



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.



**STATE INDUSTRIES PROMOTION CORPORATION OF TAMILNADU LIMITED,  
CHENNAI.**

**RFP DOCUMENT**

**FOR**

**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE  
MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID  
ANNUITY MODEL (HAM), PPP BASIS.**

**SINGLE STAGE TWO COVER BIDDING**

**The MANAGING DIRECTOR,**

**State Industries Promotion Corporation of TamilNadu Limited (SIPCOT),**

**No.19-A, Rukmani Lakshmi pathy Road, Egmore,**

**Chennai- 600 008. Tamil Nadu, India**

**Telephone: 91- 44 - 45261777 /45261789**

**Website: <https://tntenders.gov.in>.**

**E- Mail: [civil@sipcot.in](mailto:civil@sipcot.in).**



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.



**STATE INDUSTRIES PROMOTION CORPORATION OF TAMILNADU LIMITED,  
CHENNAI.**

**DEVELOPMENT OF 60 MLD SEA WATER DESALINATION PLANT  
AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT –  
TAMILNADU ON HYBRID ANNUITY MODEL (HAM), PPP BASIS**

**VOLUME – 1**

**REQUEST FOR PROPOSAL (RFP)**



## Contents

DISCLAIMER .....	6
1. INTRODUCTION .....	8
1.1. Background .....	8
1.2 Brief description of Bidding Process .....	11
2 INSTRUCTIONS TO BIDDERS .....	14
2.1 Site Data.....	14
a) Airport and Port: .....	14
b) Railway: .....	14
c) Roads: .....	14
d) Detail of approach:.....	14
e) General Facilities: .....	14
f) Housing:.....	14
g) Marketing facilities: .....	14
h) Water Supply: .....	14
i) Medical Aids:.....	15
j) Electric Power:.....	15
k) Post Telegraph and Telephones: .....	15
l) Supply of Diesel, Petrol and Oil: .....	15
m) Climate and Working Season.....	15
2.2 Scope of Bid.....	16
2.3 Eligibility of Bidders.....	16
2.4 Technical Capacity for a Bidder as Single entity or Consortium Members .....	19
2.5 General Experience .....	20
2.6 Financial Capacity for the Bidder .....	21
2.6 Change in Composition of the Consortium .....	29
2.7 Number of Bids and Cost thereof .....	30



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

2.8	Site Visit and Verification of Information .....	30
2.9	Acknowledgement by Bidder .....	30
2.10	Right to Accept any Bid and to Reject any or all Bids .....	31
2.11	Contents of the RFP .....	33
2.12	Clarifications.....	33
2.13	Amendment of RFP .....	34
2.14	Language.....	35
2.15	Format and signing of Bid .....	35
2.16	Contents of Bids.....	37
2.17	Bid Due Date.....	38
2.18	Opening and Evaluation of Bids .....	39
2.19	Confidentiality .....	40
2.20	Tests of responsiveness.....	40
2.21	Clarifications.....	41
2.22	Selection.....	41
2.23	Proprietary data.....	41
2.24	Correspondence with the Bidder.....	41
3	<b>CRITERIA FOR EVALUATION .....</b>	<b>43</b>
3.1	Evaluation Parameters .....	43
3.2	Technical Capacity for Purposes of Evaluation.....	43
3.3	Details of Experience.....	43
3.4	Financial information for purposes of evaluation.....	43
3.5	Short-listing of Bidders.....	44
4	<b>FRAUD AND CORRUPT PRACTICES .....</b>	<b>45</b>
5	<b>PRE-BID CONFERENCE.....</b>	<b>47</b>
	<b>APPENDIX I .....</b>	<b>49</b>
	<b>ANNEX-I.....</b>	<b>49</b>
	<b>ANNEX-II A .....</b>	<b>51</b>



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

ANNEX-II/B .....	52
ANNEX-II/C .....	53
ANNEX-II/D .....	54
ANNEX-II/E.....	55
ANNEX-III (Part-A).....	56
ANNEX-III (Part-B).....	58
ANNEX -III (Part-C) - .....	58
ANNEX-IV .....	59
ANNEX-V .....	61
ANNEX-VI.....	63
ANNEX-VII .....	64
APPENDIX II.....	65
APPENDIX III .....	67
APPENDIX IV .....	70
APPENDIX V.....	76
APPENDIX VI .....	77
APPENDIX VII.....	81



## DISCLAIMER

The information contained in this “Request for Proposal” document (hereinafter referred to as the “RFP”) or any other information subsequently provided to Bidder(s) (defined herein) interested in applying for the award of the Project pursuant to this RFP, whether verbally or in documentary or any other form, by or on behalf of the State Industries Promotion Corporation of Tamil Nadu (hereinafter referred to as the “Authority”) or any of its employees, consultants or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidder(s) or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Bid for qualification pursuant to this RFP (herein after referred to as the “**Bid(s)**”). This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Development of 60 MLD Sea Water Desalination Plant at Village Mullakadu in Tuticorin District, Tamil Nadu, India on Hybrid Annuity Model, PPP basis (hereinafter referred to as the “**Project**”).

Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors or consultants to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP may not be complete, accurate, adequate or correct. Each Bidder 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 RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(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 Authority, its employees or advisors or consultants accept no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees, or advisors or consultants make no representation or warranty and shall have no liability to any person, including any 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 RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the



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RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in the Bidding Process.

The Authority, its employees or advisors or consultants also accept no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

The Authority 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 RFP.

Each Bidder's procurement of this RFP constitutes its agreement to, and acceptance of, the terms set forth in this Disclaimer. By acceptance of this RFP, the recipient agrees that this RFP and any information herewith supersedes document(s) or earlier information, if any provided or circulated, in relation to the subject matter hereto.

The issue of this RFP does not imply that the Authority is bound to appoint the Selected Bidder(defined herein) or Concessionaire (defined herein), as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bids without assigning any reasons whatsoever.

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

Each Bidder's procurement of this RFP constitutes its agreement to, and acceptance of, the terms set forth in this Disclaimer.

**The MANAGING DIRECTOR,**

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## 1. INTRODUCTION

### 1.1. Background

- a) State Industries Promotion Corporation of Tamil Nadu Ltd (SIPCOT) was established in the year 1971 to develop industrial growth in Tamil Nadu (hereinafter referred to as the “Authority/SIPCOT”) and is the prime body responsible for the formation of industrial Parks by providing basic and comprehensive infrastructure facilities for the industries to set up their units.
- b) SIPCOT has so far developed 30 Industrial Parks spread over 38,500 acres and six sector Specific Special Economic Zones (SEZs) across Tamil Nadu. SIPCOT also acts as a Nodal Agency of Government of Tamil Nadu in the sanction / disbursement of Structured Package of Assistance to large industrial units.
- c) SIPCOT Industrial Park was established at Thoothukudi in 1984 with an extent of 1083.59 acres (Phase – I) which is abutting Madurai bypass road of NH 45B. So far 97 units have been allotted to various industries with an extent of 856.28 acres on 99 years lease basis. Chemical Industries, Seafood processing units and other engineering units are functioning in this Park. The major units of this Park are M/s. V.V. Titanium Pigments, M/s. Amulya Sea Foods (P) Ltd and M/s. KOG – KTV Oil Mills etc.
- d) The Authority also has upcoming industrial Park and semiconductor manufacturing industries with various industries that produce Lithium – Ion Batteries.
- e) The Authority is engaged in the distribution of water in the SIPCOT industries and as part of this endeavor, the Authority has decided to undertake development, operation and maintenance of a 60 MLD Sea Water Desalination Plant in Village Mullakadu, Tuticorin District, Tamil Nadu through Hybrid Annuity Model (HAM) on PPP basis (hereinafter referred to as the “**Project**”).
- f) The Authority has decided to carry out the bidding process for selection of a private entity as the Bidder to whom the Project may be awarded.





g) The particulars of project are follows :

<b>PARTICULARS OF THE PROJECT</b>			
<b>Name of the project</b>	<b>Plant Capacity</b>	<b>Project Months including O&amp;M</b>	<b>Total Project Cost (INR)</b>
<b>Development of 60 MLD Desalination Plant At Village Mullakadu In Tuticorin District, Tamil Nadu, India On Hybrid Annuity Model (HAM), PPP Basis.</b>	<b>60 MLD</b>	<b>30 Months (24 Months construction + 6 months for Trial run) and 15 Years for O&amp;M</b>	<b>Rs. 904.07 Crores (Rupees Nine Hundred and Four Crores Seven Lakhs Only )</b>

h) The Authority intends to select suitable Bidders (the “Bidders”) for awarding the Project through a single stage two cover Bidding Process (defined herein) in accordance with Tamil Nadu Transparency in Tenders (Public Private Partnership Procurement) Rules, 2012 and in accordance with the procedure set out herein.

1.1.1 The open and competitive tendering shall be conducted as a Single Stage Two Cover Bidding Process which shall include.-

- a) The first cover (“Technical Proposal”) shall contain qualification (the “**Qualification**”) of interested parties/consortia
- b) The second cover shall contain the financial proposals/offers submitted by the Bidders for the Project (“**Financial Bid(s)**”). The Technical Proposal and Financial Bid shall collectively be referred to as the “**Bid(s)**”
- c) The Financial Bid(s) of only those Bidders whose Technical Proposal is selected after evaluation shall be opened.
- d) The Project will be based on Hybrid Annuity Model (HAM). An amount of 40% of the Bid Project Cost (defined herein) will be paid by the Authority as part of the capital expenditure support during project construction period in installment linked with the Project milestone as specified in Bidding Documents (defined herein) provided to the Concessionaire (defined herein). Except for the aforementioned sum, the Authority shall not be liable to pay any sum of money, save as expressly provided in the Bidding Documents. The Bidder is required to



quote Six components viz.

