

SJVN ARUN-3 POWER DEVELOPMENT COMPANY Pvt. Ltd.
(A Subsidiary of SJVN Ltd. Registered in Nepal)



ARUN-3 HYDRO ELECTRIC PROJECT, NEPAL
TENDER DOCUMENT

TENDER No.: PCD-197/2021

TENDER DOCUMENT FOR HIRING OF SERVICES FROM FIRMS FOR ARRANGING PPA & CONNECTIVITY UNDER LONG TERM ACCESS (LTA)/LONG TERM OPEN ACCESS (LTOA) FOR AT LEAST 15 (FIFTEEN) YEARS FOR 694.47 MW OF POWER GENERATED FROM ARUN-3 HEP IN NEPAL.

Place: Nepal

October, 2021

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NOTICE INVITING TENDER

Ref.No.: SAPDC/P&C/Arun-3HEP/PCD/197/2021-806

Dated: 22.10.2021

1.1. SJVN Arun-3 Power Development Company (P) Ltd. (**SAPDC**), Tumlingtar, Nepal (A Subsidiary of SJVN, a joint venture of Gol & Govt. of H.P.) having Registered office at Kathmandu, Nepal invites sealed bids in single stage two envelope bid system from the eligible Bidders from Nepal/India/Bangladesh for “**Hiring of Services from Firms for arranging PPA & Connectivity under Long Term Access (LTA)/Long Term Open Access (LTOA) for at least 15 (Fifteen) years for 694.47 MW of power generated from Arun-3 HEP in Nepal.**”

1.2. Minimum Qualifying Requirements (MQR)

Minimum Eligibility Criteria

The bidder (as an Individual Entity or JV) should meet the Eligibility Criteria stipulated as under during last seven (7) years prior to the last date of submission of bid:

A. Technical Eligibility Criteria:

a)

The bidder should provide evidence of successfully arranging PPA/undertaking for availability of secured PPA for at least 15 years for minimum of cumulative **10 MW** capacity

AND

b) Bidder should have completed:

- i. One similar contract not less than amount equal to INR 56 Cr or equivalent.
OR
- ii. Two similar contracts not less than amount equal to INR 35 Cr. or equivalent.
OR
- iii. Three similar contracts not less than amount equal to INR 28 Cr. or equivalent.

Similar contract means “Arranging/Providing PPA with potential consumers and its approvals thereof”.

Notes:

1. Plants(s)/Project(s)/works referred at Para A above must be executed in Nepal/India/Bangladesh.
2. The bidder as Joint Venture can meet above mentioned Technical Eligibility Criteria. In such case, the Lead Partner as an individual entity shall meet at least any one Technical Eligibility Criteria mentioned at Clause A (a) to (b) above. However, both JV Partners as an individual or jointly must meet the Technical Eligibility Criteria mentioned at Clause -A above.

3. Maximum number of partners in JV shall be two only. All partners of JV should have active participation during the contract implementation. The partners of Joint Venture (JV) shall be jointly and severally liable for the execution of the contract. The Joint Venture (JV) Agreement proforma is also enclosed at Format-3 of bid document and is required to be submitted along with application duly notarized.

The applicant shall furnish documentary evidence by way of copies of Contract / Purchase Order or any other equivalent document which can substantiate their claim towards meeting technical criteria at clause A above.

B. Financial Eligibility Criteria

- a. Minimum Average Annual Turnover (MAAT) of the bidder, should not be less than **Rs. 21 Crore** during the preceding three (3) completed financial years as on the last date of submission.

In case of JV, lead partner should have minimum 50% of MAAT and the other partner should have minimum 25% of MAAT. However, sum of the MAAT of both the partner jointly should not be less than values as indicated above.

- b. Net Worth of the bidder (both partners in case of JV) as on the last day of the preceding financial year should be positive for at least during two preceding years out of last three years. The Net-Worth shall be calculated as per clause no 2(57) of Companies Act of respective countries and amendment if any in this regard.

Notes:

- (1) For proof of Annual Turnover & Net worth the following documents must be submitted along with the bid: -

- (a) A certificate issued by a practicing Chartered Accountant (with Membership Number, Firm Registration Number and UDIN), certifying the MAAT & Net worth.
(b) Audited Balance Sheet along with Profit & Loss Accounts.

- (2) In case where audited results for the last financial year as on date of submission of bids are not available, the financial results certified by a practicing Chartered Accountant shall be considered acceptable. Further, a certificate would be required from the CEO/CFO/MD/Director (Finance) as per the format enclosed in bid document stating that the financial results of the company are under audit as on last date of submission of bids.

- (3) In case bidder is a holding company, MAAT & net worth referred to in clause B above shall be of that holding company only (i.e., excluding its subsidiary/ group companies). In case applicant is a subsidiary of the holding company, MAAT & net worth referred to in clause B above shall be of that subsidiary company only (i.e., excluding its holding company).

- C. In case the bidder is a Start-up firm/MSME, clause (B) shall not be applicable. However, to meet the Technical Eligibility Criteria laid under Clause A (a & b)

above, the firm/bidder has to only submit the contract agreement /award letter/ LOI or equivalent document for arranging PPAs.

However, firm shall submit start-up registration certificate issued by Central Govt./ any State Govt./ any statutory body in support of 'Start-up' registered firm. Non-submission of the said documentary evidence may lead to denial of exemption in MQR.

1.3. Brief Detail & Time Schedule

Sl. No.	Description	
1.	NIT No.	SAPDC/P&C/Arun-3HEP/PCD-197/2021-806
2.	NIT Date	22.10.2021
3.	Scope of Work	As per Section-IV of Tender Document.
4.	Cost of Tender Document	<p>NPR 10,000/- (For Nepalese bidders) & INR 7,000 equivalent to NPR 11,200/- (For Indian bidders) in the form of Manager's cheque (issued by a "A" Class Nepalese Bank shall only be acceptable) payable at Khandbari, Nepal in favour of SJVN Arun-3 Power Development Company Pvt. Ltd.</p> <p>Alternatively, payment against Cost of Tender Document may be made directly in the bank account of SAPDC as mentioned below:</p> <p>NPR Account Details: Everest Bank Limited Name: SJVN Arun-3 Power Development Company Pvt. Ltd. Acc. No. 00800105200477 Swift Code: EVBLNPKA</p> <p>However, if Bidder/Firm opt for submission of Tender document cost directly in the bank account of SAPDC, then the documentary evidence/ proof of same (swift statement/ transfer statement/ account statement) has to be submitted along with technical bid in Part-I.</p>
5.	Pre-Bid Meeting	Shall be intimated later, if required
6.	Earnest Money Deposited (EMD)	Declaration submitted as per Attachment

Sl. No.	Description	
7.	Last Date and Time for submission of Bids	12.11.2021 upto 15:00 Hrs
8.	Date & Time of Opening of Techno-Commercial Bids.	15.11.2021 at 16:30 Hrs.
9.	Place for submission of Bids	<p>O/o Company Secretary, SAPDC, Arun-3 HEP, House No. 3, Swagat Marg, Ward No. 1, Lokanthali, Madhyapur (Thimi) Municipality, Kathmandu. Ph.: +977-1-6632030</p> <p style="text-align: center;">OR</p> <p>O/o Chief Engineer (P&C), SAPDC, Arun-3 HEP, Satluj Bhawan, Arun Sadan, Tumlingtar, Distt. Sankhuwasabha, Nepal Ph. +977-29-575154, Mob.: 9852058517, E-mail Address: pnc.sapdc@gmail.com</p>
10.	Place for Opening of Bids	O/o Chief Engineer (P&C) SAPDC, Satluj Bhawan, Arun Sadan, Tumlingtar, Distt. Sankhuwasabha, Nepal Ph. +977-29-575154, +977-9852058517
11.	Date and Time for Opening of Price Bid (s)	Shall be intimated later.
12.	Period of Bid Validity	180 days
13.	Currency of Bids	Indian Rupees (INR)/Nepalese Rupee (NPR)

** Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or registered with Central Purchase Organization or the concerned ministry or department are exempted from furnishing the cost of tender document and EMD/bid security declaration. They should furnish scanned copy (by authorized representative) of the valid registration MSME Certificate to avail the benefits. No other Bidder is exempted from furnishing cost of tender document and EMD/bid security declaration as mentioned above.*

1.4. Tender Document Availability

1.4.1. The detailed Tender/Bid Document shall be available on websites www.sapdc.com.np, www.sjvn.nic.in and www.eprocure.gov.in

1.4.2 The Notice Inviting Tender (NIT) shall also be available on www.sapdc.com.np, www.sjvn.nic.in and www.eprocure.gov.in. In case of any amendment/addendum/corrigendum (s) to this Tender document, the same shall be issued on www.sapdc.com.np, www.sjvn.nic.in and www.eprocure.gov.in. No

press note will be released in this regard.

1.5. Pre-Bid Clarifications

Bidders may submit their clarifications regarding the tender document, if any, in writing either by email or post and it must be received to Tender Inviting Authority one (01) day prior to the date of the Pre-Bid Meeting.

1.6. No Deviation Bid

Bidder may note that Bid shall be submitted on the basis of “NO DEVIATION” and shall be in full compliance to the requirements of Tender Document. The bids with deviations shall be considered as nonresponsive and may be liable for rejection.

1.7. Bid Submission:

The bids are to be submitted in offline mode. Any other mode of submission of bids shall not be accepted.

1.8 SAPDC reserves the right to reject any or all bids or cancel/withdraw the NIT without assigning any reason whatsoever and in such case no bidder/indenting bidder shall have any claim arising out of such action.

1.9 For any enquiry/ clarification regarding detailed Tender for this assignment, the bidder may contact at the following address for communication:

**Chief Engineer (Procurement and Contracts)
SJVN Arun-3 Power Development Company,
Satluj Bhawan, Arun Sadan, Tumlingtar
District-Sankhuwasabha, Nepal
Contact No. +977-29-575154/+977-9852058517**

Sd/-

**Chief Engineer (P&C)
SAPDC, Tumlingtar, Nepal
Contact No. +977-29-575154/+977-9852058517**



SECTION –II
INSTRUCTIONS TO BIDDERS (ITB)

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SECTION-II: INSTRUCTIONS TO BIDDERS (ITB)

2.0 Profile of SAPDC:

SJVN Arun-3 Power Development Company Pvt. Ltd. (SAPDC) was incorporated & registered on 25.04.13 as a single shareholder Pvt. Ltd. Company under the Nepalese Companies Act 2063 with SJVN Ltd. is its sole shareholder.

The principal objective of SAPDC is to Plan, Promote, Organize and Execute 900 MW Arun-3 Hydro-electric Project. The Project Development Agreement (PDA) was signed on 25.11.14 between Investment Board of Nepal (IBN), GoN and SAPDC.

The project will provide 21.9 % free power to GoN and help in development of the region by generating employment opportunities for the locals, boosting local industries, and fostering entrepreneurship. SAPDC is also constructing Transmission line for rural electrification in Project area.

Project will help in development of infrastructure such as construction of roads, bridges and provide financial support for healthcare facilities and community centers etc. which will provide a robust community infrastructure. Further, skills training and other programs will provide great financial support to the affected communities. Total lifetime financial benefits of GoN shall be of the order of NPR 33,866 Cr.

However, the salient features of Arun-3 HEP (900MW) are available at SAPDC's website www.sapdc.com.np

2.1 Integrity Pact

2.1.1 To improve transparency and fairness in the tendering process, SAPDC is implementing Integrity Pact To improve transparency and fairness in the tendering process the Employer is implementing Integrity Pact. Integrity Pact is deemed as part of the contract so that the prospective bidders are bound by its provisions.

The Integrity Pact, signed by all the prospective Bidders and the Employer, shall commit the persons/officials of both the parties, not to exercise any corrupt/fraudulent/collusive/coercive practices in the Tendering process and also during implementation of the Contract. Only those Bidders who have entered into Integrity Pact with the Employer shall be eligible to participate in the bidding process. Bidders signing Integrity Pact shall not approach the Courts while representing the matters to IEMs and he/she will await their decision in the matter.

Entering into Integrity Pact as per Performa (enclosed in Section V: Forms & Bid Response Sheets of the Bid Document) is a basic qualifying requirement. In case of JV, each partner of JV shall sign Integrity Pact with the Employer. In case of sub-contracting, the Principal contractor shall be responsible for adoption of Integrity Pact by the sub-contractor.

To oversee the compliance of obligation under the Integrity Pact, a panel of Independent External Monitor(s) (IEMs) have been appointed by concerned authority. The Contact address of IEMs are as under:

Sl. No.	Name of IEMs	Address of IEMs
1	Sh. S.P. Srivastava, IPS (Retd.)	1/125, Vineet Khand, Gomtinagar, Lucknow, UP-226010 Email: sps_ips@yahoo.com
2	Smt. Archana Pandey Tiwari, IRS (Retd.)	C-32, Nangal Dewat, Vasant Kunj, New Delhi-110070 Email: ampandey2001@yahoo.com

The Integrity Pact duly signed on behalf of SAPDC is given in Section V: Forms & Bid Response Sheets of the Bid Document. The Integrity Pact shall be downloaded, printed and signed by the bidder and the hard copy shall be submitted in Part-I of Bid.

