

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER No. Order/AN/RG/2024-25/31349**

**UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF
INDIA ACT, 1992 READ WITH RULE 5 OF THE SEBI (PROCEDURE FOR
HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995**

In respect of:
Genus Power Infrastructures Limited
PAN: AACCG1218P

In the matter of Genus Power Infrastructures Limited

A. BRIEF BACKGROUND

1. Securities and Exchange Board of India (hereinafter also referred to as ‘SEBI’) has initiated Adjudication Proceedings under Section 15-I of the SEBI Act, 1992 in respect of Genus Power Infrastructures Limited (hereinafter also referred to as "GIPL"/ “Genus”/ “Noticee”/ “Company”), for the alleged violation of Regulation 4(1)(c) and 4(1)(d) of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter also referred to a “**LODR Regulations, 2015**”/ “**LODR Regulations**”).

B. APPOINTMENT OF ADJUDICATING OFFICER

2. Whereas, the Competent Authority was prima facie of the view that there were sufficient grounds to adjudicate upon the alleged violation by the Noticee, as stated above and therefore, in exercise of the powers

conferred under Section 19 of SEBI Act, 1992 read with Section 15-I of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter also referred as '**SEBI Rules**'), the Competent Authority appointed the undersigned as Adjudicating Officer ("AO") vide order dated March 21, 2024 to inquire into and adjudicate under Section 15HB of the SEBI Act, 1992, for the aforesaid alleged violations of the Noticee. The said proceedings of appointment were communicated to the undersigned vide Communique dated March 21, 2024.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

3. The Show Cause Notice no. SEBI/EAD-5/AN/RG/14888/1-2/2024 dated April 22, 2024 ("SCN"), was served upon the Noticee under Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 to show cause as to why an inquiry should not be held and penalty not be imposed upon the Noticee under Section 15HB of the SEBI Act, for the violation alleged to have been committed by the Noticee.
4. The following was inter alia observed and /or alleged in the SCN in respect of the Noticee:

"...

3. Background

- 3.1. On August 31, 2023 at 17:59:29, Genus made an announcement to the Stock Exchanges in accordance with Regulation 30 of LODR Regulations, 2015, wherein, it was announced that "Genus Power Infrastructures Limited's" a step-down wholly owned subsidiary of Genus has received a letter of award (LOA) of Rs. 2,247.37 crore (net of taxes). Subsequently, SEBI conducted further examination, during which the Noticee was allegedly observed to be in violation of Regulation 4(1)(c) and 4(1)(d) of LODR Regulations, 2015.

4. Findings and Observations by SEBI and alleged violations thereto in respect of the Noticee:

- 4.1. The LOA received by Company as disclosed on August 31, 2023 was of Rs 2247.37 crore (net taxes). Company submitted to NSE and BSE that the said event of subsidiary getting a Letter of Award is not an UPSI. In this regard, various clarifications were sought from Company (Annexure 1) and it is observed that the Company is engaged in the business of "Advanced Metering and

Infrastructure Service Provider" (AMISP) contracts and had received 16 such orders till December 2023. This being the core business of the Company, the AMISP contracts forms part of ordinary course of business of Company and therefore, said information is not UPSI. Subsequently, Company clarified that generation of income and recognition of revenue from said orders is booked / spread over a long period of around 8-10 years as per the terms & conditions of the awarded AMISP contract/order, in the books of accounts and therefore, not reflected immediately on the revenue/net profit of the Company.

- 4.2. *It was observed that at the time of announcement made by Company on August 31, 2023, the terms and conditions of the awarded AMISP contract was not finalized therefore, the said information was not part of the announcement made on August 31, 2023. However, subsequently, Company signed contract with North Bihar Power Distribution Company Ltd on November 14, 2023, which evidenced the spread over period of the contract over 111 months from February 13, 2023.*

However, from the Exchange (NSE & BSE) website, it is observed that the Company had not disclosed this information on November 14, 2023 nor thereafter.

- 4.3. *With regard to above, it may be stated that for a Company, whose consolidated annual revenue from operations was around 685 crores (FY ended 2022) to 808 crores (FY ended 2023) and consolidated net profit of 25 crores (FY ended 2022) to 34 crores (FY ended 2023), receiving Rs. 2,247 crore LOA might be misleading information for the investors to make investment decision in the absence of the information that the revenue from such order will not reflect in the books of accounts of Company immediately rather within a spread over period of 8-10 years. Additionally, when Company was aware about the spread over period of revenue generation from LOA after signing the contract, it did not make any disclosures on the same to the public.*

- 4.4. *It is essential that for an investor to make well informed investment decisions, timely, adequate and accurate disclosure of information by Company is crucial. Further, correct and timely disclosures play an essential role in the proper functioning of the securities market and failure to do so results in depriving the investors from taking well informed investment decision. However, in the instant case, investors did not have access to complete information relating to the LOA received by wholly owned subsidiary of the Company and disclosure made by company was misleading.*

- 4.5. *I view thereof, the Noticee is alleged to have violated Regulation 4(1)(c) and 4(1)(d) of LODR Regulations, 2015.*

...

5. Vide email dated April 29, 2024, the Noticee inter alia sought additional documents, which were provided to the Noticee vide email dated May 2, 2024.

6. Subsequently, vide email and letter dated May 13, 2024, the Noticee submitted its reply to the SCN. The key submissions made by Noticee as reply to the SCN, are as under:

"...

- 12) *The assertion that the Company failed to disclose the spread over period of 8-10 years of the contract, leading to a violation of disclosures obligations as outlined in Regulation 4(1)(c) and*

4(1)(d) of the LODR Regulations, is respectfully addressed in this submission to your esteemed office. In the SCN, it has been alleged by your good office that in the instant case, investors did not have access to complete information relating to the LOA received by wholly owned subsidiary of the Company and alleged that the disclosure made by the Company was misleading.

- 13) The Company received the LOA on August 30, 2023 at 7:56 PM via email from Metering Cell, NBPD and on August 31, 2023 at 5:59 PM, the Company issued a disclosure to the stock exchanges in the form of a press release or media release, informing that its step-down wholly owned subsidiary had been awarded a LOA valued at Rs. 2,247.37 crore (net of taxes). This award pertains to the appointment of AMISP, which includes the design of an AMI system along with the supply, installation, and commissioning of 24.18 Lakh smart prepaid meters including system meters, including OT Meters, with corresponding energy accounting under the DBFOOT model (HYBRID Model, CAPEX Plus OPEX). It was further disclosed that its total order book now stands at around Rs. 11,000 crores (net of taxes).
- 14) To comprehend the nature of such contracts, it is imperative to grasp the general terms governing AMISP contracts, which encompass the design of AMI. In this context, we direct attention to the website of the National Smart Grid Mission (Ministry of Power, Government of India) ("NSGM") available at www.nsgm.gov.in. Within the "Resource Center" section, one can find the "AMISP SBD Under RDSS by REC," which constitutes the Model Standard Bidding Document ("SBD") prepared by NSGM and REC Limited ("REC") for the selection and appointment of AMISPs for Smart Prepaid Metering projects in India on a Design Build Finance Own Operate Transfer ("DBFOOT") basis by State Power Utilities. The Model SBD provides Model Request for Proposal ("RFP") for the Appointment of AMISPs; Model Contract between the State Power Utility, AMISP, and the Selected Bidder; and Guidance Notes on various aspects of AMISP. The SBDs are available at <https://recindia.nic.in/SBD-AMISP>. For convenience, enclosed herewith is the copy of the Model RFP for the Appointment of AMISP, marked as "Annexure A" for your reference.
- 15) As per the SBD, AMISPs are tasked with financing, supplying, installing, and operating smart meters, alongside communication and IT infrastructure. This model empowers discoms to deploy smart meters without upfront investments. Smart meter projects are being awarded to AMISPs through the bidding route. The salient features of AMISP contracts are:

(a) Scope – Implementation of advanced metering infrastructure – supply, installation, integration, testing, and commissioning of the smart metering system, communication infrastructure including head end system (HES), meter data management system (MDM), mobile application, network operation cum monitoring centre (NOMC), along with necessary hardware and software, AMI system integration, consumer indexing with distribution transformer (DT) meters and feeder meter to DT – O&M and support services after the successful completion of the operational go-live of the system, training of discom personnel, etc.

(b) Contract period – Earlier of (a) 10 years from execution of AMISP contract or (b) expiry of total meter months of operating the AMI system after operational go-live. Total meter months are calculated as the total number of smart meters to be installed x 90 months.

(c) AMISP service charge – The AMISP is entitled to bill monthly for operationalised meters after go-live during the contract period. AMISP raises invoices on discoms on a monthly basis at the rate quoted at the time of the bid, which is recovered via a direct debit facility (DDF) mechanism.

