

BIDDING DOCUMENT

For

**Engagement of Consultant to provide
Consultancy Services for selection of
developer for NER System
Strengthening Scheme– II**



REC Transmission Projects Company Limited

**(A wholly owned subsidiary of Rural Electrification Corporation Limited)
(A Government of India Enterprise)**

Disclaimer

The financial bid for subject assignment has been invited on limited tender basis and only those firms which have been technically qualified during assignment for providing consultancy services for selection of bidder for Package-A (North – West) of Delhi state and issued Bidding Documents by RECTPCL can submit its financial bid. The financial bids submitted by any other bidder, after downloading the document from our websites, will not be considered under any circumstances.

Important Notice

1. An incomplete and/or ambiguous and/or conditional and/or late response is liable to be ignored/ summarily rejected.
2. The bidder must attest with seal the original tender document as an acceptance of the TENDER terms and conditions and submit the same along with the tender response. In case of a noncompliance the response is liable to be ignored/ summarily rejected.
3. The submission and opening of financial bids will be through e-tendering process. Tender document can be downloaded from the website www.tenderwizard.com/REC or from e-tender link given in RECTPCL/REC Website, viz, <http://www.rectpcl.com>, <http://www.recindia.nic.in>

Note:

- a) To participate in the E-Bid submission, it is mandatory for the bidders to have user ID & password. For this purpose, the bidder has to register itself with RECTPCL through Tender Wizard Website given above. Please also note that the bidder has to obtain digital signature token for applying in the tender. The vendor may obtain the same from Tender Wizard.

The steps to be followed for the registration process are given below:

1. Go to website <http://www.tenderwizard.com/REC>.
 2. Click the link „Register Me'.
 3. Enter the detail about the bidder as per format.
 4. Click 'Create Profile'.
 5. Bidder will get confirmation with Login-id and Password
- b) Steps for application for Digital Signature from Tender Wizard are given below:
 1. Download the Application Form from the website <http://www.tenderwizard.com/REC>. Follow the instructions as provided.
 2. In case of assistance please contact the person under “contact us”.
 - c) To aid bidders, the detailed bidder manual on submission of E-Bid can be downloaded from <http://www.tenderwizard.com/REC>.

NOTE: The Bidders are advised to obtain digital signature (Level 3) and register themselves at www.tenderwizard.com/RECTPCL in advance. Please note that RECTPCL in no way shall be responsible if the bidder fails to apply due to non-possession of Digital Signature & non registration.

CONTENTS

Sr. No.	Description	Page No.
1.	Instructions to Bidders	5
2.	Format for Financial Proposal	13
3.	Draft Consulting Contract	16
4.	Annexures	38

SECTION-1

INSTRUCTION TO BIDDERS

INSTRUCTIONS TO BIDDERS

FOR

Engagement of Consultant to provide Consultancy Services for selection of developer for NER System Strengthening Scheme– II

1.0 INTRODUCTION

REC Transmission Projects Company Limited (RECTPCL) has been appointed as Bid Process Coordinator (BPC) by Central Electricity Authority, Ministry of Power (MoP), Government of India for selection of developer for NER System Strengthening Scheme– II through tariff based competitive Bidding basis on tariff based competitive Bidding Guidelines of Ministry of Power, Govt. of India.

The purpose of this bidding process is to engage Consultant to provide Consultancy Services to RECTPCL for selection of developer for aforementioned Transmission System.

2.0 SCOPE OF WORK:

The Consultant to be engaged will perform all studies, analysis and prepare documents/reports necessary to achieve satisfactorily the objectives of the proposed assignments. These activities shall be carried out in due consultation with RECTPCL, which will be the nodal agency for facilitating the assignment. The Consultant should have office in National Capital Region.

In accordance with the foregoing requirements, Terms of Reference of Consultant for selection of developer for above Transmission System is enclosed as **Annexure-1**.

3.0 BID VALIDITY

The Bid Proposal shall remain valid for a period of 120 days after the last date of submission of bids. In exceptional circumstances, RECTPCL may solicit the Bidder's consent for extension of the bid validity period.

3.1 Preparation of Bid Proposals:

- The Financial Bid has to be submitted online only.
- For preparation of Bid Proposals, Bidders are expected to examine the bidding document in detail and it is the Bidder's responsibility to ensure that the information provided is adequate and clearly understood.

- If the bidder fails to submit the requisite information/clarification, if sought within prescribed time, the bid shall be treated as non-responsive bid and shall be rejected.

3.2 Submission of Bid Proposal:

- The bidders are requested to submit their competitive offer as per requirement along with all the requisite documents duly signed as a token of acceptance of the Broad Scope of Work, Terms & Conditions and E-bid process.
- Demand Draft or Banker's Cheque of Rs. 25,000/- (Rupees Twenty Five thousand only) towards EMD in favour of "REC Transmission Projects Company Limited." payable at New Delhi has to be submitted along with the bid. The DD No. will be required for applying online.
- Financial/Price Bid has to be submitted online only, as per Form attached. The financial bid/ price bid should not be submitted in physical form. Any such submission shall be liable for rejection.
- Copy of this tender document duly signed with stamped on all pages and EMD of Rs. 25,000/- (Banker's Cheque/DD only) must be submitted in sealed envelope super scribing the envelope "Support Documents for Engagement of Consultant to provide Consultancy Services for selection of developer as Transmission Service Provider for NER System Strengthening Scheme– II" and with subscribing "**DO NOT OPEN BEFORE 08.04.2015 at 1200 Hrs (IST)**" The envelope shall be addressed to;

