

REQUEST FOR PROPOSAL
FOR APPOINTMENT OF
CONSULTANT
FOR
PROVIDING CONSULTANCY SERVICES

FOR
FOR ELECTRICITY DEPARTMENT
DAMAN & DIU

Issued By
Electricity Department
UT Administration of Daman& Diu

DISCLAIMER

The information contained in this Request for Proposal document (“**RFP**”) or subsequently provided to Applicants, whether verbally or in documentary or any other form by or on behalf of the Authority or any of their employees or advisers, is provided to Applicants 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 Applicants 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 Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise 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 Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Applicants is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The Authority, its employees and advisers make no representation or warranty and shall have no liability to any person including any Applicant 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, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in anyway in this Selection Process.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Applicant 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 assumption contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Consultancy and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Proposal 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 Proposal. All such costs and expenses will remain with the Applicant and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

GLOSSARY

Agreement	As defined in Form of Agreement
Applicant	As defined in Clause 2.1.1
Associate	As defined in Clause 2.3.3 (i)
Authority	As defined in Clause 1.1.1
Conditions of Eligibility	As defined in Clause 2.2.1
Conflict of Interest	As defined in Clause 2.3.1
Consultancy	As defined in Clause 1.2
Consultancy Team	As defined in Clause 7 of Schedule-1
CV	Curriculum Vitae
Documents	As defined in Clause 2.12
Effective Date	As defined in Clause 2.1 of Schedule-2
Eligible Assignments	As defined in Clause 2.2.2
Form of Agreement	Form of Agreement as in Schedule -2
Financial Proposal	As defined in Clause 2.15.1
INR, Re, Rs.	Indian Rupee(s)
Inception Report	As specified in Clause 4.(A) of Schedule-1
Key Personnel	As defined in Clause 2.1.4
Lead Member	As defined in Clause 2.1.1
Consultant	As defined in Clause 1.2
LOA	Letter of Award
Member	As defined in Clause 2.3.3 (i)
Official Website	As defined in Clause 1.11.2
Personnel	As defined in Clause 1.1.1(m) of Schedule-2
PPA	As defined in Clause 1.2
Project	As defined in Clause 1.1.1
Project Manager	As defined in Clause 4.6 of Schedule-2
Professional Personnel	As defined in Clause 2.14.6
Prohibited Practices	As defined in Clause 4.1
Proposal	As defined in Clause 1.2
Proposal Due Date or PDD	As defined in Clause 1.8
Resident Personnel	As defined in Clause 1.1.1(o) of Schedule-2
RFP	As defined in Disclaimer
Services	As defined in Clause 1.1.1(p) of Schedule -2
Selection Process	As defined in Clause 1.6

Selected Applicant	As defined in Clause 2.24.1
Sole Firm	As defined in Clause 2.1.1
Standard PPA	As defined in Clause 1.2.1
Statement of Expenses	As defined in Note 13, Form-2 of Appendix- II
Statutory Auditor	An Auditor appointed under Applicable Laws
Support Personnel	As defined in Clause 2.14.6
Technical Proposal	As defined in Clause 2.14.1
TOR	As defined in Clause 1.1.2
US\$	United States Dollar

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

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**ADMINISTRATION OF DAMAN & DIU,
ELECTRICITY DEPARTMENT,
SECOND FLOOR, POWER HOUSE BUILDING
DAMAN – 396 210.**

Telefax: 0260-2254745 MAIL – eddaman@rediffmail.com

Web : www.dded.gov.in

No.ED/EE/T-33/2011-12/1601

DATED: - 25/08/2011

TENDER NOTICE NO.09 OF 2011 – 12
TENDER NOTICE FOR REQUEST FOR PROPOSAL FOR APPOINTMENT OF CONSULTANT

1. Sealed tenders are invited by the Executive Engineer, Electricity Department, Daman on behalf of the President of India for providing consulting services on annual basis on following issues for Electricity Department, Daman & Diu.
 - a. Preparation of Annual Revenue Return (ARR) & MYT for the U.T D&D
 - b. Other Legal matter related issues like regulatory matters, petitions of CERC / SERC / JERC etc.
2. Pre-Qualifying Requirements for tenderers:
 - a. The Bidder should be well acquainted with the working of State Electricity Boards, Present regulatory frame work in Power Sector and possessing experience of three years in dealing with such matters.
 - b. Bidder should be well versed with Central / State Govt. statute, regulations relating to power sector, tax finance and cost related aspects, experience in development of concepts like ABT, OA, MYT emanating from the Electricity Act 2003 and regulatory commissions.
 - c. Bidder should have an appropriate team on full time pay roll with requisite skills to provide assistance for the works assign to them.
 - d. The bidder should have the skills to assist in regulatory support for the filling petition to commission as well as to comments on the various orders, regulations and discussion papers issued by the Ministry of Power / CEA / Regulatory Commissions etc., with respect to impact on D&D.
 - e. The bidder should have annual turn over of Rs.10.00 (Ten) Crores for last three years.
 - f. The bidder should have a valid income tax clearance certificate.
 - g. The bidder shall have to submit complete profile of the Company along with application while purchasing bid document.
3. Sealed tenders addressed to The Executive Engineer, Electricity Department Daman- 396 210 should reach by 26/09/2011 (up to 15.00 hrs) along with Rs.200000/- as Earnest Money by FDR / Bank Draft payable at Daman in favour of “Executive Engineer”. Sealed tenders should be dropped in the box kept for the purpose on or before the specified date and time. Any tender received after the closing date will not be considered. The sealed tenders will be opened in the presence of available bidder on 26/09/2011 at 15.30 hrs, if possible.
4. Tender, forms, will be available between 10.00 hrs to 17.00 hrs from 05/09/2011 to 16/09/2011 on any working day at a cost of Rs.2000/- by cash.
5. The document can also be downloaded from the Official Website i.e. www.dded.gov.in of the Authority. In case of a downloaded form, the applicant can attach the DD of requisite fees at the time of submission of tender documents.
6. The prospective bidders viewing this notice are required to constantly monitor our web site for amendments/corrigendum that may be issued from to time. No separate amendment will be published in the newspaper
7. No tender papers will be supplied by post.
8. Right to issue and to accept or reject any or all tender without assigning any reasons there of is reserved by the undersigned.
9. The jurisdiction for any legal dispute will be Daman & Diu.

Executive Engineer (Elect.)

1. INTRODUCTION

1.1 Background

- 1.1.1 The Department of Electricity of UT Administration of Daman & Diu (the “**Authority**”) is planning to undertake the work of **Legal issues with JERC and CERC, ATR etc** (collectively called the “**Project**”)
- 1.1.2 In pursuance of the above, the Authority has decided to carry out the process for selection of a Consultant for preparing the bid documents and for assisting in the bidding process for the Project in accordance with the Terms of Reference specified at Schedule-1 (the “**TOR**”).

1.2 Request for Proposal

The Authority invites Proposals (the “**Proposals**”) for selection of a Consultant (the “**Consultant**”) for providing the Consultancy Services for preparation of ARR&MYT for the UTs of Daman & Diu and All regulatory work for above such as filing petition to JERC/SERC/CERC, attending hearings, representing the case before commission, attending public hearings, preparation of replies to queries raised by commission/consumer representative etc.. The Authority intends to select the Consultant through an open competitive bidding process in accordance with the procedure set out herein.

1.3 Due diligence by Applicants

Applicants are encouraged to inform themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority, sending written queries to the Authority, and attending a Pre-Proposal Conference on the date and time specified in Clause 1.10.

1.4 Sale of RFP Document

RFP document can be obtained between 1100 hrs and 1600 hrs on all working days on payment of a fee of Rs. 2,000 (Rupees two thousand only) in the form of a demand draft or banker’s cheque drawn on any Scheduled Bank in India in favour of **Executive Engineer, Electricity Department, Daman** and payable at **Daman**.