(d) Payment mechanism – Under the direct debit facility (DDF) mechanism, online payments made by consumers of a discom, through identified payment gateways, are pooled and deposited directly into the DDF, which will then be routed to AMISP's bank account (TRA). Only post payment of entire monthly service charge from the DDF to the AMISP, will the funds flow to the discom. The discom has to ensure that at least five times the monthly service charges payable to the AMISP flow into the DDF account.

(e) Performance security – A bank guarantee (BG) of up to 10% of the contract value valid until 30 months from the execution of the contract will be discharged upon work completion, thereafter a BG of up to 5% of the contract value valid until six months beyond the end of contract is provided by the AMISP.

16) The aforementioned significant features are readily accessible and can be derived from the documents available in the public domain, notably on the Government website, and have also been subject to detailed analysis in various articles covering the SBD published by REC and NSGM. Consequently, it can be assumed that this information is "publicly available." Additionally, when shareholders invest in such companies, they typically conduct preliminary due diligence on the company's business before making investment decisions. Therefore, it cannot be argued that investors are unaware of the key terms of the standard contract including standard contract period of AMISP contracts.

17) There cannot be any question of attempt of concealment or misrepresentation of a publicly available document which contains standard contract period. The similar view has been accepted and approved by SEBI in the Adjudication order in the matter of AGI Greenpac Limited (Order No ORDER/BM/RK/2024-25/30315 dated April 30, 2024). The relevant excerpt from the said order is given below:

"39. From the submission made by the Noticee, I observe that the Noticee seems to have provided the context of material development in disclosure dated March 16, 2023 itself, the detailed order was anyway available in public domain on April 19, 2024 though not posted by the Noticee to the exchange, it cannot be said to have not complied with the provisions of the law in the matter, and thus, the charges in this respect do not stand"

18) As per Regulation 30(4)(i)(a) of the LODR Regulations, the omission of an information, which is likely to result in discontinuity or alteration an information already available publicly will be

considered as material and ought to be disclosed. In the present facts, the spread over period was already available in the public domain as mentioned above and was there on NGSM and REC website and can be considered as 'information already available publicly'. In case, it is not disclosed to the website of the stock exchanges, the same does not result in discontinuity or alteration of an information already available publicly. Hence, under law, the Company do not have any obligation to make such a disclosure as the same is not material. In this context, we crave to rely on the case of NCC Ltd.; In re, (2022 SCC OnLine SEBI 526), wherein the presence of information online was taken note by SEBI and no penalty was imposed thereafter:

"32. Further, I note that the information impugned as material and allegedly required to be disclosed by the Noticee in terms of Regulation 30 of the LODR Regulations was available in the public domain through disclosures of annual reports and transcripts of conferences discussing financial results to the exchanges during the relevant period. The disclosures of the Noticee in the Notes to its Financial Statements for the years 2017-2018, 2018-2019 and 2019-2020 and the transcripts of various conference calls discussing financial results of the Noticee during the said period were disclosed to the exchange and it was also stated that as per management assessment, no provision in the accounts of the Company was required in respect of the subject matter."

In the present case, the information regarding the revenue recognition period or spread-over period was readily available in the public domain. Additionally, transcripts were published containing discussions related to the spread-over period. These transcripts have been provided below as part of the submissions.

- 19) *We also place reliance on the provisions of Regulation 2(e) of SEBI (Prohibition of Insider Trading) Regulations, 2015 which defines "generally available information" as information that is accessible to the public on a non-discriminatory basis. Information available on the NSGM and REC website, therefore, can be understood to be available to everyone without any discrimination and therefore, is generally available information. In the same vein, one may refer to certain cases pertaining to price sensitive information, wherein the SAT was called upon to determine if certain types of information were publicly available or not:*

a. Future Enterprises Ltd., In re, 2022 SCC OnLine SEBI 857: "28. In my view, a reader of the newspaper article dated October 3, 2012 (containing the information noted above) could have deduced the implications of the SCN dated April 27, 2012 to a lesser or greater extent depending on his/her exposure to the subject matter covered in the newspaper article. In my view, the newspaper article was not speculative in nature as it published precise facts relating to the issuance of SCN and also brought out specific contents of the SCN summarizing the allegations levelled against NSEL and the possible consequences thereof. The article categorically mentioned that failure on part of NSEL to provide a satisfactory explanation to the allegations levelled in the SCN would result in withdrawal of exemption granted to NSEL vide notification dated June 5, 2007. The said withdrawal of exemption in turn would have had

a cascading effect on the contracts being traded on NSEL, payment defaults in relation thereto and the eventual loss to the reputation of the promoters/management of NSEL. Considering the above, I find that the price sensitive information, relating to the implication of the SCN dated April 27, 2012 became public from the time when the article relating to the SCN dated April 27, 2012 appeared in Economic Times on October 3, 2012, and as such ceased to be UPSI from that date. Accordingly, the period during which the UPSI existed was from the issuance of the SCN to its publication i.e. from April 27, 2012 to October 3, 2012."

b. Rakesh Agrawal v. Securities Exchange Board of India, 2003 SCC OnLine SAT 38: "70. Prior to October 1, 1996, the quality of information regarding the merger/joint venture between ABS and Bayer that was available to the Appellant, was not appreciably different from the type of information which was in public domain and which had failed to materially affect the price of ABS's shares. Prior to October 1, 1996, he did not possess any price sensitive information, that prior to October 1, 1996 the fact that ABS Industries was negotiating with Bayer AG for a possible collaboration was published and/or generally known and in the public domain. For example in a Article dated March 20, 1995, the Financial Express 'investor' expressly mentioned that the company is negotiating with Bayer Germany for possible collaboration in the manufacture of ABS Alloys.

71. Although it has never been SEBI's case nor was it a point even considered by the Chairman in his order, it was argued on behalf of SEBI that the information regarding Bayer's said requirement to hold 51% equity of the said company was the unpublished price sensitive information on the basis of which the Appellant entered into the said transactions. This argument was for the first time taken during the course of the said hearing and is contrary to the notice issued by SEBI and the impugned Order, which proceeded on the basis that the information regarding the take-over/merger was the relevant unpublished price sensitive information. It is not open to SEBI to make the said submission and the same should be struck off from the record of the proceedings. If the same is considered at this stage the same would violate natural justice as the Appellant has had no opportunity to place on record and plead that the said information was neither material nor price sensitive no unpublished. It was Bayer's worldwide policy that it required to hold 51% equity of any company it enters into a tie-up/merger/take-over with, which fact is widely known, therefore the said information cannot be regarded to be unpublished."

Therefore, it is widely understood in the instant case that the spread-over period for contracts of this nature typically ranges from 8 to 10 years. This knowledge was accessible to all stakeholders involved.

- 20) Investors are expected to be aware of the businesses in which they invest their hard-earned money. The principle of Caveat Emptor, or "buyer beware," applies, suggesting that individuals are responsible for conducting a reasonable level of due diligence before making any purchase. It would be unfair to expect investors to be ignorant of how contracts are executed*

for the business of an entity in which they have invested or investing. Therefore, it is reasonable to assume that investors should undertake at least a minimum level of diligence regarding the business operations of a company whose securities they are considering for investment. We acknowledge the vital importance of disclosures to stock exchanges, ensuring shareholders are fully informed about material events concerning the Company and leaving no room for speculation or misinformation in the grey market. However, it's equally important not to assume that investors lack understanding of the business and operational model of entities. Investors typically engage in their own research and analysis, and while disclosures serve to augment this knowledge, they should not be seen as the sole source of information for investors. Hence, it cannot be asserted in the present scenario that investors were unaware of the general terms and conditions of the contracts being executed by the Company, including the standard contract period.

