

SARDAR SAROVAR NARMADA NIGAM LIMITED

(A Government of Gujarat Undertaking)



NAME OF WORK:

DEVELOPMENT OF SMALL HYDRO POWER PROJECTS ON

VADODARA BRANCH CANAL

OF SARDAR SAROVAR PROJECT

ON PUBLIC PRIVATE PARTNERSHIP MODE

INTERNATIONAL COMPETITIVE BIDDING (ICB)

REQUEST FOR QUALIFICATION (RFQ)

August 2011

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GLOSSARY

Applicant(s)	As defined in clause 1.2.1
Application Due Date	As defined in clause 1.1.5
Associate	As defined in Clause 2.2.9
Bid Due Date	As defined in Clause 1.2.3
Bid Security	As defined in Clause 1.2.4
Bid Stage	As defined in Clause 1.2.1
Bidders	As defined in Clause 1.1.1
Bidding Documents	As defined in Clause 1.2.3
Bidding Process	As defined in Clause 1.2.1
Bids	As defined in Clause 1.2.3
BOT	Build, Operate and Transfer
Concession Agreement	As defined in Clause 1.1.2
Concessionaire	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.2.1(c)
Consortium	As defined in Clause 2.2.1(a)
DBFOT	As defined in Clause 1.1.1
Eligible Experience	As defined in Clause 3.2.1
Eligible Projects	As defined in Clause 3.2.1
Estimated Project Cost	As defined in Clause 1.1.4
Experience Score	As defined in Clause 3.2.6
Financial Capacity	As defined in Clause 2.2.2 (B)
Government	Government of Gujarat.
Grant	As defined in Clause 1.2.8
Highest Bidder	As defined in Clause 1.2.8
Jt. Bidding Agreement	As defined in Clause 2.2.6 (g)
Lead Member	As defined in Clause 2.2.6 (c)
LOA	Letter of Award
Member	Member of a Consortium
PPP	Public Private Partnership
Premium	As defined in Clause 1.2.8
Project	As defined in Clause 1.1.1
Qualification	As defined in Clause 1.2.1
Qualification Stage	As defined in Clause 1.2.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in Clause 1.2.1
RFQ	As defined in the Disclaimer
SPV	As defined in Clause 2.2.6
SSNNL	As defined in Clause 1.1.1
Technical Capacity	As defined in Clause 2.2.2 (A)
Threshold Technical Capacity	As defined in Clause 2.2.2 (A)

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

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DISCLAIMER

The information contained in this Request for Qualification document (the “**RFQ**”) or subsequently provided to Applicant(s), whether verbally or in documentary or any other form, by or on behalf of the SSNNL or any of its employees or advisors, is provided to Applicant(s) on the terms and conditions set out in this RFQ and such other terms and conditions subject to which such information is provided.

This RFQ is not an agreement and is neither an offer nor invitation by the SSNNL to the prospective Applicants or any other person. The purpose of this RFQ is to provide interested parties with information that may be useful to them in the formulation of their application for qualification pursuant to this RFQ (the “**Application**”). This RFQ includes statements, which reflect various assumptions and assessments arrived at by the SSNNL in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFQ may not be appropriate for all persons, and it is not possible for the SSNNL, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQ. The assumptions, assessments, statements and information contained in this RFQ may not be complete, accurate, adequate or correct. Each Applicant should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFQ and obtain independent advice from appropriate sources.

Information provided in this RFQ to the Applicant(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The SSNNL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The SSNNL, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFQ or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFQ and any assessment, assumption, statement or information contained therein or deemed to form part of this RFQ or arising in any way with pre-qualification of Applicants for participation in the Bidding Process.

The SSNNL also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Applicant upon the statements contained in this RFQ.

The SSNNL may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFQ.

The issue of this RFQ does not imply that the SSNNL is bound to select and shortlist pre-qualified Applications for Bid Stage or to appoint the selected Bidder or Concessionaire, as the case may be, for the Project and the SSNNL reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the SSNNL or any other costs incurred in connection with or relating to its Application. All such costs and expenses will remain with the Applicant and the SSNNL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Bidding Process.

Sardar Sarovar Narmada Nigam Ltd

1. INTRODUCTION**1.1 Background**

1.1.1 Sardar Sarovar Narmada Nigam Ltd, a wholly owned Government of Gujarat undertaking (the “SSNNL”) is engaged in the construction, operation and maintenance of Sardar Sarovar Multipurpose project including the dam Hydro Power and its canal network and as part of this endeavor, the SSNNL has decided to undertake development, operation and maintenance of the small hydro power projects on the various canal falls through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer (“DBFOT”) Basis (the “Project”), and has decided to carry out the bidding process for selection of a private entity as the bidder to whom the Project may be awarded. A brief description of the project may be seen in the Information Memorandum of the Project at the SSNNL’s website www.ssnl.com or www.sardarsarovardam.org

Narmada Main Canal starts at the head regulators from the Sardar Sarovar Dam. Vadodara branch canal further emanates from Narmada Main Canal in Panchmahal district of Gujarat at chainage 81.946 km and having length of 105.09 km. The following falls on the Vadodara Branch Canal (VBC) at the specified chainages have been identified by SSNNL for the development of small hydro projects for the generation of electrical power through Public Private Partnership (PPP) mode and on Design, Build, Finance, Operate and Transfer (“DBFOT”) Basis. All the generated energy from the project shall be purchased by SSNNL at the rates of the successful offers accepted by SSNNL.

Brief particulars of Projects are as follows:

Name of the Projects	Indicative Project Capacity (kW)	Indicative Basic Project Cost (In Lakh Rs.)
Development of SHEPs on Six falls of Vadodara Branch Canal in the State of Gujarat through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer (“DBFOT”) Basis: Canal falls at chainage:		
1. 6720 m	1050	1314.83
2. 11080 m	700	1102.51
3. 14580 m	700	1108.5
4. 21000 m	600	1145.09
5. 22500/22800 m	1500	1441.103
6. 24290 m	600	1149.82
Total	5150	7261.85