1.5 Validity of the Proposal

The Proposal shall be valid for a period of not less than 180 days from the Proposal Due Date (the “**PDD**”).

1.6 Brief description of the Selection Process.

The Authority has adopted a selection process in evaluating the Proposals comprising of technical and financial bids to be submitted in sealed envelopes. Initially technical

evaluation will be carried out as specified in Clause 3.1. Based on this technical evaluation, a list of short-listed applicants shall be prepared as specified in Clause 3.2.. The financial proposals of only the short listed applicants will be opened as specified in clause 3.3. The applicant who has quoted the lowest cost for consultancy (L1) shall be selected for negotiation (the “**Selected Applicant**”) while the second lowest (L2) Applicant will be kept in reserve.

1.7 Currency conversion rate and payment.

- 1.7.1 All payments to the Consultant shall be made in INR in accordance with the provisions of this RFP. The Consultant may convert Rupees into any foreign currency as per Applicable Laws and the exchange risk, if any, shall be borne by the Consultant.

1.8 Schedule of Selection Process

The Authority would endeavour to adhere to the following schedule:

Event Description	Estimated Date
1. Last date for receiving queries/clarifications	17/09/2011
3. Authority response to queries	20/09/2011
4. Proposal Due Date or PDD	26/09/2011 (upto 15.00 hrs)
5. Opening of tender.	26/09/2011 (15.30hrs)
6. Letter of Award (LOA)	Within 45 days of opening of bid
7. Signing of Agreement	Within 7 days of LOA
8. Validity of Applications	180 days of Proposal Due Date

1.9 Inspection of documents and data

Prospective applicants may review the available documents and data at any time prior to PDD. For this purpose, they will provide at least two days’ notice to the nodal officer specified below:

Shri M.R Ingle
 Executive Engineer (Elect)
 Electricity Department,
 Power house Building ,
 Sea Face Road, Nani Daman, 396210,

Phone Nos 02602254745,Fax 02602250889

Mail eddaman@rediffmail.com

1.10 Communications

1.10.1 All communications including the submission of Proposal should be addressed to:

Shri M.R Ingle
Executive Engineer (Elect)
Electricity Department,
Power house Building ,
Sea Face Road, Nani Daman, 396210,
Phone Nos 02602254745,Fax 02602250889
MAIL eddaman@rediffmail.com

1.10.2 The **Official Website** of the Authority is:

<http://www.dded.gov.in>

1.10.3 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

RFP Notice No. (As appeared in the Advertisement)
FOR SELECTION OF CONSULTANT FOR ELECTRICITY DEPARTMENT,
DAMAN & DIU

2. INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1 Scope of Proposal

- 2.1.1 Detailed description of the objectives, scope of services, deliverables and other requirements relating to this Consultancy are specified in this RFP. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the Consultancy, it may participate in the Selection Process either individually (the “**Sole Firm**”) or as lead member of a consortium of firms (the “**Lead Member**”) in response to this invitation. The term applicant (the “**Applicant**”) means the Sole Firm or the Lead Member, as the case may be. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP.
- 2.1.2 Applicants are advised that the selection of Consultant shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RFP. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority’s decisions are without any right of appeal whatsoever.
- 2.1.3 The Applicant shall submit its Proposal in the form and manner specified in this Part-2 of the RFP. The technical proposal shall be submitted in the form at Appendix-I and the Financial Proposal shall be submitted in the form at Appendix-II. Upon selection, the Applicant shall be required to enter into an agreement with the Authority in the form specified at Schedule-2.
- 2.1.4 **Key Personnel**

The Consultants’ team (the “**Consultancy Team**”) shall consist of a Consultant having the experience and qualifications specified herein (the “**Consultant**”) assisted by junior associates and supporting staff, as may be necessary. The Key Personnel shall be identified and included in the Technical Proposal.

The Consultancy Team shall consist of the following key personnel (the “**Key Personnel**”) who shall discharge their respective responsibilities as specified below:

Key Personnel	Responsibilities
Consultant/Team Leader	He will lead, co-ordinate and supervise the Consultancy Team for delivering the Consultancy in a timely manner as envisaged in this RFP. He shall not delegate his responsibilities except with the prior written approval of the Authority.
Associate(s)	To accompany and assist the Consultant as may be necessary

2.2 Conditions of Eligibility of Applicants

2.2.1 Applicants must read carefully the minimum conditions of eligibility (the “**Conditions of Eligibility**”) provided herein. Proposals of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.

2.2.2 To be eligible for evaluation of its Proposal, the Applicant shall fulfil the following:

A) Technical Capacity: For demonstrating technical capacity and experience (the “**Technical Capacity**”) applicant shall have undertaken the following eligible assignments:

- (i) Worked in the power sector as consultant/advisor and is well acquainted with the working of State Electricity Board/corporation and present regulatory framework in Power Sector and possessing **experience of three years in dealing with such matters** and the areas outlined in the scope of work for Distribution utilities of **at least two states in India.**

Where credit is being claimed by the Consultant and/or the Consultant, it/she/he should have completed the relevant assignment prior to PDD.

The bidder should be well versed with Central/State Govt. statute, regulations relating to power sector, tax finance and cost related aspects, experience in development of concepts like ABT, OA, MYT emanating from the Electricity Act 2003.

B) Financial Capacity: the bidder should have cumulative average annual turnover of Rs.10.00 (ten) crores in last three years out of which at least Rs.2.00 (two) crores should have been earned from the above mentioned eligible assignments.

(A) Availability of Key Personnel: The Applicant shall offer and make available all Key Personnel meeting the requirements specified in Sub-clause (D) below and shall assume that the project team would be stationed in Daman on continuous basis for Five weeks prior to submission / finalization of ARR/MYT Petition.

(D) Conditions of Eligibility for Key Personnel: Each of the Key Personnel must fulfill the Conditions of Eligibility specified below:

Key Personnel	Educational Qualification	Length of Professional Experience	Experience
Consultant/ Team Leader	Should be suitable# for the assignment and preferably Bachelor in Engineering and with MBA (Finance) or CA or equivalent from reputed Institutions	12 years	He should have 12 years experience in the power sector and atleast two years in areas of Power purchase. He should have led the Consultancy teams in such type of Assignments.
Associate (s)	Should be suitable# for the assignment and preferably Bachelor in Electrical Engineering/ MBA (Finance) or equivalent	5 years	He should have worked in power sector for at least 5 years and well versed will relevant acts and regulations

2.2.3 The Applicant shall enclose with its Proposal, certificate(s) from its Statutory Auditors[§] stating its revenues during the past three years and the payments received in respect of Eligible Assignments specified in the Proposal.

2.2.4 The Applicant should submit a Power of Attorney as per the format at Form - 4 of Appendix-I.

2.2.5 Any entity which has been barred by the Central / State Government in India, or any entity controlled by them, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal.

2.2.6 An Applicant should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant.

[§] No separate annual financial statements should be submitted.

Regarding the suitability of any Professional for the assignment decision of the Authority shall be final.

2.2.7 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

2.3 Conflict of Interest

2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process or the Consultancy (the “**Conflict of Interest**”). Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Performance Security as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, the time, cost and effort of the Authority including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

2.3.2 The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Consultant shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the Authority.