1.1.2 The successful bidder shall submit duly executed Integrity Pact on Plain Paper prior to signing of Contract Agreement.

2.2 Content of Tender Documents

2.2.1 The Bid (Tender) Documents shall comprise the documents listed below and addendum issued in accordance with Clause 2.5, if any.

Section I	Notice Inviting Tender (NIT)
Section II	Instructions to Bidders (ITB)
Section III	General Conditions of Contract (GCC)
Section IV	Scope of Works
Section V	Forms & Bid Response Sheets

2.3 Cost of Bidding

The bidder shall bear all costs associated with the preparation and submission of the bid. In no case, SAPDC shall be responsible for these costs regardless of the conduct or outcome of the bidding process.

2.4 Pre-Bid Clarifications

Wherever the bidder finds any discrepancy, omission, ambiguity or conflict in or among the documents forwarded/uploaded or be in doubt as to their meaning and interpretation; such matter should be called to the attention of the Tender Inviting Authority, in writing either by email or post and it must be received to Tender Inviting Authority latest by one (01) day prior of the date of Pre-Bid Meeting. Any modification to the Tender Documents that may become necessary as a result of the pre-bid Clarifications shall be made by SAPDC through the issue of an Addendum pursuant to clause 2.5. SAPDC shall not be obliged to respond to any request for clarification received later than the above period. Further, mere request for clarification from the Bidders shall not be a ground for seeking extension in the deadline for submission of bids.

2.5 Amendments to Tender Document

At any time prior to the deadline for submission of Bids, SAPDC may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder(s), modify the Tender documents by issuing Addenda/Corrigendum/Amendment and shall be available on the websites www.sapdc.com.np, www.sjvn.nic.in and www.eprocure.gov.in. No press note will



be released in this regard. Therefore, the Bidders are advised to visit the site regularly.

- 2.5.1 All such Addenda/Corrigendum/Amendment shall form integral part of the Tender Document. SAPDC shall bear no responsibility or liability arising out of non-receipt of the above in time by the Bidders.
- 2.5.2 In order to allow prospective bidders reasonable time in which to take the amendment into account in preparing their Bids, SAPDC, at its discretion, may extend the deadline for the submission and opening of Bids.

2.6 Language of Bids

The Bids prepared by bidders and all correspondences and documents relating to the Bid exchanged by the Bidder(s) and SAPDC shall be in English. Supporting documents and printed literature furnished by the Bidders with their bids may be in another language, provided they are accompanied with a certificate of the authorized translator certifying therein an accurate translation of the relevant passages in the above stated language, in which case, for the purposes of interpretation of the Bid, the translation shall prevail

2.7 Bid Currencies

The bidder shall indicate the entire bid price in Indian/Nepalese Rupees only.

2.8 Period of Validity of Bids

- 2.8.1 Bids shall remain valid for a period of 120 days after the closing date prescribed by SAPDC for the submission of bids. The bid valid for shorter period shall be rejected by SAPDC as being non-responsive.
- 2.8.2 In exceptional circumstances, prior to expiry of the original bid validity period, SAPDC may request the bidders to extend the period of bid validity for a specified additional period. The request and the responses thereto shall be made in writing or by e-mail. A bidder agreeing to the request will not be required or permitted to modify its bid. A bidder may refuse the request without forfeiting his bid security.

2.9 Authorization

The Bidder shall provide, with the Bid, a written Authorization, indicating that the person(s) signing the bid has(ve) legal authority to sign and submit the Bid and that the bid is binding upon the Bidder during the full period of its validity as per sub-clause 2.8. and shall be in accordance with following:

- (i) **Sole proprietor Firm:** In case the bidder is a Sole Proprietor Firm, the bidder shall submit Self-declaration /certificate declaring that his/her Concern is a Proprietary Concern and he/she is sole proprietor of the Concern along with PAN in the proprietor name.
- (ii) **Partnership Firm:** In case the bidder is a partnership firm, the bidder shall submit a Power of Attorney duly authorizing one or more of the partners of the firm or any other person (s), authorized by all the partners to act on behalf of the firm and to submit & sign the tender, sign the Agreement.
- (iii) **Other than Sole Proprietor/Partnership Firm**
In case the nature of the Bidder is other than Sole Proprietor/Partnership



Firm, the bidder shall submit duly notarized power of attorney in favour of person authorized to sign and submit the bid along with supporting documents such as board or shareholders resolution/power of attorney in favour of the person executing the power of attorney in favour of person authorized to sign and submit the bid, as required.

2.10 Bid Security/ Earnest Money Deposit declaration

- 2.10.1 The bidder shall furnish a Declaration of bid security/Earnest Money Deposit requirement as per Attachment-4.
- 2.10.2 Any bid not accompanied by requisite declaration of bid security/Earnest Money Deposit as per Attachment-4 shall be rejected by SAPDC as being non-responsive.
- 2.10.3 The employer will declare bidder ineligible by SAPDC as per Bid security/ EMD declaration in any of the following cases:
- i) if the bidder withdraws or modifies its bid during the interval between the deadline for submission of Bids and expiration of the period of Bid validity specified in Clause 2.8 and/or,
 - ii) If the bidder is found involved in Fraudulent and Corrupt Practices or defaults committed under Integrity pact
 - iii) In the case of a successful bidder, if the bidder fails within specified time limit:
 - a) To accept the Letter of Award.
 - b) To submit the Contract Performance Guarantee (CPG).

2.11 Deleted

2.12 Format and Signing of Bid

- 2.12.1 The bid shall be signed by a person duly authorized to sign on behalf of the Bidder, pursuant to Clause 2.9. Each and every page of the documents submitted in the bid shall also be signed by usual signature of the person duly authorized pursuant to Clause 2.9.
- 2.12.2 The bid should be serially numbered and properly indexed mentioning all constituents of bid including any enclosures/attachments etc. and their location page numbers in the bid. Failure to submit the bid in systematic manner as above may result oversight of any important information provided by the bidder for which SAPDC shall not be responsible.
- 2.12.3 The Bid shall contain no overwriting, alterations, omissions, or additions, unless such corrections are initiated by the person(s) signing the Bid. Corrections if any shall only be made by scoring out the cancelled portion, writing the correction, initiating and dating it by the person(s) signing the Bid.
- 2.12.4 All witnesses and sureties shall be persons of status and their full names, occupations and addresses shall be stated below their signatures.

2.13 Document Comprising the Bid

- 2.13.1 Each Bidder shall submit with its bid the following attachments:



- a) **Envelope-1:** EMD Declaration Form, cost of bid document/proof of same in case of online Bank Transfer along with Techno-commercial bid, and
- b) **Envelope-2:** Price Bid.

2.14 Bid Price

- 2.14.1 The bidder shall fill in rates and prices for all items of the Work described in the Price Schedule of this Tender Document for each state separately.
- 2.14.2 Prices must include all taxes, duties, levies and fees whatsoever, payable by the contractor under the contract except VAT.
- 2.14.3 The Bid price must also include cost/liabilities towards performing the scope of works as mentioned in Section IV: Scope of Works of this Tender Document.
- 2.14.4 It is advised that during quoting of their rates, the bidder must analyse the nature and scope of the work to be done in accordance with requirements specified in Section IV: Scope of Works, site conditions, and all other factors affecting the performance of the contract and the price and also as to the terms and conditions of this Tender Document.

2.15 Preparation and Submission of Bid

The bid shall consist of two parts as under:

Part –I

- 1) Cost of Tender Document/ proof of same in case of online Bank Transfer
- 2) Comprising Techno-commercial bid (**excluding price bid**).
 - i) **Attachment-1:** Authorization
An authorization, as per clause 2.9 indicating that the person(s) signing the Bid has the authority to sign the Bid and that the Bid is binding upon the Bidder during the full period of its validity in accordance with Clause 2.8.
 - ii) **Attachment-2:** Integrity Pact.
 - a) Integrity Pact duly signed between Employer and the Bidder in accordance with Sub-Clause 2.1.1
 - b) Undertaking signed by bidder in accordance with sub-clause 2.1.2 regarding Banning of Business dealings.
 - iii) **Attachment-3 - Deleted**
 - iv) **Attachment-4:** Bid security/ Earnest Money Declaration.
 - v) **Attachment-5:** Format for declaration of Potential consumers, Power Purchase Agreement (PPA).
 - vi) **Attachment-6:** Bidder's Eligibility and Qualifications
 - (a) Copy of Certificates of Incorporation.



- (b) Bidders have to furnish details required in Attachment – 6(a) and 6 (b) alongwith documentary Evidences in support of the Minimum Qualification Requirement (MQR) as per Clause 1.2 of Section-I.
- (c) VAT Registration Certificate,
- (d) Permanent Account Number (PAN) card.
- (e) Any other additional information/Document(s) pertaining to this tender, if any)
- vii) **Attachment-7:** Electronic Fund Transfer (EFT) details of the company.
- viii) MSME/ NSIC certificate, if applicable.

The bidder shall also fill, sign and stamp each page of the documents forming part of the bid, on the left hand cover (bottom side).

Part-II Comprising of duly filled Price Schedules i.e., Schedule-1 and Schedule-2.

- 2.16 The bidder shall not give any indication about the bid price in any manner whatsoever in the “Techno-Commercial” part of the bid. Non-compliance of this provision shall result in the rejection of bid.
- 2.17 The part II of the bid (i.e. Price bid) shall be strictly in accordance with the forms provided in the Bill of Quantities /Price Schedule.
- 2.18 The bidder shall not take any deviation from the bid conditions.
- 2.19 The Part – I & Part-II of the bids shall be packed and submitted in the following manner.**
 - i. The Part-I of the bid shall be kept in one single cover and sealed duly super scribed "Bid security Declaration Form, Cost of Tender Document and Techno Commercial Bid". Similarly, original Part-II of the bid shall then be kept in one single cover and sealed duly super scribed “Part-II – Price Bid”.
 - ii. The two separate covers containing Part-I & Part –II of the bid shall then be kept in a cover and sealed. The outer most cover would bear the following identifications:
 - 2.19.1 The envelope containing hard copy of documents shall;
 - i) be addressed to the Employer at the address provided in the NIT;
 - ii) bear the name and identification number of the contract as defined in the NIT; and
 - iii) provide a warning not to open before the time and date for bid opening, as specified in the NIT.
 - iv) In addition to the identification required in Sub-clause 2.19.1 (ii), the envelopes shall indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared "Late Bid" pursuant to Clause 2.17.
 - 2.19.2 If the envelope(s) are not sealed and marked as above, the Employer will assume no responsibility for the misplacement.



2.20 Deadline for Submission of Bids

- 2.20.1 Complete Bid must be submitted and must be received by the Employer at the address of Notice Inviting Authority not later than the time and date stipulated in the NIT. In the event of the specified date for the submission of bids being declared a holiday for the Employer, the bid will be received up to the specified time on the next working day.
- 2.20.2 The Employer may, in exceptional circumstances and at its discretion, extend the deadline for submission of bids by issuing an Addendum in accordance with Clause 2.5, in such case all rights and obligations of the Employer and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.
- 2.20.3 Stands deleted

2.21 Modification, Substitution and Withdrawal of Bids

- 2.21.1 The Bidder may modify, substitute, or withdraw his bid after its submission but in any case before the deadline for submission as per the provisions.
- 2.21.2 Any alteration/ modification in the Bid or additional information supplied subsequently to the Bid Due Date and time, shall not be permitted.
- 2.21.3 *Withdrawal of a Price Bid during the interval between the deadline for submission of Bids and expiration of the period of Bid validity specified in Clause 2.8 shall result in Bidder's ineligibility to participate in SAPDC tenders as per provisions specified in Attachment-4 regarding Bid security/EMD declaration.*

2.22 Bid Opening

- 2.22.1 Bids for which an acceptable notice of withdrawal has been submitted pursuant to Para 2.21 hereof shall not be opened.
- 2.22.2 Then, the Part-I of the bid i.e., the envelope containing bid security declaration form, cost of tender document and the document as per 2.15 shall be opened. The bids whose bid security/ cost of tender document is either deficient in value and/ or form, will be rejected out rightly & will not be evaluated further.
- 2.22.3 The "Price Bid" (Part-II of the bid) shall be opened at a subsequent date for which SAPDC shall notify separately. It will be discretion of the SAPDC to invite all the bidders to be present at the time of opening of price bids or only those bidders whose bids are ascertained to be techno-commercially responsive. The envelope of modification pursuant to Para 2.21 hereof, if any, to this part of bid shall be opened first.
- 2.22.4 Bidder's authorized representatives may attend the bid opening. The officers of the SAPDC authorized for opening of bids will announce the bidder's name, written notifications of bid withdrawal if any, the presence or absence of the requisite bid security, the deviations taken by the bidder's etc., and any such detail as the said officer(s) may consider appropriate. The bidder's representative(s) shall sign register provided by SAPDC for evidencing their participation in the process of bid opening.