- The SSNNL intends to pre-qualify and short-list suitable Applicants (the “**Bidders**”) who will be eligible for participation in the Bid Stage, for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein.
- 1.1.2 The selected Bidder, who is either a company incorporated under the Companies Act, 1956 or undertakes to incorporate as such prior to execution of the concession agreement (Implementation agreement) (the “**Concessionaire**”) shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of a long - term concession agreement (the “**Concession / Implementation Agreement**”) to be entered into between the Concessionaire and the SSNNL in the form provided by the SSNNL as part of the Bidding Documents pursuant hereto.
- 1.1.3 The scope of work will broadly include the final assessment of project parameters, designing, engineering, financing, procurement, construction, operation and maintenance of the Project thereof and generation of the electrical energy from the project for 35 years from the date of agreement and transfer it to SSNNL after 35 years in good condition.
- 1.1.4 Indicative capital cost of the Project (the “**Estimated Project Cost**”) will be revised and specified in the Bidding Documents of the Project. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5 The SSNNL shall receive Applications pursuant to this RFQ in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the SSNNL, and all Applications shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Applications (the “**Application Due Date**”).
- 1.2 Brief description of Bidding Process**
- 1.2.1 The SSNNL has adopted a two-stage process (collectively referred to as the “**Bidding Process**”) for selection of the bidder for award of the Project. The first stage (the “**Qualification Stage**”) of the process involves qualification (the “**Qualification**”) of interested parties/ consortia who make an Application in accordance with the provisions of this RFQ (the “**Applicant**”, which expression shall, unless repugnant to the context, include the Members of the Consortium). Prior to making an Application, the Applicant shall pay to the SSNNL a sum of Rs 8,000 (Rupees Eight thousand only) as the cost of the RFQ process. At the end of this stage, the SSNNL expects to announce a list of all pre-qualified Applicants who shall be eligible for participation in the second stage of the Bidding Process (the “**Bid Stage**”) comprising Request for Proposals (the “**Request for Proposals**” or “**RFP**”).

- 1.2.2 In the Qualification Stage, Applicants would be required to furnish all the information specified in this RFQ. Only those Applicants that are pre-qualified and short-listed by the SSNNL shall be invited to submit their Bids for the Project. The SSNNL is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are, therefore, advised to visit the site and familiarise themselves with the Project.
- 1.2.3 In the Bid Stage, the Bidders will be called upon to submit their financial offers (the "**Bids**") in accordance with the RFP and other documents to be provided by the SSNNL (collectively the "**Bidding Documents**"). The Bidding Documents for the Project will be provided to every Bidder on payment of Rs. 15,000 (Rs. Fifteen thousand only). The Bid shall be valid for a period of not less than 120 days from the date specified in Clause 1.3 for submission of bids (the "**Bid Due Date**").
- 1.2.4 In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security of **Rs. 75 Lakhs (Rupees Seventy Five Lakhs only)** for projects on VBC (the "**Bid Security**"), refundable no later than 60 (sixty) days from the Bid Due Date, except in the case of the selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the SSNNL and in such event, the validity period of the demand draft or bank guarantee, as the case may be, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the SSNNL and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.2.5 Generally, the Highest Bidder shall be the selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP, be invited to match the Bid submitted by the Highest Bidder in case such Highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Highest Bidder, the SSNNL may, in its discretion, invite fresh Bids from the remaining Bidders or annul the Bidding Process, as the case may be.
- 1.2.6 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the concession including implementation of the Project.
- 1.2.7 As part of the Bidding Documents, the SSNNL will provide a draft Concession (Implementation) Agreement and project/feasibility report prepared by the SSNNL/ its consultants and other information pertaining/ relevant to the Project available with it.

1.2.8 Bids will be invited for the Project on the basis of offered sale rate of energy from the generated electricity and the upfront payment (the Premium). A Bidder may offer to pay a Premium in the form of upfront payment, as the case may be, (the "**Premium**") to the SSNNL for award of the concession. The concession period shall be pre-determined, and will be indicated in the draft Concession (Implementation) Agreement forming part of the Bidding Documents. The lowest sale rate of energy from the generated electricity from project and Premium amount shall constitute the sole criteria for evaluation of Bids and the most beneficial proposal to SSNNL may be considered. The Project shall be awarded to the Bidder quoting the lowest sale rate of energy from the generated electricity from project and highest Premium and on the basis of the combined most beneficial proposal to SSNNL.

In this RFQ, the term "**Highest Bidder**" shall mean the Bidder who is offering the lowest sale rate of energy from the generated electricity from project and highest Premium, and where no Bidder is offering a Premium offering the lowest sale rate of energy from the generated electricity from project

1.2.9 Other final details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.

1.2.10 Any queries or request for additional information concerning this RFQ shall be submitted by the Applicant in writing or by fax or email to the officer designated in Clause 2.13.3 below. The envelopes/ communications shall clearly bear the following identification/ title:

"Queries: Request for Additional Information: RFQ for development, operation and maintenance of the small hydro power projects of Vadodara Branch Canal on the canal falls through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer ("DBFOT") Basis".

1.3 Schedule of Bidding Process

The SSNNL shall endeavour to adhere to the following schedule:

	Event Description <u>Qualification Stage</u>	Date
1	Last date for receiving queries	12.09.2011
2	Pre-Application Conference	17.09.2011
3	SSNNL response to queries latest by	22.09.2011
4	Application Due Date	03.10.2011
5	Announcement of short-list	18.10.2011, if possible

<u>Bid Stage</u>	<u>Estimated Date</u>
1. Downloading of Bid Documents	25.10.2011
2. Last date for receiving queries	19.11.2011
3. Pre-Bid meeting	25.11.2011
4. SSNNL response to queries latest by	30.11.2011
5. Bid Due Date	07.12.2011
6. Opening of Bids	08.12.2011, if possible
7. Letter of Award (LOA)	09.01.2012, if possible.
8. Validity of Bids	08.04.2012 and to be extended if required
9. Signing of Concession (Implementation) Agreement	09.02.2012, if possible
10. Duration of Completion of project	18 months from LOA

2. INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1 Scope of Application

2.1.1 The SSNNL wishes to receive Applications for Qualification in order to shortlist experienced and capable Applicants for the Bid Stage.

2.1.2 Short-listed Applicants may be subsequently invited to submit the Bids for the Project.

2.2 Eligibility of Applicants

2.2.1 For determining the eligibility of Applicants for their pre-qualification hereunder, the following shall apply:

(a) The Applicant for pre-qualification may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no applicant applying individually or as a member of a Consortium, as the case may be, can be member of another Applicant. The term Applicant used herein would apply to both a single entity and a Consortium.

(b) An Applicant may be a natural person, private entity, or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.6 below.

(c) An Applicant shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Applicant found to have a Conflict of Interest shall be disqualified. An Applicant shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (i) the Applicant, its Member or Associate (or any constituent thereof) and any other Applicant, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956. For

the purposes of this Clause 2.2.1(c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) such Applicant, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant, its Member or any Associate thereof; or
- (iv) Such Applicant has the same legal representative for purposes of this Application as any other Applicant; or
- (v) such Applicant, or any Associate thereof has a relationship with another Applicant, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Application of either or each other; or
- (vi) Such Applicant, or any Associate thereof has participated as a consultant to the SSNNL in the preparation of any documents, design or technical specifications of the Project.

(d) An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the SSNNL in relation to the Project is engaged by the Applicant, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Applicant, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFQ. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Explanation: In case an Applicant is a Consortium, then the term Applicant as used in this Clause 2.2.1, shall include each Member of such Consortium.

