted by the Bidder only if STU system is involved at Bidder’s end)**
- **Name(s) of the regional ISTS to be involved in transmission of power between the Injection Point and the Delivery Point: ..... (To be inserted by the Bidder)**
- **Distance of Coal Block to Power Station:----- \_\_ km. (To be inserted by the Bidder)**
- **The Procurer can contract the total capacity of power offered by the Bidder or any combination of the fractions of the offered total capacity.**

\*\* Injection Point would be either a CTU Interface or the Delivery Point, at which the Bidder shall supply power to the Procurer

\*\*\* Losses to be considered as mentioned in the relevant tariff orders of the Appropriate Commission as on seven (7) days prior to Bid Deadline.

| Contract Year | Commencement Date of Contract Year | End Date of Contract Year | Quoted Non Escalable Capacity Charges | Quoted Escalable Capacity Charges   | Quoted Non Escalable Energy Charges  | Quoted Escalable Energy Charges | Quoted Non Escalable Energy Charges | Quoted Escalable Energy Charges | Quoted Non Escalable Inland Transportation Charges | Quoted Escalable Inland Transportation Charges | Quoted Non Escalable Overseas Transportation Charges | Quoted Escalable Overseas Transportation Charges | Quoted Non Escalable Fuel Handling Charges | Quoted Escalable Fuel Handling Charges |
|---------------|------------------------------------|---------------------------|---------------------------------------|-------------------------------------|--------------------------------------|---------------------------------|-------------------------------------|---------------------------------|--|--|--|--|--|--|
| (1)           | (2)                                | (3)                       | (4)                                   | (5)                                 | (6)                                  | (7)                             | (8)                                 | (9)                             | (10)   | (11)   | (12)   | (13)   | (14)                                       | (15)                                   |
|               |                                    |                           | (Rs./ kWh) for Scenario 1,2,3,4,5,6   | (Rs./ kWh) for Scenario 1,2,3,4,5,6 | (Rs./ kWh) for Scenario 1, 2, 5, 6,7 | (Rs./ kWh) for Scenario 1, 2, 5 | (USD/ kWh) for Scenario 3, 4        | (USD/ kWh) for Scenario 3, 4    | (Rs./ kWh) for Scenario 1, 2, 3, 4, 5,7            | (Rs./ kWh) for Scenario 1, 2, 3, 4, 5          | (USD/ kWh) for Scenario 3, 4,7                       | (USD/ kWh) for Scenario 3, 4                     | (Rs./ kWh) for Scenario 3, 4,7             | (Rs./ kWh) for Scenario 3, 4           |
|               | Schedule Delivery                  | 31st March                |                                       |                                     |                                      |                                 |                                     |                                 |  |  |  |  |  |  |
|               | 1-Apr                              | 31st March                |                                       | Same as above                       |                                      | Same as above                   |                                     | Same as above                   |  | Same as above                                  |  | Same as above                                    |  | Same as above                          |
|               | 1-Apr                              | 31st March                |                                       | Same as above                       |                                      | Same as above                   |                                     | Same as above                   |  | Same as above                                  |  | Same as above                                    |  | Same as above                          |

**Signature of authorized signatory in whose name Power of Attorney as per Clause 2.4.1.1 is issued.:**

Name and designation of authorized signatory : .....

Place : .....

Date : .....

**4.11 Format of checklist for submission of Bid**

| Submission of Bid requirements   | Response<br>(Yes/No) |
|--|----------------------|
| <p>Covering Letter as per Format 4.1</p> <p>Original Power of Attorney as per Format 4.2</p> <p>Consortium Agreement as per Format 4.3 (if Bid is submitted by a Bidding Consortium)</p> <p>Letter of consent from Consortium Members as per Format 4.4 (if Bid is submitted by a Bidding Consortium)</p> <p>Bidder's composition and ownership structure as per Format 4.5</p> <p>Details of meeting Qualification Requirement. as per Format 4.6 (A) and (B)</p> <p>Documentary evidence for meeting the Qualification Requirement as per Format 4.6 (A) and (B)</p> <p>Bidder's Undertaking as per Format 4.7 (A)</p> <p>Undertaking from the Financially Evaluated Entity or its Parent Company/<br/>Ultimate Parent Company as per Format 4.7 (B)</p> <p>Applicable Board Resolutions as per Format 4.8</p> <p>Bid Bond as per Format 4.9</p> <p>Financial Bid as per Format 4.10</p> <p>Checklist of submission of Bid as per this Format 4.11</p> |                      |

