



यू पी इलेक्ट्रॉनिक्स कारपोरेशन लिमिटेड
U.P. Electronics Corporation Limited
(A UP GOVT. UNDERTAKING)

Request for Proposal (RFP)

For

**SELECTION OF AGENCY FOR INSTALLATION OF 4 MBPS
INTERNET LEASED LINE**

Tender No: UPLC-SW-INTERNET LEASED LINE-02/21-11-2013

U.P. Electronics Corporation Limited,

10, Ashok Marg, Lucknow - 226001

Tel: 0522-4130303, 2286808, 2286809 Fax: 0522-2288583

E-mail: md@uplclko.in, uplclko@gmail.com

Website: <http://www.uplc.in>, <http://www.uplclko.in>

Table of Contents

Table of Contents	2
Section I - Invitation for Bids	6
1.1. Introduction of the Project	6
1.2. Issuer of the RFP	6
1.3. About the RFP Document	6
1.4. Key Events & Dates	7
1.5. Amendment of RFP Document	7
Section II- Qualification Criteria	9
Section III- Scope of Work	13
3.1. Bill of Material	13
3.2. Technical Specifications of 32/ 46/ 54/ 70 Square Meter outdoor LED	13
3.3. Scope of work	14
3.4. Post Installation Inspection and Acceptance	15
3.5. Insurance	16
3.6. Transportation	16
3.7. Final Acceptance sign off	16
Section IV - Service Level Agreement	18
4.1. Category of SLAs	18
4.1.1. Leased Line Uptime	18
4.1.2. Repair / Maintenance & Replacement of Equipment	19
4.2. Penalties	19
4.3. Liquidated Damages	19
Section V- Instructions to Bidders	21
5.1. Instructions to the Bidders	21
5.2. Procedure for Submission of Bids	22
5.3. Validation of interlineations in Bid	24
5.4. Clarification on RFP	24
5.5. Documents Comprising the Bids	24
5.6. Prices	25
5.7. Bid Security (Earnest Money Deposit)	26
5.8. Bid Validity Period	26
5.9. Modification and Withdrawal of Bids	26
5.10. Opening of Bids	26
5.10.1. Opening of Technical Bid	26
5.10.2. Evaluation of Qualification Bid	26
5.10.3. Bids Not Considered For Evaluation	27
5.10.4. Criteria for Evaluation and Comparison of Technical Bids	27

5.10.5. Opening of Financial Bids	27
5.10.6. Comparison of Financial Bids	28
5.11. Negotiation	28
5.12. Rectification of Errors	28
5.13. Contacting DIPR.....	28
5.14. DIPR’s right to vary Scope of Work at the time of Award	29
5.15. DIPR’s Right to Accept Any Bid and to reject any or All Bids.....	29
5.16. Notification of Award.....	29
5.16.1. Notification to Bidder.....	29
5.16.2. Signing of Agreement	29
5.16.3. Discharge of Bid Security.....	30
5.17. Failure to abide by the Agreement.....	30
5.18. Bank Guarantee for Performance	30
5.19. Confidentiality of the Document	30
5.20. Rejection Criteria	31
Section V – General Conditions of Agreement	32
6.1. Form of Agreement.....	32
6.2. Definitions.....	34
6.3. Representations & Warranties	35
6.4. Scope of Work/Agreement.....	35
6.5. Duration of the Agreement.....	36
6.6. Performance Guarantee	36
6.7. Agency’s Obligations	36
6.8. Statutory Requirements	37
6.9. Risk Management.....	37
6.10. Indemnity	38
6.11. Term and Extension of the Agreement	38
6.12. Prices	38
6.13. Payment Schedule.....	38
6.14. Invoicing	39
6.15. Default by the Agency.....	39
6.16. Termination of the Agreement by Agency.....	40
6.17. Termination.....	40
6.18. Penalty	42
6.19. Liquidated Damages.....	42
6.20. Approvals.....	43
6.21. Dispute Resolution.....	43
6.22. Limitation of the Bidder’s Liability towards DIPR.....	44
6.23. Conflict of Interest.....	45
6.24. Governing Language	45
6.25. “No Claim” Certificate	45
6.26. Force Majeure	45

6.27. General.....	47
6.28. Exit Management.....	47
6.29. Miscellaneous provisions.....	48
Section VI- Format for Response to RFP: Qualification Bid.....	50
7.1. Format 1 – Proposal Covering Letter.....	50
7.2. Format 2 - General Information about the Bidder.....	52
7.3. Format 3 - Financial Information.....	53
7.4. Format 5 - Format for Past Experience.....	54
7.5. Format 6 - Declaration Regarding Clean Track Record.....	55
7.6. Format 7 – Proforma of Bank Guarantee towards Performance Security.....	56
Section VII- Format for Response to RFP: Financial Bid.....	59
8.1. Format 1 - Commercial Bid Letter.....	59
8.2. Format 2 – Cost summary.....	61

SECTION I

Invitation for Bids

Section I - Invitation for Bids

1.1. Introduction of the Project

- a. The Directorate of Information & Public Relation (DIPR), Lucknow, Uttar Pradesh has decided to select an Agency for Installation of 4 MBPS Internet Leased Line at Lucknow.
- b. DIPR has entrusted this task of providing services of 04 MBPS Internet Leased Line the to Uttar Pradesh Electronics Corporation Limited (UPLC) through e-Tendering process.
- c. The e-Bid document is available on e-tender portal <http://etender.up.nic.in>. Interested Bidders may download the e-Bid document, Corrigendum and clarifications from the e-tender portal. The RFP shall also be available on UPLC's website www.uplc.in.
- d. The e-Bids shall be submitted **online only** on e-tender portal <http://etender.up.nic.in> , up to the date and time mentioned in the Section 1.4.

1.2. Issuer of the RFP

The Managing Director

U.P. Electronics Corporation Limited

10, Ashok Marg, Lucknow - 226001

Tel: 0522-4130303, 2286808, 2286809, +91-9235567201

Fax: 0522-2288583

E-mail: md@uplc.in, uplciko@gmail.com

Website: <http://www.uplc.in>

Any proposal received by UPLC after the deadline for submission of proposals mentioned in the Key Events & Dates as per section 1.4 will be summarily rejected. UPLC shall not be responsible for any delay, Technical fault or non-receipt of the documents. No further correspondence on the subject will be entertained.

1.3. About the RFP Document

- a. This RFP provides information regarding the Procurement / Services, Scope of Work, Technical requirements and other related information to the Bidder(s).
- b. It details the General Terms & Conditions

with respect to the Bid process management to be adopted for the proposed Project.

- c. The RFP contains the Agreement template outlining the contractual and legal terms & conditions applicable for the proposed engagement.
- d. As should be clear from the Scope of the proposed Project, UPLC seeks a specific proposal responsive to this RFP in every respect and detail, rather than a mere compilation of materials and promotional information used in other transactions.

The Bidders are expected to examine all instructions, forms, terms, Project requirements and other information in the RFP documents. Failure to furnish all information required by the RFP documents or submission of a proposal not substantially responsive to the RFP documents in every respect will be at the Bidder's risk and may result in rejection of the proposal and forfeiture of the Earnest Money Deposit (EMD).

1.4. Key Events & Dates

S. No.	Event	Target Date
1	Cost of Bid Document	NIL
2	Publication of the RFP	21/11/2013
3	Date of response to Bidder queries	24/11/2013
4	Last date for submission of Bids	02/12/2013 at 5:00 PM
5	Date of opening of Technical Bids	04/12/2013 at 5:00 PM
6	Bid Security/Earnest Money Deposit	NIL
7	Date of opening of Commercial Bid	To be informed later on

1.5. Amendment of RFP Document

At any time till 2 days before the deadline for submission of Bids, UPLC may, for any reason, whether at own initiative or in response to a clarification requested by a prospective Bidder, modify the Bid Document by amendment. All the amendments made in the document would be informed through the e-tender portal <http://etender.up.nic.in>. All such amendments shall be binding on all the Bidders. The Bidders are also advised to visit the aforementioned website on regular basis for checking necessary updates. UPLC also reserves the rights to amend the dates mentioned in the **Section 1.4** of this RFP for Bid process.

SECTION II

Qualification Criteria

Section II- Qualification Criteria

This Invitation to Bid is open to all entities meeting or exceeding all of the following minimum Qualification criteria. Bidders failing to meet any one of the qualification criteria as mentioned below or not submitting requisite supporting documents / documentary evidence for supporting qualification criteria are liable to be rejected summarily.

S. No.	Clause	Documents Required
1.	The Bidder should have been in commercial operations for a period of at least 3 financial years in India. The Consortium shall not be entertained.	<ul style="list-style-type: none"> • Certificate of Incorporation. • Annual Reports for the last 3 years.
2.	The Bidder should Empanelled in UP Electronics Corporation Limited in Service Provider Category 'A', 'B', 'C' & 'D' for Job Category III (Network Security, Storage Backup, Integration and Networking Solutions)	<ul style="list-style-type: none"> • UPLC's Empanelment Letter
3.	The Bidder or their Service Provider should be a Class A/B/C license holder from Government of India.	<ul style="list-style-type: none"> • Photocopy of Document showing ISP License No and A / B / C Category ISP along with a copy of License Agreement.
4.	The Authorized Signatory signing the Bid on behalf of the Bidder should be duly authorized by the Managing Director/ Board of Directors of the Bidding Company to sign the Bid and the Contract on their behalf.	A Certificate from the Managing Director/ Managing Partner of the Bidder certifying that the Bid signatory is authorized to do so.
5.	The Bidder should have been in this business of Installation of Internet Leased Line Networking Solutions for a period exceeding three years as on 31.03.2013.	<ul style="list-style-type: none"> • Certificate of Trade Tax and Service Tax Registration. • Copy of Work order and Certificate of completion or successful implementation by the client or Proof of Delivery OR self Certificate attested by the client.

S. No.	Clause	Documents Required
6.	The Bidder should have an average annual turnover of at least INR 15 Lakh during the last three financial years (i.e. 2009-2010, 2010-2011, 2011-2012)	<ul style="list-style-type: none"> • Audited Profit and Loss Statement and Balance sheets. • Statutory Auditor Certificate or Certificate from the Company Secretary of the Bidder/ Chartered Accountant clearly specifying the turnover for the specified years.
7.	The Bidder should certify that they have support mechanism in Lucknow, either directly through their support office in Lucknow or through their authorized channel partners/dealers in Lucknow.	Undertaking from the authorised signatory of the Bidder.
8.	The Bidder should have successfully installed Network Security and Networking Solutions at 10 office premises in India in the last 3 financial years (i.e. 2009-10, 2010-11, 2011-12).	<ul style="list-style-type: none"> • Copy of Work order and Certificate of completion or successful implementation by the client or Proof of Delivery OR self Certificate attested by the client.
9.	The Bidder should have successfully executed work of Internet Leased Line with an aggregate order value of INR 6 Lakhs during the last 3 financial years (i.e. 2009-10, 2010-11, 2011-12).	<ul style="list-style-type: none"> • Copy of Work order and Certificate of completion or successful implementation by the client or Proof of Delivery OR self Certificate attested by the client.
10.	As on date of submission of the proposal, the Bidder shall not be under any declaration of ineligibility for unsatisfactory past performance, corrupt or fraudulent practices, any other unethical business practices or blacklisted either by Ministry/ Department of Government of India/ State Governments.	<ul style="list-style-type: none"> • Certificate from the Authorized Signatory to the effect that the Bidder is not blacklisted by any of the Ministry/ Department of Government of India/ State Governments.
11.	The Bidder should have a valid sales tax registration certificate, valid Service tax registration certificate and Permanent Account Number (PAN) issued by Income Tax Department.	<ul style="list-style-type: none"> • Copy of each Certificate of the Bidder.