2.2.2 To be eligible for pre-qualification and short-listing, an Applicant shall fulfill the following conditions of eligibility:

(A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Applicant/ bidder shall, over the past 5 (five) financial years preceding the Application Due Date, have:

- (i) paid for, or received payments for, construction of Eligible Project(s); and/ or the prior experience as lead developer (having not less than 51 % of equity share) in the development/ implementation, operation and maintenance of at least similar capacity hydro-electric power project/ other power generation sector project/ besides other responsibilities taken up by the bidder such as design & engineering, civil construction, equipment supply, equipment erection, operation and maintenance etc.
- (ii) paid for development of Eligible Project(s) specified in Clause 3.2.1;
- (iii) Collected and appropriate revenues from Eligible Project(s) specified in Clause 3.2.1,

Such that the sum total of the above is more than Rs 80 crore (Rs. Eighty crores only) (The “**Threshold Technical Capacity**”)

(B) **Financial Capacity:** The Applicant/ bidder shall have a minimum Net Worth (the “**Financial Capacity**”) of Rs. 18 crore (Rs. Eighteen crores only) for VBC projects at the close of the preceding financial year.

Financial Capacity may also be assessed on their ability to raise equity/ debt for the projects and their experience in arranging equity/ loans either internally or from capital markets and the financial institutions/ banks

In case of a Consortium, the combined technical capacity and net worth of those Members, who have and shall continue to have an equity share in the SPV, should satisfy the above conditions of eligibility; provided that Lead Member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than 51% (Fifty one per cent) of the subscribed and paid up equity of the SPV;

2.2.3 **O&M Experience:** The Applicant shall have an experienced O&M organization or have successfully carried out O&M of projects through qualified and trained personnel in conformity with the provisions of the concession agreement or give an under taking that he will hire the services of experienced O&M personnel .

2.2.4 The Applicants shall enclose with its application, to be submitted as per the format at Appendix-I, complete with its Annexes, the following:

- (i) Certificate(s) from its statutory auditors^s or the concerned client(s) stating the payments made/ received or works commissioned, as the case may be, during the past 5 years in respect of the projects specified in paragraph 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Applicant (as part of a consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and
- (ii) certificate(s) from its statutory auditors specifying the net worth of the Applicant, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.4 (ii). For the purposes of this RFQ, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.

2.2.5 The Applicant should submit a Power of Attorney as per the format at Appendix-II, authorising the signatory of the Application to commit the Applicant. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix-III.

2.2.6 Where the Applicant is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956 (the “**SPV**”), to execute the Concession (Implementation) Agreement and implement the Project. In case the Applicant is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) Number of members in a consortium shall not exceed 2 (Two), and the information sought in the Application may be in the order of their equity contribution;
- (b) subject to the provisions of sub-clause (a) above, the Application should contain the information required for each member of the Consortium;

- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least 51% (Fifty one per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-III, signed by both the members of the Consortium;
- (d) the Application should include a brief description of the roles and responsibilities of individual members
- (e) an individual Applicant cannot at the same time be member of a Consortium applying for pre-qualification. Further, a member of a particular Applicant Consortium cannot be member of any other Applicant Consortium applying for pre-qualification;
- (f) the members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
- (g) members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-IV (the “**Jt. Bidding Agreement**”), for the purpose of making the Application and submitting a Bid in the event of being short-listed. The Jt. Bidding Agreement, to be submitted along with the Application, shall, *inter alia*:
 - (i) convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFQ, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
 - (ii) clearly outline the proposed roles and responsibilities, if any, of each member;
 - (iii) commit the minimum equity stake to be held by each member;
 - (iv) commit that both the members, whose experience will be evaluated for the purposes of this RFQ and shall further commit that Lead member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession (Implementation) Agreement;

- (v) lead member of the Consortium undertake that he shall hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times and
- (vi) include a statement to the effect that both members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Concession period of the project is achieved in accordance with concession Agreement; and
- (h) Except as provided under this RFQ and the Bidding Documents, there shall not be any amendment to the Jt. Bidding .

2.2.7 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as member of a Consortium.

2.2.8 An Applicant including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial SSNNL or a judicial pronouncement or arbitration award against the Applicant, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated any public entity for breach by such Applicant, Consortium Member or Associate would not be eligible to submit an application, either individually or as member of a consortium.

2.2.9 In computing the Technical Capacity and Net Worth of the Applicant/ Consortium Members under Clauses 2.2.2, 2.2.4 and 3.2, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

For purposes of this RFQ, Associate means, in relation to the Applicant/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant/ Consortium Member (the "Associate"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

2.2.10 The following conditions shall be adhered to while submitting an Application:

- (a) Applicants should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is

insufficient. Alternatively, Applicants may format the prescribed forms making due provision for incorporation of the requested information;

- (b) information supplied by an Applicant (or other constituent Member if the Applicant is a Consortium) must apply to the Applicant, Member or Associate named in the Application and not, unless specifically requested, to other associated companies or firms. Invitation to submit Bids will be issued only to Applicants whose identity and/ or constitution is identical to that at pre-qualification;
- (c) in responding to the pre-qualification submissions, Applicants should demonstrate their capabilities in accordance with Clause 3.1 below; and
- (d) in case the Applicant is a Consortium, each Member should substantially satisfy the pre-qualification requirements to the extent specified herein.

2.2.11 While Qualification is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Application, not less than 15% (fifteen per cent) of the aggregate issued, subscribed and paid up equity share capital in an Applicant or its Member is held by persons resident outside India or where an Applicant or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Application, there is an acquisition of not less than 15% (fifteen per cent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Applicant or its Member;

then the Qualification of such Applicant or in the event described in sub clause (b) above, the continued Qualification of the Applicant shall be subject to approval of the SSNNL from national security and public interest perspective. The decision of the SSNNL in this behalf shall be final and conclusive and binding on the Applicant.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding / acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the SSNNL shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, or any substitute thereof, as in force on the date of such acquisition.

The Applicant shall promptly inform the SSNNL of any change in the shareholding, as above, and failure to do so shall render the Applicant liable for disqualification from the Bidding Process.

2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Application Due Date falls within three months of the closing of the latest financial year of an Applicant, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the period mentioned in Clause 2.2.2, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Applicant in the course of its normal business.

2.3 Change in composition of the Consortium

Joint Venture Consortium, as proposed and constituted for qualification cannot be changed at any stage until successful commissioning and commercial operation date of the project.

2.4 Number of Applications and costs thereof

2.4.1 No Applicant shall submit more than one Application for the Project. An applicant applying individually or as a member of a Consortium shall not be entitled to submit another application either individually or as a member of any Consortium, as the case may be.

2.4.2 The Applicants shall be responsible for all of the costs associated with the preparation of their Applications and their participation in the Bid Process. The SSNNL will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

Applicants are encouraged to submit their respective Applications after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water and other utilities etc for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

2.6 Acknowledgement by Applicant

2.6.1 It shall be deemed that by submitting the Application, the Applicant has:

- (a) made a complete and careful examination of the RFQ;
- (b) received all relevant information requested from the SSNNL;

- (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of the SSNNL relating to any of the matters referred to in Clause 2.5 above; and
 - (d) agreed to be bound by the undertakings provided by it under and in terms hereof.
- 2.6.2 The SSNNL shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ or the Bidding Process, including any error or mistake therein or in any information or data given by the SSNNL.

