

**SJVN ARUN-3 POWER DEVELOPMENT COMPANY PVT. LTD.**

(A Subsidiary of SJVN Ltd. Registered in Nepal)



**Arun-3 HYDRO ELECTRIC PROJECT, NEPAL**

**TENDER DOCUMENT**

**[COMPETITIVE BIDDING]**

**TENDER No.: PCD-196/2021**

**TENDER DOCUMENT FOR “HIRING OF TRANSACTION ADVISOR/  
CONSULTANT FOR EXPANSION OF HYDROPOWER BUSINESS OF  
SJVN IN NEPAL”**

**Tumlingtar**

**October, 2021**

# **CONTENTS**

<b>Sr. No.</b>	<b>Description</b>
-	Press Notice
<b>Section-I</b>	Notice Inviting Tender (NIT)
<b>Section-II</b>	Brief Description of Projects & Objective
<b>Section-III</b>	Scope of Works/Services
<b>Section-IV</b>	Instructions to Bidder(ITB)
<b>Section-V</b>	Letter of Tender & Technical Information Forms.
<b>Section-VI</b>	General Conditions of Contract (GCC)
<b>Section-VII</b>	Special Condition of Contract(SCC)
<b>Section-VIII</b>	Bill of Quantities

एसजेवीएन अरूण-3 पावर डवलपमेंट कंपनी प्रा. लि.  
**SJVN Arun-3 Power Development Company Pvt. Ltd.**

(एसजेवीएन की पूर्ण स्वामित्व वाली अधीनस्थ कंपनी)

(A wholly owned subsidiary of SJVN)

900 मेगावाट अरूण-3 जलविद्युत परियोजना  
**900 MW Arun-3 Hydro Power Project**

Regd. No.: 111808/69/070



**PRESS NOTICE**

SJVN Arun-3 Power Development Company (P) Ltd. (SAPDC), Tumlingtar, Nepal (A Subsidiary of SJVN, a joint venture of GoI & Govt. of H.P.) having Registered office at Kathmandu, Nepal invites Sealed Bid under single stage two Envelops bid system through Limited Tenders on lumpsum/item rate basis from the eligible Bidder/Agency/Firm/Consultant from India/Nepal on Open tender basis for carrying out assignment of **“Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal”**

Last date for submission of bids is 12.11.2021 upto 1500 hrs. Sealed envelope is to be submitted by Post/courier or physically in the SAPDC office at Tumlingtar, Distt. Sankhuwasabha, Nepal or alternatively at SAPDC office, House No. 3, Swagat Marg, Ward No. 1, Lokanthali, Madhyapur, Kathmandu.

The Bidding Documents can be downloaded from websites <http://sjvn.nic.in/tender.htm>, <http://www.sapdc.com.np>. & [www.eprocure.gov.in](http://www.eprocure.gov.in) Amendment(s), if any, shall be issued only on above websites.

Sd/-

**Chief Engineer (P&C),  
Arun-3 HEP, SAPDC  
Satluj Bhawan, Arun Sadan,  
Tumlingtar Distt. Sankhuwasabha, Nepal  
Ph. +977-29-575154, Mob.:- +977-9852058517,  
e-mail Address: [pnc.sapdc@gmail.com](mailto:pnc.sapdc@gmail.com)**

**SECTION-I**

**NOTICE INVITING TENDER  
(NIT)**

एसजेवीएन अरूण-3 पाँवर डवलपमेंट कंपनी प्रा. लि.  
**SJVN Arun-3 Power Development Company Pvt. Ltd.**

(एसजेवीएन की पूर्ण स्वामित्व वाली अधीनस्थ कंपनी)

(A wholly owned subsidiary of SJVN)

900 मेगावाट अरूण-3 जलविद्युत परियोजना  
**900 MW Arun-3 Hydro Power Project**

Regd. No.: 111808/69/070



Ref. No.: SAPDC/Arun-3 HEP/P&C/PCD-196/2021-801

Dated: 22.10.2021

**NOTICE INVITING TENDER (NIT)**

1. SJVN Arun-3 Power Development Company (P) Ltd. (SAPDC), Tumlingtar, Nepal (A Subsidiary of SJVN, a joint venture of GoI & Govt. of H.P.) having Registered office at Kathmandu, Nepal invites Sealed Bid under single stage two Envelops bid system through Open Tenders on lumpsum/item rate basis from the eligible Bidder/Agency/Firm/Consultant from India/Nepal for the following:

1.	<b>Name of Work:</b>	Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal.
1.1	<b>Tender No.</b>	PCD-196/2021
1.2	<b>Time Allowed for Completion of whole of the works/Contract Period</b>	Ten (10) months to be reckoned from the date of issuance of Letter of Acceptance.
1.3	<b>Estimated Cost</b>	<b>NPR 2.67 Crore plus Applicable Taxes.</b>
1.4	<b>Cost of Tender Document (Non-refundable)</b>	NPR 3,000/- (For Nepalese bidder) & NPR 3,500/- (For Indian bidder) in the form of Manager's cheque (issued by a "A" Class Nepalese Bank shall only be acceptable) payable at Khandbari, Nepal in favour of <b>SJVN Arun-3 Power Development Company Pvt. Ltd.</b> Alternatively, payment against Cost of Tender Document may be made directly in the bank account of SAPDC as mentioned below: NPR Account Details: Everest Bank Limited Name: SJVN Arun-3 Power Development Company Pvt. Ltd. Acc. No. 00800105200477 Swift Code: EVBLNPKA <b>However, if Bidder/Agency/Firm/Consultant opt for submission of Tender document cost directly in the bank account of SAPDC, then the documentry evidence/proof of same(swift statement/transfer statement/account statement) has to be submitted along with technical bid in Part-I.</b>
1.5	<b>Earnest Money Deposit/Bid Security</b>	<b>NPR 5,35,000/-</b> only (For Nepalese bidder) & <b>NPR 5,36,000/-</b> only (For Indian bidder) (to be submitted as per clause no. 4.0, Section-IV, Instructions to Bidder(ITB)).

		<b>However, if Bidder/Agency/Firm/Consultant opt for submission of EMD directly in the bank account of SAPDC as per Clause No. 4.0 of Instruction to Bidder(ITB),Section-IV, then the documentry evidence/proof of same(swift statement/transfer statement/account statement) has to be submit along with technical bid in Part-I.</b>
<b>1.6</b>	<b>Last date &amp; time for submission of Proposal (s).</b>	12.11.2021 upto 1500 Hours.
<b>1.7</b>	<b>Time and Date for opening of Proposal(s). part-1 (Techno-commercial bid).</b>	15.11.2021 at 1600 Hours.
<b>1.8</b>	<b>Time and date of opening Financial Bid(s).</b>	To be intimated separately on websites only.
<b>1.9</b>	<b>Bid validity period</b>	The bids shall remain valid for acceptance for a period of 180 days from the date of opening of Techno-Commercial Bids.
<b>1.10</b>	<b>Place of submission bids</b>	<b>Chief Engineer (P&amp;C), Arun-3 HEP, SAPDC, Satluj Bhawan, Arun Sadan, Tumlingtar, Distt. Sankhuwasabha, Nepal Ph. +977-29-575154, Mob.: +977-9852058517</b>  <b>OR</b> <b>O/o Company Secretary, Arun-3 HEP, SAPDC House No. 3, Ward No. 1, Swagat Marg, Madhyapur (Thimi) Municipality, Lokanthali, Kathmandu. Ph. +977-1-6632030, Mob.: +977-9819822967</b>
<b>1.11</b>	<b>Place of opening bids</b>	Chief Engineer (P&C) SAPDC, Arun-3 HEP, Satluj Bhawan, Arun Sadan, Tumlingtar, Distt. Sankhuwasabha, Nepal Ph. +977-29-575154, Mob.: +977-9852058517
<b>1.12</b>	<b>Authority/Officer inviting Tender</b>	Chief Engineer (P&C) SAPDC, Arun-3 HEP, Satluj Bhawan, Arun Sadan, Tumlingtar, Distt. Sankhuwasabha, Nepal Ph. +977-29-575154, Mob.: +977-9852058517 e-mail Address: <a href="mailto:pnc.sapdc@gmail.com">pnc.sapdc@gmail.com</a>

2. The bidding document containing the details of submission requirement, brief scope of works/services, General Conditions of Contract etc. can be downloaded from websites <http://sjvn.nic.in/tender.htm>, [www.eprocure.gov.in](http://www.eprocure.gov.in) & <http://www.sapdc.com.np>. The bidders may submit their bid either by post/courier or physically in the tender box kept as per Sr. No. 1.10 herein-above prior to the last date for submission of bids. Bids of those Bidders who have submitted the requisite tender document fee and EMD acceptable to Employer only shall be considered for bid evaluation.
3. Through this tender, SJVN Arun-3 Power Development Company Private Limited

(SAPDC) intends to appoint/hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal.

4. At any time before the submission of bids, SAPDC may modify/amend the bidding documents and extend the last date of submission/opening of the Proposal and any other key dates by issuing a corrigendum/addendum and such corrigendum/addendum to this notice as well as to the bidding document shall be available on the aforesaid websites only. As such the Bidders are advised to visit the above websites regularly.
5. The prospective Bidders are advised to visit the Arun-3 HEP project before submission of their bids. The Bidders shall bear all costs associated with the site visit.
6. Arun-3 Hydro Electric Project (900 MW) is located in Sankhuwasabha district, Nepal. Corporate office of SAPDC is located at Tumlingtar. Dam site and Power house sites are located in Phaksinda (near Num) and Diding respectively which are 70 km from Tumlingtar. Nearest Railway station is Jogbani, Bihar approx. 300 km from sites and nearest airport is Tumlingtar, Nepal. Lower Arun Hydro Electric Project (679 MW) lies in the Sankhuwasabha & Bhojpur district, Nepal.
7. SAPDC reserves the right to cancel the bidding process at any time without assigning any reason.
8. For any enquiry/clarification etc. Bidders may contact at the following address:

**For & on the behalf of SAPDC,**

**Sd/-**

**Chief Engineer (P&C),  
Arun-3 HEP, SAPDC  
Satluj Bhawan, Arun Sadan,  
Tumlingtar Distt. Sankhuwasabha, Nepal  
Ph. +977-29-575154, Mob.:- +977-9852058517,  
e-mail Address: [pnc.sapdc@gmail.com](mailto:pnc.sapdc@gmail.com)**

## **SECTION-II**

### **BRIEF DESCRIPTION OF PROJECTS & OBJECTIVES**



## **Brief Description Of Projects & Objectives:-**

**1.0** SJVN Limited/SAPDC started its business operation in Nepal in the year 2008 after signing a MOU for construction and operation of Arun-3 HEP (900MW) on BOOT basis for 25 years. A wholly owned subsidiary named as SJVN Arun-3 Power Development Company Pvt. Ltd. (SAPDC) was incorporated to take up the construction of Arun-3 Hydro electric Project (900MW) in Nepal on 25 April, 2013 under the Nepalese Company Act, 2063. The construction of Arun-3 HEP (900MW) has commenced after laying foundation stone of Project on 11th May, 2018 and its construction activities are progressing well. SJVN Limited has bagged another project Lower Arun (679MW) i.e., at Downstream of Arun-3 HEP through International Competitive Bidding.

In order to increase the footprint of Hydro Power Business of SJVN Limited in Nepal, as Nepal has economically viable hydro power potential of Approx. 45,000 MW. SJVN Limited/SAPDC considering possibility of taking up future hydro power projects through a JV with leading business houses of Nepal. SJVN Limited/SAPDC intends to appoint a firm for advising on the business development activities in Nepal.