Chief Executive Officer,
REC Transmission Projects Company limited
12-21, Upper Ground Floor,
Antriksh Bhawan, 22, K G Marg,
New Delhi - 110 001
Tel: 011-47964700, Fax: 011-47964747

- Late submission of Bid Proposals, for whatsoever reasons, after the due date and time for submission shall not be considered. Offers sent by Fax/e-mail/telegram etc. will not be considered.
- The costs on account of preparation of bids, negotiation, discussion etc. as may be incurred by the bidder(s) in the process of finalization of the contract are on account of Bidder(s) and RECTPCL shall not reimburse either in part or in full the cost so incurred.
- RECTPCL reserves the right to reject any or all of bids, wholly or partially, without assigning any reasons whatsoever.
- The bidding documents shall remain the exclusive property of RECTPCL without any right of the bidder to use them for any purpose except bidding and for use by successful bidder with reference to the work.
- Financial bid shall be opened at the scheduled time and date as mentioned in the bid document in the presence of such bidders or their authorized representative who choose

to remain present. A maximum of two representatives for any bidder shall be permitted and authorised to attend the bid opening. Bids without EMD will be out rightly rejected.

Further, if the due date of receipt of bid as aforesaid is declared holiday, bid would be received on schedule time on the next working day. Alternative Bids shall not be considered.

OPENING OF PROPOSAL: The supporting documents and financial bids will be opened at **1200Hrs (IST) on the same day** in the presence of such bidders or their authorized representative who would like to attend the Bid Opening. A maximum of two representatives per bidder shall be allowed to attend bid opening.

4.0 BASIS OF PRICE OFFER:

The Price Offer shall be for the Terms of Reference (**Annexure-1**) and shall remain **FIRM** throughout the period of contract including any extension thereof. Quoted Price will be on a lump sum basis inclusive of all travel, stay; out of pocket expenses, cost of producing documents, fee/cost of Consortium partner/sub-consultant, if applicable etc. and RECTPCL will not pay and/or reimburse anything over and above the price quoted. Office accommodation, transport and daily movement of consultants, telephone, computer and other facilities shall be arranged by the consultant at his/their own cost. The prices shall be exclusive of Service Tax which shall be paid extra as per prevailing rates. Income tax will be deducted by RECTPCL at source as per law and Tax Deduction at Source Certificate shall be issued to the Consultant by RECTPCL.

The consultant is required to quote a **lump sum amount**, as per prescribed form, for the entire assignment. This lump sum amount offered will be taken into consideration while carrying out evaluation of financial proposals.

Note: The Standard Bidding Documents and Guidelines are currently under modification to introduce e-bidding & Reverse Auction methodology for selection of bidder and realign with SBD for Case-II & CERC (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2010. An amendment to SBD and Guidelines may be issued by MoP, GoI. Any addition or deletion of any of the above mentioned activities due to change in SBD/Guidelines will be deemed included in the scope of work of the Consultant. The Consultant shall be required to perform all the activities, as may be required due to changes in SBD/Guidelines, for the successful completion of the aforementioned assignment without any additional cost to RECTPCL. For avoidance of doubt, the quoted consultancy fee shall not be changed under any circumstance due to change in SBD/Guidelines by Ministry of Power, GoI.

5.0 EARNEST MONEY DEPOSIT:

Earnest Money Deposit of INR 25,000.00 (Indian Rupees Twenty Five Thousand Only) in the form of Demand Draft or in the form of Bank Guarantee (as per Performa enclosed at

Annexure-3) in favor of REC Transmission Projects Company Limited payable at New Delhi shall accompany the signed bidding document for the Consultancy Services. Bids received without Earnest Money Deposit will be rejected outright. The Earnest Money Deposit will be refunded to the successful Bidder, after signing of the Contract and submission and acceptance of Contract Performance Guarantee. The Earnest Money Deposit of all unsuccessful Bidders shall be returned within thirty (30) days of acceptance of Contract Performance Guarantee of the successful bidder.

6.0 TIME SCHEDULE/COMPLETION PERIOD:

The estimated time period for completion of the assignment for selection of developer for aforementioned Transmission System is 145 days from the date of issue of the Letter of Award. However, this could undergo a change and completion of all activities (upto grant of Transmission License to the TSP and adoption of Tariff by Appropriate Commission) by RECTPCL will be the terminal point of the assignment being quoted by the bidder and not the time duration. In case, actual completion period is more than the above schedule, the Consultant shall perform such work without any additional cost/fees.

7.0 CONTRACT PERFORMANCE GUARANTEE

In the event of an award, the successful Bidder (Lead Consultant), within fifteen days of receipt of the Letter of Award from RECTPCL, will be required to arrange submission of the Contract Performance Guarantee in the form of a Bank Guarantee (BG) equivalent to 10% (Ten Percent) of the contract consideration. The BG shall be as per Performa enclosed as Annexure-2 and initially kept valid up to the completion of the assignment plus six months.

8.0 SIGNING OF FORMAL CONTRACT AGREEMENT:

In the event of an award, the successful Bidder shall be required to enter into a Contract Agreement with RECTPCL within 7 (Seven) days from the date of the Letter of Award (LOA) or within such extended time as may be granted by RECTPCL.

9.0 REVIEW OF REPORTS

RECTPCL will review all documentation prepared by consultant and may suggest any modifications/ changes considered necessary.

