

ANDHRA PRADESH POWER GENERATION CORPORATION LIMITED  
ABSTRACT

APGENCO – Regulations – Committee to study and submit the recommendations to follow the uniform guidelines in preparing the Tender Specifications regarding participation of bidders as Joint Venture or Consortium in APGENCO and APPDCL Tenders - Orders- Issued.

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G.O.O. No. 102 /CGM(Adm, IS & ERP))/2021

Dated: 30.07.2021

Read the following:-

1. G.O.O.No. 67/CGM(Adm, IS&ERP)/2021, dt. 09.06.2021.
2. Lr.No.CEG/APGENCO/F.Dkt/D.No.109/2021, dt. 1.07.2021.

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ORDER:-

In the reference 1<sup>st</sup> read above, a committee was constituted to study the existing procedure/conditions pertaining to Joint Venture or Consortium etc., being specified in tenders of APGENCO/APPDCL and also the procedure followed in the Government departments like Finance, Water Resources, M/s NTPC and Centre Vigilance Commission (CVC), Indian Railways guidelines and to submit the recommendations for adopting and to have uniform procedure in APGENCO as well as in APPDCL.

2. The committee has submitted its recommendations vide reference 2<sup>nd</sup> read above and prepared certain guidelines to follow uniform procedure in preparing the Tender Specifications regarding participation of bidders as Joint Venture or Consortium in APGENCO and APPDCL related Tenders.

3. After careful consideration, the following guidelines are hereby issued to follow scrupulously by APGENCO/APPDCL in preparing the Tender Specifications regarding participation of bidders as Joint Venture or Consortium:

**DEFINTION OF JOINT VENTURE**

"The expression 'joint venture' connotes a legal entity in the nature of a partnership engaged in the joint undertaking of a particular transaction for mutual profit or an association of persons or companies jointly undertaking some commercial enterprise wherein all contribute assets and share risks."

It can be seen that a joint venture is a partnership between two or more persons to take up a common enterprise. The 'joint venture' involves viz., (1) contribution by the parties of money, effort, knowledge and other assets to common undertaking; (2) joint property interests in the subject matter of the venture; (3) right of mutual control of management of the enterprise; (4) Role in Execution of the Project; and (5) Share in Profits. These aspects would be agreed to among the Joint Venture Partners.

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## **DEFINITION OF CONSORTIUM**

A consortium is formed by an agreement or MoU, which delineates the rights and obligations of each member. A consortium is defined as a group of companies participating for mutual benefit. Companies in a consortium co-operate with one another, often sharing resources as needed. A consortium allows the companies to conduct operations that they would not be able to do individually. It is important to note, however, that a consortium is not a merger and the companies remain independent.

### **I. REQUIRED QUALIFICATION FOR THE BIDDERS:**

- (a) The Bidder shall be an Individual / Limited Liability Partnership (LLP) / Partnership firm / Company or Consortium / Joint Venture of maximum three (03) members.
- (b) The Joint Venture/Consortium must be the one registered as "**Unlimited Liability Partnership Firm**" in India with names of all the Member(s)/Partner(s) find place in the Registrar of Firms. If not registered by the time of bid submission, they all must give a written undertaking as Joint Venture/Consortium upto 3 Member(s)/Partner(s) **all from Indian Nationality (or) from Abroad (In case of JV/Consortium with foreign member (s), the lead member has to be an Indian firm with a minimum share of 51% and also the total share of Foreign Member(s)/Partner(s) shall not exceed 25%)** and that they shall cause register their unlimited liability partnership within three (03) months after concluding Contract Agreement/LOI and must furnish under the Indian Partnership Act, with the Registrar of Firms.

### **II. Guidelines for participation of Joint venture firms**

- a. Separate identity /name shall be given to the Joint venture firm.
- b. Number of members in a JV firm shall not be more than three
- c. The Joint Venture firm shall be required to submit the Earnest Money Deposit (EMD) along with the bid in terms of provisions of the tender.
- d. One of the members of the JV firm shall be its Lead Member who shall have a majority, at least 51% of share of interest in the JV firm. The other members shall have a share of not less than 20% each.

### **III. Technical Eligibility Criteria:**

- a. Bidders shall meet the Technical Criteria stipulated in the Tender.

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- b. In case of Consortium/Joint Venture, in meeting the requirement of Technical Criteria stipulated in the Tender - the experience of each of the members of Consortium/Joint Venture shall be added

**IV. Financial Eligibility Criteria:**

- a. Bidders shall meet the Financial Criteria stipulated in the Tender.
- b. In case of Consortium/Joint Venture, in meeting the requirement of Financial Criteria stipulated in the Tender - the financial capacity of each of the members of Consortium/Joint Venture shall be added together to arrive the combined eligibility of the Consortium/Joint Venture to determine the bidders compliance.
- c. The Consortium / Joint Venture shall necessarily identify one of the Member(s)/Partner(s) as Lead Member/Lead Partner, who shall meet on its own at least 51% Financial Criteria stipulated in the tender. Each Member/Partner of Consortium / Joint Venture shall meet not less than 20% of the Financial Criteria stipulated in the tender.