2.7 Right to accept or reject any or all Applications/ Bids

2.7.1 Notwithstanding anything contained in this RFQ, the SSNNL reserves the right to accept or reject any Application and to annul the Bidding Process and reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that the SSNNL rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.7.2 The SSNNL reserves the right to reject any Application and/ or Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by the SSNNL, the supplemental information sought by the SSNNL for evaluation of the Application.

If the Applicant/Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified/ rejected, then the SSNNL reserves the right to:

- (i) invite the remaining Bidders to match the Highest Bidder/ submit their Bids in accordance with the RFP; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the SSNNL, including annulment of the Bidding Process.

2.7.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the SSNNL, that one or more of the pre-qualification conditions have not been met by the Applicant, or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Applicant/SPV has

already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ, be liable to be terminated, by a communication in writing by the SSNNL to the Applicant, without the SSNNL being liable in any manner whatsoever to the Applicant and without prejudice to any other right or remedy which the SSNNL may have under this RFQ, the Bidding Documents, the Concession Agreement or under applicable law.

2.7.4 The SSNNL reserves the right to verify all statements, information and documents submitted by the Applicant in response to the RFQ. Any such verification or lack of such verification by the SSNNL shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the SSNNL there under.

B. DOCUMENTS

2.8 Contents of the RFQ

This RFQ comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

Invitation for Qualification

- Section 1. Introduction
- Section 2. Instructions to Applicants
- Section 3. Criteria for Evaluation
- Section 4. Fraud & Corrupt Practices
- Section 5. Pre Application Conference
- Section 6. Miscellaneous

Appendices

- I. Letter comprising the Application
- II. Power of Attorney for signing of Application
- III. Power of Attorney for Lead Member of Consortium
- IV. Joint Bidding Agreement for Consortium

2.9 Clarifications

- 2.9.1 Applicants requiring any clarification on the RFQ may notify the SSNNL in writing or by fax and e-mail in accordance with Clause 1.2.11. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The SSNNL shall endeavor to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Application Due Date. The responses will be sent by fax and/or e-mail. The SSNNL will forward all the queries and its responses thereto, to all purchasers of the RFQ without identifying the source of queries.
- 2.9.2 The SSNNL shall endeavor to respond to the questions raised or clarifications sought by the Applicants. However, the SSNNL reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the SSNNL to respond to any question or to provide any clarification.
- 2.9.3 The SSNNL may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by the SSNNL shall be deemed to be part of the RFQ. Verbal clarifications and information given by SSNNL or its employees or representatives shall not in any way or manner be binding on the SSNNL.

2.10 Amendment of RFQ

- 2.10.1 At any time prior to the deadline for submission of Application, the SSNNL may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ by the issuance of Addenda.
- 2.10.2 Any Addendum thus issued will be sent in writing to all those who have purchased the RFQ.
- 2.10.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the SSNNL may, in its sole discretion, extend the Application Due Date.

C. PREPARATION AND SUBMISSION OF APPLICATION**2.11 Language**

The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Applicant with the Application may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language,

duly authenticated and certified by the Applicant. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

2.12 Format and signing of Application

2.12.1 The Applicant shall provide all the information sought under this RFQ. The SSNNL will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.

2.12.2 The Applicant shall prepare 1 (one) original set of the Application (together with originals/ copies of documents required to be submitted along therewith pursuant to this RFQ) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 1 (one) copy of the Application, alongwith documents required to be submitted along therewith pursuant to this RFQ, marked "COPY". The Applicant shall also provide 2 (two) soft copies on Compact Disc (CD). In the event of any discrepancy between the original and the copy, the original shall prevail.

2.12.3 The Application and its copy shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall also initial each page in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Application shall be initialled by the person(s) signing the Application. The Application shall contain page numbers and shall be bound together in hard cover.

2.13 Sealing and Marking of Applications

2.13.1 The Applicant shall submit the Application in the format specified at Appendix-I, together with the documents specified in Clause 2.13.2, and seal it in an envelope and mark the envelope as "APPLICATION for Development of Small Hydro Power Projects on Vadodara Branch Canal of Sardar Sarovar Project". The Applicant shall seal the original and the copy of the Application, together with their respective enclosures, in separate envelopes duly marking the envelopes as "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 and 2.13.3.

2.13.2 Each envelope shall contain:

- (i) Application in the prescribed format (Appendix-I) along with Annexes and supporting documents;
- (ii) Power of Attorney for signing the Application as per the format at Appendix-II;

- (iii) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix-III;
- (iv) copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-IV;
- (v) copy of Memorandum and Articles of Association, if the Applicant is a body corporate, and if a partnership then a copy of its partnership deed;
- (vi) copies of Applicant's duly audited balance sheet and profit and loss account for the preceding five years; and

Each of the envelopes shall clearly bear the following identification:

"Application for Qualification: Development, operation & maintenance of the small hydro power projects on the canal falls of VBC through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer ("DBFOT") Basis (the "**Project**"), " and shall clearly indicate the name and address of the Applicant. In addition, the Application Due Date should be indicated on the right hand corner of each of the envelopes.

2.13.3 Each of the envelopes shall be sealed and addressed to:

ATTN. OF : Shri U.C. Jain
DESIGNATION : Chief Engineer (Elect. & Mech.)
ADDRESS : Sardar Sarovar Narmada Nigam Ltd.
Narmada Bhawan, Block "A", 2nd Floor
Vadodara-390001.
Fax : 0265-2413192
Phone : 0265-2413395/96
Email : ceel-ssnnl@gujarat.gov.in

2.13.4 If the envelopes are not sealed and marked as instructed above, the SSNNL assumes no responsibility for the misplacement or premature opening of the contents of the Application and consequent losses, if any, suffered by the Applicant.

2.13.5 Applications submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.14 Application Due Date

2.14.1 Applications should be submitted before 11:00 hours IST on the Application Due Date, at the address provided in Clause 2.13.3 in the manner and form as detailed in this RFQ. A receipt thereof should be obtained from the person specified in Clause 2.13.3 or his authorised representative through courier / RPAD or hand delivery.

2.14.2 The SSNNL may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Applicants.

2.15 Late Applications

Applications received by the SSNNL after the specified time on the Application Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16 Modifications/ substitution/ withdrawal of Applications

2.16.1 The Applicant may modify, substitute or withdraw its Application after submission, provided that written notice of the modification, substitution or withdrawal is received by the SSNNL prior to the Application Due Date. No Application shall be modified, substituted or withdrawn by the Applicant on or after the Application Due Date.

2.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.13, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.16.3 Any alteration/ modification in the Application or additional information supplied subsequent to the Application Due Date, unless the same has been expressly sought for by the SSNNL, shall be disregarded.