10.0 PAYMENT TERMS

The fees for the assignment for consultancy services shall be payable in installments on the achievement of milestones set out below:

S.	Milestone	Payment
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No.		
1.	After preparation and submission of project specific RfQ document and acceptance and issuance of the same by RECTPCL OR In case RFQ prepared by RECTPCL has been issued, then this payment will be released after review of RFQ document by Consultant and confirmation that the RFQ document is in conformity with SBD notified by MoP.	10% of Contract Price
2.	After evaluation of responses received against RfQ and shortlisting of qualified bidders	20% of Contract Price
3.	After preparation and submission of project specific RfP document and acceptance and issuance of the same by RECTPCL	10% of Contract Price
4.	After evaluation of the responses received against RfP	20% of Contract Price
5.	After issuance of Lol to the successful bidder	20% of Contract Price
6.	After signing of various agreements and successful completion of the assignment	10% of Contract Price
7	After grant of transmission license to the TSP and adoption of tariff by the appropriate Commission	10% of Contract Price

11.0 DELIVERABLES:

The final output that will be required from the consultant is as under:

S. No	Deliverables
A	Drafting and finalization of various documents like project specific Request for Qualification (RfQ) (as RFQ is already issued by RECTPCL, scope shall cover review of RFQ document), Request of Proposal (RfP) and Transmission Service Agreement (TSA) based on Standard Bidding Documents issued by Ministry of Power, Govt. of India along with all amendments as notified by Ministry of Power.

b.	Evaluation Report on Responses against Request for Qualification (RfQ) along with recommendation for short listing Bidders
c.	Evaluation Report on Proposals against Request for Proposal (RfP) along with recommendation for selection of developer
d.	Reporting on the issues / aspects referred along with recommendations.
e	Representing RECTPCL in CERC where RECTPCL is made Respondent / Performa Respondent relating to this transmission project for petitions filed by the selected bidder for grant of transmission license / adoption of transmission charges etc.
f.	Any other deliverables as per Terms of Reference (Annexure-1).

12.0 LIQUIDATED DAMAGES:

In case there are delays in submission of reports, drafting of documents etc. by the consultant and such delays are attributable to the Consultant and as a consequence, the overall process of selection of developer is delayed, the Consultant shall pay to REC Transmission Projects Company Ltd., the liquidated damages, and not as penalty, an amount equal to 1% (one per cent) of total contract price per week of delay or part thereof, however, the total amount of LD shall not exceed 5 % (Five Percent) of the Contract Values as awarded.

16.0 RECTPCL reserves the right, without prejudice to any other remedies, to reject the bid forthwith if the bidder has engaged in corrupt or fraudulent practices or is found to have misrepresented the facts or has provided false information/documentation.

17.0 RECTPCL reserves the right to accept/reject any or all the offers/proposals without assigning any reason thereof.

ADDRESS FOR SUBMISSION OF BIDS

REC Transmission Projects Company Limited
 #12-21, Upper Ground Floor,
 Antriksh Bhawan, 22, K G Marg,
 New Delhi - 110 001
 Phone : 011- 47964700, 47964705 Fax.: 011-47964747

SECTION-2

FORMAT FOR FINANCIAL PROPOSAL

FORM FIN-1

FINANCIAL PROPOSAL SUBMISSION FORM

[Date]

From: [Name, address and telephone nos. of the bidder]

To:

Chief Executive Officer,
12-21, Upper Ground Floor,
Antriksh Bhawan, 22, K G Marg,
New Delhi - 110 001

Sir,

Subject: **Engagement of Consultant to provide Consultancy Services for selection of developer for NER System Strengthening Scheme– II**

1. We hereby give our confirmation that the technical bid submitted by us during assignment for providing consultancy services for selection of bidder for Package-A (North – West) of Delhi state conducted by RECTPCL is valid and holds true for this assignment.
2. We hereby also confirm that the Bidding Company/ Consortium, Financial Experts & Legal Experts as proposed by us during assignment for providing consultancy services for selection of bidder for Package-A (North – West) of Delhi state will remain unchanged for this assignment.
3. We, the undersigned, offer to provide the consulting services for Selection of developer for NER System Strengthening Scheme– II in accordance with your Request for Proposal dated [*Insert Date*] and our Technical Proposal. Our Financial Proposal is for the sum of Rs.....[*Insert figures*¹], (Rupees[*insert the amount(s) in words*]. This amount is exclusive of the Service Tax i.e. @....., which if any, shall be paid extra as applicable.
4. We confirm that our Financial Proposal is consistent with all the requirements / scope of work as defined in the RfP document. We further confirm that we have quoted price for complete scope of work / Terms of Reference as mentioned in the RfP document.
5. We confirm that our proposal is valid for your acceptance upto the validity period stipulated in the Bidding Document.

6. Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, if any, up to expiration of the validity period of the Proposal.

We understand you are not bound to accept any Proposal that you receive.

We remain,

Yours sincerely,

Authorized Signature [*In full and initials*]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

SECTION-3

DRAFT CONSULTING CONTRACT

CONTRACT FOR CONSULTANTS' SERVICES

This CONTRACT (hereinafter, together with all Appendices attached hereto and forming an integral part hereof, called the "Contract") is made the _____ day of the month of _____ 2015, between, on the one hand _____ (hereinafter called the "Owner") and, on the other hand, _____ (hereinafter called the "Consultants").

WHEREAS

- (A) The Owner intends to engage Consultant to provide Consultancy Services for selection of developer for **NER System Strengthening Scheme– II** for which RECTPCL has been appointed as Bid Process Coordinator by Ministry of Power, Govt. of India.
- (B) The Owner has requested the Consultants to provide certain consultancy services required for the Project as defined hereinafter (hereinafter called the "Services").
- (C) The Consultants, having represented to the Owner that they have required professional skills, personnel and technical resources agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Owner's country, as they may be issued and in force from time to time;
- (b) "Contract" means this Contract together with all Appendices/ Attachments and including all modifications made in accordance with the provisions of Clause 2.5 hereof between the Owner and the Consultants;
- (c) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause-2.1 hereof;
- (d) "Personnel" means persons hired by the Consultants as employees and assigned to the

performance of the Services or any part thereof.