- 21) *In the instant case, NBPD issued a RFP for "Appointment of AMISPs including design of AMI system with supply, installation and commissioning with FMS of 112 Lakh Smart Prepaid Meter, system meters including DT Meters with corresponding energy accounting in specified areas of North Bihar Power Distribution Company Limited (NBPDC) & South Bihar Power Distribution Company Limited (SBPDCL) under DBFOOT model (HYBRID Model, CAPEX Plus OPEX)" on February 14, 2023. The provided RFP, following the format outlined by REC and NSGM, is enclosed herewith and marked as "Annexure B" for reference. NBPD adhered to the SBD prescribed by REC and NSGM for the RFP. Subsequently, upon receipt of the LOA, the wholly owned subsidiary of the Company entered into a contract dated November 14, 2024 with NBPD for the appointment of AMISP, including the design of the AMI system, along with the supply, installation, and commissioning of 24.18 Lakh smart prepaid meters, including system meters such as OT Meters, with corresponding energy accounting under the DBFOOT model (HYBRID Model, CAPEX Plus OPEX). NBPD adhered to the SBD prescribed by REC and NSGM for the RFP. For convenience, we are not attaching the contract as it exceeds 200 pages, and the same has already been enclosed in the SCN.*
- 22) *The crux of the matter in the instant case is that the disclosure to the stock exchanges regarding the extended revenue recognition period spanning approximately 8-10 years was not made at the time of disclosing the LOA nor during the execution of the contract. In this regard, Regulation 30 of the LODR Regulations mandates that every listed entity is obligated to disclose any events or information that are material, in the opinion of the board of directors of the listed company. Moreover, there exist 3 (three) categories of disclosures under Regulation 30 of the LODR Regulations:*
- i. Deemed Material Events Disclosures: Events enumerated in Para A of Part A of Schedule III of the LODR Regulations are automatically considered material events, thereby obligating the listed entity to make disclosures concerning such events.*
 - ii. Events Requiring the Application of Materiality: The listed entity is mandated to disclose events delineated in Para B of Part A of Schedule III of the LODR Regulations based on*

the application of the guidelines for materiality, as prescribed in Regulation 30(4) of the LODR Regulations.

iii. Voluntary Disclosure: In situations where an event occurs or information becomes available to the listed entity that does not fall within the categories specified above but could potentially have a material effect on the entity, the listed entity is obligated to make appropriate disclosures regarding such matters.

- 23) *We need to determine under which category the receipt of the LOA falls within Regulations 30 of the LODR Regulations. Events outlined in Para A of Part A of Schedule III of the LODR Regulations do not explicitly require disclosure of receipt of orders or awards in the normal course of business. Hence, it cannot be categorized under "Deemed Material Event Disclosure." Additionally, Entry No. 4 of Para B of Part A of Schedule III of the LODR Regulations mandates disclosure of "Awarding, bagging/receiving, amendment, or termination of awarded/bagged orders/contracts not in the normal course of business" as an event, subject to materiality guidelines. However, in the present case, the LOA pertains to the Company's core business division and was received in the ordinary course of business. Therefore, disclosure is not mandated under the second category of "Events Requiring the Application of Materiality" also. Moreover, if we were to apply the concept of materiality to the event of receiving the LOA, voluntary disclosure would not necessarily be warranted. However, in this instance, the Company opted to disclose the order out of an abundance of caution and in full compliance to ensure fairness. SEBI also in its prior orders has recognised this discretion available to the board of directors in ascertaining materiality. We crave to rely on the case of Usha Martin Ltd and Anr. (2022 SCC OnLine SEBI 1419) wherein it was held as under:*

"For the purpose of regulations 30, the material information has to be disclosed on a case-to-case basis depending upon the various facts specific to the case and circumstances relating to the case. It is trite law that whenever discretion has been conferred to some authority it shall be required that such discretion be exercised reasonably. For illustration purpose I am of the view that one should look that whether the particular information affect the interest of investor or whether it create doubt in the mind of investor in the securities market. I note that it is not possible for the regulator like SEBI to keep each and every contingency in the form of rules. For that purpose, SEBI has made regulation 30(4)(i)(b) which provide guidance to decide materiality. Regulation 30(4)(i)(b) states that listed company shall consider disclosure of information which is likely to result in significant market reaction if the said omission came to light at a later date. It helps in creating a more disclosure based regime and fulfil the mandate of SEBI as mentioned in the preamble of SEBI Act, 1992. Thus, I find that SEBI has laid down the rule as well as principle based regulations under LODR."

Applying the rationale of the aforementioned precedent, it is respectfully submitted that information concerning the contract period is already accessible in the public domain. In this context, the Company did not include the period in its disclosure as it was deemed immaterial, given that shareholders were already aware of it. The shareholders' knowledge of the typical revenue trends makes it evident that generating revenue multiple times higher than the annual

trend within a single year is improbable. If this premise holds true, it would logically follow that the price of the Company's securities should have increased significantly, potentially reaching 20-30 times higher. This conclusion is drawn from the fact that the order book currently stands at more than 11,000 crores, while the annual revenue represents less than 9% of this amount. We respectfully submit to your esteemed office that the public shareholders already knew about the nature and dynamics of the contracts.

- 24) *Additionally, in the disclosure dated August 31, 2023, it was also articulated that "Our total order book now stands at around Rs. 11,000 crore (net of taxes)." It is imperative to clarify that the term "order book" refers to the aggregate value of contracts secured by the Company, encompassing future revenues from projects to be executed over a period of time, rather than indicative of the Company's annual revenue. This distinction is significant, as the order book represents the anticipated revenue stream from projects in progress or to be initiated, serving as a measure of the Company's business activity and potential future earnings. Therefore, it would not be prudent to interpret the total order book as reflective of the Company's annual revenue for the financial year 2023-24. Furthermore, it is worth noting that the order book value is typically disclosed by companies in their annual or event press releases. Thus, it is a general market practice.*
- 25) *It's pertinent to recognize that SEBI does not prescribe a specific format for disclosing events that occur within the ordinary course of business. Therefore, some degree of discretion should be afforded to the Company regarding such disclosures. Various factors may be deemed material from one perspective while not from others. Consequently, if investors are already aware about the standard contract period by virtue of information which is available in the public domain, there may be limited necessity for the Company to disclose routine details. The obligation to disclose should primarily arise when there is a material deviation from standard practices. For instance, if the contract duration significantly deviates from the norm—whether exceptionally short or unusually long—such information would warrant disclosure. However, if the contract aligns with industry standards with minor variations, the necessity for disclosure becomes less apparent, as it constitutes part of the usual course of business. Imposing stringent disclosure requirements on routine business activities could lead to an inundation of information that may obscure genuinely material information, potentially dampening market efficiency.*
- 26) *Furthermore, the Company has engaged Strategic Growth Advisors Private Limited as their investor relations advisors, who are dedicated full-time to address any queries shareholders may have. Shareholders have the opportunity to reach out to them to seek clarification on any aspect, no matter how minor or detailed. This proactive approach ensures that investors have access to additional information beyond what may be initially disclosed, thereby facilitating a deeper understanding of the Company's affairs and fostering transparency in communication with shareholders.*
- 27) *Furthermore, we would like to direct your attention to the transcript of the earnings call held on November 10, 2023, to discuss the operational and financial performance for the quarter ended September 30, 2023. This transcript was disclosed to the stock exchanges on November 17, 2023, and a copy is enclosed herewith marked as "Annexure C" for your reference. In this*

earnings call, various questions related to the terms and condition of the order book were answered. During the call, Mr. Milind Karmarkar raised a query regarding the timeframe over which the current order book would be realized, suggesting a period of 7-8 years. In response, Mr. Kailash Agarwal, Vice-Chairman (Non-Executive, Non-Independent), affirmed this understanding. The relevant excerpt from the transcript is provided below:

"Milind Karmarkar: Correct. But what I'm trying to sort of gather is, that the maintenance turnover out of the current order book will be spread over a period of seven years, eight years. Am I right?"

Kailash Agarwal: Correct.

Milind Karmarkar: So production revenues will come immediately. Installation revenues will come post that. And the maintenance revenues will be spread over a period of 6, 7, or whatever the period is.

Kailash Agarwal: Absolutely, yes."

The inclusion of the transcript serves to illustrate that public shareholders are already cognizant of the spread period. Further, this earning call transcript is "publicly available information". The spread-over period cannot be construed as "material information" if shareholders are already well-informed. Moreover, considering that there is no prescribed format for disclosing such information under the law, the Company's compliance with the LODR Regulations is comprehensive. The Company has fulfilled its obligations in both letter and spirit by providing necessary disclosures and ensuring transparency in its communication with shareholders. In this regard, we crave to rely to the judgement of Hon'ble Supreme Court in the matter of CCE, New Delhi vs. Hari Chand Shri Gopal & Ors. [2010 (182) ECR 0143 (SC)] in which it was held that: "The doctrine of substantial compliance is a judicial invention, equitable in nature, designed to void hardship increases where a party does all that can reasonably expected of it but failed or faulted in some minor or inconsequent aspects which cannot be described as the "essence" or the "substance" of the requirements" Certainly, it means that the Court should determine whether the statute has been followed sufficiently so as to carry out the intent for which the statute was enacted and not a mirror image type of strict compliance, Substantial compliance means actual compliance in respect to the substance essential to every reasonable objective of the statute" and the court should determine whether the statute has have been followed sufficiently so as to carry out the intent of the statute and accomplish the reasonable objectives for which it was passed."

In the instant case, the Company has substantially complied by disclosing all material facts as required under the LODR Regulations. The essence has been fulfilled, and the disclosure is not misleading in any aspect, as the order value has been disclosed. It is merely a technical matter that the spread-over period was not disclosed, as it is neither an industry practice nor a requirement of any law.