- a) Bid Project Cost,
- b) Annual Fixed O&M Cost (year 1 operations with escalation) ,
- c) Variable O&M Cost (year 1 operations with escalation),
- d) Asset Replacement Cost at Present rate ( for 15 Years O&M Period ),
- e) Maximum Guaranteed energy consumption in (kWh / KL),
- f) Maximum Demand requirement in (KVA),

The first three components viz. Bid Project cost, Fixed and Variable O&M cost shall be escalated as defined in Concession Agreement forming part of the Bidding Documents. In respect of the fourth component viz. asset replacement cost at present rate , the adjusted asset replacement cost shall be calculated as mentioned in Annex-VII and paid to the bidder based on actual replacements .In respect of fifth and sixth components, The Maximum energy consumption charge and Maximum Demand Charge shall be calculated at the present electricity tariff as defined in the Concession Agreement without escalation.

- 1.1.2 The lowest outflows to the Authority on account of the above Six components will be the sole determinant for awarding of Project. The Bidder to whom the Project will be awarded shall be referred to as the "Selected Bidder". The Selected Bidder, who is either a company incorporated under the Companies Act, 2013 / 1956 or a partnership firm undertakes to incorporate a SPV under the Companies Act, 2013 prior to execution of the concession agreement (hereinafter the SPV shall be referred to as the "Concessionaire") which 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 Agreement") to be entered into between the Concessionaire and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto. The period of concession shall be 17.5 years including 30 months for construction (comprising of 24 months for construction + 6 months for Trial Run) and O&M period of 15 Years commencing after achieving Commercial Operation Date (COD) and ending on transfer date (hereinafter referred to as the "Concession Period").



- 1.1.3 The Scope of Work (subject to other Bidding Documents) will broadly include;
- a) Design, Finance, Build and Commissioning of:
    - i. Intake and Outfall System including onshore pump house.
    - ii. 60 MLD sea water Desalination Plant including civil, mechanical, electrical and instrumentation works; and
    - iii. All chemical dosing arrangement etc.
    - iv. 10 ML Storage reservoir with Product Water including conveyance main O&M
    - v. The conveyance of product water to the industries including industries in SIPCOT Industrial Park.
  - b) Operation and Maintenance of the sea water Desalination Plant including Intake & outfall , Pumphouse and conveyance main O&M for 15 (fifteen) years post COD including asset replacements.
  - c) Conduct of Performance Guarantee Test and fulfilment of all other statutory obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement
  - d) Transfer of the Project and Project Assets upon expiry or early termination of this Agreement in accordance with the provisions of this Agreement.
- 1.1.4 The indicative total project cost is Rs. 904.07 Crores (Rupees Nine Hundred and Four Crores Seven Lakhs Only ) (hereinafter referred to as the “Total Project Cost (TPC)”). The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5 The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms on or before the relevant date specified in the Notice Inviting Tender (NIT).

## **1.2 Brief description of Bidding Process**

- 1.2.1 The Authority has adopted a single stage bidding process comprising of 2 (Two) covers namely Technical Proposals and Financial Bids (hereinafter referred to as the “Bidding Process”) for selection of the Bidder for award of the Project. The first cover shall contain Qualification of interested parties/ consortia who make a Bid in accordance with the provisions of this RFP (The interested parties/consortia shall hereinafter be referred to as the “Bidder(s)”, which expression shall, unless repugnant to the context, include the Members of the Consortium) and the second cover shall comprise of the financial proposals/offers submitted by the Bidders for the Project. Both Technical Proposals and



Financial Bids shall be submitted simultaneously through online mode only. The Financial Bids of only those Bidders whose Technical Proposal is selected shall be opened. The RFP Document can be downloaded free of cost from the e-procurement portal at <https://tntenders.gov.in>.

- 1.2.2 In the Technical Proposal, Bidders would be required to furnish all the details relating to the qualification information and technical information as specified in this RFP. The RFP, any addendum, Concession Agreement, and other documents that shall be provided by the Authority for this Project shall be collectively referred to as the "**Bidding Documents**". The Bid shall be valid for a period of not less than 180 (One Hundred and Eighty ) days inclusive of any extension thereof from the date specified in the Notice Inviting Tender for submission of the bid (the "Bid Due Date") and this period shall be referred to as the "Bid Validity Period" as further detailed in RFP.
- 1.2.3 The Financial Bids shall contain the financial proposals/offer and shall comprise of the Six components viz.
- a) Bid Project Cost
  - b) Annual Fixed O&M Cost (year 1 operations with escalation)
  - c) Variable O&M Cost (year 1 operations with escalation)
  - d) Asset Replacement Cost at Present rate ( for 15 Years O&M Period )
  - e) e) Maximum Guaranteed energy consumption in (kWh / KL).
  - f) Maximum Demand requirement in (KVA)
- 1.2.4 The first three components viz. Bid Project cost, Fixed and Variable O&M cost shall be escalated as defined in Concession Agreement forming part of the Bidding Documents. In respect of the fourth component viz. asset replacement cost at present rate , the adjusted asset replacement cost shall be calculated as mentioned in Annex- VII and paid to the bidder based on actual replacements .In respect of fifth and sixth components, The Maximum energy consumption charge and Maximum Demand Charge shall be calculated at the present electricity tariff as defined in the Concession Agreement without escalation. The Financial Bids shall be submitted in accordance with this RFP. It is reiterated that only the Financial Bids of those Bidders whose Technical Proposal has been selected shall be evaluated. The concession period is pre-determined and is indicated in the draft Concession Agreement forming part of the Bidding Documents. The Bidder whose Bid is adjudged as responsive in terms of the Bidding Documents and who quotes the lowest outflows to the Authority on account of the above Six components throughout the concession period shall be declared as the Highest Ranked Bidder as described in the Bidding Documents. The term "**Highest Ranked Bidder**" shall mean the Bidder who is offering to the Authority,



the lowest outflows over the Concession period on account of the Six bid components The Highest Ranked Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may be invited to match the Bid submitted by the Highest Ranked Bidder in case such Highest Ranked Bidder withdraws or is not selected for any reason .

In the event that, two or more Bidders have quoted the same Financial Bid (the "Tie Bids"), the Authority shall invite the tied bidders to submit their best and final offer. The Bidder offering the most advantageous Financial Bid at this stage shall be adjudged the Highest Ranked Bidder.

1.2.5 In the event that none of the other Bidders match the Bid of the Highest Ranked Bidder, the Authority may, in its discretion, either invite fresh Bids from the remaining Bidders or annul the Bidding Process. . Any queries or request for additional information concerning this RFP shall be submitted by e-mail to "[civil@sipcot.in.](mailto:civil@sipcot.in)"

1.2.6 Bidders may seek the clarifications on the RFP document through the above provided e-mail no later than fourteen (14) days prior to the deadline for submission of bids. Responses to any request for clarification, if any, will be published on the Employer's web page and on the e-procurement portal as indicated below. Web page: <https://tntenders.gov.in>

1.2.7 A Pre-Bid meeting shall take place at the following date, time and place:

Date : As specified in NIT/RFP

Time : As specified in NIT/RFP

Place : As specified in NIT/RFP

A site visit will be organized by the Authority, if required

1.2.8 In terms of the RFP, the Bidder will be required to deposit, along with its Bid, a Bid security value as specified in NIT (the "Bid Security"), refundable no later than 60 (sixty) days after the expiration of the Bid Validity Period, including any extension thereof, or 60 (sixty) days after the issue of the Letter of Award, whichever is earlier, 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.

1.3 The Bidders shall submit the Bid Security online through the e-procurement portal accessible at <https://tntenders.gov.in/>.



## 2 INSTRUCTIONS TO BIDDERS

### 2.1 Site Data

#### a) **Airport and Port:**

Chennai, Coimbatore, Madurai, and Tiruchirappalli are four International Airports, while Salem, Tuticorin (nearest airport) are some of the domestic airports in Tamil Nadu. The nearest port is Tuticorin Port – a major port serving the hinterland.

#### b) **Railway:**

The State has well developed railway network. Tuticorin railway station connects with major cities of state and the country.

#### c) **Roads:**

The state has huge network of roads including express highways, national and state highways. All the districts and Tuticorin headquarters including cities are connected with road network.

#### d) **Detail of approach:**

Approach to the site of works: The Bidder has to make its own arrangements for approaching the site from the nearest road link.

#### e) **General Facilities:**

Hotel/ Guest House Facilities are available in good number at different locations in the state.

#### f) **Housing:**

The Authority has not envisaged any provision of housing colony for Concessionaire. The Concessionaire, therefore, has to make his own arrangement for housing his staff and laborers.

#### g) **Marketing facilities:**

Marketing facilities for day-to-day needs are generally available.

#### h) **Water Supply:**

The Concessionaire shall have to make his own arrangement for water supply for work as



well as for colonies or campus which may be established by them.

**i) Medical Aids:**

Government and private hospital facilities are available at all districts. However, the Concessionaire will have to make own arrangement for medical services for their labour and staff.

**j) Electric Power:**

The Bidder shall have to make their own arrangement for power supply during the entire Concession Period which includes construction and operation & maintenance period. Authority seeks to encourage use of non- conventional power for the purpose of Project. To achieve this objective the Bidders are requested to examine all policies announced by Government (State/Central) for promotion of generation, distribution and consumption of non- conventional power in the state.

The Bidder is advised to go through these carefully and bid accordingly.

**k) Post Telegraph and Telephones:**

Post and Telephone services are available for public use at all taluka / village level.

**l) Supply of Diesel, Petrol and Oil:**

Petrol and diesel pumps are installed by private agencies in all districts. The Concessionaire shall have to make his own arrangement for procuring the fuel or lubricants required by it.

**m) Climate and Working Season**

**i. Temperature & Rainfall:**

Tuticorin district has a semi-arid climate. Summer extends from March to June when the climate is very humid. Tuticorin city registers a maximum temperature of 39 °C (102 °F) and a minimum temperature of 32 °C (90 °F). The city receives adequate rainfall only during the months of October and November. Due to proximity to the sea, the climate remains fairly humid throughout the year.

**ii. Working Season:**

Tuticorin city receives around 444 mm (17.5 in) rainfall from the Northeast monsoon, 117.7 mm (4.63 in) during summer, 74.6 mm (2.9 inches) during winter and 63.1 mm (2.5 inches) during the South-west monsoon season.