2.3.3 Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Schedule-3. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest that affects the Selection Process, if:

- (i) The Applicant, its consortium member (the “**Member**”) and any other Applicant, its Member (or any constituent thereof) have common ownership interest;
- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) such Applicant receives or has received any direct or indirect subsidy from any other Applicant; or
- (iv) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others’ information about, or to influence the Application of either or each of the other Applicant; or
- (v) If there is a conflict among this and other consulting assignments of the Consultant (including its personnel and other members, if any). The duties of the Consultant

depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant shall not take up any assignment that by its nature will result in conflict with the present assignment; or

- (vi) a firm which has been engaged by the Authority to provide goods or works for a project, and its Associates, will be disqualified from providing consulting services for the same project; conversely, a firm hired to provide consulting services for the preparation of implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or

2.3.4 An Applicant eventually appointed to provide Consultancy for this Project, as well as any of its Consortium Members, if any, shall be disqualified from subsequently providing services related to the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of five years from the completion of this assignment.

2.4 Number of Proposals

An Applicant is eligible to submit only one Application for the Consultancy. An Applicant applying individually or as a member of a consortium shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

2.5 Cost of Proposal

The Applicants shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiation, visits to the Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.6 Visit to the Authority and verification of information

Applicants are encouraged to submit their respective Proposals after visiting the office of the Authority and ascertaining for themselves the availability of documents and other data with the Authority, applicable laws and regulations or any other matter considered relevant by them.

2.7 Acknowledgement by Applicant

2.7.1 It shall be deemed that by submitting the Proposal, the Applicant has:

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

- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 above;
- (d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 herein above, necessary and required for submitting an informed Application and performance of all of its obligations thereunder;
- (e) Acknowledged that it does not have a Conflict of Interest; and
- (f) Agreed to be bound by the undertaking provided by it under and in terms hereof.

2.7.2 The Authority shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

2.8 Right to reject any or all Proposals

2.8.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.8.2 The Authority reserves the right to reject any Proposal if:

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

Such misrepresentation/ improper response may lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Authority reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

B. DOCUMENTS

2.9 Contents of the RFP

- 2.9.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

Request for Proposal

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practices
- 5 Miscellaneous

Schedules

- 1 **Terms of Reference**
- 2 **Form of Agreement**
 - Annex-1: Terms of Reference
 - Annex-2: Deployment of Personnel
 - Annex-3: Cost of Services
 - Annex-4: Bank Guarantee for Performance Security

- 3 **Guidance Note on Conflict of Interest**

Appendices

Appendix-I: Technical Proposal

- Form 1: Letter of Proposal
- Form 2: Particulars of the Applicant
- Form 3: Statement of Legal Capacity
- Form 4: Power of Attorney
- Form 5: Financial Capacity of Applicant
- Form 6: Particulars of Key Personnel
- Form 7: Experience of Applicant
- Form 8: Experience of Key Personnel
- Form 9: Eligible Assignments of Applicant
- Form 10: CV of Professional Personnel

Appendix – II: Financial Proposal

- Form 1: Covering Letter
- Form 2: Financial Proposal

2.10 Clarifications

- 2.10.1 Applicants requiring any clarification on the RFP may send their queries to the Authority in writing before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

"Queries/Request for Additional Information concerning RFP"

The Authority shall endeavour to respond to the queries within the period specified therein but not later than 7 days prior to the Proposal Due Date. The responses will be sent by fax or e-mail. The Authority will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Applicants who have purchased the RFP document without identifying the source of queries.

- 2.10.2 The Authority reserves the right not to respond to any questions or provide any clarifications, 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.

2.11 Amendment of RFP

- 2.11.1 At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/ Amendment and posting it on the Official Website and by conveying the same to the prospective Applicants (who have purchased the RFP document) by fax or e-mail.
- 2.11.2 All such amendments will be notified in writing through fax or e-mail to all Applicants who have purchased the RFP document. The amendments will also be posted on the Official Website along with the revised RFP containing the amendments and will be binding on all Applicants.
- 2.11.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the Proposal Due Date.

C. PREPARATION AND SUBMISSION OF PROPOSAL

2.12 Language

The Proposal with all accompanying documents (the “**Documents**”) and all communications in relation to or concerning the Selection Process shall be in English Language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the Proposal unless specifically asked for and in case any of these documents is in another language, it must be accompanied by an accurate translation of the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

2.13 Format and signing of Proposal

2.13.1 The Applicant shall provide all the information sought under this RFP. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects.

2.13.2 The Applicant shall prepare one original set of the Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 1 (one) copy of the Proposal, along with Documents, marked "COPY". In the event of any discrepancy between the originals and the copies, the original shall prevail.

2.13.3 The Proposal shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall initial each page, in blue ink. In case of printed and published Documents, only the cover shall be initialled. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialled by the person(s) signing the Proposal. The Proposals must be properly signed as detailed below:

- (i) by the proprietor, in case of a proprietary firm; or
- (ii) by the partner holding the Power of Attorney, in case of a partnership firm.

copy of the Power of Attorney certified under the hands of the proprietor or a partner of the Applicant or a notary public on the specified form shall accompany the Proposal.

2.13.4 Applicants should note the Proposal Due Date, as specified in Clause 1.8, for submission of Proposals. Applicants are reminded that no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in Clause 2.17.1. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

2.14 Technical Details

2.14.1 Applicants shall submit the technical proposal in the formats at Appendix-I (the "**Technical Details**").

2.14.2 While submitting the Technical Details, the Applicant shall, in particular, ensure that:

- (a) CVs of all Key Personnel have been submitted;

- (b) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 (D) of the RFP;
- (c) No alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- (d) The CVs have been recently signed in blue ink by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- (e) The CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP; and
- (f) Key Personnel proposed have good working knowledge of English language.

2.14.3 Failure to comply with the requirements spelt out in this Clause 2.14 shall make the Proposal liable to be rejected.

2.14.4 If an individual Key Personnel makes an averment regarding his qualification, experience or other particulars and it turns out to be false, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Agreement, he shall be debarred for any future assignment of the Authority for a period of five years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event.

2.14.5 The Technical Proposal shall not include any financial information relating to the Financial Proposal.

2.14.6 In addition to the Consultant, the Consultancy Team shall comprise of other competent and experienced Professional Personnel in the relevant areas of expertise (where applicable) as required for successful completion of this Consultancy. The CV of each Professional Personnel should also be submitted in the format at Form-12 of Appendix-I.

2.14.7 The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Failure of the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2.14.8 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Applicant has already been issued the

LOA or has entered into the 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 without the Authority being liable in any manner whatsoever to the Applicant or Consultant, as the case may be.

In such an event, the Authority shall forfeit and appropriate the Performance Security, if any, as mutually agreed pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

2.15 Financial Details

2.15.1 Applicants shall submit the financial details in the formats at Appendix-II (the “**Financial Details**”) clearly indicating the total cost of the Consultancy in both figures and words, in Indian Rupees, and signed by the Applicant’s authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

2.15.2 While submitting the Financial Details, the Applicant shall ensure the following:

- (i) All the costs associated with the assignment shall be included in the Financial Details. The total amount indicated in the Financial Details shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Details, it shall be considered non-responsive and liable to be rejected.
- (ii) The Financial Details shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be included in the costs shown under different items of the Financial Details. Further, all payments shall be subject to deduction of taxes at source as per applicable laws.
- (iii) Costs shall be expressed in INR.

2.16 Submission of Proposal

2.16.1 The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be signed by the Authorized Representative of the Applicant. In case of any discrepancy between the photocopied version of the RFP and the original RFP issued by the Authority, the latter shall prevail.

2.16.2 The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RFP Notice no., Consultancy name as indicated at Clause 1.10.1 and 1.10.3 and the name and address of the Applicant. It shall bear on top, the following:

“Do not open, except in presence of the Authorised Person”

If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted.

2.16.3 The aforesaid envelope will contain single sealed envelopes.

- (i) Application in the prescribed format (Form 1 of Appendix-I) along with Forms 2 to 15 of Appendix-I and supporting documents;
- (ii) copy of its partnership deed if the Applicant/ Consortium Member is a partnership; and
- (iii) copies of Applicant’s duly audited balance sheet for the preceding three years;

2.16.4 The Technical Details and Financial Details shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant. All pages of the original Technical Details and Financial Details must be numbered and initialed by the person or persons signing the Proposal.