- 28) *It is apparent that a prevailing practice within the market involves abstaining from the full disclosure of project details when the received order is deemed to fall within the ordinary course of business. This customary approach has garnered acceptance from the stock exchanges, as evidenced by the response furnished by Vishnu Prakash R Punglia Limited to*

BSE in a comparable instance. On January 16, 2024, Vishnu Prakash R Punglia Limited made a disclosure to BSE and NSE that it has received Letter of Award from Office of Sr. Divisional Engineer/Co., DRM Office, NW Railway, Jodhpur, Rajasthan for a project for bid project cost of INR 116.56 crores without disclosing contract period and other terms and conditions of the project. On January 17, 2024, BSE raised a query that the company had not submitted the additional details as required under SEBI Circular SEBI/HO/CFD/CFD-PoD1/P/CIR/2023/123 dated July 13, 2023 for the aforesaid disclosure. In the aforementioned case, the company defended its position with following clarification:

“In our case, we would like to highlight those provisions of the circular dated July 13, 2023 stating the disclosure of additional details of the order received under Regulation 30 of SEBI (LODR) Regulations, 2015 for “Awarding, bagging/ receiving, amendment or termination of awarded/bagged orders/contracts, not in the normal course of business”, is not applicable to us as the order received by Company is under normal course of business. Yet, the Company make announcement of these receipts of Letter of Award, voluntarily. Therefore, we do not mention the additional details as required in the circular, in order to maintain confidentialities of business projects.”

This scenario underscores a precedent where companies opt to exercise discretion in divulging complete project details when the received order aligns with their customary operations. In the above case, BSE acknowledged and accepted the above clarification without any further scrutiny. The copy of the said disclosure and clarifications are collectively enclosed herewith and marked as “Annexure D” for your reference.

- 29) Considering the following factors, it cannot be deemed material to necessitate disclosure of revenue recognition period:
- (a) SBD by REC and NSGM is available in public domain, along with various articles and explanations available in online media, ensures that investors are already well-informed about the salient features of the contract given by states.
 - (b) Prevailing market practices indicate that there is no imperative to disclose minute information every time a listed entity secures a project which is in the ordinary course of business.
 - (c) Earnings calls transcripts, publicly available, offer insights into discussions regarding terms and conditions, providing shareholders with access to pertinent information.
 - (d) The engagement of dedicated investor relations advisors ensures that shareholders have access to expert assistance in addressing any queries or concerns they may have.
 - (e) Given the above considerations, there arises no question regarding non-disclosure, as the pertinent information is readily available to shareholders through various channels.
- 30) While there has been observed price movement in the securities of the Company subsequent to this disclosure, it is imperative to recognize that such fluctuations do not solely hinge upon the receipt of a single order. The Company maintains a diverse portfolio of orders, contributing to an aggregate order book value of INR 11,000 crores. Below, I present the annual income statement of the Company for the preceding three financial years:

(in Cr.)	2023	2022	2021
Revenue	808.39	685.07	608.60
Other Income	18.37	26.79	26.73
Total Income	826.75	711.86	635.33
Expenditure	-757.75	-651.09	-531.16
Interest	-28.19	-25.65	-24.50
PBDT	69.00	60.77	104.17
Depreciation	-18.73	-20.45	-21.76
PBT	50.27	40.32	82.41
Tax	-15.29	-14.50	-31.26
Net Profit	34.98	25.82	51.16
Equity	25.76	25.75	25.74
EPS	1.36	1.00	1.99
CEPS	2.09	1.80	2.83
OPM %	1012.02	12.62	21.14
NPM %	4.33	3.77	8.41

It is submitted that upon examination of the annual income statement, it is evident that the Company's revenue has demonstrated a consistent upward trajectory over time. Between the financial years 2021 and 2023, revenue has experienced notable growth, increasing from Rs. 608.60 crore to Rs. 808.39 crore. Consequently, it is evident that the observed price movement in the securities as mentioned in the investigation report cannot be solely attributed to the disclosed order.

- 31) *We have observed that several companies have adopted similar disclosure practices in relation to these matters. No shareholders lodged complaints via the SCORES Portal or directly emailed the compliance officer in this regard in the instant matter. It stands to reason that if the Company had caused any loss or detriment to shareholders or stakeholders, complaints would have been filed accordingly. There is no evidence to suggest that the Company has gained any undue advantage from its actions, and even a minor penalty would unjustly tarnish its reputation. We respectfully urge your esteemed office to consider leniency in this matter, taking into account the lack of substantial harm caused and the absence of genuine complaints from affected parties. We kindly request that no penalty be levied in this instance as there has*

been no breach of statutory obligations, and that the SCN be dropped. Imposing even a minor penalty would significantly tarnish the goodwill and reputation of the Company and would put additional burden on the companies to make disclosures on each and every term and condition of the order. We earnestly appeal for your understanding and leniency in this matter.

- 32) Indeed, it is crucial to acknowledge that if companies were compelled to disclose every non-binding agreement or preliminary understanding, it would inundate shareholders with an excessive volume of information, potentially leading to confusion and detracting from the significance of truly material disclosures. For instance, it is common practice for numerous listed companies to engage in negotiations and enter into non-binding term sheets or memorandum of understanding (MOUs) as part of their strategic initiatives, including potential acquisitions. However, these preliminary agreements typically represent initial stages of negotiation and are subject to further due diligence, negotiations, and finalization of definitive documents. As a matter of practice, companies often refrain from making formal disclosures under Regulation 30 of LODR Regulations until definitive agreements are executed, and deal terms are sufficiently solidified to warrant disclosure to shareholders. This approach not only ensures that shareholders receive accurate and actionable information but also avoids inundating them with preliminary or speculative details that may not ultimately materialize into concrete transactions.
- 33) Further, we aim to illustrate the disclosure practices of another company operating in the same industry as the Company. HPL Electric & Power Limited ("HPL") is primarily involved in the manufacturing of energy-saving meters and other related products. Below are the disclosures made by HPL recently regarding the awards/contracts received in the normal course of business:

Sr. No.	Date of Disclosure	Relevant excerpt from the disclosure	Whether the period of revenue recognition is specified or not?
1.	July 04, 2023	HPL Electric & Power Ltd. (HPL), a leading provider of electrical equipment and solutions, announces the successful acquisition of INR 903 crores (inclusive of Tax) smart meter orders. These orders further bolsters HPL's total pending pipeline order book, now totaling INR 2250+ crores as of the date of this release.	No
2.	August 09, 2023	Notably, we are pleased to have acquired a prestigious order valued at INR 416.84 Crores for the deployment of an Advanced Metering Infrastructure (AMI) project that marks our entry into AMISP contracts. This project is supported	No

		<i>by the World Bank, in collaboration with West Bengal State Electricity Distribution Company Limited (WBSEDCL).</i>	
3.	December 13, 2023	<i>HPL Electric and Power Ltd, a leader in the electrical equipment manufacturing sector in India, is proud to announce that it has won smart meter orders worth INR. 545 Crore from various prestigious customers in the normal course of business.</i>	No
4.	January 15, 2024	<i>HPL Electric and Power Ltd., a frontrunner in India's electrical equipment manufacturing industry, today announced a major win with smart meter orders totalling ~INR 240 Crore from leading AMISP clients in the normal course of business.</i>	No
5.	February 13, 2024	<i>We are pleased to inform that the company HPL Electric & Power Limited has received an order of Worth INR 181 Crores (inclusive of tax) from leading AMISP client for the supply of smart meters in the normal course of business, which is to be executed as per the terms & conditions of Letter of Award (LoA).</i>	No
6.	February 14, 2024	Key Highlights (in ₹Crore): <ul style="list-style-type: none"> • • Order book of over ₹400+ Crore. 	No

It is evident from the provided information that HPL did not make any disclosure regarding the revenue recognition period. This aligns with general business practices, as shareholders and investors are typically already aware of the company's business and working model. The copies of the aforementioned disclosures of HPL are collectively enclosed herewith and marked as "Annexure E" for your reference.

- 34) Ramkrishna Forgings Limited issued a disclosure in form of press release dated April 15, 2024, with the headline "Ramkrishna Forgings Limited Secures Prestigious Order for Vande Bharat Train Set." The pertinent excerpt from the press release states:
- "Ramkrishna Forgings Limited ("Company"), one of the leading suppliers of rolled, forged, and machined products, is pleased to announce the receipt of a significant order for the prestigious Vande Bharat Train Set. This order, valued at INR 270 crores, is to be supplied to the BHELTRSL consortium, marking a pivotal moment in the Company's journey towards excellence in rail infrastructure development.*

The scope of this project involves the development and validation of the Bogie Frame for the sleeper version of the Vande Bharat Trainset. The Company's expertise and commitment to innovation make it the ideal partner for this critical endeavor.

This order encompasses 32 train sets, each comprising 16 coaches. Consequently, RKFL will be producing a total of 1024 bogie frames, showcasing the company's capacity to handle large-scale and intricate manufacturing requirements."