- (e) "Party" means the Owner or the Consultants, as the case may be;
- (g) "Services" means the work to be performed by the Consultants pursuant to this Contract for the purposes of the Project, as described in Appendix-A hereto.
- (h) "Starting Date" means the date referred to in Clause-2.2 hereof;
- (i) "Third Party" means any person or entity other than the Owner, the Consultants or a Consultant.

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Owner and the Consultants. The Consultants, subject to this Contract, have complete charge of personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law of India.

1.4 Language

This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this contract.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Contract.

1.6 Notices

- 1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the following address:

For the Owner:

Attention: _____

Facsimile: _____

For the Consultants:

Attention: _____

Facsimile _____

1.6.2 Notice will be deemed to be effective as follows

- (a) In the case of personal delivery or registered mail, on delivery;
- (b) In case of telegrams, ninety six (96) hours following confirmed transmission; and
- (c) In the case of facsimiles, seventy two (72) hours following confirmed transmission.

1.6.3 A Party may change its address for notice hereunder by giving the other Party notice of such change pursuant to this Clause.

1.7 Location

The Services shall be performed at Delhi or at such location required / approved by Owner.

1.8 Authority of Consultants

The Consultants hereby authorize _____ to act on their behalf in exercising the entire Consultants' rights and obligations towards the Owner under this Contract, including without limitation the receiving of instructions and payments from the Owner.

1.9 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract, may be taken or executed:

- (a) on behalf of the Owner by _____ or his designated representative;
- (b) On behalf of the Consultants by _____ or his designated representative.

1.10 Taxes and Duties

The consultants and the personnel shall pay the taxes including duties, fees, levies and other impositions levied under the existing, amended or enacted laws during life of this contract (excluding Service tax) and the Owner shall perform such duties in regard to the deduction of such tax as may be lawfully imposed.

2.0 COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

This Agreement will become effective upon signing by both the parties.

2.2 Commencement of Services

The Consultants shall begin carrying out the Services immediately viz. from the date of issue of Letter of Award (the “Starting Date”), or on such date as the Parties may agree in writing.

2.3 Expiration of Contract

Unless terminated earlier pursuant to Clause-2.8 hereof, this Contract shall terminate when, pursuant to the provisions hereof, the Services have been completed and the payments of remuneration and reimbursable expenditures have been made.

2.4 Entire Agreement.

This Contract contains all covenants, stipulations and provisions agreed by the parties. No agent or representative of either Party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

2.5 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, may only be made by written agreement between the parties and shall not be effective until the consent of the parties has been obtained. Pursuant to Clause-7.2 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.6 Force Majeure

2.6.1 Definition

In the event of either party being rendered unable by Force Majeure to perform any obligation required to be performed by them under the CONTRACT, the relative obligation of the party affected by such Force Majeure shall be suspended for the period during which such cause lasts.

The term "Force Majeure" as employed herein shall mean acts of God, War, Civil Riots, Fire directly affecting the performance of the CONTRAT, Flood and Acts and Regulations of respective government of the two parties, namely RECTPCL and the Consultant.

Upon the occurrence of such cause and upon its termination, the party alleging that it has been rendered unable as aforesaid thereby, shall notify the other party in writing, the beginning of the cause amounting to Force Majeure as also the ending of the said clause by giving notice to the other party within 72 hours of the ending of the cause respectively. If the deliveries are suspended by Force Majeure conditions lasting for more than 2 (two) months, RECTPCL shall have the option of canceling this CONTRACT in whole or part at his discretion without any liability at his part.

Time for performance of the relative obligation suspended by Force Majeure shall then stand extended by the period for which such cause lasts.

2.6.2 No Breach of Contract

The failure of a party to fulfill any of its obligations hereunder shall not be considered to be a breach of or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.6.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.6.4 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.6.5 Consultation

Not later than thirty (30) days after the Consultants, as the result of an event of Force Majeure, have become unable to perform a material portion of the Services, the parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.7 Suspension

The Owner may, by written notice of suspension to the Consultants, suspend all payments to the Consultants hereunder if the Consultants fail to perform any of their obligations under this contract, including the carrying out of services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultants to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultants of such notice of suspension and if such failure is not rectified within the period, then shall invoke contract performance guarantee.

2.8 Termination

2.8.1 By the Owner

The Owner may by not less than thirty (30) days' written notice of termination to the Consultants (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty (60) days) such notice to be given after the occurrence of any of the events specified in paragraphs (a) to (f) of this Clause-2.8.1, terminate this Contract:

- (a) If the Consultants fail to remedy a failure in the performance of their obligations hereunder, as specified in a notice of suspension pursuant to Clause-2.7 here-in-above, within thirty (30) days of receipt of such notice of suspension or within such further period as the Owner may have subsequently approved in writing;
- (b) If the Consultants become insolvent or bankrupt or enter into an agreements with their creditors for relief of debt or take advance of any law for the benefit or debtors or go into liquidation receivership whether compulsory or voluntary;
- (c) If the Consultants fail to comply with any final decision reached as a result of

arbitration proceedings pursuant to Clause-8 hereof;

- (d) If the Consultants submit to the Owner a statement which has a material effect on the rights, obligations or interests of the Owner and which the Consultants know to be false;
- (e) If, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (g) If the Consultant and/or Consortium Partner/sub-consultant (if applicable) has engaged in corrupt or fraudulent practices or is found to have misrepresented the facts or has provided false information/documentation.
- (f) If the Owner, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.8.2 Cessation of Rights and Obligations

Upon termination of this Contract pursuant to Clauses- 2.8.1 hereof or upon expiration of this Contract pursuant to Clause-2.3 hereof or termination of Contract by owner for any other reason whatsoever, all rights and obligations of the parties hereunder shall cease, except:

- (a) Such rights and obligations as may have accrued on the date of termination or expiration,
- (b) The obligation of confidentiality set forth in Clause-3.2.4 hereof,
- (c) Any right which a Party may have under the Applicable Law.

