

No. 15/1/2017-Trans  
Government of India  
Ministry of Power  
Shram Shakti Bhawan, Rafi Marg, New Delhi

Dated: 5<sup>th</sup> February, 2020

**PUBLIC NOTICE**

**Subject: Draft Revised Standard Bidding Document (SBD) in connection with selection of Transmission Service Provider through Tariff Based Competitive Bidding (TBCB)**

Ministry of Power, Government of India is in the process of revising the Standard Bidding Document (SBD) along with the Guidelines for Encouraging Competition in Development of Transmission Projects & Tariff based Competitive-bidding Guidelines for Transmission Service.

2. Accordingly, the comments are solicited from the stakeholders on the following draft documents:

- i. Draft Revised SBD Documents [Standard Request for Proposal Document and Standard Implementation & Service Agreement]
- ii. Draft Revised Guidelines for Encouraging Competition in Development of Transmission Projects
- iii. Draft Revised Tariff based Competitive-bidding Guidelines for Transmission Service

3. These draft documents have been uploaded on the website of the Ministry of Power ([www.powermin.nic.in](http://www.powermin.nic.in)). All interested stakeholders may send their comments on the above documents by email to [ajay.talegaonkar@nic.in](mailto:ajay.talegaonkar@nic.in), [transdesk-mop@nic.in](mailto:transdesk-mop@nic.in) on or before 26.02.2020.

4. Comments received after the stipulated date may not be considered while finalizing the above documents.

*(Signature)*  
5/2/2020  
(Bihari Lal)

Under Secretary (Trans)

To,

1. Technical Director, NIC, M/o Power, for publishing this order on the website of M/o Power

Copy to:

1. Chairperson, CEA, New Delhi -with a request to compile the comments received in this regard from the stakeholders and to submit the same to MoP along with comments of CEA.
2. Shri Ajay Talegoankar, Chief Engineer, F&CA, CEA, New Delhi

## **GUIDELINES FOR ENCOURAGING COMPETITION IN DEVELOPMENT OF TRANSMISSION PROJECTS**

1. The Electricity Act, 2003 envisages competition in transmission and has provisions for grant of transmission licenses by the Central Electricity Regulatory Commission (CERC) as well as State Electricity Regulatory Commissions (SERCs).
2. The National Electricity Policy notified on 12th February, 2005 interalia states that –
  - “5.3.1 The Transmission System requires adequate and timely investments and also efficient and coordinated action to develop a robust and integrated power system for the country.
  - 5.3.2 Keeping in view the massive increase planned in generation and also for development of power market, there is need for adequately augmenting transmission capacity.
  - 5.3.10 Special mechanisms would be created to encourage private investment in transmission sector so that sufficient investments are made for achieving the objective of demand to be fully met by 2012.
  - 5.8.1 Considering the magnitude of the expansion of the sector required, a sizeable part of the investments will also need to be brought in from the private sector. The Act creates a conducive environment for investments in all segments of the industry, both for public sector and private sector, by removing barrier to entry in different segments. Section 63 of the Act provides for participation of suppliers on competitive basis in different segments which will further encourage private sector investment.”
3. The Tariff Policy notified on 28th January, 2016 interalia states that –
  - “5.3 The tariff of all new generation and transmission projects of company owned or controlled by the Central Government shall continue to be determined on the basis of competitive bidding as per the Tariff Policy notified on 6th January, 2006 unless otherwise specified by the Central Government on case to case basis.
  - Further, intra-state transmission projects shall be developed by State Government through competitive bidding process for projects costing above a threshold limit which shall be decided by the SERCs.”
4. In order to facilitate the smooth and rapid development of transmission capacity in the country as envisaged in the National Electricity Policy, inter State /intra State transmission projects, other than those exempted by the Central Government, shall be implemented through tariff based competitive bidding, in which Private Investors and Transmission Utilities, both Central and State, can participate.
5. These guidelines will be reviewed from time to time with the ultimate aim of developing all transmission projects in an efficient and economical manner.

## **PERSPECTIVE, SHORT TERM AND NETWORK PLANS**

6. Central Transmission Utility (CTU) has to discharge all functions of planning and coordination relating to inter State transmission system according to section 38(2) (b) of the Electricity Act 2003. According to section 38(2) (c) of the Act, the CTU has to ensure the development of an efficient, coordinated and economical system of inter State transmission lines for smooth flow of electricity from generating stations to load centers.
7. According to Section 73(a) of the Act, the Central Electricity Authority (CEA) has to “advise the Central Government on the matters relating to the National Electricity Policy, formulate short-term and perspective plans for development of the electricity system and co-ordinate the activities of the planning agencies for the optimal utilization of resources to subserve the interests of the national economy and to provide reliable and affordable electricity for all consumers.”
8. According to Section 3 subsection 4 of the Electricity Act, the CEA has to prepare the National Electricity Plan in accordance with the National Electricity Policy.
9. Para 3.2 of the National Electricity Policy provides “the CEA shall prepare short term and perspective plan. The National Electricity Plan would be for a short- term framework of five years while giving a 15 year perspective”. Para 3.4 of the National Electricity Policy also provides “the National Electricity Plan for the ongoing 10th Plan period and the 11th Plan and Perspective Plan for the 10th, 11th and 12th Plan periods would be prepared and notified after reviewing and revising the existing Power Plan prepared by CEA.”
10. According to the National Electricity Policy “the Central Transmission Utility (CTU) and State Transmission Utility (STU) have the key responsibility of network planning and development based on the National Electricity Plan in coordination with all concerned agencies as provided in the Act.” Section 38(2) of the Electricity Act, inter alia, provides the following:

“The functions of the Central Transmission Utility shall be –

- a. To undertake transmission of electricity through inter-State transmission system;
- b. To discharge all functions of planning and co-ordination relating to inter-State transmission system with –
  1. State Transmission Utilities;
  2. Central Government;
  3. State Governments;
  4. Generating companies;
  5. Regional Power Committees;
  6. Authority;
  7. Licensees;

8. Any other person notified by the Central Government in this behalf”

The Network Plan will be prepared as per the above provisions of the Electricity Act and the National Electricity Policy.

- c. The CTU shall also act as a nodal agency for the inter State transmission system and shall be required to execute and implement the Implementation and Service Agreement (ISA), the Transmission Service Agreement and the Revenue Sharing Agreement (RSA) under the Central Electricity Regulatory Commission (Sharing of inter State Transmission Charges and Losses) Regulations, 2010 (and any subsequent amendment or enactment made thereto) for providing the inter State transmission services, including sharing of transmission charges and losses amongst the DICs, collecting from the DICs and disbursing the transmission charges to the respective Transmission Service Providers, as per the regulations framed by the Central Commission in this regard from time to time.

The nodal agency shall be entitled to recover its expenses from the DICs for performing the obligations and activities under TSA. A suitable regulation shall be framed by Central Electricity Regulatory Commission for recovery of such expenses from DICs.

Any payment or damages received by the nodal agency from the TSP for delay in achieving commissioning of Project shall be utilised to adjust the transmission charges to be paid by DICs as per the CERC Sharing Regulations.

11. In view of the above the following plans will be prepared:

- Perspective Plan for three five year plan periods will be prepared by CEA.
- Short Term Plan corresponding with one five year plan period will be prepared by CEA.

Both these plans form part of the National Electricity Plan.

- Network Plan will be prepared by the CTU based upon the National Electricity Plan.

The Network Plan, Short Term Plan and the Perspective Plan will be hosted on the websites of the respective organizations, entrusted with the task of formulation of these plans.

12. The Network plan will be reviewed and updated as and when required but not later than once a year. The Network Plan would include the projects for new lines and substations, strengthening and up gradation of the existing lines and interregional transmission lines. The Network Plan will clearly identify the scope of the project, broad parameters such as design specifications including Voltage level, Line and conductor configuration etc., length of transmission line and probable location of substation or converter station of HVDC transmission lines.

13. If any developer proposes to construct a transmission line, not being a dedicated transmission line (as defined in the Electricity Act 2003) and not included in the Network Plan, the same will be constructed after being included in the Network Plan by the CTU on the basis of necessary data such as required load flow study and other relevant studies. If

such studies have not been done then these will be undertaken by the CTU, the cost for which will be borne by the developer.

## COMMITTEES ON TRANSMISSION

14. A National Committee on Transmission has been constituted by Ministry of Power, Government of India vide office order no 15/3/2017-Trans dated 4<sup>th</sup> November, 2019. The composition of the Committee is as follows:

1.	Chairperson, Central Electricity Authority (CEA)	Chairman
2.	Member (Power System), CEA	Member
3.	Member (Economic & Commercial), CEA	Member
4.	Joint Secretary level officer looking after transmission in M/o New & Renewable Energy, Govt. of India <sup>@</sup>	Member
5.	Director (Trans), M/o Power, Govt. of India	Member
6.	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
7.	Advisor, NITI Aayog <sup>#</sup>	Member
8.	Two Experts from Power Sector <sup>*</sup>	Members
9.	Chief Engineer (from Power System Wing), CEA <sup>#</sup>	Member Secretary

<sup>@</sup> To be nominated by Secretary (MNRE)

<sup>#</sup> To be nominated by NITI Aayog/ CEA

<sup>\*</sup> To be nominated by the Ministry of Power, Govt. of India from time to time, for a maximum period of two years from the date of their nomination.

15. Further, five (5) number of Regional Power Committee (Transmission Planning) have also been constituted by the Ministry of Power, Government of India vide office order no 15/3/2017-Trans dated 4<sup>th</sup> November, 2019.

The order containing therein the composition & Terms of Reference (ToR) of the committees is enclosed at Annex-1. The composition & Terms of Reference of the committees shall be as notified by Ministry of Power, Govt. of India from time to time.

## **PROJECT FORMULATION**

16. Once the Perspective plan, covering three five year plans, the Short Term Plan and the Network Plan have been prepared; projects other than those exempted by the Central Government, will be covered under this Scheme for competitive bidding. In order to attract private investment in the transmission sector, it is very important to be able to make available all the information to the stakeholders, regarding new projects and their technical and other specifications. These projects would then need to be formulated with adequate details to enable competitive bidding to take place. Project Profile (PP) for these projects shall be prepared. The Project Profile (PP) must contain relevant data regarding the line i.e voltage level, line configuration i.e S/C or D/C, approximate route length, conductor type and conductor configuration etc. and location and specifications of the substations or converter stations. In addition, information regarding the type of terrain likely to be encountered and its likely implication in terms of Right of Way (ROW), statutory clearances and land area to be acquired for the substation or converter station, in case of HVDC line, will be made available. This task of preparation of Project Profile (PP) can be given to any government agency or to a consultant. The cost incurred on project formulation will be recovered from the agency that finally undertakes the implementation of the project.
17. Special Purpose Vehicle (SPV) will fund the preparatory activities of the projects including preparation of Project Profile (PP). SPV will recover this amount from the agency that implements the project as indicated in para 16 supra.

## **SELECTION OF DEVELOPER**

18. The selection of developer for identified projects would be through tariff based competitive bidding through e-reverse bidding for transmission services according to the guidelines issued by the Ministry of Power under section 63 of the Electricity Act, 2003. CTU/STUs and Joint Venture Companies will also be eligible to bid, so that there is sufficient competition among the bidders. The projects shall be awarded on Build, Own, Operate and Transfer mode. For inter-state transmission projects, after expiry of the contract period of 35 years the projects assets along with substation land, right of way and clearances shall compulsorily be transferred to CTU or its successors or an agency nominated by the Central Government after 35 years from COD of project at zero value and free from any encumbrance and liability. The CEA and the CTU (both being the planning agencies) in the thirty second year (32th) of COD of project will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project shall then be awarded to successor bidder selected through a competitive bidding process for renovation and modernization if required and operation and maintenance thereafter or any other reason whatsoever. In case, any cost is incurred by CTU towards examining the need of upgradation or renovation and modernization of the existing system and transfer of assets, the same shall be recovered from successor selected bidder.

For intra-state transmission projects, the projects assets along with substation land, right of way and clearances shall compulsorily be transferred to an agency nominated by the State Government after expiry of contract period of project, at zero value and free from any

encumbrance and liability. The contract period for the intra state transmission projects may be 35 years or any period as fixed by the LTTCs or BPC as per the relevant regulations of the Appropriate Commission. The State Transmission Utility or STU (being the planning agency), in the year which is three (3) years prior to the expiry of the project, will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project shall then be awarded to successor bidder selected through a competitive bidding process for renovation and modernization if required and operation and maintenance thereafter. In case, any cost is incurred by STU towards examining the need of upgradation or renovation and modernization of the existing system and transfer of assets, the same may be recovered from successor selected bidder.

## **LICENSE FOR TRANSMISSION**

19. Along with the recommendation of selection by the Bid Evaluation Committee, the SPV, after being acquired by the selected developer shall, approach the Appropriate Commission, within a period of three (3) working days from the date of the acquisition of entire equity of the said SPV, for grant of transmission license and adoption of transmission charges. If it fails to apply for license within this time limit, then it will be liable for cancellation of its selection. Cancellation of selection as provided above will be done by the Government on the recommendation of BPC. However, before recommending so, BPC will give an opportunity to the Selected Bidder / TSP to present their view point.

## **DEVELOPMENT, OPERATION AND MAINTENANCE OF THE PROJECT AND PAYMENT OF TRANSMISSION CHARGES FOR INTER STATE TRANSMISSION SYSTEM**

20. A Transmission Service Agreement (TSA) as approved by the CERC under the relevant regulations will be signed among the CTU, TSP (upon grant of ISTS License) and all the Designated ISTS Customers (DICs) for payment of the transmission charges finalized on the basis of e-reverse bidding and sharing of transmission losses.
21. A Revenue Sharing Agreement (RSA) as approved by the Central Commission under the applicable regulations shall be signed among the TSP (upon grant of ISTS License) and the CTU for the sharing of transmission charges among the inter State transmission licensees and other parties entitled for a share of the transmission charges for the provision of inter State transmission services.
22. For inter State transmission projects, a separate Implementation and Service Agreement (ISA) will be signed among the TSP and the nodal agency for the development and operation of the project.
23. In case there is any default in payment of transmission charges by any DIC, the same shall be regulated as per the provisions of the TSA.

## **STATE TRANSMISSION PROJECTS**

24. As far as intra State projects are concerned the State Governments may adopt these guidelines and may constitute similar committees for facilitation of transmission projects within the State. The States also have the option to use Viability Gap Funding (VGF) based Model Transmission Agreement (MTA) document of erstwhile Planning Commission for development of transmission system in their States under Public Private Partnership (PPP) mode.
25. The TSP will enter into an Implementation & Service Agreement (ISA) with the beneficiaries for development, operation, maintenance and transfer of the project.

## **MONITORING OF THE PROJECTS**

26. To ensure the timely completion of the transmission projects by the successful bidder, the Nodal Agency, Central Electricity Authority (inter State projects) / any other authority (intra State projects) shall monitor the progress of the execution of the project as per the conditions of the license issued by the Central Electricity Regulatory Commission.

\*\*\*\*



No.15/3/2017-Trans  
Government of India  
Ministry of Power  
Shram Shakti Bhawan, Rafi Marg, New Delhi

Dated, the 4<sup>th</sup> November, 2019

**OFFICE ORDER**

**Subject: - Re-constitution of the “National Committee on Transmission” (NCT) - reg.**

In supersession of this Ministry's Office Order of even number dated 13.4.2018, constituting the National Committee on Transmission (NCT), the undersigned is directed to state that the composition and terms of reference of existing NCT is amended as mentioned follows:

1	Chairperson, Central Electricity Authority (CEA)	Chairman
2	Member(Power System), CEA	Member
3	Member(Economic & Commercial), CEA	Member
4	Joint Secretary level officer looking after transmission in M/o New & Renewable Energy, Govt. of India @	Member
5	Director(Trans), M/o Power, Govt. of India	Member
6	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
7	Advisor, NITI Aayog #	Member
8	Two experts from Power Sector *	Members
9	Chief Engineer (from Power System Wing), CEA #	Member Secretary

@ To be nominated by Secretary (MNRE).

# To be nominated by NITI Aayog/ CEA.

\* To be nominated by the Ministry of Power, Govt. of India from time to time, for a maximum period of two years from the date of their nomination.


2. Revised Terms of Reference (ToR) of the Committee are to:
  - i. Evaluate the functioning of the National Grid on quarterly basis.
  - ii. Consider the review / recommendations of the RPCTP for system expansion/strengthening of the transmission system to be presented before the NCT at the end of every quarter i.e. by 15th July, 15th October; 15th January and 15th April.
  - iii. CTU, as mandated under the Electricity Act, 2003, is to carry out periodic assessment of transmission requirement under ISTS. The CTU shall also make a comprehensive presentation before the National Committee every quarter for ensuring development of an efficient, co-ordinated and economical inter- State transmission system for smooth flow of electricity. CTU, in the process, may also take inputs from the markets to identify constraints and congestion in the transmission system
  - iv. After considering the recommendations of the CTU and the Regional Committees, the NCT shall assess the trend of growth in demand and generation in various regions; identify the constraints, if any, in the inter- State, inter- Region transfer system and propose construction of transmission lines, grid stations and other infrastructures in order to meet the requirements, which are likely to arise in the near term/ medium term, so that transmission does not constrain growth. The NCT will also draw up perspective plans, keeping the 10 to 15 years' time horizon in mind.
3. While making their recommendations, the NCT will keep the guidelines of the Tariff Policy in mind.
4. Since the NCT will be looking at the National Transmission System i.e. transmission across regions and across States, therefore, prior concurrence of Regional Power Committees

(Transmission Planning) (RPCTPs) will not be relevant. The views of the RPCTPs will be relevant for transmission issues within the region; but for transmission issues across region, the views of RPCTPs will be inadequate because they will not have a national perspective. However, for inter-regional transmission lines crossing across States and Regions, the RPCTP of the originating location of these lines and the RPCTP of the terminating locations shall be consulted by the NCT.

5. The recommendations of the NCT shall be placed before the Ministry of Power, Government of India for decision.

6. The Empowered Committee constituted vide this Ministry's Office Order of even number dated 13.4.2018 stands dissolved.

7. This issues with the approval of the Hon'ble Minister of State (Independent Charge) for Power and New & Renewable Energy.

  
4/11/2019

(Bihari Lal)

Under Secretary to the Govt. of India

Telefax: 23325242

Email: transdesk-mop@nic.in

To

1. All members of NCT.
2. Secretary, Ministry of New & Renewable Energy, Govt. of India.
3. Chairperson, CEA, New Delhi.
4. CMDs of all CPSUs under the Ministry of Power, Govt. of India.
5. Heads of all autonomous bodies under the Ministry of Power, Govt. of India.
6. Finance/ Budget Section, Ministry of Power.
7. Power/ Energy Secretaries of all States/UTs.
8. Chief Executives of all State Power Transmission Utilities.