We draw your attention towards transcript of the earnings call for Q4 and FY 2023-24 in which revenue recognition period was discussed. The relevant excerpt is given below:

"Raghunandhan: Got it. Sir, with reference to the Vande Bharat order. Congratulations on that prestigious order. In terms of the time line, would it be roughly is there clarity whether it will be a 3 year, 5 year? What could be the length of the order, sir?

Naresh Jalan: No, this order is for next 2 years' time. This is order is only for 32 train sets, but actual requirement is for 200 train sets. So after building the prototype and supplying the prototype and it gets validated, we feel that this 32 set opportunity is going to get converted to at least 100 to 150 train sets. So if that really happens through we will be booked up to 2029."

The aforementioned disclosure also did not include details regarding the spread-over period for revenue recognition and it was discussed in the earning call which happened after every quarter. We respectfully submit that it is a common practice observed among reputable companies to disclose only the order value, as it typically falls within the ordinary course of business. The aforementioned disclosure and transcript are collectively enclosed herewith and marked as "Annexure F" for your reference.

- 35) *Praveg Communications (India) Limited issued a disclosure dated June 14, 2022 in relation to the letter of award. The pertinent excerpt from the disclosure states:*

"In terms of Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, we are pleased to inform that, the Company has received a Letter of Award ("LoA") dated June 13, 2022 from Tourism Corporation of Gujarat Limited (TCGL) for "Development of Site at Adalaj, Gandhinagar, Gujarat as a Themed Destination"."

The aforementioned disclosure also did not include details regarding the spread-over period for revenue recognition and even value was not disclosed. The aforementioned disclosure is enclosed herewith and marked as "Annexure G" for your reference.

- 36) *On December 14, 2023, Jupiter Wagons Limited released a disclosure to the stock exchanges regarding the reception of a Letter of Acceptance (LOA) for the manufacturing and supply of BOXNS Wagons from the Ministry of Railways (Railway Board). The relevant excerpt of the disclosure is reproduced below:*

"We are pleased to inform that Ministry of Railways (Railway Board) vide its Letter of Acceptance (LOA) no. 2023/RS(I)/954/7 TC dated 14th December, 2023 has awarded an order to the Company for manufacture and supply of 4,000 numbers of BOXNS Wagons for a contract value of Rs.1,617 Crores."

We respectfully note that the disclosure issued by Jupiter Wagons Limited did not specify the recognition period of the contract value. Consequently, we submit that this aligns with the general disclosure practice observed among corporations. We are currently checking additional similar disclosures of other listed companies and will promptly submit them to your esteemed office via additional submissions in due course.

- 37) *We respectfully submit to your esteemed office that levying any penalty against the Company would have numerous adverse implications for countless listed companies. It is common practice among listed companies to adhere to similar disclosure practices, and penalizing the Company in this instance would set a precedent that could potentially impact the entire listed company ecosystem. We humbly request your esteemed office to provide guidance on disclosure practices that can be universally adopted by all listed companies for making disclosures in this regard in the normal course of business.*
- 38) *It is humbly submitted that the Company operates in the business of smart metering, where the Company's business model is dependent on securing various tenders and contracts. In this competitive landscape, it is common for companies like the Company to apply for multiple tenders and successfully acquire a portion of these orders. These orders and tenders are an integral part of the regular business process and are well-understood by investors as a standard operational practice in the smart metering sector. In the case at hand, it is submitted that the announcement regarding the LOA worth Rs. 2,247.37 crore, the Company made the disclosure within 24 hours of receiving the email notification. This prompt disclosure ensured that the information became generally available to the market in a timely manner.*
- 39) *Under Regulation 4 of the LODR Regulations, 'Principles governing disclosures and obligations' have been prescribed. In essence, the Company has a duty to disclose facts correctly and not suppress material facts. In this case, the Company did not issue disclosures in relation to the spread over period because it was not and could not have been a material fact for the Company and the general terms of AMISP contracts are available in public domain. It is unreasonable to expect the Company to disclose information that is already publicly available. Requiring disclosure of the spread-over period would necessitate divulging all other terms and conditions of the contract, which may not be relevant or necessary for shareholders seeking material information. Furthermore, the intent of the LODR Regulations is to provide material information succinctly. Not all information is deemed material, and public information typically does not attain material significance for shareholders. Therefore, 'Principles governing disclosures and obligations' have not been violated. Furthermore, if your good office still requires, the Company would disclose this without prejudice basis as an abundant caution.*
- 40) *The Company acknowledges the fundamental principle that penalties may be imposed upon a breach of statutory obligations. However, it is crucial to emphasize that, in the present circumstances, there has been no violation of any statutory obligations by the Company. The disclosure made was not only in compliance with the letter but also in alignment with the spirit of the LODR Regulations. The Company firmly contends that the imposition of any penalty is unwarranted in this case, as our actions have been consistent with the regulatory framework governing such disclosures. We trust that a thorough examination of the facts will affirm our adherence to the applicable regulations, thereby warranting no non-compliance.*

41) *We draw your attention to the following judgments passed by Hon'ble Supreme Court and Hon'ble SAT for levying penalty as follows:*

a. Reliance Industries Ltd. v SEBI (SAT Appeal No. 39/2002)- The company failed to make relevant disclosure in time under Regulation 7(1) of Takeover Regulations, and Hon'ble SAT observed that "The High Court in Cabot's case has pronounced that if a breach was merely technical and unintentional, it does not merit penal consequence. It ultimately depends on the facts of each case."

b. Akbar Badrudin Badrudin Jiwani V. Collector of Customs, Bombay AIR 1990 SC 1579 - It is noteworthy to mention wherein the Hon'ble Supreme Court had stated that: Para 61:"We refer in this connection the decision of Merck Spares v. Collector of Central Excise & Customs, New Delhi, 1983 ELT 1261, Shatna Engine Valves Ltd., Bombay v. Collector of Customs, Bombay (1984) 18 ELT 533 and Madhusudhan Gordhandas & Co. v. Collector of Customs, Bombay, (1987) 29 ELT 904, wherein it has been held that in imposing penalty the requisite mensrea has to be established".

42) *Penalties are penal in nature, and there must be an element of proof of willful default or willful disobedience of the LODR Regulations. Mere erroneous interpretation of LODR Regulations cannot give rise to adjudication proceedings. It must be willful and deliberate defiance of the LODR Regulations. The mere unintended technical violations cannot be a subject matter of adjudication proceedings. This is also the view taken by the Hon'ble SAT in Cobat International Capital Corpn. vs. SEBI in reported 2004(51) SCL 307.*

43) *The failure to disclose revenue recognition period cannot be construed as misrepresentation or any violation for the following reasons:*

i. The general terms and conditions of AMISP contracts, including the standard contract period, are publicly available through the REC and NSGM Model AMISP SBD and other sources. It is reasonable to assume that the investors are aware of industry-standard practices, including contract durations.

ii. Other companies operating in similar industries which did not disclose revenue recognition periods in their announcements of contract awards. This practice is common and accepted within the industry and has been acknowledged by stock exchanges.

iii. The highlighted excerpts from the earnings call transcript, where questions regarding the timeframe of revenue realization from the order book were addressed making it evident that shareholders are aware.

iv. The alleged non-disclosure did not cause any disturbance in the market or affect the trading dynamics of Company's securities;

v. There was no misstatement;

- vi. There was no motive or incentive for the Company in this alleged non-disclosure as the same is not required under the law;
- vii. There was no financial gain or avoidance involved;
- viii. No investor has suffered any losses due to alleged non-disclosure;
- ix. Company has consistently engaged with the stock exchanges, responding promptly to queries and providing necessary clarifications.

In this regard, it is apt to site view of Hon'ble Securities Appellate Tribunal (SAT) in Housing Development Finance Corporation [(2000) 28 SCL 289 Page 5 of 16 (SAT)], that "default per se is not dominant guiding principle for imposition of penalty. It is the consequence of the default that weighs in taking the decision to impose penalty and its quantum". However, in the instant case no default has been triggered as reading Regulation 30 along with Schedule III of the LODR Regulations indicates there is no such requirements. Even if construed as a remote possibility and deemed a default, it is imperative to emphasize that no tangible loss has been inflicted upon any stakeholders, and Company has not gained any undue advantage. Additionally, the relevant portion of the judgment of the Hindustan Steel limited vs. State of Orissa, judgment dated August 4, 1969 is reproduced wherein the Hon'ble Supreme Court provided clear-cut guidelines in this regard.