2.22.5 If it happens to be a holiday or due to any other technical reasons like non-availability of the Committee Members etc. on the day of opening of the tender, the Bids shall be opened on next working day at the same place and time.

2.23 Clarification on Bids

To assist in the examination, evaluation, and comparison of bids, Employer may, at its discretion, ask any bidder for clarification of its Bid. The request for clarification and the response shall be through e-mail but no change in the price or substance of the bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetical errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 2.25 hereof. All such responses submitted by the Bidder shall form part of their bid.

2.24 Determination of responsiveness

2.24.1 The Employer will examine the Techno-commercial Bids to determine whether they are complete, whether required Bid security/EMD declaration, Document Fee have been furnished, whether valid authorization as per clause 2.9 have been submitted, whether the bidder has submitted supporting certificates/documents justifying the qualifications/requirements, whether the documents have been properly signed, whether all the requisite declaration, undertakings have been furnished and whether the Techno-commercial bids are in order.

2.24.2 The Price Bid duly filled should be in conformity with the tender document. In Price Schedule, rates of the items are to be filled in by the Bidder. The calculation of amount by multiplying the quantities with the rates filled in by the bidder, sub-totals, total etc. shall be done by formulae already provided in form. In case of any discrepancy in the calculations, the rates shall be considered final and the amount calculated by using the same shall be corrected and considered as final. Where ever prices for items is left blank/Nil, in the Price Schedule, it shall be deemed to have been included in other items.

2.24.3 Bids determined to be substantially responsive will be checked by the SAPDC for any arithmetic errors. Errors will be corrected by SAPDC as follows:

- i) where there is a discrepancy between unit rate in figures and in words, the unit rate in words will govern; and
- ii) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted in words will govern.
- iii) in case error due to wrong extension of quantities the quantities as specified in the Bid documents will be considered and multiplied by the unit rates quoted in words to obtain the amount.

The amount stated in the Bid will be adjusted by the SAPDC in accordance with the above procedure for the correction of errors and shall be considered as binding upon the bidder. If the bidder does not accept the corrected amount of bid, his bid will be rejected and shall be ineligible from participation in re-tendering of this particular tender

2.24.4 The Employer may waive any minor informality, non-conformity or irregularity in a bid that does not constitute a material deviation and that does not prejudice or affect



the relative ranking of any Bidder as a result of the evaluation of Bids, pursuant to these Clauses.

2.24.5 Prior to the detailed evaluation, the Employer will determine whether each Bid is of acceptable quality, is complete and is substantially responsive to the Bid Documents. For purposes of this determination, a substantially responsive Bid is one that conforms to all the terms, conditions and specifications of the Bid Documents without material deviations, objections, conditionality or reservations. A material deviation, objection, conditionality or reservation is one (i) that affects in any substantial way the scope, quality or performance of the Contract; (ii) that limits in any substantial way, inconsistent with the Bid Documents, the Employer's rights or the successful Bidder's obligations under the Contract; or (iii) whose rectification would unfairly affect the competitive position of other Bidders who are presenting substantially responsive bids.

2.24.6 If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

2.25 Evaluation of Bids:

2.25.1 Price evaluation of the bids shall be carried out by calculating overall cost benefits to SAPDC for 15 years with the norms such as tariff and fee quoted for services. The benefits to SAPDC will be calculated on present value of money basis by taking discounting factor as one year SBI MCLR on the last date of bid submission plus 200 basis points.

2.25.2 The bidders have to quote for a minimum of 50 MW and more. Only bid having quote for 50 MW and more will be considered for evaluation.

Selection of Successful Bidders:

1. Evaluation of techno commercial and price bids shall be carried out based on the documents submitted by the bidders in their bids and subsequent clarifications/documents submitted by the bidders during evaluation of bids and due diligence conducted by the Employer. The Bidder(s) shall be declared as Techno commercially qualified provided that their bids are substantially responsive and meet the Minimum Qualifying Requirements (MQR) and other terms and conditions as specified in this tender document.
2. In case of the last selected bidder, if the balance project capacity is less than the total project capacity mentioned by the bidder, then the balance capacity shall be awarded to the bidder till the total capacity is exhausted.
3. In case of tie, among two or more bidders (i.e., their quoted PPA tariff and fee being the same) they will be considered in the chronological order of their last bid with preference to that bidder who has quoted the maximum assured PPA capacity.
4. In case of tie again, among two or more bidders (i.e., their quoted PPA tariff plus fee for services and quoted capacity being the same) they will be considered in the chronological order of their total MW capacity of PPA achieved in last 07 years. At the end of selection process, Letter of Award (LOA) will be issued to those Bidders who shall provide the documentary evidence for the assured PPA capacity offered



during above process. In case the Bidder is not able to substantiate with sufficient proof i.r.o. the offered PPA capacity, the next bidder shall be considered.

2.26 Award of Contract

- 2.26.1 The contract under this tender will be awarded to the successful bidder and then to next successful bidder and so on as per the procedure defined in clause 2.25 till the capacity is exhausted. The first successful bidder will be allotted upto its qualified Capacity and then, next successful bidder will be allotted upto its qualified capacity and so on, till the total capacity is exhausted.
- 2.26.2 However, SAPDC shall be under no obligation to accept the lowest or any other offer received in response to this NIT and shall be entitled to reject any or all offers without assigning any reason whatsoever, any time during the process.
- 2.26.3 SAPDC reserves the right to consider award of project capacity of 50 MW and its multiple till the total capacity is exhausted.
- 2.26.4 SAPDC Limited reserves the right to cancel the tendering process at any time before award of work without assigning any reasons thereof.

2.27 Letter of Award

The Letter of Award will constitute the formation of the contract.

2.28 Corrupt or Fraudulent Practices

It is expected from the Bidders that they will observe the high standard of ethics during the bidding process and Construction of such Contracts. In pursuance of this policy:

1. For the purpose of this provision, the terms set-forth below shall mean as under:
 - a. "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party
 - b. "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation
 - c. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - d. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - e. "obstructive practice" is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it



from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

f. "Integrity Pact" means an agreement signed between the Contractor and SAPDC committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the Tender/Contract.

2. An agreement called Integrity Pact between the prospective Bidders and SAPDC shall be signed committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the Tender/Contract. The Independent External Monitor(s) (IEM) appointed by SAPDC shall oversee the compliance of obligation under the Integrity Pact.
3. A Bid shall be rejected by SAPDC if it is determined at any stage that respective Bidder has engaged in corrupt or fraudulent or Collusive or Coercive practices or defaulted commitments under Integrity Pact in competing for or in executing the Contract in question and his Bid Security shall be forfeited. The Contractor shall not be entitled for any compensation whatsoever under this clause.
4. SAPDC may declare a bidder ineligible, either indefinitely or for a stated period of time, to be awarded a Contract if it at any time determines that the bidder has engaged in corrupt or fraudulent or collusive or coercive practices in competing for, or in executing a Contract.
5. The documents/information submitted by Contractor may be verified by the officials of SAPDC for its authenticity at any time and the Contractor shall provide all facilities/co-operation in this regard. If it is found that any of the documents/information submitted by the Contractor is not genuine, SAPDC shall have full rights to cancel his Bid, bidder shall be treated as ineligible from participating in any of the upcoming tenders issued by SAPDC for a period of 01 year from the date of default as notified by SAPDC and terminate the Contract, if awarded.

2.29 Bidders should not have been banned/ de-listed/ black listed/ debarred from business by Ministry of Power, Government of India/Government of Nepal, any PSU and or any Government Department of India/Nepal during last 03 (three) years on grounds of corrupt/fraudulent practices and/or by Ministry of Power, Government of India/SAPDC on any grounds.

2.30 *Clause deleted.*

2.31 **Duration of the Contract:** The duration of the contract shall be as per clause no 4.2 of the bid document.

2.32 **Effectiveness of PPA:**

The effectiveness of PPA shall be reckoned from the date of signing of PPA. The tenure of 15 years of PPA shall start from the effective date of Commercial Operation Date of Plant.

SECTION -III
GENERAL CONDITIONS OF CONTRACT (GCC)
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SECTION -III
GENERAL CONDITIONS OF CONTRACT (GCC)

3.1 Definitions & Interpretations

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

- (i) “Base Date” means the last date of bid submission including extensions.
- (ii) “Contract” means the letter of Award issued and accepted by the successful contractor or Contract Agreement entered into between the Employer and the Contractor (if signed), together with the Contract Documents referred to therein; they shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.
- (iii) “Contract Documents” means the documents listed in Clause 3.2 below (including any amendments thereto)
- (iv) “Contract Price” means the sum specified in the Letter of Award (prices quoted in price schedule-1), subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.
- (v) “Contractor” means the person(s)/Firm/Company whose bid to perform the Contract has been accepted by the Employer and is named as Contractor in the Contract Agreement, and includes the legal successors or permitted assigns of the Contractor.
- (vi) “Contractor’s Representative” means any person nominated by the Contractor in the manner provided in sub-clause 3.17.1 hereof to perform the duties delegated by the Contractor.
- (vii) “Employer” means SAPDC Ltd. and includes the legal successors or permitted assigns of the Employer.
- (viii) “Government” means the Government of Nepal/Government of India/ State Government of Nepal/India.
- (ix) “GCC” mean these General Conditions of Contract.
- (x) “Month” shall mean a calendar month.
- (xi) “Engineer-in-Charge (EIC)/Officer-in-Charge (OIC)” means the person appointed by the Employer in the manner provided in sub-clause 3.16.1 hereof to perform the duties delegated by the Employer.
- (xii) “Party” means the Employer or the Contractor, as the context requires, and “Parties” means both of them.
- (xiii) “Third Party” means any person or entity other than SAPDC and the contractor.



3.2 Contract Document

3.2.1 The following documents subsequent amendments/clarifications thereof, if any, shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

- (i) Letter of Award,
- (ii) Notice Inviting Tender (NIT),
- (iii) Scope of Works
- (iv) General Conditions of Contract (GCC),
- (v) Instructions to Bidder (ITB) and,
- (vi) Bid/Proposal submitted by the Contractor

3.2.2 The documents mentioned at above para 3.2.1 shall be taken as complementary and mutually explanatory of one another. In case of any contradiction in any of the terms & conditions to the extent that the two provisions cannot co-exist, the order of precedence, unless otherwise agreed, shall be taken in the order set out above and,

3.2.3 In the event of the amendment(s) in respective document/Agreement, the later dated will be preceded over those of the issued earlier

3.3 Interpretation

3.3.1 The interpretation and construction of the Contract shall be subject to the following provisions:

- (i) clause headings shall not affect the interpretation or construction of the Contract;
- (ii) a reference to Law includes a reference to that Law as amended, consolidated or re-enacted from time to time;
- (iii) references to a "person" includes a natural person and a corporate or unincorporated body;
- (iv) words in the singular shall include the plural and vice versa;
- (v) references to "representations" shall be construed as references to present facts, to "warranties" as references to present and future facts and to "undertakings" as references to obligations under this Contract;
- (vi) provisions including the word "agree," "agreed," or "agreement" require the agreement to be recorded in writing
- (vii) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record.
- (viii) words "including", "other", "in particular", "for example" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
- (ix) a reference to one gender shall include a reference to the other genders; and
- (x) where the context allows, references to Clauses are to clauses in this Contract and references to Sections are the sections of this Contract.

- (xi) In case of any dispute/difference arising out of interpretation of any of the clauses/terms/provisions, decision of the Employer shall be final and binding on all the parties including.

3.3.2 Incoterms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of Parties there under shall be as prescribed by Incoterms.

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1^{er}, 75008 Paris, France.

3.3.3 Signing of Agreement

- (i) The LOA shall constitute the contract. The Contract constitutes the entire agreement between the Employer and Contractor with respect to the subject matter of Contract and supersedes all communications, negotiations and agreements (whether written or oral) of Parties with respect thereto made prior to the date of Contract, except that this Clause shall not exclude liability in respect of any fraudulent misrepresentation.
- (ii) Within thirty (30) days of issue of the Letter of Acceptance, on a date and time mutually agreed upon, the successful bidder or his authorized representative shall attend the Office of tender inviting authority for signing of the Agreement.

Failure on the part of the successful bidder to comply with the requirements of this para shall constitute sufficient grounds for the annulment of the award, forfeiture of CPG, debarring/ineligible from participation in re-tendering of this particular tender, and/or any other remedy, the Employer may choose to exercise under the provisions of the Contract.

3.3.4 Amendment

No amendment or other variation of the Contract shall be effective unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each Party hereto.

3.3.5 Independent Contractor

The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the Parties hereto. Subject to the provisions of the Contract, the Contractor shall be solely responsible for the manner in which the Contract is performed. All employees, representatives engaged by the Contractor in connection with the performance of the Contract shall be under the complete control of the Contractor. Neither the Contractor nor its employees shall be considered employees of SAPDC simply by virtue of work performed pursuant to this Contract.