## **SECTION-III**

### **SCOPE OF WORKS/SERVICES**

## **1. The indicative scope of services required is as under:**

1. Assessment of corporate structure suitable for SJVN/SAPDC for Business in Nepal
2. Preparation of roadmap and draft documents for execution
3. Implementation support for formulating the joint venture and organizational design

The detailed scope around each element is stipulated in subsequent section

## **2. Detailed Scope of Work/Services:**

### **Phase 1: Assessment of corporate structure suitable for SJVN/SAPDC for Business in Nepal**

Analysis of current business

- Analysis of future business scenario
- Analysis of development agreements signed for developing and operating Arun -3 Hydro Electric Project and lower Arun Hydro Electric Project to identify the major covenant.
- Assess the expectation of SJVN/SAPDC from JV partner and vice versa.
- Identify the roles and responsibility of SJVN and prospective JV partner
- Analysis of Nepalese regulation governing the formulation of Joint Venture between Indian and Nepalese companies and identify the major covenants
- Identifying the structure option for SJVN/SAPDC for governing and expanding Nepal business
- Evaluation of structure option based on
  - Business expansion
  - Risk management
  - Tax efficiency
    - Tax on investment
    - Tax on repatriation of income
  - Foreign exchange regulations on overseas investment
  - Project development covenants specific to Arun -3 and Lower Arun
  - Regulatory, Ministerial and secretarial approvals for set up of structure
  - Any other regulatory issue
- Evaluate the structure most suitable for SJVN/SAPDC
- On finalisation of most suitable structure by SJVN/SAPDC, consultant shall evaluate alternate capital structure of Nepal entity from commercial, tax and regulatory perspective.

### **Phase 2: Preparation of roadmap and draft documents for execution**

- Identify the steps required for implementing the identified structure
- Identify the approvals required for implementation

- At the SJVN's level
- At the Government bodies' level – India side
- At the Government bodies' level – Nepal side
- Prepare the draft Memorandum of Understanding / non-binding agreement to be executed between the parties
- Conduct the meeting between the two parties and understand the commercial expectation of both parties
- Prepare the draft JV agreement and submit to SJVN/SAPDC
- Incorporate any changes in the JV agreement, if required.
- Prepare draft share purchase agreement, if required, to transfer the stake of SAPDC to Holdco (A wholly owned Nepalese subsidiary of SJVN/SAPDC acting as holding company)

**Phase 3: Implementation support for formulating the joint venture and organizational design (Retainership basis)**

- Providing necessary support to SJVN/SAPDC for implementation
- Drafting communications for SJVN/SAPDC management to be made to different bodies for the implementations
- Prepare presentations for SJVN management for SJVN board, regulators and other pertinent Government bodies
- Prepare other disclosures for SJVN management to be made to shareholders, bondholders, and lenders.
- Assist in transaction closure

**3. Support provided by SJVN/SAPDC:**

- Furnished & equipped office space, if team is required to work from SAPDC office.
- Conveyance facility in Nepal during execution of works/contract period.

**4. Deliverables:**

The Advisor will prepare the following deliverables:

Phase 1: Report on Assessment of corporate structure suitable for Nepal Business.

Phase 2:

- Report on roadmap of execution.
- Preparation of draft Memorandum of Understanding / non-binding agreement.
- Preparation of draft JV agreement.
- Preparation of draft share purchase agreement, if required.

Phase 3: Preparation of any document pertinent to scope defined at Sr.No. 2 under heading detailed scope of works/services

**4. Exclusions of scope of work/services:-**

The following is not envisaged in the scope of work. Therefore, the Advisor will NOT be responsible for the following scope of work:

- a) Any audit support
- b) Litigation support
- c) All works associated with obtaining clearances from statutory and other agencies.
- d) Project management.
- e) Any other work not mentioned exclusively in the scope of work.

**5. Time For Completion/Contract Period:-**

Time for Completion for Services to be performed by the Consultant shall be 10(ten) months from date of issuance of LOA. Out of 10 months, first 2 months shall be dedicated for Phase 1(Under the heading of Detailed scope of work), next 2 months shall be dedicated for Phase 2(Under the heading of Detailed scope of work), and remaining 6 months shall be for implementation.

Further, the contract may be extended for another 06(six) months as per the requirement of SJVN/SAPDC on mutually agreed rates and terms & conditions.

**SECTION-IV**  
**INSTRUCTIONS TO BIDDER**  
**(ITB)**

## **A. General**

### **1. Scope of Proposal:-**

- 1.1 The SJVN Arun-3 Power Development Company Private Ltd., hereinafter referred to as SAPDC, invites bids for Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal. as described in Brief Description of Projects and Objective(Section-II) & Scope of Works/Services, (Section-III) and referred to as “the Services”.
- 1.2 The successful Bidder shall be required to complete the Services in the stipulated time for Completion mentioned in the NIT.
- 1.3 Throughout these documents, the terms “bid”, “tender” , “proposal” & “Bidder” and their derivatives (tender/proposal, bidding/tendering, Bidder/Agency/Firm/Consultant/Advisor etc.) are synonymous.

### **2.0 Eligible Bidders:-**

- 2.1 This Invitation for Bid is open to Indian/Nepalese bidders & incorporated in India/Nepal under the Companies Acts, Limited Liability Partnership Act or Partnership firm as a sole contractor/bidder & who meet the Qualification Criteria as defined in Clause 3.0 hereunder(Section-IV,ITB).
- 2.2 Bidders should not have been banned/ de-listed/ black listed/ debarred from business by Ministry of Power, Government of India/any PSU/any Government Department during the last 03 (three) years on grounds mentioned in para 6 of Guidelines on banning of Business Dealings enclosed as **Annex-A** of the format of Integrity Pact (**Schedule-B**). An undertaking to this effect shall be furnished by the bidder as per the format attached (**Annex-B**).
- 2.3 Bidders intending to participate as Joint Venture/Consortium are not eligible for participation.

### **3.0 Minimum Qualifying Requirements:-**

The Bidder/agency/firm/Consultant should meet the following qualifying requirements:

#### **3.1 Technical Experience:-**

- a. The Consultant/bidder should have advised at least one assignment on merger/demerger/hive-off/restructuring/Debt Syndication/reorganization for International Subsidiary/JV Company of an Indian/Nepalese Company during the last 7 years(reckoned from the date of issue of NIT).

and

- b. The consultant should have worked on at least one assignment on merger/demerger/hive-off/restructuring/Debt Syndication/reorganization in Nepal during the last 7 years(reckoned from the date of issue of NIT).

and

- c. The consultant should have worked on at least two assignment on merger/demerger/hive-off/restructuring/Debt Syndication/reorganization for

companies of Government of India/ Government of Nepal during the last 7 years(reckoned from the date of issue of NIT).

In support of above experience condition, the bidder shall submit copy(s) of award letter/contract agreement along with successful completion certificate from the agency/firm for which work is executed. The bid shall be treated as non-responsive in case bidder fails to provide supporting document in respect of turnover and experience as detailed above.

### 3.2 **Financial Requirements:-**

Average Annual turnover (Gross amount of revenue recognized in the profit and loss account from or on account of consultancy services rendered by the Bidder/Firm/Agency/Consultant/organization during a financial year during the last three Financial years, ending 15th July, 2077(B.S)/31st March 2021(A.D) (as the case may be) should be at least i.e. NPR 80,16,000/- (INR 50,10,000/-).

In support of above, Annual Accounts/Audit Reports/ Balance sheets & profit and Loss Statement and/or tax clearance certificate obtained from the Inland Revenue Department or documents showing submission of tax returns for the past three financial years shall be furnished by the Bidder..

3.3 The above stated requirements are minimum and the Employer reserves the right to request for any additional information and also reserves the right to reject the proposal of any Bidder, if in the opinion of the Employer, the qualification data is incomplete or the Bidder if found not qualified to satisfactorily perform the Works.

3.4 Notwithstanding anything stated above, the Employer reserves the right to assess Bidder's capability and capacity to perform the works, should the circumstances warrant such an assessment in the overall interest of the Employer.

### 4.0 **Cost of Bid Preparation & Earnest Money Deposit (EMD)/Bid Security:-**

4.1 **Cost of Bid Preparation:-**The Bidder shall bear all costs associated with the preparation and submission of his proposal and SAPDC will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

4.2 **Earnest Money Deposit (EMD)/Bid Security:-** EMD amounting to **NPR 5,35,000/- only(For Nepalese bidder) & NPR 5,36,000/- only(For Indian bidder)** shall be required to be submitted with the proposal in either of the form:

i. Bank Guarantee from any "A" class Bank in Nepal for the amounts expressed in Nepalese Rupees (NPR). The Bank Guarantees in equivalent INR amount shall be acceptable only if these are issued by a Scheduled Bank of India duly counter guaranteed by any A class bank in Nepal.

Bank Guarantee for EMD in original shall be submitted along with the proposal. Bank Guarantee may be in the format provided in tender document (**Form-E**). EMD shall remain valid for a period of 30 days beyond the original validity period of the proposal (**i.e 210 days from the las date of submission of bid**) or beyond any period of extension subsequently requested under Sub-Clause 11.0(Section-IV,ITB).

or

ii. Deleted without change in sr.no.

or

iii. Manager's cheque(issued by a "A" Class Nepalese Bank shall only be acceptable) in favour of SJVN Arun-3 Power Development Company Pvt. Ltd. payable at Khandbari.

or



iv. Alternatively, payment against EMD may also be made directly in the following account of SJVN Arun-3 Power Development Company Pvt. Ltd. However, proof of same shall be submitted by the Firm/agency with the Proposal in **Part-I (Envelope-I):**

**NPR Account Details:**

Everest Bank Limited

Name: SJVN Arun-3 Power Development Company Pvt. Ltd.

Acc. No. 00800105200477

Swift Code: EVBLNPKA

**However, if Bidder/Agency/Firm/Consultant opt for submission of EMD directly in the bank account of SAPDC, then the documentry evidence/proof of same(swift statement/transfer statement/account statement) has to be submit along with technical bid in Part-I.**

4.3 Any bid not accompanied by an acceptable Earnest Money Deposit shall be rejected by SAPDC as non-responsive.

4.4 The Earnest Money of unsuccessful Bidders will be returned within 28 days after the issuance of Letter of Acceptance to successful Bidder.

4.5 The Earnest Money of the successful Bidder will be discharged within 28 days after the successful Bidder has signed the Agreement and furnished the required Performance Security Deposit as per Clause 25.0 of Section-IV(ITB).

4.6 The Earnest Money may be forfeited:

a) If the Bidder withdraws the bid after opening of bids during the period of validity of bid;

**Or**

b) If the Bidder adopts corrupt or fraudulent practices

**Or**

c) If the Bidder does not accept the correction of bid price pursuant to Clause No. 20.0 of Section-IV(ITB)

**Or**

d) In the case of a successful Bidder, if the Bidder fails within the specified time limit to:

i. sign the Agreement; and/or

ii. furnish the required Performance Security Deposit.

4.7 No interest shall be paid by SAPDC on Earnest Money Deposit.

**5.0 Site Visit:-**

5.1 The prospective Bidders are advised to visit the project site before submission of their bids. The Firm/agency shall bear all costs associated with the site visit.

The information about the project and/or its surroundings is given in good faith. The Bidder may however, obtain necessary information and acquaint themselves with Site by making site visit at their own cost.

5.2 Arun-3 Hydro Electric Project is located in Sankhuwasabha district, Nepal. The office of SAPDC is located at Tumlingtar. Dam site and Power house sites are located in Phaksinda (near Num) and Diding respectively which are 60 km from Tumlingtar. Nearest Railway station is Jogbani, Bihar approx. 300 km from sites and nearest airport is Tumlingtar, Nepal and Lower Arun Hydro Electric Project (679 MW) lies in the Sankhuwasabha & Bhojpur district, Nepal.

#### **6.0 Clarification of Bidding Documents:-**

A prospective bidder requiring any clarification of the bidding documents may notify to the Chief Engineer (P&C), SAPDC, Arun-3 HEP, Satluj Bhawan, Arun Sadan, Tumlingtar, Distt. Sankhuwasabha, Nepal. Ph: +977-29-575154. Email : [pnc.sapdc@gmail.com](mailto:pnc.sapdc@gmail.com).