2.16.5 The completed Details must be delivered on or before the specified time on Details Due Date. Details submitted by fax, telex, telegram or e-mail shall not be entertained.

2.16.6 The Details shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, firm profiles, copy of contracts etc. will be entertained.

2.16.7 The rates quoted shall be firm throughout the period of performance of the assignment upto and including discharge of all obligations of the Consultant under the Agreement.

2.17 Details Due Date

2.17.1 Details should be submitted before 1500 hrs on the Details Due Date specified at Clause 1.8 at the address provided in Clause 1.11 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified therein.

2.17.2 The Authority may, in its sole discretion, extend the Details Due Date by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

2.18 Late Details

Details received by the Authority after the specified time on Details Due Date shall not be eligible for consideration and shall be summarily rejected.

2.19 Modification/ substitution/ withdrawal of Details

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

2.19.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.16, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

2.19.3 Any alteration / modification in the Details or additional information or material supplied subsequent to the Details Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.20 **Performance Security:** The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority’s any other right or remedy hereunder or in law or otherwise, the Performance Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damage payable to the Authority for, inter alia, time, cost and effort of the Authority in regard to the RFP including the consideration and evaluation of the Details under the following conditions:

- (a) If an Applicant engages in any of the Prohibited Practices specified in Clause 4 of this RFP;
- (b) If the Applicant is found to have a Conflict of Interest as specified in Clause 2.3; and
- (c) if the selected Applicant commits a breach of the Agreement.

D. EVALUATION PROCESS

2.21 Evaluation of Details

- 2.21.1 The Authority shall open the Details at 1530 hours on the Details Due Date, at the place specified in Clause 1.11.1 and in the presence of the Applicants who choose to attend.
- 2.21.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.
- 2.21.3 Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
- (a) it is received in the form specified at Appendix-I (Technical Proposal);
 - (b) it is received by the Proposal Due Date including any extension thereof pursuant to Clause 2.17;
 - (c) it is signed, sealed and marked as stipulated in Clause 2.13 and 2.16;
 - (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.4;
 - (e) it contains all the information (complete in all respects) as requested in the RFP;
 - (f) it does not contain any condition or qualification; and
 - (g) it is not non-responsive in terms hereof.
- 2.21.4 The Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.
- 2.21.5 The Authority would subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Section 3 of this RFP.
- 2.21.6 After the technical evaluation, the Authority would prepare a list of pre-qualified Applicants in terms of Clause 3.2. The Authority will not entertain any query or clarification from Applicants who fail to qualify at any stage of Selection Process. The financial evaluation and final ranking of the Proposals would be carried out in terms of Clause 3.3 and 3.4.
- 2.21.7 Applicants are advised that Selection will be entirely at the discretion of the Authority. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given.
- 2.21.8 Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

2.22 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the Authority in relation to or matters arising out of, or concerning the Selection Process. The Authority will treat all information, submitted as part of the Proposal, 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.

2.23 Clarifications

- 2.23.1 To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. 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.
- 2.23.2 If an Applicant does not provide clarifications sought under Sub-Clause 2.23.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

E. APPOINTMENT OF CONSULTANT

2.24 Negotiations

- 2.24.1 The first ranked Applicant (the “**Selected Applicant**”) may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal, but will be for re-confirming the obligations of the Consultant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations. In case the Selected Applicant fails to reconfirm its commitment, the Authority reserves the right to designate the next ranked Applicant as the Selected Applicant and invite it for negotiations.
- 2.24.2 The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.
- 2.24.3 The Authority will examine the credentials of all Sub-Consultants/Consortium Members proposed for this Consultancy and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.

2.25 Substitution of Consultant

- 2.25.1 The Authority will not normally consider any request of the Selected Applicant for substitution of the Consultant during negotiations. Substitution, will, however be permitted in exceptional circumstances if the Consultant is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.
- 2.25.2 The Authority expects all the Key Personnel to be available during the period of the Agreement. The Authority will not consider substitution of Key Personnel except for reasons of any incapacity or due to health. Such substitution shall ordinarily be limited to one Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. As a condition to such substitution, a sum equal to 10% (twenty per cent) of the quoted cost in the financial proposal shall be deducted from the payments due to the Consultant. In the case of a second substitution hereunder, such deduction shall be 25% (fifty per cent).

2.26 Indemnity

The Consultant shall, subject to the provisions of the Agreement, indemnify the Authority for any direct loss or damage that is caused due to any deficiency in services.

2.27 Award of Consultancy

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Applicant and the Selected Applicant shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Applicant is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, cancel the LOA and the next eligible Applicant may be considered.

2.28 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement within the period prescribed in Clause 1.8. The Selected Applicant shall not be entitled to seek any deviation in the Agreement.

2.29 Commencement of Assignment

The Consultant shall commence the Consultancy within seven days of the date of effectiveness of the Agreement. If the Consultant fails to either sign the Agreement as specified in Clause 2.28 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled/terminated.

2.30 Proprietary data

All documents and other information provided by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants and the Consultant, as the case may be, are to treat all information as strictly confidential. The Authority will not return any Proposal or any information related thereto. All information collected, analyzed, processed or in whatever manner provided by the Consultant to the Authority in relation to the Consultancy shall be the property of the Authority.

3. CRITERIA FOR EVALUATION

3.1 Evaluation of Technical Details

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

- A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”) applicant shall have undertaken the following eligible assignments
- i) Worked in the power sector as consultant/advisor and is well acquainted with the working of State Electricity Board/corporation and present regulatory framework in Power Sector and possessing **experience of three years in dealing with such matters.**
 - ii) Experience in power purchase and the areas outlined in the scope of work for Distribution utilities of **atleast two states in India.**

Where credit is being claimed by the Consultant and/or the Consultant, it/she/he should have completed the relevant assignment prior to PDD.

The bidder should be well versed with Central/State Govt. statute, regulations relating to power sector, tax finance and cost related aspects, experience in development of concepts like ABT, OA, MYT emanating from the Electricity Act 2003.

- B) **Financial Capacity:** the bidder should have cumulative average annual turnover of Rs.10.00 (Ten) Crores out of which at least Rs.2.00 (Two) Crores should be from the eligible assignments in each of the preceding three years.

3.2 Short-listing of Applicants

Of the Applicants ranked as aforesaid, not more than five shall be pre-qualified and short-listed for financial evaluation.

3.3 Evaluation of Financial Details

- 3.3.1 In the second stage, the evaluation of the financial details will be done.
- 3.3.2 For financial evaluation, the total cost indicated in the Financial Details will be considered.
- 3.3.3 The Authority will determine whether the Financial Details are complete, unqualified and unconditional. The cost indicated in the Financial Details shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the Consultant to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Consultant.
- 3.4.2 **The Selected Applicant shall be the Applicant who has quoted the lowest cost for consultancy services (L1).** The second lowest (L2) applicant shall be kept in reserve and may be invited by the Authority in its discretion for negotiations in case the first-ranked Applicant withdraws, or fails to comply with the requirements specified in Clauses 2.24, 2.28 and 2.29, as the case may be.