D. EVALUATION PROCESS**2.17 Opening and Evaluation of Applications**

2.17.1 The SSNNL shall open the Applications at 11:30 hours IST on the Application Due Date, at the place specified in Clause 2.13.3 and in the presence of the Applicants **or his authorized representatives**, who choose to attend.

2.17.2 Applications for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.

2.17.3 The SSNNL will subsequently examine and evaluate Applications in accordance with the provisions set out in Section 3.

- 2.17.4 Applicants are advised that pre-qualification of Applicants will be entirely at the discretion of the SSNNL. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.17.5 Any information contained in the Application shall not in any way be construed as binding on the SSNNL, its agents, successors or assigns, but shall be binding against the Applicant if the Project is subsequently awarded to it on the basis of such information.
- 2.17.6 The SSNNL reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Application(s) without assigning any reasons.
- 2.17.7 If any information furnished by the Applicant is found to be incomplete, or contained in formats other than those specified herein, the SSNNL may, in its sole discretion, exclude the relevant project from computation of the Eligible Score of the Applicant.
- 2.17.8 In the event that an Applicant claims credit for an Eligible Project, and such claim is determined by the SSNNL as incorrect or erroneous, the SSNNL shall reject such claim and exclude the same from computation of the Eligible Score, and may also, while computing the aggregate Experience Score of the Applicant, make a further deduction equivalent to the claim rejected hereunder. Where any information is found to be patently false or amounting to a material misrepresentation, the SSNNL reserves the right to reject the Application and/ or Bid in accordance with the provisions of Clauses 2.7.2 and 2.7.3.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Applicants shall not be disclosed [§]to any person who is not officially concerned with the process or is not a retained professional advisor advising the SSNNL in relation to, or matters arising out of, or concerning the Bidding Process. The SSNNL will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. The SSNNL may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the SSNNL or as may be required by law or in connection with any legal process.

[§] In case duly certified audited annual financial statement containing the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.19.1 (g). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the applicant may provide the certificates required under this RFQ.

2.19 Tests of responsiveness

2.19.1 Prior to evaluation of Applications, the SSNNL shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive only if:

- (a) it is received as per format at Appendix-I.
- (b) it is received by the Application Due Date including any extension thereof pursuant to Clause 2.14.2;
- (c) it is signed, sealed, bound together in hard cover, and marked as stipulated in Clauses 2.12 and 2.13;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.5, and in the case of a Consortium, the Power of Attorney as specified in Clause 2.2.6 (c);
- (e) it contains all the information and documents (complete in all respects) as requested in this RFQ;
- (f) it contains information in formats same as those specified in this RFQ;
- (g) it contains certificates from its statutory auditors^s in the formats specified at Appendix-I of the RFQ for each Eligible Project;
- (h) it contains the original demand draft in favour of Executive Engineer, Narmada Project Hydro Power, Vadodara for payment of Rs. 8,000 (Rupees Eight thousand only) to SSNNL towards the cost of the RFQ document;
- (i) it is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.6(g);
- (j) it does not contain any condition or deviations; and
- (k) it is not non-responsive in terms hereof.

2.19.2 The SSNNL reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the SSNNL in respect of such Application.

2.20 Clarifications

2.20.1 To facilitate evaluation of Applications, the SSNNL may, at its sole discretion, seek clarifications from any Applicant regarding its Application. Such clarification(s) shall be provided within the time specified by the SSNNL for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.20.2 If an Applicant does not provide clarifications sought under Clause 2.20.1 above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the SSNNL may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding and the Applicant shall be barred from subsequently questioning such interpretation of the SSNNL.

E. QUALIFICATION AND BIDDING

2.21 Short-listing and notification

After the evaluation of Applications, the SSNNL would announce a list of short-listed pre-qualified Applicants (Bidders) who will be eligible for participation in the Bid Stage. At the same time, the SSNNL would notify the other Applicants that they have not been short-listed. The SSNNL will not entertain any query or clarification from Applicants who fail to qualify.

2.22 Submission of Bids

The Bidders will be requested to submit a Bid in the form and manner to be set out in the Bidding Documents.

Only pre-qualified Applicants shall be invited by the SSNNL to submit their Bids for the Project. The SSNNL is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are therefore advised to visit the site and familiarise themselves with the Project by the time of submission of the Application. No extension of time is likely to be considered for submission of Bids pursuant to invitation that may be issued by the SSNNL.

2.23 Proprietary data

All documents and other information supplied by the SSNNL or submitted by an Applicant to the SSNNL shall remain or become the property of the SSNNL. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The SSNNL will not return any Application or any information provided along therewith.

2.24 Correspondence with the Applicant

Save and except as provided in this RFQ, the SSNNL shall not entertain any correspondence with any Applicant in relation to the acceptance or rejection of any Application.

F. Submission of related documents

Applicant shall have to submit the relevant documents and satisfactory completion certificates from client for all the related Clauses of this section to demonstrate his qualification.

3. CRITERIA FOR EVALUATION

3.1 Evaluation parameters

- 3.1.1 Only those Applicants who meet the eligibility criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Section 3. Applications of firms/ consortia who do not meet these criteria shall be rejected.
- 3.1.2 The Applicant's competence and capability is proposed to be established by the following parameters:
- (a) Technical Capacity; and
 - (b) Financial Capacity

3.2 Technical Capacity for purposes of evaluation

- 3.2.1 Subject to the provisions of Clause 2.2, the following categories of experience would qualify as Technical Capacity and eligible experience (the "**Eligible Experience**") in relation to eligible projects as stipulated in Clauses 3.2.3 and 3.2.4 (the "**Eligible Projects**"):

Project Experience on eligible projects in development of at least one Hydro Power Project of minimum 1.5 MW capacity with successful operation of two years that qualify under clause 3.2.3

or

Experience in setting and managing of at least one hydro power project of minimum 1.5 MW capacity with successful two years performance of the project that qualify under Clause 3.2.3

For the purpose of this RFQ:

- (i) hydro power sector would be deemed to include "Development and operation/maintenance of the small hydro power projects through Public Private Partnership (PPP) on Design, Built, Finance, Operate and Transfer ("DBFOT") Basis
- 3.2.2 Eligible Experience in respect of project shall be measured only for Eligible Projects.
- 3.2.3 For a project to qualify as an Eligible Project:
- (a) It should have been undertaken as a PPP project on BOT, BOLT, BOO, BOOT or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be.

- (b) the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 51% (Fifty one per cent) equity during the entire year for which Eligible Experience is being claimed;
 - (c) the capital cost of the project should be more than Rs. 15 crore (Rs. Fifteen crores only); and
 - (d) the entity claiming experience shall, during the last 5 (five) financial years preceding the Application Due Date, have (i) paid for development of the project (excluding the cost of land), and / or (ii) Collected and appropriated the revenues from users availing of non discriminatory access to or use of fixed project assets.
- 3.2.4 Not applicable
- 3.2.5 The Applicant shall quote experience in respect of a particular Eligible Project under any one category only, even though the Applicant (either individually or along with a member of the Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.
- 3.2.6 Not applicable
- 3.2.7 Not applicable
- 3.2.8 No double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

3.3 Details of Experience

- 3.3.1 The Applicant should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Application Due Date.
- 3.3.2 The Applicants must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-I.
- 3.3.3 The Applicant should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-IV of Appendix-I.