#### **7.0 Amendment of Bidding Documents:-**

- 7.1 At any time prior to the deadline for submission of bids, the SAPDC may amend the Bidding Documents by the issuance of an addendum/corrigendum.
- 7.2 The corrigendum's and amendments if any shall be emailed all the bidders are requested to frequently visit the his email till the schedule date of submission of bid.
- 7.3 The addendum thus issued shall be part of the bidding documents and shall be communicated to all prospective bidders who have purchased the Bidding Documents. Prospective bidders shall promptly acknowledge receipt thereof to the SAPDC.
- 7.4 In order to afford prospective bidders reasonable time in which to take an addendum into account for preparing their bids, the SAPDC may, at its discretion extend, as necessary, the deadline for submission of bids in accordance with Para-14.0 (Section-IV,ITB) hereof.

#### **B. Preparation of Bids:-**

#### **8.0 Language of Bids:-**

The proposal prepared by the Bidders and all correspondence and documents thereto exchanged by the Bidders and the SAPDC be written in English language. Supporting documents and printed literature furnished by the Bidders with the proposal may be in another language provided these are accompanied by an appropriate translation of pertinent passages in the above stated language. For the purpose of interpretation of the proposal, English language shall prevail.

#### **9.0 Bid Price:-**

- 9.1 Unless stated otherwise in the Bidding Documents, the Contract shall be for the whole Works as described in the Bidding Documents based on Priced Schedule/Bill of Quantity submitted by the bidder.
- 9.2 The bidder shall offer rates & prices in the Priced Schedule/Bill of Quantities of the Bidding documents. The quoted rates shall be inclusive of all taxes, duties, GST (if applicable), Custom (If applicable), etc. **but Excluding VAT. VAT as applicable shall be borne by SAPDC and the same shall be deposited/reimbursed by SAPDC on production of documentary evidence. SAPDC shall not bear anything extra (except VAT) on this account.**

**Further, Lumpsum/overall amount quoted by the Bidder in the BOQ shall be bifurcated/distributed with weightage/proportion of 30% , 30% and 40% for work under Phase 1, Phase 2 & Phase 3 of detailed scope of work respectively for all the contractual purposes.**

- 9.3 The rates and amounts shall be quoted in decimal in such a manner that no interpolation is

possible. The rates and amounts shall be written both in words and figures. Corrections, if any, shall be made by crossing out, initialing, dating and rewriting. Corrections by applying correcting fluid shall not be permitted.

- 9.4 The bidder shall fill in unit rates and prices for all items of Works described in the Bill of Quantities/Priced Schedule. Items against which no rate or price is entered by the bidder will not be paid for by the SAPDC when executed, and shall be deemed to be covered by the other rates and prices in the Bill of Quantities/Priced Schedule. However, the rate for excess over quantities of such items beyond deviation limit prescribed under the contract will be worked out in accordance with the provisions contained in the Contract.
- 9.5 Only unconditional discount offered by the Bidder on the Performa for Price Bid shall be considered for evaluation.

#### **10.0 Currencies of Bid and Payment:-**

- 10.1 The lumpsum/unit rates and prices can be quoted by the bidders either in NPR or in INR or combination of both. However, the total quoted amount shall be calculated by adding the amount quoted in INR and amount quoted in NPR. Currency chosen for the purpose of converting to a common currency shall be Nepalese Rupees (NPR) and for conversion from INR to NPR and vice versa, a factor of 1.6 will be considered.
- 10.2 Payment shall be made in the currency (INR/NPR) as quoted by the Bidder in BOQ.

#### **11.0 Bid Validity Period:-**

- 11.1 Bids shall remain valid for acceptance for a period of 180 days (one hundred eighty days) from date of opening of Techno-Commercial Bids.
- 11.2 SAPDC may request the bidders to extend the period of validity for a specified additional period. The request and the bidder's response shall be made in writing. A bidder may refuse the request without forfeiting his bid security. A bidder agreeing to the request will not be permitted to modify his bid, but will be required to extend the validity of his bid security for the period of the extension and in compliance with Para-4.0(Section-IV,ITB) hereof in all respects.

#### **12.0 Signing of Proposal**

The Proposal shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidders under legally enforceable Power of Attorney. All the pages of the proposal shall be signed and stamped at the lower right hand corner by the person or persons signing the proposal.

- 12.1 The original bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the bidder under legally enforceable Power of Attorney. All the pages of the bid shall be signed and stamped at the lower right hand corner by the person or persons signing the bid.
- 12.2 The bid shall not contain any alterations or additions or deletions except those to comply with the instructions issued by the Employer or as necessary to correct errors made by the bidder in which case, such corrections shall be initialed by the person or persons signing the bid.
- 12.3 The Bid should be signed by legally authorized signatory only.
  - a) If the tender is **submitted by an individual**, it shall be signed by the proprietor above his full name and name of the firm with its current business address.

- b) If the tender is submitted **by a proprietary firm**, it shall be signed by the proprietor above his full name and full name of the firm with its current business address.
- c) If the tender is submitted by a **firm in partnership**, it shall be signed by a partner holding the power of attorney for the firm for signing the tender, in which case a certified copy of the power of attorney shall accompany the tender. A certified copy of the partnership deed duly registered and current business address of all the partners of the firm shall also accompany the tender.
- d) If the tender is submitted by a **limited company** or a **limited corporation**, it shall be signed by a duly authorized person holding the power of attorney or any other legally valid document for signing the tender, in which case a certified copy of the power of attorney or any such legally valid document shall accompany the tender.
- e) All witnesses shall be persons of status and their full names, occupations and addresses shall be stated below their signatures.

**C. Submission of Bids:-**

**13.0 Documents comprising the Proposal and manner of Submission thereof:**

**13.1 The bid shall consist of two parts as under:**

**Part I (Envelope-I): Techno-commercial bid (excluding price bid).**

The following documents duly signed shall be submitted in this part of the proposal:

- a. Bid Security/EMD and Cost of Tender Document; (**In case of payment against cost of Tender Document/EMD have been made directly in the account of SAPDC, proof of same.**)
- b. Power of Attorney in favour of authorized signatory(if required);
- c. Letter for Tender- **Form A**;
- d. *Financial Information Form - Form B*;
- e. Technical/Work Experience of similar nature - Form C;
- f. Copy of VAT/PAN/GST Registration;
- g. Company Registration Certificate (In case of firm/company bidder shall submit the certificate of incorporation along with article of association & article of association, as applicable);
- h. Integrity Pact as per Schedule-B;
- i. All the documents as specified under clause No. 2.0 & 3.0, 'Eligible bidder' & 'Minimum Qualifying Requirements' of Section-IV, Instructions to Bidder.

(No material/information relating to Price Bid shall be included in the Technical Bid. A technical bid containing any information related to price bid may be declared non-responsive).

**Part II. (Envelope-II): Price Bid**

Comprising of Price Bid, duly filled in & signed Bill of Quantities (BOQ)(**Schedule-A**).

- 13.2 A rate or price shall be entered against each item in the priced Bill of Quantities (Price Schedule), whether quantities are stated or not. The cost of items against which the Contractor has failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the Bill of Quantities (Price Schedule).
- 13.3 In the "Techno-Commercial" part of the bid the bidder shall not give any indication about the bid price in any manner whatsoever. Non-compliance of this provision may result in the rejection of bid.

- 13.4 The part II of the bid (i.e. Price bid) shall be strictly in accordance with the forms provided in the Bill of Quantities /Price Schedule.
- 13.5 The bidder shall not take any deviation from the bid conditions.
- 13.6 The bidder shall also fill, sign and stamp each page of the documents forming part of the bid, on the left hand cover (bottom side).
- 13.7 **The Part-I & Part-II of the bids shall be packed and submitted in the following manner.**
- Part-I & Part-II of the bids shall be kept in separate sealed envelopes/covers duly super scribed with the “The Part-I (Techno Commercial Bid including Bid security, Cost of Tender Document) and Part-II (Price Bid).
  - The two separate covers containing Part-I & Part –II of the bid shall then be kept in a cover and sealed. The outer most cover would bear the following identifications:

**On upper left hand corner.**

- Bid for (Name of Work)
- Do not open before \_\_\_\_\_ {Bidder shall mention scheduled date & time as per Sr No. 1.7 of NIT or its extension if any}
- To be opened by tender committee only.

**In the center of the cover.**

Name of the person/ officer and the office address to whom bid is addressed.

**On the bottom left hand corner:**

Name and address of the bidder.

- 13.8 The bids as above shall be submitted either in person or through courier or by post to following address:-

**Chief Engineer (P&C),  
Arun-3 HEP, SAPDC, Satluj Bhawan, Arun Sadan,  
Tumlingtar, Distt. Sankhuwasabha, Nepal  
Ph. +977-29-575154, Mob.: +977-9852058517**

**OR**

**O/o Company Secretary,  
Arun-3 HEP, SAPDC  
House No. 3, Ward No. 1, Swagat Marg,  
Madhyapur (Thimi) Municipality, Lokanthali, Kathmandu.  
Ph. +977-1-6632030, Mob.: +977-9819822967**

**However, SAPDC not be responsible for any delay in receipt due to any reason whatsoever and/ or for loss of the bid in postal transit..**

**14.0 Deadline for Submission of Bids:-**

- 14.1 The Proposal shall be received by SAPDC not later than the time & date specified at Sr. No. 1.6 of Notice Inviting Tender (NIT) at the address specified at Sr. No. 1.10 of Notice Inviting Tender (NIT). SAPDC shall not be responsible for any delay in receipt due to any reason whatsoever and/ or for loss of the proposal in postal transit. However, if BIDDERS opts for submission of EMD directly in the bank account of SAPDC as per Clause No. 3.0 of Section-IV,ITB, then the proof of same shall be submitted by the Bidders alongwith the Proposal.

14.2 SAPDC may extend the deadline for submission of bids by issuing an amendment in accordance with Sr. No. 4 of Notice Inviting Proposal, in which case all rights and obligations of the SAPDC and the Bidders previously subject to the original deadline will then be subject to the new deadline.

**15.0 Late/Delayed Proposal:-**

Any proposal received by the SAPDC after the deadline prescribed by the SAPDC in accordance with Para-14.0(ITB) hereof will be returned un-opened to the bidder.

**16.0 Modification and Withdrawal of Bids:-**

16.1 The bidder may modify or withdraw his bid after bid submission, provided that the modification or notice of withdrawal is received in writing by the SAPDC prior to the prescribed deadline for submission of bids.

16.2 The bidder's modification or notice of withdrawal shall be prepared, sealed, marked and delivered in accordance with the Para 12.0(ITB) & 13.0(ITB) hereof, with the inner envelopes additionally marked "Modification" or "Withdrawal" as appropriate.

16.3 Subject to Para-18.0(ITB), no bid may be modified subsequent to the deadline for submission of bids.

16.4 Withdrawal/Modification of bid between the deadline for submission of bids and the expiry of the period of bid validity or as extended pursuant to Para-11.0(ITB) hereof shall result in the forfeiture of the bid security pursuant to Para-4.0(ITB) hereof.

**17.0 Bid Opening:-**

17.1 Bids for which an acceptable notice of withdrawal has been submitted pursuant to Para-16.0(ITB) hereof shall not be opened.

17.2 Then, the Part-I of the bid i.e., the envelope containing bid security & cost of tender document and the document as per 13.1 of ITB shall be opened. The bids whose bid security/ cost of tender document is either deficient in value and/ or form, will be rejected out rightly & will not be evaluated further. The envelope of modification pursuant to Para-16.0(ITB) hereof, if any, to this part of bid shall be opened first.

17.3 The "Price Bid" (Part-II of the bid) shall be opened at a subsequent date for which a separate intimation will be sent. It will be discretion of the SAPDC to invite all the bidders to be present at the time of opening of price bids or only those bidders whose bids are ascertained to be techno-commercially responsive. The envelope of modification pursuant to Para-16.0(ITB) hereof, if any, to this part of bid shall be opened first.