S. No.	Clause	Documents Required
12.	The bidder should submit technical literature explaining the proposed implementation diagram with the technical bid and furnish a detailed network/schematics diagram of total solution proposed showing connectivity from ISPs gateway Terminal Point to required locations of the Department of Information & Public Relation.	<ul style="list-style-type: none">• Certified copy of Diagrams

Change in Qualification Criteria

If there is a change in the status of the Bidder with reference to any of the Qualification criteria specified above, during the Bid Process till the award of the Project, the Bidder should immediately bring the same to the notice of UPLC.

SECTION III

Scope of Work

Section III- Scope of Work

The minimum specified Scope of work to be undertaken by the Bidder to provide 04 Mbps Internet leased line connectivity on uncompressed, unshared leased line (OFC) (1:1) at Department of Information & Public Relations, Government of Uttar Pradesh, "Soochna Bhawan", Park Road, Lucknow. This includes installation, commissioning, testing & up keep of the complete link for one year period. The connectivity will be through dedicated Internet service. The hardware and software required for the establishment of fully functional leased line will be provided by the bidder. The minimum guaranteed bandwidth taken from the Bidder is 04 Mbps.. The selected Bidder shall perform the services as per the scope of work and period of the Agreement.

Internet Router Port at ISP Gateway for required Bandwidth and minimum 8 IP addresses including Reverse Lookups configured at these IP's.

The selected Bidder should provide Maintenance support service (24 hours and 7 days a week) for Bandwidth and equipment.

Service provider has to provide facility to DIPR, to monitor the SLA (Service level Agreement) parameters and log the Trouble tickets on line. DIPR should also be able to obtain standard reports on the ILL links' Bandwidth Utilization (in Mbps, in frames/sec), Errors (frames/sec), Discarded (frames/sec), Non unicast(frame/sec), Bandwidth availability, Packet loss (in %), Latency of links etc. through any network monitoring tool / web browser provided by service provider.

3.1. Bill of Material

The selected Bidder shall be required to supply and install 04 Mbps Internet leased line connectivity on uncompressed, unshared leased line (OFC) (1:1). The UPLC / DIPR may increase the IP addresses including Reverse Lookups depending upon the requirement. The increase in number shall be conveyed to the selected Bidder during the time of LOI / Award issuance.

3.2. Technical Specifications of 32/ 46/ 54/ 70 Square Meter outdoor 4 MBPS INTERNET LEASED LINE

Technical specification and requirements for 04 Mbps Internet connectivity Leased Line (1:1 uncompressed and unshared with last mile on fiber).

SN	Technical Specification for Internet Leased Line Connection	Complied (Yes/No)	Deviation if any
1	The Bidder or their Service Provider should be a Class A/B/C license holder from Government of India. (Attach a copy of license).		
2	The Internet connectivity leased line should have fully dedicated (1:1), unshared & High Quality 04 Mbps symmetric bandwidth without any compression factor through Optical Fiber cable and Dedicated Last Mile		

	Media		
3	The bidder should have fully resilient and self healing network architecture, on fiber medium, from the international gateway in India upto the international Points of Presence		
4	The bidder should have Network Operation Centre (NOC) for trouble shooting around the clock		
5	Internet Router Port at ISP Gateway for required Bandwidth and minimum 8 Public IP addresses of ipv4 pool / IP addresses of ipv6 pool.		
6	The bidder should furnish a detailed network/ schematics diagram of total solution proposed showing connectivity from ISPs gateway Terminal Point to required locations of the Department of Information & Public Relation, UP, Lucknow.		
7	The connectivity from the POPs of service providers to Department of Information & Public Relation, UP, Lucknow, premises shall be through Optical Fiber Media		
8	All the equipment supplied by the bidder should be capable of handing higher band width in case up gradation is required in the later stage.		
9	Any Software and Hardware required establishing the purchased bandwidth will be provided by bidder to make leased line fully functional		
10	The bidder should submit technical literature explaining the proposed implementation diagram with the technical bid		
11	The bidders should have Direct \ toll free number to register complaints round the clock (24x7), Maintenance support service (24 hours and 7 days a week)		
12	All the POPs from where the ILL bandwidth is provided to Department of Information & Public Relations should have redundancy of equipments, links, power, backhaul connectivity etc. Service provider needs to confirm it in writing.		
13	The ILL links should be available in full duplex mode which must be demonstrated to concerned officials of UPLC / DIPR		
14	The service provider should have independent Network Operation Centre with 24x7 supports to take care of the ILL link management requirements. The service provider should furnish details of Toll Free number.		
16	The service provider network should be backed by availability of service centers/service personnel in Lucknow to attend faults.		

3.3. Scope of work

The brief scope of work is outlined below:

- a. The Internet connectivity leased line should have fully dedicated (1:1), unshared & High

Quality 04 Mbps symmetric bandwidth without any compression factor through Optical Fiber cable. at the locations/sites mentioned in the RFP.

- b. The bidder should have fully resilient and self healing network architecture, on fiber medium, from the international gateway in India upto the international Points of Presence.
- c. The selected Bidder shall provide comprehensive onsite maintenance for a period of **one (1) year**.
- d. The selected Bidder shall arrange all the related tools, equipment and Software to install and run the leased line.
- e. Internet Router Port at ISP Gateway for required Bandwidth and minimum 8 Public IP addresses of ipv4 pool / IP addresses of ipv6 pool.
- f. The bidder should furnish a detailed network/ schematics diagram of total solution proposed showing connectivity from ISPs gateway Terminal Point to required locations of the Department of Information & Public Relation, UP, Lucknow.
- g. The connectivity from the POPs of service providers to Department of Information & Public Relation, UP, Lucknow, premises shall be through Optical Fiber Media
- h. The Bidder shall configure and manage the Hardware and operations software for successful implementation of Leased Line. All the equipment supplied by the bidder should be capable of handing higher band width in case up gradation is required in the later stage.
- i. The selected Bidder should have its technical resources in Lucknow. The resources shall be required to rectify the hardware / software, peripherals and leased line problems related to this project. The service provider should have independent Network Operation Centre with 24x7 supports to take care of the ILL link management requirements. The service provider should furnish details of Toll Free number. The service provider network should be backed by availability of service centers/service personnel in Lucknow to attend faults.
- j. All the POPs from where the ILL bandwidth is provided to Department of Information & Public Relations should have redundancy of equipments, links, power, backhaul connectivity etc. Service provider needs to confirm it in writing.
- k. All charges towards supply and installation of leased line along with the cost of maintenance services for one year shall be borne by the selected Bidder.

3.4. Post Installation Inspection and Acceptance

The selected Bidder should conduct post-installation Quality inspection on Leased Line at DIPR site and certify the same. Inspection and Quality Control tests, prior to installation of internet leased line, by the selected Bidder should be in accordance with necessary quality control certifications. The Service Provider shall submit satisfactory Quality Check Pass Reports under this RFP.

UPLC / DIPR shall appoint a Technical committee to perform post Installation Inspection at the DIPR, GoUP and DIPR shall only accept the installation upon clearance by the Technical Committee.

In the event of any fault finding by the Technical committee or non-conformation of Technical

specification of leased line specified in RFP, UPLC reserves the right to cancel the Purchase Order and levy appropriate penalties in addition to the Liquidated Damages. UPLC shall not be responsible for any costs associated with such rejection. The Service Provider will be responsible for the leased line till it is installed and commissioned at the specified delivery points, tested and accepted by the DIPR, UP. Only after such acceptance, the responsibility of the manufacturer will cease

Schedule

The Project timelines are given below:

Activity	Timelines
4 MBPS Internet Leased Line Dedicated 1:1	02 weeks from date of issuance of LOI / Award

3.5. Insurance

The selected Bidder shall be responsible for acquiring comprehensive insurance including transit insurance, liability insurance including third party, Fire and allied natural calamities at replacement value and any other insurance including any incidental loss/damage for the peripherals, Equipment, Tools, Equipment related to the Leased Line installed by the selected bidder, etc. since the transportation, delivery and commissioning by the Bidder up to one year of completion of maintenance. All costs related to insurance shall be borne by the selected Bidder. The Insurance Certificate shall form a part of the final acceptance sign off document. The selected Bidder shall, from time to time, provide to the DIPR copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by it on demand basis/every year in accordance with the Agreement.

The selected Bidder shall pay the premium payable on such insurance Policy/Policies so as to keep the insurance in force and valid throughout the Contract Period and furnish copies of the same to the AMC / Renewal for each year/policy period/on demand by DIPR. If at any time the selected Bidder fails to purchase, renew and maintain in full force and effect, any and all of the Insurances required under the Agreement, DIPR shall recover the amount from the selected Bidder by charging directly to the Bidder or by encashment of Performance Security or otherwise.

3.6. Transportation

The entire cost of transportation Port of Landing to the designated location/site at DIPR shall be borne by the selected Bidder.

3.7. Final Acceptance sign off

The selected Bidder shall get a final sign off receipt preferably within 3 days of the successful installation of leased line at the locations specified by DIPR/UPLC. The selected Bidder shall provide following documents for the Final Acceptance sign off to the concerned authorities:

- a. Invoices in Triplicates (original + 2 duplicates)
- b. Delivery Challan/ Installation certificate mentioning the details like location etc.

- c. Quality certificate by Service Provider
- d. Post Delivery Inspection certificate signed by the Technical committee
- e. Insurance certificate

The date on which such Receipt is signed shall be deemed to be the date of acceptance and the warranty of the LEDs starts from that date.

SECTION IV

Service Level Agreement

Section IV - Service Level Agreement

The purpose of this Service Level Agreement (hereinafter referred to as SLA) is to clearly define the levels of service, which shall be provided by the Selected Bidder to UPLC / DIPR for the duration of this Agreement. The selected Bidder and UPLC / DIPR shall regularly review the performance of the services being provided by the Selected Bidder and the effectiveness of this SLA.

This SLA document provides for minimum level of services required as per contractual obligations based on performance indicators and measurements thereof.