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the “**Prohibited Practices**”) in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant’s Proposal.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, 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 Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Authority to have directly 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, 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 action of any person connected with the Selection 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 Selection Process or the LOA or has dealt with matters concerning the 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 Selection Process; or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical consultant/ adviser of the Authority in relation to any matter concerning the Project;

- (b) “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- (c) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection 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 Selection Process; or (ii) having a Conflict of Interest; and
- (e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

5. MISCELLANEOUS

- 5.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Daman & Diu shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 5.2 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 Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Applicant in order to receive clarification or further information;
 - (c) retain any information and/or evidence submitted to the Authority by, on behalf of and/or in relation to any Applicant; and/or
 - (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.
- 5.3 It shall be deemed that by submitting the Proposal, the Applicant 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, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

SCHEDULES

SCHEDULE – 1

(See Clause 1.1.3) (to check)

Consultancy for Electricity Department, Daman& Diu

Terms of Reference (TOR)

for Consultant

Terms of Reference (TOR)¹

1. General

1.1 The Authority seeks the services of qualified consultancy firms for providing consultancy (**the “Consultancy”**) for the following scope of work (collectively called **the “Project”**):

1.1.2 Preparation of ARR&MYT for the UTs of Daman & Diu

1.1.3 All regulatory work for above such as filing petition to JERC/SERC/CERC, attending hearings, representing the case before commission, attending public hearings, preparation of replies to queries raised by commission/consumer representative etc.

1.2 Besides the above terms of reference particular to various works, the Consultant shall, in general, be guided by the below mentioned Terms of Reference (the “TOR”) in respect of the Project:

1.2.1 The Consultant shall be guided in its assignment by the guidelines issued by the Ministry of Power, Govt. of India and the Indian Electricity Act (the “**Manual**”) and the guidelines issued thereon by the CERC/JERC.

2. Objective

The objective of this assignment (the “**Objective**”) is to obtain the Consultancy from the Consultant in respect of the work already described at Para 1.1.1 to Para 1.1.2 as per the terms of Reference specified thereon and in Para 1.2.

3. Deliverables

A. *Inception Report*

On commencement of the Consultancy, the Consultant shall prepare and submit an Inception Report. The Inception Report shall be a further elaboration of the Consultant’s submissions towards understanding of the RFP and the Work Plan. The Inception Report must clearly spell out the broad strategy of the Consultant to deliver the Consultancy services.

B. *Draft Documents*

Consultant shall deliver drafts of the ARR,MYT and other related documents required in the course of approval of ARR/MYT or submission to the CERC/JERC as may be necessary and as may be identified in the Inception Report.

¹ Terms of Reference may be suitably modified to address project-specific requirements.

4. Time and Payment Schedule

4.1 The total duration for delivering the Consultancy shall be for a period of one year extendable up to five years (one year at time) subject to the satisfaction of the Authority. The Consultant shall deploy the Consultant and its Key Personnel as per the Deployment of Personnel proposed.

4.2 The consultant shall submit the statement of expenditure regularly and the payments shall be made periodically by the Authority for which bills may be raised by the Consultant once a month.

4.3 Meetings

The Authority may review with the Consultant, any or all of the documents and advice forming part of the Consultancy, in meetings and conferences which be held in Daman at the Authority's office. For this the consultant has to visit the Authority's office once a week. Further, the Consultant may be required to attend meetings and conferences with public or consumer redressal forum . The expenses towards attending such meetings during the period of Consultancy including travel costs, board and lodging and out of pocket expenses towards local travel shall be borne by the Consultant.

5. Consultancy Team

The Consultant shall form a team (the “**Consultancy Team**”) for undertaking this assignment. The Consultant whose experience and responsibilities are briefly described herein would be considered for evaluation of the Technical Proposal.

Consultant

Educational Qualifications	Should be suitable for the assignment and preferably Bachelor in Engineering and with MBA (Finance) or CA or equivalent from reputed Institutions
Essential Experience	12 years in Consultancy services in the specified areas. He should have also led the Consultancy teams in such type of assignments.
Job responsibilities	He will lead, co-ordinate and supervise the Consultancy Team for delivering the Consultancy in a timely manner as envisaged in this RFP. He shall not delegate his

	responsibilities except with the prior written approval of the Authority.
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However the consultant shall also keep himself up-to-date on all the latest developments in the areas of assignments.

6. Completion of Services

All the Deliverables shall be compiled, classified and submitted by the Consultant to the Authority in soft form, to the extent possible. The documents comprising the Deliverables shall remain the property of the Authority and shall not be used by the Consultant for any purpose other than that intended under these Terms of Reference without the permission of the Authority. The Consultancy Services shall be deemed to be completed upon one year from the Effective Date.

SCHEDULE – 2

(See Clause 2.1.3)

AGREEMENT

FOR

PROVISION OF CONSULTANCY SERVICES

FOR

ELECTRICITY DEPARTMENT, DAMAN& DIU

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AGREEMENT

For Providing Consultancy Services to Electricity Department,

DAMAN & DIU

AGREEMENT No. _____

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the _____ day of the month of _____ 2011, between, on the one hand, the Electricity Department, UT Administration of Daman & Diu through Shri M R Ingle Executive Engineer (hereinafter called the “**the Authority**” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, _____ (hereinafter called the “**Consultant**” or “**the Consultant**” which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The Authority vide its Request for Proposal for the providing of consultancy services to the Electricity Department, Daman & Diu(hereinafter called the “**Project**”);
- (B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant vide its Letter of Award dated _____ (the “**LOA**”); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. GENERAL

1.1 Definitions and Interpretation

- 1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- (a) “Administration” means UT Administration of Daman & Diu.
- (b) “Applicable Laws” means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- (c) “Agreement” means this Agreement, together with all the Annexes;
- (d) “Agreement Value” shall have the meaning set forth in Clause 6.1.2;
- (e) “Confidential Information” shall have the meaning set forth in Clause 3.3;
- (f) “Conflict of Interest” shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (g) “Dispute” shall have the meaning set forth in Clause 9.2.1;
- (h) “Effective Date” means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- (i) “Government” means the Government of India;
- (j) “INR, Re. or Rs.” means Indian Rupees;
- (k) “Member”, in case the Consultant consists of a consortium of more than one entity, means any of these entities, and “Members” means all of these entities;
- (m) “Personnel” means persons hired by the Consultant as employees or retainers and assigned to the performance of the Services or any part thereof;
- (n) “Party” means the Authority or the Consultant, as the case may be, and Parties means both of them;
- (o) “Resident Personnel” mean such persons who at the time of being so hired had their domicile inside India;
- (p) “Services” means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- (q) “RFP” means the Request for Proposal document in response to which the Consultant’s proposal for providing Services was accepted; and

- (r) “Third Party” means any person or entity other than the Government, the Authority or the Consultant.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral part of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over other would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the Authority and the Consultant. The Consultant shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and obligations

The mutual rights and obligations of the Authority and the Consultant shall be as set forth in the Agreement; in particular:

- (a) The Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) the Authority shall make payments to the Consultant in accordance with the provisions of the Agreement.

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Daman & Diu shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6 Table of contents and headings

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Consultant, be given by facsimile and by letter delivered by hand or registered post to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Authority.
- (b) in the case of the Authority, be given by facsimile and by letter delivered by hand or by registered post and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Consultant.
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

1.8 Location

The Services shall be performed at Daman & Diu in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Consultant.

1.9 Authority of Member-in-charge

In case the Consultant consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Consultant's rights and obligations towards the Authority

under this Agreement, including without limitation the receiving of instructions and payments from the Authority.

1.10 Authorised representatives

1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Consultant, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2 The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

Shri M.R Ingle
Executive Engineer (Elect)
Electricity Department,
Power house Building ,
Sea Face Road, Nani Daman, 396210,
Phone Nos 02602254745,Fax 02602250889

MAIL eddaman@rediffmail.com

1.10.3 The Consultant may designate one of its employees as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be:

Tel: -----

Fax: -----

1.11 Taxes and duties

Unless otherwise specified in the Agreement, the Consultant shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the Authority shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the “**Effective Date**”).

2.2 Commencement of Services

The Consultant shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

If the Consultant does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 1 (one) weeks’ notice to the Consultant, declare this Agreement to be null and void, and in the event of such a declaration, this Agreement shall stand terminated and the Consultant shall be deemed to have accepted such termination.