**V. General Requirements/Conditions for accepting the Bids from Joint Venture/Consortium are as follows:**

- (a) The intending bidder shall be an **Individual / LLP / Partnership firm / Company** or a Joint Venture/Consortium up to 3 (THREE) Member(s)/Partner(s) (either **Individual / LLP / Partnership firm / Company** can be a Member/Partner) and the Joint Venture/Consortium must be the one registered as "**Unlimited Liability Partnership Firm**" in India with names of all the Member(s)/Partner(s) find place in the Registrar of Firms. If not registered by the time of bid submission, they all must give a written undertaking as Joint Venture/Consortium up to 3 Member(s)/Partner(s) **all from Indian Nationality (or) from Abroad (In case of JV/Consortium with foreign member (s), the lead member has to be an Indian firm with a minimum share of 51% and also the total share of Foreign Member(s)/Partner(s) shall not exceed 25%)** and that they shall cause register their unlimited liability partnership within three months and must furnish under the Indian Partnership Act, with the Registrar of Firms all the Member(s)/Partner(s) (either **Individual / LLP / Partnership firm / Company** can be a Member/Partner) including the lead Member/Partner names with address, email etc., and such proof must be submitted along with the firm registration.

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- (b) In case the Consortium/JOINT VENTURE, who are not registered by the time of submission of bid, happens to be successful bidder, the 'Consortium/Joint Venture' Member(s)/Partner(s) should produce valid registration in the name of Joint Venture/Consortium as mentioned above with Central/any State Government within 3 months after concluding Contract Agreement/LOI. Failure to comply with this condition, contract shall be cancelled, duly forfeiting the available Earnest Money Deposit/Security deposit/Performance Bank Guarantee and value of work done as on that date besides blacklisting the all 'Consortium/Joint Venture' Member(s)/Partner(s).
- (c) In case of Consortium/Joint Venture in meeting the requirement of eligibility criteria - the experience of each of the members of Consortium/Joint Venture shall be added together to arrive the combined eligibility of the Consortium/Joint Venture to determine the bidders compliance.
- In case of Consortium/Joint Venture, in meeting the requirement of Financial Criteria stipulated in the Tender - the financial capacity of each of the members of Consortium/Joint Venture shall be added together to arrive the combined eligibility of the Consortium/Joint Venture to determine the bidders compliance.
- The Consortium / Joint Venture shall necessarily identify one of the Member(s)/Partner(s) as Lead Member/Lead Partner, who shall meet on its own at least 51% Financial Criteria stipulated in the tender. Each Member/Partner of Consortium / Joint Venture shall meet not less than 20% of the Financial Criteria stipulated in the tender.
- (d) All the Consortium/Joint Venture Member(s)/Partner(s) must be the registered contractors and preferably of equivalent class/category and otherwise with necessary eligibility criteria as provided.
- (e) In case any Member/Partner of a Consortium/Joint Venture bids either in individual capacity or as Partner of the firm/Director/MD of a company or as a Member/Partner of another Consortium/Joint Venture bids for the same work, all such bidders will be disqualified.
- (f) Change in composition of Consortium/Joint Venture is not permitted after submission of bids.
- (g) The Bidders/JV/Consortium Member(s)/Partner(s) "who are blacklisted by any Government Organization/Corporation/PSU/Any other means within India or Abroad, who are involved in any criminal cases and who are involved in any insolvency or bankruptcy proceedings pending against them either in India or in Abroad" as on the date of submission of bid are not eligible to participate in this Bid.

- (h) All the Member(s)/Partner(s) of the Joint Venture/Consortium should submit the following documents along with the bid:
- a. PAN & TIN NO.
  - b. GST Registration.
- (i) The Consortium/Joint Venture Agreement/MoU should clearly exhibit the responsibilities of each of the Member(s)/Partner(s). The Member(s)/Partner(s) shall execute a "Power of Attorney" (duly stamped and registered or notarized as per Indian Laws) in favour of the Lead Member/Partner authorising the Lead Member to conduct all business for and on behalf of the Consortium/Joint Venture during (a) Tendering process and (b) Execution and for successful performance of the Works including the Defect Liability and Operation & Maintenance period if any in case of award of work. **(Format is specified in Annexure-II, which has to be adapted to specific situations of a particular tender)**
- (j) All the 'Consortium/Joint Venture' Member(s)/Partner(s) shall execute a Power of Attorney (duly stamped and registered or notarized as per Indian Laws) in favour of one of its officers to be the Authorised Signatory for signing the Bid Documents and also to undertake all other acts and deeds on behalf of the Consortium/Joint Venture in connection with the Bid and the Contract. **(Format is specified in Annexure-I)**.
- (k) The Bidder either Individual/Sole Proprietorship or other legal entity like Joint Venture/Consortium or Partnership or even any Member/Partner of the Joint Venture/Consortium/Partnership applied for or availed corporate debt restructuring/strategic debt restructuring and not cleared the loan for more than six years irrespective of DRT/NCLT proceedings, are not eligible to participate in this Bid
- (l) All the 'Consortium/Joint Venture' Member(s)/Partner(s) should have entered into a legally valid "Joint Bidding Agreement" duly undertaking and incorporating the below mentioned points in the "Joint Bidding Agreement" and should submit the same along with the bid in the **format specified as Annexure-III** attached here with:
- (a) **Definitions and Interpretations:** In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the Tender.
  - (b) **Joint Venture/Consortium:**
    - i. The Member(s)/Partner(s) shall irrevocably constitute a Joint Venture/Consortium (the "**Joint Venture/Consortium**") for the purposes of jointly participating in the Bidding Process for the **[Project]**.