3.3.6 Non-Waiver

- (i) Subject to Sub-Clause 3.3.6(ii), below, no relaxation, forbearance, delay or indulgence by either Party in enforcing any of the terms and conditions of the Contract or the granting of time by either Party to the other shall prejudice, affect



or restrict the rights of that Party under the Contract, nor shall any waiver by either Party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

- (ii) Any waiver of a Party's rights, powers or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the Party granting such waiver, and must specify the right and the extent to which it is being waived.

3.3.7 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

3.3.8 Communications

- (i) Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:
 - (a) in writing and delivered against receipt; and
 - (b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Contract Agreement.
- (ii) For the purpose of Clause 3.3.8(i), an e-mail is accepted as being "in writing" provided that the same shall be sent or transmitted, without any error message, to the email address for the recipient's communications as stated in the Contract agreement. The time of delivery of the same shall be deemed as 10:00 AM of the first working day after sending it.
- (iii) The language for communications shall be the ruling language of the Contract

3.3.9 Law and Language

- (i) The Contract shall be considered and made in accordance with the law of Nepal. The Contract shall be governed by and interpreted in accordance with laws of Nepal.
- (ii) The ruling language of the Contract shall be English.

3.4 Fraud and Corruption

3.4.1 If the Employer determines that the Contractor and/or any of its personnel, or its agents, or its Subcontractors, sub-consultants, services providers, suppliers and/or their employees has engaged in corrupt, fraudulent, collusive coercive, or obstructive practices, in competing for or in executing the Contract, then the Employer may, after giving 14 days' notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of Clause 3.26 shall apply as if such expulsion had been made under Sub-Clause 3.26.2i(c).

For the purposes of this Sub-Clause,

- (i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party



- (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation
- (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
 - deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or
 - making false statements to investigators in order to materially impede a investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

3.5 Duration of Contract

The Contractor shall complete the entire scope of work **within 12 months** from the date of issuance of LoA, in accordance with the schedule of activities as specified in Section-IV: Scope of Works.

3.6 Scope of Works/Services

The contractor shall carry out the Work/Services/Goods and related Services as specified in Section-IV: Scope of Works.

3.7 Commencement of Work

The contractor shall commence the work from the date of issuance of LOA.

3.8 Deleted.

3.9 Contractor’s Responsibility

3.9.1 The Contractor shall carry out the Services included in the Scope of Services in accordance with Clause 3.6.

3.9.2 The Contractor shall comply with all applicable laws, ordinances, codes, approved standards, rules and regulations. The laws will include all local, state, national or other laws that affect the performance of the Contract and bind upon the Contractor. The Contractor shall indemnify and hold harmless the Employer from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or its personnel.

3.10 Deduction from Contract Price

3.10.1 The Contract Price shall be adjusted in accordance with the provisions of the clause 3.12. Contractor shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.



3.10.2 All costs, claims, damages or expenses which the Employer may have paid for which under the Contract the Contractor is liable, may be deducted by the Employer from the proceeds of the Performance Guarantee or from any money due or which may become due to the Contractor under the Contract.

3.10.3 Any sum of money due and payable to the Contractor (including Performance Guarantee returnable to him) under this Contract may be appropriated by the Employer and set off against any claim of the Employer out of or under any Contract made by the Contractor with the Employer.

3.10.4 It is an agreed terms of the Contract that the sum of money so withheld if retained under this clause by the Employer shall be kept, withheld or retained as such by the Employer till the claims arising out of in the same Contract are either mutually settled or determined by the arbitrator, and the Contractor shall have no claim for interest or damage whatsoever on this account or any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the Contractor.

3.11 Terms and Procedure of Payment

3.11.1 General

- (i) The Contractor's request(s) for payment shall be made to the Officer-In-Charge in writing, upon fulfilment of required obligations stipulated in the contract.
- (ii) The payment(s) shall be released through Electronic Fund Transfer (EFT). Bank charges if any, shall be borne by the contractor/service provider.
- (iii) The word 'submission' used in this clause (i.e. Terms and Procedure of Payment) shall mean the day of receipt of the documents by OIC; or where any objection is made in writing by SAPDC regarding submission within 30 days from the date of receipt of the documents in original by OIC, the day on which such objection is removed by the contractor.
- (iv) All Payments shall be released after submission of Bill(s)/invoice(s) to OIC along with any other supporting documents as prescribed by OIC to substantiate that the work/services have been completed as per terms and conditions of the Contract.
- (v) The agreed prices quoted in the Price Schedule shall remain **FIRM** during the currency of the contract.

3.11.2 Payment for items/services quoted in Price Schedule:

The payment alongwith applicable taxes shall be made on completion of activities as per following:

Case-1 - PPA with Discoms:

Sr. No.	Activities	Amount	Supporting documents to be submitted by the contractor for payment.
1	Identification of Potential consumers and subsequent PPA signing for the Project with Tariff of not less than INR 4.70/ KWh at Sitamari, Bihar, India flat for minimum 15 years	30% of the Total Proportionate executed Contract Value *	a) Original Bill(s)/Invoice(s). b) Certificate for completion of activity issued by the OIC.



2	Adoption of tariff from respective State/Central Electricity Regulatory Commission as applicable and obtaining the connectivity approvals from relevant authorities.	65% of the Total Proportionate executed Contract Value	a) Original Bill(s)/Invoice(s). b) Copy of approval issued by the relevant Authority. c) Certificate for completion of activity issued by the OIC.
3	Realization of 1st bill after the commissioning of the plant.	5% of the Total Proportionate executed Contract Value	a) Original Bill(s)/Invoice(s). b) Certificate for completion of activity issued by the OIC.

* The payment against Sr. No. 1 in table above shall only be released after completion of activity at Sr. No. 2. However, the contractor can opt for release of ad-hoc payment against activity at Sr. No. 1 after completion of same against submission of an irrevocable, valid and fully enforceable Bank Guarantee in favour of SJVN Arun-3 Power Development Company Private Limited for the equivalent amount as per format provided by SAPDC from a Class A bank situated in Nepal acceptable to SJVN Arun-3 Power Development Company Private Limited which shall be valid till 45 days beyond Contract Period. The Bank Guarantees in INR shall be acceptable only if these are issued by a Scheduled Bank of India duly counter guaranteed by any A class bank in Nepal. The said BG will be released after completion of activity at Sr. No. 2 and certification of same by OIC.

Notes for Case 1 - PPA with Discoms:

In Case Tariff is adopted at a lower rate by the State/Central Regulatory Commission, the payment to Service provider shall be regulated as below:

- If the reduction in Tariff is within 2 % of the tariff initially offered by the Service provider, the service provider shall be eligible for full payment under the head "Adoption of tariff from respective State/Central Regulatory Commission and obtaining the connectivity approvals from relevant authorities".
- If the reduction in tariff is in the range of 2 % to 5 % of the tariff initially offered by the Service provider, the service provider shall be eligible for only 80% of the payment due under the head "Adoption of tariff from respective State/Central Regulatory Commission and obtaining the connectivity approvals from relevant authorities".
- If the reduction in tariff is more than 5% of the tariff initially offered by the Service provider, the Service provider shall be eligible for "NIL" payment under the head "Adoption of tariff from respective State/Central Regulatory Commission and obtaining the connectivity approvals from relevant authorities". In such case, CPG provided by the service provider shall be forfeited.
- If the tariff adopted by SERC/CERC is not acceptable to SAPDC, in such case no payment shall be applicable to the contractor for activities at Sr. No. 1 & 2. If any ad-hoc payment has been released against submission of BG for activity at Sr. No. 1, then such payments shall be recovered from the contractor.



Case-2 - PPA with Open Access Consumers:

Sr. No.	Activities	Amount	Supporting documents to be submitted by the contractor for payment.
1	Identification of Potential consumers and subsequent PPA signing for the Project with Tariff of not less than INR 4.70/ KWh at Sitamari, Bihar, India flat for minimum 15 years	30% of the Total Proportionate executed Contract Value *	a) Original Bill(s)/Invoice(s). b) Certificate for completion of activity issued by the OIC.
2	Application for connectivity, Long Term Open Access and Approvals for Connectivity, Long Term Open Access consumer from relevant authorities on agreed terms of Tariff and PPA & Availability of Evacuation Infrastructure as per the approved Scheme	65% of the Total Proportionate executed Contract Value	a) Original Bill(s)/Invoice(s). b) Copy of approval issued by the relevant Authority c) Certificate for completion of activity issued by the OIC.
3	Realization of 1st bill after the commissioning of the plant.	5% of the Total Proportionate executed Contract Value	a) Original Bill(s)/Invoice(s). b) Certificate for completion of activity issued by the OIC.

* The payment against Sr. No. 1 in table above shall only be released after completion of activity at Sr. No. 2. However, the contractor can opt for release of payment against activity at Sr. No. 1 after completion of same against submission of an irrevocable, valid and fully enforceable Bank Guarantee in favour of SJVN Arun-3 Power Development Company Private Limited for the equivalent amount as per format provided by SAPDC from a Class A bank situated in Nepal acceptable to SJVN Arun-3 Power Development Company Private Limited which shall be valid till 45 days beyond Contract Period. The Bank Guarantees in INR shall be acceptable only if these are issued by a Scheduled Bank of India duly counter guaranteed by any A class bank in Nepal. The said BG will be released after completion of activity at Sr. No. 2 and certification of same by OIC.

Notes for Case 2 - PPA with Open Access Consumers:

In Case after the approval of Connectivity, the required Evacuation Infrastructure is not made available after commissioning, the payment to Service provider shall be regulated as below:-

- The required Evacuation Infrastructure is made available within 2 months of the commissioning, the service provider shall be eligible for full payment under the head 2 i.e., "Application for connectivity, Long Term Open Access and Approvals for Connectivity, Long Term Open Access consumer from relevant authorities on agreed terms of Tariff and PPA & Availability of Evacuation Infrastructure as per the approved Scheme".



- If the required Evacuation Infrastructure is made available after 2 months of the commissioning, the service provider shall be eligible for "NIL" payment under the head 2 i.e., "Application for connectivity, Long Term Open Access and Approvals for Connectivity, Long Term Open Access consumer from relevant authorities on agreed terms of Tariff and PPA & Availability of Evacuation Infrastructure as per the approved Scheme".

3.11.4 Clause Deleted.

3.11.5 Clause Deleted.

3.12 Price Adjustment

The prices quoted by the Bidder in the Price Schedule shall remain **FIRM** during the currency of the contract.

3.13 Contract Performance Guarantee (CPG)

3.13.1 Within 21 (twenty one) days after issue of Letter of Award, contractor shall submit unconditional /irrevocable Bank Guarantee, issued by any "A" class Bank of Nepal or any Scheduled Bank / Nationalised Bank of India, towards Contract Performance Guarantee (CPG) for an amount of 3% of the total contract price, with a validity up to 90 days beyond the end date of Contract.

3.13.2 No interest shall be payable by SAPDC on the Bank Guarantee(s) mentioned above at sub-clause 3.13.1.

3.14 LIQUIDATED DAMAGES

3.14.1 Time is the essence of the Contract. If the performance of the Contract is delayed beyond the time schedule, as specified in Section-IV: Scope of Works, due to reasons attributable to the Contractor, SAPDC without prejudice to its other remedies under the contract shall deduct from the total Contract price, as Liquidated damages and not as a penalty, a sum equivalent to the percentage as mentioned hereinafter:

3.14.2 The Liquidated Damages for delay to perform the services mentioned in item at Sr. No. 1 of respective cases mentioned under clause no. 3.11.2 of bid document (i.e., beyond 3 months from the date of LOA) shall be @ 1/2 % (Half percent) of the Contract price per week or part thereof

3.14.3 The total amount of liquidated damages for delay under the Contract under 3.14.2 will be subject to a maximum of Ten per cent (10%) of the Contract price for the entire scope of works. Once the maximum limit of Liquidated Damages reaches, SAPDC may consider taking action as per Clause No 3.26 and in such case, the CPG submitted by the contractor pursuant to Clause 3.13 may be forfeited by SAPDC.

3.14.4 The amount of Liquidated Damages along with applicable VAT shall be payable by the Contractor whenever demanded by the Employer and /or Employer can recover the amount of Liquidated Damages (to the extent leviable at any time) along with applicable VAT from the amounts payable to the Contractor / Bank Guarantee available with the Employer under this contract.

3.15 Taxes and Duties

3.15.1 *Except as otherwise specifically provided in the contract, the Contractor shall bear and pay all taxes, duties, cess, levies and charges assessed on the Contractor, by all Municipal, State or Central Government authorities.*



3.15.2 VAT shall be paid extra on actual as per prevailing rate under VAT Act and 'Bill To' details, as per requirement of VAT Act, shall be provided by Officer- In charge (OIC), if applicable.

3.15.3 For the purpose of the Contract, it is agreed that the Contract Price specified is based on the taxes, duties, levies and charges prevailing at the Base Date (hereinafter called "Tax" in this GCC Sub-Clause 3.15.3). If any rates of Tax are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of Contract, which was or will be assessed on the Contractor in connection with performance of the Contract, an equitable adjustment of the Contract Price shall be made to fully take into account any such change by addition to the Contract Price or deduction there from, as the case may be, in accordance with GCC Clause 3.24 hereof.