"An Order imposing penalty for failure to carry out a statutory obligation is the result of a quasi-criminal proceeding, and penalty will not ordinarily be imposed unless the party obliged either acted deliberately in defiance of law or was guilty of conduct contumacious or dishonest, or acted in conscious disregard of its obligation. Penalty will not also be imposed merely because it is lawful to do so. Whether penalty should be imposed for failure to perform a statutory obligation is a matter of discretion of the authority to be exercised judicially and on a consideration of all the relevant circumstances. Even if a minimum penalty is prescribed the authority competent to impose the penalty will be justified in refusing to impose penalty, when there is a technical or venial breach of the provisions of the Act or where the breach flows from a bonafide belief that the offender is not liable to act in the manner prescribed by the statute."

- 44) *It is settled law that inadvertent and bona fide mistakes should not be penalized, especially if of a small or technical nature. Going by the law established in the case of Price Waterhouse Coopers Pvt. Ltd. v. Commissioner of Income Tax, Kolkata (Civil Appeal No. 6924 of 2012), it is entirely possible that even important corporations or entities can make bona fide and inadvertent errors, and imposition of penalty is not justified in these cases. The relevant portion of the judgment is provided as under –*

"19. It appears to use that all that has happened in the present case is that through a bona fide and inadvertent error, the assessee while submitting its return, failed to add the provision for gratuity to its total income. This can only be described as a human error which we are all prone to make. The calibre and expertise of the assessee has little or nothing to do with the inadvertent error. That the assessee should have been careful cannot be doubted, but the

absence of due care, in a case such as the present, does not mean the assessee is guilty of furnishing inaccurate particulars or attempting to conceal its income.

20. We are of the opinion, given the peculiar facts of this case, that the imposition of penalty on the assessee is not justified”

45) The SAT order in the case of Yogi Sungwon (India) Ltd. v. SEBI (Appeal No. 36/2000) held that simply because a penalty can be imposed does not mean that it should be. “On a perusal of Section 151 it can be seen that the imposition of penalty is linked to the subjective satisfaction of the Adjudicating Officer. The words in the section that “he may impose such penalty” is of considerable significance, especially in view of the guidelines provided by the legislature in Section 15J. “The Adjudicating Officer shall have due regard to the factors” stated in the section is a direction and not an opinion. It is not incumbent on the part of the Adjudicating Officer, even if it is established that the persona has failed to comply with the provisions of any of the sections specified in sub-section (1) of Section 151, to impose penalty. It is left to the discretion of the Adjudicating Officer, depending on the facts and circumstances of each case.”

7. Having regard to principles of natural justice, vide Hearing Notice dated May 16, 2024, the Noticee was provided an opportunity of personal hearing on May 22, 2024.
8. On the scheduled date of hearing, the Noticee's Authorized Representative (AR) viz., Mr. Sumit Kochar and Mr. Shivam Gera relied upon and reiterated the written submissions made vide letter dated May 13, 2024. Further, the ARs sought time till May 28, 2024 to make additional submissions as final and complete submissions in the matter, accordingly the same was allowed.
9. Vide email dated May 28, 2024, the Noticee sought extension to make additional submissions as reply to the SCN, inter alia stating, *“Due to an unforeseen family exigency, I am currently unavailable to finalize our additional submission. Therefore, we kindly request an extension to submit the required documents. We will ensure that the submission is filed by tomorrow morning and shared with you by 3 PM IST.”*
10. Subsequently, vide email dated May 29, 2024, the Noticee made following additional submissions as reply to the SCN:

- 1) *In relation to the aforementioned matter, we, Sumit Kochar Advocates & Solicitors, acting as Legal Counsel for Genus Power Infrastructures Limited ("Company" or "Noticee"), hereby present this additional response on behalf of the Company concerning the captioned SCN issued pursuant to Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, read in conjunction with Section 15-HB of the Securities and Exchange Board of India Act, 1992. This response is being submitted subsequent to the personal hearing held on May 22, 2024, in relation to the matter wherein Mr. Sumit Kochar and Mr. Shivam Gera of Sumit Kochar Advocates & Solicitors, representing the Company, participated. During the hearing, we provided submissions regarding the regulatory framework governing contracts for the appointment of Advanced Metering Infrastructure Service Providers ("AMISPs"). We elucidated how the information pertaining to the tenure of these contracts is publicly available and submitted that shareholders were aware about the general terms and conditions of such contracts. Therefore, there was no requirements on the Company to disclose the tenure of the contract. As elucidated during the hearing, it is emphasized that all pertinent information related to the standard bidding document was publicly available and at no point was it misleading or presented in a manner that could be construed as such. This response should be read in conjunction with the earlier written submissions and the oral submissions made during the personal hearing. It should not be considered in isolation.*
- 2) *It is submitted that the Company has been transparent and explicit in its disclosures and has, at no point of time misrepresented or misreported any fact or information to the stock exchanges.*
- 3) *The smart metering landscape in India is a rapidly-developing space. In 2021, the Indian Government's Ministry of Power announced an estimated outlay of INR 3037.58 billion (approximately £29bn) over five years under the Revamped Distribution Sector Scheme ("RDSS") to implement prepaid smart meter projects across India in a phased manner. The Scheme has two major components: Part 'A' – Financial support for Prepaid Smart Metering & System Metering and upgradation of the Distribution Infrastructure and Part 'B' – Training & Capacity Building and other Enabling & Supporting Activities. Financial assistance to DISCOMs is provided for upgradation of the Distribution Infrastructure and for Prepaid Smart Consumer Metering & System Metering based on meeting pre-qualifying criteria and achieving basic minimum benchmark in reforms.*
- 4) *India has set a target to achieve net zero emissions by 2070. Pursuant to this objective, the government of India approved the RDSS, a reforms-based and results-linked roll-out scheme which aims to bring about improvement in the operational efficiency and financial sustainability of all state-owned Discoms by providing them with financial assistance for strengthening supply infrastructure. REC Limited ("REC") and Power Corporate Finance Limited ("PCF") have been appointed as the nodal agencies for the operation and facilitation of the RDSS. The RDSS facilitates installation of prepaid smart meters for consumers along with associated advance metering infrastructure ("AMI") through public-private partnerships.*
- 5) *While the regulatory regime for implementation of smart metering is still at a nascent stage in India, pursuant to RDSS, REC has issued a model standard bidding document ("Model Bid*

Document" or "SBD") for the appointment of AMISPs for smart system metering in India on a design, build, finance, own, operate and transfer (DBFOOT) basis. Several Indian state Discoms have invited proposals for appointment of AMISP on DBFOOT and such proposals are to a great extent in line with the Model Bid Document, with some exceptions on a case-to-case basis. The Model Bid Document contemplates various eligibility and qualification criteria for a bidder, which should be complied with to set up a smart meter project in India. We draw your attention to Annexure A of the response dated May 13, 2024, wherein the Model Bid Document is attached. The contents of the same may be referred to therein. The standard terms are widely available on the internet, and various articles summarizing these terms for easy understanding are readily accessible.

- 6) Furthermore, REC has uploaded the "Main features and Guidance notes of SBD for appointment of Advanced Metering Infrastructure (AMI) Service Provider for Smart Prepaid Metering in India" ("Guidance Note") to explain briefly about the Model Bidding Document, which is available at the following link: <https://recindia.nic.in/uploads/files/Guidance-NoteAMISPSBDV4.pdf>. For ease of reference, the same is also enclosed herewith and marked as "Annexure A" for your records and future reference. The Guidance Note provides comprehensive instructions for the selection and appointment of an AMISP for Smart Prepaid Metering projects in India, operating on a Design, Build, Finance, Own, Operate, Transfer ("DBFOOT") basis by distribution companies ("DISCOMs"). It outlines the mandatory formation of a Special Purpose Vehicle ("SPV") for project implementation, except for Central Public Sector Enterprises ("CPSEs") and their subsidiaries, which are exempt under certain conditions. The note details the structure of the SBD, which includes sections on proposal notices, eligibility criteria, instructions for bidders, technical and financial proposal forms, project requirements, and contract conditions. It specifies the AMISP's scope, including the supply, installation, and maintenance of smart metering systems, integration of necessary software and hardware, consumer indexing, and operational support. The guidance also highlights exclusions from the AMISP's responsibilities, financial arrangements, project timelines, and mechanisms for payment and performance security. Additionally, it emphasizes the importance of compliance with operational guidelines and approvals from the nodal agency for any deviations from the standard provisions. The guidance also details that the overall contract period will be either 10 years from the execution date or until the specified "Total Meter-months" are achieved, whichever comes first.
- 7) The key features of the Model Bid Document include:
 - a) a bidder could be a sole bidder as an individual entity or a consortium of firms/companies who are eligible to participate as per the laws of India;
 - b) at the time of bid submission, a bidder is required to hold a valid pre-qualification and technical empanelment certificate for the required communication technology (Empanelment Certificate). The Empanelment Certificate is issued by REC pursuant to a request for empanelment tender from time to time. Once the Empanelment Certificate is issued by REC, the holding and subsidiary companies of the certificate awardee are automatically empanelled, meaning the holding company and

subsidiaries of the Empanelment Certificate holder are eligible to submit bids for the appointment of AMISP;