- ii. The Member(s)/Partner(s) shall undertake to participate in the Bidding Process only through this Joint Venture/Consortium and not individually and/or through any other Joint Venture/Consortium constituted for this [Project], either directly or indirectly or through any of their Associates.
- (c) **Role of the Member(s)/Partner(s):** The Member(s)/Partner(s) hereby undertake to perform the roles and responsibilities as described below:
- i. The First Member/First Partner shall be the Lead Member/Lead Partner of the JOINT VENTURE/CONSORTIUM and shall have the Power of Attorney from all Member(s)/Partner(s) for conducting all business for and on behalf of the JOINT VENTURE/CONSORTIUM during the Bidding Process and during the execution of the Contract.
  - ii. The Second Member/Partner shall be the ..... [Technical and/or Financial] Member/Partner of the JV/Consortium; and
  - iii. The Third Member/Partner shall be the ..... [Technical and/or Financial] Member/Partner of the JV/Consortium;

(d) **Joint and Several Liability:**

- i. The Member(s)/Partner(s) shall undertake to be jointly and severally responsible for all obligations and liabilities relating to the [Project] and in accordance with the terms of the Bid Documents and the Contract, and in accordance with the Contract to be entered into with the Owner/Employer.
- ii. Despite any breach by the Lead Member/Partner or other Member/Partner of the Joint Venture/Consortium agreement, the Member(s)/Partner(s) shall agree and undertake to ensure full and effectual and successful performance of the Contract with the Owner/Employer and to carry out all the obligations and responsibilities under the said Contract in accordance with the requirements of the Contract.
- iii. If the Owner/Employer suffers any loss or damage on account of any breach of the Contract or any shortfall in the performance in meeting the performance guaranteed as per the specification in terms of the Contract, the Member(s)/Partner(s) of these presents undertake to promptly make good such loss or damages caused to the Owner/Employer, on its demand without any demur. It shall not be necessary or obligatory for the Owner/Employer to proceed against Lead Member/Partner to these presents before proceeding against or dealing with the other Member(s)/Partner(s). The obligation of each of the Member/Partner is absolute and not independent of the Joint Venture/Consortium or any Member/Partner.

- iv.** The financial liability of the Member(s)/Partner(s) of this Joint Venture/Consortium agreement to the Owner/Employer, with respect to any of the claims arising out of the performance or non- performance of the obligations set forth in the said Joint Venture/Consortium agreement, read in conjunction with the relevant conditions of the Contract shall, however, not be limited in any way so as to restrict or limit the liabilities of any of the Member(s)/Partner(s) of the Joint Venture/Consortium agreement. The liability of each Member/Partner is absolute and not severable.
- v.** Member(s)/Partner(s) of the Joint Venture/Consortium agreement shall undertake that the responsibilities inter se amongst the Member(s)/Partner(s) shall not in any way be a limitation of joint and several responsibilities and liabilities of the Member(s)/Partner(s) to the Owner/Employer. It is also to undertake that the Lead Member/Partner shall ensure performance under the agreements and if one or more Joint Venture/Consortium Member(s)/Partner(s) fail to perform its /their respective obligations under the agreement(s), the same shall be deemed to be a default by all the Joint Venture/Consortium Member(s)/Partner(s). It will be open for the Owner/Employer to take any steps, punitive and corrective action including the termination of contract in case of such default also.
- vi.** In case of an award of a Contract, all the Member(s)/Partner(s) to the Joint Venture/Consortium agreement shall agree that Lead Member/Lead Partner on behalf of Joint Venture/Consortium shall furnish Security Deposit & Performance Bank Guarantee or 'Contract PBG' in the name of JV, as per terms of the contract.
- vii.** Further, the Member(s)/Partner(s) shall agree that this agreement is without any prejudice to the various liabilities of the Member(s)/Partner(s) of the Consortium/Joint Venture (Bidder) including the Earnest Money Deposit (EMD), Security Deposit, Performance Bank Guarantee & 'Contract PBG' as well as all the other obligations for successful completion of the contract and for defect liability.
- viii.** The Consortium/Joint Venture Member(s)/Partner(s) are individually/ severally and jointly responsible for all Contractual obligations till completion of defect liability period plus 3 months, besides Operation & Maintenance if any irrespective of the share proportions of the 'Consortium/Joint Venture' Member(s)/Partner(s).