17.4 Bidder's authorized representatives may attend the bid opening. The officers of the SAPDC authorized for opening of bids will announce the bidder's name, written notifications of bid withdrawal if any, the presence or absence of the requisite bid security, the deviations taken by the bidder's etc., and any such detail as the said officer(s) may consider appropriate. The bidder's representative(s) shall sign register provided by SAPDC for evidencing their participation in the process of bid opening.

**18.0 Clarification of Bids:-**

To assist in the examination, evaluation and comparison of bids, the SAPDC may ask bidders individually for clarification of their bids. The request for clarification and the response shall be in writing or by email, but no change in the price or substance of the bid shall be sought, offered or permitted except as required to confirm the correction of arithmetic errors discovered by the SAPDC during the evaluation of the bids in accordance with sub-Para-20.1(ITB) hereof.

## **19.0 Determination of Responsiveness & Techno-Commercial evaluation:-**

- 19.1 Prior to the detailed evaluation of bids, the SAPDC will determine whether each bid:
- i) meets the eligibility and qualification requirements set out under Para 2.0 & 3.0 of ITB hereof ;
  - ii) has been properly signed by an authorized Signatory.
  - iii) is accompanied by the required securities, and
  - iv) is substantially responsive to the requirements of the bidding documents.
- 19.2 A substantially responsive bid is one, which conforms to all the terms, conditions and specifications of the Bidding Documents without material deviation or reservation. A material deviation or reservation is one:
- i) which affects in any substantial way the scope, quality, or performance of the Works;
  - ii) which limits in any substantial way, inconsistent with the Bidding documents, the SAPDC rights or the bidder's obligations under the Contract ; or
  - iii) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.
- 19.3 If a bid is not substantially responsive, it will be rejected by the SAPDC and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation or by submission of subsequent clarifications.
- 19.4 During the evaluation of bids, the following definitions apply:
- a) "Deviation" is a departure from the requirements specified in the Bidding Document;
  - b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
  - c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.

## **20.0 Commercial evaluation:-**

- 20.1 Bids determined to be substantially responsive will be checked by the SAPDC for any arithmetic errors. Errors will be corrected by the SAPDC as follows:
- i) where there is a discrepancy between unit rate in figures and in words, the unit rate in words will govern; and
  - ii) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted in words will govern.
  - iii) In case error due to wrong extension of quantities, the quantities as specified in the Bid documents will be considered and multiplied by the unit rates quoted in words to obtain the amount.
- 20.2 The amount stated in the Bid will be adjusted by the SAPDC in accordance with the above procedure for the correction of errors and shall be considered as binding upon the bidder. If the bidder does not accept the corrected amount of bid, his bid will be rejected and the bid security shall be forfeited.

## **20.3 Evaluation and Comparison of Bids:-**

- 20.3.1 The SAPDC will evaluate and compare only the bids determined to be substantially responsive to the requirements of the Bidding Documents in accordance with Para-19.0(ITB) hereof.
- 20.3.2 In evaluating bids, SAPDC will determine, for each bid, the Evaluated Bid Price by adjusting the bid price as follows.
- i) Making any correction for errors pursuant to sub-Para-20.1 (ITB) hereof;

- ii) Making an appropriate adjustment to reflect discounts or other price modifications offered in accordance with Para-16.0(ITB) hereof.
- iii) Making an appropriate adjustment for the discount offered by the Bidder. Only unconditional discount offered by the bidder on the Performa for Price Bid shall be considered.

20.3.3 *Deleted without change in Sr.No.*

**21.0 Award Criteria:-**

Subject to Para-22.0 (ITB) hereof, the SAPDC will award the contract to the bidder whose bid has been determined to be substantially responsive to the Bidding documents and who has offered the lowest evaluated bid price pursuant to Para-20.0 (ITB) hereof and the evaluated Bid Price is within a reasonable variation of the estimated cost of tendered Works.

**22.0 SAPDC Right to accept any Proposal and to reject any or All Bids:-**

Notwithstanding Para-21.0(ITB), the SAPDC reserves the right to accept or reject any bid or to annul the bidding process and reject all bids, at any time, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the SAPDC action.

**23.0 Notification of Award:-**

23.1 Prior to the expiration of the period of bid validity prescribed by the SAPDC or any extension thereof, the SAPDC will notify the successful bidder in writing that his bid has been accepted. This letter (hereinafter and in the Conditions of Contract called “Letter of Acceptance”) shall name the sum which the SAPDC will pay to the Contractor in consideration of the execution, completion and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Conditions of Contract called “the Contract Price”).

23.2 The notification of award will constitute the formation of the Contract.

**24.0 Signing of Contract Agreement:-**

24.1 Within thirty (30) days from issuance of Letter of Acceptance, on a date and time mutually agreed upon, the successful bidder or his authorized representative shall attend the Office of Chief Engineer (P&C), Arun Sadan, SAPDC Office Complex, Tumlingtar, Nepal for signing of the Agreement. The Performa of Agreement is as at **Annexure-I**.

24.2 Failure on the part of the successful bidder to comply with the requirements of this Para will constitute sufficient grounds for the annulment of the award and forfeiture of the bid security.

**25.0 Performance Security Deposit:-**

25.1 Within 30 (thirty) days from the date of issue of the Letter of Acceptance, the successful bidder shall deliver to the Employer a Performance Security equal to 3% (**three percent**) of the Contract Price, plus additional security (If required) for unbalanced bids in accordance with Clauses 20.3.3 of ITB valid till 45 days beyond Contract Period.

25.2 The Performance Security Deposit shall be submitted in the form of Manager Cheque/ Demand Draft endorsed in favour of Employer/ Bank Guarantee in favor of SJVN Arun-3 Power Development Company Pvt. Ltd. payable at Khandbari issued by a Class A bank situated in Nepal. The DD issued by a “A” Class Nepalese Bank shall only be acceptable. The BG May be in format provided at ‘**Form-F**’

25.3 The Bank Guarantees in INR shall be acceptable only if these are issued by a Scheduled Bank of India duly counter guaranteed by any A class bank in Nepal.



25.4 Failure of the successful Bidder to comply with the requirements of Clause 25.1(ITB) shall constitute sufficient grounds for cancellation of the award and forfeiture of the Earnest Money Deposit. He will also be debarred from participating in bids invited by the Project for one year.

25.5 The performance guarantee will be returned to the contractor within 30 days after completion of Contract period without any interest and “Satisfactory Performance Certificate” issued by E.I.C. (Engineer –in- Charge).

**26.0 Process to be Confidential:-**

26.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to Bidder or any other persons not officially concerned with such process. Any attempt by a Bidders to influence SAPDC’s processing of bids or award decisions may result in the rejection of his Bid.

**27.0 Corrupt or Fraudulent Practices:-**

The Employer requires the bidders/Consultants under this contract observe the highest standard of ethics during the procurement and execution of this contract. In pursuance of this policy, the Employer:

- (a) defines, for the purpose of these provisions, the terms set forth below as follows:
  - i. “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
  - ii. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to be detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.
- (b) will reject a Bid for award of work if he determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- (c) Will declare a Bidder ineligible, either indefinitely or for a stated period of time, to be awarded a contract/contracts if he at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing for, or in executing, the contract.

**28.0 Integrity Pact(Schedule-B):-** To improve transparency and fairness in the tendering process, SAPDC is implementing Integrity Pact To improve transparency and fairness in the tendering process the Employer is implementing Integrity Pact. Integrity Pact is deemed as part of the contract so that the prospective bidders are bound by its provisions.

The Integrity Pact, signed by all the prospective Bidders and the Employer, shall commit the persons/officials of both the parties, not to exercise any corrupt/fraudulent/collusive/coercive practices in the Tendering process and also during implementation of the Contract. Only those Bidders who have entered into Integrity Pact with the Employer shall be eligible to participate in the bidding process. Bidders signing Integrity Pact shall not approach the Courts while representing the matters to IEMs and he/she will await their decision in the matter.

Entering into Integrity Pact as per Schedule-B is a basic qualifying requirement. In case of JV, each partner of JV shall sign Integrity Pact with the Employer. In case of sub-contracting, the Principal contractor shall be responsible for adoption of Integrity Pact by the sub-contractor.

To oversee the compliance of obligation under the Integrity Pact, a panel of Independent External Monitor(s) (IEMs) have been appointed by concerned authority. The Contact address of IEMs are as under:

<b>Sl. No.</b>	<b>Name of IEMs</b>	<b>Address of IEMs</b>
1	<b>Sh. S.P. Srivastava, IPS (Retd.)</b>	1/125, Vineet Khand, Gomtinagar, Lucknow, UP-226010 Email: sps_ips@yahoo.com
2	<b>Smt. Archana Pandey Tiwari, IRS (Retd.)</b>	C-32, Nangal Dewat, Vasant Kunj, New Delhi-110070 Email: ampandey2001@yahoo.com

The Integrity Pact duly signed on behalf of SAPDC is given at Schedule-B of the Bid Document. The Integrity Pact shall be downloaded, printed and signed by the bidder and the hard copy shall be submitted in Part-I of Bid.

28.1 The successful bidder shall submit duly executed Integrity Pact on Plain Paper prior to signing of Contract Agreement.

# **SECTION-V**

**LETTER OF TENDER, FINANCIAL & TECHNICAL  
INFORMATION FORMS**

**LETTER OF TENDER****To,****Chief Engineer (P&C),  
SAPDC, Arun-3 HEP, Tumlingtar.**

1. We have read and examined the following Bidding Documents relating to " Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal."

<b>Section-I</b>	Notice Inviting Tender (NIT)
<b>Section-II</b>	Brief Description of Projects
<b>Section-III</b>	Brief Objective & Detailed Scope of Works/Services
<b>Section-IV</b>	Instructions to Bidder(ITB)
<b>Section-V</b>	Letter of Tender and Financial & Technical Information Forms.
<b>Section-VI</b>	General Conditions of Contract (GCC)
<b>Section-VII</b>	Bill of Quantities

2. We hereby submit our proposal for said assignment upon the terms and conditions contained or referred to in the aforesaid documents.
3. We agree to keep this proposal open for acceptance for 180 days from the date of opening of Techno-Commercial Bids and also agree not to make any modifications in its terms and conditions on our own accord.
4. We certify that the proposal submitted by us is strictly in accordance with the terms, conditions, specifications etc. as contained in this Bidding Documents, referred to in paragraph-1 above, and it does not contain any deviations to the aforesaid documents. Further, deviations, if any, which might have crept inadvertently, are automatically deemed to have been withdrawn by us without any reservation.
5. It is further certified that information furnished in the proposal submitted by us is correct to the best of our knowledge and belief.
6. This 'LETTER OF TENDER' is made in the full understanding that:
  - a. Through this tender, SAPDC intends to Hiring of Transaction Advisor/ Consultant

For Expansion of Hydropower Business of SJVN In Nepal.

- b. Bidding process may be subject to verification of all information submitted at the discretion of SAPDC.
7. I/We agree to abide by and fulfill all the terms and conditions and provisions of the above-mentioned tender documents.

(Signature of person duly authorized to sign the proposal on behalf of the Bidder/Firm/Agency along with Seal of Company)

**Name** \_\_\_\_\_

**Designation** \_\_\_\_\_

**Contact No. /Email ID** \_\_\_\_\_

**Witness:**

Name \_\_\_\_\_

Signature \_\_\_\_\_ Designation \_\_\_\_\_ Date \_\_\_\_\_

Name of Company \_\_\_\_\_

Telephone No./Email ID \_\_\_\_\_

**FINANCIAL INFORMATION**

We declare that the Financial information during the last 3 years, ending March 2021 (A.D.) / July 2077 (B.S. Calendar) are as under:

<b>S. No.</b>	<b>Period</b>	<b>Annual turnover (Gross amount of revenue recognized in the profit and loss account from or on account of consultancy services rendered by the Bidder/Firm/Agency/Consultant/organization during a financial year</b>
1.	2018-19 / 2074-75	
2.	2019-20 / 2075-76	
3.	2020-21 / 2076-77	
4.	Average for the last three (03) financial years.	