| <u>Submission of Bid requirements</u>   | <u>Response (Yes/No)</u> |
|---|--------------------------|
| <p>Disclosure as per Format 4.12</p> <p>Details of source of power and primary fuel as per Format 4.13;</p> <p>Certificate of relationship of Parent Company or Affiliate with the Bidding Company or with the Member of the Bidding Consortium, including the Lead Member as per Format 4.14;</p> <p>Calculation sheets detailing computation of Networth considered for meeting Qualifying Requirements.</p> <p>Last 3 financial years' unconsolidated/consolidated audited annual accounts of the Bidder/ each Member (or Financially Evaluated Entity, if different from the Bidder/ each Member) duly certified by the Statutory Auditor. Authority letter in favour of MPSEZ Utilities Private Limited from the Bidder authorising MPSEZ Utilities Private Limited to seek reference from their respective bankers &amp; others.</p> <p>Initialing of all pages of Bid by authorized signatory.</p> |                          |

**Signature of authorized signatory in whose name Power of Attorney as per Clause 2.4.1.1 is issued.:**

Name and designation of authorized signatory : .....

Place: .....

Date: .....

#### 4.12 Format for Disclosure

**(On the Letter Head of Bidding Company / Each Member in a Bidding Consortium)**

#### **Disclosure**

**To:**

**Director**  
MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

**Sub: Bidders' Disclosure for Bid for supply of power to Procurer in response to the RFP dated 01/10/2011**

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

| <b>Sl. No.</b> | <b>Name of the Company</b> | <b>Relationship</b> |
|----------------|----------------------------|---------------------|
| 1.             |                            |                     |
| 2.             |                            |                     |
| 3.             |                            |                     |

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

.....  
**Signature of Chief Executive Officer / Managing Director / Manager**

**Notes:**

1. Managing Director/ Chief Executive Officer, being a full time director in the Board of the Bidding Company/ Lead Member in case of a Consortium.
2. In case of Manager, 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. The Company Secretary shall also certify that the Company does not have a Managing Director or Chief Executive Officer.
3. In case there is no such company please fill in the column "Name of the Company" as Nil and under column of Relationship as "Not Applicable".

**4.13 Details of the generation source and the primary fuel**

(Note: In case of Bidder being a Trading Licensee, details in this format is to be furnished by the Bidder in relation to the supplier of power with whom the power purchase agreement has been executed by the Trading Licensee)

**(A) Details of generation source**

| Sl. No | Particulars   | Details (to be furnished by the Bidder)                                  |                     |                           |                     |
|--------|---|--|---------------------|---------------------------|---------------------|
| 1.     | Location of power station (Specify place, district and state)               |  |                     |                           |                     |
| 2.     | No. of existing/ proposed units and installed capacity of each unit (in MW) | <b>Existing</b>  |                     |                           |                     |
|        |   | <b>Sl. No.</b>   | <b>No. of Units</b> | <b>Installed Capacity</b> | <b>COD</b>          |
|        |   | 1.   |                     |                           |                     |
|        |   | 2.   |                     |                           |                     |
|        |   | .....  |                     |                           |                     |
|        |   | <b>Proposed</b>  |                     |                           |                     |
|        |   | <b>Sl. No.</b>   | <b>No. of Units</b> | <b>Installed Capacity</b> | <b>Expected COD</b> |
| 1.     |   |  |                     |                           |                     |
| 2.     |   |  |                     |                           |                     |
| .....  |   |  |                     |                           |                     |
| 3.     | Primary Fuel  |  |                     |                           |                     |
| 4.     | Dates of last major R&M (unit-wise)   | <b>Applicable for existing units</b><br>S No.    Date<br>1.<br>2.<br>... |                     |                           |                     |
| 5.     | Duration of Fuel Supply Agreement(s) (FSA)                                  |  |                     |                           |                     |
| 6.     | Quantum of power contracted with other purchasers, if any (in MW)           |  |                     |                           |                     |
| 7.     | Details of surplus capacity (in MW)   |  |                     |                           |                     |