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ix. In case, the work is awarded, the agreement/deed is irrevocable by any one or all the Member(s)/Partner(s) together until 3 months after completion of contract period including the defect liability. In case of extension of time granted by the Owner/Employer, the deed is also deemed to be extended for the period of such extension granted by the Owner/Employer and that it is irrevocable until 3 months after the completion of the extended period and the defect-liability period. The Joint Venture Agreements shall not be terminated by the Member(s)/Partner(s) without the written consent of the Corporation.

(e) **Shareholding in the JOINT VENTURE/CONSORTIUM (Scope of works and services of each Member/Partner):** The Scope of work and services to be performed by each Member/Partner shall be herein below:

(i) ..... (Name of the **Lead Member/Lead Partner/First Member/First Partner**) shall be responsible for the following

(Define the Scope of works):-

- .....
- .....

(ii) .....(Name of the **Second Member/Second Partner**) shall be responsible for the following

(Define the Scope of works):-

- .....
- .....

(iii) .....(Name of the **Third Member/Third Partner**) shall be responsible for the following

(Define the Scope of works):-

- .....
- .....

**Participation Share of each Member/Partner:**

Lead Member/Lead Partner	.....%
Second Member/Second Partner	.....%
Third Member/Third Partner	.....%

(f) **Representation of the Member(s)/Partner(s):** Each Member/Partner represents to the other Member(s)/Partner(s) as of the date of this Agreement that

i. Such Member/Partner is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

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- ii. The execution, delivery and performance by such Member/Partner of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture/Consortium Member/Partner is annexed to this Agreement, and will not, to the best of its knowledge:
- (1) require any consent or approval not already obtained;
  - (2) violate any Applicable Law presently in effect and having applicability to it;
  - (3) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
  - (4) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Member/Partner is a Member/Partner or by which such Member/Partner or any of its properties or assets are bound or that is otherwise applicable to such Member/Partner; or
  - (5) Create or impose any liens, mortgages, pledges, claims, security interest, charges or Encumbrances or obligation to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Member/Partner, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Member/Partner so as to prevent such Member/Partner from fulfilling its obligations under this Agreement;
- (g) This Agreement is the legal and binding obligation of such Member/Partner, enforceable in accordance with its terms against it; and
- (h) There is no litigation pending or, to the best of such Member(s)/Partner(s) knowledge, threatened to which it or any of its Affiliates is a Member/Partner that presently affects or which would have a material adverse effect on the financial condition or prospects or business or such Member/Partner in the fulfilment of its obligations under this Agreement.
- (i) **Termination:** This Agreement shall be effective from the date hereof and shall continue in full force until 3months after completion of the contract period including defect liability, in case the Project is awarded to the Joint Venture/Consortium. However, in case the Joint Venture/Consortium is either not qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated.

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- (j) It is to mention that none of Member(s)/Partner(s) are disqualified either by blacklisting in any Government Organization/ Corporation/ PSU/Any other means within India or Abroad, none are involved in any criminal cases and none are involved in any insolvency or bankruptcy proceedings pending against them either in India or in Abroad.
- (k) It is to mention that none of the Member(s)/Partner(s) of the Joint Venture/Consortium/Partnership applied for or availed corporate debt restructuring/strategic debt restructuring and not cleared the loan for more than six years, irrespective of DRT/NCLT proceedings.
- (l) This Joint Venture/Consortium agreement shall be construed and interpreted in accordance with the laws of India and shall be subjected to exclusive jurisdiction of Courts in Andhra Pradesh in all matters arising there under.
- (m) **Miscellaneous**
- (i) The Joint Bidding Agreement shall be governed by laws of India.
- (ii) The Member(s)/Partner(s) acknowledge and accept that this Agreement shall not be amended by the Member(s)/Partner(s) without the prior written consent of the Owner/Employer.

**(VI) Documents required to be submitted:**

- a. Power of Attorney for signing of Application (Annexure-I)
- b. Power of Attorney for Lead Member/Partner of Consortium (Annexure-II)
- c. Joint Bidding Agreement (MoU) (Annexure-III)
- d. Undertaking, if required as per Clause No (1)

4. These orders are also available on APGENCO website and can be accessed at the address [www.apgenco.gov.in](http://www.apgenco.gov.in).

Encl: Annexures I, II & III.