**STATEMENT OF SIMILAR NATURE WORKS COMPLETED**

We declare that we ourselves as Sole Contractor or as Partner of JV or Sub-contractor or Consultant have Successfully completed/executed the works tabulated below during preceding three (07) years(reckoned from the date of issue of NIT) (work may be started earlier):

<b>Sl. No.</b>	<b>Name of Work</b>	<b>Role/ Responsibilities</b>	<b>Capacity of Project(s)</b>	<b>Name of Client/ employer</b>	<b>Date of LOA/ Agreement &amp; Date of Completion</b>

**Note: -**

- i. Bidder to fill in the details as provided here-in-above and attach additional pages, if necessary, in case of JV.*
- ii. Bidder to enclose necessary certificates in support of above details.*
- iii. Copy of Joint Venture Agreement also to be furnished where the works have been executed in joint venture.*

**For and on behalf of the Bidder**

.....

**(Signature of authorized representative of the Bidder, along with name, Seal of Company)**

**Deleted**

**For and on behalf of the Bidder/Firm/Agency**

.....

**(Signature of authorized representative of the Bidder, along with name, Seal  
of Company)**



**INSTRUCTIONS TO BE FOLLOWED FOR EXECUTION OF ALL KINDS OF BANK GUARANTEES**

1. Bank Guarantee should be executed on papers of requisite value in accordance with the Stamp Act as applicable in Nepal.
2. The executing officers of the Bank Guarantee shall clearly indicate in (Block Letters), his name, designation, Power of Attorney No:/Signing Power No. etc.
3. Each page of the Bank Guarantee shall be duly signed / initialed by the executing officers and the last page shall be signed in full, indicating the particulars as aforesaid (sub-para2) under the seal of the Bank.

**1. FORM OF BANK GUARANTEE FOR EARNEST MONEY DEPOSIT**

**(Refer clause 4.0 of Section-IV)**

WHEREAS \_\_\_\_\_ (Name of Firm/agency) (hereinafter called "the Firm/agency") has submitted his bid dated \_\_\_\_\_ (date) for " Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal."

SEALED with the Common Seal of the said Bank this \_\_\_ day of \_\_\_\_\_ (Month and Year).

THE CONDITIONS of this obligation are:

1. If after Bid opening the Firm/agency withdraws his Bid during the period of bid validity specified in the Form of Bid or
2. If the Firm/agency having been notified of the acceptance of his Bid by the SJVN Arun-3 Power Development Company Private Limited, during the period of bid validity.
  - a. fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidder, if required; or
  - b. fails or refuses to furnish the Performance Security, in accordance with the Clause-25.0 of Section-IV,ITB of Tender Document, or
  - c. does not accept the correction of the Bid Price pursuant to Clause-20.0 of Section-IV, ITB of Tender Document.
  - d. adopts corrupt or fraudulent practices

we undertake to pay to the SJVN Arun-3 Power Development Company Private Limited, the above amount upon receipt of its first written demand without the SJVN Arun-3 Power Development Company Private Limited having to substantiate its demand, provided that in its demand the SJVN Arun-3 Power Development Company Private Limited will note that the amount claimed by it due to it owing to the occurrence of one or any of the three conditions, specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date 210 days after the deadline for submission of Bids as stated in the invitation to bid or as it may be extended by the SJVN Arun-3 Power Development Company Private Limited notice of which extensions(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

DATE \_\_\_\_\_

SIGNATURE OF THE BANK \_\_\_\_\_

WITNESS \_\_\_\_\_

SEAL \_\_\_\_\_

(Signature, name and address)

**2. FORM OF BANK GUARANTEE FOR PERFORMANCE SECURITY DEPOSIT**

**(Refer clause 25.0 of Section-IV,ITB)**

Date:

To,  
Name & Address of the Employer

We have been informed that .....(the "Bidder/Contractor/Firm/Consultant/Agency/company"), having its registered office at ..... has entered into an Agreement on .....2021 with you for the work of " Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal."

In accordance with the terms of the AGREEMENT, the Company is required to submit an unconditional and irrevocable, payable on-demand bank guarantee of NPR ..... (Nepalese Rupees ..... only), (the "**Security Amount**") to SAPDC for the due and faithful performance of the Company's obligations under the AGREEMENT (the "**Performance Security**") and we .....(name and address of the Bank, hereinafter called the "**Guarantor**") have at the request of the Company agreed to provide such Performance Security, being this Bank Guarantee (Performance Security) No. ....

On your first written demand, stating that (a) the Company is in default of its obligations under the AGREEMENT, or (b) the Company has not replaced this Performance Security with another performance security issued on the same terms at least fourteen (14) days prior to the Expiry Date (as hereinafter defined), we, the Guarantor as primary obligor hereby expressly, unconditionally and irrevocably undertake to pay to SAPDC, without demur, reservation, protest and any reference to the Company or the AGREEMENT the amount specified in such demand, provided that the total of all demands shall not exceed the sum of the Security Amount. You shall not be required to prove or show grounds for your demand or the sum specified therein. It is clarified further that your demand shall be conclusive evidence to us that such payment is due under the terms of the AGREEMENT. It shall not be necessary, and the Guarantor hereby waives any necessity, for SAPDC to proceed against the Company before presenting to the Guarantor its demand under the Performance Security.

The term of this Performance Security shall commence on the date of its issuance and shall expire on the date 45 days beyond Contract Period (the "**Expiry Date**").

All claims, if any, in respect of this Performance Security must be received by the Guarantor on or before the Expiry Date.

This guarantee is subject to Uniform Rules for Demand Guarantees ICC Publication No. 758, except that the provisions of Article 26 are hereby excluded and shall be governed by and construed in accordance with the Laws of Nepal and will be subject to the jurisdiction of the courts of Nepal.

The Performance Security shall not be affected by any change in the constitution of the Guarantor or of the Company.

Notwithstanding anything contained hereinabove:

- (1) Our liability under this Guarantee shall not exceed the Security Amount

- (2) Any demand may be brought by SAPDC under this Guarantee up to close of business on the Expiry Date.
- (3) We shall be liable to pay any amount under this Guarantee or part thereof only if we receive a claim or demand in writing within banking hours at our branch on or before the Expiry Date and if no such demand has been received by us by that time and date, all rights to bring any demand under this guarantee will cease.

Notwithstanding sub-section (2) and (3) above, all claims made by SAPDC on or before the Expiry Date shall, subject to sub-section (1) above, be honoured by the Guarantor where payment in respect of such demands have not been made by the Expiry Date.

This guarantee (or any of its proceeds) is not assignable and is not transferable in whole or in part.

Upon payment by the Guarantor in respect of all claims or demands made by SAPDC under this Bank Guarantee on or before the Expiry Date, this guarantee automatically becomes null and void whether or not the original has been returned to us.

Signed for and on behalf of: .....

Name: .....

Designation:.....

Seal of the Bank:.....

Signed for and on behalf of: .....

**[Note: delete the following signature block if not applicable]**

***[Signed for and on behalf of confirming bank in Nepal:.....]***

***Name:.....***

***Designation:.....***

***Seal of the Bank:.....***

***Signed for and on behalf of:.....]***

**3. PROFORMA FOR AGREEMENT**

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_ (name and address of Employer) (hereinafter called “SJVN Arun-3 Power Development Company Private Limited/SAPDC/Employer”) and \_\_\_\_\_ (name and address of BIDDER) (hereinafter called “the Bidder/contractor/Consultant” of the other party).

Whereas the SJVN Arun-3 power Development Company Private Limited is desirous that the Contractor \_\_\_\_\_ executes \_\_\_\_\_ (name and identification number of Contract) (hereinafter called ‘the Works/Services’) and the SJVN Arun-3 Power Development Company Private Limited has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects herein at a contract price of NPR \_\_\_\_\_

NOW THIS AGREEMENT WITNESSETH as follow:

1. In this Agreement, words and expression shall assume the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. In consideration of the payments to be made by the SJVN Arun-3 Power Development Company Private Limited to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the SJVN Arun-3 Power Development Company Private Limited to execute and complete the Work and remedy the defects therein in conformity, in all aspects, with the provisions of the Contract.
3. The SJVN Arun-3 Power Development Company Private Limited hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and remedy the defects wherein the contract price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
  - a) Agreement;
  - b) Letter of Acceptance issued by Employer;
  - c) Corrigendum/Addendum(if any);
  - d) Special Conditions of Contract(SCC);
  - e) General Conditions of Contract(GCC);
  - f) Detailed Scope of Works/Services;
  - g) Priced Schedule of Quantities & Prices/Bill of Quantities;
  - h) Bidder's Bid other than BOQ;
  - i) Instructions to Bidder's (ITB) & Notice Inviting Tender(NIT); and
  - j) Any other document forming part of the Contract

The aforesaid documents shall be taken as complementary and mutually explanatory of one another but in case of ambiguities or discrepancies shall take precedence in the order set out above.

In witness whereof the parties have caused this Agreement to be executed the day and year first before written.

Signed and Delivered

For and on behalf of the Contractor

For and on behalf of SJVN Arun-3 power  
Development Company Private Limited

i) Name: \_\_\_\_\_  
(Authorized Signatory)

Name: \_\_\_\_\_

ii) Name : \_\_\_\_\_  
\_\_\_\_\_

Designation:

In the presence of:

In the presence of :

Name \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_  
\_\_\_\_\_

Add. \_\_\_\_\_  
\_\_\_\_\_

Add. \_\_\_\_\_  
\_\_\_\_\_

**Note:** This Performa is included in the Bidding Documents only for the information of the Firm(s)/agency(ies). Only the successful firm/agency, shall, in due course, be required to fill this Performa.

# **SECTION-VI**

## **GENERAL CONDITIONS OF CONTRACT(GCC)**

## GENERAL CONDITIONS OF CONTRACT

### **1.0 DEFINITIONS:**

- (i) **Bill of Quantities or Schedule of Quantities & Prices:** means the priced and completed bill of quantities forming part of the Contract.
- (ii) **Contract:** means the document forming the tender, acceptance thereof and the formal agreement executed between the SAPDC and the Contractor/Bidder/Consultant, together with documents referred to therein.
- (iii) **Contract Price:** means the amount arrived at by multiplying the quantities shown in the Bill of Quantities by the respective item rates as allowed and included in the Letter of Acceptance.
- (iv) **Contractor/Consultant:** means the successful Bidder who is awarded contract to perform the work covered under these tender documents and shall be deemed to include the Contractor's successors, executors, representatives or assigns.
- (v) **Employer:** means the SJVN Arun-3 Power Development Company (P) Ltd. (SAPDC), Tumlingtar, Nepal (A Subsidiary of SJVN Ltd., a joint venture of GoI & Govt. of H.P.) having Registered office at Kathmandu, Nepal, and includes therein legal representatives, successors and assigns.
- (vi) **Day:** means a calendar day beginning and ending at midnight.
- (vii) **Officer-in-Charge/ Engineer-in- Charge (OIC/EIC):** The OIC/EIC of this work nominated by the Employer or its duly authorized representative to direct, supervise and be in charge of the works for the purpose of this contract.
- (viii) **Letter of Award or Acceptance (LoA):** means a letter from the Employer/EIC conveying the acceptance of the tender/offer subject to such reservations as may have been stated therein.

### **2.0 INTERPRETATIONS:-**

- 2.1 Words importing the singular only shall also include the plural; he includes she and vice versa unless this is repugnant to the context. Unless specifically defined, words shall have normal meaning under the language of Contract.
- 2.2 Heading and marginal notes in these General Conditions shall not be deemed to form part thereof or be taken into consideration in the interpretation or construction thereof of the Contract.
- 2.3 Any error in description, quantity or price in Bill of Quantities or any omission there from shall not vitiate the Contract or release the Contractor from execution of the whole or any part of the Works comprised therein according to drawings and Specifications or from any of his obligations under the Contract.
- 2.4 Detailed drawings shall be followed in preference to small scale drawings (sketch drawings) and figured dimensions in preference to scaled dimensions. In the case of discrepancy between the Letter of acceptance issued by Employer, Special Conditions of Contract, Technical Specifications, General Conditions of Contract, the Tender Drawings and/or Bill of Quantities and other documents of Contract the following order



of precedence shall prevail:

- a) Agreement;
- b) Letter of Acceptance issued by Employer;
- c) Corrigendum/Addendum(if any);
- d) Special Conditions of Contract(SCC);
- e) General Conditions of Contract(GCC);
- f) Detailed Scope of Works/Services;
- g) Priced Schedule of Quantities & Prices/Bill of Quantities;
- h) Bidder's Bid other than BOQ;
- i) Instructions to Bidder's(ITB) & Notice Inviting Tender(NIT); and
- j) Any other document forming part of the Contract

Any other document forming part of the Contract.