**(B) Details of primary fuel (The following format is not applicable for Hydel Plants)**

| S. No | Particulars  | Details (to be furnished by the Bidder) |
|-------|--|---|
| 1     | <b>Primary fuel</b><br>(Insert as applicable: “Domestic coal/ Imported coal/ Domestic (pipeline) gas/ Imported gas (R-LNG)”)   |   |
| 2     | <b>Fuel source</b><br>(i) (Insert as applicable: “Coal India Limited (CIL) coal linkage/ domestic captive coal mine/ imported coal/ domestic (pipeline) gas/ imported gas (R-LNG)”)<br>(ii) distance of coal source from Power Station |   |

|   |   |  |
|---|---|--|
| 3 | <b>Fuel grade</b><br>(Applicable only in case of coal)  |  |
| 4 | Name of the CIL subsidiary from which coal is proposed to be sourced or name and location of the captive coal mine (as applicable)  |  |
| 6 | Bidder to insert the applicable price mechanism, based on whether the primary fuel is covered under:<br>1. Administered Price Mechanism ("APM"); or<br>2. Controlled and notified by an independent Regulator; or<br>3. Controlled and notified by the Government of India or Government of India Instrumentality.<br>(Applicable only for gas) |  |

**Signature:****Name:****Designation:****Date:****Place:**

.....  
*Signature of Chief Executive Officer / Managing Director / Manager*

**Notes:**

1. Managing Director/ Chief Executive Officer, being a full time director in the Board of the Bidding Company/ Lead Member in case of a Consortium.
2. In case of Manager, the Company should confirm through a copy of Board Resolution attested by Company Secretary that the concerned person is appointed as Manager as appointed under Section 269 of the Companies Act, 1956 for the purpose in question. The Company Secretary shall also certify that the Company does not have a Managing Director or Chief Executive Officer. In case of the Bidding Company/Member being a foreign company, the same shall be signed by a person of equivalent position.
3. In case there is no such company please fill in the column "Name of the Company" as Nil and under column of Relationship as "Not Applicable".

**4.14 Format for certificate of relationship of Parent Company or Affiliate with the Bidding Company or with the Member of the Bidding Consortium, including the Lead Member.**

To,

**Director**

MPSEZ Utilities Private Limited  
Adani House, Near Mithakhali Circle,  
Navrangpura,  
Ahmedabad -380 009  
Gujarat, India

Dear Sir,

**Sub: Bid for procurement of power on 'medium' term basis through tariff based competitive bidding process in response to the RFP dated 01/10/2011**

We hereby certify that M/s....., M/s....., M/s ..... are the Affiliate(s) / Parent Company of the Bidding Company/Member of the Bidding Consortium as per the definition of Affiliate/Parent Company as provided in this RFP and based on details of equity holding as on seven (7) days prior to the Bid Deadline.

The details of equity holding of the Bidding Company/Member of the Consortium in the Affiliate/Parent Company or vice versa as on seven (7) days prior to the Bid Deadline are given as below:

| Name of Bidding Company / Member of Bidding Consortium | Name of the Affiliate of the Bidding Company / Member of the Bidding Consortium* | Name of the Parent Company of the Bidding Company / Member of Bidding Consortium | Name of the company having common control on the Affiliate and the Bidding Company / Member of Bidding Consortium |
|--|--|--|---|
|  |  |  |   |
|  |  |  |   |
|  |  |  |   |
|  |  |  |   |

\* Bidding Company / Member of Bidding Consortium to hold at least twenty six percent (26%) in such Affiliate as on seven (7) days prior to Bid Deadline

**(Insert Name and Signature of Statutory Auditor of the Bidder or practising Company Secretary)**

**SECTION - 5**  
**FORMATS FOR**  
**BIDDERS**  
**INFORMATION**  
**AND**  
**REFERENCE**

## SECTION 5

### 5. FORMATS FOR BIDDER'S INFORMATION AND REFERENCE

The following formats and enclosures are provided for Bidder's information and reference and also to provide assistance in preparation of its Bid.

