

- (ee) **"Sarawak Energy's Representative"** means the person named in the RFP Particulars as its main point of contact with the Proponent and / or the Proponent's Representative for the purposes of this RFP process;
- (ff) **"Services"** means the services to be provided by the successful Proponent under the Contract;
- (gg) **"Services Tax"** means service tax payable in accordance with the Service Tax Act 1975;
- (hh) **"Taxes"** means all direct and indirect taxes imposed in any jurisdiction by any governmental entity or semi-governmental entity (including any government authority), including income taxes, corporate taxes, withholding taxes, goods and services taxes (or any other similar value added taxes), customs duties, fees, levies, imposts, charges, royalties (including quarry royalties), dues or assessment of any nature;
- (ii) **"UPKJ"** means Unit Pendaftaran Kontraktor dan Juruperunding.

1.2 Throughout the RFP Documents:

- (a) unless the context otherwise requires, all:
 - (i) words and expressions used in these Instructions to Proponents shall be interpreted in accordance with the matters set out in the Form of Contract; and
 - (ii) capitalised terms used in the these Instructions to Proponents shall, unless otherwise defined in these Instructions to Proponents, have the meaning assigned to them in the Form of Contract;
- (b) all capitalised terms used in the RFP Documents shall, unless otherwise specified, have the meaning assigned to them in these Instructions to Proponents (and, to the extent that Clause 1.2(a)(ii) applies, in the Form of Contract);
- (c) any reference to a "Clause", a "Part" or a "Section" is a reference to a clause, a part or a section of the RFP Documents; and
- (d) where both words and alphanumeric figures are used to express the same number, and they are inconsistent, the words shall prevail.

1.3 Wherever the RFP Documents provide for the giving or issuing of approvals, certificates, consents, instructions, permissions, determinations, notices and requests, these communications shall be in writing and shall be delivered by hand, sent by mail, electronic means or courier, to the other Party's Representative, as may

to be submitted to Sarawak Energy by the Closing Date and Time in accordance with these Instructions to Proponents;

- (t) **"Proposal Appendices"** means the appendices set out in Part II, Section 2 of the RFP Documents and required to be completed by the Proponent and submitted with their Proposal;
- (u) **"Proposal Price"** means the price or amounts calculated by reference to the matters set out in the Pricing Appendix and as may be amended in accordance with the matters set out in these Instructions to Proponents;
- (v) **"Proposal Security"** means the security required to be submitted by each Proponent with their Proposal;
- (w) **"Proposal Validity Period"** means the period of time during which each Proponent's Proposal shall remain valid and open for acceptance by Sarawak Energy as set out in the RFP Particulars (as may be extended from time to time in accordance with these Instructions to Proponents);
- (x) **"Related Party"** means:
 - (i) with respect to a non-Consortium Proponent, director, partner or an officer of such Proponent; and
 - (ii) with respect to a Consortium Proponent, a director, partner or an officer of any of the members of such Consortium Proponent;
- (y) **"RFP"** means request for proposal;
- (z) **"RFP Documents"** means those documents issued to the Proponent as part of this RFP process, as may be amended in accordance with any addendum issued by Sarawak Energy in accordance with these Instructions to Proponents;
- (aa) **"RFP Particulars"** means the RFP particulars set out in Part I, Section 2 of the RFP Documents, setting out those matters particular to this RFP process;
- (bb) **"Sales Tax"** means sales tax payable in accordance with the Sales Tax Act 1972;
- (cc) **"Sarawak Energy"** means Sarawak Energy Berhad (company number 007199-D);
- (dd) **"Sarawak Energy Director"** means any director of Sarawak Energy, or any director of an Affiliate of Sarawak Energy;