The above information of climate of the project area is given only as helping information in



good faith and the Authority does not carry any liability for providing this information. The Bidders may refer the past reports and forecast issued by the Indian Meteorological Department or other weather agencies for their use.

## 2.2 Scope of Bid

The Authority wishes to receive Bids in order to select experienced and suitable Bidders as the Concessionaire for awarding the Project in accordance with the procedure set out herein. The Authority shall constitute the committee as per the Tamil Nadu Transparency in Tender (Public Private Procurement Partnership) Rules, 2012 for approving the evaluation and other relevant document in all the stages for the Project, as nominated by the Authority.

Upon evaluation of the Technical Proposals, the Financial Bids of the shortlisted Bidders shall be evaluated for the Project and the Financial Bid comprising of the quote providing the lowest outflows to the Authority over the Concession period on account of the Six bid components shall be awarded the Project.

## 2.3 Eligibility of Bidders

For determining the eligibility of Bidders for their qualification hereunder, the following shall apply:

- a) The Bidder may be a single business entity or a group of entities (the “**Consortium**” **not exceeding three** members) coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein shall apply to both a single business entity and a Consortium as applicable. Whereas if the Selected Bidder is a single business entity or single Bidder, the single Bidder shall directly hold 100% of subscribed and paid-up equity share capital of the Concessionaire until Commercial Operation Date (COD), and thereafter shall directly hold at least 51% (fifty one percent) of subscribed and paid-up equity share capital of the Concessionaire, until the fifth anniversary of COD. In case of Consortium, the Lead Member shall together with its other Members of the Consortium, directly hold at least 51% (fifty one percent) of subscribed and paid up equity share capital of the Concessionaire, until 5<sup>th</sup> anniversary of COD. Each Consortium Member whose Technical Capacity and Financial Capacity was evaluated for the purposes of qualification and award of Project in response to the Bidding Documents shall hold at least 26% (twenty six per cent) of the issued and paid up equity share capital until the 5<sup>th</sup> (fifth) anniversary of the COD of the Project





and the Consortium Member whose O&M Experience was evaluated for the purposes of qualification and award of the Project in response to the Bidding Documents shall hold at least 10% (ten per cent) of the issued and paid up equity share capital until the 5th (fifth) anniversary of the COD of the Project.;

- b) A Bidder may be a 'Company' incorporated under Companies Act 1956/ 2013 as amended / modified / replaced from time to time or a firm registered under Indian Partnership Act, 1932 or a Limited Liability Partnership (LLP) registered under the Limited Liability Partnership (LLP) Act, 2008 or an AIF or any combination thereof with a formal intent to enter into a legally binding agreement to form a Consortium. A Consortium shall be eligible for bidding subject to the conditions set out in this RFP.
- c) A Bidder shall not have a conflict of interest (the "**Conflict of Interest**") that affects the Bidding Process in accordance with the provisions of Request for Proposal (RFP). Any Bidder found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- i. the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, 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 a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is less than 5% (five 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 sub-section (72) of Section 2 of the Companies Act 2013. For the purposes of this Clause 2.3, 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 a constituent of such Bidder is also a constituent of another Bidder.

ii. such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or such Bidder has the same legal representative for purposes of this Bid as any other Bidder;

iii. or such Bidder, or any Associate thereof has a relationship with another Bidder, 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 other's information about, or to influence the Bid of either or each other;

or such Bidder, its member or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

- d) A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, 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 Bidder, 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 RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the COD of the Project.
- e) A Bidder shall be liable for disqualification if there are records of poor performance during the last five years, as on the date of Bid, such as abandoning the work, rescission of the contract for reasons which are attributable to non-performance of the contractor, inordinate delays in completion, consistent history of litigation



resulting in awards against the contractor or any of the constituents, or financial failure due to bankruptcy, the rescission of a contract of JV venture on account of reasons other than non-performance, such as the most experienced partner (major partner) of JV pulling out, etc. Explanation: In case a Bidder is a Consortium, then the term Bidder as used in this clause, shall include each Member of such Consortium.

## 2.4 Technical Capacity for a Bidder as Single entity or Consortium Members

To be eligible for qualification, a Bidder shall fulfil the following conditions of eligibility:

S.No	Description
(i)	<p>Any of the consortium members of the Bidder or the Bidder (Single Entity) shall have experience as 'Developer' or shall have experience of 'Design, Supply, Construction and Commissioning of.</p> <p><b>a) One sea water desalination plant of minimum 20 MLD capacity;</b> <b>or</b> <b>b) Maximum of two sea water desalination plants of cumulative 30 MLD capacity</b></p> <p>in last 10 financial years i.e. 2013-2014 to 2022-2023 and up to one month prior to last date of bid submission in India/ abroad</p>
ii)	<p>Any of the consortium members of the Bidder or the Bidder (Single Entity) shall have experience of Operation and Maintenance for a period of at least 2 years of:</p> <p><b>a) One sea water desalination plant of minimum 20 MLD capacity;</b> <b>or</b> <b>b) maximum of two sea water desalination plants of cumulative 30 MLD capacity</b></p> <p>in last 10 financial years i.e. 2013-2014 to 2022-2023 and up to one month prior to last date of bid submission in India/ abroad</p>

### Note to Bidders for Technical Capacity

- a) Technology adopted by Bidder in the Eligible Projects shall only be considered for the purpose of qualification. Eligible project for considering the Construction / development/ O&M experience shall include the following.
- It should be sea water desalination project in India / Abroad
  - It should have been commissioned with in last 10 years preceding the Bid Due Date



(iii) If the experience is claimed as developer of PPP Project the Bidder claiming the experience should have held at least 26% equity in the Concessionaire implementing the project for the entire year in which the experience is claimed

- b) An entity claiming experience as a Developer shall, during the last 10 (ten) financial years i.e. 2013-14 to 2022-2023 and up to one month prior to last date of bid submission in India have (i) paid for development of the project (excluding the cost of land), and/ or (ii) collected and appropriated the revenues from off takers availing of non-discriminatory access to or use of the Desalination Plant, but shall not include revenues from sale or provision of goods or services such as electricity, gas, petroleum products telecommunications or fare/freight revenues and other incomes of the company implementing the Project.

Technology adopted by Bidder in the Eligible Project for O&M shall only be considered for the purpose of qualification as O&M Member.

In case of a Consortium, the combined technical capability of those members who had an equity stake of at least 26% for a period of 2 years or more in the SPV pertaining to (i) and (ii) above shall only be considered for evaluation.

- c) Bidders who qualify for above criteria (i) and (ii) but not having specific experience in Intake and out fall can subcontract the same. Hence the qualification criteria for the same is as follows :

**“The subcontractor shall have successfully completed at least 1 (one) contract in the past ten years involving construction of a marine structure and pipe laying works in the ocean but within the vicinity of the shoreline using barge mounted construction equipment or similar equipment.**

## 2.5 General Experience

i)	The Bidder shall have executed Design, Engineering, Supply and commissioning of Water system in a single work of value not less than Rs.300 Crore (Rupees Three Hundred Crore) during the last 10 years i.e., from 2013-2014 to 2022-2023 ending 31st of March.
ii)	Additional weightage of <b>8 (Eight) percent per year to bring them to 2022-2023 price level</b> to account for price escalation.



## 2.6 Financial Capacity for the Bidder

S.No	Description	
(i)	<b>NET WORTH</b>	
	The Bidder shall have a minimum Net Worth (as per the annual financial statements) of at least <b>Rs. 100 Crore (Rupees Hundred Crore)</b> as on the close of the preceding financial year 2022-2023 ending 31 <sup>st</sup> of March (as per the audited annual financial statements).	
(ii)	<b>AN AIF OR FOREIGN INVESTMENT FUND</b>	
	In case the Bidder is an AIF or Foreign Investment Fund, it should have a minimum ACI of Rs. <b>Rs. 100 Crore (Rupees Hundred Crore)</b> at the close of the preceding financial year 2022-23 ending 31 <sup>st</sup> of March (as per the audited annual financial statements).	
(iii)	<b>ANNUAL TURNOVER</b>	
a)	The Bidder shall have average Annual Turnover (Construction Revenue or Revenue as a Developer from operation of completed Infrastructure Projects (defined herein) in which the Bidder's equity holding is not less than 26 %) of <b>Rs. 500.00 Crore (Rupees Five Hundred Crore)</b> in any three years out of last five financial years i.e. from 2019-2020 to 2022-2023	
b)	Turnover of previous years shall be given additional weightage of <b>8 (Eight) percent per year to bring them to 2022-2023 price level</b> to account for price escalation as illustrated below Table-1:	
<b>Table-1</b>		
Financial Year	Turnover	Effective Turnover at Current Price Level
2018-2019	E	1.36 x E
2019-2020	D	1.26 x D
2020-2021	C	1.17 x C
2021-2022	B	1.08 x B
2022-2023	<b>A</b>	1.00 x A



**Note to Bidder for Financial Capacity**

- (a) The calculation of Turnover (Construction Revenue or Revenue from Operation of Infrastructure Projects ( Infrastructure Projects for this purpose are defined in Updated Harmonized Master List of Infrastructure Sub-sectors 2016 prepared by the Ministry of Finance, Department of Economic Affairs, Infrastructure Section and as updated from time to time) in which the Bidder's equity holding is not less than 26%) must be based on the unconsolidated audited annual accounts of the Bidder for the preceding financial years ending 31<sup>st</sup> March preceding bid submission due date.
- (b) The Bidder shall submit the audited annual accounts for the above financial years. In case the Bidder is a Consortium, then the combined Financial Capacity of the Bidder will be considered for evaluation. Combined Financial Capacity of the Bidder is the weighted average of the individual Financial Capacity of each member of the Consortium, which will be calculated based on the proposed percentage holding of each Member in the total equity share capital of the Concessionaire. It is further clarified that each member shall meet the criteria of Financial Capacity with respect to their percentage holding in the total equity share capital of the Concessionaire. In other words, each Member with an equity stake of at least 26% in the Consortium/ Concessionaire shall only be considered for aggregation of Financial Capacity and evaluation thereof.
- (c) For the purpose of this RFP, the following terms shall have the meaning hereinafter respectively assigned to them:
- i. "AIF" shall have the meaning as ascribed to the term 'alternative investment fund' under Regulation 2(1)(b) of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (as amended); and
  - ii. "Foreign Investment Fund" shall mean any pooled investment vehicle or investment fund which is registered or recognized with a securities market/banking regulator of a 'foreign jurisdiction' and
- (d) "foreign jurisdiction" means a country, other than India, whose securities market regulator is a signatory to International Organization of Securities Commission's Multilateral Memorandum of Understanding (IO'CO's MMOU) (Appendix A



signatories) or a signatory to bilateral Memorandum of Understanding with the Securities and Exchange Board of India, and which is not identified in the public statement of Financial Action Task Force as a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply or a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

(e) The Bidders shall enclose with its Bid, to be submitted as per the format at Appendix-VI, complete with its Annexes, the following:

(i) Certificate(s) from its statutory auditors specifying the net worth of the Bidder, 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. For the purposes of these Bidding Documents, net worth (hereinafter referred to as the “**Net Worth**”) shall mean the sum of subscribed, issued 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 shareholders; and

(ii) Certificate(s) from its statutory auditors specifying the Annual Turnover (the “**Turnover**”) {from Construction Revenue or Revenue from operation of completed Infrastructure Projects in which the Bidder’s equity holding as defined in RFP is not less than 26 %} of the Bidder, for the five preceding financial years (i.e. 2019-18 to 2022-2023).