3.16 Employer's Representatives

3.16.1 Officer-in-Charge (OIC)

The Officer-in-Charge (OIC) shall be named in the Letter of Award. In case OIC is not named in the Letter of Award (LoA), then within Seven (07) days from the date of issuance of the LoA, the Employer shall appoint and notify the Contractor in writing of the name of the OIC. The Employer may from time to time appoint some other person as the OIC in place of the person previously so appointed, and shall give a notice of the name of such other person to the Contractor without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work. Such appointment shall only take effect upon receipt of such notice by the Contractor. The OIC shall represent and act for the Employer at all times during the performance of the Contract.

All notices, instructions, information and other communications given by the Contractor to the Employer under the Contract shall be given to the OIC, except as mentioned in clause hereof.

3.17 Contractor's Representative

3.17.1 The Contractor shall submit name of their representative for execution of work and services with the acceptance of LoA, otherwise within fifteen (15) days from the date of issuance of LoA and shall request the OIC in writing to approve the person so appointed. If the Employer makes no objection to the appointment within fourteen (14) days, the Contractor's Representative shall be deemed to have been approved. If the Employer objects to the appointment within fourteen (14) days giving the reason thereof, then the Contractor shall appoint a replacement within fourteen (14) days of such objection, and the foregoing provisions of this GCC Sub-Clause 3.17.2 shall apply thereto.

3.17.2 The Contractor's Representative shall represent and act for the Contractor at all times during the performance of the Contract and shall give to the OIC all the Contractor's notices, instructions, information and all other communications under the Contract.

All notices, instructions, information and all other communications given by the Employer or the OIC to the Contractor under the Contract shall be given to the Contractor's Representative or, in its absence, its deputy, except as herein otherwise provided.



The Contractor shall not revoke the appointment of the Contractor's Representative without written consent of OIC, which shall not be unreasonably withheld. With the consent of OIC thereto, the Contractor shall appoint some other person as the Contractor's Representative, pursuant to the procedure set out in Clause 3.17.1.

3.17.3 The Contractor's Representative may, subject to the approval of the OIC which shall not be unreasonably withheld, at any time delegate to any person any of the powers, functions and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Contractor's Representative, and shall specify the powers, functions and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until a copy thereof has been delivered to the OIC.

Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with this GC Sub-Clause 3.17.3 shall be deemed to be an act or exercise by the Contractor's Representative.

3.17.4 The Employer may by notice to the Contractor object to any representative or person employed by the Contractor in the execution of the Contract who, in the reasonable opinion of the Employer, may behave inappropriately, may be incompetent or negligent. The Contractor shall remove such person from the Facilities upon such instructions being given by the Employer.

3.17.5 If any representative or person employed by the Contractor is removed in accordance with sub-clause 3.17.4, the Contractor shall, where required, promptly appoint a replacement.

3.18 Contractor's Understanding

3.18.1 It is understood and agreed that the Contractor has, by careful examination, satisfied herself as to the nature, scope and location of the work/services, the type/ character of equipment and facilities needed preliminary to, and during the progress of the work/services, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the work/services under the contract.

3.19 Accepted Programme

3.19.1 The Contractor shall submit schedule of delivery of work/services, the details of man, machine & material that he intends to utilize (from time to time) for execution of the work/services and schedule thereof as required by OIC. The programme of delivery of services amended as necessary by discussions with the OIC, shall be treated as the agreed programme of the delivery of services for the purpose of this contract and the contractor shall endeavour to fulfil this programme of delivery of services. The progress of delivery of services shall be watched accordingly.

3.20 Compliance to Employer's Instructions

3.20.1 The OIC shall direct the order in which the several components of the work/services shall be provided and the Contractor shall execute without delay all orders given by the OIC from time to time; but the Contractor shall not be relieved thereby from responsibility for the due performance of the work/services in all respects.



3.20.2 In cases, where performance or/and quality of work/services is/are found to be dissatisfactory, OIC shall impose penalty as mentioned in bid document, subject to cumulative penalty for such dissatisfactory performance or/and quality of work/services does not exceeds 10% of original contract value or as prescribed in the bid document.

3.21 Deployment of Efficient and Competent Staff by the Contractor

3.21.1 The Contractor shall maintain efficient and competent staff/officer(s)/supervisor(s)/operator(s) and sufficient worker(s) for execution of contract in proper and desirable manner and shall employ only such supervisors, workers & labour in or about the execution of any of these work/services as are careful and skilled in the various trades. Daily record of such supervisors and labour shall be maintained.

3.21.2 The Contractor shall at once remove from the site any agents, supervisor, worker or labour who shall be objected to by the OIC. If and whenever required by the OIC, the contractor shall submit a correct return showing the names of all staff and workers employed by her.

3.21.3 In the event of the OIC being of the opinion that the Contractor is not employing on the work/services a sufficient number of staff/officer(s)/supervisor(s)/ operator(s)/ worker(s) as is specified or otherwise for proper execution of the work/services within the prescribed procedure and time, the Contractor shall forthwith on receiving intimation to this effect deploy the additional number of staff and labour as specified by the OIC immediately and failure on the part of the Contractor to comply with such instructions will entitle the Employer to rescind/ penalize the contract under suitable clauses of these/special conditions.

3.21.4 Subletting the Contract

3.21.5 The Contractor shall not assign or sublet the contract or any part thereof or allow any person to become interested therein in any manner whatsoever without the special permission in writing of the Employer. Any breach of this condition shall entitle the Employer to rescind the contract under Clause 3.26.2 of these Conditions and also render the contractor liable for payment to the Employer in respect of any loss or damage arising or ensuing from such cancellation. The permitted subletting of Contract by the Contractor shall not establish any contractual relationship between the sub-contractor and the Employer and shall not relieve the Contractor of any responsibility under the Contract.

3.22 Labour Laws & related Obligations

3.22.1 *During continuance of the Contract, the Contractor shall abide at all times by all existing labour enactments and rules made there under, regulations, notifications and bye laws of State or Central Government or local authority and any other labour law (including rules), regulations, bye laws that may be passed or notification that may be issued under any labour law in future either by the State or the Central Government or the local authority. The Contractor shall also comply with the Laws relating to their employment, health, safety, welfare, immigration, and shall allow them all their legal rights. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention by the Contractor of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse,*

such amounts as may be necessary to cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/acts/rules/regulations including amendments, if any, on the part of the Contractor, the Employer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

3.22.2 SAPDC may also undertake measures, as decided by competent authority, to ensure labour welfare for contract workers, as deemed fit.

3.23 Indemnification

The Contractor shall indemnify and save harmless the Employer, from and against, all actions, suit proceedings, losses, costs, damages, charges, claims and demands of every nature and description brought or recovered against the Employer by reason of any act or omission of the Contractor, his agents or employees, in the execution of the Contract wherever applicable or in his guarding of the same. All sums payable by way of compensation under any of these conditions shall be considered as reasonable compensation to be applied to the actual loss or damage sustained, and whether or not any damage shall have been sustained.

3.24 Change in Laws and Regulations

3.24.1 If, after the Base Date, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated or changed which shall be deemed to include any change in interpretation or application by the competent authorities, that subsequently affects the costs and expenses of the Contractor, the Contract Price shall be correspondingly increased or decreased to the extent that the Contractor has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced costs shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, pursuant to sub-clause 3.10.1.

3.25 Force Majeure

3.25.1 "Force Majeure" shall mean any event or situation beyond the reasonable control of the Employer or of the Contractor, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected, and its origin is not due to negligence or lack of care on the part of the Contractor.

3.25.2 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall promptly notify the other in writing of the occurrence of such event and the circumstances thereof. Unless otherwise directed by the Employer in writing, the Contractor shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

3.25.3 The Contractor shall not be liable for forfeiture of its Performance Security, liquidated damages/penalty, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

3.26 Termination

3.26.1 Termination for Employer's Convenience



- (i) The Employer reserves the right to terminate the Contract, either in part or in full, at any time for any reason by giving the Contractor a notice of termination that refers to this sub-clause 3.26.1.
- (ii) Upon receipt of the notice of termination under sub-clause 3.26.1, the Contractor shall within thirty (30) days cease/discontinue all further work/services, except for such work as the Employer may specify in the notice of termination.
- (iii) *Clause Deleted.*

3.26.2 Termination for Contractor's Default

- (i) The Employer, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefore to the Contractor, referring to this sub-clause 3.26.2 if the Contractor:
 - (a) becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Contractor is a corporation, a resolution is passed or order is made for its winding up, other than a voluntary liquidation for the purposes of amalgamation or reconstruction, a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt or;
 - (b) assigns or transfers the Contract or any right or interest therein in violation of the provision of sub-Clause 3.21.4 or;
 - (c) in the judgment of the Employer has engaged in corrupt, collusive, coercive, or fraudulent practices, as defined in Clause 3.4, in competing for or in executing the Contract or ;
 - (d) has abandoned or repudiated the Contract or ;
 - (e) has without valid reason failed to commence work/services within the time as specified in LoA or;
 - (f) persistently fails to execute the Contract in accordance with the Contract or neglects to carry out its obligations under the Contract without just cause or;
 - (g) refuses or is unable to provide sufficient men, machine, materials, services to execute and complete the work in the manner specified in Section-IV: Scope of Works.
- (ii) The employer may, without prejudice to any other rights it may possess under the contract, give a notice to the contractor stating the cause(s) including the nature of the default and requiring the contractor to remedy the same within 10 days from the date of issue of such notice. If the Contractor fails to remedy or to take steps to remedy the same within time as specified in such notice, then the Employer may terminate the Contract forthwith by giving a notice of termination to the Contractor.
- (iii) Upon receipt of the notice of termination under sub-clauses 3.26.2 (i), the Contractor shall, either immediately or upon such date as is specified in the notice of termination, cease/discontinue all further work/services, except for such work as the Employer may specify in the notice of termination. In the event of termination of contract due to contractor's Default, the CPG submitted by the contractor pursuant to Clause 3.13 will be forfeited by SAPDC.



3.27 Settlement of Disputes/Arbitration

- 1) All questions, dispute or difference in relation to or in connection with the Contract shall be referred for arbitration in the manner provided as under:
 - a. Either of the parties may give to the other a notice in writing of the existence of such question, dispute or difference,
 - b. All dispute or difference in respect of which the decision has not been final and conclusive arising between the Contractor and SJVN Arun-3 power Development Company Private Limited in relation to or in connection with the Contract, shall be referred to Arbitration in the manner provided as hereunder:
 - (i) Arbitration will be by sole arbitrator. SJVN Arun-3 Power Development Company Private Limited shall appoint and designate one of its officer as a Sole Arbitrator who shall carry out Arbitration proceeding as Sole Arbitrator.
 - (ii) The Arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason, then the SJVN Arun-3 power Development Company Private Limited shall appoint another person to act as sole arbitrator in the same manner as provided herein above. Such person shall be entitled to proceed with the reference from the stage at which it was left by the predecessor.
 - c. Subject as aforesaid the provision of the Nepal's Arbitration Act. 2055, or any statutory modification or re-enactment thereof and the rules made there under and for the time being in force shall apply to the arbitration proceeding under this clause.
 - d. Irrespective of amount of the claim, Arbitrator shall give reasons for the Award.
- 2) The cost of Arbitration proceedings shall be borne equally by either party.
- 3) Arbitration proceedings shall be held at **Kathmandu, Nepal**.
- 4) The language of the arbitration proceedings and that of all documents and communications between the parties shall be English, however in case of any dispute English version will prevail. The arbitrator shall make a reasoned written award.
- 5) Notwithstanding any reference to the arbitration herein, the parties shall continue to perform their respective obligations under the contract

3.28 Jurisdiction of Courts

Unless otherwise hereinafter provided, this Contract shall be construed, interpreted and governed by laws of Nepal. The laws applicable to the Contract shall be the laws in force in Nepal. **Courts of Chainpur (Nepal) shall have exclusive Jurisdiction for adjudication upon the dispute arising out of the contract between the parties.**



SECTION-IV

SCOPE OF WORK

4.0 SCOPE OF WORK

4.1.1 The service provider shall, as part of the Assignment, provide the following services to SAPDC:

- a. Identification of potential consumers interested in procuring power from Arun-3 Hydro Electric Project located in Sankhuwashaba district of Nepal.
- b. Assessment of feasibility of undertaking Open Access business with the potential customer including assessment of the basic parameters such as current consumption, any IPP energy provider already supplying power to the potential consumer, power connection details if any, etc.;
- c. Assist in negotiation and finalization of definitive agreements including the term sheet and Power Purchase Agreements to be executed with the potential customer;
- d. Signing of Banking Agreement & Long Term Open Access approvals with State/Central Regulators
- e. Adoption of tariff from the concerned regulatory Authority(ies).
- f. Obtaining the connectivity approvals from relevant authorities.
- g. Availability of Evacuation Infrastructure as per the approved Scheme in case of Open Access.
- h. Assisting in procurement of any other documents from the consumer (if any), in the first month's electricity bill (issued by relevant DISCOM) of the consumer and completion of other regulatory formalities.