3.4 Financial information for purposes of evaluation

- 3.4.1 The Application must be accompanied by the Audited Annual Reports of the Applicant (of each Member in case of a Consortium) for the last 5 (five) financial years, preceding the year in which the Application is made.

- 3.4.2 In case the annual accounts for the latest financial year are not audited and therefore the Applicant cannot make it available, the Applicant shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Applicant shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.
- 3.4.3 The Applicant must establish the minimum Net Worth specified in Clause 2.2.2 (B), and provide details as per format at Annex-III of Appendix-I.

3.5 Short listing of Applicants

- 3.5.1 The credentials of eligible Applicants shall be measured in terms of their Experience Score. The sum total of the Experience Scores for all Eligible Projects shall be the 'Aggregate Experience Score' of a particular Applicant. In case of a Consortium, the Aggregate Experience Score of each of its Members, who have an equity share of at least 26% in such Consortium, shall be summed up for arriving at the combined Aggregate Experience Score of the Consortium. All Applicants who fulfill the conditions of eligibility specified in Clause 2.2.2 and meet the other conditions specified in this RFQ shall be pre-qualified.
- 3.5.2 The Applicants shall then be ranked on the basis of their respective Aggregate Experience Scores and short-listed for submission of Bids. SSNNL expects to short-list upto 6 (six) pre-qualified Applicants for participation in the Bid Stage. SSNNL however, reserves the right to increase the number of short-listed pre-qualified Applicants by adding additional Applicant.
- 3.5.3 SSNNL may, in its discretion, maintain a reserve list of pre-qualified Applicants who may be invited to substitute the short-listed Applicant in the event of their withdrawal from the Bid process or upon their failure to conform to the conditions specified herein; provided that a substitute Applicant shall be given at least 30 (thirty) days to submit its Bid.

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the SSNNL may reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2 Without prejudice to the rights of the SSNNL under Clause 4.1 hereinabove, if an Applicant is found by the SSNNL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Applicant shall not be eligible to participate in any tender or RFQ issued by the SSNNL during a period of 2 (two) years from the date such Applicant is found by the SSNNL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Section 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the SSNNL who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising there-from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the SSNNL, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the SSNNL in relation to any matter concerning the Project;

- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) **“coercive practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the SSNNL with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5. PRE-APPLICATION CONFERENCE

- 5.1 A Pre-Application conference of the interested parties shall be convened at the designated date, time and place. Only those persons/representative who have downloaded the RFQ document shall be allowed to participate in the Pre-Application conference. Applicants who have downloaded the RFQ document from the SSNNL's website www.ssnl.com or www.sardarsarovardam.org should submit a Demand Draft of Rs. 8,000 (Rupees Eight thousand only) towards the cost of document, through their representative attending the conference. A maximum of three representatives of each Applicant shall be allowed to participate on production of SSNNL letter from the Applicant.
- 5.2 During the course of Pre-Application Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the SSNNL. The SSNNL shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by and construed in accordance with, the laws of India and the Courts at Vadodara / Gandhinagar shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The SSNNL, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Applicant in order to receive clarification or further information;
 - (c) pre-qualify or not to pre-qualify any Applicant and/ or to consult with any Applicant in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the SSNNL by, on behalf of, and/ or in relation to any Applicant; and/ or
 - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Applicant.
- 6.3 It shall be deemed that by submitting the Application, the Applicant agrees and releases the SSNNL, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

APPENDIX-I**Letter Comprising the Application for Pre-Qualification***(Refer Clause 2.13.2)*

Dated:

To,

Shri U.C. Jain

Chief Engineer (Elect. & Mech.)

Sardar Sarovar Narmada Nigam Ltd.

Narmada Bhawan, Block "A", 2nd Floor,

Vadodara-390001.

Sub: Application for pre-qualification for "Development and operation/ maintenance of the small hydro power projects through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer ("DBFOT") Basis on canal falls of Vadodara Branch Canal of Sardar Sarovar (Narmada) Project.

Dear Sir,

With reference to your RFQ document dated[§], I/we, having examined the RFQ document and understood its contents, hereby submit my/our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.

2. I/ We acknowledge that the SSNNL will be relying on the information provided in the Application and the documents accompanying such Application for pre-qualification of the Applicants for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as a Bidder for the development, construction, operation and maintenance of the aforesaid Project.

4. I/ We shall make available to the SSNNL any additional information it may find necessary or require to supplement or authenticate the Qualification statement.

5. I/ We acknowledge the right of the SSNNL to reject our Application without assigning any

[§] All blank spaces shall be suitably filled up by the Applicant to reflect the particulars relating to such Applicant.

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reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial Authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any Public Authority nor have had any contract terminated by any Public Authority for breach on our part.

7. I/ We declare that:

- (a) I/ We have examined and have no reservations to the RFQ document, including any Addendum issued by the SSNNL;
- (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFQ document;
- (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQ document, in respect of any tender or request for proposal issued by or any agreement entered into with the SSNNL or any other public sector enterprise or any government, Central or State; and
- (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFQ document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with Clause 2.17.6 of the RFQ document.

9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(s) the Net Worth criteria and meet(s) all the requirements as specified in the RFQ document and are/ is qualified to submit a Bid.

10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for pre-qualification.

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Page 3

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory SSNNL which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.
14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines forms part of the RFQ at Appendix-V thereof.
15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ, we shall intimate the SSNNL of the same immediately.
16. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFQ document, and duly signed, is enclosed. The power of attorney for signing of application and the power of attorney for Lead Member of consortium, as per format provided at Appendix II and III respectively of the RFQ, are also enclosed.
17. I/ We understand that the selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956, or shall incorporate as such prior to execution of the Concession (Implementation) Agreement.
18. I/ We hereby confirm that we [are in compliance of/ shall comply with] the O&M requirements specified in Clause 2.2.3.
19. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the SSNNL in connection with the selection of Applicants, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and

implementation thereof.

20. I/ We agree and undertake to abide by all the terms and conditions of the RFQ document.

21. I/ We certify that in terms of the RFQ, my/our Net-worth is Rs. (Rs. in words) and the Aggregate Experience Score is (number in words).

22. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.

In witness thereof, I/ we submit this application under and in accordance with the terms of the RFQ document.

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Applicant/ Lead Member

Note: Paragraphs in square parenthesis may be omitted, if not applicable, or modified as necessary.