2.4 Expiration of Agreement

Unless terminated earlier pursuant to Clause 2.9 hereof, this Agreement shall expire after one year from the effective date unless extended or otherwise mutually agreed upon by both the parties.

2.5 Entire Agreement

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the RFP shall continue to subsist and shall be deemed as part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6 Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause 4.2.3 and 6.1.3 hereof,

however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purposes of this Agreement, “Force Majeure” means an event which is beyond the reasonable control of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No breach of Agreement

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

2.7.3 Measures to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party’s inability to fulfill its obligations hereunder with a minimum of delay.

- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be reimbursed for costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

Not later than thirty (30) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension of Agreement

The Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

2.9 Termination of Agreement

2.9.1 By the Authority

The Authority may, by not less than thirty (30) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;
- (b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant knows to be false;
- (e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2 By the Consultant

The Consultant may, by not less than thirty (30) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- (a) the Authority fails to pay any money due to the Consultant pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof

within sixty (60) days after receiving written notice from the Consultant that such payment is overdue;

- (b) the Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within sixty (60) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying such breach;
- (c) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of its accounts and records set forth in Clause 3.6 (ii) hereof, and any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Authority shall make the proportional payment only for the period for

which the agreement was effective (after offsetting against these payments any amount that may be due from the Consultant to the Authority):

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standards of Performance

The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Sub-Consultants or Third Parties.

3.1.2 Terms of Reference

The scope of Services to be performed by the Consultant is specified in the Terms of Reference (the “**TOR**”) at Annex-1 of this Agreement. The Consultant shall provide the deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel and agents of the Consultant and any Sub-Consultant, comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The Consultant shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2 Consultant and Affiliates not to be otherwise interested in the Project

The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant firm.

3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its Personnel shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.4 Consultant not to benefit from commissions, discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant's sole remuneration in connection with this Agreement or the Services and the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder.

3.2.5 The Consultant and its Personnel shall observe the highest standards of ethics and have not engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "**Prohibited Practices**"). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the

Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the Performance Security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

3.2.6 Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **“corrupt practice”** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment 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 Selection Process or LOA or dealing with matters concerning the Agreement 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 Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser the Authority in relation to any matter concerning the Project;

- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection 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 Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- (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 Selection Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

3.3 Confidentiality

The Consultant and its Personnel shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Authority to the Consultant and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority’s employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("**Confidential Information**"), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Consultant and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (i) was in the public domain prior to its delivery to the Consultant and the Personnel or becomes a part of the public knowledge from a source other than the Consultant and the Personnel or either of them;
- (ii) was obtained from a third party with no known duty to maintain its confidentiality;
- (iii) is required to be disclosed by Law or judicial or administrative or arbitral process or by any Governmental Instrumentalities, provided that for any such disclosure, the Consultant and the Personnel shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment;
- (iv) is provided to the professional advisers, agents, auditors or representatives of the Consultant or Personnel, as is reasonable under the circumstances; provided, however, that the Consultant or Personnel, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the Consultant

3.4.1 The Consultant's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.

3.4.2 Consultant's liability towards the Authority

The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

3.4.3 The Parties hereto agree that in case of negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:

- (i) For any indirect or consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the Consultant may be entitled to receive from any insurance maintained by the Consultant to

cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.

This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.

3.5 Consultant's actions requiring the Authority's prior approval

The Consultant shall obtain the Authority's prior approval in writing before taking any of the following actions:

- (a) Appointing such members of the Professional Personnel as are not listed in Annex-2.
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Consultant and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Consultant shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Agreement; or
- (c) any other action that may be specified in this Agreement.

3.6 Reporting obligations

The Consultant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

3.7 Documents prepared by the Consultant to be property of the Authority

3.7.1 All plans, drawings, specifications, designs, reports and other documents prepared by the Consultant in performing the Services shall become and remain the property of the Authority, and the Consultant shall, not later than termination or expiration of this Agreement, deliver all such documents to the Authority, together with a detailed inventory thereof. The Consultant may retain a copy of such documents. Restrictions about the future use of these documents shall be as specified in the Agreement.

3.7.2 The Consultant shall not use these documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

3.8 Equipment and materials furnished by the Authority

Equipment and materials made available to the Consultant by the Authority shall be the property of the Authority and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall furnish forthwith to the Authority, an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the Authority.

3.9 Providing access to Project Office and Personnel

The Consultant shall ensure that the Authority, and officials of the Authority having authority from the Authority, is provided unrestricted access to the Project Office and to all Personnel during office hours. The Authority's any such official shall have the right to inspect the Services in progress, interact with Personnel of the Consultant and verify the records for his satisfaction.

3.10 Accuracy of Documents

The Consultant shall be responsible for accuracy of the documents drafted and/or vetted by it. Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the documents.

4 CONSULTANT'S PERSONNEL

4.1 General

The Consultant shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2 Deployment of Personnel

4.2.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the Authority.

4.2.2 Additional personnel or adjustments with respect to the key personnel shall only be made with the consent of the Authority.

4.3 Substitution of Key Personnel

The Authority expects all the Key Personnel specified in the Proposal to be available during the period of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Consultant and the concerned Key Personnel. Such substitution shall be limited to not more than one Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Substitution of one Key Personnel shall be permitted subject to reduction of remuneration equal to 10% (ten percent) of the total remuneration specified for the Key Personnel who is proposed to be substituted. In case of a second substitution, such reduction would be equal to 20% (twenty percent) of the total remuneration specified for the Key Personnel who is proposed to be substituted.

4.4 Resident Team Leader and Project Manager

The person designated as the Team Leader of the Consultant's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. The Consultant shall designate a suitable person as Project Manager (the "**Project Manager**") who shall be responsible for day to day performance of the Services.

5. OBLIGATIONS OF THE AUTHORITY

5.1 Assistance in clearances etc.

Unless otherwise specified in the Agreement, the Authority shall make best efforts to ensure that the Government shall:

- (a) provide the Consultant, its Sub-Consultants and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultants or Personnel to perform the Services;
- (b) Facilitate prompt clearance through customs of any property required for the Services; and
- (c) Issue to officials, agents and representatives of the UT Administration all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

5.2 Changes in Applicable Law

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or

reimbursable expenses incurred by the Consultant in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

5.3 Payment

In consideration of the Services performed by the Consultant under this Agreement, the Authority shall make to the Consultant such payments and in such manner as is provided in Clause 6 of this Agreement.

6. PAYMENT TO THE CONSULTANT

6.1 Cost estimates and Agreement Value

6.1.1 An abstract of the cost of the Services payable to the Consultant is set forth in Annex-3 of the Agreement.

6.1.2 Except as may be otherwise agreed under Clause 2.6, the payments under this Agreement shall not exceed the agreement value specified herein (the “**Agreement Value**”). The Parties agree that the Agreement Value is Rs.____ (Rs._____only) which is inclusive of all the applicable tax & duties.

6.2 Currency of payment

All payments shall be made in Indian Rupees. The Consultant shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.3 Mode of billing and payment

The consultant shall submit the statement of expenditure regularly and the payments shall be made periodically by the Authority for which bills may be raised by the Consultant once a month subject to the Consultant fulfilling the following conditions:

- (i) The consultant shall strive towards the achievement of work assigned within the optimum time.
- (ii) The Authority shall pay to the Consultant, only the undisputed amount.

- (a) The Authority shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the “**Due Date**”).
- (b) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report and a final statement in accordance with Clause 6.3 (d). Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten percent) per annum.
- (c) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

7. LIQUIDATED DAMAGES AND PENALTIES

7.1 Performance Security

7.1.1 The Authority shall retain by way of performance security (the “**Performance Security**”), 10% (ten percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 herein. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiration of this Agreement pursuant to Clause 2.4 hereof.