4.1.2 Requirement for “Execution of PPA”

- i) The tariff of the PPA should not be less than the **INR 4.70** for the proposed hydel power plant.
- ii) Bidder has to ensure and provide sufficient documentation for ascertaining provision of open access in the State/Centre where the Power buying entity is located.

4.1.3 Requirement for “Connectivity”

Power Evacuation shall be through STU/CTU Substation. Bidders have to submit the details of Grid Connecting Sub Stations according to the selected Plant location.

Bidders can refer to tentative list of STU/CTU Sub stations having available capacity. Bidder has to indicate the primary and the alternate Substation, provide all details and documents and obtain the connectivity approval for SAPDC. The statutory charges to be paid for connectivity shall be reimbursed by SAPDC to Bidder.

4.2 Timeline/Work Completion Schedule:

Case 1 - PPA with Discoms:

Sr No.	Milestones	Time period from Zero date (LOA Date)
1 (a)	PPA signing with customers for offered capacity of Project (with Net Tariff of not less than INR 4.70/ KWh at Sitamarhi, Bihar, India flat for minimum 15 years)	Z + 3 months
1 (b)	Adoption of tariff from respective State/Central Regulatory Commission complete as per Scope of Work and obtaining the connectivity approvals from relevant authorities.	Z + 12 months

Case 2 - PPA with Open Access Consumers:

Sr No.	Milestones	Time period from Zero date (LOA Date)
1 (a)	PPA signing with customers for offered capacity of Project (with Net Tariff of not less than INR 4.70/ KWh at Sitamarhi, Bihar, India flat for minimum 15 years)	Z + 3 months
1 (b)	Application for connectivity, Long Term Open Access and Approvals for Connectivity, Long Term Open Access consumer from relevant authorities on agreed terms of Tariff and PPA & Availability of Evacuation Infrastructure as per the approved Scheme complete as per Scope of Work.	Z + 12 months

Note: All the clearances/approvals shall be completed within 12 months from the zero date.



SECTION- V:

FORMS AND BID RESPONSE SHEET

Attachment-1

Authorization

Bidder to furnish authorization document in accordance with ITB Clause No 2.13 of this Bid Document.



Attachment-2

INTEGRITY PACT-PRE-CONTRACT

Between

SJVN Arun-3 Power Development Company (P) Ltd. (SAPDC), a company incorporated under the Companies Act 2063 and having its registered office at Lokanthali, Kathmandu, Nepal, hereinafter referred to as “The Employer” which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns of the **First Part**.

And

M/s _____, a company/ firm/ individual (status of the company) constituted in accordance with the relevant law in the matter and having its registered office at _____ represented by Shri/Smt. _____, Authorized Person, hereinafter referred to as “The Bidder/Contractor” which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns of the **Second Part**.

WHEREAS the Employer proposes to procure under laid down organizational procedures, contract for “**Hiring of Services from Firms for arranging PPA & Connectivity under Long Term Access (LTA)/Long Term Open Access (LTOA) for at least 15 (Fifteen) years for 694.47 MW of power generated from Arun-III HEP in Nepal**” and the Bidder/Contractor is willing to offer against Tender No. SAPDC/P&C/Arun-3HEP/PCD-197/2021-806 dated 22.10.2021.

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the Employer to obtain the desired said (work/ goods/ services) at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling the Bidder(s)/Contractor(s) to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the Employer will commit to prevent corruption, in any form, by its officials by following transparent procedures.



1.0 Commitments of the Employer

- 1.1 The Employer undertakes that no official of the Employer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder/Contractor, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
- 1.2 The Employer will, during the pre-contract stage, treat all the Bidders/Contractors alike, and will provide to all the Bidders/Contractors the same information and will not provide any such information to any particular Bidder/Contractor which could afford an advantage to that particular Bidder/Contractor in comparison to other Bidders/Contractors.
- 1.3 All the officials of the Employer will report to the appropriate Authority any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 1.4 In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Employer with full and verifiable facts and the same is prima facie found to be correct by the Employer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Employer or Independent External Monitor and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Employer the proceedings under the contract would not be stalled.

2.0 Commitments of the Bidder(s)/Contractor(s)

The Bidder(s)/Contractor(s) commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following :-

- 2.1 The Bidder(s)/Contractor(s) will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.



- 2.2 The Bidder/Contractor further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with Employer for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with Employer.
- 2.3 The Bidder(s)/Contractor(s) shall disclose the name and address of agents and representatives and Indian Bidder(s)/Contractor(s) shall disclose their foreign principals or associates.
- 2.4 The Bidder(s)/Contractor(s) shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract
- 2.5 The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Employer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 2.6 The Bidder/Contractor will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 2.7 The Bidder/Contractor will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 2.8 The Bidder/Contractor shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Employer as part of the business relationship, regarding plans, technical proposals and business details, including information contained in electronic data carrier. The Bidder/Contractor also undertakes to exercise due and adequate care lest any such information is divulged.
- 2.9 The Bidder(s)/Contractor(s) commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 2.10 The Bidder(s)/Contractor(s) shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 2.11 If the Bidder/Contractor or any employee of the Bidder/Contractor or any person acting on behalf of the Bidder/Contractor, either directly or indirectly, is a relative of any of the officers of the Employer, or alternatively, if any relative of an officer of the Employer has financial interest/stake in the Bidder(s)/Contractor(s) firm (excluding Public Ltd. Company listed on Stock Exchange), the same shall be disclosed by the Bidder/Contractor at the time of filling of tender.

The term 'relative' for this purpose would be as defined in Section 2(77) of the Companies Act, 2013 (India).



- 2.12 The Bidder(s)/Contractor(s) shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Employer.
- 2.13 The Bidder/supplier shall follow all rules and regulations of India and/or Nepal including statutory requirements like minimum wages, ESIC and EPF/Social Security Fund.

3.0 Previous Transgression

- 3.1 The Bidder(s)/Contractor(s) declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect on any corrupt practices envisaged hereunder or with any Public Sector Enterprise / Government Department in India and in Nepal (*Employer's country*).
- 3.2 The Bidder agrees that if it makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

4.0 Earnest Money (Security Deposit)

The provision regarding Earnest Money/Security Deposit as detailed in the Notice Inviting Tender (NIT) and Instruction to Bidders (ITB) section of the Bid Document is to be referred.

5.0 Sanctions for Violations

- 5.1 Any breach of the aforesaid provisions by the Bidder/Contractor or any one employed by it or acting on its behalf shall entitle the Employer to take action as per the procedure mentioned in the "**Guidelines on Banning of Business Dealings**" attached as **Annex-A** and initiate all or any one of the following actions, wherever required:
- (i) To immediately disqualify the bidder and call off the pre contract proceedings without assigning any reason or giving any compensation to the Bidder/Contractor. However, the proceedings with the other Bidder(s)/Contractor(s) would continue.
 - (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond (after the contract is Signed) shall stand forfeited either fully or partially, as decided by the Employer and the Employer shall not be required to assign any reason thereof.
 - (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Contractor. The Bidder/Contractor shall be liable to pay compensation for any loss or damage to the Employer resulting from such cancellation/rescission and the Employer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder/Contractor.
 - (iv) To encash the Bank guarantee, in order to recover the dues if any by the Employer, along with interest as per the provision of contract.



- (v) To debar the Bidder/Contractor from participating in future bidding processes of Employer, as per provisions of “Guidelines on Banning of Business Dealings” (**Annex-A**), which may be further extended at the discretion of the Employer.
- (vi) To recover all sums paid in violation of this Pact by Bidder(s)/Contractor(s) to any middleman or agent or broker with a view to securing the contract.
- (vii) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Employer with the Bidder/ Contractor, the same shall not be opened/operated.
- (viii) Forfeiture of Performance Security in case of a decision by the Employer to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

5.2 The Employer will be entitled to take all or any of the actions mentioned at para 5.1 (i) to (viii) of this Pact also on the Commission by the Bidder/Contractor or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder/Contractor), of an offence as defined in GFR, Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption in Employer’s country.

5.3 The decision of the Employer to the effect that a breach of the provisions of this Pact has been committed by the Bidder/Contractor shall be final and conclusive on the Bidder/Contractor. However, the Bidder/Contractor can approach the Independent External Monitor(s) appointed for the purposes of this Pact.

6.0 Independent External Monitor(s)

- 6.1 The Employer has appointed Independent External Monitor(s) (hereinafter referred to as Monitors) for this Pact.
- 6.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 6.3 The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 6.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement for which a complaint or issue is raised before them, including minutes of meetings. The right to access records should only be limited to the extent absolutely necessary to investigate the issue related to the subject tender/contract.
- 6.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform CMD/CEO/MD of Employer and request Employer to discontinue or take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.



- 6.6 The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction, to all Project documentation of the Employer including that provided by the Bidder/Contractor. The Bidder/Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractor(s). The Monitor shall be under contractual obligation to treat the information and documents of the Bidder/Contractor/Subcontractor(s) with confidentiality.
- 6.7 The Employer will provide to the Monitor sufficient information about all meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings as and when required.
- 6.8 The Monitor will submit a written report to the CMD/CEO/MD of Employer within 30 days from the date of reference or intimation to him by the Employer/Bidder and should the occasion arise, submit proposals for correcting problematic situations.
- 6.9 The word 'Monitor' would include both singular and plural.
- 6.10 In the event of a dispute between the management and the contractor related to those contracts where integrity pact is applicable, in case both the parties agree, they may try to settle the dispute through mediation before the panel of IEMs in a time bound manner. In case the dispute remains unresolved even after mediation by the panel of IEMs, SJVN may take further action as per the terms and conditions of Contract. Expenses on dispute resolution shall be equally shared by both the parties.

7.0 Facilitation of Investigation

In case of any allegation of violation of any provisions of this Pact or payment of commission, the Employer or its agencies shall be entitled to examine all the documents including the Books of Accounts of the Bidder/Contractor and the Bidder/Contractor shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

8.0 Law and Place of Jurisdiction

This Pact is subject to Nepal's Law. The place of performance and jurisdiction is the Registered Office of the Employer. The arbitration clause provided in the tender document/contract shall not be applicable for any issue/dispute arising under Integrity Pact.

9.0 Other Legal Actions

- 9.1 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.
- 9.2 Changes and supplements as well as termination notice need to be made in writing.



9.3 If the Contractor is a partnership or a consortium or a joint venture, this pact must be signed by all partners of the consortium/joint venture.

10.0 Validity

10.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the Employer and the Bidder/Contractor/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract or six months from the date of opening of price bids, whichever is earlier.

10.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

11.0 The Parties hereby sign this Integrity Pact at _____ on _____.

Employer

Bidder

Name of the Officer: **Vivek Sharma**

(Authorised Person)

Designation: **CE (P&C)**

(Name of the Person)

Designation

Place-----

Place-----

Date-----

Date-----

Witness1. _____

Witness1. _____

(Name and address)

(Name and address)

2. _____

2. _____

(Name and address)

(Name and address)



Annex-A

GUIDELINES ON BANNING OF BUSINESS DEALINGS

1.0 Introduction

- 1.1 Employer deals with Agencies viz. parties/ contractors/ suppliers/ bidders, who are expected to adopt ethics of highest standards and a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of Employer to deal with Agencies who commit deception, fraud or other misconduct in the tendering process.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2.0 Scope

- 2.1 The Information for Bidders/ Instruction to Bidders/Notice Inviting Tender/Notice Inviting Quotations and even the General Conditions of Contract (GCC) of Employer generally provide that Employer shall have the rights to remove from list of approved suppliers / contractors or to ban business dealings if any Agency has been found to have committed misconduct or fraud or anything unethical not expected from a reputed contractor.
- 2.2 The procedure of (i) Removal of Agency from the List of approved suppliers / contractors; (ii) Suspension and (iii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.3 These guidelines shall apply to all the Projects/ Power Stations/ Regional Offices/ Liaison Offices of SJVN including its subsidiaries and JVs.
- 2.4 It is clarified that these guidelines do not deal with the poor performance of the contractors/ Agencies.
- 2.5 The banning shall be with prospective effect, i.e. future business dealings.

3.0 Definitions

In these Guidelines, unless the context otherwise requires:

- i) **“Party / Contractor / Supplier / Bidders”** shall mean and include a public limited company or a private limited company, a joint Venture, Consortium, HUF, a firm whether registered or not, an individual, cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. “Party / Contractor/ Supplier / Bidder’ in the context of these guidelines is indicated as ‘Agency’.
- ii) **“Unit”** shall mean the Project/ Power Station/ Regional Office/ Liaison Office.
- iii) **“Competent Authority”** and **‘Appellate Authority’** shall mean the following:



The concerned Director shall be the 'Competent Authority' for the purpose of these guidelines.

CMD, SJVN shall be the 'Appellate Authority' in respect of such cases.

- iv) **"Investigating Committee"** shall mean any Officer/Committee appointed by Competent Authority to conduct investigation.
- v) **"List of approved Agencies viz Parties / Contractors / Suppliers/Bidders"** shall mean and include list of Parties/ Contractors / Suppliers / Bidders etc if registered with Employer.