- i. List of Procurers
- ii. Procurer information
- iii. Deleted
- iv. Deleted
- v. RFP Documents
- vi. Format for clarifications/ amendments on the RFP/RFP Documents
- vii. Format for Contract Performance Guarantee
- viii. List of Banks
- ix. Illustration for Bid evaluation and computation of Levelized Tariff
  - x. Transmission charges matrix
  - xi. Transmission loss matrix
- xii. Format for illustration of Affiliates
- xiii. Illustration for meeting the requirement of land criteria under Clause 2.1.2.2 (a)

**5.1 List of Procurer**

| <b>Sl. No.</b> | <b>Name of Procurer</b>         | <b>Address of the Procurer</b>   | <b>Power Procurement by the Procurer (MW)</b> |
|----------------|---------------------------------|--|---|
| 1              | MPSEZ Utilities Private Limited | Adani House, Near Mithakhali Cicle, Navarngpura, Ahmedabad – 380009 (Gujarat), INDIA | Entire  |

**5.2 Procurer Information****[Procurer to enclose the following]**

- 1) Last three available annual audited accounts
- 2) Aggregate Technical and Commercial Losses for last three years as available
- 3) Details regarding existing tariff structure, consumer base
- 4) Business Forecasts of the Procurer (to be given at the discretion of the Procurer)
- 5) Details relating to escrow cover of the Procurer as shown below:

| Total Escrow Cover already granted as on seven (7) days prior to Bid Deadline | Details |
|---|---------|
| <b>1.</b> .....   | .....   |
| <b>2.</b> .....   | .....   |
| <b>3.</b> .....   | .....   |

Note : For points 2), 3) and 4) please refer GERC MYT Order for MUPL - Case No. 1070 of 2011, dtd. 18<sup>th</sup> August 2011

### **5.3 Deleted**

**5.4 Deleted**

## **5.5 Formats for RFP Documents**

ENCLOSURE 1:- Power Purchase Agreement (PPA)

ENCLOSURE 2:- Default Escrow Agreement

ENCLOSURE 3:- Agreement to Hypothecate cum Deed of Hypothecation

### 5.6 Format for Clarifications/ Amendments on the RFP/RFP Documents

| Sl. No. | Name of the Document | Clause No. and Existing provision | Clarification required | Suggested text for the amendment | Rationale for the Clarification or Amendment |
|---------|----------------------|-----------------------------------|------------------------|----------------------------------|--|
|         |                      |                                   |                        |                                  |  |
|         |                      |                                   |                        |                                  |  |
|         |                      |                                   |                        |                                  |  |
|         |                      |                                   |                        |                                  |  |
|         |                      |                                   |                        |                                  |  |

This format shall be used for submission of request for clarifications/amendments on the draft RFP Documents as per the provisions of Clause 2.2.6.1 of this RFP.

*(Signature and stamp of Chief Executive/Company Secretary of Bidder)*

*Name:*

*Date:*

*Place:*

**Signature of Authorized Signatory of the Bidder:**

**Date:**

**(Please also affix Bidder's stamp)**

## 5.7 Format for Contract 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. To be provided separately in the name of each of the Procurer, in proportion to their Contracted Capacity)**

In consideration of the .....[Insert name of the Successful Bidder with address] agreeing to undertake the obligations under the PPA and the other RFP Documents and **MPSEZ Utilities Private Limited** (herein after referred to as Procurer), agreeing to execute the RFP Documents with the Successful Bidder for **procurement of power on ‘medium’ term basis through tariff based competitive bidding process for meeting the requirements of the Procurer**, the ..... [Insert name and address of the bank issuing the guarantee and address of the head office] (hereinafter referred to as “Guarantor Bank”) hereby agrees unequivocally, irrevocably and unconditionally to pay to the Procurer at **MPSEZ Utilities Private Limited**, Adani House, Near Mithakhali Circle, Navrangpura, Ahmedabad -380 009 Gujarat, India forthwith on demand in writing from the Procurer *or* any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees ..... only [Insert the amount of the bank guarantee computed on the basis of thirty (30) lakhs/MW with respect to the Contracted Capacity of “the Procurer as per the terms of PPA] on behalf of M/s. .... [Insert name of the Successful Bidder].