4.1. Category of SLAs

4.1.1. Leased Line Uptime

Table 1: 4 MBPS INTERNET LEASED LINE Uptime

S. No.	Measurement	Definition	Target	Penalty
1.	04 MBPS Internet Leased Line uptime	<ul style="list-style-type: none"> ➤ The selected Bidder shall ensure that Leased Line shall be functional irrespective of any circumstances. The uptime shall be calculated as $(\text{Total Time} - \text{Down Time}) \times 100 / \text{Total Time}$ on quarterly basis by the Directorate of Information & Public Relation, Uttar Pradesh. ➤ The selected Bidder shall submit the uptime reports every six months and as and when requested by the UPLC/DIPR. 	<ul style="list-style-type: none"> • Network availability more than 99.5 % for 1 Year (24 Hours & 7 Days in a week) • Packet Losses less than 1% (Average over 1000 ping) • Latency less than 350 ms from DIPR to ISP's peering point. 	A Penalty of 2% for every 1% beyond the uptime, subject to a maximum of 10% of the overall contract value.

--	--	--	--	--

4.1.2. Repair / Maintenance & Replacement of Equipment

Table 2: Repair Maintenance & Replacement of Equipment

Type of Incident	Resolution time	Penalty
Fault Incident	T	No Penalty
Repair of the Leased Line after fault Incident reporting to the selected Bidder by the Directorate of Information & Public Relation, Uttar Pradesh.	T1 = T+3 days	No Penalty
T shall be the agreed resolution time, which in case of repair is 3 (three) working days.	T2 = T1+3	No Penalty (written permission required)
In case of T2, The selected Bidder shall have to take permission in case the Leased Line needs more than 3 days to be rectified.	> T2	2% of the value of the Leased Line for every unresolved week subject to a maximum of 10% of the contract value.

4.2. Penalties

- a. The total Penalty in the year shall not exceed **10%** of the total contract value.
- b. Default beyond **10%** of the total contract value, on account of any reason whatsoever, will be deemed to be an event of default and termination.

4.3. Liquidated Damages

- a. Subject to clause for Force Majeure, if the Selected Bidder fails to complete the installation of Leased Line within specified period or if Bidder repudiates the Agreement before completion of the work, UPLC at its discretion may without prejudice to any other right or remedy available to UPLC under the Agreement recover a maximum of 10% (Ten percent) of the total value of the order from the Bidder as Liquidated Damages (LD).
- b. UPLC will be free to procure the more bandwidth leased lines from alternate sources at the cost

and risk of the defaulting Agency, by forfeiting the EMD/Security Deposit of the Bidder. In addition, UPLC will impose a cancellation charge of 5% of the value of undelivered Goods, which shall be recovered from the pending bills or EMD/Security Deposit or by raising claims.

SECTION V

Instructions to Bidders

Section V- Instructions to Bidders

5.1. Instructions to the Bidders

- a. The Bidders should submit their bids **online only** in the Submission module of e-Procurement website <http://etender.up.nic.in>.
- b. The Bids shall be submitted only from the Bid Submission start date till the Bid Submission end date and time given in the e-tender. Therefore, Bidders are advised to submit the Bids well advance in time.
- c. The proposal and all correspondence and documents shall be written in English. In case of accompanying literature or brochures etc. being in a language other than English, a certified translation should accompany the documents as a part of the RFP. All proposals and accompanying documentation will become the property of DIPR and will not be returned.
- d. The bidders should submit their e-Bid considering the server time displayed in the e-Procurement website. This server time is the time by which the e-Bid submission activity will be allowed till the permissible time on the last/end date of submission indicated in the e-tender schedule.
- e. Once the e-Bid submission date and time is over, the bidders cannot submit their e-Bid. The bidders shall only be held responsible for any delay and whatsoever reason in submission of e-Bid.
- f. Technical Bids will be electronically opened at **05:00 PM on 04-12-2013** in DIPR. The opening of financial bids shall be intimated later to all the technically qualified bidders.
- g. DIPR may, at its discretion extend this deadline for submission of e-Bid by amending the e-Bid document, in which case all rights and obligations of the Corporation and bidders previously subject to the deadline will thereafter be subject to the deadline as extended.
- h. The server time indicated in the Bid Management window on the e-Procurement website <http://etender.up.nic.in> will be the time by when the e-Bid submission activity will be allowed till the permissible date and time scheduled in the e-tender. Once the e-Bid submission date and time is over, the bidder cannot submit the e-Bid. Bidder has to start the Bid Submission well in advance so that the submission process passes off smoothly. The bidder will only be held responsible if his/her e-Bid is not submitted in time due to any of his/her problems/faults, for whatsoever reason, during e-Bid submission process.
- i. At any point of time, a bidder can withdraw his/her e-Bid submitted online before the bid

submission end date and time. For withdrawing, the bidder should first log in using his/ her Login Id and Password and subsequently by his/her Digital Signature Certificate on the e-Procurement website <http://etender.up.nic.in>. The bidder should then select "My Bids" option in the Bid Submission menu. The page listing all the bids submitted by the bidder will be displayed. Click "View" to see the details of the e-Bid to be withdrawn. After selecting the "Bid Withdrawal" option, the bidder has to click "Yes" to the message "Do you want to withdraw this bid?" displayed in the Bid Information window for the selected bid. The bidder also has to enter the bid Withdrawing reasons and upload the letter giving the reasons for withdrawing before clicking the "Submit" button. The bidder has to confirm again by pressing "Ok" button before finally withdrawing his/her selected e-Bid.

- j. The bidder has to request the Corporation with a letter, attaching the proof of withdrawal and submission of e-Bid security/EMD in the office of Corporation, to return back the e-Bid security/EMD as per the manual procedure.
- k. No e-Bid may be withdrawn in the interval between the deadline for submission of e-Bids and the expiration of period of e-Bid validity. Withdrawal of an e-Bid during this interval may result in the bidder's forfeiture of his/her e-Bid security
- l. The bidder can re-submit his/her e-Bid as and when required till the e-Bid submission end date and time. The e-Bid submitted earlier will be replaced by the new one. The payment made by the bidder earlier will be used for revised e-Bid and the new e-Bid submission summary generated after the successful submission of the revised e-Bid will be considered for evaluation purposes. For resubmission, the bidder should first log in using his/her Login Id and Password and subsequently by his/her Digital Signature Certificate on the e-Procurement website <http://etender.up.nic.in>. The bidder should then select "My Bids" option in the Bid Submission menu. The page listing all the bids submitted by the bidder will be displayed. Click "View" to see the details of the e-Bid to be resubmitted. After selecting the "Bid Resubmission" option, click "Encrypt & Upload" to upload the revised e-Bid documents by following the methodology provided above
- m. The bidders can submit their revised e-Bids as many times as possible by uploading their e-Bid documents within the scheduled date & time for submission of e-Bids.
- n. No e-Bid can be resubmitted subsequently after the deadline for submission of e-Bids.

5.2. Procedure for Submission of Bids

Submission of Bids shall be in accordance with the instructions mentioned below:

- a. For participating in e-Bid through the e-tendering system, it is necessary for the bidders to be the registered users of the e-Procurement website <http://etender.up.nic.in>. The bidders must obtain a User Login Id and Password by registering themselves with U.P. Electronics Corporation Limited, Lucknow if they have not done so previously for registration.

- b. In addition to the normal registration, the bidder has to register with his/her Digital Signature Certificate (DSC) in the e-tendering system and subsequently he/she will be allowed to carry out his/her e-Bid submission activities. Registering the Digital Signature Certificate (DSC) is a one-time activity. Before proceeding to register his/her DSC, the bidder should first log on to the e-tendering system using the User Login option on the home page with the Login Id and Password with which he/ she has registered as per clause (a) above.
- c. For successful registration of DSC on e-Procurement website <http://etender.up.nic.in> the bidder must ensure that he/she should possess Class-2/Class-3 DSC issued by any certifying authorities approved by Controller of Certifying Authorities, Government of India, as the e-Procurement website <http://etender.up.nic.in> is presently accepting DSCs issued by these authorities only. The bidder can obtain User Login Id and perform DSC registration exercise as described in clauses (a) and (b) above even before e-Bid submission date starts. The Corporation shall not be held responsible if the bidder tries to submit his/her e-Bid at the last moment before end date of submission but could not submit due to DSC registration problem.
- d. The Bidder shall be required to use own Digital Signature while uploading its Bid. The Bidder shall be required to upload the Bid using its Digital Signature only. Failure to comply or usage of Digital signature of other firm shall be liable for rejection of the Bid.**
- e. The bidder can search for active tenders through "Search Active tenders" link, select a tender in which he/she is interested in and then move it to 'My Tenders' folder using the options available in the e-Bid Submission menu. After selecting and viewing the tender, for which the bidder intends to e-Bid, from "My Tenders" folder, the bidder can place his/her e-Bid by clicking "Pay Offline" option available at the end of the view tender details form. Before this, the bidder should download the e-tender document and Price Schedule/ Bill of Quantity (BOQ) and study them carefully. The bidder should keep all the documents ready as per the requirements of e-tender document in the PDF format except the Price Schedule/Bill of Quantity (BOQ), which should be in the XLS format (Excel sheet).
- f. After clicking the 'Pay Offline' option, the bidder will be redirected to the Terms and Conditions page. The bidder should read the Terms & Conditions before proceeding to fill in the details, the bidder should click "Encrypt & Upload" option given in the offline payment details form so that "Bid Document Preparation and Submission" window appears to upload the documents as per Technical (Qualification details, e-Bid Form and Technical Specification details) and financial (e-Bid Form and Price Schedule/BOQ) schedules/packets given in the tender details. The details of the Demand Draft or any other accepted instrument which is to be physically sent in original before opening of technical e-Bid, should tally with the details available in the scanned copy and the data entered during e-Bid submission time otherwise the e-Bid submitted will not be accepted.
- g. Next the bidder should upload the Technical e-Bid documents for, Qualification details, e-Bid Form as per Technical Specification details and Price Schedule/BOQ" of e-tender document.

Before uploading, the bidder has to select the relevant Digital Signature Certificate. He may be prompted to enter the Digital Signature Certificate password, if necessary. For uploading, the bidder should click "Browse" button against each document label in Technical and Financial schedules/packets and then upload the relevant PDF/XLS files already prepared and stored in the bidder's computer. The required documents for each document label of Technical (Qualification details, e-Bid Form and Technical Specification details) and financial (e-Bid Form and Price Schedule/BOQ) schedules/packets can be clubbed together to make single different files for each label.

- h. The bidder should click "Encrypt" next for successfully encrypting and uploading of required documents. During the above process, the e-Bid documents are digitally signed using the DSC of the bidder and then the documents are encrypted/locked electronically with the DSC's of the bid openers to ensure that the e-Bid documents are protected, stored and opened by concerned bid openers only.
- i. After successful submission of e-Bid document, a page giving the summary of e-Bid submission will be displayed confirming end of e-Bid submission process. The bidder can take a printout of the bid summary using the "Print" option available in the window as an acknowledgement for future reference.