(iii) An AIF or Foreign Investment Fund may also qualify on the basis of minimum investible funds (i.e. immediately available funds for investment and callable capital, net of estimated expenditure for administration and management of the fund) subject to the limits of investment in a single investee entity (in the relevant jurisdiction for a Foreign Investment Fund, or the maximum permissible investment limit for an AIF) (as per the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, as may be amended from time to time), as applicable (“ACI”).

In case of an AIF or Foreign Investment Fund using ACI, ACI would be considered as per the certificate issued by statutory auditor (or such other





certificate as filed with the regulator in the relevant jurisdiction) not older than 3 (three) months prior to the Bid Due Date.

- (f) The Bidder should submit an original Power of Attorney along with board resolution in favour of executants as per the format at Appendix-II & Appendix-I, authorizing the signatory of the Bid to commit the Bidder. In the case of a Consortium, the Members should submit an original Power of Attorney in favour of the Lead Member as per format at Appendix-III.
- (g) The Bidder (single entity or consortium of entities) shall incorporate appropriate Special Purpose Vehicle (“SPV”) under the Companies Act, 2013, to execute the Concession Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:
- i. Number of members in a consortium shall not exceed 3 (three);
  - ii. The Lead Member shall together with its other Members of the Consortium, directly hold at least 51% (fifty one percent) of subscribed and paid up equity share capital of the SPV, until 5th anniversary of COD.
  - iii. Each Consortium Member whose Technical Capacity and Financial Capacity was evaluated for the purposes of qualification and award of Project in response to the Bidding Documents shall hold at least 26% (twenty six per cent) of the issued and paid up equity share capital until the 5<sup>th</sup> (fifth) anniversary of the date of commercial operation of the Project and that the Consortium Member whose O&M Experience was evaluated for the purposes of qualification and award of the Project in response to the Bidding Documents shall hold at least 10% (ten per cent) of the issued and paid up equity share capital until the 5th (fifth) anniversary of the date of commercial operation of the Project and;
  - iv. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder. For the avoidance of doubt, the provisions of this Clause shall apply only when the Bidder is a Consortium.





- v. By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the Bidding Documents, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may in its sole discretion disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise;
- vi. Subject to the provisions of Clause (a), the Bid should contain the information required for each member of the Consortium;
- vii. Members of the Consortium shall nominate one member as the Lead Member (the "Lead Member"). The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-III, signed by all the other members of the Consortium;
- (h) The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
- (i) An individual Bidder cannot at the same time be member of a Consortium applying for pre-qualification. Further, a member of a particular Consortium cannot be member of any other Consortium applying for qualification for the Project;
- (j) The members of a Consortium shall form an appropriate SPV incorporated under the Companies Act, 2013 to execute the Project, if awarded to the Consortium;



- (k) Members of the Consortium shall enter into a binding Joint Bidding Agreement, in the form specified at Appendix-IV (hereinafter referred to as the “Joint Bidding Agreement”), for the purpose of making the Bid and submitting a Bid in the event of being qualified. The Joint Bidding Agreement, to be submitted along with the Bid, shall state, inter alia:
- i. members of the Consortium acknowledge that, the maximum number of members in Consortium shall not be more than three; and share of each member whose credentials are considered for evaluation of Technical Capacity and Financial Capacity as specified herein shall not be less than 26% (twenty six percent) of the issued and paid up equity share capital until the 5<sup>th</sup> (fifth) anniversary of the COD of the Project and that the Consortium Member whose O&M Experience was evaluated for the purposes of qualification and award of the Project in response to the Bidding Documents shall hold at least 10% (ten percent) of the issued and paid up equity share capital until the 5<sup>th</sup> (fifth) anniversary of the COD of the Project and the Lead Member shall together with its other Members of the Consortium, directly hold 51% (fifty-one percent) of the issued and paid up equity share capital in the Concessionaire till the 5<sup>th</sup> anniversary of the date of commercial operations of the Project.
  - ii. Convey the intent to form an SPV with shareholding/ownership equity commitment(s) in accordance with this RFP, 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;
  - iii. Clearly outline the proposed roles and responsibilities, if any, of each member;
  - iv. Commit the minimum equity stake to be held by each member;
  - v. include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the expiry of the Concession Period in accordance with the Concession Agreement; and
  - vi. Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior consent of the Authority.
  - vii. The Bid shall be signed by the duly authorized signatory of the Lead Member and shall be legally binding on all the Members of the Consortium.



- viii. The Consortium Members should not have been black-listed by the Ministry of Corporate Affairs and the directors of the Consortium Members should not be disqualified in terms of the Companies Act, 2013.
- (l) Any entity which has been barred or disqualified or banned by the Central/ any State Government, or any Union Territory administration in India or any entity controlled by it, from participating in any project (DBFOT, PPP or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium. Any Bidder as on date of bid submission shall not be insolvent/bankrupt
- (m) An Bidder 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 authority or a judicial pronouncement or arbitration award against the Bidder, 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 Bidder, Consortium Member or Associate. Provided, however that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project. The decision of the Authority is final, conclusive and binding on the Consortium Member or Associate.
- (n) In computing the Technical Capacity, and Net Worth or ACI of the Bidder/ Consortium Members under clause 2.4, 2.5 & 2.6, the Technical Capacity and Net Worth or ACI of their respective Associates would also be eligible hereunder. In case the Associate of an AIF or Foreign Investment Fund is not an AIF or Foreign Investment Fund, then such Bidder is eligible to claim the Financial Capacity of



such Associate as set out in Clause 2.6

- (o) For purposes of this Bidding Document, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (hereinafter referred to as 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.
- (p) It is clarified that a certificate from a statutory auditor who audits the book of accounts of the Bidder or the Consortium Member shall be provided to demonstrate that a person is an Associate of the Bidder or the Consortium as the case may be.
- (q) The following conditions shall be adhered to while submitting a Bid:
- i. Bidders 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, Bidders may format the prescribed forms making due provision for incorporation of the requested information without changing the content of the forms.
  - ii. Information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;
  - iii. In responding to the qualification submissions, Bidders should demonstrate their capabilities in accordance provision of the Bidding Documents.
  - iv. In case the Bidder is a Consortium, each Member should satisfy the qualification requirements to the extent specified in the Bidding Documents.
  - v. The following provisions shall apply to persons from any country as a Consortium Member:
    1. Where, on the date of the Bid, 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital in Bidder or its



Member is held by persons resident outside India or where an Bidder or its Member is controlled by persons resident outside India; or

2. if at any subsequent stage after the date of the Bid, there is an acquisition of 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member.

3. The continued Qualification of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final, conclusive and binding on the Bidder. 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 Authority 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, 2011, or any substitute thereof, as in force on the date of such acquisition. The Bidder shall promptly inform the Authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

4. For determining the eligibility of Bidder from a country which shares a land border with India the following shall apply:

- a) Any Bidder from a country which shares a land border with India will be eligible to bid, only if the Bidder is registered with the competent authority, specified in Annexure-I of Order (Public Procurement No. 1) issued by Ministry of Finance, Department of Expenditure Public Procurement Division vide F. No. 6/18/2019-PPD, dated 23rd July 2020, which shall form an integral part of RFP and DCA.
- b) The Selected Bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the competent authority.

## **2.6 Change in Composition of the Consortium**

- a) Where the Bidder is a Consortium, Change in the composition of a Consortium may be permitted by the Authority prior to the Bid Due Date, only where:



- i. the Lead Member continues to be the Lead Member of the Consortium;
- ii. the substitute is at least equal, in terms of Technical / Financial Capacity, or both to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification criteria for Bidders; and
- iii. the new Member(s) expressly adopt(s) the Bid already made on behalf of the Consortium as if it were a party to it originally, and is not a Bidder/Member/Associate of any other Consortium bidding for this Project.
- iv. The modified / reconstituted Consortium shall submit a revised Jt. Bidding Agreement before the Bid Due Date.
- v. Notwithstanding anything to the contrary contained in sub-clause(c) (i) of Clause 2.3, a Bidder may, within 10 (ten) days after the Bid Due Date, remove from its Consortium any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

## **2.7 Number of Bids and Cost thereof**

- 2.7.1 No Bidder shall submit more than one Bid for the Project. A Bidder applying individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.
- 2.7.2 The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bid Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

## **2.8 Site Visit and Verification of Information**

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

## **2.9 Acknowledgement by Bidder**

- 2.9.1 It would be deemed that by submitting the Bid, the Bidder has:
- (a) Made a complete and careful examination of the Bidding Documents;
  - (b) Received all relevant information requested from the Authority;
  - (c) Accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5 above; and
  - (d) Satisfied itself about all matters, things and information including matters



referred to in the clause hereinabove, necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;

- (e) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to the aforementioned clause shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of Concession Agreement by the Concessionaire;
- (f) Acknowledged that it does not have a Conflict of Interest;
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof; and
- (h) Independently verified all information received from the Authority

2.9.2 The Authority 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 RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

## **2.10 Right to Accept any Bid and to Reject any or all Bids**

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

2.10.2 The Authority reserves the right to reject any Bid if:

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

If the Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected. If such disqualification/ rejection occur after the Bids have been opened and the Highest Bidder gets disqualified/ rejected, then the Authority 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 Authority, including annulment of the Bidding Process.