2.8.3 Cessation of Services

Upon termination of this Contract by notice to pursuant to clauses-2.8.1 hereof, the Consultants shall, immediately upon dispatch or receipt of such notice, take all- necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum.

2.8.4 Payment upon Termination

Upon termination of this Contract pursuant to Clause-2.8.1 hereof the Owner shall make the following payments to the Consultants:

- (a) Remuneration pursuant to Clause-6 hereof for Services satisfactorily performed prior to the effective date of termination;

- (b) Reimbursable expenditures pursuant to Clause-6 hereof for expenditures actually incurred prior to the effective date of termination; and
- (c) Except in the case of termination pursuant to paragraphs (a) to (d) of Clause-2.8.1 hereof reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract including the cost of the return travel of the Consultants' personnel and their eligible dependents.

3.0 OBLIGATIONS OF THE CONSULTANTS

3.1 General

3.1.1 Standard of Performance

The Consultants shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used with professional engineering and consulting standards recognized by professional bodies, and shall observe sound management, and technical and engineering practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Owner, and shall at all times support and safeguard the Owner's legitimate interests in any dealings with Third parties.

3.1.2 Law Governing Services

The Consultants shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that the Personnel and agents of the Consultants, comply with the Applicable Law.

3.1.3 Conflict of Interest

The consultant shall hold the Owner's interest paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their corporate interests. - -

3.2.1 Consultants Not to Benefit from Commissions, Discounts etc.

The payment of the Consultant shall constitute the Consultant's only payment in connection with this Contract or the Services, and the Consultant shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultant shall use their best efforts to ensure that the Personnel , and agents of either of them similarly shall not receive any such additional payment.

3.2.2 Consultants and Affiliates not to be otherwise interested in Project

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and their affiliates shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

3.2.3 Prohibition of Conflicting Activities

The consultant and their affiliates shall not engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Contract.

The consultant and their affiliates hired to provide services for the proposed assignment will be disqualified from services related to the initial assignment for the same project subsequently.

In case of rating of the proposed project, for which this consultancy services are being provided, then the Consultant and their affiliates will not rate this project nor in any way be associated in rating of this project.

3.2.4 Confidentiality

The Consultants and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Owner's business or operations without the prior written consent of the Owner.

3.3 Insurance to be taken out by the Consultant

The Consultant shall take out and maintain at their own cost, appropriate insurance against all the risks, and for all the coverage, like workers compensation, employment liability insurance for all the staff on the assignment comprehensive general liability insurance, including contractual liability coverage adequate to cover the indemnity of obligation against all damages, costs, and charges and expenses for injury to any person or damage to any property arising out of, or in connection with, the services which result from the fault of the Consultant or their staff on the assignment

3.4 Liability of the Consultants

The Consultants shall be liable to the Owner for the performance of the Services in accordance with the provisions of this Contract [Note: If the Consultants consist of more than one entity, this should be changed to read -“The Consultants and each of their Members shall be jointly and severally liable to the Owner-for the performance of the Services] and for any loss suffered by the Owner as a result of a default of the Consultants in such performance, subject to the following limitations:

- (a) The Consultants shall not be liable for any damage or injury caused by or arising out of the act, neglect, default or omission of any persons other than the Consultants or the Personnel of either of them; and
- (b) The Consultants shall not be liable for any loss or damage caused by or arising out of circumstances over which the Consultants had no control, provided that there is no negligence or wrongful actions.

3.5 Indemnification of the Owner by the Consultants -

The Consultants shall keep the Owner, both during and after the term of this Contract, fully and effectively indemnified against all losses, damage, injuries, deaths, expenses, actions, proceedings, demands, costs and claims, including, but not limited to, legal fees and expenses, suffered by the Owner or any Third Party, where such loss, damage, injury or death is the result of a wrongful action, negligence or breach of Contract of the Consultants, or the Personnel or agents of either of them including the use or violation of any copyright work or literary property or patented invention, article or appliance.

3.6 Consultants’ Actions Requiring Owner’s Prior Approval

The consultant shall not enter into a sub contract for the performance of any part of the Services. However, the consultant can hire the services of Personnel to carry out any part of the services, for which, Consultants shall obtain the Owner’s prior approval in writing before appointing Personnel to carry out any part of the Services, including the terms and conditions of such appointment. The Consultants shall remain fully liable for the performance of the services by its personnel pursuant to this contract.

3.7 Reporting Obligations

The Consultants shall submit to the Owner the reports and documents specified in **Appendix-B** hereto, in the form, in the numbers and within the time periods set forth in the said Appendix, including any supporting data required by the Owner.

3.8 Documents prepared by the Consultants to be the Property of the Owner:

All plans, drawings, specifications, designs, reports and other documents prepared by the Consultants in performing the Services shall become and remain the property of the Owner, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Owner, together with a detailed inventory thereof. The Consultants may retain a copy of such documents shall not use them for purposes unrelated to this Contract without the prior written approval of the Owner.

4.0 CONSULTANTS' PERSONNEL

4.1 General

The Consultants shall employ and provide such qualified and experienced Personnel as are required to carry out the Services.