4.0 Initiation of Banning / Suspension

Action for banning /suspension business dealings with any Agency shall be initiated by the department responsible for invitation of bids after noticing the irregularities or misconduct on the part of Agency concerned. Besides the concerned department, Vigilance Department of each Unit/ Corporate Vigilance may also be competent to initiate such action.

5.0 Suspension of Business Dealings.

- 5.1 If the conduct of any Agency dealing with Employer is under investigation, the Competent Authority may consider whether the allegations (under investigation) are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Committee, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Committee. The Investigating Committee may ensure that their investigation is completed and whole process of final order is over within such period. However, if investigations are not completed in six months time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.
- 5.2 The order of suspension shall be communicated to all Departmental Heads of SJVN (including its subsidiaries and JVs) and Heads of the Units. During the period of suspension, no business dealing may be held with the Agency.
- 5.3 As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.
- 5.4 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.
- 5.5 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension.



6.0 Ground on which Banning of Business Dealings can be initiated:

- 6.1 If the security consideration, including questions of loyalty of the Agency to Employer so warrants;
- 6.2 If the director /owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises, during the last three years.
- 6.3 If business dealings with the Agency have been banned by the Department of Power, Government of India and/or relevant Ministry/Govt. Deptt. of Nepal.
- 6.4 If the Agency has resorted to corrupt, fraudulent practices including misrepresentation of facts;
- 6.5 If the Agency uses intimidation / threatening or brings undue outside pressure on Employer or its official for acceptance / performances of the job under the contract;
- 6.6 If the Agency misuses the premises or facilities of Employer, forcefully occupies or damages Employer's properties including land, water resources, forests / trees or tampers with documents/records etc. (Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

7.0 Banning of Business Dealings

- 7.1 A decision to ban business dealings with any Agency shall apply throughout SJVN including its subsidiaries/JVs.
- 7.2 There will be an Investigating Committee consisting of officers not below the rank of AGM/DGM from Indenting Division, Finance, Law and Contracts. Member from department responsible for invitation of bids shall be the convener of the committee. The functions of the committee shall, inter-alia include:
 - i) To study the report of the unit/division responsible for invitation of bids and decide if a prima-facie case for banning exists, if not, send back the case to the Competent Authority.
 - ii) To recommend for issue of show-cause notice to the Agency by the concerned unit/division as per clause 9.1.
 - iii) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
 - iv) To submit final recommendations to the Competent Authority for banning or otherwise.

8.0 Removal from List of Approved Agencies - Suppliers/ Contractors, etc.

- 8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should not be removed from the list of approved Agencies - Suppliers / Contractors, etc.



8.2 The effect of such an order would be that the Agency would not be qualified for competing in Open Tender Enquiries or Limited Tender Enquiries till the period mentioned in the order.

8.3 Past performance of the Agency may be taken into account while processing approval of the Competent Authority for award of the contract.

9.0 Show-cause Notice

9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency, Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defense.

9.2 If the Agency requests for inspection of any relevant document in possession of Employer, necessary facility for inspection of documents may be provided.

9.3 The Competent Authority may consider and pass an appropriate speaking order:

- a) For exonerating the Agency if the charges are not established;
- b) For removing the Agency from the list of approved Suppliers / Contractors, etc.
- c) For banning the business dealing with the Agency.

9.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned.

10.0 Appeal against the Decision of the Competent Authority

10.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing etc. The appeal shall be filed to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.

10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.

11.0 Circulation of the names of Agencies with whom Business Dealings have been banned

- i) The concerned unit shall forward the name and details of the Agency(ies) banned to IT&SE Division of SJVN's Corporate Office for displaying the same on SJVN website.
- ii) Corporate Contracts Department, SJVN shall also forward the name and details of the Agency(ies) banned to the Ministry of Power, GoI besides forwarding the name and details to the contracts/procurement group of all CPSUs of power sector.



FORM OF DECLARATION OF ELIGIBILITY

UNDERTAKING

We, M/s _____ {Name and address of bidder} hereby certify that we have not been banned/de-listed/ black listed / debarred from business by any PSU / Govt. Department during last 03 (three) years on the grounds mentioned in para 6 of Guidelines on banning of Business dealing.

(Seal & signature of the Contractor)



Attachment -3

Deleted



Attachment-4

Format for declaration of Bid Security/Earnest Money Deposit

No.

Date

Subject: Declaration of bid security/EMD Requirement.

We_____ (insert name of the Bidder) hereby provide this undertaking to SAPDC Limited, in respect to our response to NIT vide no SAPDC/P&C/Arun-3HEP/PCD-197/2021-.... dated2021. We undertake that we will abide by the provisions of the NIT including bid document, during the bid validity period.

We undertake not to withdraw or modify our bid during the bid validity period, in line with provisions of the NIT including bid document. In case we withdraw or modify our response to the NIT including bid document during the bid validity period, or violate other provisions of the NIT including bid document which make the bid non-responsive. We, _____ (insert name of the bidder) shall be treated as ineligible from participating in any of the upcoming tenders issued by SAPDC for a period of 01 year from the date of default as notified by SAPDC.

Further, We_____ (insert name of the bidder) shall be ineligible from participation in re-tendering of this particular tender.

(Name and Signature of the Authorized Signatory)



Attachment-5

Format for declaration of Potential consumers, Power Purchase Agreement (PPA)

No.

Date

To

[Employer's Name & Address]

Subject: Hiring of Services from Firms for arranging PPA & Connectivity under Long Term Access (LTA)/Long Term Open Access (LTOA) for at least 15 (Fifteen) years for 694.47 MW of power generated from Arun-III HEP in Nepal.

Dear Sir,

Following is the details of Potential consumers and Power Purchase Agreement (PPAs) likely to be executed under the subject cited tender

Sr No	Name and Address of Potential consumer	PPA Tariff (INR/ Kwh)	PPA Capacity offered (MW)
1			
2			
3			
4			
5			

Signature of the authorized person
Full name of the applicant
Stamp & Date



Attachment-6

Bidder's Eligibility and Qualifications

- (a) Copy of Certificates of Incorporation.
- (b) Bidders have to furnish details required in Attachment – 6(a) and 6 (b) along with Documentary Evidences in support of the Minimum Qualification Requirement (MQR) as per Clause 1.2 of Section-I.
- (c) VAT/Tax Registration Certificate,
- (d) Permanent Account Number (PAN) card
- (e) Any other additional information/Document(s) pertaining to this tender, if any)



Attachment-6(a)

Details of the company

S.No	Organisational Details	
1.	Name of the Firm & the year of Establishment	
2.	Correspondence Address	
3.	Telephone / Mobile No	
4.	e-mail address	
5.	Type of Organization (Tick whichever is applicable)	Company/Firm/LLP/Proprietorship registered underAct of India/Nepal.
6.	Year of Establishment	
7.	PAN/ VAT/ EPF – Registration No. & Copy in support	
8.	Whether, blacklisted by any Department/ Central/ State Government/ Public Sector Undertaking in India/Nepal/Bangladesh or debarred by court of Law. YES / NO (If yes, please attach details)	

Signature of the authorized person
Full name of the applicant
Stamp & Date



Attachment-6(b)

(a) Details to be filled against Clause A (a & b) of Minimum Eligibility Criteria i.e. Technical Eligibility Criteria

S.No	Name and Address of consumer with whom PPA has been arranged	Capacity	Date of arranging PPA	Details of supporting documents in favour of Long term access connectivity and other approvals related to open access	Specify whether work done by lead partner/ other partners (in case of JV)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

(b) Details to be filled against Clause A (d) of Minimum Eligibility Criteria i.e. Technical Eligibility Criteria

S.No	Details of Work (Similar contract)	Date and Year of Completion of work	Value of Completed Work	Specify whether work done by lead partner/ other partners (in case of JV)
1.				
2.				
3.				
4.				
5.				
6.				



7.				
8.				

(c) Details to be filled against Clause B of Minimum Eligibility Criteria i.e. Financial Eligibility Criteria for

Description	2017-18	2018-19	2019-20
1. Turnover during the financial year			
2. Net Worth			

(d) In case of JV , financial details are as under:

Description	2017-18	2018-19	2019-20
1. Total Turnover during the financial year			
a) Share of Lead partner in the turnover			
b) Share of other partner in the turnover			
2. Total Net Worth			
a) Networth of Lead partner			
b) Networth of other partner			

(e) Details to be filled against Clause C (1) of Minimum Eligibility Criteria i.e. Technical Eligibility Criteria

S.No	Name and Address of consumer	Capacity	Details of Supporting documents
1.			
2.			
3.			



4.			
5.			
6.			
7.			
8.			

Note- Bidders shall attach all documentary evidences i.e. Purchase orders/LOI/ agreements/ completion certificates/ audited annual reports/CA certificate etc. in support of clause 1.2 of bid document i.e. technical and financial eligibility criteria along with this attachment.

Signature of the authorized person
Full name of the applicant
Stamp & Date



Attachment-7

PROFORMA FOR ELECTRONIC FUND TRANSFER (EFT)

To

Chief Engineer (P&C)
SAPDC Limited
Tumlingtar Sankhwashaba
Nepal

Dear Sir,

Ref: Authorization for payments through Electronic Fund Transfer System.

Dear Sir,

We, hereby authorize SAPDC Ltd. (Complete address of the Unit with Postal Code) to make all payments due to us through Electronic Fund Transfer System. The details for facilitating the payments are given below:

(TO BE FILLED IN CAPITAL LETTER)

1. NAME OF THE BENEFICIARY

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

2. ADDRESS

3. TELEPHONE NO (WITH STD CODE)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

4. FAX NO. (WITH STD CODE)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

5. BANK PARTICULARS:

A) BANK NAME

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

B) BANK TELEPHONE NO. (WITH STD CODE):



--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

C) BRANCH ADDRESS (WITH BRANCH CODE)

D) BANK FAX NO. (WITH STD CODE)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

E) 9 DIGIT MICR CODE OF THE BANK BRANCH
(ENCLOSE COPY OF A CANCELLED CHEQUE):

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

F) RTGS CODE OF THE BANK

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

G) BANK ACCOUNT NUMBER

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

H) BANK ACCOUNT TYPE (TICK ONE):

SAVING	CURRENT	LOAN	CASH CREDIT	OTHERS
--------	---------	------	-------------	--------

IF OTHERS, SPECIFY

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

6. PERMANENT ACCOUNT NUMBER (PAN)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

7. E-MAIL ADDRESS FOR INTIMATION REGARDING RELEASE OF PAYMENTS

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--



It is certified that the particulars given above are correct and complete. If the transaction is delayed or credit is not effected at all for reasons of incomplete or incorrect information, I/ we would not hold the Company responsible

SIGNATURE

Date:

--	--	--	--	--	--	--	--

(AUTHORISED SIGNATORY)

NAME:

OFFICIAL STAMP

BANK CERTIFICATION

It is certified that above mentioned beneficiary hold a Bank Account No..... with our branch and the Bank particulars mentioned above are correct

SIGNATURE

Date:

--	--	--	--	--	--	--	--

(AUTHORISED SIGNATORY OF THE BANK)

Authorization No.....

NAME:

OFFICIAL STAMP

(Seal & Signature of the Bidder)

Place :

Date:



Format-1

Bid form

Ref No. *[Insert your Reference No.]*

Dated: xx.xx.2021

To,

[Insert Name & Address of Tender Inviting Authority]

Subject: Hiring of Services from Firms for arranging PPA & Connectivity under Long Term Access (LTA)/Long Term Open Access (LTOA) for at least 15 (Fifteen) years for 694.47 MW of power generated from Arun-III HEP in Nepal.

Sir,

- 1.0 I the undersigned is authorized signatory of *[Insert name of the Firm/Agency/Bidder]* and is competent to sign this declaration and execute this tender document.
- 2.0 I have carefully read and understood all the terms and conditions of the tender document in conjunction with its subsequent Amendment(s)/ Clarification(s)/ Addenda/Errata/ Corrigendum(s), if any, and undertake to abide by them;
- 3.0 The information/documents furnished along with the above Bid are true and authentic to the best of my knowledge and belief .I/ we, am / are well aware of the fact that furnishing of any false information /fabricated document would lead to rejection of my tender at any stage besides liabilities towards prosecution under appropriate law.
- 4.0 We *[Insert name of the Firm/Agency/Bidder]* undertake, if our bid is accepted, to commence the work immediately upon your Letter of Award to us as per provisions mentioned therein, and to achieve Completion of Works within the time stated in the Bid Documents.
- 5.0 We *[Insert name of the Firm/Agency/Bidder]* undertake that we have not submitted more than one bids against the subject cited NIT. We also undertake that we have not joined hands with related parties such as associated firms / partners for submitting the bid in different names.
- 6.0 We, *[Insert name of the Firm/Agency/Bidder]*, undertake that we are not blacklisted by any PSUs/Central/State Govt./Govt. local bodies as on date and also have not been banned /de-listed/black listed/debarred from business by Ministry of Power, Government of India/any PSU/any Government Department during last 03 (three) years on grounds of corrupt/fraudulent practices and/or by Ministry of Power, Government of India/Nepal/SJVN/SAPDC on any grounds.
- 7.0 We, *[Insert name of the Firm/Agency/Bidder]*, undertake that our offer/bid is in total compliance with the terms and conditions of Tender Document, without any deviation.
- 8.0 We *[Insert name of the Firm/Agency/Bidder]* agree to abide by this bid till [Bid Validity]as stipulated in the Bid Documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.
- 9.0 Until a formal Contract is prepared and executed between us, this bid, together with your written acceptance thereof in the form of your Letter of Award shall constitute a



binding contract between us subject to modifications, as may be mutually agreed to between us and indicated in the Letter of Award.