2.10.3 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 Authority, that one or more of the eligibility conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder 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 Selected Bidder has already been issued the LOA or the Concessionaire has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Authority may have under this RFP, the Bidding Documents, the Concession Agreement or under applicable law.

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





## B. DOCUMENTS

### 2.11 Contents of the RFP

2.11.1 This RFP comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.13.

#### **Invitation for Qualification**

Section 1.: Introduction

Section 2: .Instructions to Bidders

Section 3: Evaluation of Bids

Section 4: Fraud & Corrupt Practices

Section 5: Pre-Bid Conference

Section 6 : Miscellaneous

#### **Appendices**

- I. Letter comprising the Bid
- II. Power of Attorney for signing of Bid
- III. Power of Attorney for Lead Member of Consortium
- IV. Joint Bidding Agreement for Consortium
- V. Brief details of Project

2.11.2 The draft Concession Agreement provided by the Authority as a part of the Bidding Documents shall be deemed to be part of this RFP. The Authority accepts no responsibility for the completeness of the RFP document and its addenda unless they were obtained directly from the Authority.

2.11.3 The Bidder is expected to examine all instructions, forms, and terms in the RFP Document and to furnish all information or documentation required.

### 2.12 Clarifications

2.12.1 Bidders requiring any clarification on the RFP may notify the Authority in writing by e-mail in accordance with Clause 1.2.4. They should send in their queries before the date specified in Clause 1.2.5. The Authority shall endeavor to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Bid Due Date. The responses will be sent by e-mail and/or uploaded



on the appropriate website..

2.12.2 The Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders . However, the Authority 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 Authority to respond to any question or to provide any clarification.

2.12.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFP. Verbal clarifications and information given by the Authority or its employees or the Authority representatives shall not in any way or manner be binding on the Authority.

### **2.13 Amendment of RFP**

2.13.1 At any time prior to the deadline for submission of Bid, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addendum. It shall be uploaded on the e-procurement portal. It shall be the responsibility of the Bidders to go through all such Addendum/Addenda issued and it shall be deemed that the Bidders have acknowledged and accepted the Addendum/Addenda.



## C. PREPARATION AND SUBMISSION OF BID

### 2.14 Language

2.14.1 The Bid 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 Bidder with the Bid 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 Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

### 2.15 Format and signing of Bid

2.15.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Bids shall be liable to rejection.

2.15.2 Bidders should register themselves on the e – procurement portal using the “Online Bidder Enrollment” option available. As a part of the registration process, the Bidders are required to choose a unique username and assign a password for their accounts. The Bidder must mandatorily possess a valid Digital Signature Certificate (DSC) (Class III Certificates with signing key usage) in the Bidder’s name, issued by any Certifying Authority recognized by the Controller of Certifying Authorities, India. Only one valid DSC should be registered by the Bidder. The DSC may be obtained from one of the authorized certifying authorities such as SIFY/TCS/nCode etc. The list of address of the DSC vendors can be seen at [https://tntenders.gov.in/nicgep/app?component=%24DirectLink\\_0&page=DSCInfo&service=direct&session=T&sp=SDSCAddress.pdf](https://tntenders.gov.in/nicgep/app?component=%24DirectLink_0&page=DSCInfo&service=direct&session=T&sp=SDSCAddress.pdf)

2.15.3 The Bidder should then, login to the site using user id and the corresponding passwords.

2.15.4 It is the responsibility of the Bidder to ensure that the DSC that is registered should be used only by the Bidder and should not be lent to or misused by others

2.15.5 After downloading the tender schedules, the Bidder should go through them carefully and then submit the documents as directed, otherwise, the bid will be rejected.

2.15.6 If there are any clarifications, this may be obtained online through the e-procurement portal, or through the contact details. The Bidder should be mindful



of any corrigendum/addendum published before submitting the bids online.

- 2.15.7 The Bidder, should prepare the Bidding Documents to be submitted as indicated in this RFP in the prescribed format, in advance.
- 2.15.8 The Bidder should read all the terms & conditions mentioned in the Bidding Documents and accept the same to proceed further to submit the bids.
- 2.15.9 It is suggested that the Bidder should submit the Bidding Documents online well in advance of the prescribed time to avoid any delay or problem during the online submission process.
- 2.15.10 The Bidders should submit the Bid Security by online transfer through e-procurement portal .
- 2.15.11 SIPCOT will not be held responsible for any sort of delay or the technical difficulty faced in the submission of tenders online by the Bidders. The Bidder should submit the bid documents by online mode through the site <https://tntenders.gov.in>
- 2.15.12 The Bidding Documents furnished by SIPCOT uploaded in the PDF format should not be changed or converted to any other format while submitted in the online bidding.
- 2.15.13 The Bid shall be digitally signed using the DSC on behalf of the Bidder. All pages of the Bid where entries or amendments have been made shall be digitally signed using the DSC while uploading the bid.
- 2.15.14 The tendering system will give an ACKNOWLEDGEMENT Message only after successful uploading of all the required bid documents. The ACKNOWLEDGEMENT is the bid summary. With the Bid No., Date & Time of submission of the bid with all other relevant details. The documents submitted by the Bidders will be digitally signed with the e-token of the Bidder and then submitted.
- 2.15.15 The ACKNOWLEDGEMENT should be printed and to be kept as a token of the submission of the bid. The ACKNOWLEDGMENT will act as a proof of bid submission for a tender floated and will also act as an entry point to participate in the bid opening date.
- 2.15.16 The Bidder should log into the site well in advance for bid submission so that



he submits the bid in time i.e., on or before the bid submission time. If there is any delay, due to other issues, Bidder only is responsible.

2.15.17 Each document to be uploaded online in response to the Bidding Documents should be less than 2 MB, if any document is more than 2 MB, it can be reduced through zip format and the same can be uploaded. It may be however noted that. If the file size is less than 1MB the transaction uploading time will be very fast.

2.15.18 The time setting fixed in the server & displayed at the top of the tender site, will be valid for all actions of requesting, bid submission, bid opening etc., in the e-procurement portal. The Bidders should follow this time only, during bid submission.

2.15.19 All the data being entered by the Bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered will not be viewable by unauthorized persons during bid submission & not be viewable by anyone until the time of bid opening. Overall, the submitted tender documents become readable only after the tender opening by the authorized individual.

2.15.20 The Confidentiality of the bids is maintained since the secured Socket layer 128-bit encryption technology is used. Data storage encryption of sensitive fields is done. The Bid shall contain the digitally signed document using DSC token in the online bidding for the following in the sequence indicated below.

## **2.16 Contents of Bids**

2.16.1 The Bid shall comprise of two covers, the Technical Proposal and the Financial Bids.

### **Technical Proposal:**

The Technical Proposal shall consist of the following:

- (a) Letter comprising the Bid including documents in response to fulfilment of Technical Capacity and Financial Capacity
- (b) Power of Attorney for signing of Bid
- (c) Power of Attorney for Lead Member of Consortium
- (d) Joint Bidding Agreement for Consortium
- (e) Documents specified in Clause 2.16.2

(item (a) to item (e) shall be collectively referred to as “**Technical Proposal**”)



### **Financial Bid:**

(a) The Financial Proposal shall comprise of financial offer and shall be submitted in the format given at Appendix-VI (“**Financial Proposal**”).

2.16.2 Each Technical Proposal shall contain:

- (i) Bid in the prescribed format (Appendix-I) along with Annexes and supporting documents;
- (ii) Documents in response to fulfilment of Technical, Financial Capacity and O&M criteria
- (iii) Power of Attorney for signing the Bid as per the format at Appendix-II;
- (iv) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix-III;
- (v) copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-IV;
- (vi) copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and, if a partnership, then a copy of its partnership deed;
- (vii) copies of Bidder’s duly audited balance sheet and profit and loss account for the preceding three years; and

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

### **2.17 Bid Due Date**

2.17.1 Bids should be submitted on the **Bid Due Date and time** as specified in NIT/RFP in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the e-procurement portal where the Bids are submitted.

2.17.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.13 uniformly for all Bidders.



## D. EVALUATION PROCESS

### 2.18 Opening and Evaluation of Bids

- 2.18.1 The Authority shall open the Bids online on such date and time as specified in the NIT.
- 2.18.2 The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 3.
- 2.18.3 Bidders are advised that shortlisting the Technical Proposals of Bidders will be entirely at the discretion of the Authority. Bidders 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.
- 2.18.4 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.18.5 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.
- 2.18.6 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant project for qualifying as Eligible Project.
- 2.18.7 In the event that a Bidder claims credit for an Eligible Project, and such claim is determined by the Authority as incorrect or erroneous, the Authority shall reject such claim and exclude the same from qualifying as Eligible Project. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Bid in accordance with the provisions of Clauses 2.10.1 and 2.10.2. The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 2.18.8 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.
- 2.18.9 Financial Bids of those Bidders whose Technical Proposal has been found to be responsive and qualified, shall be opened and evaluated for selection of Selected Bidder in terms of Section 3.



## 2.19 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority 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 Authority or as may be required by law or in connection with any legal process.

## 2.20 Tests of responsiveness

2.20.1 Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:

- a) it is received as per format at Appendix-I.
- b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.17.2;
- c) It is signed as stipulated in this RFP;
- d) Bid Security has been paid;
- e) it is accompanied by the Power of Attorney as specified in note under Clause 2.6, and in the case of a Consortium, the Power of Attorney as specified in note under Clause 2.6;
- f) it contains all the information and documents (complete in all respects) as requested in this RFP;
- g) it contains information in formats same as those specified in this RFP;

it is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.6(g);

- h) it does not contain any condition or qualification; and
- i) it is not non-responsive in terms hereof.