7.1.2 The Consultant may, in lieu of retention of the amounts as referred to in Clause 7.1.1 above, furnish a Bank Guarantee substantially in the form specified at Annex-4 of this Agreement.

7.2 Liquidated Damages

7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Consultant by way of liquidated damages, subject to a maximum of 10% (ten percent) of the Agreement Value.

7.2.2 Liquidated Damages for delay

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two percent) of the Agreement Value per day, subject to a maximum of 10% (ten percent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the Consultant, suitable extension of time shall be granted.

7.2.3 Encashment and appropriation of Performance Security

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Consultant in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

7.3 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the Consultant for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the Authority, other penal action including termination of agreement and debarring for a specified period may also be initiated as per policy of the Authority.

8. FAIRNESS AND GOOD FAITH

8.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realization of the objectives of this Agreement.

8.2 Operation of the Agreement

The Parties recognize that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such

unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES

9.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

9.2 Dispute resolution

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

9.3 Conciliation

In the event of any Dispute between the Parties, either Party may call upon Secretary (Power), UT of Daman & Diu and the Chairman of the Board of Directors of the Consultant for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

9.4 Arbitration

9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 9.4.2. Such arbitration shall

be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “**Rules**”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act,1996. The venue of such arbitration shall be Daman and the language of arbitration proceedings shall be English.

- 9.4.2 There shall be a sole arbitrator whose appointment shall be made in accordance with the Rules.
- 9.4.3 The arbitrators shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the Consultant and the Government agree and undertake to carry out such Award without delay.
- 9.4.4 The Consultant and the Government agree that an Award may be enforced against the Consultant and/or the Government, as the case may be, and their respective assets wherever situated.
- 9.4.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of
Consultant:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)

SIGNED, SEALED AND DELIVERED

For and on behalf of
Electricity Department
Daman & Diu Administration:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)

In the presence of:

1.

2.

Annex -1

Terms of Reference

(Refer Clause 3.1.2)

(Reproduce Schedule-1 of RFP)

Annex - 2

Details of the Personnel Deployed *(Refer Clause 4.2)*

Annex-3

Cost of Services

(Refer Clause 6.1)

(Reproduce as per Form-2 of Appendix-II)

Annex- 4

Bank Guarantee for Performance Security

(Refer Clause 7.1.2)

To

Shri M.R Ingle
Executive Engineer (Elect)
Electricity Department,
Power house Building ,
Sea Face Road, Nani Daman, 396210,
Phone Nos 02602254745,Fax 02602250889

MAIL eddaman@rediffmail.com

In consideration of Shri M. R Ingle , Executive Engineer , Daman acting on behalf of the Electricity Department, UT Administration of Daman & Diu which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s, having its office at (hereinafter referred as the “Consultant” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority’s Agreement no. dated valued at Rs. (Rupees), (hereinafter referred to as the “Agreement”) a Consultancy Services for Electricity Department, Daman & Diu for the work as specified in the scope of work in the RFP and Terms of reference thereon and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs. (Rupees) to the Authority for performance of the said Agreement.

1. We, (hereinafter referred to as the “Bank”) at the request of the Consultant do hereby undertake to pay to the Authority an amount not exceeding Rs. (Rupees) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said Consultant of any of the terms or conditions contained in the said Agreement.

2. We, (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant’s failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due

and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. (Rupees).

3. We undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Consultant shall have no claim against us for making such payment.

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

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

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Consultant(s).

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

Dated, the day of 20

For

(Name of Bank)

(Signature, Name and Designation of the Authorised Signatory)

Seal of the Bank:

NOTES:

The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.

The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE-3

(See Clause 2.3.3)

Guidance Note on Conflict of Interest

1. This Note further explains and illustrates the provisions of Clause 2.3 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant or between consultants and present or future concessionaries/ contractors. Some of the situations that would involve conflict of interest are identified below:
 - (a) Authority and consultants:
 - (i) Potential consultant should not be privy to information from the Authority which is not available to others.
 - (ii) Potential consultant should not have defined the project when earlier working for the Authority.
 - (iii) Potential consultant should not have recently worked for the Authority overseeing the project.
 - (b) Consultants and concessionaires/contractors:
 - (i) No consultant should have an ownership interest or a continuing business interest or relationship with a potential concessionaire/contractor.
 - (ii) No consultant should be involved in owning or operating entities resulting from the project.
 - (iii) No consultant should bid for works arising from the project.

The participation of companies that may be involved as investors or consumers and officials of the Authority who have current or recent connections to the companies involved, therefore, needs to be avoided.

4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing

companies are likely to bring this to the notice of the Authority. All conflicts must be declared as and when the consultants become aware of them.

5. Another approach to avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the consultant’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted in exceptional cases upon full disclosure by a consultant coupled with provision of safeguards to the satisfaction of the Authority.
6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
7. Another form of conflict of interest called “scope–creep” arises when consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

APPENDICES

APPENDIX-I
(See Clause 2.1.3)
TECHNICAL PROPOSAL

Form-1

Letter of Proposal
(On Applicant's letter head)

(Date and Reference)

To,

Shri M.R Ingle
Executive Engineer (Elect)
Electricity Department,
Power house Building ,
Sea Face Road, Nani Daman, 396210,
Phone Nos 02602254745,Fax 02602250889
MAIL eddaman@rediffmail.com

Sub: Appointment of Consultant for Electricity Department, Daman & Diu

Sir,

With reference to your RFP Document dated_____, I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection as Consultant for Electricity Department, Daman & Diu . The proposal is unconditional and unqualified.

2. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
5. I/We acknowledge the right of the Authority to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we/ any of the consortium members 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 Applicant, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.

7. I/We declare that:
 - (a) I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority;
 - (b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFP Document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, 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 of Clause 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RFP document.
9. I/We declare that we/any member of the consortium, are/is not a Member of a/any other Consortium applying for Selection as a Consultant.
10. I/We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for 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 have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
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 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 [and/ or the Government of India] in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.
14. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.
15. I/We agree to keep this offer valid for 120 (one hundred & twenty days) days from the Proposal Due Date specified in the RFP.
16. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Form 4.
17. In the event of my/our firm/ consortium being selected as the Consultant, I/we agree to enter into an Agreement in accordance with the form at Schedule-2 of the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.
18. I/We have studied RFP and all other documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the 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 concerning or relating to the Selection Process including the award of Consultancy.
19. The Financial Details is being submitted in a separate cover. This Technical Details read with the Financial Details shall constitute the Application which shall be binding on us.
20. I/We agree and undertake to abide by all the terms and conditions of the RFP Document. In witness thereof, I/we submit this Proposal under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature, name and designation of the Authorised Signatory)

(Name and seal of the Applicant / Lead Member)

APPENDIX-I

Form-2

Particulars of the Applicant

1.1	Title of Consultancy: Consultancy for the Electricity Department, Daman & Diu
1.2	Title of Project: Preparation of ARR&MYT for the UTs of Daman & Diu All regulatory work for above such as filing petition to JERC/SERC/CERC, attending hearings, representing the case before commission, attending public hearings, preparation of replies to queries raised by commission/consumer representative etc.
1.3	State whether applying as Sole Firm or Lead Member of a consortium: Sole Firm or Lead Member of a consortium
1.4	State the following: Name of Firm: Legal status (e.g. sole proprietorship or partnership): Country of incorporation: Registered address: Year of Incorporation: Year of commencement of business: Principal place of business: Name, designation, address and phone numbers of Authorised Signatory of the Applicant: Name: Designation: Company: Address: Phone No.: Fax No.: E-mail address:

1.5	<p>If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms:</p> <p>(i) Name of Firm:</p> <p>(ii) Legal Status and country of incorporation</p> <p>(iii) Registered address and principal place of business.</p>
1.6	<p>For the Applicant, (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non Indian company, does the company have business presence in India? Yes/No If so, provide the office address(es) in India.</p> <p>(ii) Has the Applicant or any of the Members in case of a consortium been penalized by any organization for poor quality of work or breach of contract in the last five years? Yes/No</p> <p>(iii) Has the Applicant/ Member ever failed to complete any work awarded to it by any public authority/ entity in last five years? Yes/No</p> <p>(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? Yes/No</p> <p>(v) Has the Applicant or any of the Members, in case of a consortium, suffered bankruptcy/insolvency in the last five years? Yes/No</p> <p>Note: If answer to any of the questions at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.</p>
1.8	<p>(Signature, name and designation of the Authorised Signatory)</p> <p>For and on behalf of</p>

APPENDIX-I

Form-3

Statement of Legal Capacity

(To be forwarded on the letter head of the Applicant)

Ref. Date:

To,

Shri M.R Ingle
Executive Engineer (Elect)
Electricity Department,
Power house Building ,
Sea Face Road, Nani Daman, 396210,
Phone Nos 02602254745,Fax 02602250889
MAIL eddaman@rediffmail.com

Sub: RFP for Consultant for Electricity Department, Daman & Diu

Sir,

We hereby confirm that we, the Applicant (along with other members in case of consortium, constitution of which has been described in the Proposal*), satisfy the terms and conditions laid down in the RFP document.

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

We have agreed that (insert individual's name) will act as our Authorised Representative/ will act as the Authorised Representative of the consortium on our behalf and has been duly authorized to submit our Proposal. Further, the authorised signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the Authorised Signatory

For and on behalf of

**Please strike out whichever is not applicable*

APPENDIX-I

Form-4

Power of Attorney

Know all men by these presents, We, (name of firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms..... son/daughter/wife and presently residing at, who is presently employed with us and holding the position of as our true and lawful attorney (hereinafter referred to as the “Authorised Representative”) 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 Proposal for and selection as the Consultant for Electricity Department, Daman & Diu, including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Authority.

AND we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representative 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 Authorised Representative 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, 20**For

(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Notarised

Accepted

.....

(Signature, name, designation and address of the Attorney)

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.

Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.

APPENDIX-I

Form-5**Financial Capacity of the Applicant**

(Refer Clause 2.2.2 (B))

S. No.	Financial Year	Annual Revenue (Rs. In Crores)
1.		
2.		
3.		

Certificate from the Statutory Auditor

This is to certify thatname of the Applicant) has received the payments shown above against the respective years on account of professional fees.

Name of Authorised Signatory:
 Designation:
 Name of firm:

(Signature of the Authorised Signatory)
 Seal of the Firm

Note:

1. Please do not attach any printed Annual Financial Statement.
2. In case the Applicant does not have a statutory auditor, it may provide the certificate from its chartered accountant.

APPENDIX-I

Form-6

Particulars of Key Personnel

S. No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment	
					Name of Firm	Employed Since
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Consultant					
2.	Associate(s)					

APPENDIX-I

Form-7**Experience of the Applicant**

(Refer Clause 3.1)

S. No	Name of work (Eligible assignments)	Estimated cost of work (in Rs crores)	Payment received by the Applicant (in Rs Crores)
(1)	(2)	(3)	(4)
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

APPENDIX-I

Form-8**Experience of Key Personnel[@]**

(Refer Clause 3.1)

Name of Key Personnel:

Designation:

S.No	Name of work	Estimated cost of work (in Rs crores)	Name of firm for which worked	Designation on the work	Date of completion of project assignment
(1)	(2)	(3)	(4)	(5)	(6)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

[@] Use separate Form for each Key Personnel.

APPENDIX-I

Form-9**Eligible Assignments of Applicant**

(Refer Clause 3.1.4)

Name of Applicant:	
Name of the Project:	
Length in km or other particulars	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs cr. or US\$ million):	
Payment received by the Applicant as professional fees (in Rs. million):	
Start date and finish date of the services (month/ year):	
Brief description of the project:	

APPENDIX-I
Form -10

Curriculum Vitae (CV) of Professional Personnel

- 1. Proposed Position:
- 2. Name of Personnel:
- 3. Date of Birth:
- 4. Nationality:
- 5. Educational Qualifications:
- 6. Employment Record:
(Starting with present position, list in reverse order every employment held)
- 7. List of works on which the Personnel has worked

Project Name	Description of assignment performed
--------------	-------------------------------------
- 8. Details of the current assignment and the time duration for which services are required for the current assignment.
 Certification:
 - 1 I am willing to work on the Project and I will be available for entire duration of the Project assignment as required.
 - 2 I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications and my experience.

(Signature and name of the Professional)

Place.....

(Signature and name of the Authorised Signatory of the Applicant)

Notes: Use separate form for each Professional Personnel.

Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

APPENDIX-II
FINANCIAL PROPOSAL

Form - 1

Covering Letter

(On Applicant's letter head)

(Date and Reference)

To,

Shri M.R Ingle
Executive Engineer (Elect)
Electricity Department,
Power house Building ,
Sea Face Road, Nani Daman, 396210,
Phone Nos 02602254745,Fax 02602250889

MAIL eddaman@rediffmail.com

Dear Sir,

Subject: Appointment of Consultant for Electricity Department, Daman & Diu

I/We, _____ (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Consultant for above.

I/We agree that this offer shall remain valid for a period of 120 (one hundred twenty) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the Authorised Signatory)

Note: The Financial Proposal is to be submitted strictly as per forms given in the RFP.

APPENDIX-II

(See Clause 2.1.3)

Form - 2**Bidding Schedule**

Description	Amount (Rs.)
<p>COST OF CONSULTANCY SERVICES PER ANNUM (INCL. OF ALL TAXES & DUTIES) FOR THE FOLLOWING WORK</p> <p>1. Preparation of ARR&MYT for the UTs of Daman & Diu</p> <p>2. All regulatory work for above such as filing petition to JERC/SERC/CERC, attending hearings, representing the case before commission, attending public hearings, preparation of replies to queries raised by commission/consumer representative etc. post assistance..</p> <p>b. Other Legal matter related issues like regulatory matters, petitions of CERC / JERC.</p> <p>1. Advice to the department on various regulations of JERC / CERC / MOP regarding action to be taken.</p> <p>2. Periodic review of regulatory development in the other states etc.</p> <p>3. Comments / Appraisal on regulatory pronouncements by JERC / CERC / MOP. Assistance in filing review petitions as well.</p>	

Amount in Figures _____

Note:

1. The financial evaluation shall be based on the above Financial Proposal
2. The aforesaid fees payable to the Consultant shall cover all the costs towards professional fees and the contingent expenses like telephone/fax, reasonable amount of in-house photocopying, stationery and costs of support staff, couriers and postage, collections and deliveries, subscriptions to special services, specifically required stationery and bulk photocopying etc. and there will be no additional charges in respect thereof. The professional fees, however, will not include outstation travel (except visits to Daman/Daman). Outstation travel shall be undertaken as per request of the Authority. The Consultant shall be entitled to Economy class air travel and boarding and lodging will be arranged in the Daman & Diu House at Delhi . The expenses towards same will be paid at actuals and will

be indicated separately in the invoices of the Consultant together with appropriate supporting documents.

4. The reimbursement of expenses shall be limited to the amounts indicated above.
5. No escalation on any account will be payable on the above amounts.
7. All payments shall be made in Indian Rupees and shall be subject to applicable Indian withholding taxes if any.
8. The consultant shall submit statement of expenses regularly and raise the bill on periodical basis.

Signature by bidder :

Name :

Department :

Place :

Date :

Date:

Executive Engineer (Elect.),
Daman.