Copy to:

- (i) PS to Hon'ble MoSP(IC)/ PPS to Secretary(Power)/ SS&FA/ AS(Trans)/ all Joint Secretaries/ EA/ Directors/ Dy. Secretaries, Ministry of Power.
- (ii) Technical Director, NIC, M/o Power, for publishing this order on the website of M/o Power.

No.15/3/2017-Trans  
 Government of India  
 Ministry of Power  
 Shram Shakti Bhawan, Rafi Marg, New Delhi

Dated, the 4<sup>th</sup> November, 2019

**OFFICE ORDER**

**Subject: Constitution of five “Regional Power Committees (Transmission Planning)” (RPCTPs) - reg.**

In supersession of this Ministry's Office Orders of even number, dated 13.4.2018, constituting five Regional Standing Committees on Transmission (RSCTs) viz. Eastern Regional Standing Committee on Transmission (ERSCT), Western Regional Standing Committee on Transmission (WRSC), Northern Regional Standing Committee on Transmission (NRSCT), Southern Regional Standing Committee on Transmission (SRSC) and North Eastern Regional Standing Committee on Transmission (NERSCT), the undersigned is directed to state that in the light of the fact that the present transmission system is in the nature of One Nation- One Grid and the whole system as National System has to transport power seamlessly from one corner of the country to another corner of the country in the form of one single market, it has been decided to revise the existing five RSCTs by replacing the same with five new “Regional Power Committees (Transmission Planning) (RPCTPs)” with the following composition, with immediate effect:

**Eastern Regional Power Committee (Transmission Planning) (ERPCTP):**

1	Member(Power System), Central Electricity Authority (CEA)	Chairperson
2	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
3	Director(System Operation), Power System Operation Corporation Ltd.	Member
4	Heads of State Transmission Utilities (STUs) of Bihar, Jharkhand, West Bengal, Odisha, Sikkim, UT of Andaman & Nicobar Islands #	Member
5	Member Secretary of Eastern Regional Power Committee	Member
6	CMD/ MD/ Chairman of NTPC, NHPC, SECI and DVC	Members
7	Chief Engineer(from Power System Wing), Central Electricity Authority *	Member Secretary

# STUs to coordinate with their respective Distribution Companies (DISCOMs).

\* To be nominated by the Central Electricity Authority.

**Western Regional Power Committee (Transmission Planning) (WRPCTP):**

1	Member(Power System), Central Electricity Authority (CEA)	Chairperson
2	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
3	Director(System Operation), Power System Operation Corporation Ltd.	Member
4	Heads of State Transmission Utilities (STUs) of Gujarat, Madhya Pradesh, Chhattisgarh, Maharashtra, Goa, UT of Daman & Diu, UT of Dadra & Nagar Haveli #	Member
5	Member Secretary of Western Regional Power Committee	Member
6	CMD/ MD/ Chairman of NTPC, NHPC and SECI	Members
7	Chief Engineer(from Power System Wing), Central Electricity Authority *	Member Secretary

# STUs to coordinate with their respective Distribution Companies (DISCOMs).

\* To be nominated by the Central Electricity Authority.

**Northern Regional Power Committee (Transmission Planning) (NRPCTP):**

1	Member(Power System), Central Electricity Authority (CEA)	Chairperson
2	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
3	Director(System Operation), Power System Operation Corporation Ltd.	Member
4	Heads of State Transmission Utilities (STUs) of UT of Jammu & Kashmir, UT of Ladakh, Himachal Pradesh, Punjab, Haryana, Rajasthan, Delhi, Uttar Pradesh, Uttarakhand, UT of Chandigarh #	Member
5	Member Secretary of Northern Regional Power Committee	Member
6	CMD/ MD/ Chairman of NTPC, NHPC and SECI	Members
7	Chief Engineer(from Power System Wing), Central Electricity Authority *	Member Secretary

# STUs to coordinate with their respective Distribution Companies (DISCOMs).

\* To be nominated by the Central Electricity Authority.

**Southern Regional Power Committee (Transmission Planning) (SRPCTP):**

1	Member(Power System), Central Electricity Authority (CEA)	Chairperson
2	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
3	Director(System Operation), Power System Operation Corporation Ltd.	Member
4	Heads of State Transmission Utilities (STUs) of Telangana, Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, UT of Puducherry, UT of Lakshadweep #	Member
5	Member Secretary of Southern Regional Power Committee	Member
6	CMD/ MD/ Chairman of NTPC, NHPC and SECI	Members
7	Chief Engineer(from Power System Wing), Central Electricity Authority *	Member Secretary

# STUs to coordinate with their respective Distribution Companies (DISCOMs).

\* To be nominated by the Central Electricity Authority.

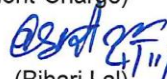
**North Eastern Regional Power Committee (Transmission Planning) (NERPCTP):**

1	Member(Power System), Central Electricity Authority (CEA)	Chairperson
2	Chief Operating Officer, Central Transmission Utility (POWERGRID)	Member
3	Director(System Operation), Power System Operation Corporation Ltd.	Member
4	Heads of State Transmission Utilities (STUs) of Assam, Meghalaya, Nagaland, Arunachal Pradesh, Tripura, Manipur, Mizoram #	Member
5	Member Secretary of North Eastern Regional Power Committee	Member
6	CMD/ MD/ Chairman of NTPC, NHPC, SECI and NEEPCO	Members
7	Chief Engineer(from Power System Wing), Central Electricity Authority *	Member Secretary

# STUs to coordinate with their respective Distribution Companies (DISCOMs).

\* To be nominated by the Central Electricity Authority.

2. Terms of Reference (ToR) of the RPCTPs are to:
  - i. Carry out a quarterly review of the Transmission System in the region; assess the growth in generation capacity and the demand in various parts of the region; and draw up proposals for strengthening inter-Regional transmission system. The transmission planning is required to keep in mind the areas where the generation is likely to grow and areas where load demand will grow so that the transmission system at any point of time is capable to meet the demand in every corner of the country and comply with the mandate under the Tariff Policy of developing transmission system ahead of the generation for ensuring smooth operation of the grid.
  - ii. Assess the transmission system requirements in the near, medium and long term and draw up transmission schemes to meet these requirements. While doing this a perspective plan for the next 15-20 years may also be kept in mind and accordingly the requisite allowance/margin may be factored in the system during planning process.
  - iii. Examine applications for connectivity and access and ensure that these are granted speedily, provided that the requisite fees/charges are paid.
  - iv. Review the upstream and downstream network associated with transmission schemes.
  - v. Examine and evaluate the intra-state transmission proposals.
  - vi. Review and facilitate the construction of the inter-regional grid strengthening schemes.
3. The RPCTPs shall take steps to ensure that the transmission capacity is capable of wheeling the electricity to different parts of the region and outside the region as per the demands of the market. They shall carry out the quarterly reviews and make recommendation for system strengthening and expansion keeping in mind the guidelines laid down by the Tariff Policy.
4. The RPCTPs will forward their review of the transmission systems and their recommendation for system expansion/ strengthening to the National Committee on Transmission (NCT) at the end of every quarter- by 15<sup>th</sup> July; 15<sup>th</sup> October; 15<sup>th</sup> January and 15<sup>th</sup> April. The NCT will examine the proposals and forward them to Government with their recommendations.
5. This issues with the approval of the Hon'ble Minister of State (Independent Charge) for Power and New & Renewable Energy.

  
(Bihari Lal)

Under Secretary to the Govt. of India  
Telefax: 23325242  
Email: transdesk-mop@nic.in

To

1. All members of the five RPCTPs.
2. Secretary, Ministry of New & Renewable Energy, Govt. of India.
3. Chairperson, CEA, New Delhi.
4. CMDs of all CPSUs under the Ministry of Power and Ministry of New and Renewable Energy, Govt. of India.
5. Heads of all autonomous bodies under the Ministry of Power, Govt. of India.
6. Finance/ Budget Section, Ministry of Power.
7. Power/ Energy Secretaries of all States/UTs.
8. Chief Executives of all State Transmission Utilities (STUs).

Copy to:

- (i) PS to Hon'ble MoSP(IC)/ PPS to Secretary(Power)/ SS&FA/ AS(Trans)/ all Joint Secretaries/ EA/ Directors/ Dy. Secretaries, Ministry of Power.
- (ii) Technical Director, NIC, M/o Power, for publishing this order on the website of M/o Power.

## **Tariff based Competitive-bidding Guidelines for Transmission Service**

### **1. Preamble**

Promotion of competition in the electricity industry in India is one of the key objectives of the Electricity Act, 2003 (the Act). Development of a transmission system is essential both for encouraging competition and for creating electricity markets. These guidelines are aimed at facilitating competition in this sector through wider participation in providing transmission services and tariff determination through a process of tariff based bidding.

Section 61 & 62 of the Act provide for tariff regulation and determination of tariff of generation, transmission, wheeling and retail sale of electricity by the Appropriate Commission. Section 63 of the Act states that –

“Notwithstanding anything contained in section 62, the Appropriate Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the guidelines issued by the Central Government.”

Tariff based Competitive Bidding Guidelines for Transmission Service and Guidelines for encouraging competition in development of Transmission Projects have been framed under the above provisions of section 63 of the Act. The specific objectives of these guidelines are as follows:

- Promote competitive procurement of transmission services.
- Encourage private investment in transmission system.
- Facilitate transparency and fairness in procurement processes;
- Facilitate reduction of information asymmetries for various bidders;
- Protect consumer interests by facilitating competitive conditions in procurement of transmission services of electricity;
- Enhance standardization and reduce ambiguity and hence time for materialization of projects;
- Ensure compliance with standards, norms and codes for transmission systems while allowing flexibility in operation to the transmission service providers.

### **2. Scope of the Guidelines**

- 2.1. These guidelines are being issued under the provisions of Section 63 of the Electricity Act, 2003 for procurement of transmission services for transmission of electricity.

2.1. The guidelines shall apply for procurement of transmission services for transmission of electricity through tariff based competitive bidding, through the mechanisms described in this notification and to select the bidder who will acquire transmission service provider for a new inter state / intra state transmission system and to build, own, operate and transfer the specified transmission system elements. Standard Bidding Documents for inter-state transmission projects are developed based on Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 whereas Standard Bidding Documents for intra-state transmission projects are developed on the basis of the postage stamp method of tariff computation. In case any state adopts the sharing mechanism as specified under Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, they may follow the Standard Bidding Documents for inter-state transmission projects with suitable modifications and approval from the Appropriate Commission, for award of intra-state transmission projects. For inter-state transmission projects, the projects assets along with substation land, right of way and clearances shall compulsorily be transferred to CTU or its successors or an agency nominated by the Central Government after 35 years from COD of project, i.e expiry of contract period, at zero value and free from any encumbrance and liability. The CEA and the CTU (both being the planning agencies) in the thirty second year (32th) of COD of project will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project shall then be awarded to successor bidder selected through a competitive bidding process for renovation and modernization and operation and maintenance thereafter. In case, any cost is incurred by CTU towards examining the need of upgradation or renovation and modernization of the existing system and transfer of assets, the same shall be recovered from successor selected bidder.

2.2. For intra-state transmission projects, the projects assets along with substation land, right of way and clearances shall compulsorily be transferred to an agency nominated by the State Government after expiry of contract period of project, at zero value and free from any encumbrance and liability. The contract period for the intra state transmission projects may be 35 years or any period as fixed by the LTTCs or BPC as per the relevant regulations of the Appropriate Commission. The State Transmission Utility or STU (being the planning agency), in the year which is three (3) years prior to the expiry of the project, will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project shall then be awarded to successor bidder selected through a competitive bidding process for renovation and

modernization if required and operation and maintenance thereafter. In case, any cost is incurred by STU towards examining the need of upgradation or renovation and modernization of the existing system and transfer of assets, the same may be recovered from successor selected bidder.

- 2.3. Procurement of transmission services would include all activities related to survey, detailed project report formulation, arranging finance, project management, obtaining transmission license, obtaining right of way, forest clearance, environment clearance and other necessary clearances, site identification, land acquisition and payment of compensation, design, engineering, procurement of equipments, material, construction, erection, testing and commissioning, maintenance and operation of transmission lines and/or substations and/or switching stations and/or HVDC links including terminal stations and HVDC transmission line. It will be in such a manner that the required transmission services as specified in the bid document are provided by execution of the project up to completion and commissioning and its subsequent maintenance and operation so that the facilities are available as per the target availability for recovery of full transmission charges as quoted by the selected bidder during the e-reverse bidding and adopted by the Appropriate Commission. For availability of transmission system below the target, subject to para 2.4 below, transmission tariff payable to the TSP will be in accordance with the provisions of Implementation and Service Agreement (ISA).
- 2.4. If the availability of the transmission system is below the norms prescribed in the Implementation and Service Agreement (ISA), for six consecutive months the procurer of transmission service or the billing and accounting agency or the RLDC/ SLDC may seek revocation of transmission license as per the procedure laid down under the Electricity Act 2003 and in accordance with Rule 5 of Electricity Rules 2005.

### **3. Bid Process Coordinator (BPC)**

- 3.1. A Bid Process Coordinator, herein after referred to as BPC, would be responsible for conducting the bid process for procurement of required transmission services for each inter-state transmission project to be implemented under tariff-based competitive bidding in accordance with these guidelines.
- 3.2. For procurement of transmission services, required for any inter-state Transmission Project, the Central Government shall notify any Central Government Organization/ Central Public Sector Undertaking or its wholly



owned subsidiary (Special Purpose Vehicle) to be the BPC. It will be open for Ministry of Power to review the nomination of BPC at any time.

- 3.3. For procurement of transmission services required for intra-state transmission, the appropriate State Government may notify any Organization/ State Public Sector Undertaking as the Bid Process Coordinator or may engage the services of the BPC notified by the Central Government.
- 3.4. All the expenditure incurred by the BPC in the process of selection of the developer in accordance with the provisions of these guidelines shall be recovered from the developer who is finally identified and assigned the task of developing that project. The amount to be recovered shall be indicated in the RFP document so that bidders can take that amount into consideration in the tariff to be quoted by them. Further, in case the bidding process for a transmission scheme is cancelled/ de-notified, the expenditure incurred by BPC on that scheme may be treated as a loss of business activity and would be borne by the BPC.

#### **4. Preparation for inviting bids**

- 4.1. The BPC shall prepare the bid documents in accordance with these guidelines and obtain approval of the Appropriate Commission. Alternatively, the BPC can use the standard bidding documents notified by Ministry of Power. Any material deviation from the Standard Bidding Documents for inter-state transmission projects shall be made only with the prior approval of the Central Government and any material deviation from the Standard Bidding Documents for intra-state transmission projects shall be made only with the prior approval of the Appropriate Commission.
- 4.2. Intimation shall be sent by the BPC to the Appropriate Commission about initiation of the bidding process.
- 4.3. For substations and switching stations, or HVDC terminal or inverter stations the BPC or its authorized representative shall identify the land required for this purpose.

#### **5. Transmission Service Provider (TSP)**

- 5.1. The Special Purpose Vehicle (SPV) incorporated by BPC shall be designated as the Transmission Service Provider (TSP), hereinafter referred to as the TSP, after submitting a contract performance guarantee and acquiring the SPV by the successful bidder. The TSP shall seek transmission license from the Appropriate Commission.

- 5.2. The TSP would take-up execution of the Transmission Project so as to complete commissioning and operationalization of the transmission system as per the specified schedule in the ISA.

## **6. Recovery of Transmission Charges**

- 6.1. Total charges for the transmission system provided by the TSP(s) selected through the e-reverse bidding process as per these guidelines, payable to the TSP, shall be determined as specified in paras 7.1, 7.2, 7.3, 7.4, 7.5 and 7.6 of these guidelines.
- 6.2. Recovery of transmission charges from the DICs/LTTCs such as State supply utilities, distribution companies, generation companies, traders, bulk consumers, etc., shall be done as provided in these guidelines and relevant regulations of the Appropriate Commission as notified from time to time.

## **7. Transmission Charge Structure**

- 7.1. **For procurement of transmission services under these guidelines:** Transmission charges shall be paid and settled for each payment period as per regulations of the Appropriate Commission. Annual transmission charges for providing transmission service for the various transmission elements for the life of the asset, shall form the basis for bidding and evaluation. Tariff structure will have two components – one escaleable and the other non-escaleable. The escaleable component shall not be more than 15% of the non-escaleable component.
- 7.2. The BPC shall specify scheduled month of commercial operation for the transmission system required for the transmission service and invite bids for the annual transmission charge for the life of the asset.
- 7.3. At the bid evaluation stage, ratio of minimum and maximum transmission charge (including both the non-escaleable component and the escaleable component incorporating escalation as per index being used for the purpose of evaluation) over the term of the agreement shall not be less than 0.7 to avoid excessive front loading or back loading during the period of contract.
- 7.4. The monthly tariff payable shall be annual tariff divided by 12.
- 7.5. Tariff shall be designated in Indian Rupees only. Foreign exchange risks, if any, shall be borne by the provider of transmission service.
- 7.6. The bidder with the lowest levelised tariff derived from the quoted annual transmission charges considering both escalable component and non-escalable component and using the escalation index for the escalable

component and discount rate as specified by the appropriate Commission as per the e-reverse bidding procedure, will be considered for the award. The Evaluation Committee shall have the right to reject all price bids if the rates quoted are not aligned to the prevailing prices.

## **8. Payment Security Mechanism**

- 8.1. The payment security for inter state transmission projects as per the TSA approved by the Central Commission under the Central Electricity Regulatory Commission (Sharing of inter state transmission charges and Losses) Regulations, 2010 (and any subsequent amendment or enactment made thereto) shall be made available to the CTU by the DICs.
- 8.2. For intra State projects, payment security shall be made available to the TSP by the user of transmission services being provided by the TSP. The payment security may include:
  - (i) Irrevocable revolving Letter of Credit (LC)
  - (ii) other measures, including regulation of power of the defaulting user(s) of the transmission services.