- 10.0 We understand that you are not bound to accept the lowest or any bid you may receive. We acknowledge the right of the Employer to reject our Bid without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
- 11.0 We understand that you may annul the bidding process and reject all bids or accept or reject any of the bids at any time and that you are neither bound to accept any bid that you may receive nor to invite the Bidders to bid for Works, without incurring any liability to all or any of the Bidders.
- 12.0 We agree and understand that the Bid is subject to the provisions of the Tender Documents. In no case, we shall have any claim or right of whatsoever nature if the Works is not awarded to us or our Bid is not opened.
- 13.0 In line with the requirements of the Bid Document, we confirm that we have submitted the Price Schedules- 1 to 2, duly filled-in as per your Proforma.
- 14.0 Attachments to the Bid form:

In line with the requirement of the Tender Documents we enclose herewith the following Attachments to the Bid form:

i) Attachment-1: Authorization

An authorization, as per clause 2.9 indicating that the person(s) signing the Bid has the authority to sign the Bid and that the Bid is binding upon the Bidder during the full period of its validity in accordance with Clause 2.8.

ii) Attachment-2: Integrity Pact.

- 1) Integrity Pact duly signed between Employer and the Bidder in accordance with Sub-Clause 2.1.1.
- 2) Undertaking signed by bidder in accordance with sub-clause 2.1.1 regarding Banning of Business dealings.

iii) Attachment-4: Bid security/ Earnest Money Declaration and Cost of Tender Document/ proof of same in case of online Bank Transfer

iv) Attachment-5: Format for declaration of Potential consumers, Power Purchase Agreement (PPA),

v) Attachment-6: Bidder's Eligibility and Qualifications

- (a) Copy of Certificates of Incorporation.
- (b) Bidders have to furnish details required in Attachment – 6(a) and 6 (b) alongwith Documentary Evidences in support of the Minimum Qualification Requirement (MQR) as per Clause 1.2 of Section-I.
- (c) VAT Registration Certificate,
- (d) Permanent Account Number (PAN) card.
- (e) Any other additional information/Document(s) pertaining to this tender, if any)



vi) Attachment-7: Electronic Fund Transfer (EFT) details of the company.

Date.....

Place.....

(Name & Signature of Authorised
Representative with Seal/Stamp of
Company)



Format-2

PROFORMA FOR BANK GUARANTEE FOR CONTRACT PERFORMANCE GUARANTEE

(To be stamped in accordance with Stamp Act)

Bank Guarantee No.

Date

To

[Employer's Name & Address]

Dear Sir,

In consideration of the *[Employer's Name]*..... (Hereinafter referred to as the 'Employer,' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s. *[Contractor's Name]* with its Registered/Head Office at (Hereinafter referred to as the 'Contractor', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Employer's Letter of Award No. dated and the same having been unequivocally accepted by the Contractor, resulting in to a contract bearing No..... dated Valued at for and the Contractor having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to (*) % (..... percent) of the said value of the Contract to the Employer.

We *[Name & Address of the Bank]* Having its Head Office at (hereinafter referred to as the 'Bank', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Employer, on demand any and all monies payable by the contractor to the extent of (*) as aforesaid at any time upto (@) *[days/month/year]* without any demur, reservation, context, recourse or protest and/or without any reference to the Contractor. Any such demand made by the Employer on the Bank shall be conclusive and binding notwithstanding any difference between the Employer and the Contractor or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Bank undertakes that the guarantee shall be irrevocable and valid till the completion of faithful performance of the Contract to the satisfaction of the Employer and/ or the Employer in writing discharges the Guarantee.

The Employer shall have the fullest liberty, without affecting in any way the liability of the Bank under this guarantee, from time to time to extend the time for performance of the Contract by the Contractor. The Employer shall have the fullest liberty, without affecting this guarantee, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against the Contractor, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Employer and the Contractor or any other course or remedy or security available to the Employer. The Bank shall not be released of its obligations under these presents by any exercise by the Employer of its liberty with reference to the matters aforesaid



or any of them or by reason of any other act or forbearance or other acts of omission of commission on the part of the Employer or any other indulgence shown by the Employer or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Bank.

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

Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to (*) and it shall remain in force upto and including (@) and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s..... [Contractor's Name] on whose behalf this guarantee has been given.

Dated this day of 2021 at

WITNESS

.....

.....

(Signature)

(Signature)

[

(Name)

(Name)

(Official Address)

(Designation with Bank

Stamp)

Attorney as per Power of

Attorney No.....

Dated

- Notes: 1. (*) **This sum shall be 3 % of the total contract price.**
 (@) This date will be Ninety (90) days beyond the completion period as specified in the Contract.
2. The original bank guarantee against the CPG should be sent to SAPDC Ltd. directly under Regd. Post (A.D.) by the issuing bank / branch. Where the original bank guarantee against CPG is handed over to the bidder, the bidder shall ensure that an un-stamped duplicate copy of the bank guarantee against CPG along with covering letter has been sent immediately by the issuing bank/branch under Regd. Post (A.D.) directly to SAPDC Ltd. at the address of Tender Inviting Authority.
3. The bank guarantee shall be issued by any Scheduled Bank /Nationalized Bank of India or Class A Bank of Nepal.



Format-3

PROFORMA OF JOINT VENTURE AGREEMENT

(On Non-Judicial Stamp Paper of Appropriate Value)

BETWEEN

M/s.....

AND

M/S.....

THIS Joint Venture 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 **“Partner-1.”** 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 **“Partner-2”**, which expression shall include its successors, executors and permitted assigns), for the purpose of making a bid and entering into the Contract(in case of award) ----- of M/s. SAPDC Ltd. a Company incorporated under the Companies Act, 1956, and having its Registered Office at SAPDC, Tumlingtar, District Sankhuwashba, Nepal (hereinafter called the Employer).

WHEREAS, the Employer invited Bids for **“Hiring of Services from Firms for arranging PPA & Connectivity under Long Term Access (LTA)/Long Term Open Access (LTOA) for at least 15 (Fifteen) years for 694.47 MW of power generated from Arun-III HEP in Nepal”** vide its Bid Document No. SAPDC/P&C/Arun-3HEP/PCD-197/2021-806 dated 22.10.2021.

AND WHEREAS Bid Documents stipulates that the successful bidder may be a Joint Venture comprising of firms and further stipulates that in that case, the bidder shall provide along with the bid, a Joint Venture Agreement as per this format in which the Partners in the Joint Venture are jointly and severally liable to the Employer to perform all the contractual obligations.

AND WHEREAS, We are authorized by our respective Board of Directors vide separate resolutions to form Joint Venture in the name and style i.e.having its registered office.....for the execution of **“Hiring of Services from Firms for arranging PPA & Connectivity under Long Term Access (LTA)/Long Term Open Access (LTOA) for at least 15 (Fifteen) years for 694.47 MW of power generated from Arun-III HEP in Nepal”** of the Employer as well as to sign the same (certified copy of Board Resolution to these effects enclosed)

AND WHEREAS the bid is being submitted to the Employer vide proposal No..... dated..... based on the Joint Venture Agreement being these presents and the bid in accordance with the requirement of Bid document have perused and understood and as a



token of acknowledgement has been signed jointly by both the partners and submitted to the Employer.

NOW THIS INDENTURE WITNESSETH AS UNDER:

In consideration of the above premises and agreements both the partners to this joint venture do hereby now agree as follows:-

1. In consideration of the Award of the Contract by the Employer to the Joint Venture, we the partners to the Joint Venture Agreement, do hereby agree that partner-1 (M/s.....) shall act as the Lead Partner for self and on behalf of partner -2 and further declare and confirm that we shall be jointly and severally bound unto the Employer for the execution of the contract in accordance with the Contract Terms and shall be jointly and severally liable to the Employer to perform all the contractual obligations including the technical guarantees. Further, the lead partner is authorized to incur liabilities and receive instructions for and on behalf of any and other partners of the Joint Venture and the entire execution of the Contract; exclusively the Lead Partner shall receive including payment.
2. In case of any breach of the Contract committed by any of the partners of the Joint Venture Agreement, the other partner(s), shall be fully responsible for the consequences and successful performance of the Contract in accordance with the terms of the Contract.
3. Further, if the Employer suffered any loss or damage on account of any breach of the Contract or any shortfall in the performance of the completed equipment in meeting the performance guaranteed parameters as per Specifications of the Contract, the partner-2 of these presents undertakes to promptly make good such loss or damage caused to the Employer, on its demand without any demure, it shall not be necessary or obligatory for the Employer to proceed against the partner-1 to these presents before proceeding against the partner-2.
4. The financial liability of the partners of this joint venture agreement, to the Employer with respect to any and all claims arising out of the performance or non performance of the Contract shall, however, be not limited in any way so as to restrict or limit the liabilities of either of the partner.
5. It is expressly understood and agreed between the partners to this agreement that the responsibilities and obligations of each of the partners shall be delineated in Annexure 1 to this agreement. It is further agreed by the partners that the above sharing of responsibilities and obligation shall not in any way be a limitation of joint and several responsibilities of the partners under the contract.
6. This Joint Venture Agreement shall be construed and interpreted in accordance with the Laws of India.
7. In case of an award of contract, we the partners to the Joint Venture Agreement do hereby agree that we shall furnish the Contract Performance Guarantee from a Bank in favour of Employer for a value as stipulated under the Contract and this shall be in the name of the joint venture.
8. It is further agreed that the Joint Venture Agreement shall be irrevocable and shall form an integral part of the Contract and shall continue to be enforceable till the Employer discharges the same. It shall be effective from the date first mentioned above form all purposes and intents.



IN WITNESS WHEREOF, the partners to the joint venture 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

For M/s..... (Partner-1)
(Signature of the Authorized representative)

Name.....

Designation.....

Common seal of the company.....

Common Seal of M/s..... has been affixed in my/our presence, authorized representative to the Board of Directors

Resolution No. ---- dated

Signatures.....

Signature-----

Name.....

Name-----

Designation.....

Designation-----

For M/s..... (Partner-2)
(Signature of the Authorized representative)

Name.....

Designation.....

Common seal of the company.....

Common Seal of M/s..... has been affixed in my/our presence, authorized representative to the Board of Directors

Resolution No. ---- dated

Signatures.....

Signature-----

Name.....

Name-----

Designation.....

Designation-----



SCHEDULE OF RATES AND PRICES

Item	Description	Unit	Qty. to be mentioned by Bidder (IN MW)	UNIT PRICE (INR/NPR) (In figures)	UNIT PRICE (INR/NPR) (In words)	TOTAL PRICE (IN INR/NPR)	Name of State
1	2	3	4	5	6	(7) = (6) x (4)	8
Service charges for various Approvals & Clearances.							
1	Signing of PPA between SAPDC and buyers for offered capacity of Project (with Net Tariff of not less than INR 4.70/ KWh at Sitamarhi, Bihar, India flat for 15 years) and Adoption of tariff by respective State/Central regulatory commissions, if required complete as per Scope of Work and obtaining the connectivity approvals from relevant authorities.	Rs/MW					
2	Signing of PPA between SAPDC and buyers for offered capacity of Project (with Net Tariff of not less than INR 4.70/ KWh at Sitamarhi, Bihar, India flat for 15 years), Application for connectivity, Long Term Open Access and Approvals for Connectivity, Long Term Open Access consumer from relevant authorities on agreed terms of Tariff and PPA & Availability of Evacuation Infrastructure as per the approved Scheme complete as per Scope of Work	Rs/MW					
Total (1 to 2 above)							

- Notes**
- 1) The bidders have to quote for a minimum of 50 MW and more. Only bid having quote for 50 MW and more will be considered for evaluation.
 - 2) Above prices quoted by the bidder shall remain FIRM during the currency of the contract.
 - 3) Above prices include all taxes, duties, levies and fees whatsoever, payable by the contractor under the contract except VAT.
 - 4) SAPDC being a Nepalese Company services provided by Indian company are exempted from provision of GST.
 - 5) The prices quoted under Sr. No. 1/2 above shall be further divided in the ratio of (a) 30% for signing of PPA, (b) 65% for Adoption of tariff by respective State/Central regulatory commissions OR Submission of Application obtaining Connectivity and Open Access Approval from relevant authorities and (c) 5% for Realization of 1st after the commissioning of the plant for all contractual purposes.