5.3. Validation of interlineations in Bid

The Bid shall contain no interlineations, erasures or overwriting except as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

5.4. Clarification on RFP

- a. A prospective Bidder requiring any clarification on the RFP Document may submit his queries through email and as per schedule indicated in “**Key Events and Dates**”. The queries must be submitted in the following format only to be considered for clarification:

Table: Clarification Format

Sr. No	Section No.	Clause No.	Page No.	Actual Clause	Clarification Sought
..

The queries not adhering to the above mentioned format shall not be responded.

5.5. Documents Comprising the Bids

The Proposal shall have Two Cover System for this RFP:

- i. Technical Bid.
- ii. Commercial Bid.

Proposal submitted by the Bidder shall comprise the following:

- a. Proposal covering letter and Technical Documents as prescribed in the **Section VI** of this RFP.
- b. Commercial proposal (Commercial Bid Covering Letter along with the price bid) as specified in **Section VII** of this RFP.
- c. The bidder should furnish a detailed network/ schematics diagram of total solution proposed showing connectivity from ISPs gateway Terminal Point to required locations of the Department of Information & Public Relation, UP, Lucknow, should be submitted along with the Technical Bid.
- d. Any other information that is required to be submitted in the proposal process.

Bidders shall furnish the required information on their Qualification and commercial strengths in the enclosed formats only. **Any deviations with respect to this may make the Bid liable for rejection.**

5.6. Prices

- a. The Prices shall be quoted in Indian Rupees (INR).
- b. Bidder shall quote a fixed price as detailed in the RFP on a single responsibility basis. No adjustment of the Agreement price shall be made on account of any variations in costs of labor and materials or any other cost component affecting the total cost in fulfilling the obligations under the Agreement. The payment based on commercial proposal of the Bidder shall be the only payment, payable by UPLC subject to the payment received from Department of Information and Public Relations (DIPR), Government of Uttar Pradesh, to the selected Bidder for completion of the contractual obligations by the selected Bidder under the Agreement, subject to the terms of payment specified in the Agreement. The price would be inclusive of all taxes, duties, charges and levies as applicable.
- c. The Bidder shall indicate the price in the prescribed format, it proposes under the Agreement. In absence of above information as requested, the Bid may be considered incomplete and be summarily rejected. The price components furnished by the Bidder in accordance with format provided in the RFP will be solely for the purpose of facilitating the comparison of Bids by UPLC/DIPR.
- d. The prices, once offered, must remain fixed and must not be subject to any escalation for any reason whatsoever within the period of Project. A proposal submitted with an adjustable price quotation or conditional proposal may be rejected as non-responsive.

5.7. Bid Security (Earnest Money Deposit)

- a. Bidders who are empanelled with UPLC need not furnish Bid security or Earnest Money Deposit (EMD).

5.8. Bid Validity Period

- a. The proposals shall be valid for a period of Six (6) calendar months from the date of submission of Bids. A proposal valid for a shorter period may be rejected as non-responsive. On completion of the validity period, unless the Bidder withdraws his proposal in writing, it will be deemed to be valid until such time that the Bidder formally (in writing) withdraws his proposal.
- b. In exceptional circumstances, at its discretion, **UPLC** may solicit the Bidder's consent for an extension of the validity period. The request and the responses thereto shall be made in writing (or by fax or email).

5.9. Modification and Withdrawal of Bids

No proposal may be modified / withdrawn in the interval between the deadline for submission of proposals and the expiration of the validity period specified by the Bidder on the proposal form. In case the Bidder wishes to withdraw the Bid after the date of opening of the bids he may do so, but the EMD of the Bidder shall be forfeited.

5.10. Opening of Bids

5.10.1. Opening of Technical Bid

The Bid shall be opened in the presence of Bidders' representatives (only one) who choose to attend the Bid opening sessions on the specified date, time and address. The Bidders' representatives who are present shall sign a register evidencing their attendance. In the event of the specified date of Bid opening being declared a holiday for UPLC, the Bids shall be opened at the same time and location on the next working day.

5.10.2. Evaluation of Qualification Bid

Qualification Bid:

- a. Tender Evaluation Committee [TEC] duly appointed by UPLC/DIPR shall evaluate the Technical Bids.

- b. The evaluation shall be done for only those Bidders, whose Empanelment Letter is in order as per the RFP.
- c. Bidders need to fulfill all the Qualification conditions mentioned in Qualification Criteria of the RFP. TEC will examine the Bids to determine whether they are complete, whether the Bid format conforms to the RFP requirements, whether documents have been properly signed, and whether the Bids are generally in order.
- d. Bids of Bidders whose Qualification proposal does not meet the set criteria shall be rejected forthwith.
- e. TEC may seek oral clarifications with the Bidders. The primary function of clarifications in the evaluation process is to clarify ambiguities and uncertainties arising out of the evaluation of the Bid Documents. The Committee may seek inputs from their professional, technical faculties in the evaluation process.
- f. Conditional Bids will be rejected.
- g. The decisions of the Tender Evaluation Committee on whether the tenders are responsive or non-responsive will be final.
- h. A Bidder, at any stage of tender process or thereafter, in the event of being found after verification by the Tender Inviting Authority, to indulge in concealment or misrepresentation of facts, in respect of the claims of the offer, shall be debarred/black listed.

5.10.3. Bids Not Considered For Evaluation

Bids that are rejected during the Bid opening process due to incomplete documentation or late receipt shall not be considered for further evaluation.

5.10.4. Criteria for Evaluation and Comparison of Technical Bids

- a. Bidders need to fulfill all the qualification conditions mentioned in Qualification Criteria of the RFP. Tender Evaluation Committee [TEC] will examine the Bids to determine whether they are complete, whether the Bid format conforms to the RFP requirements, whether documents have been properly signed, and whether the Bids are generally in order
- b. The Bidder needs to strictly adhere to the formats provided in section VII and provide information against each of the line items. Any non-conformance shall constitute a deviation from RFP conditions.
- c. All relevant documentary proofs should be submitted along with the offer. Failure to submit the Documents along with the offer could result in disqualification of the Bid.

5.10.5. Opening of Financial Bids

- a. Only the Financial Bids of those firms qualified in the detailed scrutiny and evaluation of the Technical bid conducted by the Tender Evaluation Committee/ Tender Inviting Authority shall be opened in the second round.
- b. The Financial Bid shall be submitted in the format given in this document as Financial Bid

Form (Format – VII). The Financial Bids submitted in any other formats will be treated as non-responsive and not considered for tabulation and comparison.

- c. The Price offered should be given strictly on the format given in the Financial Bid only. The Bidder must quote all items.
- d. If the contract attracts any statutory deductions, the same will be deducted while settling the payment.
- e. There should not be any hidden costs.

5.10.6. Comparison of Financial Bids

- a) The commercial quotes of the **Lowest** Bidder shall be notified as L1. In case L1 offers to execute the work as per the schedule and location specified in the RFP, the Tender Evaluation Committee [TEC] then shall have the rights to give the order to the L1.
- b) In case L1 backs out, the RFP shall be cancelled & Bids shall be invited again. L1 shall however be blacklisted from participating in any future bidding of DIPR projects and are liable for legal action by DIPR/UPLC.

5.11. Negotiation

Normally, there would be no post RFP negotiations. If at all negotiations are warranted, DIPR shall reserve the right to negotiate with the Bidder whose “Commercial Bid” has been ranked L1 by the committee based on the evaluation of the proposals.

5.12. Rectification of Errors

- a. Bidders are advised to exercise adequate care in quoting the prices. No excuse for corrections in the quoted price will be entertained after the proposals are opened. All corrections, if any, should be initialed by the person signing the proposal form before submission, failing which the figures for such items may not be considered.
- b. Arithmetic errors in proposals will be corrected as follows:
In case of discrepancy between the amounts mentioned in figures and in words, the amount in words shall govern. The amount stated in the proposal form, adjusted in accordance with the above procedure, shall be considered as binding, unless it causes the overall proposal price to rise, in which case the proposal price shall govern.

5.13. Contacting UPLC / DIPR

- a. No Bidder shall contact the UPLC / DIPR on any matter relating to its Bid, from time of opening to the time the work is awarded. If the Bidder wishes to bring additional information to the notice of

the RFP Issuing Authority, the same should be done in writing to UPLC. The RFP Issuing Authority reserves the right to decide whether such additional information should be considered or otherwise.

- b. Any effort by a Bidder to influence the RFP Issuing Authority in its decision on Bid evaluation, Bid comparison or contract award may result in disqualification of the Bidder's Bid and also forfeiture of his Bid security.

5.14. UPLC's right to vary Scope of Work at the time of Award

UPLC reserves the right to vary the more / higher bandwidth leased lines. If any such change cause an increase or decrease in the cost of or the time required for the Bidder's performance of any part of the work under the Agreement, whether changed or not changed by the order, an equitable adjustment shall be made in the Agreement Value or time schedule, or both, and the Agreement shall accordingly be amended. Any claims by the Bidder for adjustment under this Clause must be asserted within thirty (30) days from date of the Bidder's receipt of UPLC's order for change.

5.15. UPLC's Right to Accept Any Bid and to reject any or All Bids

UPLC reserves the right to accept or reject any proposal, and to annul the tendering process and reject all proposals at any time prior to award of work, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for UPLC's action.

5.16. Notification of Award

5.16.1. Notification to Bidder

Prior to the expiry of the Bid validity period, UPLC will notify the successful Bidder in writing or by fax or email, to be confirmed in writing by letter (LOI), that its proposal has been accepted. The notification of award will constitute the formation of the Agreement. Upon the successful Bidder's furnishing of performance security, UPLC will promptly notify each unsuccessful Bidder and return their EMD.

5.16.2. Signing of Agreement

At the same time as UPLC notifies the successful Bidder that its proposal has been accepted and UPLC shall enter into an Agreement with the successful Bidder.

5.16.3. Discharge of Bid Security

Prior to signing of the Agreement, UPLC shall promptly request the Selected Bidder to provide Performance Guarantee pursuant to Section 5.25. On receipt of the Performance Guarantee, the Bid security of all successful Bidders will be released. The EMD amount of successful bidders can be converted as part of the Performance Guarantee.

5.17. Failure to abide by the Agreement

Failure of the successful Bidder to agree with the Terms & Conditions of the RFP shall constitute sufficient grounds for the annulment of the award, in which event UPLC may forfeit the EMD/ Performance Bank Guarantee. The contract will be then awarded to the next Bidder by the process of Re-Tendering.