## **9. Bidding Process**

- 9.1. For the procurement of transmission services under these guidelines, BPC shall adopt a single stage tender process featuring Request for Proposal (RFP). The bid documents shall be prepared in accordance with para 4.1 of these guidelines. The entire bidding process shall be conducted online through electronic medium under e-reverse bidding framework with all the documents, other than financial bids, to be submitted in original hard copies.
- 9.2. RFP notice should be published in at least two national newspapers, website of the BPC and preferably in trade magazines also, so as to accord it wide publicity. The bidding shall necessarily be by way of International Competitive Bidding (ICB). For the purpose of issue of RFP, minimum conditions to be met by the bidder shall be specified in the RFP.
- 9.3. BPC shall provide only written interpretation of the tender document to any bidder / participant, asking for the same, and the same shall be made available to all other bidders. All parties shall rely solely on written communication and acceptances from the bidders.
- 9.4. Standard documentation to be provided in the RFP shall include,
  - 9.4.1. Definition of requirements, including:

- Brief description of the Project;
- Commissioning milestones to be achieved by the bidders;
- Qualification requirements to be met by bidders including, minimum net-worth, etc with necessary proof of the same, as outlined in the bid documents;

9.4.2. Specified target dates/months for commissioning and commercial operations.

9.4.3. **Draft Standard Implementation and Service Agreement (ISA).** The TSP on the date of acquisition of SPV from the BPC will enter into an Implementation and Service Agreement (ISA) with the nodal agency (in case of inter state projects) / the concerned utilities (in case of intra State projects).

In terms of Section 38(2) of the Electricity Act, for inter state transmission projects, CTU shall act as Nodal Agency to execute the Implementation & Service Agreement. Further, all Designated Inter-State Customers (DICs) shall undertake following responsibilities to facilitate CTU in discharging its responsibilities:

- a. to coordinate the availability of the interconnection facilities to enable the TSP to connect the project; and
- b. for providing all assistance to the Nodal Agency as they may require for the performance of their duties and responsibilities.”

9.4.4. **Transmission Service Agreement (TSA) and Revenue Sharing Agreement (RSA).** In case of inter state projects, the TSP, upon grant of Transmission License, shall enter into a TSA and RSA under the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 with the CTU as approved by the Central Commission from time to time. The bid document for the concerned project shall include the CERC approved TSA and RSA.

9.4.5. Required Period of validity of offer of bidder;

9.4.6. **The ISA proposed to be entered with the SPV.** The ISA proposed at the RFP stage may be amended based on the project specific inputs received from bidders during the pre bid conference and it will be made available to all RFP bidders. No further amendments shall be carried out in the ISA;

9.4.7. **Bid evaluation methodology to be adopted by the BPC.** The initial price offer submitted online with the RFP shall be evaluated based on annual transmission charges for all components covered under the package as quoted by the bidder. The levelled transmission charges of initial offer shall

be ranked on the basis of ascending order for determination of the qualified bidders. Bidders holding upto 50% of the ranks (with any fraction rounded off to higher integer) in RFP stage or 4 (four) bidders, whichever is more should be allowed to participate in the e-reverse bidding. In case the number of responsive bidders in RFP stage is between 2 (two) to 4 (four), all will be allowed to participate in the e-reverse bidding. In case only one Bidder remains after the responsiveness check, the initial offer of such Bidder shall not be opened and the matter shall be referred to the Government. In the event of identical levelised transmission charges derived from the initial offer having been submitted by one or more bidders, all such bidders shall be assigned the same rank for the purpose of determination of qualified bidders. In such cases, all the bidders who share the same rank till 50% of the ranks determined above, shall be allowed to participate in the e-reverse bidding. In case, 50% of the ranks (with any fraction rounded off to higher integer) is having less than 4 (four) bidders and the rank of the fourth bidder is shared by more than 1 (one) bidder, then all such bidders who share the rank of the fourth bidder shall be allowed to participate in the e-reverse bidding. The lowest levelised transmission charges derived from the initial offers will be the ceiling price for the next round i.e e-reverse bidding stage. During the e-reverse bidding stage, the qualified bidders in the RFP stage would be required to place their bids at least 0.25% lower than the prevailing lowest levelised bid, as long as they wish to continue in the reverse auction. The initial period for conducting the e-reverse bidding should be 2 hours which will be extended by 45 minutes from the last received bid time, if the bid is received during the last 45 minutes of the scheduled or extended bid time. Subsequently, it will be extended again by 45 minutes from the latest received bid time.

#### *Illustration*

- i. If there are 10 bidders who are holding ranks as L1, L2, L3, L4, L5, L6, L7, L8, L9, L10 in such a case the 50% of the ranks i.e. 5 is having 5 bidders. Accordingly, total 5 bidders i.e L1, L2, L3, L4, L5 will be qualified to participate in reverse auction.*
- ii. If there are 8 bidders who are holding ranks as L1, L1, L2, L2, L2, L3, L4, L5, in such a case the 50% of the ranks (rounded of to next higher integer) i.e. 3 is having 6 bidders. Accordingly, now total 6 bidders i.e. L1, L1, L2, L2, L2, L3 will be qualified to participate in reverse auction.*
- iii. If there are 8 bidders who are holding ranks as L1, L2, L3, L4, L4, L5, L5, L6, in such a case the 50% of the ranks i.e. 3 is having only 3 bidders and the rank of the fourth bidder is shared between 2 bidders.*

*Accordingly, now total 5 bidders i.e. L1, L2, L3, L4, L4 will be qualified to participate in reverse auction.*

- 9.4.8. The Discount Factor (DF) that would be used for evaluation of initial offer and final offer during e-reverse bidding stage shall be specified in the RFP.
- 9.4.9. The RFP will also specify the bid bond as well as the Contract Performance Guarantee that the bidders will have to furnish.
- 9.4.10. The proposed indemnification arrangement between the TSP and the nodal agency (in case of inter state projects) / the TSP and the utilities (in case of intra state projects) will also be provided in the ISA. This indemnification will be applicable to both the TSP and the nodal agency/utilities from the effective date of the ISA.
- 9.4.11. The ISA shall also specify the liquidated damages that shall apply in event of delay in start of providing the transmission services.
- 9.4.12. Other technical, operational and safety criteria to be met by bidder/TSP, including the provisions of the technical standards specified by CEA, IEGC/State Grid Code, relevant orders of the Appropriate Commission, etc., as applicable.
- 9.4.13. The conditions as specified by the Appropriate Commission to be complied with by a person for being eligible to obtain a transmission license shall be necessary conditions for RFP and will be incorporated in the RFP by BPC.
- 9.5. BPC may call a pre bid conference with all prospective bidders, who have sought documents for RFP stage. In case the bidders seek any project specific deviations and BPC finds that those deviations are reasonable, the BPC may agree to such deviations, with reasoning for acceptance of such deviations. The clarification/revised-bidding document shall be given to all who had sought the RFP document informing about the deviations and clarifications. Wherever revised bidding documents are issued, the BPC shall provide bidders at least one month after issue of such documents for submission of bids.

## **9.6. Bid submission and evaluation**

To ensure competitiveness, the minimum number of qualified bidders will be two.

## **9.7. Bid evaluation committee:**

- 9.7.1. For inter state transmission systems, the National Committee on Transmission shall constitute a committee for evaluation of the bids with at

least one representative from CEA and not less than two representatives from the concerned Regional Power Committees and one independent member. Further, in case project is inter-regional, there shall be at least one representative from every concerned RPC. The independent member shall have expertise in financial matter/bid evaluation.

9.7.2. For intra state transmission systems, The STU/ State Government shall constitute a committee for evaluation of the bids with similar composition as for inter state transmission systems or as deemed fit.

9.8. The technical bids shall be examined to ensure that the bids submitted meet minimum eligibility criteria set out in the bid documents on all technical evaluation parameters. Only the bids that meet all elements of the minimum technical criteria set out in the bid documents shall be considered for further evaluation on the transmission charges bids.

9.9. The online initial price bids shall be electronically opened by the Bid Process Coordinator in presence of the bid evaluation committee. Only the lowest initial offer (s) shall be communicated to all the Qualified Bidders to participate in the e-reverse bidding process. During the e-reverse bidding process only the lowest prevailing levelised bid should be visible to all the qualified bidders on the electronic platform.

9.10. The transmission charge bid shall be rejected if it contains any deviation from the bid documents for submission of the same.

9.11. The lowest levelised transmission charge derived from the quoted annual transmission charges during the e-reverse bidding process will be considered for the award. In case, no bid is received during the e-reverse bidding stage then the lowest initial offer shall be deemed to be the final offer.

**10. Arbitration**

10.1. In case of any dispute regarding TSA, ISA or tariff, the same will be subject to jurisdiction of the Appropriate Commission under the provisions of the Electricity Act, 2003.

**11. Time Table for Bid Process**

11.1 A suggested time-table for the Single stage bid process is indicated below. The procurer may give extended time-frame indicated herein based on the prevailing circumstances and such alterations shall not be construed to be deviation from these guidelines.

Event	Elapsed Time from zero date
-------	-----------------------------

Publication of Gazette Notification for BPCs	Zero Date
Publication of RFP	2 days
Bid clarification, conferences etc. & revision of RFP	40 days
Technical and initial offer submission	65 days
e-reverse bidding after opening of the initial offer	75 days
Short-listing of bidder and issue of LOI	8 days post close of e-reverse bidding process
Signing of Agreements	10 days post issuance of LOI

**12. Contract award and conclusion**

- 12.1. After selection and issue of the Letter of Intent (LOI) from the BPC, the selected bidder shall execute the share purchase agreement to acquire the SPV created for the Project to become TSP in accordance with the terms and conditions as finalized in the bid document. In addition, in case of inter state projects, the TSP shall also execute the TSA and RSA, after grant of transmission license from the CERC.
- 12.2. The TSP shall make an application for grant of transmission license to the Appropriate Commission within three (3) working days from the date of execution of share purchase agreement for acquisition of SPV.
- 12.3. The BPC shall make the final result of evaluation of all bids public.
- 12.3.1. The final ISA, along with the certification by the bid evaluation committee, shall be forwarded to the Appropriate Commission, for adoption of tariffs derived from the quoted annual transmission charges during the e-reverse bidding process in terms of Section 63 of the Act.

----X----



**STANDARD SINGLE STAGE REQUEST FOR  
PROPOSAL DOCUMENT**

**FOR**

**SELECTION OF TRANSMISSION SERVICE PROVIDER  
THROUGH TARIFF BASED COMPETITIVE BIDDING  
PROCESS**

**TO**

**ESTABLISH INTER-STATE TRANSMISSION SYSTEM**

**FOR**

..... **[Insert NAME OF PROJECT]**

**ISSUED BY**

..... **(Name of Bid Process Co-ordinator)**  
**Registered Office:.....**

.....**2019**

(Insert Name and Address of the BPC)

**Request for Proposal Document for selection of Bidder as Transmission Service Provider through tariff based competitive bidding process to establish Inter-State Transmission System for ..... (Insert Name of Project) is issued by ..... [Insert name of BPC] for the benefit of the Designated ISTS Customers.**

This RFP document is issued to -

M/s. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Chief Executive Officer**

.....  
(Name and address of the BPC)

Email: .....

Place: .....

Date: .....

Signature: .....

**REQUEST FOR PROPOSAL NOTIFICATION**

**(Insert Name and Address of the BPC)**

1. The Government of India, Ministry of Power, vide its notification no. \_\_\_\_\_ dated \_\_\_\_\_ has notified ..... [Insert name of Bid Process Coordinator] to be the Bid Process Coordinator (BPC) for the purpose of selection of Bidder as Transmission Service Provider (TSP) to establish Inter-State transmission system for “\_\_\_\_\_” (Insert name of Project) through tariff based competitive bidding process.
  
2. .... (Insert name of BPC) (hereinafter referred to as BPC) hereby invites all prospective Bidders for issue of Request for Proposal (RFP) for selection of Transmission Service Provider (TSP) on the basis of international competitive bidding in accordance with the “Tariff Based Competitive Bidding Guidelines for Transmission Service” and “Guidelines for Encouraging Competition in Development of Transmission Projects” issued by Government of India, Ministry of Power under section – 63 of The Electricity Act, 2003 and as amended from time to time. The responsibility of the TSP would be to establish the following Inter-State Transmission System - \_\_\_\_\_ (Insert Name of the Project) (hereinafter referred to as 'Project') on build, own, operate & transfer basis and to provide transmission service to the Designated ISTS Customers. The BPC reserves the right to add, delete or replace any Designated ISTS Customer(s) to the list:

S. No	Transmission System for ..... [Insert Name of Project] [Table to be filled in by BPC with details as applicable]	
	Name of Transmission Element	Scheduled COD in months from Effective Date
1.	Transmission Lines	
2.	Sub-stations	
3.	Switching-stations	
4.	HVDC links including terminal stations	
5.	HVDC transmission line	

3. The TSP shall ensure that design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with Indian Standards and Codes issued by Bureau of Indian Standards and in accordance with the provisions of Article 4.1 of the Implementation & Service Agreement.
  
4. **Transmission License:** The TSP shall obtain the Transmission License from the Commission on such terms and conditions as specified by the Commission. Bidders shall ensure that they comply with all the requirements of Commission for grant of Transmission License.
  
5. **Bidding Process:** ..... [Insert name of BPC] seeks to select a Transmission Service Provider through tariff based competitive bidding process for the Project based on meeting stipulated Qualification Requirements prescribed in Clause 2.1 of Section 2 of RFP and the lowest Levelised Transmission Charge derived from Final Offers quoted during the e-reverse bidding. The selection of the TSP shall be subject to it obtaining Transmission License from the Commission, which, after expiry, may be further extended by

such period as deemed appropriate by the Commission under powers vested with it to amend the conditions of the Transmission License.

The entire bidding process shall be conducted on electronic platform created by .....  
[Insert name of the Service Provider].

The Bidder shall also make physical submission of the Technical Bid in addition to online submission through the electronic bidding platform.

The Bid shall comprise of the Technical Bid and the Financial Bid. The Bidders shall submit the Bid online through the electronic bidding platform. In addition to the online submission, the Bidders must make physical submission of the Technical Bid in one original and one copy. There should be no physical submission of the Financial Bid.

The Financial Bid will comprise of two rounds. In the first round the Initial Offer of the responsive bids would be opened and Levelised Transmission Charges of Initial Offer shall be ranked on the basis of ascending order. The Bidders, holding first fifty per cent of the ranks (with any fraction rounded off to higher integer) or four Bidders, whichever is higher, shall be considered to be the qualified for participating in the electronic reverse auction stage and submit their Final Offer.

6. The objective of the bidding process is to select a Successful Bidder pursuant to this RFP, who shall acquire one hundred percent (100%) of the equity shares of \_\_\_\_\_  
[Insert name of SPV] along with all its related assets and liabilities as per the provisions of the Share Purchase Agreement, at the Acquisition Price to be intimated by the BPC, twenty (20) days prior to the Bid Deadline.

The \_\_\_\_\_ [Insert name of SPV], of which one hundred percent (100%) equity shares will be acquired by the Selected Bidder, shall be responsible as the TSP, for ensuring that it undertakes ownership, financing, development, design, engineering, procurement, construction, commissioning, operation and maintenance of the Project, and to provide Transmission Service to the Designated ISTS Customers as per the terms of the RFP Project Documents.

The TSP shall ensure transfer all project elements along with substation land, right of way and clearances to CTU or its successors or an agency nominated by the Central Government after 35 years from COD of project at zero value and free from any encumbrance and liability. The CEA and the CTU (both being the planning agencies) in the thirty second (32<sup>nd</sup>) year of COD of project will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project shall then be awarded to any bidder selected through a competitive bidding process for renovation and modernization if required and operation and maintenance thereafter or any other reason whatsoever.

7. **Commencement of Transmission Service:** The Bidder shall have to commence Transmission Service in accordance with the provisions as may be specified in the TSA and the Implementation & Service Agreement.

8. **Transmission Charges:** The Transmission Charges shall be payable by the Designated ISTS Customers in Indian Rupees through the CTU as per the provisions of the TSA approved by the Central Electricity Regulatory Commission under (Sharing of inter-State Transmission Charges and Losses) Regulation 2010 and as amended or modified from time to time. Bidders shall quote the Transmission Charges as per the pre-specified structure, as mentioned in the RFP.
  
9. **Issue of RFP document:** The detailed terms and conditions for qualification and selection of the Transmission Service Provider for the Project and for submission of Bid are indicated in the RFP document. All those interested in purchasing the RFP document may respond in writing to ..... [Insert designation and contact numbers of concerned official of BPC] at the address given in para 12 below with a non-refundable fee of Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) or US\$ \_\_\_\_\_ (US Dollars \_\_\_\_\_ Only), in the form of a demand draft in favour of “..... [Insert name of SPV]” payable at ..... [Insert place of SPV], latest by \_\_\_\_\_ ..... [Insert last date of sale of RFP document]. The RFP document shall be issued to the Bidders on any working day from dd/mm/yy to dd/mm/yy [Insert start and end date of sale of RFP document] between 1030 hours (IST) to 1600 hours (IST). BPC, on written request and against payment of the above mentioned fee by any Bidder shall promptly dispatch the RFP document to such Bidder by registered mail/ air mail. BPC shall, under no circumstances, be held responsible for late delivery or loss of documents so mailed.
  
10. **Receipt and opening of Bid:** Scanned Copy of the Technical Bid must be uploaded online through the electronic bidding platform on or before ..... hours (IST) on dd/mm/yy [Insert last date of submission of Bid]. In addition to the above, the Technical Bid in one (1) original plus one (1) copy, must be delivered to the address as given in para 12 below on or before ..... hours (IST) on dd/mm/yy [Insert last date of submission of Bid] and Technical Bid will be opened on the same day at ..... hours (IST) at ..... [Insert address of place of opening of Technical Bid], in the presence of Bidders’ representatives who wish to attend. If the Bid Deadline is a public holiday at the place of submission of Bid, it shall be received and opened on the next working day at the same time and venue. Bidders meeting the Qualification Requirements, subject to evaluation as specified in Clause 3.2 to 3.4 shall be declared as “Qualified Bidders” and eligible for opening of Initial Offer.
  
11. The RFP document is not transferable. BPC reserves the right to reject all Bid and/or annul the process of tariff based competitive bidding for selection of TSP to execute the Project without assigning any reason. BPC shall not bear any liability, whatsoever, in this regard.

12. **Nodal person for enquiries and clarifications**

All correspondence, clarification in respect of RFP document and submission of Technical and Financial Bid shall be addressed to:

.....  
.....  
.....  
Tel.: .....  
Fax: .....  
Email: .....

**DISCLAIMER**

1. This Request for Proposal (RFP) document is not an agreement or offer by the BPC to the prospective Bidders or to any other party. The purpose of this RFP document is to provide interested parties with information to assist the formulation of their Bid. The RFP document is based on material and information available in public domain.
2. This RFP, along with its Annexures, is not transferable and the information contained therein are to be used only by the person to whom it is issued. It may not be copied or distributed by the recipient to third parties (other than in confidence to the recipient's professional advisors). In the event that the recipient does not continue with its involvement in the Project in accordance with this RFP, this RFP must be kept confidential.
3. While this RFP has been prepared in good faith, neither the BPC nor its employees or advisors/consultants make any representation or warranty express or implied as to the accuracy, reliability or completeness of the information contained in this RFP. The Bidders shall satisfy themselves, on receipt of the RFP document, that the RFP document is complete in all respects. Intimation of any discrepancy shall be given to this office immediately. If no intimation is received from any Bidder within ten (10) days from the date of issue of this RFP document on or before the date & time mentioned in this RFP, it shall be considered that the issued document, complete in all respects, has been received by the Bidders.