Appendix I
ANNEX-I

Details of Applicant

1. (a) Name:
(b) Country of incorporation:
(c) Address of the corporate headquarters and its branch office(s), if any, in India:
(d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project:
3. Details of individual(s) who will serve as the point of contact/ communication for the SSNNL:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:
4. Particulars of the Authorised Signatory of the Applicant:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
 - (e) Fax Number:
5. In case of a Consortium:

**Appendix I
ANNEX-I**

- (a) The information above (1-4) should be provided for all the Members of the Consortium.
- (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.6(g) should be attached to the Application.
- (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role* {Refer Clause 2.2.6(d)} [§]	Percentage of equity in the Consortium{Refer Clauses 2.2.6(a), (c) & (g)}
1.			
2.			

* The role of each Member, as may be determined by the Applicant, should be indicated in accordance with instruction 4 at Annex-IV.

- (d) The following information shall also be provided for each Member of the Consortium:

Name of Applicant/ member of Consortium:

No.	Criteria	Yes	No
1.	Has the Applicant/ constituent of the Consortium been barred by the [Central/ State] Government, or any entity controlled by it, from participating in any project (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Application?		
3.	Has the Applicant/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

[§] All provisions contained in curly parenthesis shall be suitable modified by the applicant to reflect the particulars relating to such applicant.

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ANNEX-I

- 6 A statement by the Applicant and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material nonperformance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

Appendix I
ANNEX-II**ANNEX-II**
Technical Capacity of the Applicant[@]
(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFQ)

Applicant type [#]	Member Code [*]	Project Code ^{**}	Category [§]	Experience [*] (Equivalent Rs. crore) ^{§§}			Experience Score ^f
				Payments made/received for Eligible Projects in Categories 3 and 4	Payments made for development of Eligible Projects in Categories 1 and 2	Revenues appropriated from Eligible Projects in Categories 1 and 2	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Single entity Applicant		a					
		b					
		c					
		d					
Consortium Member 1		1a					
		1b					
		1c					
		1d					
Consortium Member 2		2a					
		2b					
		2c					
		2d					
Aggregate Experience Score =							

Note: Applicants (each member of the consortium) should provide information on their current commitments in respect of all contracts that have been awarded or for which a letter of Intent or acceptance has been received or for contracts approaching completion but for which a completion certificate is yet to be issued.

[@] Provide details of only those projects that have been undertaken by the Applicant under its own name and/ or by an Associate specified in Clause 2.2.9 and/ or by a project company eligible under Clause 3.2.3(b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.2.3(c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.2.4. In case the Application Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.

[#] An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Applicant may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Applicant with such Associate, in terms of Clause 2.2.9, shall be provided.

^{*} Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.

^{**} Refer Annex-IV of this Appendix-I. Add more rows if necessary.

§ Refer Clause 3.2.1.

* In the case of Eligible Projects in Categories 1 and 2, the figures in columns 6 and 7 may be added for computing the Experience Score of the respective projects. In the case of Categories 1 and 2, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Experience Score of an Eligible Project.

§ For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees [50 (fifty)] to a S Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Application Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

£ Divide the amount in the Experience column by one crore and then multiply the result thereof by the applicable factor set out in Table 3.2.6 to arrive at the Experience Score for each Eligible Project. In the case of an Eligible Project situated in an OECD country, the Experience Score so arrived at shall be further multiplied by 0.5, in accordance with the provisions of Clause 3.2.7, and the product thereof shall be the Experience Score for such Eligible Projects.

**Appendix I
ANNEX-III****ANNEX-III****Financial Capacity of the Applicant***(Refer to Clauses 2.2.2(B), 2.2.4 (ii) and 3.4 of the RFQ)***(In Rs. Crore^{\$\$})**

Applicant type ^{\$}	Member Code [£]	Net Cash Accruals					Net Worth [€]
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 1
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Single entity Applicant							
Consortium Member 1							
Consortium Member 2							
TOTAL							

Name & address of Applicant's Bankers:

^{\$\$} For conversion of other currencies into rupees, see note below Annex-II of Appendix-I.

^{\$} An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Applicant may be ignored.

[£] For Member Code, see instruction 4 at Annex-IV of this Appendix-I.

[€] The applicant should provide details of its own Financial Capacity or of an associate specified in Clause 2.2.9.

Appendix I
ANNEX-III(Page-2)**Instructions:**

1. The Applicant/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Application Due Date. The financial statements shall:
 - (a) Reflect the financial situation of the Applicant or Consortium Members and its/ their Associates where the Applicant is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) Correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
- 2 Net Cash Accruals shall mean Profit After Tax + Depreciation.
- 3 Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
- 4 Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Application Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.
- 5 In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.6 (g) of the RFQ document.
- 6 The applicant shall also provide the name and address of the Bankers to the Applicant.
- 7 The Applicant shall provide an Auditor's Certificate specifying the net worth of the Applicant and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.4 (ii) of the RFQ document.

Appendix I
ANNEX-IV**ANNEX-IV****Details of Eligible Projects***(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFQ)***Project Code:****Member Code:**

Item	Refer Instruction	Particulars of the Project
(1)	(2)	(3)
Title & nature of the project		
Category	5	
Year-wise (a) payments received/ made for construction, (b) payments made for development of PPP projects and/ or (c) revenues appropriated	6	
Entity for which the project was constructed/ developed	7	
Location		
Project cost	8	
Date of commencement of project/ contract		
Date of completion/ commissioning	9	
Equity shareholding (with period during which equity was held)	10	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)	15	

Appendix I
ANNEX-IV(Page-2)**Instructions:**

1. Applicants are expected to provide information in respect of each Eligible Projects in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.2.3 and 3.2.4 of the RFQ, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Application. Applicants should also refer to the Instructions below.
2. For a single entity Applicant, the Project Codes would be a, b, c, d etc. In case the Applicant is a Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.
3. A separate sheet should be filled for each Eligible Project.
4. Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz. LM means Lead Member, FM means Financial Member, In case the Eligible Project relates to an Associate of the Applicant or its Member, write "Associate" along with Member Code.
5. Refer to Clause 3.2.1 of the RFQ for category number.
6. The total payments received/ made and/or revenues appropriated for each Eligible Project are to be stated in Annex-II of this Appendix-I. The figures to be provided here should indicate the break-up for the past 5 (five) financial years. Year 1 refers to the financial year immediately preceding the Application Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on (Refer Clause 2.2.12)
7. In case of eligible projects, particulars such as name, address and contact details of owner/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided.

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ANNEX-IV(Page-3)

8. Provide the estimated/ executed capital cost of Eligible Project. Refer to Clauses 3.2.3 and 3.2.4
9. Date of commissioning of the eligible projects, upon completion, should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.
10. The equity shareholding of the Applicant, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.2.3).
11. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.
12. Certificate from the Applicant's statutory auditor[§] or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Applicant/ Member/Associate may provide the requisite certification.