### **3.0 PRICES AND TAXES & DUTIES:-**

3.1 The rates shall be inclusive of all cost towards providing services along with Insurance inclusive of all taxes and duties, GST (if applicable), Custom (If applicable) etc. **but Excluding VAT** and SAPDC shall not bear anything extra on this account. The rates shall be firm during the entire period of contract and no escalation shall be payable. TDS will be deducted as per laws applicable in Nepal. **VAT as applicable shall be borne by SAPDC and the same shall be deposited/reimbursed by SAPDC on production of documentary evidence.**

3.2 Statutory variation in taxes and duties or levy of any new tax after deadline for submission of bid will be adjusted/ reimbursed against production of documentary evidence.

### **4.0 CONTRACT PERIOD:-**

The Contract shall be valid for a period of ten(10) months to be reckoned from the date of issuance of Letter of Acceptance. If the contractor commits default in the commencement of work within 30 days of issue of LOA, SAPDC shall without prejudice to any other right or remedy be at liberty to cancel the Contract and forfeit the Earnest Money Deposit/ Performance Security.

### **5.0 PAYMENT:- The payments will be made in the following manner:-**

a) Payment shall be made as per following milestones:

<b>Phase(As Under the heading of scope of work)</b>	<b>Payment milestones</b>
Phase 1	i. Submission of Draft Report – 40% of awarded amount against Phase 1. ii. Acceptance of Final Report - 60% of awarded amount against Phase 1
Phase 2	i. Submission of draft roadmap – 40% of awarded amount against Phase 2. ii. Acceptance of final roadmap – 60% of awarded amount against Phase 2  Submission of draft Memorandum of Understanding / non-binding agreement, JV agreement and share purchase agreement(if required)
Phase 3	15% of awarded amount against Phase 3 shall be billable/payable at the end of each month starting from fifth(5 <sup>th</sup> ) month 5 (i.e Post

	<p>completion of Phase 1 and Phase 2) upto contract period i.e 10<sup>th</sup> month.</p> <p>10% of awarded amount against Phase 3 shall be payable after transaction closure.</p> <p>In case project gets completed early(after the transaction closure), the transaction closure fees shall be released.</p>
Retention	10% of each bill against each Phase shall be retained and same shall be released after one month of transaction closure.

- b) VAT/TDS shall be deposited/ deducted as per provisions of applicable laws.
- c) Payment on account of amount admissible shall be made on the EIC certifying the sum to which the consultant is considered entitled by way of interim payment for the work executed, after deducting there from the amounts already paid if any, the security deposit and such other amounts as may be withheld/deductible or recoverable in terms of the Contract.
- d) In case of disputed items for which payment has been withheld, the EIC will intimate to the Consultant in writing the details of such disputed items. The Agency/firm shall submit in writing the clarifications / modifications in regard to these disputed items to the EIC. After receipt of such clarifications / modifications and acceptance thereof by the EIC payment on receipt of such disputed items shall be released within 30 days thereafter.

**6.0 MILE STONES & COMPENSATION FOR DELAY:-**

- 6.1 If the Contractor fails to complete all items of work(s) in respect of any of Milestone and/or Work as a whole within the stipulated time period in the tender document or any extended period, then the compensation (Liquidated Damages) not by way of penalty shall be imposed as per followings:

S. No.	Mile stone	Time period from commencement date	Compensation for delay
1.	Submission of draft & final report under Phase 1(Assessment of corporate structure suitable for Nepal Business) of scope work	02 months to be reckoned from the date of issuance of Letter of Acceptance	0.083% of Contract Price per day of delay subject to a maximum of 2% of contract price. Applicable GST/VAT shall be charged extra.
2.	Submission of draft & final report under Phase 2 (Preparation of roadmap and draft documents for execution) of scope work	04 months (For completion of activities at Sr. 1+ 2) to be reckoned from the date of issuance of Letter of Acceptance	0.083% of Contract Price per day of delay subject to a maximum of 2% of contract price. Applicable GST/VAT shall be charged extra.
3.	Implementation support (Drafting Communication, Presentation, Other disclosers etc.) under Phase 2 of scope work & transaction closure.	10 months (For completion of activities at Sr. 1+ 2+3) to be reckoned from the date of issuance of Letter of Acceptance	0.014% of Contract Price per day of delay subject to a maximum of 1% of contract price. Applicable GST/VAT shall be charged extra.

- 6.2 Maximum amount of delay damages on account of work as a whole shall not exceed 5 % of Contract Price.
- 6.3 However, if Contractor achieves the next milestone within the specified schedule (as above) and also achieves all the delayed preceding Milestones by that date, then the compensation

already levied for all delayed preceding Milestones shall be refunded in next payment. Further, if contractor achieve the completion of the Works as a whole under the Contract within the time as stipulated in tender document or in the extended time as may be accorded, the Employer will refund to him the amount of compensation recovered from him.

6.4 No interest on refund of delay damages as above shall be payable to the contractor.

#### **7.0 CONTRACTOR'S DEFAULT/TERMINATION:-**

- (a) If the contractor shall neglect to execute the work with due diligence and expedition or shall refuse or neglect to comply with any reasonable order give to him in writing by the EIC in connection with the work or shall contravene the provisions of the contract , the Employer may give notice in writing to the contractor to make good the failure, neglect or contravention complained of , should the contractor fail to comply with the notice within thirty (30) days from the date of service thereof, then and in such case the Employer shall terminate the contract and shall be at liberty to comply other contractor and forthwith execute such part of the work as the contractor may have neglected to do or if the Employer shall think fit, without prejudice to any other right he may have under the contract, to take the work wholly or in part out of the contractor's hands and re-contract with any other person or persons to complete the work or any part thereof and apply any balance payment which may otherwise be due on the contract by him to the contractor, or such part thereof as may be necessary, to the payment of the cost of executing the said part of the work or of completing the work as the case may be. If the cost of completing the work or executing a part thereof as aforesaid shall exceed the balance payment due to the contract, the contractor shall pay such excess. Such payment of excess amount shall be independent of the liquidated damages for delay, which the contractor shall have to pay if the completion of work is delayed and attributable to the contractor.
- (b) If the Consultants fail to remedy a failure in the performance of their obligations.
- (c) If the said Consultant becomes bankrupt or is dissolved, or ceases to exist or if the Consultant unreasonably delays in carrying out the work entrusted to it.
- (d) SAPDC also reserves the right to terminate the engagement of the Consultant at any time if it decides not to go ahead with the proposed Services. In case of any termination, the consultant will not be entitled to any payment other than for the milestone referred to in reporting requirements which has already been achieved.
- (e) SAPDC may give notice of termination, by not less than thirty (30) days' notice to the Consultants, to be given after the occurrence of any of the events or reason specified above.
- (d) SAPDC, in its sole discretion and for any reason whatsoever, decide to terminate this Contract.
- (e) **Payment upon Termination:-**  
Upon termination of this Contract, SAPDC shall pay to the Consultants, the amount which shall have become due hereof for the Services satisfactorily performed prior to the effective date of termination;
- (f) The termination of the contract under this clause shall not entitle the contractor to reduce the value of the contract performance security nor the time thereof. The Contract Performance Security shall be valid for the full value and for the full period or the completion of the Contract.

#### **8.0 SUSPENSION OF WORK:-**

The SAPDC reserves the right to suspend and reinstate execution of the whole or any

part of the works without invalidating the provisions of the contract. Orders for suspension or reinstatement of the works will be issued by SAPDC to the contractor in writing. The time for completion of the works will be extended for a period equal to the duration of the suspension. SAPDC shall not be responsible for any liabilities, if suspension or delay is due to some fault on the part of the contractor.

#### **11.0 VAT/TAXES & DUTIES:-**

The quoted rates shall be inclusive of all taxes and duties, GST (if applicable), Custom (If applicable) etc. **but excluding VAT** and SAPDC shall not bear anything extra (**except VAT**) on this account. VAT as applicable shall be borne by SAPDC and the same shall be deposited/reimbursed by SAPDC on production of documentary evidence.

At present TDS @15% shall be applicable for Indian Company not registered in Nepal. TDS @1.5% shall be applicable for companies registered under VAT in Nepal & for companies not registered in VAT in Nepal, TDS@15% shall be applicable.

Further, any change in TDS rate by GoN in future, then the same shall be applicable.

#### **12.0 FORCE MAJEURE:-**

The term "Force Majeure" shall herein mean riots (other than among the Contractor's employees), Civil Commotion (to the extent not insurable), war (whether declared or not), invasion, act of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power, damage from aircraft, nuclear fission, acts of God, such as earthquake (above 7 magnitude on Richter Scale), lightning, unprecedented floods, fires not caused by Contractor's negligence and other such causes over which the Contractor has no control and are accepted as such by the Engineer-in-Charge, whose decision shall be final and binding. In the event of either party being rendered unable by Force Majeure to perform any obligation required to be performed by them under this contract, the relative obligation of the party affected by such Force Majeure shall be treated as suspended for the period during which such Force Majeure cause lasts, provided the party alleging that it has been rendered unable as aforesaid, thereby shall notify within 10 days of the alleged beginning and ending thereof giving full particulars and satisfactory evidence in support of such cause.

Further, Any cause, that is beyond the reasonable control of the advisor or SAPDC will be force majeure condition. The cause of the force majeure condition will be taken into consideration only if the advisor within 15 days from the occurrence of such delay notifies.

To the extent that the provision of the Services is impacted by a pandemic (including COVID-19) and any reasonable concerns or measures taken to protect the health and safety interests of either Party's personnel, the Parties will work together to amend the Agreement to provide for the Services to be delivered in an appropriate manner, including any resulting modifications with respect to the timelines, location, or manner of the delivery of Services.

In case of lockdowns / movement restrictions the advisor will continue to support the SJVN/SAPDC officials while working from home and conducting online meetings.

The advisor will use reasonable efforts to provide the Services to the Company offices, provided that, in light of a pandemic the parties agree to cooperate to allow for remote working and/or an extended timeframe to the extent (i) any government or similar entity implements restrictions that may interfere with provision of onsite/ site visit services; (ii) either party implements voluntary limitations on travel or meetings that could interfere with provision of onsite Services, or (iii) an employee of the Advisor determines that he or she is unable or unwilling to travel in light of a pandemic-related risk.

Extension of time without levy of LD shall be provided during the period of occurrence of Force Majeure event or as above events, however no cost compensation shall be provided.

**13.0 FORECLOSURE OF CONTRACT IN FULL OR IN PART DUE TO ABANDONMENT OR REDUCTION IN SCOPE OF WORKS/SERVICES:-**

13.1 If at any time after acceptance of the tender the Employer decides to abandon or reduce the scope of the Works for reason whatsoever and hence does not require the whole or any part of the Works to be carried out, the Engineer-in-Charge shall give notice in writing to that effect to the Contractor, and the Contractor shall have no claim to any payment of compensation or otherwise whatsoever, on account of any profit or advantage which he might have derived from the execution of the Works in full but which he could not derive in consequence of the fore-closure of the whole or part of the Works.