This guarantee shall be valid and binding on the Guarantor Bank up to and including .....[Insert date of validity of CPG] and shall in no event not be terminable by notice or any change in the constitution of the Bank or the term of the PPA 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 ..... [Insert the date of validity of the Guarantee as per Clause 2.13 of the RFP]. The Procurer shall be entitled to invoke this Guarantee up to thirty (30) days of the last date of the validity of this Guarantee by issuance of a written demand to invoke this guarantee.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from 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, ..... [Insert name of the Successful 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 and the courts at Ahmedabad shall have exclusive jurisdiction.

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, liquidation, winding up, dissolution 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 Successful Bidder/Seller, to make any claim against or any demand on the Successful Bidder/Seller or to give any notice to the Successful Bidder/Seller or to enforce any security held by the Procurer or to exercise, levy or enforce any distress, diligence or other process against the Successful Bidder/Seller.

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 the Procurer to any entity to whom it is entitled to assign its rights and obligations under the PPA.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. .... crores (Rs. .... crores only) and it shall remain in force until .....[Date to be inserted on the basis of Article .....of PPA], with an additional claim period of thirty (30) days thereafter. This BANK GUARANTEE shall be extended from time to time for such period, as may be desired by ..... [Insert name of the Successful Bidder/Seller]. 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.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this ..... day of ..... at .....

**Witness:**

- 1. ....  
Name and Address.
- 2. ....  
Name and Address

**Signature**  
Name:  
Designation with Bank Stamp

Attorney as per power of attorney No. ....

For:

..... [Insert Name of the Bank]

Banker's Stamp and Full Address:

Dated this ..... day of ..... 20.....

**Notes:**

- i. The Stamp Paper should be in the name of the Executing Bank. This date shall be one (1) month after the Bid Validity.

## 5.8 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

9. Allahabad Bank
10. Andhra Bank
11. Bank of India
12. Bank of Maharashtra
13. Bank of Baroda
14. Canara Bank
15. Central Bank of India
16. Corporation Bank
17. Dena Bank
18. Indian Bank
19. Indian Overseas Bank
20. Oriental Bank of Commerce
21. Punjab National Bank
22. Punjab and Sind Bank
23. Syndicate Bank
24. Union Bank of India
25. United Bank of India
26. UCO Bank
27. Vijaya Bank

## **2. 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

## **3. Scheduled Private Banks**

- 12 ING Vysya Bank Ltd.
- 13 ICICI Bank Ltd.
- 14 HDFC Bank Ltd.
- 15 IDBI Bank Ltd
- 16 Axis Bank
- 17 Kotak Mahindra Bank
- 18 IndusInd Bank

[The above list is indicative and the Procurer 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.]