5.18. Bank Guarantee for Performance

- a. The successful Bidder shall at his own expense may deposit with UPLC, within 15 (fifteen) days after the receipt of notification of award of the Contract (Letter of Intent) from UPLC, an unconditional and irrevocable Performance Bank Guarantee (PBG) from a Scheduled Bank acceptable to UPLC, in the format prescribed in **Section – 6.7**, payable on demand, for the due performance and fulfillment of the Agreement by the Bidder.
- b. The Performance Guarantee may be submitted as Demand Draft/Banker's Cheque from a Scheduled Bank.
- c. This Performance Guarantee shall be for an amount equivalent to **10%** of Agreement value. All incidental charges whatsoever such as premium, commission etc. with respect to the Performance Guarantee shall be borne by the Bidder. The Performance Guarantee shall be valid for six months post completion of the Agreement period. Subject to the terms and conditions in the performance Bank Guarantee, at the end of 6 months, the Performance Bank Guarantee may be discharged/ returned by UPLC upon being satisfied that there has been due performance of obligations of the Bidder under the Agreement. However, no interest shall be payable on Performance Guarantee.

5.19. Confidentiality of the Document

This RFP is a confidential document and the Bidders shall ensure that anything contained in this RFP shall not be disclosed in any manner, whatsoever.

5.20. Rejection Criteria

- a. The proposal of a Bidder is liable to be disqualified in the following cases or in case Bidder fails to meet the bidding requirements as indicated in this RFP:
 - i. Proposal not submitted in accordance with the procedure and formats prescribed in this document.
 - ii. During validity of proposal, or its extended period after last date and time for submission of Bids, if any, the Bidder increases the quoted prices.
 - iii. The Bidder qualifies the proposal with his own conditions.
 - iv. Proposal is received in incomplete form or Proposal is received after due date and time or Proposal is not accompanied by all the requisite documents.
 - v. Information submitted in qualification proposal is found to be misrepresented, incorrect or false, accidentally, unwittingly or otherwise, at any time during the processing of the Agreement_(no matter at what stage) or during the tenure of Agreement including the extension period if any.
 - vi. Commercial proposal is enclosed in the same envelope as Qualification Proposal.
 - vii. Bidder tries to influence the proposal evaluation process by unlawful means at any point of time during the Bid process.
 - viii. In case any Bidder submits multiple proposals or if common interests are found in two or more Bidders, the Bids are likely to be disqualified, unless additional proposals/Bids are withdrawn immediately upon conflict of interest.
 - ix. Bidder fails to deposit the Performance Guarantee prior to signing of the Agreement or fails to enter into an Agreement within 15 working days of the date of Letter of award of Contract (LOI) or within such extended period, as may be specified by UPLC.
- b. Bidders may specifically note that while evaluating the proposals, if it comes to UPLC's knowledge expressly or implied, that some Bidders may have colluded in any manner whatsoever or otherwise joined to form an alliance resulting in delaying the processing of proposal then the Bidders so involved are liable to be disqualified for this Contract as well as for a further period of three years from participation in any of the tenders floated by the UPLC.
- c. UPLC will reject a proposal for award if it determines that the Bidder recommended for award, or any of its personnel, or its agents or, Vendors and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the Contract in question;

Section V – General Conditions of Agreement

6.1. Form of Agreement

This AGREEMENT (hereinafter called the "Agreement") is made on the _____, 2013, between UP Electronics Corporation Limited, having its office at 10 Ashok Marg, Lucknow, Uttar Pradesh -226001 (hereinafter referred to as the "[UPLC]" which term or expression, unless excluded or repugnant to the subject or context, shall mean and include its successors-in office and assignees) of the First Part and, _____ (herein after called the "Agency") of the Second Part.

WHEREAS

- a. UPLC intends to enable the **Selection of Agency for Installation of 4 MBPS Internet Leased Line involving the complete Scope of Work described in the RFP.**
- b. UPLC undertook the selection adopting an tender route, for Selection of Agency for Installation of 4 MBPS Internet Leased Line and issued a Request for Proposal (RFP) dated **21/11/2013.**
- c. UPLC intends to accord to the Agency the right to undertake the Project on the terms and conditions set forth in the Agreement;
- d. The Agency in pursuance of its proposal undertakes the services and any other requirement as per UPLC during the aforesaid period stated hereinabove.
- e. All the conditions stated in the Request for Proposal (RFP) and the Corrigendum Document shall form part of the Agreement.
- f. The parties agree that for providing services as per the terms of this Agreement, the Agency shall be paid as per the payment schedule detailed in the RFP.

NOW, THEREFORE, IT IS HEREBY AGREED between the parties as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Agreement:
 - (a) Request for Proposal (RFP) (b) Corrigendum
2. The mutual rights and obligations of "UPLC" and the Agency shall be as set forth in the Agreement, in particular:
 - (a) "UPLC" shall make payments to the Agency in accordance with the provisions of the Agreement.

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

In presence of

Signed by

For and on behalf of UPLC

("UPLC, Uttar Pradesh")

(Witnesses)

(i)

(ii)

(Authorized Representative)

(Witnesses)

(i)

For and on behalf of Agency

(ii)

(Authorized Representative)

6.2. Definitions

a. In this Agreement, unless the context requires otherwise:

- i. "**Applicable Law**" means the laws and any other instruments having the force of law in India for the time being.
- ii. "**Agency**" shall mean the Bidder Company after selection through the RFP with whom the order has been placed for installation and operation of 4 MBPS INTERNET LEASED LINE as specified in this RFP/ Agreement.
- iii. "**Agreement**" means the contents of RFP and specifications including the annexure, and any further amendments issued by UPLC, of the RFP and contents of this Agreement. Notwithstanding the foregoing, in the event of a conflict between the Agreement and the RFP, the terms of this Agreement shall prevail.
- iv. "**Agreement Price / Value**" means the price payable to the Bidder under the Agreement for the full and proper performance of its contractual obligations.
- v. "**Bidder**" shall mean an Individual Company registered under the Companies Act, 1956 which participates in the Bidding process.
- vi. "**Bidder's Representative**" means the person or the persons appointed by the Bidder from time to time to act on its behalf for overall co-ordination, supervision and Project management.
- vii. "**DIPR**" shall mean Department of Information & Public Relation, Uttar Pradesh
- viii. "**UPLC**" shall mean UP Electronics Corporation Limited
- ix. "**UPLC's Representative**" shall mean the person appointed by UPLC from time to time to act on its behalf at the site for overall coordination, supervision and Project management at site.
- x. "**Day**" means calendar day.
- xi. "**Deliverables**" means the services agreed to be delivered by the Agency in pursuance of this Agreement as defined in the RFP.
- xii. "**Effective Date**" means the date on which this Agreement is signed and executed by the parties hereto. If this Agreement is executed in parts, then the date on which the last of such Agreement is executed shall be construed to be the effective date.
- xiii. "**GoUP**" means the Government of Uttar Pradesh.
- xiv. "**In writing**" means communicated in written form with proof of receipt.
- xv. "**Personnel**" means professionals and support staff provided by the Bidder and assigned to perform services or any part thereof."
- xvi. "**Performance Guarantee**" shall mean the guarantee provided by the Bidder in favor of UPLC for an amount specified in the RFP.

- xvii. **“Project”** shall mean Installation and operation of 4 MBPS Internet Leased Line at the site of DIPR, Lucknow city for 1 year under the scope defined in RFP.
- xviii. **“RFP” or “Request for Proposal”** means the documents containing the Qualification, Commercial and Legal Specifications. It includes Annexure(s) and the clarifications, explanations and amendments issued from time to time.
- xix. **“Service Level Agreement (SLA)”** means the Level of Services to be provided by the Agency as provided in Section III of the RFP
- xx. **“Sign-off”** shall mean a written certification issued by UPLC evidencing the acceptance, approval or completion, as the case may be, of any deliverable that may be required in terms of the Agreement.
- xxi. **“Third Party”** means any person or entity other than the Government, UPLC, and Bidder.

6.3. Representations & Warranties

- a. The Agency warrants and represents to UPLC that:
 - i. it has full capacity and authority and all necessary approvals to enter into and to perform its obligations under this Agreement;
 - ii. this Agreement is executed by a duly authorized representative of Bidder;
 - iii. it shall discharge its obligations under this Agreement with due skill, care and diligence.
 - iv. The Agency should have experience in managing and providing services similar to those as given in the RFP and that it shall perform the services with all due skill, care and diligence
 - v. The services shall be rendered in conformance with all applicable laws, enactments, orders and regulations;
- b. In the event the Agency is unable to meet the obligations pursuant to the implementation of the work & Provision of services and any related scope of work as stated in this Agreement, UPLC shall have the option to invoke the Performance Guarantee after serving a written notice of 30 (Thirty) days on the Agency.

6.4. Scope of Work/Agreement

- a. Scope of work shall be as defined in this Agreement, Scope of Work and the Service Level Agreement and annexes thereto of this RFP.
- b. UPLC has engaged the Agency to install 4 MBPS Internet Leased Line for a period of one year. The Agency is required to perform the work during the term of this Agreement and includes all such processes and activities which are consistent with the proposals set forth in the Bid, the RFP and this Agreement and are deemed necessary by UPLC in order to meet its requirements

(hereinafter 'Scope of Work').

- c. If any services, functions or responsibilities not specifically described in this Agreement are an inherent, necessary or customary part of the Services or are required for proper performance or provision of the Services in accordance with this Agreement, they shall be deemed to be included within the scope of the work to be delivered for the charges, as if such services, functions or responsibilities were specifically described in this Agreement.
- d. UPLC reserves the right to amend any of the terms and conditions with mutual agreement in relation to the Scope of Work and may issue any such directions which are not necessarily stipulated therein if it deems necessary for the fulfillment of the Scope of Work pursuant to the RFP.

6.5. Duration of the Agreement

This Agreement shall come into effect on ____2013 (hereinafter called the "Effective Date") and shall continue up to the completion of one year, subject to fulfillment of the rights and obligations of the Parties under the Agreement. This notice shall confirm that the conditions precedent and effectiveness conditions, if any, have been met.

6.6. Performance Guarantee

Within 15 (fifteen) days after the receipt of notification of award of the work (Letter of Intent) from UPLC the successful Bidder shall furnish performance guarantee to UPLC which shall be equal to 10% of the value of the Agreement and shall be in the form of a Bank Guarantee Bond or a DD/Banker's cheque from a Scheduled Bank in the Proforma given in **Section -6.7**.

6.7. Agency's Obligations

- a. The Agency shall:
 - i. Provide services specified by UPLC and make available the necessary equipment/facilities/ services, as may be necessary and other 'Scope of Work' requirements as specified in the RFP and changes thereof.
 - ii. Bring all the tools, equipment along with 2 or 4 strands (whichever necessary) to install 4 MBPS Internet Leased Line in the location/site specified by UPLC.
 - iii. Obtain all necessary approvals from the concerned departments before installing the 4 MBPS Internet Leased Line on the site specified by UPLC/DIPR. However, UPLC shall provide full assistance in obtaining the requisite approvals.
 - iv. Be liable for any non-performance, non-compliance, breach or other loss and damage resulting either directly or indirectly by or on account of its team.
 - v. Ensure that the Agency's Team is competent, professional and possesses the requisite

experience appropriate to the task they are required to perform under this Agreement. The Agency shall ensure that the services are performed through the efforts of the Agency's Team, in accordance with the terms hereof and to the satisfaction of UPLC. Nothing in this Agreement relieves the Agency from its liabilities or obligations under this Agreement to provide the services in accordance with UPLC directions and requirements and as stated in this Agreement and the Bid to the extent accepted by UPLC.

