Contract CE/SPV-03: Design, Engineering, Manufacture, Supply, Storage Civil work, Erection, Testing & Commissioning of the Rooftop Solar PV project including Operation and Comprehensive Maintenance (O&M) of the project in RESCO Model for a period of 25 years after commissioning of projects in Depot and Metro Stations of DMRC Ltd

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CE/ SPV-03 Page 2R
**Name of Work:**

Delhi Metro Rail Corporation (DMRC) Ltd. invites open e-tenders from eligible applicants, who fulfill qualification criteria, for the work "Contract CE/SPV-03: Design, Engineering, Manufacture, Supply, Storage Civil work, Erection, Testing & Commissioning of the Rooftop Solar PV project including Operation and Comprehensive Maintenance (O&M) of the project in RESCO Model for a period of 25 years after commissioning of projects in Depot and Metro Stations of DMRC Ltd".

**Key details:**

<table>
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<th>Approximate cost of work</th>
<th>Rs. 160.00 Crore</th>
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<tr>
<td>Tender Security amount</td>
<td>Rs. 70 Lakhs</td>
</tr>
<tr>
<td>Completion period of the Work</td>
<td>42 <strong>18 months</strong> from the date of issue of LOI in stages as per tender clauses.</td>
</tr>
<tr>
<td>Tender documents on sale</td>
<td>From 11.09.2015 to 24.10.2015 <strong>04.11.2015</strong> (upto 11:00 hrs) on e-tendering website <a href="http://www.tenderwizard.com/DMRC">www.tenderwizard.com/DMRC</a>. Tender document can only be obtained online after registration of tenderer on the website <a href="http://www.tenderwizard.com/DMRC">www.tenderwizard.com/DMRC</a>. For further information in this regard bidders are advised to contact on 011-49424307, 011-49424365 or 011-23417910, 011-23415838.</td>
</tr>
<tr>
<td>Cost of Tender documents</td>
<td>Rs. 21,000/- (Non-Refundable) (Bank Draft / Bankers Cheque issued in favour of &quot;Delhi Metro Rail Corporation Limited&quot;, payable at &quot;New Delhi&quot;) Cost of tender documents i.e., D.D. / Banker’s cheque, in original, shall be accepted only upto 1500 hours on 07-10-2015 <strong>04.11.2015</strong> in the office of Executive Director/Contracts at below mentioned address.</td>
</tr>
<tr>
<td>Pre-bid Meeting</td>
<td>28.09.2015 at 1100Hrs</td>
</tr>
<tr>
<td>Last date of Seeking Clarification</td>
<td>29.09.2015 (Queries from bidders after due date shall not be acknowledged)</td>
</tr>
<tr>
<td>Last date of issuing addendum</td>
<td>07.10.2015 20.10.2015</td>
</tr>
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</tr>
<tr>
<td>Date &amp; time of Submission of Tender</td>
<td>21.10.2015 04.11.2015 upt 15:00 Hrs.</td>
</tr>
<tr>
<td>Date &amp; time of opening of Tender</td>
<td>21.10.2015 04.11.2015 at 15:05 Hrs.</td>
</tr>
<tr>
<td>Authority and place for submission of Tender</td>
<td>Executive Director/Contracts, Delhi Metro Rail Corporation, 5th floor, A-Wing, Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi -110 001</td>
</tr>
<tr>
<td>Document cost, Pre-bid Meeting and seeking clarifications</td>
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**Important Note:** All correspondence from DMRC pertaining to this tender till the award of the work with tenderer shall be done by Executive Director/Contracts. The bidders are advised to regularly check their email ID registered with their user account at e-tendering portal www.tenderwizard.com/DMRC for any update/addendum/corrigendum/pre-bid and post-bid queries/any other correspondence by the Employer.
• Where a work is undertaken by a group, only that portion of the contract which is undertaken by the concerned applicant/member should be indicated and the remaining done by the other members of the group be excluded. This is to be substantiated with documentary evidence.