## **5.9 Illustration for Bid Evaluation and Computation of Levelized Tarif**

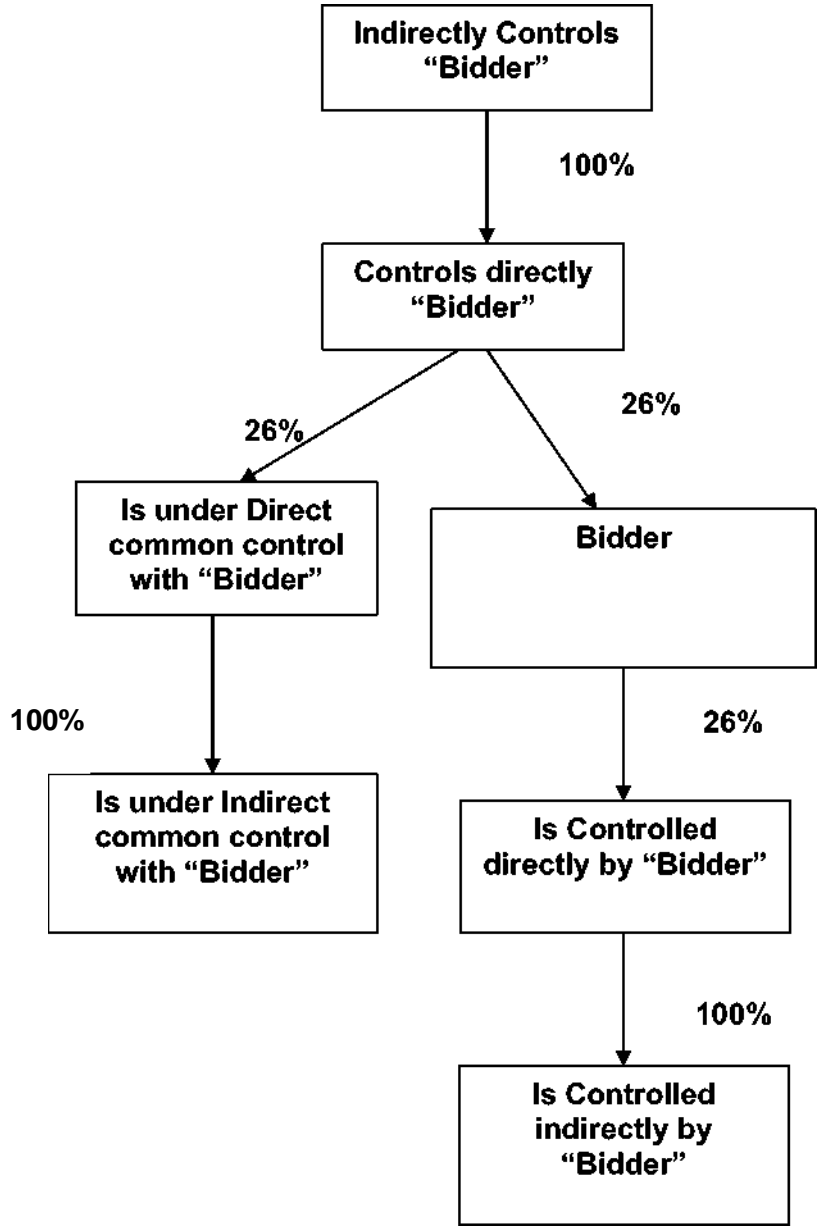
## **5.10 Transmission Charges Matrix**

(Note: Transmission Charges will be considered as per the CERC Guidelines / directives)

## **5.11 Transmission Loss Matrix**

(Note: Transmission Loss will be considered as per the CERC Guidelines / directives)

5.12 Format for illustration of Affiliates



Format 5.13 Illustration for meeting the requirement of land criteria under Clause2.1.2.2 (a)

Considering that the Requirement of land as indicated in the proposal filed with the competent authority for seeking environmental clearance is **100 Acres**, then;

| Possible Scenarios  | Requirement to be met   |
|---|---|
| In case the total land is being acquired under the Land Acquisition Act, 1894   | Notification under Section 4 of the Land Acquisition Act, 1894 for the total land (100 Acres) should be available   |
| In all other cases i.e. the total land is proposed to be procured through allotment/ lease (lease period more than the life of power plant)/ ownership/ vesting   | Documentary evidence for at least one-third of the area of land should be available.  |
| In case say 30% of the total land is being acquired under the Land Acquisition Act, 1894 and the balance 70% of the total land is proposed to be procured through allotment/ lease (lease period more than the life of power plant)/ ownership/ vesting | Notification under Section 4 of the Land Acquisition Act, 1894 for the 30 Acres of land should be available and Documentary evidence for allotment/ lease (lease period more than the life of power plant)/ ownership/ vesting for at least one-third of the balance 70 Acres of land should be available |