B. SREEDHAR  
MANAGING DIRECTOR

To

All Chief Engineers // Superintending Engineers Station Heads  
All Functional Heads  
The Chief General Manager/APPDCL/VJA  
The Chief General Manager (Adm, IS & ERP)  
All FA&CCA's/Dy.CCA's

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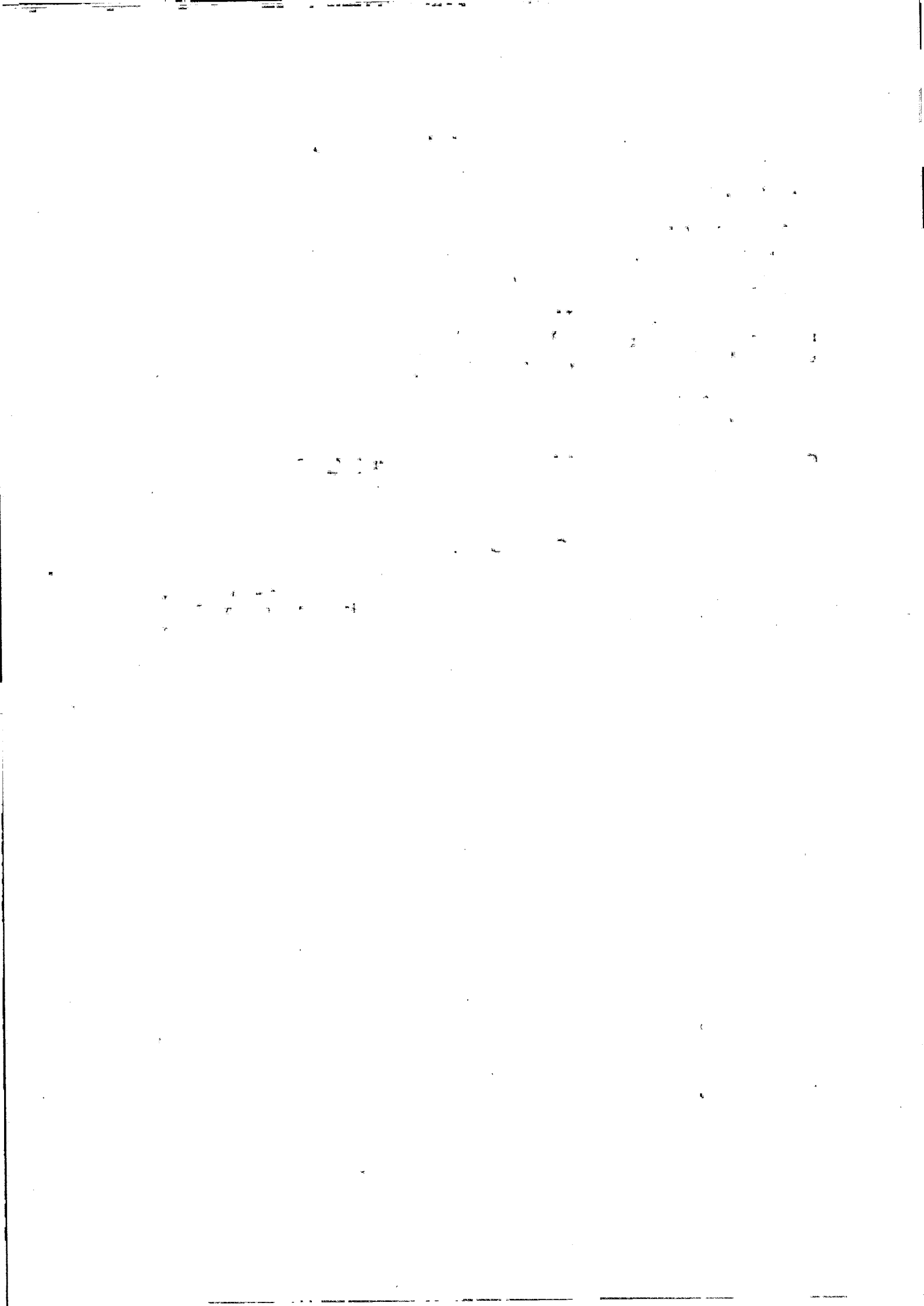
Copy to the:

CFO/APPDCL/VJA  
PS to Chairman/APGENCO  
CE (T) to Managing Director/VS/VJA  
Dy.EE (T) to Managing Director/VS/VJA  
Dy.EE (T) to Director (HR & IR)/VS/VJA  
Dy.EE(T) to Director (Thermal)/VS/VJA  
Dy.EE(T) to Director (Hydel)/VS/VJA  
AO to Director (Finance & Commercial)/VS/VJA  
Assistant Company Secretary/VS/VJA  
Stock File/Spare.

C.No.CGM(Adm,IS &ERP)/DS(Estt)/AS(PNT & Reg)/ 90 /2021.

// FORWARDED :: BY ORDER //

*T. Valin*  
Assistant Secretary (PNT & Reg)



**Power of Attorney for signing of Application**

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr/ Ms (name), ..... son/daughter/wife of .....and presently residing at ....., who is [presently employed with us/ the Lead Member/Partner of our Joint Venture/Consortium and holding the position of .....], as our true and lawful attorney (hereinafter referred to as the "**Attorney**") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid[s] for the \*\*\*\*\* **Project[s]** proposed or being developed by the ..... (the "**Owner/Employer**") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Bid and other conferences and providing information/responses to the Owner/Employer, representing us / the Joint Venture/Consortium in all matters before the Owner/Employer, signing and execution of all Contract/s and undertakings consequent to acceptance of our Bid, and generally dealing with the Owner/Employer in all matters in connection with or relating to or arising out of our Bid for the said [**Project**] and/or upon award thereof to us and/or till the entering into of the Contract with the Owner/Employer.