- vi. Monitor progress of all the activities specified in the Agreement and submit free of cost Leased Line uptime report every 3 months to the UPLC.
- vii. Be deemed to mean that the Agency possesses the knowledge of all the requirements pertaining to the installation, Transportation, operating, running as stipulated in the RFP including but not limited to environmental, geographical, demographic and physical conditions and all criteria required to perform the operations.
 - i. The Agency shall be deemed to have understood the requirements and have satisfied himself contained in the Bidding documents, the quantities, nature of the works and equipment necessary for the completion of the works, etc. and in-general to have obtained himself all necessary information of all risks, contingencies and circumstances affecting his obligations and responsibilities therewith under the Agreement and his ability to perform it. However, if during the process of Inspection and/or Manpower deployment, Agency detects any obstructions affecting the work, the Agency shall take all measures to overcome them.
 - ii. Agency shall be deemed to have satisfied himself as to the correctness and sufficiency of the Agreement Price for the work. The consideration provided in the Agreement for the Agency undertaking the work shall cover all the Agency's obligation and all matters and things necessary for proper execution of the work in accordance with the Agreement and for complying with any instructions which UPLC's representative may issue in accordance with or in connection therewith and of any proper and reasonable measures which the Agency takes in the absence of specific instructions from UPLC's representative.

6.8. Statutory Requirements

- a. During the tenure of this Agreement nothing shall be done by the Agency in contravention of any law, act and/or rules/regulations, there under or any amendment thereof governing inter-alia customs, stowaways, foreign exchange etc. and shall keep UPLC indemnified in this regard.

6.9. Risk Management

Agency shall at his own expense adopt suitable Risk Management methodology to mitigate all risks assumed by the Agency under this Agreement. Agency shall underwrite all the risk related to its personnel deputed under this Agreement as well as all hardware components, tools and any other belongings of the Agency or their personnel during the entire period of their engagement in

connection with this Agreement and take all essential steps to reduce and mitigate the risk. UPLC or DIPR will have no liability on this account.

6.10. Indemnity

- a. The Agency shall indemnify UPLC from and against any costs, loss, damages, expense, claims including those from third parties or liabilities of any kind howsoever suffered, arising or incurred inter alia during and after the Agreement period out of:
 - i. Any negligence or wrongful act or omission by the Agency or the Agency's Team in connection with or incidental to this Agreement; or
 - ii. A breach of any of the terms of Agency's Bid as agreed, the RFP and this Agreement by the Agency or the Agency's Team.
- b. The indemnity shall be to the extent of 100% in favour of UPLC.

6.11. Term and Extension of the Agreement

- a. The term of this Agreement shall be for a period as indicated in the Agreement and Agreement shall come to an end on expiry of such period as per section 5.5.
- b. UPLC shall reserve the sole right to grant any extension to the term mentioned above on mutual agreement including fresh negotiations on terms and conditions.

6.12. Prices

Prices quoted must be firm and shall not be subject to any upward revision on any account whatsoever throughout the period of Agreement for the scope of the Agreement.

6.13. Payment Schedule

- a. Payments will be released by UPLC subject to payment received from DIPR only on satisfactory acceptance of services by DIPR.
- b. No advance payment to agency. Payment shall be paid in the end of the quarter.
- c. All payments to be made to the Agency shall be inclusive of all statutory levies, duties, taxes and other charges whenever levied/applicable. Any increase in rates of all applicable direct or indirect taxes (central or state or local), rates, duties, service tax, charges and levies (central or state or local); will be to the account of Agency.
- d. The Agency shall also bear all personal/income taxes levied or imposed on its personnel on account of payment received under this Agreement. Agency shall further bear all income/corporate taxes, levied or imposed on account of payments received by it from the UPLC for the work done under this Agreement.

6.14. Invoicing

- a. In respect of its remuneration, the Agency shall be eligible to receive in accordance with the Terms of Payments Schedule. Subject to the specific terms of each Service Level Agreement, the Agency submit its invoices in accordance with the following principles:
 - i. UPLC shall be invoiced by the Agency for the services of installation and continued operation of 4 MBPS Internet Leased Line.
 - ii. The invoice shall be submitted along with the necessary approval/sign-off/acceptance certification for the respective deliverables linked with the payment, failing which the UPLC reserves the right to reject the invoices.
 - iii. UPLC shall be entitled to delay or withhold payment of any invoice or part of it delivered by the Agency where UPLC disputes such invoice or part of it provided that such dispute is bona fide. The withheld amount shall be limited to that which is in dispute. The disputed amount shall be settled in accordance with the procedure as set out in the RFP. Any exercise by UPLC/DIPR under this Section shall not entitle the Agency to delay or withhold provision of the Services.
 - iv. Payment for invoices shall be made within 30 working days of the receipt of Invoice by UPLC upon completion of the said activities as mentioned in the Agreement.

6.15. Default by the Agency

The failure on the part of the Agency to perform any of its obligations or comply with any of the terms of this Agreement shall constitute an event of default on the part of the Agency. The events of default as mentioned above may include but not limited to inter alia the following also:

- a. The Agency has failed to install the 4 MBPS INTERNET LEASED LINE as per the Technical specifications set out in the RFP.
- b. The Agency has failed to adhere to any of the key performance indicators as may be in terms of failure to adhere to timelines, specifications, requirements or any other criteria as defined by UPLC.
- c. The Agency has failed to conform with any of the Service/Specifications/standards as set out in the scope of work of this RFP or has failed to adhere to any amended direction, modification or clarification as issued by UPLC during the term of this Agreement and which UPLC deems proper and necessary for the execution of the scope of work under this Agreement.
- d. There is a proceeding for bankruptcy, insolvency, winding up or there is an appointment of receiver, liquidator, assignee, or similar official against or in relation to the Agency.
- e. The Agency has failed to comply with or is in breach or contravention of any applicable laws.
- f. In the event of default, UPLC may by a written notice of suspension to the Agency, suspend all

payments to the Agency under the Agreement.

- g. UPLC reserves the right to terminate the Agreement with 30 days notice.

6.16. Termination of the Agreement by Agency

- a. UPLC retain such amounts from the payment due and payable by UPLC to the Agency of overall Agreement value for 1 year as may be required to offset any losses caused to UPLC as a result of such event of default and the Agency shall compensate UPLC for any such loss, damages or other costs, incurred by UPLC in this regard. Nothing herein shall affect the continued obligation of the Agency to perform all their obligations and responsibilities under this Agreement in an identical manner as were being performed before the occurrence of the default.
- b. Invoke the Performance Bank Guarantee and other Guarantees furnished hereunder, enforce the deed of indemnity, recover such other costs/losses and other amounts from the Agency may have resulted from such default and pursue such other rights and/or remedies that may be available to UPLC under law.

6.17. Termination

a. By UPLC:

UPLC may terminate this Agreement in case of the occurrence of any of the events specified in paragraphs (i) through (vii) of this **Section 5.20 (a)**. In such an occurrence "UPLC" shall give a not less than thirty (30) days' written notice of termination to the Agency, and sixty (60) days' in case of the event referred to in (viii).

- i. If the Agency fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to **Section 5.17** hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as UPLC may have subsequently approved in writing.
- ii. If the Agency becomes insolvent or goes into liquidation or receivership whether compulsory or voluntary. Conversely if UPLC apprehends a similar event regarding the Agency, it can exercise the right of termination in the manner stated hereinabove.
- iii. If the Agency fails to comply with any final decision reached as a result of arbitration proceedings.
- iv. If the Agency, in the judgment of UPLC, has engaged in corrupt or fraudulent practices in competing for or in executing this Agreement.
- v. If the Agency submits to UPLC a false statement which has a material effect on the rights, obligations or interests of UPLC.
- vi. If the Agency places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to UPLC.
- vii. If the Agency fails to provide the quality services as envisaged under this Agreement. The Committee shall be constituted to monitor the progress of the services. This Committee shall

make judgment regarding the poor quality of the services, the reasons for which shall be recorded in writing. The Committee may decide to give 15 days time to the Agency to improve the quality of the services and Agency fails to improve the quality of services.

- viii. If, as the result of Force Majeure, the Agency is unable to perform a material portion of the services for a period of not less than sixty (60) days.
- ix. If UPLC, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

- b. UPLC reserves the right to terminate the Agreement in case Agency gets blacklisted by any other Ministry/Department of Government of India or State Governments during the course of the project or if Agency is convicted in a legal/tax evasion case or on account of any other legal misconduct of the Agency.

- c. On termination of this Agreement for any reason, the SLAs shall automatically terminate forthwith except those that are specified to operate on termination of Agreement and UPLC will decide the appropriate course of action.

- d. The termination provisions set out in this Agreement shall also apply to the SLAs.

e. By the Agency:

The Agency may terminate this Agreement, by not less than Ninety (90) days' written notice to "UPLC", in case of the occurrence of any of the events specified in paragraphs (i) through (iv) of this Clause:

- i. If UPLC fails to pay any money due to the Agency pursuant to this Agreement and not subject to dispute pursuant to this Agreement hereof within forty-five (45) days after receiving written notice from the Agency that such payment is overdue.
- ii. If, as the result of Force Majeure, the Agency is unable to perform a material portion of the services for a period of not less than sixty (60) days.
- iii. If UPLC fails to comply with any final decision reached as a result of arbitration pursuant to this Agreement.
- iv. If UPLC is in material breach of its obligations pursuant to this Agreement and has not remedied the same within forty-five (45) days (or such longer period as the Agency may have subsequently approved in writing) following the receipt by UPLC of the Agency's notice specifying such breach.

f. Cessation of Rights & Obligations:

Upon termination of this Agreement hereof, or upon expiration of this Agreement hereof, all rights and obligations of the Parties hereunder shall cease, except:

- i. Such rights & obligations as may have accrued on the date of termination or expiration
- ii. The obligation of confidentiality set forth in the Agreement hereof,
- iii. The Agency's obligation to permit inspection, copying and auditing of their accounts and records and any right which a Party may have under the Applicable Law

g. Cessation of Services:

Upon termination of this Agreement by notice of either Party to the other pursuant to the Agreement hereof, the Agency shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the work to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. Services by the Agency should continue at least for a period of 30 days unless UPLC waives such period.

h. Payment upon Termination:

Upon termination of this Agreement pursuant to Section 5.20 hereof, "UPLC" shall make the following payments to the Agency:

- i. If the Agreement is terminated pursuant to Section 5.20 (a) (viii, ix) or 5.20 (e), payment due pursuant to Payment Schedule hereof for services satisfactorily performed prior to the effective date of termination,
- ii. If the Agreement is terminated pursuant to Section 6.27 (a) (i) to (vii), the Agency shall not be entitled to receive any payments upon termination of the Agreement. Under such circumstances, upon termination, UPLC may also impose liquidated damages as per the provisions of this Agreement. The Agency will be required to pay any such liquidated damages UPLC within 30 days of termination date.