This bidding process is in accordance with the Bidding Guidelines issued by Ministry of Power, Government of India under Section 63 of the Electricity Act, 2003. Revisions or amendments in these Bidding Guidelines may cause the BPC to modify, amend or supplement this RFP document, including the RFP Project Documents to be in conformance with the Bidding Guidelines.

4. This RFP document includes statements, which reflect various assumptions arrived at by BPC in order to give a reflection of current status in the RFP. These assumptions should not be entirely relied upon by Bidders in making their own assessments. This RFP document does not purport to contain all the information each Bidder may require and may not be appropriate for all persons. It is not possible for BPC to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP document. Certain Bidders may have a better knowledge of the Project than the others. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP document and obtain independent advice from appropriate sources.
5. Neither BPC nor their employees or consultants make any representation or warranty as to the accuracy, reliability or completeness of the information in this RFP document.
6. Neither BPC, its employees nor its consultants will have any liability to any Bidder or any other person under the law of contract, tort, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in this RFP document, any matter deemed to form part of this RFP document, the award of the Project, the information supplied by or on behalf of BPC or its employees, any consultants or otherwise arising in any way from the qualification process for the said Project.

7. By participating in the bidding process, each of the Bidder shall have acknowledged and accepted that he has not been induced to enter into such agreement by any representation or warranty, express or implied, or relied upon any such representation or warranty by or on behalf of BPC or any person working in the bidding process.
8. BPC may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement this RFP document. Such updations, amendments or supplements, if any, will however be circulated to the Bidders not later than 10 days prior to the last date for submission of Bid.
9. Each Bidder unconditionally agrees, understands and accepts that the BPC reserves the rights to accept or reject any or all Bids without giving any reason. Neither the BPC nor its advisers shall entertain any claim of any nature, whatsoever, including without limitations, any claim seeking expenses in relation to the preparation of Bids.
10. This RFP may be withdrawn or cancelled by the BPC at any time without assigning any reasons thereof. BPC further reserves the right, at its complete discretion to reject any or all of the Bids without assigning any reasons whatsoever.

## INDEX

<b>SECTION</b>	<b>CONTENTS</b>	<b>PAGE NO.</b>
	<b>DEFINITIONS</b>	<b>10</b>
<b>1.</b>	<b>INTRODUCTION</b>	<b>16</b>
<b>2.</b>	<b>INFORMATION AND INSTRUCTIONS FOR BIDDERS</b>	<b>21</b>
<b>3.</b>	<b>EVALUATION OF THE TECHNICAL AND FINANCIAL BID</b>	<b>50</b>
<b>4.</b>	<b>ANNEXURES FOR BID</b>	<b>57</b>
	<b>ANNEXURES</b>	
<b>1</b>	<b>Format for the Covering Letter</b>	<b>59</b>
<b>2</b>	<b>Format for Letter of Consent from Consortium Members</b>	<b>63</b>
<b>3</b>	<b>Format for evidence of authorized signatory's authority (Power of Attorney)</b>	<b>65</b>
<b>4</b>	<b>Format for Power of Attorney to be provided by each of the other members of the Consortium in favor of the Lead Member</b>	<b>67</b>
<b>5</b>	<b>Format for Bidder's composition and ownership structure and Format for Authorization</b>	<b>69</b>
<b>6</b>	<b>Format for Consortium Agreement</b>	<b>72</b>
<b>7A</b>	<b>Format for Qualification Requirement – Net worth</b>	<b>77</b>
<b>7B</b>	<b>Format for Technical Requirement</b>	<b>80</b>
<b>7C</b>	<b>Format for Technical and Financial Requirement – Relationship &amp; Equity Shareholding</b>	<b>83</b>
<b>7D</b>	<b>Format for Additional Information for verification of Financial and Technical Capabilities of Bidders</b>	<b>85</b>
<b>8</b>	<b>Format for Undertaking and Details of Equity Investment</b>	<b>88</b>
<b>9</b>	<b>Format for Authorization from Parent / Affiliate of Bidding Company / Member of Bidding Consortium whose technical / financial capability has been used by the Bidding Company / Member of Bidding Consortium.</b>	<b>92</b>
<b>10</b>	<b>Format for Undertaking by Technically/Financially Evaluated Entity/Ultimate Parent Company</b>	<b>94</b>
<b>11</b>	<b>Format for Board Resolution</b>	<b>96</b>
<b>11A</b>	<b>Illustration for Applicable Board Resolution Requirements under Clause 2.5.2</b>	<b>99</b>
<b>12</b>	<b>Format for illustration of Affiliates</b>	<b>101</b>



<b>SECTION</b>	<b>CONTENTS</b>	<b>PAGE NO.</b>
<b>13</b>	<b>Format for disclosure</b>	<b>102</b>
<b>14</b>	<b>Format For Bid Bond</b>	<b>103</b>
<b>15</b>	<b>Format for Contract Performance Guarantee</b>	<b>105</b>
<b>16</b>	<b>Format for Checklist for Technical Bid Submission Requirements</b>	<b>107</b>
<b>17</b>	<b>List of Banks</b>	<b>110</b>
<b>18</b>	<b>Grid Map of the Project</b>	<b>111</b>
<b>19</b>	<b>Format for Clarifications / Amendments on the RFP / RFP Project Documents</b>	<b>112</b>
<b>20</b>	<b>Formats For RFP Project Documents</b>	<b>113</b>
<b>21</b>	<b>Format For Financial Bid</b>	<b>114</b>
<b>22</b>	<b>Illustration of the Bid Evaluation/Computation of Levelised Transmission Charges</b>	<b>116</b>
<b>23</b>	<b>Format of Affidavit</b>	
	<b>Annexure A</b>	<b>119</b>
	<b>Annexure B</b>	<b>120</b>

**DEFINITIONS**

Any capitalized term, used but not defined in this RFP, shall have the meaning ascribed to such term in the RFP Project Documents, or the Bidding Guidelines, in that order. In absence of availability of definitions in the foregoing references, the capitalized terms shall be interpreted in accordance with the Electricity Act 2003, Grid Code or any other relevant electricity law, rule or regulation prevalent in India, as amended or re-enacted from time to time, in that order.

**The following terms are defined for use in this RFP:**

**"Acquisition Price"** shall have the same meaning as defined in the Share Purchase Agreement;

**"Affiliate"** shall mean a company that either directly or indirectly

- i. controls or
- ii. is controlled by or
- iii. is under common control with

a Bidding Company (in the case of a single company) or a Member (in the case of a Consortium) and **"control"** means ownership by one entity of more than fifty percent (50%) of the voting rights of the entity. As an illustration a chart is annexed hereto as Annexure – 12;

**"Bid"** shall mean Technical Bid and Financial Bid (Initial Offer and Final Offer) submitted by the Bidder, in response to this RFP, in accordance with the terms and conditions thereof;

**"Bidder"** shall mean either a single company (including its permitted successors and legal assigns) or a Consortium of companies (including its permitted successors and legal assigns) submitting a Bid in response to this RFP. Any reference to the Bidder includes Bidding Company, Bidding Consortium/ Consortium, Member in a Bidding Consortium and Lead Member of the Bidding Consortium jointly and severally, as the context may require;

**"Bidding Company"** shall refer to such single company (including its permitted successors and legal assigns) that has submitted a Bid for the Project;

**"Bidding Consortium/ Consortium"** shall refer to a group of companies (including their permitted successors and legal assigns) that has collectively submitted a Bid for the Project;

**"Bidding Guidelines"** shall mean the "Tariff Based Competitive-Bidding Guidelines for Transmission Service" and "Guidelines for Encouraging Competition in Development of Transmission Projects" issued by Government of India, Ministry of Power dated 13<sup>th</sup> April 2006 under Section – 63 of Electricity Act and as amended from time to time;

**"Bid Bond"** shall mean the unconditional and irrevocable bank guarantee for Rupees ..... (Rs.....) only [Bid Bond would be computed on the basis of Rs. 5.25 lakhs per km for the total Transmission Line length (including all 765 kV, 400 kV and other lines irrespective of conductors per phase) and Rs. 0.45 lakhs per MVA for the substations of the Project], to be submitted along with the Technical Bid by the Bidder under Clause 2.11 of this RFP, as per the format prescribed in Annexure 14;

**"Bid Deadline"** shall mean the last date and time for submission of online and original hard copies

of Bid in response to this RFP, specified in Clause 2.7.1;

**“Bid Process Coordinator or BPC”** shall mean a person or its authorized representative as notified by the Government of India, responsible for carrying out the process for selection of Bidder who will acquire Transmission Service Provider;

**"CEA"** shall mean the Central Electricity Authority constituted under Section - 70 of the Electricity Act;

**“Commission” or “CERC”** shall mean the Central Electricity Regulatory Commission of India constituted under Section-76 of The Electricity Act, 2003 and any successors and assigns;

**“Conflict of Interest”** A Bidder shall be considered to be in a Conflict of Interest with one or more Bidders in the same bidding process if they have a relationship with each other, directly or through a common company, that puts them in a position to have access to information about or influence the Bid of another Bidder.

Provided that if two or more bidders in the bidding process have formed a Joint Venture Company or Consortium to execute another project, the Bidders will not be considered to have Conflict of Interest;

**"Commercial Operation Date (COD)"** shall mean the date as per Article 6.2 of the Implementation & Service Agreement;

**“Consents, Clearances, Permits”** shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the development, execution and performance of Project including without any limitation on the construction, ownership, operation and maintenance of the transmission lines and/or sub-stations;

**"Contract Performance Guarantee"** shall have the meaning as per Clause 2.12 of this RFP;

**"Contract Year"** shall mean the period beginning on the Scheduled COD, and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that:

- (i) the last Contract Year shall end on the last day of the term of the Implementation & Service Agreement;

Further provided that, for the purpose of payment, the Contract Year shall be the applicable Contract Year as per Annexure-4 of this RFP;

**“Infrastructure sector”** shall mean such sectors notified by Department of Economic Affairs in its Gazette Notification no. 13/1/2017-INF dated 14<sup>th</sup> November, 2017 and as amended from time to time;

**"CTU/Central Transmission Utility"** shall mean Power Grid Corporation of India Limited or any other agency notified by the Central Government under Section-38 of the Electricity Act, 2003 or any other entity that may be notified by the Central Government from time to time;

**“Designated ISTS Customers”** or **“DICs”** shall have the meaning as ascribed in Regulation 2(1) of Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulation 2010 and as amended or modified from time to time;

**"Effective Date"** shall have the meaning as ascribed thereto in the Implementation & Service Agreement;

**"Element"** shall mean each Transmission Line or each circuit of the Transmission Lines (where there are more than one circuit) or each bay of the Sub-station or switching station or HVDC terminal or inverter station of the Project, including ICTs, Reactors, SVC, FSC, etc. forming part of the ISTS which will be owned, operated and maintained by the concerned ISTS Licensee, and which may have a separate scheduled COD as per Schedule 2 of the Implementation & Service Agreement and may have a separate percentage for recovery of Transmission Charges on achieving COD as per Schedule 5 of the Implementation & Service Agreement;

**"National Committee on Transmission"** shall mean the committee constituted by the Ministry of Power, Government of India in terms of the "Guidelines for Encouraging Competition in Development of Transmission Projects", as notified from time to time;

**“Final Offer”** shall mean the Quoted Escalable Transmission Charges and Quoted Non Escalable Transmission Charges, required to be submitted as part of the Financial Bid on the electronic bidding platform during the e-reverse bidding stage. In case, no Final Offer is received during the e-reverse bidding stage then the lowest “Initial Offer” shall be deemed to be the Final Offer;

**“Financial Bid”** shall mean the Initial Offer and Final Offer, containing the Bidder’s Quoted Transmission Charges, as per the format at Annexure – 22 of this RFP;

**“Financially Evaluated Entity”** shall mean the company which has been evaluated for the satisfaction of the financial requirement set forth in Clause 2.1.3 hereof;

**“Government”** shall mean the Central Government;

**“Grid Code” / “IEGC”** or **“State Grid Code”** shall mean the Grid Code specified by the Central Commission under clause (h) of sub-section (1) of Section 79 of the Electricity Act and/or the State Grid Code as specified by the concerned State Commission referred under clause (h) of sub-section (1) of Section 86 of the Electricity Act as applicable;

**“Implementation & Service Agreement”** or **“ISA”** shall mean the agreement entered into between Nodal Agency and the TSP, pursuant to which the TSP shall build, own, operate and transfer the Project and make available the assets of the Project to the Designated ISTS Customers on a commercial basis;

**“Initial Offer”** shall mean the Quoted Escalable Transmission Charges and Quoted Non Escalable Transmission Charges, required to be submitted as part of the Financial Bid on the electronic bidding platform along with the Technical Bid;

**"Inter State Generating Station" or "ISGS" shall** mean a Central / other generating station in which two or more states have shares and whose scheduling is to be coordinated by the Regional Load Despatch Centre;

**“Inter-State Transmission System”** shall include

- (i) Any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;
- (ii) The conveyance of electricity across the territory of an intervening State as well as conveyance within the State, which is incidental to such inter-State transmission of electricity;
- (iii) The transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by Central Transmission Utility;

**“Lead Member of the Bidding Consortium” or “Lead Member”** shall mean a company who commits at least twenty six percent (26%) equity stake in the Project, meets the technical requirement as per Clause 2.1.2 and so designated by other Member(s) in Bidding Consortium;

**“Letter of Intent” or “LoI”** shall mean the letter to be issued by the BPC to the Bidder, who has been identified as the selected bidder, for award of the Project to such Bidder;

**“Levelised Transmission Charges”** shall mean the Transmission Charges calculated in accordance with the provisions of Clause 3.5.2 in this RFP;

**“Member in a Bidding Consortium/Member”** shall mean each company in the Bidding Consortium;

**“MOP”** shall mean the Ministry of Power, Government of India;

**“MOEF”** shall mean the Ministry of the Environment and Forests, Government of India;

**“Nodal Agency”** shall mean CTU, which shall execute and implement the Implementation and Service Agreement (ISA).

Provided that CTU shall consult CEA in all major decisions including but not limited to extension of time, termination of Implementation & Service Agreement, granting any relief to TSP, levying any penalty to TSP;

**“Technical Bid”** shall mean the scanned copy of the bid submitted online through the electronic bidding platform and hard copy of the Bid in one (1) original and one (1) copy, containing the documents as listed out in Clause 2.5.2 of this RFP;

**“Parent Company”** shall mean an entity that holds more than fifty percent (50%) of the paid - up equity capital directly or indirectly in the Bidding Company or in the Member in a Bidding Consortium, as the case may be;

**“Qualification Requirements”** shall mean the qualification requirements as set forth in Section-2, Clause 2.1 of this RFP;

**“Quoted Transmission Charges”** shall mean the sum of the Quoted Escalable Transmission Charges and Quoted Non-Escalable Transmission Charges submitted online through the electronic bidding platform by the Bidder as part of its Financial Bid as per the format in Annexure – 22 of this RFP;

**“Quoted Escalable Transmission Charges”** shall mean the column 5 of Financial Bid quoted online through the electronic bidding platform by the Bidder as per Annexure – 22;

**“Quoted Non-Escalable Transmission Charges”** shall mean the column 4 of Financial Bid quoted online through the electronic bidding platform by the Bidder as per Annexure – 22;

**“RFP”** shall mean Request for Proposal document along with all schedules, formats, annexure and RFP Project Documents attached hereto, issued by BPC for tariff based competitive bidding process for selection of bidder who will acquire the TSP through e-reverse bidding to execute the Project, and shall include any modifications, amendments or alterations or clarifications thereto;

**“RFP Project Documents”** shall mean the following documents to be entered into in respect of the Project, by the parties to the respective agreements:

- a. Implementation & Service Agreement (ISA),
- b. Transmission Service Agreement (TSA),
- c. Revenue Sharing Agreement (RSA),
- d. Share Purchase Agreement and
- e. Any other agreement, as may be required;

**“Revenue Sharing Agreement”** or **“RSA”** shall mean the agreement, together with Schedules, Annexure and documents, to be executed by the CTU and the ISTS Licensee, approved by the CERC pursuant to the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations 2010;

**“Scheduled COD”** shall have the meaning as ascribed hereto in Clause 2.6 of this RFP;

**“Statutory Auditor”** shall mean the auditor appointed under the provisions of the Companies Act, 1956 / Companies Act, 2013 (as the case may be) or under the provisions of any other applicable governing law;

**“Share Purchase Agreement”** shall mean the agreement amongst \_\_\_\_\_[Insert Name of BPC], \_\_\_\_\_[Insert Name of SPV] and the Successful Bidder for the purchase of one hundred (100%) per cent of the shareholding of the \_\_\_\_\_[Insert Name of SPV] for the Acquisition Price, by the Successful Bidder on the terms and conditions as contained therein;

**“Successful Bidder”** or **“Selected Bidder”** shall mean the Bidder selected pursuant to this RFP to acquire one hundred percent (100%) equity shares of \_\_\_\_\_[Insert Name of SPV], along with all its related assets and liabilities, which will be responsible as the TSP to establish the Project on build, own, operate and transfer basis as per the terms of the Implementation & Service Agreement and other RFP Project Documents;

**“Survey Report”** shall mean the report containing initial information regarding the Project and other details provided as per the provisions of Clause 1.6.2.1.a of this RFP;

**“Technically Evaluated Entity”** shall mean the company which has been evaluated for the satisfaction of the technical requirement set forth in Clause 2.1.2 hereof;

**“Transmission Charges”** shall mean the Final Offer quoted by Selected Bidder and adopted by the Commission, and as computed in terms of the provisions of Schedule 5 of the ISA, payable to the ISTS Licensee by the Designated ISTS Customers, and collected / disbursed by the CTU, as per the provisions of TSA and RSA;

**“Transmission License”** shall mean the license granted by the Commission in terms of the relevant regulations for grant of such license issued under the Electricity Act, 2003;

**"Transmission Licensee"** shall mean a licensee authorized to establish and operate Transmission Lines by the Commission;

**“Transmission Lines”** shall mean all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switchgear and other works;

**“Transmission Service Agreement” or “TSA”** shall have the meaning as ascribed thereto in Regulation 2(u) of the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulation, 2010, and as amended or modified from time to time;

**“Transmission Service Provider” or “TSP”** shall mean \_\_\_\_\_  
\_\_\_\_\_ [Insert name of project specific SPV] which has executed the Implementation & Service Agreement and which shall be acquired by the Selected Bidder;

**“Transmission System”** shall mean a line with associated sub-stations or a group of lines interconnected together along with associated sub-stations and the term includes equipment associated with transmission lines and sub-stations;

**“Ultimate Parent Company”** shall mean an entity which owns more than fifty percent (50%) equity in the Bidding Company or Member of a Consortium, (as the case may be) and in the Technically Evaluated Entity and/or Financially Evaluated Entity (as the case may be) and such Bidding Company or Member of a Consortium, (as the case may be) and the Technically Evaluated Entity and/or Financially Evaluated Entity (as the case may be) shall be under the direct control or indirectly under the common control of such entity.