- (j) **"Form of Proposal"** means the document entitled "Form of Proposal" set out in Part II, Section 1 of the RFP Documents, which is required to be completed by the Proponents and submitted with their Proposal;
- (k) **"GST"** means goods and services tax payable in accordance with the Goods and Services Tax Act 2014;
- (l) **"Instructions to Proponents"** means this document;
- (m) **"Key Employee"** means any employee of Sarawak Energy or an Affiliate of Sarawak Energy that is responsible for the management or administration of budgetary or procurement decisions;
- (n) **"Letter of Award"** means the letter of award issued by Sarawak Energy to the successful Proponent for the Services;
- (o) **"Local Participation"** means (in descending order of preference):
 - (i) business entities registered with the UPKJ as having Bumiputera status within Sarawak (or, where such UPKJ certification is not possible, certification by another suitable authority acceptable to Sarawak Energy);
 - (ii) Sarawak-based business entities registered with the UPKJ;
 - (iii) other business entities registered and incorporated in Sarawak and majority owned and controlled by Sarawakians; and
 - (iv) any other business entities registered and incorporated in any State of Malaysia and majority owned and controlled by Malaysians;
- (p) **"Pricing Appendix"** means the document entitled "Proposal Appendix B – Price and Payment" set out in Proposal Appendices which sets out the manner in which the Proposal Price shall be calculated;
- (q) **"Proponent"** means any entity or group of entities (in the case of a Consortium Proponent) issued with a copy of the RFP Documents or otherwise invited by Sarawak Energy to submit a Proposal;
- (r) **"Proponent's Representative"** means the person (or persons) authorised by the Proponent to act as its main point of contact with Sarawak Energy and / or Sarawak Energy's Representative for the purposes of this RFP process; and
- (s) **"Proposal"** means those documents comprising the formal offer for the provision of the Services required to be completed by the Proponent which is

A. GENERAL
1. Definition and interpretation
1.1 For the purpose of these Instructions to Proponents:

- (a) **"Affiliate"** means, in relation to any person or entity, a subsidiary of that person or entity or a holding company of that person or entity or any other subsidiary of that holding company;
- (b) **"Authorised Signatory"** means the person (or persons) authorised by the Proponents to exercise the rights and powers and perform the functions set out in Clause 24.1;
- (c) **"Closing Date and Time"** means the date and time by which Proposals are required to be received by Sarawak Energy, as set out in the RFP Particulars;
- (d) **"Companies Act"** means the Companies Act 1965 (ACT 125);
- (e) **"Consortium Proponent"** means a Proponent formed by way of an unincorporated joint venture or consortium between two or more members;
- (f) **"Contract"** means the contract to be entered into between Sarawak Energy and the successful Proponent, as selected by Sarawak Energy in accordance with this RFP process, as set out in the Form of Contract;
- (g) **"Corporate Authorisation"** means with respect to a Proponent (or member of a Consortium Proponent):
 - (i) a properly executed board or shareholder resolution;
 - (ii) a power of attorney; and / or
 - (iii) such other evidence of authority,
 in each case satisfactory to Sarawak Energy and which authorises such Proponent's Authorised Signatory in accordance with the requirements of Clause 24;
- (h) **"Eligibility Requirements"** means the eligibility requirements for each Proponent (or members of a Consortium Proponent), as set out in the RFP Particulars;
- (i) **"Form of Contract"** means the documents listed under the heading "Form of Contract" in Part I, Section 4 of the RFP Documents;

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**FLOODPLAIN STUDY FOR RAJANG RIVER BASIN AND DAM BREAK
REVIEW FOR MURUM HEP AND BAKUN HEP**

RFP DOCUMENTS: SARAWAK ENERGY REF. NO. [CAI/MUR 2-2017]

PART I – RFP PROCEDURES

SECTION 3 – INSTRUCTIONS TO PROPONENTS

These Instructions to Proponents specify those procedures to be followed by Proponents in the preparation and submission of their Proposals. Information is also provided on the process for the submission and evaluation of Proposals and award of contract. These Instructions to Proponents shall be read in conjunction with the matters set out in the RFP Particulars set out in Part I, Section 2 of the RFP Documents.

RFP Particulars FLOODPLAIN STUDY FOR RAJANG RIVER BASIN AND DAM BREAK REVIEW FOR MURUM HEP AND BAKUN HEP			
9.	Clause 32.1	Copies of Proposal	<p>The Tenderer shall prepare and submit:</p> <ul style="list-style-type: none"> (a) one (1) original version; (b) two (2) hard copies of the original version; and (c) two (2) soft copy versions (in separate CD-ROMS, or such other electronic format as may be acceptable to the Employer), <p>of the Tender Offer</p>
10.	Clause 32.1(b) and Clause 33.1	Address for submission of Proposals	<p>Delivery by hand or by courier to:</p> <p>The Chief Executive Officer</p> <p>Sarawak Energy Berhad</p> <p>Request for Proposal for FLOODPLAIN STUDY FOR RAJANG RIVER BASIN AND DAM BREAK REVIEW FOR MURUM HEP AND BAKUN HEP.</p> <p>Tender Box, 1st Floor, North Wing,</p> <p>Menara Sarawak Energy</p> <p>No. 1 The Isthmus 93050 Kuching, Sarawak, Malaysia.</p>
11.	Clause 34.1	Alternative Proposals	<p>Proponents may not submit Alternative Proposals.</p>