The Contractor shall be paid at Contract rates for full amount of the Works executed (In case of foreclosure during the execution of a portion of scope, will decide the pro-rata amount to be payable to the advisor against the ongoing milestone) and, in addition, a mutually agreed reasonable amount as certified by the Engineer-in-Charge for the items hereunder mentioned which could not be utilized on the Works to the full extent because of the foreclosure:

13.2 In the event of foreclosure of the Contract, the advances released to the Contractor shall be recovered/adjusted by en-cashing Bank Guarantees (if applicable) submitted by the contractor against the advances, in appropriate proportion as due to the Employer.

**14.0 TIME FOR COMPLETION AND EXTENSIONS:-**

15.1 Time for Completion allowed for execution of the Works is as specified at Sr.No. 1.2 of NIT of these conditions.

15.2 However, if the work is delayed on account of:

- i) Delay in handing over of site/Data/Design & Drawings/Document etc. to the Contractor; or
- ii) Time taken by SAPDC or third party(SJVN/GoI/GoN etc.) for review/comment on draft report at any stage; or
- iii) Suspension of work; or
- iv) "Force Majeure"; or
- v) Any other cause which, in the opinion of the Engineer-in-Charge is beyond the Contractor's control;

then, immediately upon the happening of any such event as aforesaid, the Contractor shall inform the Engineer-in-Charge accordingly, but the Contractor shall nevertheless use constantly his best endeavors to prevent and/or make good the delay and shall do all that may be required in this regard. No extension in time on account of rains shall be admissible. The Contractor shall request, in writing, for extension of time, to which he may consider himself eligible under the Contract, within fourteen days of the date of happening of any such events as indicated above.

Provided further that no monetary claims shall be admissible to the Contractor for such Extension of Time for Completion.

14.3 In any such case as may have arisen due to any of the events, as aforesaid, and which shall be brought out by the Contractor in writing, the Engineer-in-Charge may give a fair and reasonable extension of Time for Completion, after taking into consideration the nature of the work delayed and practicability of its execution during the period of extension. Provided in the event of non-receipt of a request for such extensions from the

Contractor for reasons whatsoever, the Engineer-in-Charge may, at his sole discretion and with due regard to the event, grant fair and reasonable extension of time sue motto.

Such extensions, if admissible, shall be communicated to the Contractor by the Engineer-in-Charge in writing.

Provided that Engineer-in-Charge is not bound to make any determination unless the Contractor has;

- a) within 14 days after such event has first arisen notified the Engineer and
- b) within 28 days or such other reasonable time as may be agreed by the Engineer-in-Charge detailed particulars of any extension of Time for Completion to which the Contractor may consider himself entitled.

#### **15.0 CHANGES IN CONSTITUTION:-**

In case of any change of constitution of the Bidder/Firm/Agency/Consultant, the rights of SAPDC should not suffer.

#### **16.0 SUBLETTING OF CONTRACT:-**

The Bidder/Contractor shall execute the work himself and no part of the contract shall be, without the prior consent in writing of the EIC or Employer, sublet or transfer other than for minor details, provided that any such consent shall not relieve the Bidder from any obligation, duty or responsibility under the Contract.

#### **17.0 SETTLEMENT OF DISPUTE:-**

20.1 A notice of the existence of any dispute or difference in connection with this Contract, shall be served by either party within 30 days from the date of existence of such dispute or difference or after the attempt by the parties to the Contract for amicable settlement as above has failed, whichever is later, failing which all rights and claims under this Contract shall be deemed to have been forfeited and absolutely barred.

20.2 No dispute or difference arising between the parties relating to or in connection with the Contract shall be referred to arbitration unless an attempt has first been made to settle the same amicably.

#### **18.0 ARBITRATION:-**

In case of any dispute arising in out of above conditions, the matter will be initially referred to the sole arbitration nominated by CEO, SAPDC Limited. However, if dispute still remains unresolved then the dispute will be resolved as per applicable dispute resolving mechanism under Nepal's Arbitration Act. 2055. For un-resolved disputes, the Courts of Chainpur, Sankhuwasabha shall have the jurisdiction to adjudicate upon the matter.

#### **22.0 LAW GOVERNING CONTRACT:-**

Unless otherwise hereinafter provided, this Contract shall be construed, interpreted and governed by laws of Nepal. The laws applicable to the Contract shall be the laws in force in Nepal. Courts of Chainpur (Nepal) shall have exclusive Jurisdiction for adjudication upon the dispute arising out of the contract between the parties.

## **SECTION-VII**

### **SPECIAL CONDITION OF CONTRACT(SCC)**

- i. The contractor will deploy regular/ skilled workmen with experience of such type of work.
- ii. The contractor will comply with all acts/laws and other statutory provisions rules, regulations and byelaws as are applicable or which might become applicable with regard to the performance of the work and the engagement of the experts/workers. Minimum wage as notified by the Govt. of Nepal and amended from time to time shall be ensured by the Contractor for different labour categories.
- iii. All information and data generated or collected during the execution of the work shall be treated as confidential and shall be the sole property of Arun-3 HEP, SAPDC/SJVN and the findings of the study shall not be shared or published without prior permission of Arun-3 HEP, SAPDC.
- iv. The experts/workmen to be engaged by the contractor shall have no right in any way for direct or indirect employment in SAPDC. During the currency of contract and after its expiry or termination no employee of the contractor who have ever worked on contract against this work will be offered direct or indirect employment of SAPDC.
- v. Time taken by SAPDC or third party(SJVN/GoI/GoN etc.) for review/comment on draft report at any stage are not accountable to contractor. However, contractor has to be present when required for clarifying any issues that may be raised.
- vi. **Indemnity:-**Firm shall agree to indemnify and keep SAPDC indemnified at all times from and against all actions, claims, demands, proceedings, liabilities or judgements (Collectively "Claim") and any and all losses, damages, in or in relation to the Contract Agreement. Further, The Contractor shall indemnify and keep indemnified the Employer against all losses and claims for death, injuries or damage to any person or any property whatsoever.
- vii. **Limitation of liability:-**

The advisor under this contract, under statute or otherwise, will not be liable for any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of the proposed services under this RFP or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated.

The advisor's aggregate liability under this contract, under statute or otherwise, shall be limited to the fees actually paid for the Services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the Services.
- viii. The rates shall remain firm during the execution of the contract. No escalation shall be paid.



**SECTION-VIII**  
**BILL OF QUANTITIES(BOQ)**  
**(Price Schedule)**

## SCHEDULE-A (Bill of Quantity)

**Name of work: PCD-196/2021 " Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal."**

Sr. No.	Description	Unit	Quantity	Rates may be filled in INR/ NPR or combination of both				Amount in INR (Figures)	Amount in NPR (Figures)
				Unit rate Lumpsum (in INR) Inclusive of all taxes and duties, GST (if applicable), Custom (If applicable) etc. <b>but Excluding VAT</b>		Unit rate Lumpsum (in NPR) Inclusive of all taxes and duties, GST (if applicable), Custom (If applicable) etc. <b>but Excluding VAT</b>			
				Figures	Words	Figures	Words		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	9= (4)x(6)	(10) = (4)x(8)
1.	<b>Phase 1:</b> Assessment of corporate structure suitable for Nepal Business + Preparation of roadmap and draft documents for execution + <b>Phase 2:</b> Preparation of roadmap and draft documents for execution + <b>Phase 3:</b> Implementation support for formulating the joint venture and organizational design (Retainership basis) as per detailed scope of works/services (Section-III)	Lumpsum	1						

of tender document								
<b>Total = (9) + (10)</b>								
<b>Discount if any in percentage (%)</b>								

**Notes:**

1. Lumpsum/overall amount quoted by the Bidder in the BOQ shall be bifurcated/distributed with weightage/proportion of 30% , 30% and 40% for work under Phase 1, Phase 2 & Phase 3 of detailed scope of work respectively for all the contractual purposes.
2. The quoted rates shall be inclusive of all taxes, duties, GST (if applicable), Custom (If applicable) etc. excluding VAT. VAT as applicable shall be borne by SAPDC and the same shall be deposited/reimbursed by SAPDC on production of documentary evidence. SAPDC shall not bear anything extra (except VAT) on this account.
3. The unit rates and prices can be quoted by the bidders either in NPR or in INR or combination of both. However, the total quoted amount shall be calculated by adding the amount quoted in INR and amount quoted in NPR. Currency chosen for the purpose of converting to a common currency shall be Nepalese Rupees (NPR) and for conversion from INR to NPR and vice versa, a factor of 1.6 will be considered.
4. Payment shall be made in the currency (INR/NPR) as quoted by the Bidder in BOQ.
5. No out of pocket expenses on account of lodging , boarding, travelling, Office expenses shall be payable except mentioned at Sr. No. 3 of Detail scope of work(Section-III of tender document)

**Date:**

**For and on behalf of the Bidder**

**Place:**

**Signature of authorized representative of the Bidder,  
along with his name, Seal of Company)**

INTEGRITY PACT-PRE-CONTRACT

Between

SJVN Arun-3 Power Development Company (P) Ltd. (SAPDC), a company incorporated under the Companies Act 2063 and having its registered office at Lokanthali, Kathmandu, Nepal, hereinafter referred to as "The Employer" which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns of the **First Part.**

**And**

M/s \_\_\_\_\_, a company/ firm/ individual (status of the company) constituted in accordance with the relevant law in the matter and having its registered office at \_\_\_\_\_ represented by Shri/Smt. \_\_\_\_\_, Authorized Person, hereinafter referred to as "The Bidder/Contractor" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns of the **Second Part.**

WHEREAS the Employer proposes to procure under laid down organizational procedures, contract for "**Hiring of Transaction Advisor/ Consultant For Expansion of Hydropower Business of SJVN In Nepal.**" and the Bidder/Contractor is willing to offer against Tender No. SAPDC/Arun-3 HEP/P&C/PCD-196/2021-801 dated 22.10.2021  
NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the Employer to obtain the desired said (work/ goods/ services) at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling the Bidder(s)/Contractor(s) to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the Employer will commit to prevent corruption, in any form, by its officials by following transparent procedures.



## **1.0 Commitments of the Employer**

- 1.1 The Employer undertakes that no official of the Employer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder/Contractor, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
- 1.2 The Employer will, during the pre-contract stage, treat all the Bidders/Contractors alike, and will provide to all the Bidders/Contractors the same information and will not provide any such information to any particular Bidder/Contractor which could afford an advantage to that particular Bidder/Contractor in comparison to other Bidders/Contractors.
- 1.3 All the officials of the Employer will report to the appropriate Authority any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 1.4 In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Employer with full and verifiable facts and the same is prima facie found to be correct by the Employer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Employer or Independent External Monitor and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Employer the proceedings under the contract would not be stalled.

## **2.0 Commitments of the Bidder(s)/Contractor(s)**

The Bidder(s)/Contractor(s) commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following :-

- 2.1 The Bidder(s)/Contractor(s) will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.



- 2.2 The Bidder/Contractor further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Employer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with Employer for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with Employer.
- 2.3 The Bidder(s)/Contractor(s) shall disclose the name and address of agents and representatives and Indian Bidder(s)/Contractor(s) shall disclose their foreign principals or associates.
- 2.4 The Bidder(s)/Contractor(s) shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract
- 2.5 The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Employer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 2.6 The Bidder/Contractor will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 2.7 The Bidder/Contractor will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 2.8 The Bidder/Contractor shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Employer as part of the business relationship, regarding plans, technical proposals and business details, including information contained in electronic data carrier. The Bidder/Contractor also undertakes to exercise due and adequate care lest any such information is divulged.
- 2.9 The Bidder(s)/Contractor(s) commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 2.10 The Bidder(s)/Contractor(s) shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 2.11 If the Bidder/Contractor or any employee of the Bidder/Contractor or any person acting on behalf of the Bidder/Contractor, either directly or indirectly, is a relative of any of the officers of the Employer, or alternatively, if any relative of an officer of the Employer has financial interest/stake in the Bidder(s)/Contractor(s) firm (excluding



Public Ltd. Company listed on Stock Exchange), the same shall be disclosed by the Bidder/Contractor at the time of filling of tender.

The term 'relative' for this purpose would be as defined in Section 2(77) of the Companies Act, 2013 (India).