[§] In case duly certified audited annual Financial Statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

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ANNEX-IV(Page-4)

13. If the Applicant is claiming experience [£], it should provide a certificate from its statutory auditor in the format below:

Certificate from the Statutory Auditor regarding PPP projects[Ⓞ]

Based on its books of accounts and other published information authenticated by it, this is to certify that (name of the Applicant/Member/Associate) is/ was an equity shareholder in (title of the project company) and holds/ held Rs. cr. (Rupees crore) of equity (which constitutes%[€] of the total paid up and subscribed equity capital) of the project company from (date) to (date)[¥]. The project was/is likely to be commissioned on (date of commissioning of the project).

We further certify that the total estimated capital cost of the project is Rs. cr. (Rupeescrore), of which Rs. cr. (Rupees crore) of capital expenditure was incurred during the past five financial years as per year-wise details noted below:

.....

.....

We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.2.1 and 3.2.3 (d) of the RFQ during the past five financial years were Rs. cr. as per year-wise details noted below:

.....

.....

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the authorised signatory)

Date:

[£] Refer Clause 3.2.1 of the RFQ

[Ⓞ] Provide Certificate as per this format only. Attached Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

[€] Refer instruction no. 10 in this Annex-IV.

[¥] In case the project is own by the applicant company, these language may be suitably modified to read: "It is Certified that(name of applicant) constructed and/or owned the (Name of project) from (date) to (date)."

Appendix I
ANNEX-IV(Page-5)

14. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.2.9, the Applicant should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associate[§]

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid up voting equity of (name of the Associate) is held, directly or indirectly[£], by (name of Applicant/ Consortium Member). By virtue of the aforesaid share - holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.9 of the RFQ.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the share - holding of the Applicant/ Consortium Member in the Associate}

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of Date: the authorised signatory).

[§] In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of "control" is not broken.

15. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of Experience Score^θ.

^θ Refer Clause 3.2.6 of the RFQ.

ANNEX-V

Statement of Legal Capacity

(To be forwarded on the letterhead of the Applicant/ Lead Member of Consortium)

Ref. Date:

To,

Shri U.C. Jain

Chief Engineer (Elect. & Mech.)

Sardar Sarovar Narmada Nigam Ltd.

Narmada Bhawan, Block "A", 2nd Floor,

Vadodara-390001.

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFQ document.

We have agreed that (insert member's name) will act as the Lead Member of our consortium.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the RFQ. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

* Please strike out whichever is not applicable.

Appendix-II

Appendix -II

Power of Attorney for signing of Application

(Refer Clause 2.2.5)

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the Development, operation and maintenance of the small hydro power projects on the canal falls of Vadodara Branch Canal through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer ("DBFOT") basis (the "**Project**"), proposed by the SSNNL including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Applications and other conferences and providing information/ responses to the SSNNL, representing us in all matters before the SSNNL, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the SSNNL in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the SSNNL.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For
(Signature, name, designation and address)

Witnesses:

- 1. _____
(Notarised)
- 2. _____

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

Appendix-III**APPENDIX III****Power of Attorney for Lead Member of Consortium***(Refer Clause 2.2.5)*

Whereas the SSNNL (“the SSNNL”) has invited applications from interested parties for the “Development, operation and maintenance of the small hydro power projects on the canal falls on Vadodara Branch Canal through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer (“DBFOT”) basis (the “**Project**”),.

Whereas,,, and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Qualification document (RFQ), Request for Proposal (RFP) and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and SSNNL to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s. having our registered office at, M/s. having our registered office at, and having our registered office at, (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/S having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance

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of the bid of the Consortium and generally to represent the Consortium in all its dealings with the SSNNL, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the SSNNL.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts,

deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 2.....

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

For

(Signature)

(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

(To be executed by all the Members of the Consortium)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.*
- *For Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

Appendix-IV**APPENDIX IV
Joint Bidding Agreement**

(Refer Clause 2.13.2)

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 20...

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (herein after referred to as the **"First Part"** which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the **"Second Part"** which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST, SECOND, PART are collectively referred to as the **"Parties"** and each is individually referred to as a **"Party"**

Annexure-IV
Page-2**WHEREAS,**

- (A) The Sardar Sarovar Narmada Nigam Ltd, a wholly owned Government of Gujarat undertaking (the “**SSNNL**”), represented by its Managing Director/Chief Engineer and having its offices at Block No. 12, 1st Floor, New Sachivalaya, Gandhinagar-382010/ Narmada Bhawan, Block “A”, 2nd Floor, Vadodara-390001 (hereinafter referred to as the “**SSNNL**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications (the “**Applications**”) by its Request for Qualification No. dated(the “**RFQ**”) for pre-qualification and short-listing of bidders for “Development, operation and maintenance of the small hydro power projects on the canal falls on Vadodara Branch Canal through Public Private Partnership (PPP) On Design, Build, Finance, Operate and Transfer (“**DBFOT**”) basis (the “**Project**”),..
- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFQ document and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the RFQ document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:**1. Definitions and Interpretations**

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFQ.

2. Consortium

- 2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3 Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act, 1956 for entering into a Concession (Implementation) Agreement with the SSNNL and for performing all its obligations as the Concessionaire in terms of the Concession (Implementation) Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession (Implementation) Agreement when all the obligations of the SPV shall become effective;
- (b) Party of the Second Part shall be {the Technical Member of the Consortium}
- (c) Party of the Third Part shall be {the Financial Member of the Consortium; and}
- (d) Party of the Fourth Part shall be {the Operation and Maintenance Member/ Other Member of the Consortium.}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFQ, RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession (Implementation) Agreement.

6. Shareholding in the SPV

- 6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

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- 6.2 Lead member undertake that a minimum of 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times, till concession period of the project, be held by the Parties and whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Applicants for the Project in terms of the RFQ.
- 6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- 6.4 The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times until the second anniversary of the commercial operation date of the Project.
- 6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession (Implementation) Agreement.
- 6.6 The Parties undertake that the O&M Member shall subscribe and hold at least 10% (ten per cent) of the subscribed and paid up equity shares in the SPV in terms of the Concession (Implementation) Agreement.)

7 Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and SSNNL to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and SSNNL to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
- (i) require any consent or approval not already obtained;

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- (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Closure of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant is not pre-qualified or upon return of the Bid Security by the SSNNL to the Bidder, as the case may be.

9. Miscellaneous

- 9.1 This Joint Bidding Agreement shall be governed by laws of {India}.
- 9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the

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Parties without the prior written consent of the SSNNL

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

<p>SIGNED, SEALED AND DELIVERED</p> <p>For and on behalf of</p> <p>LEAD MEMBER by:</p> <p style="text-align: center;">(Signature)</p> <p style="text-align: center;">(Name)</p> <p style="text-align: center;">(Designation)</p> <p style="text-align: center;">(Address)</p>	<p>SIGNED, SEALED AND DELIVERED</p> <p>SECOND PART</p> <p style="text-align: center;">(Signature)</p> <p style="text-align: center;">(Name)</p> <p style="text-align: center;">(Designation)</p> <p style="text-align: center;">(Address)</p>
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Notes:

- 1 The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- 2 Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and SSNNL to execute this Agreement on behalf of the Consortium Member.
- 3 For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.