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

IN WITNESS WHEREOF WE, \_\_\_\_\_, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\*\*

For -----

(Signature)

(Name, Title and Address)

Witnesses:

1.

[Notarised]

2.

Accepted

\_\_\_\_\_  
(Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Applicant should submit for verification the extract of the charter documents and 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 should also be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued and should be duly stamped on receipt in India. However, the Power of Attorney provided by the Contractor/Applicant from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Appostille certificate.*

B. SREEDHAR  
MANAGING DIRECTOR

// FORWARDED :: BY ORDER //

*J. Vallu*  
Assistant Secretary (PNT & Reg)

**Power of Attorney for Lead Member/Partner of Joint  
Venture/Consortium**

Whereas the ..... (the "**Owner/Employer**") has invited Bids from interested Member(s)/Partner(s) for the ..... Project (the "**Project**").

Whereas, M/s....., M/s. .... and M/s. .... (collectively the "**Joint Venture/Consortium Partners**") being Member(s)/Partner(s) of the Joint Venture/Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Bid Documents in respect of the Project, and

Whereas, it is necessary for the Member(s)/Partner(s) of the Joint Venture/Consortium to designate one of them as the Lead Member/Partner with all necessary power and authority to do for and on behalf of the Joint Venture/Consortium all acts, deeds and things as may be necessary in connection with the Joint Venture/Consortium's Bid for the Project and its execution.

**NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS**

We, M/s. ....having our registered office at ....., and M/s. .... having our registered office at ....., [hereinafter collectively referred to as the "**Member(s)/Partner(s)**"] do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s..... having its registered office at ....., being one of the Member(s)/Partner(s) of the Joint Venture/Consortium, as the Lead Member/Partner and true and lawful attorney of the Joint Venture/Consortium (hereinafter referred to as the "**Attorney**"). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Joint Venture/Consortium and any one of us during the bidding process and, in the event the Joint Venture/Consortium is awarded the Contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Joint Venture/Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the qualification of the Joint Venture/Consortium and submission of its Bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participating in Pre-Bid and other conferences, respond to queries, submit information/ documents, sign and execute Contracts and undertakings consequent to acceptance of the Bid of the Joint Venture/Consortium and generally to represent the Joint Venture/Consortium in all its dealings, with the **Owner/Employer**, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Joint Venture/Consortium's Bid for the Project and/ or upon award thereof during the period of execution of the Contract.

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

conferred shall and shall always be deemed to have been done by us / the Joint Venture/Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\*\*

For.....

(Signature, name, designation and address of the first Non-Lead Member/Partner)

For .....

(Signature, name, designation and address of the Second Non-Lead Member/Partner).

Witnesses:

- 1.
- 2.

\_\_\_\_\_  
(Executants)

Accepted

.....

(Signature, Name, title and address of the Attorney / Lead Member)

(To be executed by all the Member(s)/Partner(s) of the Joint Venture/Consortium)

Notes:

- i. 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.
- ii. The Bidder should submit along with the Power of Attorney, the extract of the charter documents and documents such as the board or shareholders' resolution / authorization in favour of the persons executing this Power of Attorney, on behalf of the Non-Lead 'Member(s)/Partner(s)' / Lead 'Member/Partner' and the Memorandum and Articles of Association of the Non-Lead 'Member(s)/Partner(s)' / Lead 'Member/Partner'.
- iii. For a Power of Attorney executed and issued overseas; the document should also be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued and should be duly stamped on receipt in India. However, the Power of Attorney provided by the Contractor/Applicant from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy, if it carries a conforming Apostille certificate

B. SREEDHAR  
MANAGING DIRECTOR

// FORWARDED :: BY ORDER //

*T. Nalini*  
Assistant Secretary (PNT & Reg)

**JOINT BIDDING AGREEMENT**

(To be executed on Stamp paper of appropriate value)

(On non-judicial stamp paper of appropriate value to be purchased in the name of executants companies or as required by the jurisdiction in which executed)

THIS Consortium Agreement executed on this ..... day- of ..... Two Thousand ..... By:

**AMONGST**

M/s. .... a Company/Partnership Firm/Sole Proprietorship Organisation incorporated under the Act/Laws of ..... and having its Registered/Head office at ..... (here-in after called the "**Lead Member/Lead Partner/First Member/First Partner**" which expression shall include its successors);

**AND**

M/s. .... a Company/Partnership Firm/ Sole Proprietorship Organization incorporated under the Act/Laws of .....and having its Registered/Head office at ..... (here-in after called the "**Second Member/Partner**" which expression shall include its successors)

**AND**

M/s. .... a Company/Partnership Firm/ Sole Proprietorship Organization incorporated under the Act/Laws of .....and having its Registered/Head office at ..... (here-in after called the "**Third Member/Partner**" which expression shall include its successors)

The above mentioned Member(s)/Partner(s) of the FIRST, SECOND, and THIRD PART are collectively referred to as the "**Members(s)/Partner(s)**" and each is individually referred to as a "**Member/Partner**"