- c) the model draft of an AMISP contract is required to be executed by the selected bidder, Discom and AMISP. The term of the AMISP contract will continue to be in force until the earlier of (i) 10 years from the date of execution of the contract; or (ii) as soon as the meter months¹ exceeds the total meter months² ; and*
- d) the bidder/lead bidder needs to have a registered office in India at the time of submission of bid*

- 8) It is clear from the above that the tenure of the AMISP contract is widely known to state DISCOMs and cannot be held as "material information which is not disclosed." The standard contract period is a publicly available document, eliminating any question of concealment or misrepresentation. SEBI has accepted this view in the Adjudication order concerning AGI Greenpac Limited (Order No ORDER/BM/RK/2024-25/30315 dated April 30, 2024). The relevant excerpt is given below for your reference:*

"39. From the submission made by the Noticee, I observe that the Noticee seems to have provided the context of material development in disclosure dated March 16, 2023 itself, the detailed order was anyway available in public domain on April 19, 2024 though not posted by the Noticee to the exchange, it cannot be said to have not complied with the provisions of the law in the matter, and thus, the charges in this respect do not stand"

Drawing a comparison between the facts of the AGI Ltd case and the instant case, it is noteworthy that in the AGI Ltd case, the order of the Competition Commission of India (CCI) was disseminated in the public domain, while in the present matter, the SBD was accessible on a public platform, specifically the government website. The Model Bid Document, readily accessible in the public domain, can be easily obtained by any shareholder, stakeholder, or associate affiliated with the Company without any hindrance.

- 9) Regulation 2(e) of SEBI (Prohibition of Insider Trading) Regulations, 2015 defines publicly available information as accessible to the public on a non-discriminatory basis. Information on NSGM and REC websites is therefore publicly available and not insider information. SEBI has considered information in public articles and widely known company policies as publicly available and not unpublished price-sensitive information in cases like Future Enterprises Ltd., In re, 2022 SCC OnLine SEBI 857, and Rakesh Agrawal v. Securities and Exchange Board of India, 2003 SCC OnLine SAT 38. The relevant excerpts of the cases referred above have been already reproduced in the response dated May 13, 2024, and are not again reproduced for the sake of brevity.*
- 10) According to SEBI (Prohibition of Insider Trading) Regulations, 2015, information available on public websites is considered "generally available information". SEBI has acknowledged this NCC Ltd.; In re, (2022 SCC OnLine SEBI 526), where no penalty was imposed because the information was already publicly accessible. In NCC Ltd. case, SEBI acknowledged that information available through public disclosures (through disclosures of annual reports and*

transcripts of conferences discussing financial results to the exchanges during the relevant period) did not require additional separate announcements.

- 11) The North Bihar Power Distribution Company Limited ("NBPDC") and South Bihar Power Distribution Company Limited ("SBPDCL") issued a Request for Proposal ("RFP") on February 14, 2023, following REC and NSGM guidelines, for the appointment of AMISP under a DBFOOT model. The Price Bid was opened on March 31, 2023, where the Company was ranked L4. Subsequently, on August 14, 2023, the Company received a letter to match the price of L1, to which the Company acknowledged on August 17, 2023, and accepted on August 21, 2023. The Letter of Award ("LOA") was received on August 30, 2023, and a press release was promptly issued on August 31, 2023, informing the stock exchanges about the LOA valued at Rs. 2,247.37 crore for the appointment of AMISPs in abundant caution. The LOA was for the design, supply, installation, and commissioning of 24.18 lakh smart prepaid meters and related infrastructure under a DBFOOT model. The screenshot from Clause 4 of the LOA is reproduced herein for your reference, indicating that all terms will remain consistent with those outlined in the RFP published earlier. It is worth noting that the RFP is similar to SBD, which is a publicly available information.

4. A draft of the AMISP Contract was provided to you along with the RFP. Please note that there shall be no change whatsoever in the terms and conditions as set out in the draft Contract

- 12) Investor Due Diligence is emphasized, requiring investors to conduct thorough investigations before investing, following the principle of "buyer beware." SEBI's concern regarding the LOA's potential to mislead investors is addressed by the standard practice of revenue spread-over periods, which are publicly accessible.
- 13) We humbly submit that there was no intention to conceal the information regarding the contract, as it is publicly available on government websites like NSGM, the Nodal Agency website REC, and various online articles. If publicly available information is deemed necessary for disclosure, then all terms and conditions of the AMISP Contract, would need to be disclosed. The company raises concerns about the potential repercussions regarding what constitutes material information and what does not. We respectfully submit that it is not reasonable to expect the disclosure of all details of the SBD, considering its availability online. Investors familiar with the industry would comprehend the long-term nature of such contracts, and the disclosure provided by the Company aligns with industry norms.
- 14) Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") delineates the disclosure requirements for material events, classified as follows:
- *Deemed Material Events:* These are automatically considered material and necessitate disclosure.
 - *Events Requiring Materiality Assessment:* Disclosure is contingent upon materiality assessments conducted in accordance with guidelines.

- *Voluntary Disclosure: Pertains to events not falling under the above categories but potentially deemed material at the discretion of the board.*

The disclosure requirements outlined above are further detailed in paragraph 22 of the Response dated May 13, 2024. The receipt of the LOA does not categorically fall under "Deemed Material Event" or "Events Requiring Materiality Assessment" as it constitutes part of the company's ordinary business. However, the company opted to disclose the order as a precautionary measure as practice of good corporate governance. In the matter of Usha Martin Ltd and Anr. (2022 SCC OnLine SEBI 1419) it was held that materiality should be reasonably assessed.

- 15) *On August 31, 2023, the Company issued a disclosure to the stock exchanges in the form of a press release or media release regarding LOA and it was further disclosed that its total order book now stands at around Rs. 11,000 crores (net of taxes). The contract period information was publicly accessible, so it was deemed immaterial to disclose it separately. The company's revenue trends and order book were already known to shareholders. The term "order book" refers to the total value of secured contracts over time, not annual revenue which indicates that it is yet to be realized in future as per the contract period. This distinction is significant and is a common market practice. SEBI does not prescribe a specific format for routine business events and the listed companies have some discretion in such disclosures. We humbly submit that routine business activities do not always need detailed disclosure unless there is a significant deviation from standard practices.*
- 16) *It is respectfully submitted that both the BSE and NSE have not deemed this as misrepresentation and have not recommended any action against the Company. Furthermore, no shareholder has raised concerns, and no loss has been incurred by any stakeholders. The Company has engaged Strategic Growth Advisors Private Limited to address shareholder queries, thereby ensuring transparency and access to information. Additionally, during a November 2023 earnings call, it was confirmed that the order book revenue would be realized over a span of 7-8 years, information that was already known to shareholders. The Company has complied with the LODR Regulations in both letter and spirit. The non-disclosure of the spread-over period is a technicality which is already available in the public domain and not misleading, as the essential facts regarding nature of contract, number of meters and contract value were disclosed in the disclosure. Had there been any intention of concealment or similar misconduct, it would have been aimed at securing undue profit or causing loss to shareholders, which, unequivocally, has not been the case. The Company has exercised diligence in all disclosures and has no motive to withhold any publicly available information, which is clearly acknowledged by the public, shareholders, and other stakeholders at large in conference earnings call.*
- 17) *The Supreme Court's decision in the matter of CCE, New Delhi vs. Hari Chand Shri Gopal & Ors. [2010 (182) ECR 0143 (SC)] supports the doctrine of substantial compliance, indicating that minor non-compliance should not overshadow the overall adherence to statutory intent. In conclusion, the company has substantially complied with the LODR Regulations by disclosing*

all material facts, and the omission of the spread-over period was not misleading or required by law.