• Financial data for latest last five audited financial years has to be submitted by the tenderer in Format -7 and Format-12 along with audited balance sheets. The financial data in the prescribed format shall be certified by Chartered Accountant with his stamp and signature in original. In case audited balance sheet of the last financial year is not made available by the bidder, he has to submit an affidavit certifying that 'the balance sheet has actually not been audited so far'. In such a case the financial data of previous 4' audited financial years will be taken into consideration for evaluation. If audited balance sheet of any year other than the last year is not submitted, the tender will be considered as non-responsive. But in case the company is operative for less than 5 years, it still can be considered provided its financial standing meets the tender requirement based on available audited balance sheets.

3.5 INCORPORATION OF A PROJECT COMPANY

3.5.1 In case the Bidder wishes to incorporate a Project Company, in such a case Bidder if selected as a Successful Bidder shall incorporate a Project Company. Bidder shall be responsible to get all clearance required/obtained in the name of the Bidding Company transferred in the name of the Project Company.

3.5.2 The aggregate equity share holding of the Successful Bidder (Individual or in case of JV/JVA) minimum in proportion to their percentage participation in the issued and paid up equity share capital of the Project Company shall not be less than fifty one percent (51%) up to a period of Twenty Five (25) years from the date of commissioning of the entire Sanctioned Capacity of the Project Developer. The Successful Bidder may invest in the equity share capital of the Project Company through its Affiliate(s) or Parent Company or Ultimate Parent Company. If the Successful Bidder so invests, the Successful Bidder shall be liable to ensure that minimum equity holding/Lock in limits specified above are still maintained.

3.5.3 In case of JV, JVA or Consortium being successful bidder, they must incorporate a project company, who will carry out the work and sign the PPA with DMRC. Note: Procedure and List of Documents to be submitted by the successful bidder in regard to the incorporation of the Project Company (Power Producer in the PPA) are defined in Section-VIII.

3.6 BID SUBMISSION BY THE BIDDER

3.6.1 The information and/or documents shall be submitted by the Bidder as per the formats specified in Section-IV & Section -V of biddocument.

3.6.2 Strict adherence to the formats wherever specified, is required. Wherever, information has been sought in specified formats, the Bidder shall refrain from referring to brochures /pamphlets. Non-adherence to formats and / or submission of incomplete information may be a ground for declaring the Bid
POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT is made at_____ on _____ , 2015

Between

___________ [insert entity name] a company incorporated in India under the provisions of
the Companies Act 1956, with its registered office at

hereinafter referred to as the “Power Producer” (which expression shall unless repugnant
to the context mean and include it’s successors and assigns);

AND

Delhi Metro Rail Corporation Limited, a joint Venture company of Central government and
Delhi Government incorporated under the Companies Act, 1956, having its registered
office at Metro Bhawan, Fire Brigade Lane, Barakhamba Road, New Delhi-110001, India,
hereinafter referred to as the "Purchaset" (which expression shall unless repugnant to the r
context mean and include it's successors and assigns). The Power Producer and the
Purchaser are each individually referred to as a “Party” and collectively as the “Parties”.

WHEREAS;

A. The DMRC had invited proposals by its Notice No. [*] dated [*] (the “Tender Notice”)
of Contract:-DMRC/SPV-03 for selection of bidders for Implementation of Roof Top
Solar PV System at Depots and Metro Stations of DMRC. DMRC had prescribed the
technical and commercial terms and conditions, and invited bids from the
shortlisted bidders pursuant to the Tender Notice for undertaking the Project.

B. After evaluation of the bids received, the DMRC notified [*] (Consortium/JV) as the
Successful Bidder for “Design, Engineering, Manufacture, Supply, Storage, Civil
work, Erection, Testing & Commissioning of the rooftop solar PV project including
Operation and Comprehensive Maintenance (O&M) of the project for a period of 25
years after commissioning of projects” and has been awarded [*] kwp of capacity as
per Technical Specification & other details of Contract:- DMRC/SPV-03 dated [*] of
DMRC, and issued its Letter of Allocation no. [*] dated [*] (hereinafter called the
“LOA”) to the Successful Bidder requiring, inter alia, the execution of this Power
Purchase Agreement within 45/60 days of the date of issue thereof.