4.2 Description of Personnel

- (a) The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in carrying out of the Services of each of the Consultants' Personnel are described in **Appendix-C**.
- (b) If required to comply with the provisions of Clause-3.1.1 of this Contract, adjustments with respect to the estimated periods of engagement of Personnel set forth in **Appendix-C** may be made by the Consultants by written notice to the Owner, provided:
 - (1) That such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and
 - (2) That the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause-6.2 of this Contract. Any other such adjustments shall only be made with the Owner's written approval.
- (c) If additional work is required beyond the scope of the Services specified in **Appendix-A**, the estimated periods of engagement of Personnel set forth in **Appendix-C** may be increased by agreement in writing between the Owner and the Consultants provided that any such increase shall not, except as otherwise agreed, cause payments under this Contract to exceed the ceilings set forth in Clause-6 of this Contract.

4.3 Agreed Personnel

The Consultant hereby agrees to engage the personnel listed by title as well as by name in **Appendix-C** in order to fulfill his contractual obligations under this contract.

4.4 Removal and/or Replacement of Personnel

- (a) Except as the Owner may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Personnel, the Consultants shall forthwith provide as a replacement a person of equivalent or better qualifications, which shall be approved by the Owner.
- (b) If the Owner:
 - (1) Finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or
 - (2) Has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall at the Owner's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the Owner.
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, the rate of remuneration applicable to such person as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Consultants may wish to claim as a result of such replacement, shall be subject to the prior written approval by the Owner. Except as the Owner may otherwise agree,
 - (1) The Consultants shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and

5.0 OBLIGATIONS OF THE OWNER

5.1 Payment

In consideration of the Services performed by the Consultants under this Contract the owner shall make to the Consultants such payments and in such manner as is provided by Clause-6 of this Contract.

5.2 Services and Facilities

The Owner shall make available free of charge to the Consultant the Services and Facilities listed under **Appendix-D**.

6.0 PAYMENTS TO THE CONSULTANTS

6.1 An all inclusive cost of services and ceiling contract value payable in Indian Rupees is set forth in **Appendix-E**.

6.2 Terms of Payment: Payment will be made by the owner to the Consultant as follows:

S. No.	Milestone	Payment
1.	After preparation and submission of project specific RfQ document and acceptance and issuance of the same by RECTPCL OR In case RFQ prepared by RECTPCL has been issued, then this payment will be released after review of RFQ document by Consultant and confirmation that the RFQ document is in conformity with SBD notified by MoP.	10% of Contract Price
2.	After evaluation of responses received against RfQ and shortlisting of qualified bidders	20% of Contract Price
3.	After preparation and submission of project specific RfP document and acceptance and issuance of the same by RECTPCL	10% of Contract Price
4.	After evaluation of the responses received against RfP	20% of Contract Price
5.	After issuance of Lol to the successful bidder	20% of Contract Price
6.	After signing of various agreements and successful completion of the assignment	10% of Contract Price
7	After grant of transmission license to the TSP and adoption of tariff by the appropriate Commission	10% of Contract Price

6.3 The Consultant shall submit the bills to the Owner of firm's printed bill forms indicating the work done by him during the period for which payment is sought.

6.4. The Owner shall cause the payment of the Consultants as per above given in schedule of payment above within thirty (30) days after the receipt by the Owner of bills with supporting documents. But if the progress is not satisfactory and according to agreed work

program/schedule the payment may be withheld.

- 6.5 The final payment under this Clause shall be made only after satisfactory completion of the activities mentioned in the ToR are completed.

7.0 LIQUIDATED DAMAGES:

In case there are delays in submission of reports, drafting of documents etc. by the consultant and such delays are attributable to the Consultant and as a consequence, the overall process of selection of developer is delayed, the Consultant shall pay to REC Transmission Projects Company Ltd., the liquidated damages, and not as penalty, an amount equal to 1% (one per cent) of total contract price per week of delay or part thereof, however, the total amount of LD shall not exceed 5 % (Five Percent) of the Contract Values as awarded.

8.0 FAIRNESS AND GOOD FAITH

8.1 Good Faith:

The parties undertake to act in good faith respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract

8.2 Operation of the contract:

The parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of this contract, and the parties hereby agree that it is their intention that this Contract shall operate fairly as between them and without detriment to the interest of either of them and that, if during the tenure of this Contract either Party believes that this Contract is operating unfairly, the parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no-failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause-9 hereof.

9.0 JURISDICTION AND APPLICABLE LAW:

This agreement including all matter connected with this Agreement, shall be governed by the laws of India (both substantive and procedural) for the time being in force and shall be subject to exclusive jurisdiction of the Indian Courts at Delhi.

10.0 SETTLEMENT OF DISPUTES:

10.1 Amicable Settlement

Except as otherwise provided elsewhere in the contract, if any dispute, difference, question or disagreement arises between the parties hereto or their respective representatives or assignees, in connection with construction, meaning, operation, effect, interpretation of the contract or breach thereof which parties are unable to settle mutually, the same shall be referred to Arbitration as provided hereunder:

1. A party wishing to commence arbitration proceeding shall invoke Arbitration Clause by giving 60 days notice to the other party.
2. The party invoking arbitration shall specify all the points of disputes with details of the amount claimed to be referred to arbitration at the time of invocation of arbitration and not thereafter.
3. RECTPCL shall appoint a Sole Arbitrator with the approval of Chairman & Managing Director.
4. It is agreed that there will be no objection that the Arbitrator appointed holds equity shares of RECTPCL or is a retired employee of RECTPCL.
5. If any of the Arbitrators so appointed dies, resigns, becomes incapacitated or withdraws for any reason from the proceedings, it shall be lawful for the concerned party to appoint another person in his place in the same manner as aforesaid. Such person shall proceed with the reference from the stage where his predecessor has left if both parties consent for the same; otherwise, he shall proceed de novo.
6. It is a term of the Contract that neither party shall be entitled for any pre-reference or pendent-lite interest on its claims. Parties agree that any claim for such interest made by ay party shall be void.
7. The arbitrator(s) shall give reasoned and speaking award and it shall be final and binding on the parties.
8. The parties to the arbitration will bear the fees and expenses in equal proportion to be determined by the arbitrators.
9. The venue of arbitration will be New Delhi.
10. Subject to aforesaid, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof shall apply to the arbitration proceeding under this clause.