- 18) In the event that NBPDCCL did not adhere to the SBD, the Company might be obligated to disclose such information, particularly if the standard terms are not readily available in the market or if the contract significantly deviates from the SBD in a material manner. However, in the present scenario, no such material deviation has occurred.*
- 19) The manner in which the Company disclosed the details aligns with industry practices, as emphasized in Paragraphs 28, 33, 34, 35, and 36 of the response dated May 13, 2024, which are consistent with practices observed in other listed companies. The duration of the contract period was not deemed material information necessitating disclosure.*
- 20) Considering the following factors, it cannot be deemed material to necessitate disclosure of revenue recognition period:*
 - a) SBD by REC and NSGM is available in public domain, along with various articles and explanations available in online media, ensures that investors are already well-informed about the salient features of the contract given by states.*
 - b) Prevailing market practices indicate that there is no imperative to disclose minute information every time a listed entity secures a project which is in the ordinary course of business.*
 - c) Earnings calls transcripts, publicly available, offer insights into discussions regarding terms and conditions, providing shareholders with access to pertinent information.*
 - d) The engagement of dedicated investor relations advisors ensures that shareholders have access to expert assistance in addressing any queries or concerns they may have.*
 - e) Given the above considerations, there arises no question regarding non-disclosure, as the pertinent information is readily available to shareholders through various channels.*
- 21) It is submitted that upon examination of the annual income statement, it is evident that the Company's revenue has demonstrated a consistent upward trajectory over time. Between the financial years 2021 and 2023, revenue has experienced notable growth, increasing from Rs. 608.60 crore to Rs. 808.39 crore. Consequently, it is evident that the observed price movement in the securities as mentioned in the investigation report cannot be solely attributed to the disclosed order. No shareholders lodged complaints via the SCORES Portal or directly emailed the compliance officer in this regard in the instant matter. It stands to reason that if the Company had caused any loss or detriment to shareholders or stakeholders, complaints would have been filed accordingly. There is no evidence to suggest that the Company has gained any undue advantage from its actions, and even a minor penalty would unjustly tarnish its reputation. We respectfully urge your esteemed office to consider leniency in this matter, taking into account the lack of substantial harm caused and the absence of genuine complaints.*
- 22) The Company adhered to the principles of correct disclosure under Regulation 4 of the LODR Regulations. The general terms of AMISP contracts are publicly available, and disclosing the spread-over period would require divulging all contract terms, which may not be necessary or*

relevant. Thus, the Company's disclosure approach aligns with the material information principle of LODR Regulations.

- 23) Had there been any intention of concealment or similar misconduct, it would have been aimed at securing undue profit or causing loss to shareholders, which, unequivocally, has not been the case. The Company has exercised diligence in all disclosures and has no motive to withhold any publicly available information, which is clearly acknowledged by the public, shareholders, and other stakeholders at large in conference earnings call.
- 24) We respectfully submit a brief summary of certain judgments upon which we have relied:
- (a) *Reliance Industries Ltd. v SEBI (SAT Appeal No. 39/2002)*: A technical and unintentional breach does not warrant penal consequences.
 - (b) *Akbar Badrudin Badrudin Jiwani v. Collector of Customs, Bombay AIR 1990 SC 1579*: Penalty requires the establishment of mens rea (intent).
 - (c) *The Hon'ble SAT in Housing Development Finance Corporation [(2000) 28 SCL 289]* noted that the consequence of default, not the default itself, guides penalty imposition. In this case, there was no tangible loss or undue advantage gained by the Company.
 - (d) *Price Waterhouse Coopers Pvt. Ltd. v. Commissioner of Income Tax, Kolkata, Civil Appeal No. 6924 of 2012* - The law recognizes that inadvertent and bona fide mistakes should not be penalized, especially if minor or technical.
 - (e) *Chandrakant Gandhi Stock Broker P. Ltd. Vs. Securities and Exchange Board of India [2000 (37) CLA 238 SAT]* - penalty should not be levied merely because there is default.
 - (f) *The SAT in Yogi Sungwon (India) Ltd. v. SEBI (Appeal No. 36/2000)* emphasized that penalty imposition depends on the Adjudicating Officer's discretion, guided by the facts and circumstances of each case.

D. CONSIDERATION OF ISSUES AND FINDINGS

11. The issues that arise for consideration in the instant matter are:

- Issue No. I:** Whether the Noticee has violated the provisions of Regulation 4(1)(c) and 4(1)(d) of LODR Regulations, 2015?
- Issue No. II:** If yes, whether the Noticee is liable for imposition of monetary penalty under Section 15HB of the SEBI Act, 1992?
- Issue No. III:** If yes, what should be the monetary penalty that can be imposed upon the Noticee?

Issue No. I: Whether the Noticee has violated the provision of Regulation 4(1)(c) and 4(1)(d) of LODR Regulations, 2015?

12. In this regard, it was inter alia observed and alleged that with regard to receipt of letter of award (LOA) by its wholly owned subsidiary and announcement dated August 31, 2023, Company failed to disclose complete details which was misleading to investors at large.

I note from the material available on record that Company received the LOA on August 30, 2023 at 7:56 PM via email from Metering Cell, NBPD and on August 31, 2023 at 5:59 PM, the Company issued a disclosure to the stock exchanges in the form of a press release or media release, informing that its step-down wholly owned subsidiary had been awarded a LOA valued at Rs. 2,247.37 crore (net of taxes).

13. In this regard, the Noticee has submitted the following:

“...In this context, we direct attention to the website of the National Smart Grid Mission (Ministry of Power, Government of India) (“NSGM”) available at www.nsgm.gov.in. Within the "Resource Center" section, one can find the "AMISP SBD Under RDSS by REC," which constitutes the Model Standard Bidding Document (“SBD”) prepared by NSGM and REC Limited (“REC”) for the selection and appointment of AMISPs for Smart Prepaid Metering projects in India on a Design Build Finance Own Operate Transfer (“DBFOOT”) basis by State Power Utilities...As per the SBD, AMISPs are tasked with financing, supplying, installing, and operating smart meters, alongside communication and IT infrastructure. This model empowers discoms to deploy smart meters without upfront investments. Smart meter projects are being awarded to AMISPs through the bidding route. The salient features of AMISP contracts are:

...

(b) Contract period – Earlier of (a) 10 years from execution of AMISP contract or (b) expiry of total meter months of operating the AMI system after operational go-live. Total meter months are calculated as the total number of smart meters to be installed x 90 months.

...

The aforementioned significant features are readily accessible and can be derived from the documents available in the public domain, notably on the Government website, and have also been subject to detailed analysis in various articles covering the SBD published by REC and NSGM. Consequently, it can be assumed that this information is "publicly available."

14. Further in this regard, the Noticee has submitted, *"Additionally, in the disclosure dated August 31, 2023, it was also articulated that "Our total order book now stands at around Rs. 11,000 crore (net of taxes)." It is imperative to clarify that the term "order book" refers to the aggregate value of contracts secured by the Company, encompassing future revenues from projects to be executed over a period of time, rather than indicative of the Company's annual revenue. This distinction is significant, as the order book represents the anticipated revenue stream from projects in progress or to be initiated, serving as a measure of the Company's business activity and potential future earnings. Therefore, it would not be prudent to interpret the total order book as reflective of the Company's annual revenue for the financial year 2023-24."*

In this regard, I note that the disclosure dated August 31, 2023 had inter alia stated the following:

“Genus Power Infrastructures Limited’s step-down wholly owned subsidiary has received a letter of award (LOA) of Rs. 2,247.37 crore... Our total order book now stands at around Rs. 11,000 crore...”

15. The Noticee has also submitted, *“...We have observed that several companies have adopted similar disclosure practices in relation to these matters. No shareholders lodged complaints via the SCORES Portal or directly emailed the compliance officer in this regard in the instant matter. It stands to reason that if the Company had caused any loss or detriment to shareholders or stakeholders, complaints would have been filed accordingly...”* In this regard, the company has cited examples of HPL Electric & Power Limited ("HPL"), Ramkrishna Forgings Limited, Praveg Communications (India) Limited and Jupiter Wagons Limited.

16. The Noticee has further submitted that, *“...we would like to direct your attention to the transcript of the earnings call held on November 10, 2023, to discuss the operational and financial performance for the quarter ended September 30, 2023. This transcript was disclosed to the stock exchanges on November 17, 2023... In this earnings call, various questions related to the terms and condition of the order book were answered. During the call, Mr. Milind Karmarkar raised a query regarding the timeframe over which the current order book would be realized, suggesting a period of 7-8 years. In response, Mr. Kailash Agarwal, Vice-Chairman (Non-Executive, Non-Independent), affirmed this understanding. The relevant excerpt from the transcript is provided below:*

“Milind Karmarkar: Correct. But what I'm trying to sort of gather is, that the maintenance turnover out of the current order book will be spread over a period of seven years, eight years. Am I right?

Kailash Agarwal: Correct.

The inclusion of the transcript serves to illustrate that public shareholders are already cognizant of the spread period. Further, this earning call transcript is “publicly available information”...

17. In view thereof, having regard to the totality of facts and circumstances of the matter, the material available on record and submissions of the Noticee, I am inclined to allow the benefit of doubt to the Noticee in this regard and accordingly, I note that alleged violation in respect of the Noticee does not stand established.
18. Since the alleged violation in respect of the Noticee is not established, I find that the Issue No. II and Issue No. III require no further consideration.

E. ORDER

19. Accordingly, after taking into account the aforesaid findings and in exercise of powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, the Adjudication proceedings against the Noticee initiated vide SCN dated April 22, 2024, stand disposed of without imposition of any monetary penalty.
20. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date: March 28, 2025
Place: MUMBAI

AMAR NAVLANI
ADJUDICATING OFFICER