C. Pursuant to clause 3.5 of RFS documents, the Consortium/JV/Successful Bidder has
since promoted and incorporated the Project Company (“Power Producer” herein)
as a limited company under the Companies Act 2013, and has requested the DMRC
vide its letter no. [*] dated [*], supported with its Board Resolution(s) dated [*], to
accept the Project Company as the entity which shall undertake and perform the
obligations and exercise the rights of the Consortium/JV/Successful Bidder under
the LOA, including the obligation to enter into this Agreement pursuant to the LOA
for executing the Project.

D. By its letter dated [*], supported by its Board Resolution, the said Project Company
(Power Producer herein) has also joined in the said request of the
Consortium/JV/Successful Bidder to the DMRC to accept it as the entity which shall
undertake and perform the obligations and exercise the rights of the
Consortium/JV/Successful Bidder including the obligation to enter into this
Agreement pursuant to the LOA. The Power Producer herein/Project Company has
further represented to the effect that it has been promoted by the Consortium /JV/Successful Bidder for the purposes hereof.

E. The Power Producer herein/Project Company has agreed to install and operate a solar photovoltaic power plant of [•] KW capacity (the “Project”) at the Premises as defined hereinafter and supply the entire Solar Power of the Project to the Purchaser on the terms and conditions contained in this Agreement.

F. The DMRC has agreed to the said request of the Consortium/JV/Successful Bidder and the Power Producer herein/Project Company, and has accordingly agreed to enter into this Agreement with the Power Producer herein/Project Company for execution of the Project, subject to and on the terms and conditions set forth hereinafter.

G. The Purchaser has agreed to purchase the entire Solar Power of the Project on the terms and conditions contained in this Agreement.

NOW THEREFORE in consideration of the mutual promises, conditions and covenants set forth herein, the Parties hereby agree as below:

Definitions and Interpretation

1.1 Definitions

In addition to other capitalized terms specifically defined elsewhere in the Agreement or unless the context otherwise requires, the following words and phrases shall be defined as follows:

(a) “Actual Monthly Production” means the amount of energy recorded by the Main Metering System during each calendar month of the Term, pursuant to Section 5.2;

(b) “Affiliate” means with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person;

(c) “Agreement” means this Power Purchase Agreement executed hereof, including the schedules, amendments, modifications and supplements made in writing by the Parties from time to time;

(d) “Applicable Law” means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority in India having jurisdiction over such Person or its property, enforceable by law or in equity, including the interpretation and administration thereof by such Governmental Authority;

(e) “Assignment” has the meaning set forth in Section 14.1;

(f) “Business Day” means any day other than Sunday or any other day on which banks in Delhi are required or authorized by Applicable Law to be closed for business;

(g) “Commercial Operation Date” has the meaning set forth in Section 4.3(b);

(h) “Confidential Information” has the meaning set forth in Section 16.1;

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

(j) “Contingent Liability” that is not now fixed and absolute but which may become so in case of the occurrence of some future event.

(k) “Deemed Generation” has the meaning set forth in Section 5.3(b);
Section-VIII

Procedure and List of Documents to be submitted by successful bidder ("Bidder") in regard to the incorporation of the Project Company (Power Producer in the PPA)