- 2.12 The Bidder(s)/Contractor(s) shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Employer.
- 2.13 The Bidder/supplier shall follow all rules and regulations of India and/or Nepal including statutory requirements like minimum wages, ESIC and EPF/Social Security Fund.

### **3.0 Previous Transgression**

- 3.1 The Bidder(s)/Contractor(s) declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect on any corrupt practices envisaged hereunder or with any Public Sector Enterprise / Government Department in India and in Nepal (*Employer's country*).
- 3.2 The Bidder agrees that if it makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

### **4.0 Earnest Money (Security Deposit)**

The provision regarding Earnest Money/Security Deposit as detailed in the Notice Inviting Tender (NIT) and Instruction to Bidders (ITB) section of the Bid Document is to be referred.

### **5.0 Sanctions for Violations**

- 5.1 Any breach of the aforesaid provisions by the Bidder/Contractor or any one employed by it or acting on its behalf shall entitle the Employer to take action as per the procedure mentioned in the "**Guidelines on Banning of Business Dealings**" attached as **Annex-A** and initiate all or any one of the following actions, wherever required:
- (i) To immediately disqualify the bidder and call off the pre contract proceedings without assigning any reason or giving any compensation to the Bidder/Contractor. However, the proceedings with the other Bidder(s)/Contractor(s) would continue.



- (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond (after the contract is Signed) shall stand forfeited either fully or partially, as decided by the Employer and the Employer shall not be required to assign any reason thereof.
- (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Contractor. The Bidder/Contractor shall be liable to pay compensation for any loss or damage to the Employer resulting from such cancellation/rescission and the Employer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder/Contractor.
- (iv) To encash the Bank guarantee, in order to recover the dues if any by the Employer, along with interest as per the provision of contract.
- (v) To debar the Bidder/Contractor from participating in future bidding processes of Employer, as per provisions of "Guidelines on Banning of Business Dealings" (**Annex-A**), which may be further extended at the discretion of the Employer.
- (vi) To recover all sums paid in violation of this Pact by Bidder(s)/Contractor(s) to any middleman or agent or broker with a view to securing the contract.
- (vii) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Employer with the Bidder/ Contractor, the same shall not be opened/operated.
- (viii) Forfeiture of Performance Security in case of a decision by the Employer to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

5.2 The Employer will be entitled to take all or any of the actions mentioned at para 5.1 (i) to (viii) of this Pact also on the Commission by the Bidder/Contractor or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder/Contractor), of an offence as defined in GFR, Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption in Employer's country.

5.3 The decision of the Employer to the effect that a breach of the provisions of this Pact has been committed by the Bidder/Contractor shall be final and conclusive on the Bidder/Contractor. However, the Bidder/Contractor can approach the Independent External Monitor(s) appointed for the purposes of this Pact.

## **6.0 Independent External Monitor(s)**

6.1 The Employer has appointed Independent External Monitor(s) (hereinafter referred to as Monitors) for this Pact.

6.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.





- 6.3 The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 6.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement for which a complaint or issue is raised before them, including minutes of meetings. The right to access records should only be limited to the extent absolutely necessary to investigate the issue related to the subject tender/contract.
- 6.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform CMD/CEO/MD of Employer and request Employer to discontinue or take corrective action, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- 6.6 The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction, to all Project documentation of the Employer including that provided by the Bidder/Contractor. The Bidder/Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractor(s). The Monitor shall be under contractual obligation to treat the information and documents of the Bidder/Contractor/Subcontractor(s) with confidentiality.
- 6.7 The Employer will provide to the Monitor sufficient information about all meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings as and when required.
- 6.8 The Monitor will submit a written report to the CMD/CEO/MD of Employer within 30 days from the date of reference or intimation to him by the Employer/Bidder and should the occasion arise, submit proposals for correcting problematic situations.
- 6.9 The word 'Monitor' would include both singular and plural.
- 6.10 In the event of a dispute between the management and the contractor related to those contracts where integrity pact is applicable, in case both the parties agree, they may try to settle the dispute through mediation before the panel of IEMs in a time bound manner. In case the dispute remains unresolved even after mediation by the panel of IEMs, SJVN may take further action as per the terms and conditions of Contract. Expenses on dispute resolution shall be equally shared by both the parties.



**7.0 Facilitation of Investigation**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the Employer or its agencies shall be entitled to examine all the documents including the Books of Accounts of the Bidder/Contractor and the Bidder/Contractor shall provide necessary information and documents, in English and shall extend all possible help for the purpose of such examination.

**8.0 Law and Place of Jurisdiction**

This Pact is subject to Nepal's Law. The place of performance and jurisdiction is the Registered Office of the Employer. The arbitration clause provided in the tender document/contract shall not be applicable for any issue/dispute arising under Integrity Pact.

**9.0 Other Legal Actions**

9.1 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

9.2 Changes and supplements as well as termination notice need to be made in writing.

9.3 If the Contractor is a partnership or a consortium or a joint venture, this pact must be signed by all partners of the consortium/joint venture.

**10.0 Validity**

10.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the Employer and the Bidder/Contractor/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract or six months from the date of opening of price bids, whichever is earlier.

10.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

11.0 The Parties hereby sign this Integrity Pact at \_\_\_\_\_ on \_\_\_\_\_.



Employer



Name of the Officer: **Vivek Sharma**

Designation: **CE (P&C)**

Place-----

Date-----

Witness1. \_\_\_\_\_

(Name and address)

2. \_\_\_\_\_

(Name and address)

Bidder

(Authorised Person)

(Name of the Person)

Designation

Place-----

Date-----

Witness1. \_\_\_\_\_

(Name and address)

2. \_\_\_\_\_

(Name and address)

## GUIDELINES ON BANNING OF BUSINESS DEALINGS

### 1.0 Introduction

- 1.1 Employer deals with Agencies viz. parties/ contractors/ suppliers/ bidders, who are expected to adopt ethics of highest standards and a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of Employer to deal with Agencies who commit deception, fraud or other misconduct in the tendering process.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

### 2.0 Scope

- 2.1 The Information for Bidders/ Instruction to Bidders/Notice Inviting Tender/Notice Inviting Quotations and even the General Conditions of Contract (GCC) of Employer generally provide that Employer shall have the rights to remove from list of approved suppliers / contractors or to ban business dealings if any Agency has been found to have committed misconduct or fraud or anything unethical not expected from a reputed contractor.
- 2.2 The procedure of (i) Removal of Agency from the List of approved suppliers / contractors; (ii) Suspension and (iii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.3 These guidelines shall apply to all the Projects/ Power Stations/ Regional Offices/ Liaison Offices of SJVN including its subsidiaries and JVs.
- 2.4 It is clarified that these guidelines do not deal with the poor performance of the contractors/ Agencies.
- 2.5 The banning shall be with prospective effect, i.e. future business dealings.

### 3.0 Definitions

In these Guidelines, unless the context otherwise requires:

- i) **"Party / Contractor / Supplier / Bidders"** shall mean and include a public limited company or a private limited company, a joint Venture, Consortium, HUF, a firm whether registered or not, an individual, cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. "Party / Contractor/ Supplier / Bidder" in the context of these guidelines is indicated as 'Agency'.



- ii) **“Unit”** shall mean the Project/ Power Station/ Regional Office/ Liaison Office.
- iii) **“Competent Authority”** and **‘Appellate Authority’** shall mean the following:  
The concerned Director shall be the ‘Competent Authority’ for the purpose of these guidelines.  
CMD, SJVN shall be the ‘Appellate Authority’ in respect of such cases.
- iv) **“Investigating Committee”** shall mean any Officer/Committee appointed by Competent Authority to conduct investigation.
- v) **“List of approved Agencies viz Parties / Contractors / Suppliers/Bidders”** shall mean and include list of Parties/ Contractors / Suppliers / Bidders etc if registered with Employer.

#### **4.0 Initiation of Banning / Suspension**

Action for banning /suspension business dealings with any Agency shall be initiated by the department responsible for invitation of bids after noticing the irregularities or misconduct on the part of Agency concerned. Besides the concerned department, Vigilance Department of each Unit/ Corporate Vigilance may also be competent to initiate such action.

#### **5.0 Suspension of Business Dealings.**

- 5.1 If the conduct of any Agency dealing with Employer is under investigation, the Competent Authority may consider whether the allegations (under investigation) are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Committee, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Committee. The Investigating Committee may ensure that their investigation is completed and whole process of final order is over within such period. However, if investigations are not completed in six months time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.
- 5.2 The order of suspension shall be communicated to all Departmental Heads of SJVN (including its subsidiaries and JVs) and Heads of the Units. During the period of suspension, no business dealing may be held with the Agency.



5.3 As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.

5.4 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

5.5 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension.

#### **6.0 Ground on which Banning of Business Dealings can be initiated:**

6.1 If the security consideration, including questions of loyalty of the Agency to Employer so warrants;

6.2 If the director /owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises, during the last three years.

6.3 If business dealings with the Agency have been banned by the Department of Power, Government of India and/or relevant Ministry/Govt. Deptt. of Nepal.

6.4 If the Agency has resorted to corrupt, fraudulent practices including misrepresentation of facts;

6.5 If the Agency uses intimidation / threatening or brings undue outside pressure on Employer or its official for acceptance / performances of the job under the contract;

6.6 If the Agency misuses the premises or facilities of Employer, forcefully occupies or damages Employer's properties including land, water resources, forests / trees or tampers with documents/records etc. (Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

#### **7.0 Banning of Business Dealings**

7.1 A decision to ban business dealings with any Agency shall apply throughout SJVN including its subsidiaries/JVs.

7.2 There will be an Investigating Committee consisting of officers not below the rank of AGM/DGM from Indenting Division, Finance, Law and Contracts. Member from department responsible for invitation of bids shall be the convener of the committee. The functions of the committee shall, inter-alia include:

- i) To study the report of the unit/division responsible for invitation of bids and decide if a prima-facie case for banning exists, if not, send back the case to the Competent Authority.



- ii) To recommend for issue of show-cause notice to the Agency by the concerned unit/division as per clause 9.1.
- iii) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
- iv) To submit final recommendations to the Competent Authority for banning or otherwise.

## **8.0 Removal from List of Approved Agencies - Suppliers/ Contractors, etc.**

- 8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should not be removed from the list of approved Agencies - Suppliers / Contractors, etc.
- 8.2 The effect of such an order would be that the Agency would not be qualified for competing in Open Tender Enquiries or Limited Tender Enquiries till the period mentioned in the order.
- 8.3 Past performance of the Agency may be taken into account while processing approval of the Competent Authority for award of the contract.

## **9.0 Show-cause Notice**

- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency, Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defense.
- 9.2 If the Agency requests for inspection of any relevant document in possession of Employer, necessary facility for inspection of documents may be provided.
- 9.3 The Competent Authority may consider and pass an appropriate speaking order:
  - a) For exonerating the Agency if the charges are not established;
  - b) For removing the Agency from the list of approved Suppliers / Contractors, etc.
  - c) For banning the business dealing with the Agency.
- 9.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned.

## **10.0 Appeal against the Decision of the Competent Authority**

- 10.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing etc. The appeal shall be filed to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.
- 10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.



**11.0 Circulation of the names of Agencies with whom Business Dealings have been banned**

- i) The concerned unit shall forward the name and details of the Agency(ies) banned to IT&SE Division of SJVN's Corporate Office for displaying the same on SJVN website.
- ii) Corporate Contracts Department, SJVN shall also forward the name and details of the Agency(ies) banned to the Ministry of Power, Gol besides forwarding the name and details to the contracts/procurement group of all CPSUs of power sector.

---





FORM OF DECLARATION OF ELIGIBILITY

UNDERTAKING

We,

M/s

\_\_\_\_\_ {Name and  
address of bidder} hereby certify that we have not been banned/de-listed/ black listed /  
debarred from business by any PSU / Govt. Department during last 03 (three) years on  
the grounds mentioned in para 6 of Guidelines on banning of Business dealing.

(Seal & signature of the Contractor)