**SECTION – 1**

**INTRODUCTION**



**SECTION 1**

**1. INTRODUCTION**

1.1 The Government of India, Ministry of Power, , vide its notification no. .... dated ..... has notified .....[Insert name of BPC] to be the Bid Process Coordinator (BPC) for the purpose of selection of Bidder as Transmission Service Provider (TSP) to establish Inter-State transmission system for “\_\_\_\_\_ [Insert name of Project]” through tariff based competitive bidding process.

The BPC hereby invites Bids from all prospective Bidders in accordance with this Request for Proposal (RFP) to select prospective Transmission Service Provider (TSP) in accordance with the “Tariff Based Competitive-Bidding Guidelines for Transmission Service” and “Guidelines for Encouraging Competition in Development of Transmission Projects” issued by Government of India, Ministry of Power under Section – 63 of the Electricity Act. The BPC shall select the Bidder having the prescribed technical and financial capability to become TSP and be responsible for establishing the Project in the state(s) of ..... [Insert name of States]. The TSP will make the Project available for use by the Designated ISTS Customers against payment of Transmission Charges, as adopted by the Commission, payable to the TSP, as per the provisions of Transmission Service Agreement (TSA) and the Revenue Sharing Agreement (RSA).

1.2 The TSP will be required to establish the following Inter State Transmission System for \_\_\_\_\_ [Insert name of the Project] (hereinafter referred to as ‘Project’) on build, own, operate and transfer basis, and to provide transmission service to the Designated ISTS Customers.,

S. No.	Inter State Transmission System for ..... [Insert name of Project] [Table to be filled in by BPC with details as applicable]	
	Name of Transmission Element	Scheduled COD in Months from Effective Date
1.	Transmission Lines	
2.	Sub-stations	
3.	Switching-stations	
4.	HVDC links including terminal stations	
5.	HVDC transmission line	

1.3 Project Description

[BPC to insert background about requirement of Project and brief write-up about Project].

1.4 Transmission Grid Map

Transmission Grid Map indicating the location of the Project is enclosed as Annexure 18 of this RFP for information and reference of the Bidders.

1.5 The objective of the bidding process is to select a Successful Bidder pursuant to this RFP, who shall acquire one hundred percent (100%) of the equity shares of \_\_\_\_\_ [Insert name of SPV] along with all its related assets and liabilities

as per the provisions of the Share Purchase Agreement, at the Acquisition Price to be intimated by the BPC, twenty (20) days prior to the Bid Deadline.

The \_\_\_\_\_ [Insert name of SPV], of which one hundred percent (100%) equity shares will be acquired by the Selected Bidder, shall be responsible as the TSP, for ensuring that it undertakes ownership, financing, development, design, engineering, procurement, construction, commissioning, operation and maintenance of the Project, and to provide Transmission Service to the Designated ISTS Customers as per the terms of the RFP Project Documents.

The TSP shall ensure transfer all project elements along with substation land, right of way and clearances to CTU or its successors or an agency nominated by the Central Government after 35 years from COD of project at zero value and free from any encumbrance and liability. The CEA and the CTU (both being the planning agencies) in the thirty second (32<sup>nd</sup>) year of COD of project will examine the need of upgradation of the system or renovation and modernization of the existing system depending on technological options and system studies at that time. The project shall then be awarded to any bidder selected through a competitive bidding process for renovation and modernization if required and operation and maintenance thereafter or any other reason whatsoever.

## 1.6 Brief Scope of Work

### 1.6.1 Scope of Transmission Service Provider

The TSP's scope of work for the Project shall comprise, but not necessarily be limited to the following:

- 1.6.1.1 Establishment, operation and maintenance of the Project on build, own, operate and transfer basis and completion of all the activities for the Project, including survey, detailed project report formulation, arranging finance, project management, necessary Consents, Clearances and Permits (way leave, environment & forest, civil aviation, railway/ road/river/canal/power crossing/PTCC, etc.), land compensation, design, engineering, equipment, material, construction, erection, testing & commissioning.
- 1.6.1.2 The TSP shall ensure that design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with Indian Standards and in accordance of Article 4.1 of the Implementation & Service Agreement. .
- 1.6.1.3 The TSP shall ensure timely completion of entire scope of Project in all respects and its operation and maintenance, as shall be specified in the RFP documents.
- 1.6.1.4 The TSP shall seek Transmission License from the Commission, as per the provisions of the Electricity Act and regulations made thereunder.

### 1.6.2 Scope of Bid Process Coordinator (BPC)

BPC's scope of work is briefly outlined hereunder:

..... [Insert name of the BPC]

1.6.2.1 The BPC has initiated development of the Project and shall be responsible for the tasks in this regard as specified hereunder:

1. Provide to the Bidders a Survey Report for the Project at least thirty (30) days prior to the Bid Deadline. The Survey Report will contain information regarding the transmission line, i.e. voltage level, line configuration (i.e., S/C or D/C), indicative route alignment, conductor type conductor configuration and type of terrain likely to be encountered.

Provided that neither the BPC, its authorized representative, any of the DICs, CTU, nor their directors, employees or advisors/consultants make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions made in the Survey Report, or the accuracy, completeness or reliability of information contained therein, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of such Survey Report, even if any loss or damage is caused to the Bidders by any act or omission on their part.

2. To obtain approval for laying of overhead transmission lines under Section 68 of Electricity Act, from the Government at least twenty (20) days prior to Bid Deadline;
3. **[This Clause is to be inserted in case of any land acquisition, or else to be replaced by “Deleted”]** BPC or its authorized representative may arrange to carry out the following activities to expedite the Project:
  1. To identify suitable sites for substations, switching stations or HVDC terminal or inverter stations.
4. The BPC shall intimate the Bidders, the Acquisition Price payable by the Selected Bidder to the ..... [Insert Name of BPC] for the acquisition of one hundred percent (100%) of the equity shareholding of \_\_\_\_\_[Insert Name of SPV], along with all its related assets and liabilities at least twenty (20) days prior to the Bid Deadline.
5. The BPC shall ensure issuance of all finalized RFP Project Documents, at least seven (7) days prior to the Bid Deadline.
6. The BPC shall ensure issuance of draft implementation & Service Agreement at least seven (7) days prior to Bid Deadline.

Provided that for any delay in meeting the above obligations of the BPC within the specified time period above, the Bid Deadline as per Clause 2.7.1 shall be extended on a day for day basis.

1.6.2.2 The details and documents as may be obtained by the BPC in relation to the Project shall be handed over to the TSP on an as-is-where-is basis, so that it may take further actions to obtain Consents, Clearances and Permits.

1.7 All costs (including direct and indirect) incurred by the BPC in connection with the activities concerning the Project shall be recovered from the TSP, which shall be included

in the Acquisition Price.

- 1.8 The Project is required to be completed progressively in accordance with the schedule prescribed in this RFP.
- 1.9 A company under the Companies Act,1956/Companies Act, 2013 (as the case may be) ..... [BPC to insert as applicable- by the name ..... [Insert name of company] has been “incorporated” or “will be incorporated”, as applicable] to initiate the activities for execution of the Project. The said company shall be acquired by the successful Bidder as per terms and conditions as may be prescribed in RFP.
- 1.10 The Ministry of Power and the appropriate state government(s) shall provide their support to the TSP, on best endeavor basis, in enabling the TSP to develop the Project.
- 1.11 All Bidders are required to submit their Bid in accordance with the instructions set forth in this RFP.
- 1.12 Once the Successful Bidder is selected, the details and documents as may be obtained by the BPC in relation to the Project, shall be handed over to the Successful Bidder on as is where basis, so that it may take further actions to obtain all necessary Consents, Clearances and Permits and the TSP shall not be entitled for any extensions in the Scheduled COD of the Project except as provided for in the ISA.
- 1.13 The assets of the Project shall be made available on a commercial basis to the DICs as per the terms and conditions of the Implementation & Service Agreement and TSA.

**SECTION - 2**

**INFORMATION AND INSTRUCTIONS FOR BIDDERS**

**SECTION – 2****2. INFORMATION AND INSTRUCTIONS FOR BIDDERS****2.1 Qualification Requirements**

2.1.1 The Bidder should be a company duly incorporated under the relevant laws (Bidding Company) or a Consortium of companies (Bidding Consortium) with one of the companies acting as the Lead Member of the Bidding Consortium. The Bidder shall be selected on meeting the Qualification Requirements specified in Section 2 of this RFP, as demonstrated by the Bidder's Technical Bid and the lowest Levelised Transmission Charge derived from Final Offers quoted during the e-reverse bidding. A Bidding Consortium can participate in the bidding process for the Project if any Member of the Consortium has purchased the RFP document for such Project. Bidder who agree and undertake to procure the products associated with the Transmission System for the project, as provided in Annexure A, from manufacturing facilities situated in India and owned and operated in India by an Indian company, a foreign company or a joint venture between and Indian and foreign company shall be eligible hereunder.

**2.1.2 Technical requirement to be met by the Bidding Company or Lead Member of Bidding Consortium**

The Bidder must fulfill any one of the following technical requirements:

- (i) Experience of development of projects in the Infrastructure Sector in the last five (5) years with aggregate capital expenditure of not less than Rs. \_\_\_\_ **Crore** or equivalent USD (calculated as per provisions in Clause 3.4.1). However, the capital expenditure of each project shall not be less than **Rs. \_\_\_\_ Crore** or equivalent USD (calculated as per provisions in Clause 3.4.1).

For this purpose, capital expenditure incurred on projects that have been commissioned/completed at least seven (7) days prior to Bid Deadline shall be considered. The capital expenditure discussed above shall be as capitalized and reflected in the audited books of accounts of the Technically Evaluated Entity. In case a clearly identifiable part of a project has been put into commercial operation, the capital expenditure on such part of the project shall be considered. The Technically Evaluated Entity must have either executed such projects itself or must own, directly or indirectly at least twenty six percent (26%) of the shareholding in the company that has executed the project(s) and must have held such shareholding from the date of financial closure of the project(s) till the time of commissioning/completion of such project(s).

OR

- (ii) Experience in construction of project in infrastructure sector: The Technically Evaluated Entity should have received aggregate payments not less than Rs. .... Crore or equivalent USD (calculated as per provisions in Clause 3.4.1) from its client(s) for construction works fully completed during the last 5(five) financial years. However, the payment received from each project shall not be less than Rs. .... Crore or equivalent USD (calculated as per provisions in Clause 3.4.1).

For this purpose, payments received on projects that have been commissioned/completed at least seven (7) days prior to Bid Deadline shall be considered. Further only the payments (gross) actually received, during such 5 (five) financial years shall qualify for purposes of computing the technical capacity. For the avoidance of doubt, construction works shall not include cost of land supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project.

The Technically Evaluated Entity may be the Bidding Company or the Lead Member of a Consortium or an Affiliate or Parent of such Bidding Company or the Lead Member, as the case may be.

[Required aggregate capital cost of projects/ aggregate payments received for projects to be calculated @ Rs 1.75 Crore per km for total transmission line length (including all 765 kV, 400 kV and other lines irrespective of conductors per phase) and @0.15 Crore per MVA for substations of the Project. However, the minimum aggregate capital cost of projects shall be Rs. 500 Crore.]

[Individual project experience to be calculated @ Rs 0.35 Crore per km for total transmission line length and @ Rs. 0.03 Crore per MVA for sub-stations of the Project].

Bidders shall furnish documentary evidence duly certified by authorized signatory of the Bidder who has been issued Power of Attorney in support of their technical capability as defined in Clause 2.1.2 of this RFQ.

### 2.1.3 Financial requirement to be met by the Bidding Company/Bidding Consortium

2.1.3.1 The Bidder must fulfill following financial requirements:

#### A. Networth:

Networth should be not less than Rs. \_\_\_\_\_ **Crore** or equivalent USD (calculated as per provisions in Clause 3.4.1) computed as the Networth based on unconsolidated audited annual accounts (refer to Note below) of last preceding financial year as provided in Clause 2.2.3, immediately preceding the Bid Deadline.

[To be specified at Rs. 0.875 Crore per km of the total transmission line length of the Project (including all 765 kV, 400 kV and other lines irrespective of conductors per phase,) and Rs. 0.075 Crore per MVA for substations. However, the minimum requirement of Networth shall be Rs.250 crore.]

Note: Audited consolidated annual accounts of the Bidder may be used for the purpose of financial criteria provided the Bidder has more than fifty percent (50%) equity in each company whose accounts are merged in the audited consolidated accounts and provided further that the financial capability of such companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of the Technical Bid. Bidders shall furnish prescribed Annexure 7 (A) duly certified by authorized signatory of the Bidder who has been issued Power of Attorney

and the Statutory Auditor and separate computation sheet for Networth duly certified by Statutory Auditor in support of their financial capability as defined in Clause 2.1.3 of this RFP.

2.1.3.2 The Networth shall be computed in the following manner by the Bidder:

**A. Networth**

=	Equity share capital
Add:	Reserves
Subtract:	Revaluation Reserves
Subtract:	Intangible Assets
Subtract:	Miscellaneous expenditures to the extent not written off and carry forward losses

2.1.3.3 If the Technical Bid is submitted by a Bidding Consortium the financial requirement shall be met individually and collectively by all the Members in the Bidding Consortium. The financial requirement to be met by each Member of the Bidding Consortium shall be computed in proportion to the equity commitment made by each of them for investment in the Project.

2.1.4 The Bidder may seek qualification on the basis of technical and financial capability of its Parent and/ or its Affiliate(s) for the purpose of meeting the Qualification Requirements. However, in the case of the Bidder being a Consortium, the Lead Member has to meet the technical requirement on its own or by seeking the technical capability of its Parent and/or its Affiliate(s). Authorization for use of such technical or financial capability shall have to be provided from its Parent and/or Affiliate(s) as per Annexure 9. The technical and financial capability of a particular company/ particular project, including its Parents and/or Affiliates, shall not be used directly or indirectly by more than one Bidder/ Member of a Bidding Consortium/ Bidding Company. However, development and construction experience of a particular project may be used by more than one company.

The determination of the relationship of Parent or Affiliate with the Bidding Company or with the Member of the Bidding Consortium, including the Lead Member, shall be on the date seven (7) days prior to the last date of submission of the Bid. Documentary evidence to establish such relationship shall be furnished by the Bidder along with the Technical Bid.

If the Technically Evaluated Entity and/or Financially Evaluated Entity is an entity other than the Bidding Company or a Member in a Bidding Consortium, the Bidding Company or Member relying on such Technically Evaluated Entity and/or Financially Evaluated Entity will have to submit a legally binding undertaking supported by a board resolution from the Technically Evaluated Entity and/or Financially Evaluated Entity or its Ultimate Parent Company, that all the equity investment obligations of the Bidding Company or the Member of the Consortium shall be deemed to be equity investment obligations of the Technically Evaluated Entity and/or Financially Evaluated Entity or its Ultimate Parent Company, and in the event of any default the same shall be met by such evaluated entity or by or the Ultimate Parent Company. The Bidding Company or the Consortium Member shall have to provide information and documents relating to its relationship with such Technically Evaluated Entity and/or Financially Evaluated Entity including details about



the equity shareholding between them as per Annexure 7(C).

- 2.1.5 A Bidder shall submit only one Bid in the same bidding process, either individually as Bidding Company or as a Member of a Bidding Consortium (including the Lead Member). It is further clarified that any of the Parent/ Affiliate/Ultimate Parent of the Bidder/ Member in a Bidding Consortium shall not separately participate directly or indirectly in the same bidding process. Further, if any Bidder is having a Conflict of Interest with other Bidders participating in the same bidding process, the Bids of all such Bidders shall be rejected.
- 2.1.6 Notwithstanding anything stated above, BPC reserves the right to verify the authenticity of the documents submitted for meeting the Qualification Requirements and request for any additional information and documents. BPC reserves the right at its sole discretion to contact the Bidder's bank and project references and verify the Bidder's information and documents for the purpose of bid evaluation.
- 2.1.7 The Qualified Bidder(s) will be required to continue to maintain compliance with the Qualification Requirements throughout the bidding process and till execution of the Implementation & Service Agreement. Where the Technically Evaluated Entity and/or the Financially Evaluated Entity is not the Bidding Company or a Member in a Bidding Consortium, as the case may be, the Bidding Company or Member shall continue to be an Affiliate of the Technically Evaluated Entity and/or Financially Evaluated Entity till the execution of the Implementation & Service Agreement. Failure to comply with the aforesaid provisions shall make the Bid liable for rejection at any stage.
- 2.1.8 The Bidder including any Consortium Member or Affiliate should not have been:
- a. charge-sheeted by any agency of the Government or convicted by a Court of Law with regard to matters relating to security and integrity of the country.
  - b. blacklisted and/or debarred by any government department and/ or government entity;
  - c. undischarged insolvent;
  - d. willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
  - e. prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities market.

Further, CEO or any of the directors/ manager/key managerial personnel of the Bidder/Consortium Member or their Affiliate should not have been:

- a. charge-sheeted by any agency of the Government or convicted by a Court of Law with regard to matters relating to security and integrity of the country.
- b. convicted for any offence punishable with imprisonment –
  - i) for two years or more under any Act specified under the Twelfth Schedule of Insolvency and Bankruptcy Code, 2016; or
  - ii) for seven years or more under any law for the time being in force

Provided that above clause b. shall not apply to a person after the expiry of a period of two years from the date of release from imprisonment;

- c. prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities market.

In case any investigation is pending against the Bidder, including any Consortium Member or Affiliate, or CEO or any of the directors/ manager/key managerial personnel of the Bidder /Consortium /Member or their Affiliates, full details of such investigation including the name of the investigating agency, the charge/offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed while submitting the Bid.

The Bidders shall confirm the above through a notarized affidavit as per Annexure 23.