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





## **2.21 Clarifications**

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

2.21.2 If a Bidder does not provide clarifications sought within the prescribed time, its Bid shall be liable to be rejected.

## **E. SELECTION OF BIDDER**

### **2.22 Selection**

The technically responsive Bidder whose Bid is adjudged as responsive in terms of Clause 2.20 and who quotes the lowest Financial Bid (in terms of the outflows to the Authority on account of the Six quoted Bid components) to be offered to the Authority shall be declared as the Highest Ranked Bidder.

### **2.23 Proprietary data**

All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid, or any information provided along therewith.

### **2.24 Correspondence with the Bidder**

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.



**2.25 Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid Parameter**

The Bid shall comprise of a Financial Bid containing

- a) Bid Project Cost,
- b) Annual Fixed O&M Cost (year 1 operations with escalation)
- c) Variable O&M Cost (year 1 operations with escalation)
- d) Asset Replacement Cost at Present rate ( for 15 Years O&M Period)
- e) e) Maximum Guaranteed energy consumption in (kWh / KL).
- f) Maximum Demand requirements in (KVA)

The first three components viz. Bid Project cost, Fixed and Variable O&M cost shall be escalated as defined in Concession Agreement forming part of the Bidding Documents. In respect of the fourth component viz. asset replacement cost at present rate , the adjusted asset replacement cost shall be calculated as mentioned in Annex- VII and paid to the bidder based on actual replacements .In respect of fifth and sixth components, The Maximum energy consumption charge and Maximum Demand Charge shall be calculated at the present electricity tariff as defined in the Concession Agreement without escalation.

The Financial Bids quoting to the Authority the lowest outflows over the Concession period on account of the six bid components shall be selected for the award of the Project.



### **3 CRITERIA FOR EVALUATION**

#### **3.1 Evaluation Parameters**

- 3.1.1 Only those Bidders who meet the eligibility criteria specified in Clauses 2.4, 2.5 & 2.6 shall qualify for evaluation under this Section 3. Bids of firms / consortia who do not meet these criteria shall be rejected.
- 3.1.2 The Bidder's competence and capability is proposed to be established by the following parameters:
- a) Technical Capacity;
  - b) Financial Capacity and
  - c) O&M Experience (this is a part of the technical capacity)

#### **3.2 Technical Capacity for Purposes of Evaluation**

- 3.2.1 The Bidder should furnish the details of eligible experience for the relevant years as specified in clause 2.4 and clause 2.5 for a Consortium / Bidder as Single entity

#### **3.3 Details of Experience**

- 3.3.1 The Bidders must provide the necessary information relating to Technical Capacity as per format at Annex-III of Appendix-I and furnish the required project-specific information and evidence in support of its claim.
- 3.3.2 The Bidders must provide the necessary information relating to O&M Experience as per format at Annex-IV of Appendix-I and furnish the required project-specific information and evidence in support of its claim.

#### **3.4 Financial information for purposes of evaluation**

- 3.4.1 The Bid must be accompanied by the Audited Annual Reports of the Bidder (of each member in case of a Consortium) for the financial years as mentioned in the clause 2.6, preceding the year in which the Bid is made.
- 3.4.2 In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to the same effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for the years preceding the year for which the Audited Annual Report is not being provided.



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

The Bidder must establish a minimum Net Worth and Minimum Average Annual Turnover as specified in Clause 2.6 (ii) and provide details as per format at Annex- II of Appendix-I.

### **3.5 Short-listing of Bidders**

- 3.5.1 All the Bidders who fulfil the condition of eligibility specified in Clause 2.3 and meet the other conditions specified in this RFP shall be short-listed and accordingly their Financial Bids shall be evaluated. Upon evaluation of the Financial Bids, the Highest Ranked Bidder would be selected.



#### 4 FRAUD AND CORRUPT PRACTICES

- 4.1. The Bidders 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 Authority may reject a Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder 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 Authority under Clause 4.1 hereinabove, if a Bidder is found by the Authority 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 Bidder shall not be eligible to participate in any bid or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder is found by the Authority 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 Clause 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 Authority 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 Authority, 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 2.3, 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 Authority in relation to any matter concerning the Project;



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

- 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 Authority 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 Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.



## 5 PRE-BID CONFERENCE

- 5.1. A Pre-Bid conference of the interested parties shall be convened online at the designated time. A representative of Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 5.2. A site visit will be organized by the Authority, if required, on a mutually convenient date for the Authority and the Bidders.
- 5.3. During the course of Pre-Bid conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor 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 as per Tamil Nadu Transparency in Tenders (Public Private Partnership Procurement) Rules, 2012.



## 6. MISCELLANEOUS

- 6.1. The Bidding Process shall be governed by, and construed in accordance with, the Tamil Nadu Transparency in Tenders Rules, 2000 and Tamil Nadu Transparency in Tenders (Public Private Partnership Procurement) Rules, 2012, the laws of India and the Courts at Chennai and High Court of Chennai, Tamil Nadu shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process. The language for communication for any arbitration in relation to the Bidding Process shall be in English.
- 6.2. The Authority, 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 Bidder in order to receive clarification or further information;
  - c. pre-qualify or not to pre-qualify any Bidder and / or to consult with any Bidder in order to receive clarification or further information;
  - d. retain any information and / or evidence submitted to the Authority by, on behalf of, and / or in relation to any Bidder; 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 Bidder.
- 6.3. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, 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

### ANNEX-I

#### Details of Bidder

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 Authority:
  - (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 Bidder:
  - (a) Name:
  - (b) Designation:
  - (c) Address:
  - (d) Phone Number:
  - (e) Fax Number:
5. In case of a Consortium:
  - (a) The information above (1-3) should be provided for all the Members of the Consortium.
  - (b) A copy of the Joint Bidding Agreement, as envisaged should be attached to the Bid.



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

- (c) Information regarding the role of each Member should be provided as per table below:

Sr. No.	Name of Member	Role*	Percentage of equity in the Consortium
1.			
2.			
3.			

- The role of each Member, as may be determined by the Bidder, 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 Bidder / member of Consortium:**

No.	Criteria	Yes	No
1.	Have you (the BIDDER, its Member or Associate was, either by itself or as member of a Consortium) which has been barred by the Government of India and/or the Government of any state of India and/or the sovereign Government of any country , or any Indian/ Multilateral / Multinational Bank/ Funding Agency / Regulatory Authority or any entity controlled directly/ indirectly by any of the above, been barred from participating in any project (BOT or otherwise), or have you been declared by the Authority as non-performer/blacklisted ?		
2.	If the answer to 1 is yes, does it subsist on the date of Bid?		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last three years?		

5. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance 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 A

Desalination Projects submitted by the Bidder for evaluation of Technical Capacity

Bidder type #	Member Code *	Project Code**	Experience							
			Title of the Project	Location	Project authority	Date of start	Date of commission	Type of the Project	Desalination plant capacity	Whether client certificate attached (Y/N)
Single entity Bidder		a								
		b								
		c								
		d								
Consortium Member 1		1a								
		1b								
		1c								
		1d								
Consortium Member 2		2a								
		2b								
		2c								
		2d								
Consortium Member 3		3a								
		3b								
		3c								
		3d								



Appendix I

Annex-II

ANNEX-II/B

Operation and Maintenance Experience

Bidder type #	Member Code *	Project Code **	Experience							
			Title of the Project	Location	Project authority	Date of start	Desalination plant capacity	Commissioning date	O&M period (From -to)	Whether client certificate attached (Y/N)
Single entity Bidder		a								
		b								
		c								
		d								
Consortium Member 1		1a								
		1b								
		1c								
		1d								
Consortium Member 2		2a								
		2b								
		2c								
		2d								
Consortium Member 3		3a								
		3b								
		3c								
		3d								



Appendix I

Annex-II

ANNEX-II/C

General Experience

General Experience			
Starting Year	Ending year	Contract Identification	Role of Bidder
<i>[indicate year]</i>	<i>[indicate year]</i>	Contract Name: <i>[insert full name]</i>  Brief description of the contract performed by the Bidder: <i>[describe the contract performed briefly]</i>  Amount of Contract: (insert amount in currency, mention currency used, exchange rate and INR equivalent)  Name of Employer: <i>[insert full name]</i>  Address: <i>[insert mailing address]</i>	<i>[insert "Prime Contractor (single entity or JV member)" or "Subcontractor"]</i>



Appendix I

Annex-II

ANNEX-II/D

Abstract of Net worth

<u>Year</u>	<u>Net worth (Rs. In Crores)</u>

Note:

In case of BIDDER domiciled outside India, the net worth in Indian rupees shall be considered based on exchange rate as on the date of latest audited financial statement



Appendix I

Annex-II

ANNEX-II/E

Abstract of Turnover

Sl.No.	<u>Year</u>	<u>Construction Turnover/Revenue from Operations of Completed Eligible Projects (Rs. In Crores</u>

Financial year shall in the case of Bidders domiciled in India be considered from 1<sup>st</sup> April to 31<sup>st</sup> of March in India and as applicable for the respective jurisdiction of the other Bidders.

*@ Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate and/ or by a project company*

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

*\* Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. 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 Another Member.*

*\*\*Refer Annex-IV of this Appendix-I. Add more rows if necessary.*



## Appendix I

### Annex-III

#### ANNEX-III (Part-A) Net Cash Accruals & Net Worth Details

(In Rs. crore)

Bidder type	Member Code	Proposed Equity Shareholding in Consortium (%)	Net Cash Accruals					Net Worth <sup>€</sup>
			Year 1 (4)	Year 2 (5)	Year 3 (6)	Year 4 (7)	Year 5 (8)	Year 1 (9)
(1)	(2)	(3)						
Single entity Bidder								
Consortium Member 1								
Consortium Member 2								
Consortium Member 3								
TOTAL								

#### **Name & address of Bidder's Bankers:**

<sup>\$</sup> An Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

<sup>£</sup>For Member Code, see instruction 4 at Annex-IV of this Appendix-I.