6.18. Penalty

In the event, the Agency fails to meet the Project responsibilities as stipulated in the SLAs or any damages caused by Agency including its employees, contractors to UPLC/DIPR properties, personnel, data etc, the Agency shall be liable for penalty as per the RFP. UPLC without prejudice to his other rights and remedies, to deduct from the Price as payable in terms of this Agreement, or receive as payment, at the discretion of UPLC, the penalties that are imposed in terms of this Agreement.

6.19. Liquidated Damages

In the event, the Agency (i) fails to meet the milestones provided as per the RFP, UPLC shall without prejudice to his other rights and remedies, reserve the right to invoke the entire performance guarantee and even terminate the Agreement.

The parties hereby agree that due to negligence of any party, if the other party suffers losses, damages the quantification of which may be difficult, a reasonable estimate of the damages shall be constructed and both the parties agrees to pay such liquidated damages, as per the provisions of this Agreement. The amount of liquidated damages under this Agreement shall not exceed 10% of the total value of the Agreement.

6.20. Approvals

The Agency shall be responsible for obtaining approvals for any Statutory and Regulatory requirements (if any) from the authorities. Further, the Agency shall be responsible to get required documentation completed for obtaining such approvals. The Agency shall undertake to do all such acts and deeds as required to ensure that the approvals are obtained only with prior approval of department. UPLC shall extend all reasonable assistance to the Agency in this regard.

6.21. Dispute Resolution

a. Amicable Settlement

Performance of the Agreement is governed by the terms and conditions of the Agreement. In case a dispute arises between the parties regarding any matter under the Agreement, either Party of the Agreement may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, **Section 5.24 (b)** shall become applicable

b. Arbitration

- i. Any dispute or difference whatsoever arising between the parties to the Agreement out of or relating to the construction, meaning, scope, operation or effect of the Agreement or validity of the breach thereof, which cannot be resolved through negotiation process, shall be referred to a sole Arbitrator to be mutually agreed by both the parties. In the event of disagreement between the parties the sole Arbitrator shall be appointed by DIPR, GoUP. The Provision of Arbitration and Conciliation Act 1996 shall apply. The Arbitration shall be held in Lucknow, India and the language shall be English only.
- ii. Subject to the above, the Courts at Lucknow only shall have jurisdiction in this matter.

c. Adjudication by Regulator Authority or Commission

In the event of constitution of a statutory Regulatory authority or Commission appointed by GoUP with powers to adjudicate upon disputes between UPLC and the Agency, all Disputes arising after such constitution shall instead of reference to arbitration, be adjudicated upon by such Regulatory Authority or Commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties

hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or High Court, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

d. Arbitration Decision

The decision of the Arbitrator shall be final and binding upon both parties.

e. Arbitration Expenses

The expenses of the arbitrator as determined by the arbitrator shall be shared equally by UPLC and the Agency. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall state the reasons for the award.

f. The provisions of Dispute Resolution clause shall survive termination.

6.22. Limitation of the Bidder's Liability towards UPLC

- a. Except in case of gross negligence or willful misconduct on the part of the Agency in carrying out the services, the Agency, with respect to damage caused by the Agency to DIPR's property, shall not be liable to UPLC:
 - i. for any indirect or consequential loss or damage;
 - ii. for any direct loss or damage that exceeds the total value of the Agreement or the proceeds the Agency may be liable to receive from any insurance maintained by the Agency to cover such a liability, whichever is higher
- b. This limitation of liability shall not affect the Agency's liability, if any, for damage to Third Parties caused by the Agency or any person or firm acting on behalf of the Agency in carrying out the Services.
- c. There shall be no limitation of liability in case of any damages for bodily injury (including death) and damage to real property and tangible personal property.
- d. Neither this Agreement nor the SLAs grant or create any rights, benefits, claims, obligations or causes of action in, to or on behalf of any person or entity (including any third party) other than between the respective Parties to this Agreement or the SLAs, as the case may be.
- e. Any claim or series of claims arising out or in connection with this Agreement or the SLA shall be time barred and invalid if legal proceedings are not commenced by the relevant Party against the other Party within a period of twenty four months from the date when the cause of action first arose or within such longer period as may be permitted by applicable law without the possibility of contractual waiver or limitation.
- f. UPLC shall be entitled to claim the remedy of specific performance under this Agreement or the SLAs.

6.23. Conflict of Interest

- a. The Agency shall hold UPLC's interest paramount, without any consideration for future work and strictly avoid conflict with other assignment or its own corporate interest.
- b. The Agency should not be engaged in any such business (excluding any work assigned to them by UPLC) which has conflict of interest with the Project for which the Bids are being submitted.
- c. Interest with one or more parties in this Bidding process. Participation by Bidder(s) with a conflict of interest situation would be examined by UPLC and appropriate decision would be taken which may also include disqualification of all Bids in which it is involved.
- d. A firm shall be considered to have a conflict of interest if:
 - i. Such firm is providing consulting/monitoring services directly related to the implementation of the Project to be Bid for. This provision does not apply to the various firms (consultants, contractors, or Agency) which together are performing the Contractor's obligations under a turnkey or design and built Contract; or
 - ii. Such firm (including its personnel) has a close business or family relationship with a professional staff of UPLC/DIPR or;
 - iii. Who are directly or indirectly involved in the preparation of the Bidding documents or specifications of the Agreement, and/or the Bid evaluation process of the Agreement.

6.24. Governing Language

The Agreement shall be written in English language. All correspondence and other documents pertaining to the Agreement that are exchanged by parties shall be written in English language only.

6.25. "No Claim" Certificate

The Agency shall not be entitled to make any claim, whatsoever against UPLC under or by virtue of or arising out of this Agreement, nor shall UPLC entertain or consider any such claim, if made by the Agency after he shall have signed a "No claim" Certificate in favor of UPLC in such forms as shall be required by UPLC after the works are finally accepted.

6.26. Force Majeure

- a. Definition

- i. For the purposes of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
 - ii. Force Majeure shall not include (1) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Contractors or agents or employees, nor (2) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Agreement, and avoid or overcome in the carrying out of its obligations hereunder.
 - iii. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder
- b. No Breach of Agreement: The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.
- c. Measures to be taken
- i. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Agreement as far as it is reasonably practical, and shall take all the reasonable measures to minimize the consequences of any event of Force Majeure
 - ii. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than two (2) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible
 - iii. Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure
 - iv. During the period of an event of Force Majeure, the Agency, upon instructions by UPLC, shall continue with the services to the extent possible, in which case the Agency shall continue to be paid under the terms of this Agreement.
 - v. In the case of disagreement between the Parties as to the existence or extent of Force

Majeure, the matter shall be settled according to Section 5.24.

In the event the Force Majeure substantially prevents, hinders or delays the Agency performance of services necessary for the operation of UPLC's critical business functions for a period in excess of 15 days, UPLC may declare that an emergency exists. UPLC will issue a notice to the Agency to resume normal services at all affected sites and for all operations within a period of seven days. In the event that the Agency is not able to resume services within the next 7 days, UPLC may terminate the Agreement and/or obtain substitute performance from an alternate Agency and costs incurred by UPLC in obtaining such services from alternate Agency shall be recovered by UPLC from Agency. All payments pursuant to termination due to Force Majeure event shall be in accordance with the Terms of Payment Schedule.

6.27. General

- a. The Bidder shall not assign to others, in whole or in part, their obligation to perform under the Agreement.
- b. This Agreement, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws in India.
- c. The courts of India at Lucknow will have exclusive jurisdiction to determine any proceeding in relation to this Agreement.
- d. Any modification of this Agreement shall be in writing and signed by an authorized representative of each Party.
- e. Each Party to this Agreement and the SLAs accept that its individual conduct shall (to the extent applicable to it) at all times comply with all applicable laws, rules and regulations. For the avoidance of doubt the obligations of the Parties to this Agreement and the SLA are subject to their respective compliance with all applicable laws and regulations.
- f. **Ethics:** Agency represents, warrants and covenants that it has given no commitments, payments, gifts, kickbacks, lavish or expensive entertainment, or other things of value to any employee or agent of UPLC, or the Department or its nominated agencies in connection with this Agreement and acknowledges that the giving of any such payment, gifts, entertainment, or other things of value is strictly in violation of UPLC's standard policies and may result in cancellation of this Agreement.
- g. **Notice:** Any notice or other document, which may be given by either Party under this Agreement, shall be given in writing in person or by Registered Post or by facsimile transmission and shall be addressed to the other Party's principal or registered office address as set out in the RFP.

6.28. Exit Management

- a. The exit management period starts, in case of expiry of Agreement, on the date when the

Agreement comes to an end or in case of termination of Agreement, on the date when notice of termination is sent to the Agency. The exit management period ends on the date agreed upon by the parties (UPLC & Agency).

- b. UPLC shall be entitled to serve notice in writing on the Agency at any time during the exit management period as detailed hereinabove requiring the Agency to provide UPLC with a complete and up to date list of the Assets.
- c. In case of termination, UPLC/DIPR shall pay to the Agency on the last day of the exit management period.
- d. Before the expiry of the exit management period, the Agency delivers relevant records and reports pertaining to the Project and/or all operation and maintenance records and manuals pertaining thereto and complete as on the Divestment Date;
- e. The Agency obtains a No Objection Certificate from UPLC.

6.29. Miscellaneous provisions

- a. Nothing contained in this Agreement shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.
- b. Any failure or delay on the part of any Party to exercise right or power under this Agreement shall not operate as waiver thereof.
- c. The Agency shall notify UPLC of any material change in their status, in particular, where such change would impact on performance of obligations under this Agreement.
- d. The Agency shall be jointly and severally liable to and responsible for all obligations towards UPLC for performance of works including that of its Associates under the Agreement.
- e. The Agency shall at all times indemnify and keep indemnified UPLC/DIPR, Government of Uttar Pradesh against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its (Agency) employees or agents or by any other 3rd Party resulting from or by any action, omission or operation conducted by or on behalf of the Agency.
- f. The Agency shall at all times indemnify and keep indemnified UPLC/DIPR, Government of

Uttar Pradesh against any and all claims by Employees, Workman, Contractors, Agency, agent(s), employed engaged or otherwise working for the Agency, in respect of wages, salaries, remuneration, compensation or the like.

All claims regarding indemnity shall survive the termination or expiry of the Agreement

Section VI- Format for Response to RFP: Qualification Bid

7.1. Format 1 – Proposal Covering Letter

[Date]

To,

The Managing Director

UP Electronics Corporation Limited,

10 Ashok Marg, Lucknow - 226 001

0522- 2286808-09 Fax: 0522-2288583

E-mail: md@uplc.in, uplclko@gmail.com

Website: www.uplc.in

Ref: Request for Proposal (RFP): Qualification Bid for 'Selection of Agency for Installation of 4 MBPS Internet Leased Line'.