## **2.2 Submission of Bid by the Bidder**

- 2.2.1 The information and documents in Technical Bid will be submitted by the Bidder as per the formats specified in Section – 4 (Formats for RFP) of this document
- 2.2.2 Strict adherence to the formats wherever specified, is required. Wherever, information has been sought in specified formats, the Bidder shall refrain from referring to brochures/ pamphlets. Non-adherence to formats and/ or submission of incomplete information may be a ground for declaring the Technical Bid as non-responsive. Each format has to be duly signed and stamped by the authorized signatory of Bidder.
- 2.2.3 The Technical Bid shall contain unconsolidated/consolidated audited annual accounts (consisting of unabridged Balance Sheet, Profit and Loss Account, profit appropriation account, Auditors Report, etc.), as the case may be, of Bidding Company or each Member in Consortium including Lead Member or the Financially Evaluated Entity for the last financial year immediately preceding the last date for submission of Bid for the purpose of calculation of Network.

In case the annual accounts for the financial year immediately preceding the Bid Deadline is not audited, the Bidder shall give an undertaking to this effect duly certified by its statutory auditor. In such a case, the Bidder shall provide the audited annual accounts for 3 (three) years preceding the financial year as above for which the annual accounts has not been audited.

### **2.2.4 Bid submitted by a Bidding Consortium:**

- 2.2.4.1 The Technical Bid shall contain a legally enforceable Consortium Agreement entered amongst the Members in the Bidding Consortium, designating one of the Members to be the Lead Member (as per Annexure 6). There shall be only one Lead Member which shall continue to hold twenty six percent (26%) equity in the TSP and cannot be changed upto two (2) years from the Commercial Operation Date (COD) of the Project. Each Member in Bidding Consortium shall duly sign the Consortium Agreement making it liable for raising the required funds for its respective equity investment commitment as specified in

the Consortium Agreement. In absence of Consortium Agreement, the Technical Bid will not be considered for evaluation and will be rejected.

Provided that the Lead Member of the Bidding Consortium will be required to be liable to the extent of 100% of the total proposed commitment of equity investment of the Bidding Consortium i.e. for both its own liability as well as the liability of other Members.

Provided further that the Consortium Agreement shall not be amended without the explicit approval of the BPC.

The Lead Member of the Consortium will be the single point of contact for the purposes of the bid process before the date of signing of Share Purchase Agreement. Settlement of any dispute amongst the Consortium Members shall not be the responsibility of the BPC and/or the CTU and the BPC and/or the CTU shall not bear any liability whatsoever on this account.

2.2.4.2 The Lead Member should designate one person to represent the Consortium in its dealings with the BPC. The person designated by the Lead Member should be authorized through a Power of Attorney (as per Annexure 3) to perform all tasks including, but not limited to providing information, responding to enquiries, signing of Technical Bid on behalf of the Consortium, etc. The Bidding Consortium shall provide board resolutions from their respective Boards for committing their respective portion of equity requirement for the Project. Additionally, the Lead member shall provide a Board resolution committing to make good any shortfall in the equity for the project, in case of any member not meeting its equity commitment.

2.2.4.3 The Technical Bid should also contain signed Letter of Consent (as per Annexure 2) from each Member in Consortium confirming that the entire Technical and Financial Bids has been reviewed and each element of the Technical and Financial Bids is agreed to by them including investment commitment for the Project.

In addition, the Technical Bid should also contain Board Resolution from each Member of the Consortium other than the Lead Member in favour of their respective authorized representatives for executing the POA, Consortium Agreement and signing of the requisite formats.

2.2.5 Bid submitted by a Bidding Company

2.2.5.1 The Bidding Company should designate one person to represent the Bidding Company in its dealings with BPC. The person should be authorized to perform all tasks including, but not limited to providing information, responding to enquiries, signing of Technical and Financial Bids etc. The Bidding Company should submit, along with Technical Bid, a Power of Attorney (as per Annexure 3), authorizing the signatory of the Technical and Financial Bids. The Bidding Company shall submit the board resolution committing 100% of equity requirement for the Project, in the Technical Bid.

**2.3 Clarifications & Pre-Bid Meeting**

2.3.1 The Bidders may seek clarifications or suggest amendments to the RFP by sending an email to the BPC at the email id indicated in Clause 2.14 within the date and time

mentioned in Clause 2.7.2. For any such clarifications or amendments, the Bidders should adhere to the format as per Annexure – 20.

- 2.3.2 Only those Bidders or their authorized representatives, who have purchased the RFP documents are invited to attend the pre-bid meeting(s), which will take place on date as specified in Clause 2.7.2, or any such other date as notified by the BPC. The time and address of this would be intimated later.
- 2.3.3 The purpose of the pre-bid meeting will be to clarify any issues regarding the RFP, including in particular, issues raised in writing by the Bidders as per the provisions of Clause 2.3.1.
- 2.3.4 Non-attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.
- 2.3.5 The BPC is not under any obligation to entertain / respond to suggestions made or to incorporate modifications sought for.
- 2.3.6 In case Bidders need any further clarifications not involving any amendments in respect of final RFP, they should ensure that request for such clarification is submitted through e-mail to the BPC at least ten (10) days prior to the Bid Deadline as mentioned in Clause 2.7.1. The BPC may issue clarifications only, as per its sole discretion, which is considered reasonable by it. Any such clarification issued shall be sent to all the Bidders to whom the RFP has been issued. Clarifications sought after this date shall not be considered in any manner and shall be deemed not to have been received. There shall be no extension in Bid Deadline on account of clarifications sought as per this clause 2.3.6.

## 2.4 Amendment of RFP

- 2.4.1. At any time before the timeline mentioned in Clause 2.7.1, the BPC may, for any reason, whether at its own initiative or in response to clarifications requested by any Bidder modify or amend the RFP, including the timelines specified in Clause 2.7.2 by issuance of addendum/modification/errata and/or revised document. Such document shall be notified in writing through a letter or fax or e-mail to all the entities to whom the RFP has been issued and shall be binding on them. In order to ensure that Bidders have reasonable time to take the modification into account in preparing their Bid, or for any other reasons, BPC may at its discretion, extend the due date for submission of Bid. Late receipt of any addendum/modification/errata and/or revised document will not relieve the Bidder from being bound by that modification.
- 2.4.2. All modifications shall become part of the terms and conditions of this RFP. No interpretation, revision or communication regarding this RFP is valid, unless made in writing.
- 2.4.3. The amendment to the RFP shall be notified to all the Bidders through the electronic bidding platform and shall be binding on them.

## 2.5 The Bidding Process

The entire bidding process shall be conducted on electronic bidding platform created by ..... [Insert name of Service Provider]. The Bid shall comprise of the Technical Bid

and the Financial Bid. The Bidders shall submit the Technical Bid & Financial Bid through the electronic bidding platform. In addition to the online submission, the Bidders must make physical submission of the Technical Bid in one (1) original and one (1) copy. There should be no physical submission of the Financial Bid.

Evaluation of Technical Bid will be carried out considering the information and documents furnished by the Bidders as required under this RFP. This step would involve responsiveness check, technical and financial evaluation of the details/ documents furnished by the Bidding Company / Bidding Consortium in support of meeting the Qualification Requirements. Bidders meeting the Qualification Requirements, subject to evaluation as specified in Clause 3.2 to 3.4 shall be declared as “Qualified Bidders” and eligible for opening of Initial Offer.

The Financial Bid will comprise of two rounds. In the first round the Initial Offer (submitted online along with the Technical Bids) of the responsive bids would be opened and Levelised Transmission Charges of Initial Offer shall be ranked on the basis of ascending order for determination of the Qualified Bidders as provided in Section-III of RFP. The Qualified Bidders, holding first fifty per cent of the ranks (with any fraction rounded off to higher integer) or four Qualified Bidders, whichever is higher, shall be considered to be the qualified for participating in the electronic reverse auction stage and submit their Final Offer.

Provided however, in case only one Bidder remains after the evaluation of Technical Bid as per Clause 3.2, 3.3 and Clause 3.4, the Initial Offer of such Bidder shall not be opened and the matter shall be referred to the Government.

Provided that in the event the number of qualified Technical Bids is between two and four, then each of the qualified Bidder shall be considered as “Qualified Bidders”.

Provided that in the event of identical Levelised Transmission Charges derived from the Initial Offer having been submitted by one or more Bidders, all such Bidders shall be assigned the same rank for the purposes of determination of Qualified Bidders. In such cases, all the Qualified Bidders who share the same rank till 50% of the rank (with any fraction rounded off to higher integer) determined above, shall be allowed to participate in the electronic e-reverse auction stage. In case 50% of the ranks (with any fraction rounded off to higher integer) is having less than 4 (four) Bidders and the rank of the fourth (4<sup>th</sup>) Bidder is shared by more than one (1) Bidder, then all such Bidders who share the rank of the fourth (4<sup>th</sup>) Bidder shall be allowed to participate in the electronic reverse auction.

The applicable ceiling Levelised Transmission Charges for electronic reverse bidding shall be the lowest Levelised Transmission Charges derived from the Initial Offer received from the Qualified Bidders. The Qualified Bidders shall be permitted to place their Final Offer on the electronic bidding platform, which is lower than zero point twenty five (0.25) % of the prevailing lowest Levelised Transmission Charges.

The initial period for conducting the e-reverse bidding should be 2 hours which will be extended by 45 minutes from the last received bid time, if the bid is received during the last 45 minutes of the scheduled or extended bid time. Subsequently, it will be extended again by 45 minutes from the latest received bid time.

The technical details with respect to access to such electronic platform are provided in Annexure-A (Technical Details with respect to electronic auction).

In case of any technical clarification regarding access to the electronic auction platform or conduct of the auction process, the Bidders may contact ..... [Insert name of Service Provider directly at the address provided in Annexure-A.

### 2.5.1 Bid Formats

The Bids in response to this RFP will be submitted online through the electronic bidding platform by the Bidders in the manner provided in Clause 2.9. The Bids shall comprise of the following:

### 2.5.2 Technical Bid comprising of:

1. Covering Letter (as per prescribed format enclosed as **Annexure 1**);
2. Letter of Consent from Consortium Members in **Annexure 2**;
3. Original power of attorney issued by the Bidding Company or the Lead Member of the Consortium, as the case may be, in favour of the person signing the Bid, in the form attached hereto as **Annexure 3**.

Additionally, in case of a Bidding Consortium, the power of attorney in favour of the Lead Member issued by the other Members of the Consortium shall be provided in Original as per format attached hereto as **Annexure 4**. Further, the Lead Member shall furnish Board resolution(s) from each Member of the Consortium other than the Lead Member in favour of their respective authorized representatives for executing the POA and signing of the requisite formats.

Provided that in the event the Bidding Company or the Lead Member of the Consortium or any Member of the Bidding Consortium, as the case may be, is a foreign entity, it may issue Board resolutions in place of power of attorney for the purpose of fulfilling these requirements.

4. Bidder's composition and ownership structure in **Annexure 5**
5. Format for Authorization submitted in Non-Judicial stamp paper duly notarized as per **Annexure 5** from the Bidding Company / each Member of the Consortium authorizing the BPC to seek reference from their respective bankers & others.
6. In case of Bidding Consortium, the Consortium Agreement shall be provided in Original as per format attached hereto as **Annexure 6**
7. Format of Qualification Requirement (**Annexures 7A, 7B, 7C and 7D**)
8. Bidders Undertakings and details of equity investment in Project (as per prescribed formats 1 and 2 of **Annexure 8**);

9. Authorization from Parent / Affiliate of Bidding Company / Member of Bidding Consortium whose technical / financial capability has been used by the Bidding Company / Member of Bidding Consortium (**Annexure 9**).
10. Undertaking from the Technically / Financially Evaluated Entity(ies) **OR** Undertaking from the Ultimate Parent Company, for total equity investment commitment, in the prescribed format in **Annexure – 10**, to meet any shortfall in the equity investment by the Selected Bidder in the \_\_\_\_\_ [Name of SPV].

**Note:** The effective Equity holding of the Selected Bidder in the \_\_\_\_\_ [Name of SPV], as specified in Clause 2.5.8.1 shall be computed as per the provisions of Clause 2.5.8.3 of this RFP.

Provided further, in case the Bidding Company or Member of a Consortium, (as the case may be) holds more than fifty percent (50%) equity in such Technically/ Financially Evaluated Entities, whose credentials have been considered for the purpose of meeting the Qualification Requirements as per the RFP, no such Undertaking shall be required from the Technically / Financially Evaluated Entities.

11. Board resolutions, as per prescribed formats enclosed as Annexure – 11, duly certified by the Company Secretary or any Whole-time Director / Manager (supported by a specific Board Resolution), as applicable to the Bidder and mentioned hereunder,
  - (a) Board resolution from the Bidding Company (and any investing Affiliate / Parent Company / Ultimate Parent Company) committing one hundred percent (100%) in aggregate of the equity requirement for the Project - Format-1 of **Annexure 11**;
  - (b) Board resolutions from each of the Consortium Member of the Bidding Consortium (and any investing Affiliate / Parent Company / Ultimate Parent Company) together committing to one hundred percent (100%) in aggregate of equity requirement for the Project, in case Bidder is a Bidding Consortium - Format-1 of **Annexure 11**;
  - (c) In either of the cases as in (a) or (b) above as applicable, Board resolutions as per Format 2 of **Annexure 11** for total equity investment commitment from the Technically / Financially Evaluated Entity(ies) whose technical / financial credentials had been considered for the purpose of meeting Qualification Requirements as per the RFP

**OR**

Board resolutions as per Format 2 of **Annexure 11** from the Parent Company or the Ultimate Parent Company for total equity investment commitment.

Provided that such Board resolutions, as specified in (a) or (b) or (c) above, in case of a foreign entity, shall be supported by an unqualified opinion issued by an independent legal counsel practicing in the relevant country, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing company and the authorizations granted therein are true and valid.

For clarity sake, illustrations identifying which Board Resolution shall be applicable in typical cases are provided in **Annexure 11A**.

12. Format for Illustration of Affiliates as on seven (7) days prior to Bid Deadline, duly certified by Company Secretary and supported by documentary evidence (**Annexure 12**).

Certified copy of the Register of Members / Demat Account Statement, Share Certificate, Annual Return filed with ROC etc. submitted as documentary evidence along with **Annexure 12**.

13. Disclosure as per **Annexure 13** regarding participation of any related companies in this bidding process.
14. Bid Bond, as per the prescribed format at **Annexure 14**;
15. Contract Performance Guarantee, as per the prescribed format at **Annexure 15**;
16. Checklist for Technical Bid submission requirements as per **Annexure 16**.
17. Last three (3) financial years' unconsolidated / consolidated audited annual accounts / statements, as the case may be, of the Financially Evaluated Entity / Technical Evaluated Entity
18. Unconsolidated audited annual accounts of both the TEE and the Bidding Company/Lead member, as applicable, for the financial years in which financial closure was achieved and the financial year in which the said project was completed / commissioned.
19. Copy of the Memorandum and Articles of Association and certificate of incorporation or other organizational document (as applicable), including their amendments, certified by the Company Secretary of Bidding Company or each Member in case of a Consortium including Lead Member.
20. For each project listed in Annexure 7(D), certified true copy of the certificates of final acceptance and / or certificates of good operating performance duly issued by owners or clients for the project, duly signed by any whole time Director/Manager (supported by a specific Board resolution).

In addition to the online submission of above formats through the electronic platform, the bidder is also required to submit the Technical Bid, in one (1) original plus one (1) copy, to the office of BPC by the date and time mentioned in this RFP.

### **2.5.3 Financial Bid (as per prescribed format at Annexure-22)**

Financial Bid shall comprise of: (i) the Initial Offer; and (ii) the Final Offer. The Initial Offer is required to be submitted along with the Technical Bid. It is hereby clarified that the Financial Bid will comprise of two rounds. In the first round the Initial Offer of the responsive bids would be opened and Levelised Transmission Charges of Initial Offer shall



be ranked on the basis of ascending order for determination of the Qualified Bidders as provided in Section-III of RFP.

In accordance with clause 2.5 of this RFP, the qualified Bidders shall be eligible to participate in the electronic auction and submit their Final Offer.

The applicable ceiling Levelised Transmission Charges for electronic reverse bidding shall be the lowest Levelised Transmission Charges derived from the Initial Offer received from the Qualified Bidders. The Qualified Bidders shall be permitted to place their Final Offer on the electronic bidding platform, which is lower than zero point twenty five (0.25) % of the prevailing lowest Levelised Transmission Charges.

The initial period for conducting the e-reverse bidding should be 2 hours which will be extended by 45 minutes from the last received bid time, if the bid is received during the last 45 minutes of the scheduled or extended bid time. Subsequently, it will be extended again by 45 minutes from the latest received bid time.

The Bidders shall inter-alia take into account the following while preparing and submitting the Initial Offer and Final Offer of Financial Bid :-

- a. The Bidders shall quote Transmission Charges having two components, namely:
  - i Quoted Escalable Transmission Charges, and
  - ii Quoted Non-Escalable Transmission Charges
- b. In case of Quoted Escalable Transmission Charges, the Bidders shall quote charges only for the first Contract Year after Scheduled COD of the Project, subject to Sl. No. (f) below.
- c. Ratio, rounded to two decimal places, of minimum and maximum Quoted Transmission Charges during the term of Implementation & Service Agreement shall not be less than zero point seven (0.7) and this ratio shall be applied only at the Bid evaluation stage on the Quoted Transmission Charges after duly escalating the Quoted Escalable Transmission Charges on the basis of the escalation rates specified in Clause 3.5.1.3. The Escalable Transmission Charges (after duly escalating the Quoted Escalable Transmission Charges on the basis of the escalation rates specified in Clause 3.5.1.3 for any Contract Year should not exceed fifteen percent (15%), rounded to two decimal places, of the corresponding Quoted Non-Escalable Transmission Charges for that Contract Year, and this percentage shall be applied only at the Bid evaluation stage.
- d. The Quoted Transmission Charges as per the format at Annexure-22 shall be inclusive of all charges and no exclusions shall be allowed. The Bidders shall take into account all costs including capital and operating, statutory taxes, duties, levies. Availability of the inputs necessary for operation and maintenance of the Project should be ensured by the TSP at the Project site and all costs involved in procuring the inputs (including statutory taxes, duties, levies thereof) at the Project site must be included in the Quoted Transmission Charges.

- e. Bidders are required to quote Transmission Charges for the Contract Years, for a period of 35 years commencing from the Scheduled COD of the Project, as per the format at Annexure – 22.
- f. Bidders shall have the option to quote firm Quoted Transmission Charges for the period of 35 years commencing from the Scheduled COD of the Project i.e., where the Quoted Escalable Transmission Charges shall be ‘nil’ for all the Contract Years.
- g. Annexure 21 duly digitally signed by authorized signatory.

2.5.4 Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from referring to any other document for providing any information required in the prescribed format.