- 10.2 The courts of New Delhi alone shall have exclusive jurisdiction on any dispute arising out of this contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

FOR AND ON BEHALF OF [OWNER]

By _____

Authorized Representative

FOR AND ON BEHALF OF [CONSULTANTS]

By _____

Authorized Representative

Place;

Date:

Encl: Letter of Award

DESCRIPTION OF THE SERVICES/TERMS OF REFERENCE(ToR)

[Give detailed descriptions of the Services to be provided; dates for completion of various tasks, place of performance for different tasks; specific tasks to be approved by Owner etc.]

REPORTING REQUIREMENTS

CONSULTANTS' AND THEIR KEY PERSONNEL

[Give titles (and names, if already available), detailed job descriptions and minimum qualifications of key Personnel to be assigned to work]

DUTIES OF THE OWNER

The Owner shall make available proper space/ Conference Rooms with appropriate equipments etc. for consultants to enable evaluation and presentation of Bids.

Except for the above, the Consultants shall have to make their own arrangements for completing the assignments and Owner shall have no duty/responsibility in this regard.

Owner shall make payments as per terms of payment.

(COST OF SERVICES)

SECTION-4

ANNEXURES

TERMS OF REFERENCE FOR ENGAGEMENT OF CONSULTANT

TO

**PROVIDE CONSULTANCY SERVICES FOR SELECTION OF DEVELOPER FOR
NER System Strengthening Scheme– II**

1. Terms of Reference/Scope of work:

- i) Drafting of project specific documents like Request for Qualification (RfQ) Request of Proposal (RfP), Transmission Service Agreement (TSA) based on Standard Bidding Documents issued by Ministry of Power and in accordance with the guidelines issued by Ministry of Power and to assist in issuance of RfP/RfQ documents; (If RFQ document has already been issued by RECTPCL, then Consultant's scope shall not include drafting of RFQ document. However, in such case, Consultant shall review the RFQ document and suggest if any change/amendment/ errata is required so that project specific RFQ is strictly in conformity with the SBD and all relevant details have been provided),
- ii) Participation, as required, in all meetings, pre-bid conferences, interactions at different stages e.g. RfQ, RfP, Lols, Agreement signing, transfer of shell company to successful bidder etc;
- iii) Assisting in preparing of replies/clarifications to bidder's queries on the RfQ / RfP/TSA documents or any other query during the entire bidding process;
- iv) Assisting in pre-signing of Transmission Service Agreement by the beneficiaries, if required
- v) Evaluation of the responses to the RfQ/RfP against the criteria as also the detailed scrutiny of the financial, commercial and legal aspects of the Responses and the Bids submitted by prospective developers/Bidders to ascertain the acceptability of the Bid/ Bidder;
- vi) Presenting the evaluation of Responses/Bids before the Bid Evaluation Committees/ MOP/Empowered Committee/person(s) appointed by RECTPCL for the purpose;
- vii) Drafting, assisting and advising in filing of documents, various applications/ petitions to Appropriate Regulatory Commission or any other relevant authority, if required;

- viii) Interaction/discussions with the Empowered Committee on Transmission, officials in Ministry of Power, Central Electricity Authority, Appropriate Commission/any other agency including making/attending presentations to the Committees or any other agency as intimated by RECTPCL;
- ix) Advising on any other legal matters as required by RECTPCL for the successful completion of the assignment;
- x) Any other assistance required till issuance of LOI and transfer of Shell Company to the selected developer and signing of various agreements as may be required.
- xi) Representing RECTPCL in CERC where RECTPCL is made Respondent / Performa Respondent relating to this transmission project for petitions filed by the selected bidder for grant of transmission license / adoption of transmission charges etc.

Any other services/activity not specifically included above but is necessary for successful completion of the selection process/assignment shall be deemed included without any additional cost to RECTPCL.

Note: The Standard Bidding Documents and Guidelines are currently under modification to introduce e-bidding & Reverse Auction methodology for selection of bidder and realign with SBD for Case-II & CERC (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2010. An amendment to SBD and Guidelines may be issued by MoP, GoI. Any addition or deletion of any of the above mentioned activities due to change in SBD/Guidelines will be deemed included in the scope of work of the Consultant. The Consultant shall be required to perform all the activities, as may be required due to changes in SBD/Guidelines, for the successful completion of the aforementioned assignment without any additional cost to RECTPCL. For avoidance of doubt, the quoted consultancy fee shall not be changed under any circumstance due to change in SBD/Guidelines by Ministry of Power, GoI.

Form of Contract Performance Guarantee

Performa of Contract Performance Guarantee

(With due stamp duty if applicable)

Ref. No. _____

Dated: _____

Bank Guarantee No. _____

To,

REC Transmission Projects Company Limited,
Core-4, Scope Complex,
7 Lodhi Road,
New Delhi – 110 003

In consideration of REC Transmission Projects Company Limited, having its office at Core-4, SCOPE Complex, 7, Lodhi Road, New Delhi – 110 003 (hereinafter referred to as "RECTPCL" which expression shall unless repugnant to the content or meaning thereof include all its successors, administrators and executors) and having entered into an agreement dated _____/issued Purchase Order No. _____ dated _____ with/on M/s _____ (hereinafter referred to as "The Supplier" which expression unless repugnant to the content or meaning thereof, shall include all the successors, administrators, and executors).