1. Letter of Allocation ("LOA") issued by DMRC and Letter of Acceptance given by the Bidder.
2. Memorandum of Understanding or Joint Bidding Agreement submitted by the Bidder /Consortium at the time of bidding.
3. Board resolution(s) of Successful Bidder Company / Companies ("Company").
   (a) requesting the DMRC to accept the Project Company incorporated by it (the Company) as the entity which shall undertake and perform the obligations and exercise the rights of the Consortium/JV/Successful Bidder under the LOA, including the obligation to enter into the Power Purchase Agreement as the Power Producer pursuant to the LOA for executing the Project.
   (b) authorizing the Company to invest in the equity of the Project Company. The Board resolution should clearly record the undertaking by the Company in terms of clause 3.5.2 of the contract, extracts of which are given below for convenience of ready reference, that it would at all times maintain equity participation in the Project Company as per the terms of the Contract, which is quoted below for convenience. [Note: in case the Bidder is a Consortium, each of the consortium members should submit its board resolution in the manner as stated in the contract.]
   "The aggregate equity share holding of the Successful Bidder Company (Individual or in case of JV/JVA) minimum in proportion to their percentage participation in the issued and paid up equity share capital of the Project Company shall not be less than fifty one percent (51%) up to a period of Twenty Five (25) years from the date of commissioning of the entire Sanctioned Capacity of the Project Developer. The Successful Bidder may invest in the equity share capital of the Project Company through its Affiliate(s) or Parent Company or Ultimate Parent Company. If the Successful Bidder so invests, the Successful Bidder shall be liable to ensure that minimum equity holding/Lock in limits specified above are still maintained."
   (c) specifying the person nominated by the company as the Authorised Signatory on behalf of the company, who will correspond with the DMRC in regard to introduction of the Project Company and requesting DMRC to allow the Project Company to sign the PPA as the Power Producer with DMRC.

4. Incorporation of Project Company/SPV:
   (a) Certificate of Incorporation of Project Company /SPV.
   (b) Memorandum of Association and Article of Association of SPV. It should be ensured that the 'Main Object' of the Project Company / SPV, as stated in the MoA, is confined to the execution of the Project as per Letter of Allocation.

5. Introduction of Project Company to the DMRC:
   Letter from the Successful Bidder, signed by its authorized signatory, supported with its Board Resolution(s), addressed to DMRC, introducing the incorporation of the Project Company and requesting the DMRC to accept the Project Company
as the entity which shall undertake and perform the obligations and exercise the rights of the Successful Bidder under the LOA, including the obligation to enter into the Power Purchase Agreement as the Power Producer with DMRC, pursuant to the LOA for executing the Project.

6. **Letter supported by its Board Resolution from the Project Company:**
   Letter from the Project Company, supported by its Board Resolution, addressed to DMRC, stating as follows:
   (a) It has been promoted by the Successful Bidder specifically for the Project, as clearly provided in its Memorandum of Association, also enclosing the copies of the Certificate of Incorporation, MoA and AOA.
   (b) Requesting the DMRC to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the Consortium/JV/Successful Bidder including the obligation to enter into this Power Purchase Agreement, as Power Producer, with DMRC, pursuant to the LOA.
   (c) Confirming that it will install and operate a solar photovoltaic power plant of [1000] KW capacity (the "Project") at the Premises as defined in the PPA and supply the entire Solar Power of the Project to DMRC / Purchaser on the terms and conditions contained in this Agreement.
   (d) Resolving to undertake the project as per the terms of the Letter of Allocation / Contract, and
   (e) Name, designation and other details of the person duly authorized to execute, on behalf of the Project Company as the Power Producer, the Power Purchase Agreement with the DMRC on behalf of the SPV.

7. **Legal opinion from the legal counsel of the Project Company, supported by documentary proof, with respect to the authority of the Project Company to execute the Power Purchase Agreement with the DMRC and the enforceability of the provisions thereof.**

8. **In case, the Bidder intends to hold equity in the Project Company through its 'affiliate'/'associate' (with reference to the specific provision in the MoU/Joint Bidding Agreement submitted by the Bidder to the DMRC at the time of the bid), the following documents may also be procured:-**
   (a) Board Resolution of the Bidder/Consortium recording the following:-
      (i) Authorizing its ‘affiliate’ to invest in the equity of the Project Company,
      (ii) Undertaking that the Bidder/Consortium shall, at all time during the project period, maintain adequate equity in the affiliate/associate so as to fall within the definition of ‘affiliate’/‘associate’ as provided in the Power Purchase Agreement.

   **[Note: In case, the Bidder is a Consortium and more than one consortium member intends to hold the equity in the SPV through its affiliate, each such consortium member should provide separate Board Resolution in the manner as stated above]**

   (b) **Board Resolution of the ‘affiliate’ Company**
      i. Authorizing the Company to invest in the equity of the SPV.
      ii. Undertaking that the Company shall at all times comply with the equity requirement as provided in the Power Purchase Agreement.