### **2.5.5 Transmission Charges**

- 2.5.5.1. The Transmission Charges shall be as specified in the Implementation & Service Agreement and shall be payable to the TSP in Indian Rupees only. The Bidders shall quote Transmission Charges for each Contract Year during the term of the ISA as per the format at Annexure – 22.
- 2.5.5.2. The Transmission Charges of the Selected Bidder shall be inserted in Schedule 5 of the Implementation & Service Agreement.

### **2.5.6 Bidders may note that:**

- a) All the information and documents in Bid shall be submitted in English language only.
- b) Bidders shall mention the name, designation, telephone number, fax number, email address of the authorized signatory and complete address of the Bidder in the covering letter.
- c) All pages of the Bid submitted shall be initialed and stamped by the authorized signatory on behalf of the Bidder.
- d) A Bidder shall submit only one Bid in the same bidding process, either individually as Bidding Company or as a Member of a Bidding Consortium.
- e) The technical and financial capability of a particular company / particular project (Parent and/ or Affiliate) shall not be used directly or indirectly by more than one Bidder/ Member of a Bidding Consortium including Lead Member / Bidding Company.
- f) This Request for Proposal (RFP) document is not transferable. The RFP document and the information contained therein is for the use only by the Bidder to whom it is issued. It may not be copied or distributed by the recipient to third parties (other than in confidence to the recipient’s professional advisors). In the event that the recipient does not continue with its involvement in the Project, this RFP document must be kept confidential.

- g) Though adequate care has been taken while preparing this RFP document, the Bidder shall satisfy himself that the document is complete in all respects. Intimation of any discrepancy shall be given to the BPC immediately. If no intimation is received from any Bidder within ten (10) days from the date of issue of RFP document, it shall be considered that the RFP document is complete in all respects and has been received by the Bidder.
- h) Bids submitted by the Bidder and opened on scheduled date and time as stipulated in this RFP shall become the property of the BPC and BPC shall have no obligation to return the same to the Bidder.
- i) If any Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its Bid, in any manner whatsoever, the BPC reserves the right to reject such Bid or cancel the Letter of Intent, if issued. If such event is discovered after the Effective Date, consequences specified in Implementation & Service Agreement shall apply.
- j) If for any reason the Bid of the Bidder with the lowest evaluated Levelised Transmission Charges is not selected or Letter of Intent issued to such Selected Bidder is cancelled **or such Bidder withdraws its Bids**, the BPC may :-
- i. Invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the Bidder with the lowest evaluated Levelised Transmission Charges (the “second round of bidding”) with following cases:
    - If in the second round of bidding, only one Bidder matches the Bid of the Bidder with lowest evaluated Levelised Transmission Charges, it shall be the Selected Bidder.
    - If two or more Bidders match the Bid of the Bidder with the lowest evaluated Levelised Transmission Charges in the second round of bidding, then the Bidder whose Levelised Tariff was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the Bid of the Bidder with lowest evaluated Levelised Transmission Charges in the second round of bidding, the said third lowest Bidder shall be the Successful Bidder.
    - In the event that no Bidder offers to match the Bid of the Bidder with the lowest evaluated Levelised Transmission Charges in the second round of bidding, the BPC may, in its discretion, invite fresh Bids (the “third round of bidding”) from all Bidders except the Bidder which quoted the lowest evaluated Levelised Transmission Charges in the first round of bidding. In case the Bidders are invited for the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are lower than the Levelised Tariff of the second lowest Bidder in the first round of bidding; or;
  - ii. Annul the bid process; or

- iii. Take any such measure as may be deemed fit in the sole discretion of the BPC<sup>1</sup>
- k) The BPC may, at its sole discretion, ask for additional information / document and/or seek clarifications from a Bidder after the Bid Deadline, inter alia, for the purposes of removal of inconsistencies or infirmities in its Bid. However, no change in the substance of the Quoted Transmission Charges shall be sought or permitted by the BPC.
- l) Non submission and/or submission of incomplete data/ information required under the provisions of RFP shall not be construed as waiver on the part of BPC of the obligation of the Bidder to furnish the said data / information unless the waiver is in writing.
- m) Bidders shall familiarize itself with the procedures and time frames required to obtain all Consents, Clearances and Permits.
- n) All Bidders are required to ensure compliance with the standards and codes mentioned in Clause 1.6.1.2.
- o) BPC reserves the right to reject all Bids and/or annul the process of tariff based competitive bidding for selection of TSP to execute the Project without assigning any reason. BPC shall not bear any liability, whatsoever, in this regard.
- p) Foreign companies submitting the Bid are required to follow the applicable law in their country for execution of POA, Consortium Agreement and affixation of Common Seal (wherever required) and in such cases, their Bid should be supported by an unqualified opinion issued by an independent legal counsel practicing in the relevant country, stating that execution of such POA, Consortium Agreement and the authorizations granted therein are true and valid. Foreign companies executing POA outside India shall necessarily pay the adequate stamp charges in India as per the provisions of Stamp Act.

### 2.5.7 Bidders to inform themselves fully

2.5.7.1. The Bidders shall make independent enquiry and satisfy themselves with respect to all the required information, inputs, conditions and circumstances and factors that may have any effect on his Bid. Once the Bidders have submitted their Bids, the Bidders shall be deemed to have inspected and examined the site conditions (including but not limited to its surroundings, its geological condition and the adequacy of transport facilities to the site), the laws and regulations in force in India, the transportation facilities available in India, the grid conditions, the adequacy and conditions of roads, bridges, railway sidings, ports, etc. for unloading and/or transporting heavy pieces of material and has based its design, equipment size and fixed its price taking into account all such relevant conditions and also the risks, contingencies and other circumstances which may influence or affect the transmission of power. Accordingly, each Bidder acknowledges that, on being selected as Successful Bidder and on acquisition of one hundred percent (100%) of the equity shares of the \_\_\_\_\_[Insert Name of SPV], the TSP shall not be relieved from any of its obligations under the RFP Project Documents nor shall the TSP be entitled to any extension in Scheduled COD mentioned in this RFP or financial

<sup>1</sup> BPC shall record reasons for the same.

compensation for any reason whatsoever.

- 2.5.7.2. In their own interest, the Bidders are requested to familiarize themselves with all relevant laws of India, including without limitation, the Electricity Act 2003, the Income Tax Act 1961, the Companies Act, 1956 / Companies Act, 2013 (as the case may be), Environment Protection Act 1986 and Forest (Conservation) Act, 1980, the Customs Act, the Foreign Exchange Management Act, Land Acquisition Act, 1894, the Indian Telegraph Act 1885, Labour & Employment Laws of India, [Insurance Act] the regulations/standards framed by the Commissions and CEA, all other related acts, laws, rules and regulations prevalent in India, as amended from time to time.

In addition to the above, the Bidders are required to familiarize themselves with all relevant technical codes and standards, including but not limited to the Grid Code / State Grid Code, Central Electricity Authority (Installation and Operations of Meters) Regulations, 2006, Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, Central Electricity Regulatory Commission Grant of Connectivity, Long-term Access and Medium - Term Open Access in Inter-State Transmission and related matters) Regulations, 2009 along with related amendments brought in from time to time.

The BPC shall not entertain any request for clarifications from the Bidders regarding the above laws / acts / rules / regulations / standards. Non-awareness of the same shall not be a reason for the Bidder to request for extension in Bid Deadline. The Bidders undertake and agree that, before submission of their Bid, all such factors as generally brought out above, have been fully investigated and considered while submitting their Bids.

- 2.5.7.3. Bidders may visit the route of the Transmission Lines associated with the Project and the surrounding areas and obtain / verify all information which they deem fit and necessary for the preparation of their Bid.
- 2.5.7.4. The BPC has carried out a survey of the Transmission Lines associated with the Project and shall provide each Bidder with its Survey Report of the Project. Bidders in their own interest should carry out required surveys and field investigation for submission of their Bid.
- 2.5.7.5. Failure to investigate the route of the Transmission Lines associated with the Project and to examine, inspect site or subsurface conditions fully shall not be grounds for a Bidder to alter its Bid after the Bid Deadline nor shall it relieve a Bidder from any responsibility for appropriately eliminating the difficulty or costs of successfully completing the Project.
- 2.5.7.6. The Selected Bidder shall obtain all necessary Consents, Clearances and Permits as required. The Bidders shall familiarize itself with the procedures and time frame required to obtain such Consents, Clearances and Permits.
- 2.5.7.7. The technical requirements of integrated grid operation are specified in the Indian Electricity Grid Code (IEGC). The Bidders should particularly acquaint themselves with the requirements of connection conditions, operating code for regional grids, scheduling and dispatch instructions/codes, etc. The Bidders are also advised to fully familiarize themselves with the real time grid conditions in the country. Information regarding grid parameters such as voltage and frequency is available on the websites of Regional / State Load Despatch

Centres.

### 2.5.8 Minimum Equity holding/Equity Lock-in

2.5.8.1. (a) The aggregate equity share holding of the Selected Bidder, in the issued and paid up equity share capital of \_\_\_\_\_ [Insert Name of SPV] shall not be less than the following:

(i) Fifty one percent (51%) up to a period of (2) two years after COD of the Project; and

(b) In case the Selected Bidder is a Bidding Consortium, then any Member (other than the Lead Member) of such Bidding Consortium shall be allowed to divest its equity as long as the other remaining Members (which shall always include the Lead Member) hold the minimum equity specified in (i) and (ii) above.

(c) If equity is held by the Affiliates, Parent Company or Ultimate Parent Company, then subject to the second proviso of this Clause 2.5.8.1 (c), such Affiliate, Parent Company or Ultimate Parent Company shall be permitted to transfer its shareholding in \_\_\_\_\_[Insert name of SPV] to another Affiliate or to the Parent Company / Ultimate Parent Company. If any such shareholding entity, qualifying as an Affiliate / Parent Company / Ultimate Parent Company, is likely to cease to meet the criteria to qualify as an Affiliate / Parent Company / Ultimate Parent Company, the shares held by such entity shall be transferred to another Affiliate / Parent Company / Ultimate Parent Company.

Provided that in case the Lead Member or Bidding Company is holding equity through Affiliate/s, Ultimate Parent Company or Parent Company, such restriction shall apply to such entities.

Provided further, that the aggregate equity share holding of the Bidding Consortium or a Bidding Company in the issued and paid up equity share capital of \_\_\_\_\_[Insert name of SPV] shall not be less than fifty one percent (51%) up to a period of two (2) years after COD of the Project and the lead Member of the Consortium shall have the equity share holding not less than twenty six percent (26%). In case the Selected Bidder is a Bidding Consortium, then any Member (other than the Lead Member) of such Bidding Consortium shall be allowed to divest its equity as long as the other remaining Members (which shall always include the Lead Member) hold the minimum equity specified in (a)(i) and (a)(ii) above.

(d) All transfer(s) of shareholding of \_\_\_\_\_[Insert name of SPV] by any of the entities referred to above, shall be after prior written permission from the Central Transmission Utility.

2.5.8.2. The Selected Bidder may invest in the equity share capital of \_\_\_\_\_ [Insert name of SPV] through its Affiliate(s) or Ultimate Parent Company or Parent Company. Details of such investment will have to be specified in the Technical Bid as per Format 2 of Annexure 8 of the RFP. If the Selected Bidder so invests through any Affiliate(s) or Ultimate Parent Company or Parent Company, the Selected Bidder shall be liable to ensure that minimum equity holding/lock-in limits specified in Clause 2.5.8.1 and as computed as per the provisions of Clause 2.5.8.3 are still maintained.

2.5.8.3. For computation of effective Equity holding, the Equity holding of the Selected Bidder or its Ultimate Parent Company in such Affiliate(s) or Parent Company and the equity holding of such Affiliate (s) or Ultimate Parent Company in \_\_\_\_\_ [Insert name of SPV] shall be computed in accordance with the example given below:

If the Parent Company or the Ultimate Parent Company of the Selected Bidder A directly holds thirty percent (30%) of the equity in \_\_\_\_\_ [Insert name of SPV] then holding of Selected Bidder A in \_\_\_\_\_ [Insert name of SPV] shall be thirty percent (30%);

If Selected Bidder A holds thirty percent (30%) equity of the Affiliate and the Affiliate holds fifty percent (50%) equity in \_\_\_\_\_ [Insert name of SPV], then for the purposes of ascertaining the minimum equity/equity lock-in requirements specified above, the effective holding of Bidder A in \_\_\_\_\_ [Insert name of SPV] shall be fifteen percent (15%), (i.e., 30% \* 50%);

2.5.8.4. The provisions as contained in this Clause 2.5.8 and Article 18.1 of the Implementation & Service Agreement shall override the terms of the Consortium Agreement submitted by the Bidder as part of the RFP.

**2.6 Project Schedule**

2.6.1. All Elements of the Project are required to be commissioned progressively as per the schedule given in the following table;

S. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on Scheduled COD of the Element of the Project	Element(s) which are pre-required for declaring the commercial operation (COD) of the respective Element  [BPC to insert precedence of commissioning of Element(s)] in project specific RFP and RFP Project Documents]
1.				
2.				

S. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on Scheduled COD of the Element of the Project	Element(s) which are pre-required for declaring the commercial operation (COD) of the respective Element  [BPC to insert precedence of commissioning of Element(s)] in project specific RFP and RFP Project Documents]
3.				
4.				
5.				

The payment of Transmission Charges for any Element irrespective of its successful commissioning on or before its Scheduled COD shall only be considered after successful commissioning of the Element(s) which are pre-required for declaring the commercial operation of such Element as mentioned in the above table.

Scheduled COD for overall Project: ..... [Insert Months envisaged for achieving Scheduled COD of the Project] months from Effective Date.

Note: List of Element(s) along with the critical Element(s) to be provided by CEA

**2.7 Due dates**

2.7.1. The Bidders should submit the Bids online through the electronic bidding platform before the Bid Deadline and submit the Technical Bids, in one (1) original plus one (1) copy so as to reach the address specified in Clause 2.9.4 by .....hrs (IST) [Insert last time of Bid Deadline] on .....[Insert Bid Deadline date].

2.7.2. Important timelines are mentioned below:

Date	Event
[Issue of RFP Date]	Issuance of RFP
[Issue of RFP Date + 20 Days]	Submission of written clarifications/amendments, if any, on the RFP / RFP Project Documents by Bidders so as to reach BPC by



Date	Event
	1700 hours. Such written clarifications/amendments shall be in the format provided in Annexure-20.
[Insert Date(s) of pre-bid]	Pre-Bid meeting(s)
[Issue of RFP Date + 38 Days]	Issue of written clarifications and revised RFP documents
[Issue of RFP Date + 56 Days]	Issue of final RFP Project Documents
[Issue of RFP Date + 63 Days]	Submission of Bid (Online submission of Bid through electronic bidding portal and physical submission of Technical Bid))
[Issue of RFP Date + 63 Days]	Opening of Technical Bid
[Issue of RFP Date + 71 Days]	Shortlisting and announcement of Qualified Bidders
[Issue of RFP Date + 72 Days]	Opening of Financial Bid - Initial Offer
[Issue of RFP Date + 73 Days]	Electronic auction (Financial Bid – Final Offer) for the Qualified Bidders.
8 days post closed of e-reverse bidding process	Selection of Successful Bidder and issue of LOI
10 days post issuance of LoI	Signing of RFP Project Documents and transfer of .....[Insert Name of SPV]

2.7.3. To enable BPC to meet the schedule, all Bidders are expected to respond expeditiously during the bidding process. If any milestone/activity falls on a day which is not a working day or which is a public holiday then the milestone/activity shall be achieved/ completed on the next working day.

**2.8 Validity of the Bid**

2.8.1. The Bid shall remain valid for a period of one hundred and eighty (180) days from the Bid Deadline. The BPC reserves the right to reject any Bid which does not meet aforementioned validity requirement.

2.8.2. The BPC may solicit the Bidders’ consent for an extension of the period of validity of the Bid. The request and the response, thereafter, shall be in writing. In the event any Bidder refuses to extend its Bid validity as requested by the BPC, the BPC shall not be entitled to invoke the Bid Bond. A Bidder accepting the BPC’s request for validity extension shall not be permitted to modify its Bid and such Bidder shall, accordingly, extend the validity of the Bid Bond as requested by the BPC within seven (7) days of such request, failing which the Bid shall not be considered as valid.

**2.9 Method of Submission**

2.9.1. Both the Technical and Financial Bids duly filled in, all formats and supporting shall be scanned and uploaded online through electronic bidding platform. in the manner specified in Annexure A

2.9.2. Envelope containing the hard copy of Technical Bid in one (1) original plus one (1) copy to be submitted by Bidders, should be packed in a single closed envelope, with the following superscript:

**“Technical Bid for selection of Transmission Service Provider to  
..... [Insert name of the Project]”**

Due for opening on ..... [Insert Bid Deadline]

.....  
..... [Insert name of BPC]

“Name of the Bidder .....”

2.9.3. The Bidders have the option of sending their Technical Bids either by registered post; or speed post; or courier; or by hand delivery, so as to reach the BPC at the specified address by the Bid Deadline. Bids submitted by telex/telegram/fax/e-mail shall not be considered under any circumstances. The BPC shall not be responsible for any delay in receipt and submission of the Bids. Any Bid received by the BPC after the Bid Deadline shall be returned unopened.

Non submission of the hard copies of Bid post uploading in the electronic bidding platform or vice versa shall not be considered for evaluation purpose.

2.9.4. Hard copies of Technical Bids shall be submitted at the following address by the Bid Deadline specified in Clause 2.7.1. Non submission of the hard copies of Technical Bid post uploading in the electronic bidding platform or vice versa shall not be considered for evaluation purpose.

..... [Insert Designation of Authorized official of BPC]

..... [Insert name and address of BPC]

Tel. ....

Fax .....

Email: ..... [Insert contact details of Authorized Official of BPC]

2.9.5. It may be noted that Technical Bid shall not contain any information/document relating to Financial Bid. If Technical Bid contains any such information/documents, the BPC shall not be responsible for premature opening of the Financial Bid.

All pages of the Bid, except for the Bid Bond (Annexure 14) and any other document executed on non-judicial stamp paper, forming part of the Bid and corrections in the Bid, if any, must be signed by the authorized signatory on behalf of the Bidder. It is clarified that the same authorized signatory shall sign all pages of the Bid. However, any published document submitted in this regard shall be signed by the authorized signatory at least on the first and last page of such document.

2.9.6. Bidders shall submit the Technical Bid in one (1) original plus one (1) copy, duly signed by the authorized signatory of the Bidder. The original Bid shall be clearly marked

“ORIGINAL”, and all other copies are to be clearly marked “COPY OF BID”. In the event of any discrepancy between the online submission, original and the accompanying copy, only the online submission shall prevail.