**WHEREAS,**

- (A) The....., represented by its (hereinafter referred to as the "**Owner/Employer**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the "**Bids**") by its Bid Documents for qualification and selection of Contractors for ..... Project (the "**Project**").
- (B) The Member(s)/Partner(s) are interested in jointly bidding for the Project as Member(s)/Partner(s) of a Joint Venture/Consortium and in accordance with the terms and conditions of the Tender document and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the Tender document that the Member(s)/Partner(s) of the Joint Venture/Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

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

- (1) **Definitions and Interpretations:** In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the Tender.
- (2) **Joint Venture/Consortium:**
  - (2.1) The Member(s)/Partner(s) do hereby irrevocably constitute a Joint Venture/Consortium (the "**Joint Venture/Consortium**") for the purposes of jointly participating in the Bidding Process for the [Project].
  - (2.2) The Member(s)/Partner(s) hereby undertake to participate in the Bidding Process only through this Joint Venture/Consortium and not individually and/or through any other Joint Venture/Consortium constituted for this [Project], either directly or indirectly or through any of their Associates.
- (3) **Role of the Member(s)/Partner(s):** The Member(s)/Partner(s) hereby undertake to perform the roles and responsibilities as described below:
  - (3.1) The First Member/Partner shall be the Lead Member/Partner of the JOINT VENTURE/CONSORTIUM and shall have the Power of Attorney from all Member(s)/Partner(s) for conducting all business for and on behalf of the JOINT VENTURE/CONSORTIUM during the Bidding Process and during the execution of the Contract.
  - (3.2) The Second Member/Partner shall be the ..... [Technical and/or Financial] Member/Partner of the JV/Consortium; and
  - (3.3) The Third Member/Partner shall be the ..... [Technical and/or Financial] Member/Partner of the JV/Consortium;
- (4) **Joint and Several Liability:**
  - (4.1) The Member(s)/Partner(s) do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the Bid Documents and the Contract, and in accordance with the Contract to be entered into with the Owner/Employer.
  - (4.2) Despite any breach by the Lead Member/Partner or other Member/Partner of the Joint Venture/Consortium agreement, the Member(s)/Partner(s) do hereby agree and undertake to ensure full and effectual and successful performance of the Contract with the Owner/Employer and to carry out all the obligations and responsibilities under the said Contract in accordance with the requirements of the Contract.

- (4.3)** If the Owner/Employer suffers any loss or damage on account of any breach of the Contract or any shortfall in the performance in meeting the performance guaranteed as per the specification in terms of the Contract, the Member(s)/Partner(s) of these presents undertake to promptly make good such loss or damages caused to the Owner/Employer, on its demand without any demur. It shall not be necessary or obligatory for the Owner/Employer to proceed against Lead Member/Partner to these presents before proceeding against or dealing with the other Member(s)/Partner(s). The obligation of each of the Member/Partner is absolute and not independent of the Joint Venture/Consortium or any Member/Partner.
- (4.4)** The financial liability of the Member(s)/Partner(s) of this Joint Venture/Consortium agreement to the Owner/Employer, with respect to any of the claims arising out of the performance or non-performance of the obligations set forth in the said Joint Venture/Consortium agreement, read in conjunction with the relevant conditions of the Contract shall, however, not be limited in any way so as to restrict or limit the liabilities of any of the Member(s)/Partner(s) of the Joint Venture/Consortium agreement. The liability of each Member/Partner is absolute and not severable.
- (4.5)** It is expressly understood and agreed between the Member(s)/ Partner(s) to this Joint Venture/Consortium agreement that the responsibilities inter se amongst the Member(s)/Partner(s) shall not in any way be a limitation of joint and several responsibilities and liabilities of the Member(s)/Partner(s) to the Owner/Employer. It is clearly understood that the Lead Member/Partner shall ensure performance under the agreements and if one or more Joint Venture/Consortium Member(s)/Partner(s) fail to perform its /their respective obligations under the agreement(s), the same shall be deemed to be a default by all the Joint Venture/Consortium Member(s)/Partner(s). It will be open for the Owner/Employer to take any steps, punitive and corrective action including the termination of contract in case of such default also.
- (4.6)** In case of an award of a Contract, all the Member(s)/Partner(s) to the Joint Venture/Consortium agreement do hereby agree that Lead Member/Lead Partner on behalf of Joint Venture/Consortium shall furnish Security Deposit & Performance Bank Guarantee or 'Contract PBG' as per terms of the contract.

(4.7) Further, the Member(s)/Partner(s) do hereby agree that this agreement is without any prejudice to the various liabilities of the Member(s)/Partner(s) of the Consortium/Joint Venture (Bidder) including the Earnest Money Deposit (EMD), Security Deposit, Performance Bank Guarantee & 'Contract PBG' as well as all the other obligations for successful completion of the contract and for defect liability.

(4.8) The Consortium/Joint Venture Member(s)/Partner(s) are individually/ severally and jointly responsible for all Contractual obligations till completion of defect liability period plus 3 months, besides Operation & Maintenance if any irrespective of the share proportions of the 'Consortium/Joint Venture' Member(s)/Partner(s).