WHEREAS the Supplier having unequivocally accepted to supply the materials as per terms and conditions given in the Agreement dated _____ Purchase Order No. _____ dated _____ and REC having agreed that the Supplier shall furnish to RECTPCL a Performance Guarantee for the faithful performance of the entire contract, to the extent of 10% (ten percent) (or the percentage as per the individual case) of the value of the Purchase Order i.e. for .

We, ("The Bank") which shall include OUR successors, administrators and executors herewith establish an irrevocable Letter of Guarantee No. _____ in your favor for account of (The Supplier) in cover of performance guarantee in accordance with the terms and conditions of the Agreement/Purchase Order.

Hereby, we undertake to pay upto but not exceeding (say only) upon receipt by us of your first written demand accompanied by your declaration stating that the amount claimed is

due by reason of the Supplier having failed to perform the Agreement and despite any contestation on the part of above named supplier.

This Letter of Guarantee will expire on _____ including 30 days of claim period and any claims made hereunder must be received by us on or before expiry date after which date this Letter of Guarantee will become of no effect whatsoever whether returned to us or not.

Authorized Signature
Chief Manager / Manager
Seal of Bank

**PROFORMA OF BANK GUARANTEE
FOR BID GUARANTEE**

(To be stamped in accordance with Stamp Act)

The non-judicial stamp paper should be in the name of issuing Bank

Ref. Bank Guarantee No.

This deed of Guarantee made this _____ day of _____ 200_____ by _____(Name of the bank) having one of its branch at _____ acting through its Manager (hereinafter called the "Bank") which expression shall wherever the context so requires includes its successors and permitted assigns in favour of REC Transmission Projects Company Limited registered under the Companies Act,1956, having its Regd. office at Core-4, Scope Complex, 7 Lodhi Road, New Delhi-110003 (hereinafter called "RECTPCL") which expression shall include its successors and assigns.

WHEREAS RECTPCL has invited tender vide their Tender Notice No. _____ Dated _____ to be opened on _____ AND WHEREAS M/s _____(Name of Tenderer) having its office at _____ (hereinafter called the "Tenderer"), has /have in response to aforesaid tender notice offered to (hereinafter called the "Tenderer") has/have in response to aforesaid tender notice offered to supply/ do the job _____ as contained in the tender.

AND WHEREAS the Tenderer is required to furnish to RECTPCL a Bank Guarantee for a sum of Rs. _____ (Rupees _____ only) as Earnest Money for participation in the Tender aforesaid.

AND WHEREAS, we _____ (Name of the Bank) have at the request of the tenderer agree to give REC TPCL this as hereinafter contained.

NOW, THEREFORE, in consideration of the promises we, the undersigned, hereby covenants that, the aforesaid Tender shall remain open for acceptance by RECTPCL during the period of validity as mentioned in the Tender or any extension thereof as RECTPCL and Tenderer may subsequently agree and if the Tenderer for any reason back out, whether expressly or impliedly, from his said Tender during the period of its validity or any extension thereof as aforesaid or fail to furnish Bank Guarantee for performance as per terms of the aforesaid Tender, we hereby undertake to pay RECTPCL, New Delhi on demand without demur to the extent of Rs. _____ (Rupees _____ only)

We further agree as follows:

- 01 That RECTPCL may without affecting this guarantee extend the period of validity of the said Tender or grant other indulgence to or negotiate further with the Tenderer in regard to the conditions contained in the said tender or thereby modify these conditions or add thereto any further conditions as may be mutually agreed to in between RECTPCL and the Tenderer AND the said Bank shall not be released from its liability under these present by an exercise by RECTPCL of its liberty with reference to the matters aforesaid or by reason of time being given to the Tenderer or any other forbearance, act or omission on the part of the RECTPCL or any indulgence by RECTPCL to the said Tenderer or any other matter or thing whatsoever.
- 02 The Bank hereby waive all rights at any time in consistent with the terms of this Guarantee and the obligations of the Bank in terms thereof shall not be otherwise affected or suspended by reason of any dispute or dispute having been raised by the Tenderer (whether or not pending before any arbitrator, tribunal or court) or any denial of liability by the Tenderer stopping of prevent any payment by the Bank to RECTPCL in terms thereof.
- 03 We the said Bank, lastly undertake not to revoke this Guarantee during its currently except with the previous consent of RECTPCL in writing and agree that any change in the constitution, winding up, dissolution or insolvency of the Tenderer, the said Bank shall not be discharged from their liability.

NOTWITHSTANDING anything contained above, the liability of the Bank in respect of this Guarantee is restricted to the said sum of Rs. _____
 (Rupees _____ only) and this Guarantee shall remain in force till _____ @unless a claim under this guarantee if filed with the bank within 30 (thirty) days from this date or the extended date, as the case may be i.e. upto _____ all rights under this Guarantee shall lapse and the Bank be discharged from all liabilities hereunder.

In witness whereof, the Bank through its authorized officer has set its hand and stamp on this _____ day of _____ 20 at _____

WITNESS

..... (Signature) (Signature)
..... (Name) (Name)
..... (Official Address) (Designation with Bank Stamp)

Attorney as per
Power of Attorney No.
Dated.....

@ This date shall be thirty (30) days after the last date for which the bid is valid.