<sup>€</sup>The Bidder should provide details of its own Financial Capability or of an Associate.

Bidder shall specify the conversion factor of conversion into Indian Rupees





## Appendix I

### Annex-III (Part-A)

#### **Instructions:**

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for any 3 years out of the 5 financial years preceding the Bid Due Date. The financial statements shall:
  - (a) Reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder 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 Amortization/ Miscellaneous Expenditure written off entailing no outflow of cash..
3. Net Worth shall mean (Paid-up Equity share capital + Reserves) less (+ 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.
5. In the case of a Consortium, a copy of the \Joint Bidding Agreement shall be submitted along with the bid.
6. The Bidder shall also provide the name and address of the Bankers to the Bidder.
7. The Bidder shall provide Statutory Auditor's Certificate specifying the net worth of the Bidder and also specifying the methodology adopted for calculating such net worth along with the bid.



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

## ANNEX-III (Part-B)

**Format for Average annual cost of construction of Eligible Projects executed in the last 5 Financial Years**

**NOT APPLICABLE**



## **APPENDIX I**

### Annex-IV

#### Details of Eligible Projects

<b>Project Code:</b>	<b>Member Code:</b>
<b>Item</b>	<b>Particulars of the Project</b>
Title & nature of the project	
Entity for which the project was constructed/ developed	
Brief description of the project	
Activities performed	
Location	
Project cost	
Date of commencement of project/ contract	
Date of completion/ commissioning	
Equity shareholding (with period during which equity was held)	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)	

#### **Instructions:**

1. Bidders 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 this RFP, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Bid. Bidders should also refer to the Instructions below.
2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder 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 Bidder. 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; and OM means



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

Another Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.

5. 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.
6. Each project experience should be accompanied with Completion Certificate from the relevant project authority with respect to the experience demonstrated above.



## Appendix I

### ANNEX-V

#### TRUE COPY OF THE BOARD RESOLUTION

The following documents in respect of the necessary legal rights to submit the bid document duly executed and delivered by the BIDDER are attached (Reference paragraph 4 of the Covering Letter):

S.No.	Particulars	Remarks
1	-----	Annex-VA
2	-----	Annex-VB
3	-----	Annex-VC

(Please number the attachments as shown above)

#### BOARD RESOLUTION OF THE BIDDER

(Proforma of the Board Resolution for the BIDDER)

The Board, after discussion, at the duly convened Meeting on ..... [insert date], with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 2013, passed the following Resolution:

RESOLVED THAT pursuant to the provisions of the Companies Act, 2013 and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded for placing the Bid against the Request for Proposal (RFP) dated ....., as amended from time to time, issued by State Industries Promotion Corporation of TamilNadu Limited (SIPCOT), for the *“DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS*

RESOLVED THAT the Board hereby acknowledges the Board Resolution dated passed by the.....(Name of the Affiliate/company, corporation or entity) for providing the technical and/or financial support to the



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

.....(Name of the BIDDER) to meet the Eligibility Requirements and undertaking to provide requisite support to ..... (Name of the BIDDER), as per the provisions of the Request for Proposal (RFP) in case it is unable to meet its obligations. (Strike out if not applicable).

FURTHER RESOLVED THAT \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ Name of the Person(s)) be and is hereby authorised to enter into take all the steps required to be taken by the Company in this regard, including in particular, signing of the Request for Proposal (RFP) and making changes thereto and submitting amended Request for Proposal (RFP) all the related documents, certified copy of this Board Resolution or letter, undertakings etc, required to be submitted to SIPCOT or such other documents as may be necessary in this regard.

Certified True Copy

**Notes:**

- a. This certified true copy of the Board Resolution should be submitted on the letterhead of the company, corporation or entity, signed by the Company Secretary or any of the authorised Directors of the Company and the rubber stamp for the company, corporation or entity shall be affixed.
- b. The above format is indicative only. The contents of the format of the Board Resolution should be suitably re-worded indicating the identity of the company, corporation or entity passing the resolution.
- c. The Board Resolution from a company, corporation or entity incorporated outside India be duly notarized and consularized (i.e. confirmed by the Indian Embassy of that country) in its jurisdiction.
- d. The above format shall also be utilised by each Member of the Consortium where they shall be participating as Bidders.



## Appendix I

### ANNEX-VI

## Statement of Legal Capacity

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

Ref. Date:

To,

The MANAGING DIRECTOR,

State Industries Promotion Corporation of TamilNadu Limited (SIPCOT),

No.19-A, Rukmani Lakshmi pathy Road, Egmore,

Chennai- 600 008. Tamil Nadu, India

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the Bid) satisfy the terms and conditions laid out in the RFP & 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 RFP. 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 I

### ANNEX-VII

- 1) Process schematic with all components
- 2) Asset Replacement plan for 15 Years \*\*

**\*\*Note:**

1. The asset replacement plan should comply with the conditions as specified in the Concession agreement particularly in Maintenance requirements.
2. Asset replacement shall be made as reasonably necessary for maintaining their overall condition conforms to Good Industry Practice including Maintenance thereof.
3. The asset replacement cost quoted by the bidder shall be adjusted for variation between the construction price index occurring between the reference index date preceding the bid date and the reference index date immediately preceding the Date of Asset Replacement and the adjusted asset replacement cost shall be paid based on actual replacements.
4. The Authority will evaluate the above said Asset replacement Plan and it shall be treated as part of concession agreement.





## APPENDIX II

### Power of Attorney for signing of Bid

(To be executed on a Stamp Paper)

(Refer Clause 2.5 (vi))

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 submission of our bid for the \*\*\*\*\* Project proposed or being developed by the \*\*\*\*\* (the "Authority") including but not limited to signing and submission of all bids and other documents and writings, participate in Bidding Process and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority 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 Authority.

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.
- 2.

(Notarised)



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

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 Bidder 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 Bidder.*
- *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 Bidders 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

### Power of Attorney for Lead Member of Consortium

Whereas the \*\*\*\*\* (“the Authority”) has invited Bids from interested parties for the \*\*\*\*\* Project (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 (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 authority 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 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 of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, 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 Authority.

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



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

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 Bidders 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 Bidder.*



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

- *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 Bidders 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

### Joint Bidding Agreement

*(Refer Clause 2.5 (vi))*

*(To be executed on Rs. 500/- non judicial Stamp paper)*

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

#### AMONGST

1. {.....} having its registered office at ..... (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

#### AND

2. {.....} 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)

#### AND

3. {.....} having its registered office at ..... (hereinafter referred to as the "Third Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)}□

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

#### WHEREAS,

- (A) State Industries Promotion Corporation of TamilNadu Limited (SIPCOT), (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited (the **Bids**") by its Request for Proposal No. .... dated .....(the "**RFP**") for pre-qualification and short-listing of Bidders for DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS '.
- (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 RFP & document and other bid documents in respect of the Project, and



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

- (C) It is a necessary condition under the RFP & document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bids .

**NOW IT IS HEREBY AGREED as follows:**

**1. Definitions and Interpretations**

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP

**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 Companies Act, 2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project. In case the BIDDER is sole member, this shall not apply.

**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 Agreement when all the obligations of the SPV shall become effective;

b) Party of the Second Part shall be \_\_\_\_\_ and

c) Party of the Third Part shall be \_\_\_\_\_

**5. Joint and Several Liability**



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

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 RFP, and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession 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:

{Third Party:}

The Parties undertake that the members in the consortium shall hold equity share capital as follows:

The Selected BIDDER (Single Entity or Consortium) shall directly hold at least 51% (fifty one percent) of subscribed and paid up equity share capital of the SPV, until 5th anniversary of COD.

6.2 Further, in case the Selected BIDDER is a Consortium, each member of the Consortium whose experience in terms of Technical Capacity and Financial Capacity will be evaluated under the RFP shall subscribe to and directly hold at least 26% (twenty six percent) of the paid up and subscribed equity of the SPV until the 5th anniversary of the Commercial Operation Date; and

The Lead Member and other members of the Consortium shall collectively and directly hold at least 51% (fifty one percent) of the subscribed and paid up equity of the SPV at all times until the 5th anniversary of the COD, wherein the O&M Member shall compulsorily hold 10% (ten per cent) of the paid up and subscribed equity share capital of the SPV until the 5<sup>th</sup> anniversary of the COD; and

6.3 The Parties shall comply with all equity lock-in requirements set forth in the Concession 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 organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/





DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

power of attorney in favour of the person executing this Agreement for the delegation of power and authority 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;
  - (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 organizational documents thereof;
  - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, 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 Close 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 Bidder is not pre-qualified or upon return of the Bid Security by the Authority to the BIDDER, as the case may be.



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

**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 Parties without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

SECOND PART

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

2.



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

**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 executants (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 authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed. In case the document is in English language, then it shall be notarized in the Jurisdiction where the Power of Attorney has been executed



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

## **APPENDIX V**

### **FORM OF BANK GUARANTEE**

**(Bid Security)**

**NOT APPLICABLE**



## APPENDIX VI

### Letter Comprising the Bid

*(Refer Clauses 2.12)*

Dated:

To,

The MANAGING DIRECTOR,

State Industries Promotion Corporation of TamilNadu Limited (SIPCOT),

No.19-A, Rukmani Lakshmiipathy Road, Egmore,

Chennai- 600 008. Tamil Nadu, India

Telephone: 91- 44 - 45261777 /45261789

Website: <https://tntenders.gov.in>.

E- Mail: [civil@sipcot.in](mailto:civil@sipcot.in)

**Sub: Submission of Bid for award of Project for the “DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

Dear Sir,

With reference to your RFP document dated \_\_\_\_\_, I/we, having examined the RFP Documents and understood their contents, hereby submit the Bid for the aforesaid Project. The Bid is unconditional and unqualified.

1. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all documents accompanying the Bid is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.



DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

2. This statement is made for the express purpose of qualifying as a Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
3. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
4. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. 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.
6. I/ We declare that:
  - (a) I/ We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority; and
  - (b) I/ We do not have any conflict of interest in accordance with Clauses of RFP Documents;
  - (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 RFP Documents, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority 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 as per the RFP Documents, 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; and
  - (e) the undertakings given by us along with the Bid in response to the RFP for the Project were true and correct as on the date of making the Bids and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
7. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders.
8. I/ We believe that we/ our Consortium satisfy(s) the Technical Capacity and Financial Capacity and meet(s) the requirements as specified in the RFP Document and are/is qualified to be evaluated in the Bidding Process.
9. 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 award of the Project.
10. 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



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

authority 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.

11. 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.
12. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.
13. I/We further certify that we/ any Member of the Consortium or any of our/ their Associates are not barred by the Central Government/ State Government or any entity controlled by it, from participating in any project (BOT or otherwise), and no bar subsists as on the date of Bid.
14. 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 as per the provisions in the RFP Documents, and we shall intimate the Authority of the same immediately.
15. I/ We acknowledge and undertake that our Consortium was qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who shall not lower the stake for a period as specified in the RFP Documents. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.
16. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the LOA, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
17. I/ We understand that the Selected BIDDER shall either be an existing Company incorporated under the Indian Companies Act, 2013 or individual firm or shall incorporate as such prior to execution of the Concession Agreement.
18. I/ We hereby confirm that we shall comply with the O&M requirements specified in the RFP Documents.
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 Authority in connection with the selection of the Bidder, or in connection with the



**DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.**

Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

20. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/ us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
21. I/We have studied all the RFP Documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
22. I/ We agree and understand that the Bid is subject to the provisions of the RFP Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
23. I/ We agree and undertake to abide by all the terms and conditions of the RFP Documents.
24. We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement in accordance with the Concession Agreement.
25. I/ We shall keep this offer valid for 120 (one hundred and eighty) days from the Bid Due Date specified in the Notice Inviting Tender (NIT) subject to any extension as instructed by the Authority.
26. The Statement of Legal Capacity as per format provided in the RFP document, and duly signed, is enclosed. The power of attorney for signing of Bid and the power of attorney for Lead Member of consortium, as per format provided in the RFP document, are also enclosed.

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

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

Yours faithfully,

(Signature, name and designation of the Authorised signatory)

Date:

Name and seal of BIDDER/Lead Member

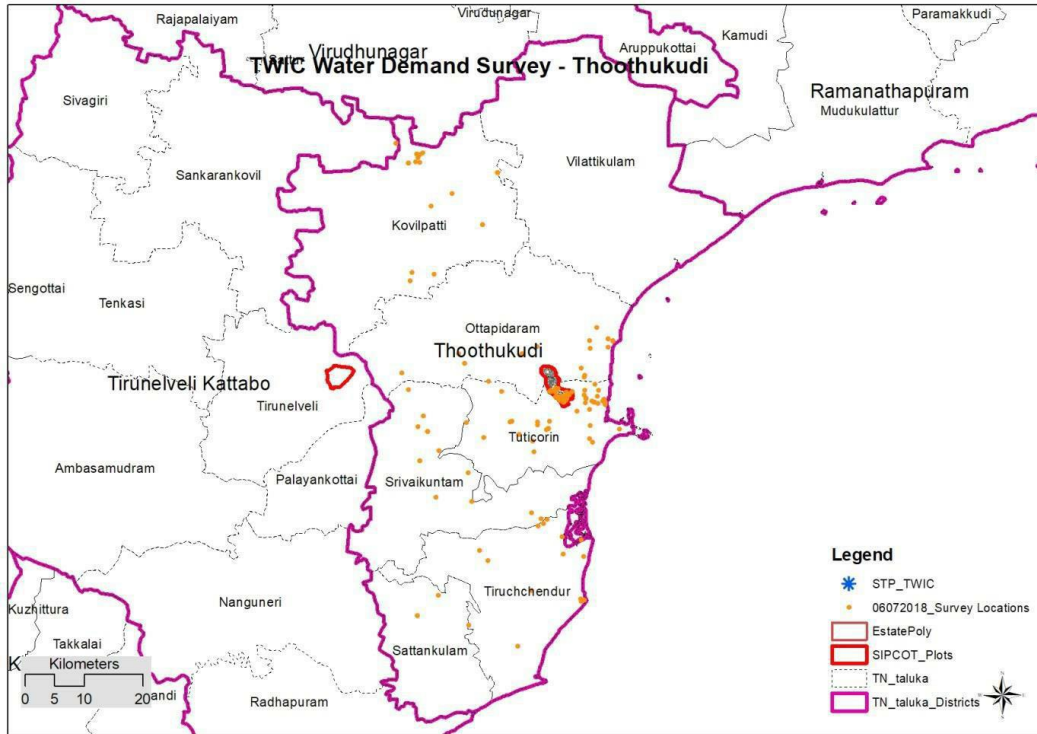
Place:





# APPENDIX VII

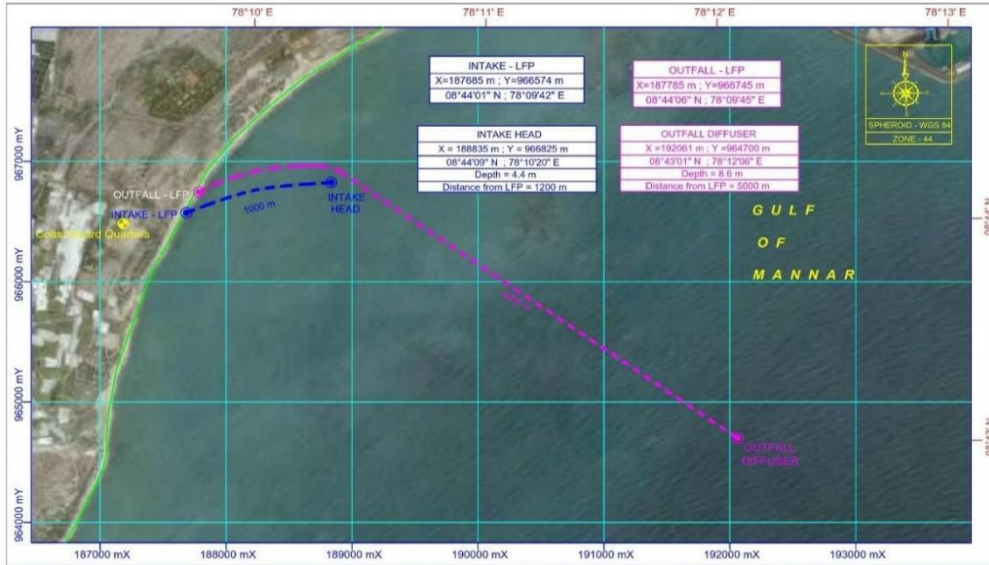
## SIPCOT – Tuticorin Map





DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

Intake & Outfall Map





DEVELOPMENT OF 60 MLD DESALINATION PLANT AT VILLAGE MULLAKADU IN TUTICORIN DISTRICT, TAMIL NADU, INDIA ON HYBRID ANNUITY MODEL (HAM), PPP BASIS.

Schematic Diagram showing the pipeline

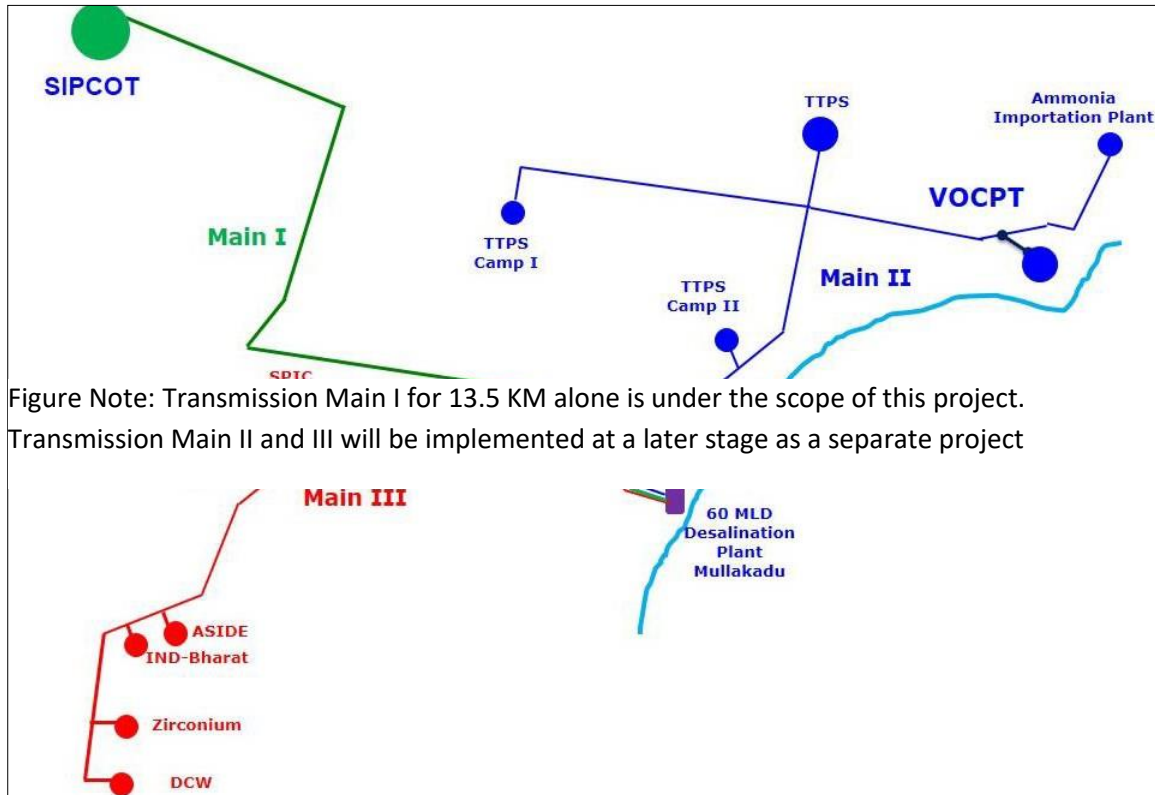


Figure Note: Transmission Main I for 13.5 KM alone is under the scope of this project. Transmission Main II and III will be implemented at a later stage as a separate project