(4.9) In case, the work is awarded, the agreement/deed is irrevocable by any one or all the Member(s)/Partner(s) together until 3 months after completion of contract period including the defect liability. In case of extension of time granted by the Owner/Employer, the deed is also deemed to be extended for the period of such extension granted by the Owner/Employer and that it is irrevocable until 3 months after the completion of the extended period and the defect liability period. The Joint Venture Agreements shall not be terminated by the Member(s)/Partner(s) without the written consent of the Corporation.

(5) **Shareholding in the JOINT VENTURE/CONSORTIUM (Scope of works and services of each Member/Partner):** The Scope of work and services to be performed by each Member/Partner shall be herein below:

(5.1) ..... (Name of the **Lead Member/Lead Partner/First Member/First Partner**) shall be responsible for the following (Define the Scope of works):-

- .....
- .....

(5.2) .....(Name of the **Second Member/Second Partner**) shall be responsible for the following (Define the Scope of works):-

- .....
- .....

(5.3) .....(Name of the **Third Member/Third Partner**) shall be responsible for the following (Define the Scope of works):-

- .....
- .....

**(5.4) Participation Share of each Member/Partner:**

Lead Member/Lead Partner	.....%
Second Member/Second Partner	.....%
Third Member/Third Partner	.....%

**(6) Representation of the Member(s)/Partner(s):** Each Member/Partner represents to the other Member(s)/Partner(s) as of the date of this Agreement that

**(6.1)** Such Member/Partner is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

**(6.2)** The execution, delivery and performance by such Member/Partner of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture/Consortium Member/Partner is annexed to this Agreement, and will not, to the best of its knowledge:

**(6.2.1)** require any consent or approval not already obtained;

**(6.2.2)** violate any Applicable Law presently in effect and having applicability to it;

**(6.2.3)** violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;

**(6.2.4)** violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Member/Partner is a Member/Partner or by which such Member/Partner or any of its properties or assets are bound or that is otherwise applicable to such Member/Partner; or

**(6.2.5)** Create or impose any liens, mortgages, pledges, claims, security interest, charges or Encumbrances or obligation to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Member/Partner, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Member/Partner so as to prevent such Member/Partner from fulfilling its obligations under this Agreement;

**(7)** This Agreement is the legal and binding obligation of such Member/Partner, enforceable in accordance with its terms against it; and

**(8)** There is no litigation pending or, to the best of such Member(s)/Partner(s) knowledge, threatened to which it or any of its Affiliates is a

Member/Partner that presently affects or-which would have a material adverse effect on the financial condition or prospects or business or such Member/Partner in the fulfilment of its obligations under this Agreement.

- (9) **Termination:** This Agreement shall be effective from the date hereof and shall continue in full force until 3months after completion of the contract period including defect liability, in case the Project is awarded to the Joint Venture/Consortium. However, in case the Joint Venture/Consortium is either not qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated.
- (10) It is to mention that none of Member(s)/Partner(s) are disqualified either by blacklisting in any Government Organization/Corporation/PSU/Any other means within India or Abroad, none are involved in any criminal cases and none are involved in any insolvency or bankruptcy proceedings pending against them either in India or in Abroad.
- (11) It is to mention that none of the Member(s)/Partner(s) of the Joint Venture/Consortium/Partnership 'applied for' or 'availed corporate debt restructuring/strategic debt restructuring' and not cleared the loan for 'more than six years', irrespective of DRT/NCLT proceedings.
- (12) This Joint Venture/Consortium agreement shall be construed and interpreted in accordance with the laws of India and shall be subjected to exclusive jurisdiction of Courts in Andhra Pradesh in all matters arising there under.
- (13) **Miscellaneous**
- (13.1) The Joint Bidding Agreement shall be governed by laws of India.
- (13.2) The Member(s)/Partner(s) acknowledge and accept that this Agreement shall not be amended by the Member(s)/Partner(s) without the prior written consent of the Owner/Employer.

IN WITNESS WHEREOF THE MEMBER(S)/PARTNER(S) ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

**SIGNED, SEALED AND DELIVERED  
DELIVERED**

For and on behalf of

LEAD MEMBER/PARTNER by:

(Signature)

(Name)

(Designation)

(Address)

**SIGNED, SEALED AND**

For and on behalf of

SECOND MEMBER/PARTNER by:

(Signature)

(Name)

(Designation)

(Address)

**SIGNED, SEALED AND DELIVERED**

For and on behalf of THIRD MEMBER/PARTNER by:

(Signature)

(Name)

(Designation)

(Address)

Witnesses:

1.

2.

**Notes:**

- i. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- ii. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Joint Venture/Consortium Member/Partner.
- iii. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued and should be duly stamped on receipt in India.

B. SREEDHAR  
MANAGING DIRECTOR

// FORWARDED :: BY ORDER //

*T. Nalini*  
Assistant Secretary (PNT & Reg)

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