Dear Sir,

Having examined the RFP, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to Install of 4 MBPS Internet Leased Line for a period of one year as outlined in the RFP for Selection of Agency for Installation of 4 MBPS Internet Leased Line.

We attach hereto the qualification response as required by the RFP, which constitutes our proposal.

We undertake that, if our proposal is accepted, we shall adhere to the scope of work (installation and operation of a 4 MBPS Internet Leased Line for a period of 1 year from the date of successful installation of 4 MBPS Internet Leased Line) or such adjusted plan as may subsequently be mutually agreed between us and the UPLC or its appointed representatives.

If our proposal is accepted, we will obtain a Performance Guarantee in the format given in the RFP issued by a Scheduled Bank in India, acceptable to the UPLC, for a sum equivalent to 10% of the total price as quoted in our commercial proposal for the due performance of the Agreement.

We agree for unconditional acceptance of all the terms and conditions set out in the RFP and also agree to abide by this RFP response for a period of six months from the date fixed for Bid opening and it shall remain binding upon us with full force and virtue, until within this period a formal Agreement is prepared and executed, this RFP response, together with your written acceptance thereof in your notification of award, shall constitute a binding Agreement between us and the UPLC.

We confirm that the information contained in this proposal or any part thereof, including its exhibits,

7.2. Format 2 - General Information about the Bidder

Details of the Bidder (Company)				
1.	Name of the Bidder			
2.	Address of the Bidder			
3.	Status of the Company (Public Ltd/Pvt. Ltd/Partnership Firm)			
4.	Details of Incorporation / Registration of the Company		Date:	
			Ref. #	
5.	Details of Commencement of Business		Date:	
			Ref. #	
6.	Valid Sales tax registration no.			
7.	Valid Service tax registration no.			
8.	Permanent Account Number (PAN)			
9.	Name & Designation of the contact person to whom all references shall be made regarding this RFP			
10.	Telephone No. (with STD Code)			
11.	E-Mail of the contact person:			
12.	Fax No. (with STD Code)			
13.	Website			
14.	Financial Details (as per audited Balance Sheets) (in Crores)			
15.	Year	2011-2012	2010-2011	2009-2010
16.	Turn Over			

7.3. Format 3 - Financial Information

Annual Turnover of the Bidder (As per Point 5 of Section II)

Turnover of the Bidder (Amount INR)				
Financial Year 2011-12	Financial Year 2010-11	Financial Year 2009-10	Indicate the page number where the details are provided	Conversion rate (if applicable)

Documentary Proof Required:

- Audited Profit and Loss Statement and Balance sheet
- Statutory Auditor Certificate/Certificate from Company Secretary clearly specifying the turnover for the specified years.

-

7.4. Format 5 - Format for Past Experience

Please provide only one citation for each category as per the Qualification criteria in the format provided below as per point 7 of Section II. **The relevant documentary proofs for a citation need to be attached just below the details of the citations in this format.**

Project Title:			
<i>(Attach separate sheet for each Project)</i>			
Country		Address	
Name of Client			
Type of Client (Govt./PSU/Others)		Order Value of the Project / Revenue Generated (in Lacs)	
		Revenue Generated (in Lacs) year-wise (please state the year and the revenue generated)	
		Current Conversion Rate(if applicable)	
Duration of the Assignment		Start Date (month/year):	
Location of the Assignment		Date of successful implementation /completion (month/year):	
		End Date (month/year):	
Referrals (Client side): Provide one referral only	Name		
	Designation		
	Role in the Project:		
	Contact Number		
	Email Id		
Brief Description of Project:			

Documentary Proof Required:

- Copy of Work order which clearly mentioned the order value.
- Certificate of successful operation by the client OR self-certificate attested by the client.

7.5. Format 6 - Declaration Regarding Clean Track Record

[Date]

To,

The Managing Director

UP Electronics Corporation Limited,

10 Ashok Marg, Lucknow - 226 001

0522- 2286808-09 Fax: 0522-2288583

E-mail: md@uplc.in, uplclko@gmail.com

Sir,

I have carefully gone through the Terms & Conditions contained in the RFP Document [No. _____] regarding **Selection of Agency for Installation of 4 MBPS Internet Leased Line**. I hereby declare that my Company has not been debarred / black listed by any Ministry/Department of Government of India or State Government. I further certify that I am competent officer in my Company to make this declaration.

Yours faithfully,

(Signature of the Bidder)

Printed Name

Designation

Seal

Date:

Business Address:

Documentary Proof Required:

- Certificate from the Company Secretary/ Authorized Signatory to the effect that the Bidder is not blacklisted by any Ministry/Department of Government of India or State Government as per the format provided above.

7.6. Format 7 – Proforma of Bank Guarantee towards Performance Security

PERFORMANCE GUARANTEE

Ref No..... Bank Guarantee No

Dated :

IN consideration of the Governor of Uttar Pradesh (hereinafter called “the Government”) having agreed; to exempt _____ (hereinafter called “the said Contractor(s)”) from the demand, under the terms and conditions of an Agreement, dated _____ made between _____ and _____ for _____ (hereinafter called “the said Agreement”), of security deposit for the due fulfillment by the said Contractor(s) of the terms and conditions contained in the said Agreement, on production of a bank Guarantee for Rs. _____ (Rupees _____ only) we, _____ (indicate name of the Bank) (hereinafter referred to as “the Bank”) at the request _____/contractor(s)/, do hereby undertake to pay to the Government an amount not exceeding Rs. _____ against any loss or damage caused to or suffered or would be caused to or suffered by the Government by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement.

2 We _____ (indicate name of the Bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Government stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the Government by reason of breach by the said contractor(s) of any of the terms or conditions contained in the said Agreement or by reason of the contractor(s) failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____

3 We undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the contractor(s) supplier(s) in any suit or proceeding pending before

any court or Tribunal relating thereto our liability under this present being absolute and unequivocal.

The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the contractor(s) supplier(s) shall have no claim against us for making such payment.

4 We, _____(indicate name of the Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Government under or by virtue of the said agreement have been fully paid and its claims satisfied or discharged or filed _____ office/ Department _____ certifies that the terms and conditions of the said Agreement, have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the _____ we shall be discharged from all liability under this guarantee thereafter.

5 We. _____(Indicate name of the Bank) further agree with the Government that the Government shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Government against the said Contractor(s) and to for bear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Contractor(s) or for any forbearance, act or commission on the part of the Government or any indulgence by the Government to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provisions, have effect of so relieving us.

6 This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)/Supplier(s).

7 We, _____(indicate name of the Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Government in writing.

Dated the _____ day of _____
for _____
(Indicate the name of Bank).

Instructions for furnishing Bank Guarantee

1. The Bank Guarantee by Indian Bidders will be given on non-judicial stamp paper as per stamp duty applicable at the place from where the purchase Agreement has been placed. The non-judicial stamp paper should be in name of the issuing bank.
2. The expiry date as mentioned in the RFP should be arrived at by adding 30 days to the Agreement completion date unless otherwise specified in the Bidding documents.
3. The Bank Guarantee by Indian Bidders will be given from Scheduled Bank only. The Foreign Bidders will give Bank Guarantees from an Indian Bank situated in that country.

Section VII- Format for Response to RFP: Financial Bid

8.1. Format 1 - Commercial Bid Letter

To,

The Managing Director

UP Electronics Corporation Limited,

10 Ashok Marg, Lucknow - 226 001

0522- 2286808-09 Fax: 0522-2288583

E-mail: md@uplc.in, upclko@gmail.com

Sir,

Subject: Selection of Agency for Installation of 4 MBPS Internet Leased Line.

Reference: RFP No: <RFP REFERENCE NUMBER> Dated <DD/MM/YYYY>

We, the undersigned Bidder, having read and examined in detail the entire RFP in respect of Selection of Agency for Installation of 4 MBPS Internet Leased Line do hereby propose to installation of 4 MBPS Internet Leased Line for a period of one year at the designated location/site specified in the RFP number <RFP REFERENCE NUMBER> Dated <DD/MM/YYYY>.

- All the prices mentioned in the RFP are in accordance with the terms as specified in the RFP. All the prices and other terms and conditions of this RFP are valid for a period of 180 calendar days from date of opening of the RFP.
- We hereby confirm that our price for installing, operating and running a 4 MBPS INTERNET LEASED LINE as detailed in the RFPs is including all taxes. However, all the taxes are quoted separately under relevant sections.
- We have studied the clause relating to Indian Income Tax and hereby declare that if any income tax, surcharge on Income Tax, Service tax, Professional and any other corporate Tax payable under the law, we shall pay the same.
- We further confirm that the prices stated in our Bid are in accordance with your Instruction to Bidders included in RFP.
- We confirm having submitted the information as required by you in your Instruction to Bidders. In case you require any other further information/documentary proof in this regard before evaluation of our RFP, we agree to furnish the same in time to your satisfaction.
- We declare that our Bid Price is for the entire scope of the work as specified in the RFP.

These prices are indicated in Format 2 (Section VII) attached as part of the RFP.

- We hereby declare that in case the work is awarded to us, we shall submit the Performance Guarantee in the form prescribed in Section -VI.
- We hereby declare that our Tender is made in good faith, without collusion or fraud and the information contained in the RFP is true and correct to the best of our knowledge and belief.

We understand that our Tender is binding on us and that you are not bound to accept a proposal you receive.

We confirm that no Technical deviations are attached here with this commercial offer.

Thanking you,

Yours faithfully,

(Signature of the Bidder)

Printed Name

Designation

Seal

Date:

Business Address:

8.2. Format 2 – Cost summary

- a. Bidder should provide all prices for Table-A as per the prescribed format. Bidder should not leave any field blank. In case the field is not applicable, Bidder must indicate “0” (Zero) in all such fields.
- b. All the prices (even for taxes) are to be entered in Indian Rupees only (% values are not allowed)
- c. It is mandatory to provide breakup of all Taxes, Duties and Levies wherever applicable and / or payable.
- d. UPLC reserves the right to ask the Bidder to submit proof of payment against any of the taxes, duties, levies indicated.
- e. UPLC shall take into account all taxes, duties & levies for the purpose of evaluation
- f. The Bidder needs to account for all Out of Pocket expenses due to Travel, boarding, lodging and other related items.

Table-A: Cost Summary for 4 MBPS INTERNET LEASED LINE

S. No	Item	Total Price in figure (INR)	Total Price in words (INR)
1 (A)	4 MBPS Internet Leased Line dedicated 1:1 per annum charges		
(B)	Dedicated Last Mile Media Per Annum Charges		
(C)	One Time Charges for Installation, Testing & Commissioning		
(D)	Others (If any)		
(1) Sub Total (A+B+C+D)			
2	Service Tax @12.36% on (1)		
Total (1 + 2)			