- 2.9.7. No change or supplemental information to a Bid already submitted will be accepted after the Bid Deadline, unless the same is requested for by the BPC as per Clause 2.5.6 (k).

Provided that a Bidder shall always have the right to withdraw / modify its Bid before the Bid Deadline. In cases where the Technical Bid is withdrawn by the Bidder, then such Bid shall be returned unopened. No Technical Bid or Initial Offer shall be modified, substituted or withdrawn by the Bidder on or after the Bid Deadline.

- 2.9.8. If the outer cover envelope (Technical Bid) is not closed and not transcribed as per the specified requirement, the BPC will assume no responsibility for the Bid’s misplacement or premature opening.

## 2.10 Preparation cost

- 2.10.1. The Bidders shall be responsible for all the costs associated with the preparation of the Bid and participation in discussions and attending pre-bid meetings, and finalization and execution of the RFP Project Documents (other than the ISA), etc. BPC shall not be responsible in any way for such costs, regardless of the conduct or outcome of the process of tariff based competitive bidding for selection of TSP as per Bidding Guidelines.

- 2.10.2. The cost of this RFP is Rupees ..... (Rs. ....) or U.S. Dollar ..... Only (US\$ ...../-) [Insert RFP Document fee] plus GST as per applicable rate, which shall be non-refundable. This amount shall be payable by a crossed demand draft or banker’s cheque drawn in favour of ..... [Insert name of SPV], payable at .....[Insert place of SPV].

## 2.11 Bid Bond

- 2.11.1. Each Bidder shall submit the Bid accompanied by Bid Bond issued by any of the Banks listed in Annexure-17. The Bid Bond shall be valid for a period of thirty (30) days beyond the validity of the Bid.

- 2.11.2. Subject to the provisions of Clause 2.15.5, the Bid Bond may be invoked by the BPC or its authorized representative, without any notice, demure, or any other legal process upon occurrence of any of the following:

- Bidder withdraws during the period of Bid Validity as specified in this RFP or as extended by mutual consent of the respective Bidder(s) and the BPC
- Failure to execute the Share Purchase Agreement as per the provisions of Clause 2.15.2; or
- Failure to furnish the Contract Performance Guarantee as per Clause 2.12; or

- Failure to acquire one hundred percent (100%) equity shares of \_\_\_\_\_ [Insert Name of SPV], along with all its related assets and liabilities, in accordance with the provisions of Clause 2.15.2; or
- Failure to comply with the provisions of Clause 2.15.5 and Clause 2.15.6, leading to annulment of the award of the Project.
- Bidders submitting any wrong information or making any misrepresentation in their Bid as mentioned in Clause 2.5.6.

Intimation of the reasons of the invocation of the Bid Bond shall be given to the Selected Bidder by the BPC within three (3) working days after such invocation.

2.11.3. The Bid Bond of the Selected Bidder shall be returned on submission of the Contract Performance Guarantee as per Clause 2.12 and the relevant provisions of the Implementation & Service Agreement.

2.11.4. The Bid Bond of all the Bidders, whose Bids are declared non-responsive, shall be returned within a period of thirty (30) days after the date on which the Financial Bids are opened.

2.11.5. The Bid Bond of all unsuccessful Bidders shall be returned and released by the BPC on the same day on which the \_\_\_\_\_ [Insert name of SPV] is transferred to the Selected Bidder. The Bid Bond of the Successful Bidder shall be returned on submission of Contract Performance Guarantee as per Clause 2.12 of this RFP and the provisions of the Implementation & Service Agreement.

## 2.12 Contract Performance Guarantee

2.12.1. Within ten (10) days from the date of issue of the Letter of Intent, the Selected Bidder, on behalf of the TSP, will provide to the Nodal Agency the Contract Performance Guarantee for an amount of Rs. \_\_\_\_\_ Crore (Rupees \_\_\_\_\_ Only) [Contract Performance Guarantee would be computed on the basis of Rs. 13.5 lakhs per km for the total Transmission Line length (including all 765 kV, 400 kV and other lines irrespective of conductors per phase) and Rs. 1.125 lakhs per km for substations of the Project]. The Contract Performance Guarantee shall be initially valid for a period up to three (3) months after the Scheduled COD of the Project and shall be extended from time to time to be valid for a period up to three (3) months after the COD of the Project and thereafter shall be dealt with in accordance with the provisions of the Implementation & Service Agreement. The Contract Performance Guarantee shall be issued by any of the banks listed in Annexure-17.

2.12.2. In case the Selected Bidder is unable to obtain the Contract Performance Guarantee for the total amount from any one bank specified in Annexure-12, the Selected Bidder may obtain the same from not more than three (3) banks specified in Annexure-17.

## 2.13 Opening of Bids

2.13.1. Technical Bid will be opened as per the following time schedule and at the venue where the Bids are required to be submitted, as specified in Clause 2.9.4, in the presence of one representative from each of such Bidders who wish to be present:

..... [Insert name of the BPC]

Opening of Envelope (Technical Bid): ..... hours (IST) [Insert time of opening of Technical Bid] on ..... [Insert Bid Deadline date]

or such other dates as may be intimated by BPC to the Bidders.

In the event of any of above dates falling on a day which is not a working day or which is a public holiday, then the bids shall be opened on the next working day at the same venue and time.

Opening of Initial Offer: Initial Offer shall be opened by the Bid Process Coordinator in presence of the Bid Evaluation Committee at ..... hours (IST) [Insert time of opening of Initial Offer] on .....[Insert date of opening of Initial Offer].

2.13.2. The following information from each Bid will be read out to all the Bidders at the time of opening of Technical Bid:

- Name of the Bidding Company / Consortium Members in case of Bidding Consortium only, from Format-2 of Annexure-8 (Technical Bid)
- Details of Bid Bond (Technical Bid)

**Information to be provided after opening of Initial Offer:**

Only the lowest Initial Offer (s) shall be communicated to all the Qualified Bidders to participate in the e-reverse bidding process. During the e-reverse bidding process only the lowest prevailing Levelised bid should be visible to all the bidders on the electronic platform.

**2.14 Enquiries**

Written clarifications on the RFP and other RFP Project Documents as per Clause 2.3 and 2.4 may be sought from:

..... [Insert Designation of Authorized official of BPC]

.....

..... [Insert name and address of BPC]

Tel. ....

Fax .....

Email: ..... [Insert contact details of Authorized Official of BPC]

**2.15 Other Aspects**

2.15.1. The draft of the Implementation & Service Agreement has been attached to this RFP. In addition to above, the following documents have also been attached to this RFP:

- a) CERC approved Transmission Service Agreement, and
- b) CERC approved Revenue Sharing Agreement.

Further, the draft of the following RFP Project Documents shall be provided at least forty five (45) days before the Bid Deadline:

- a) Share Purchase Agreement,
- b) ..... [to be inserted by the BPC]

[Note: In case of project specific RFP, the above immediate paragraph to be removed in case all the RFP Project Documents are attached with this RFP]

When the drafts of the above RFP Project Documents are provided by the BPC, these RFP Project Documents shall form part of this RFP as per Formats – 1 & 2 of Annexure 20.

Upon finalization of the RFP Project Documents after incorporating the amendments envisaged in Clause 2.4 of this RFP, all the finalized RFP Project Documents shall be provided BPC to the Bidders at least twenty five (25) days prior to the Bid Deadline. Further, the BPC shall provide the final draft Implementation & Service Agreement at least seven (7) days prior to Bid Deadline.

The Implementation & Service Agreement and Share Purchase Agreement shall be signed in required number of originals so as to ensure that one (1) original is retained by each party to the Agreement(s) on the date of transfer of SPV.

2.15.2. Within ten (10) days of the issue of the Letter of Intent, the Selected Bidder shall:

- a) provide the Contract Performance Guarantee in favour of the Central Transmission Utility as per the provisions of Clause 2.12;
- b) execute the Share Purchase Agreement and the Implementation & Service Agreement;
- c) acquire, for the Acquisition Price, one hundred percent (100%) equity shareholding of \_\_\_\_\_ [Insert Name of SPV] from \_\_\_\_\_ [Insert name of holding company of SPV], who shall sell to the Selected Bidder, the equity shareholding of \_\_\_\_\_ [Insert Name of SPV], along with all its related assets and liabilities;

Stamp duties payable on purchase of one hundred percent (100%) of the equity shareholding of \_\_\_\_\_ [Insert Name of SPV], along with all its related assets and liabilities, shall also be borne by the Selected Bidder.

Provided further that, if for any reason attributable to the BPC, the above activities are not completed by the Selected Bidder within the above period of ten (10) days as mentioned in this Clause, such period of ten (10) days shall be extended, on a day for day basis till the end of the Bid validity period.

2.15.3. After the date of acquisition of the equity shareholding of \_\_\_\_\_ [Insert Name of SPV], along with all its related assets and liabilities, by the Selected Bidder,

- i. the authority of the BPC in respect of this Bid Process shall forthwith cease and any actions to be taken thereafter will be undertaken by the Nodal Agency,
- ii. all rights and obligations of \_\_\_\_\_ [Insert Name of SPV] , shall be of the TSP,
- iii. any decisions taken by the BPC prior to the Effective Date shall continue to be binding on the Nodal Agency and
- iv. contractual obligations undertaken by the BPC shall continue to be fulfilled by the TSP.
- v. Further, the TSP shall execute the supplementary agreement to the TSA and supplementary agreement to the RSA shall as per the provisions of the ISA.

2.15.4. Within three (3) days of the issue of the acquisition of the SPV by the Successful Bidder, the TSP shall apply to the Commission for grant of Transmission License and make an application to the Commission for the adoption of Transmission Charges, as required under Section – 63 of The Electricity Act 2003.

2.15.5. If the Selected Bidder / TSP fails or refuses to comply with any of its obligations under Clauses 2.15.2, 2.15.3 and 2.15.4, and provided that the other parties are willing to execute the Share Purchase Agreement and \_\_\_\_\_[Insert Name of holding company of the SPV] is willing to sell the entire equity shareholding of \_\_\_\_\_[Insert Name of SPV], along with all its related assets and liabilities, to the Selected Bidder, such failure or refusal on the part of the Selected Bidder shall constitute sufficient grounds for cancellation of the Letter of Intent. In such cases, the BPC / its authorized representative(s) shall be entitled to invoke the Bid Bond of the Selected Bidder.

2.15.6. If the TSP fails to obtain the Transmission License from the Commission, it will constitute sufficient grounds for annulment of award of the Project.

2.15.7. The annulment of award, as provided in Clauses 2.15.4 and 2.15.6 of this RFP, will be done by the Government on the recommendations of National Committee on Transmission. However, before recommending so, National Committee on Transmission will give an opportunity to the Selected Bidder / TSP to present their view point.

## 2.16 Confidentiality

2.16.1. The parties undertake to hold in confidence this RFP and RFP Project Documents and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

- a) to their professional advisors;
- b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities;

- c) disclosures required under Law, without the prior written consent of the other parties of the concerned agreements.

Provided that the TSP agrees and acknowledges that the Nodal Agency may at any time, disclose the terms and conditions of the RFP and RFP Project Documents to any person, to the extent stipulated under the Law or the Bidding Guidelines.

**2.17 Right of the BPC to reject any Bid**

BPC reserves the right to reject all or any of the Bids/ or cancel the RFP without assigning any reasons whatsoever and without any liability.

- 2.18** Non submission and/or submission of incomplete data/ information required under the provisions of RFP shall not be construed as waiver on the part of BPC of the obligation of the Bidder to furnish the said data / information unless the waiver is in writing.

**2.19 Fraudulent and Corrupt Practices**

2.19.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bid process and subsequent to the issue of the LoI Notwithstanding anything to the contrary contained herein, or in the LoI, the BPC shall reject a Bid, withdraw the LoI, as the case may be, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bid process. In such an event, the BPC shall forfeit the Bid Bond, without prejudice to any other right or remedy that may be available to the BPC hereunder or otherwise.

2.19.2. Without prejudice to the rights of the BPC under Clause 2.19.1 hereinabove and the rights and remedies which the BPC may have under the LoI, if a Bidder is found by the BPC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bid process, or after the issue of the LoI, such Bidder & its Affiliates shall not be eligible to participate in any tender or RFP issued by the BPC during a period of 10 (ten) years from the date such Bidder is found by the BPC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

2.19.3. For the purposes of this Clause 2.19, the following terms shall have the meaning hereinafter respectively assigned to them:

- a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bid process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the BPC who is or has been associated or dealt in any manner, directly or indirectly with the Bid process or the LoI or has dealt with matters concerning the Implementation & Service Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the BPC,



shall be deemed to constitute influencing the actions of a person connected with the Bid Process); or (ii) engaging in any manner whatsoever, whether during the Bid Process or after the issue of the LoI or after the execution of the Implementation & Service Agreement, as the case may be, any person in respect of any matter relating to the Project or the LoI or the Implementation & Service Agreement, who at any time has been or is a legal, financial or technical adviser of the BPC in relation to any matter concerning the Project;

- b) **"Fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bid process;
- c) **"Coercive practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bid process;
- d) **"undesirable practice"** means (i) establishing contact with any person connected with or employed or engaged by the BPC with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bid process; or (ii) having a Conflict of Interest; and
- e) **"Restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bid process.

**SECTION - 3**

**EVALUATION OF THE TECHNICAL AND FINANCIAL BID**

## SECTION 3

### 1. EVALUATION OF BID

#### 3.1. The evaluation process of Technical Bid comprises the following three steps:

- Step I – Responsiveness check
- Step II- Compliance with submission requirements
- Step III– Evaluation of Technical Bids
- Step IV– Evaluation of Financial Bids
- Step V – Bidder Selection

#### 3.2. STEP I – Responsiveness check

The Technical Bid submitted by the Bidder shall be initially scrutinized to establish “Responsiveness”. Subject to clause 2.5.6 (k), any of the following conditions shall cause the Technical Bid to be “Non-responsive”:

- a) Technical Bid that are incomplete.
- b) Technical Bid (both online submission through electronic bidding platform and physical submission of one (1) original and one (1) copy) not received by the scheduled date and time.
- c) Technical Bid not signed by authorized signatory and / or stamped in the manner indicated in this RFP.
- d) All pages of the Technical Bid submitted but not initialed by the authorized signatories on behalf of the Bidder.
- e) Technical Bid not including the covering letter as per Annexure 1.
- f) Technical Bid submitted by a Bidding Consortium not including the Consortium Agreement.
- g) Technical Bid contains material inconsistencies in the information and documents submitted by the Bidder, affecting the Qualification Requirements.
- h) Bidder submitting or participating in more than one Bid either as a Bidding Company or as a Member of Bidding Consortium.
- i) More than one Member of the Bidding Consortium or a Bidding Company using the credentials of the same Parent/Affiliate.
- j) Information not submitted in formats specified in the RFP.
- k) Applicable Board resolutions, or any other document, as provided in Clause 2.5.2, not being submitted;
- l) Bid not accompanied by a valid Bid Bond;

- m) Non submission of power of attorney, supported by a Board resolution;
- n) Bid validity being less than that required as per Clause 2.8 of this RFP;
- o) Bid not containing Format-1 (Bidders' Undertakings) of Annexure-8;
- p) Bidder having Conflict of Interest
- q) The Bidder has not submitted a disclosure as per Annexure 13.
- r) Bidders delaying in submission of additional information or clarifications sought by the BPC.
- s) If the Bidder makes any misrepresentation as specified in Clause 3.7.
- t) Bid being conditional in nature.
- u) More than one Member of the Bidding Consortium or a Bidding Company using the credentials of the same Parent/Affiliate.

### **3.3. STEP II - Compliance with submission requirements**

Each Bidder's Technical Bid shall be checked for compliance with the submission requirements set forth in this RFP before the evaluation of Technical Bid is taken up. Annexure 16 and Annexure 11A shall be used to check whether each Bidder meets the stipulated requirements.

### **3.4. STEP III -Evaluation of Technical Bid**

Evaluation of Technical Bid will be carried out considering the information and documents furnished by the Bidders as required under this RFP. This step would involve technical and financial evaluation of the details/ documents furnished by the Bidding Company / Bidding Consortium in support of meeting the Qualification Requirements

#### **3.4.1. Interpolation of financial data.**

For the Qualification Requirements data provided by the Bidders in foreign currency, equivalent rupees of Networth will be calculated using bills selling exchange rates (card rate) USD/INR of State Bank of India prevailing on the date of closing of the accounts for the respective financial year as certified by their Banker.

For the purpose of calculating the aggregate capital expenditure/construction experience of the projects completed/ commissioned where such projects are executed outside India and capital expenditure is denominated in foreign currency, bills selling exchange rates (card rate) USD/INR of State Bank of India prevailing on the date of closing of the financial year in which the projects were completed and as certified by their Banker shall be considered.

For the projects executed in the current financial year bills selling (card rate) USD/INR of

State Bank of India prevailing on seven (7) days prior to the last date of submission of Technical Bid and as certified by their Banker shall be considered.

For currency other than USD, Bidders shall convert such currency into USD as per the exchange rates certified by their Banker prevailing on the relevant date and used for such conversion. Such Bidders shall submit necessary certification from their Banker for the exchange rate used in the conversation.

If the exchange rate for any of the above dates is not available, the rate for the immediately available previous day shall be taken into account.

3.4.2. Bidders meeting the Qualification Requirements, subject to evaluation as specified in Clauses 3.2 to 3.4 shall be declared as Qualified Bidders and eligible for opening of Initial Offer.

### **3.5. STEP IV - Evaluation of Financial Bids**

#### **3.5.1. General**

3.5.1.1. The Bids which has been found Qualified by the BPC, based on the Steps I to III as specified above in Clauses 3.2.to 3.4, shall be opened and Levelised Transmission Charges of such Initial Offer shall be ranked on the basis of the ascending Initial Offer submitted by each Qualified Bidder.

Based on such ranking of the Qualified Bidders, holding first fifty per cent of the ranks (with any fraction rounded off to higher integer) or four Qualified Bidders, whichever is higher, shall be considered to be the qualified for participating in the electronic auction.

Provided however, in case only one Bidder remains after the Evaluation of Technical Bid (Steps 1 to III) as per Clause 3.2 to 3.4, the Initial Offer of such Bidder shall not be opened and the matter shall be referred to the Government.

Provided that in the event the number of Qualified Bidders is between two and four, then each of the responsive Bidder shall be considered as Qualified Bidders.

Provided that in the event of identical Levelised Transmission Charges derived from the Initial Offer having been submitted by one or more Bidders, all such Bidders shall be assigned the same rank for the purposes of determination of Qualified Bidders. In such cases, all Qualified Bidders who shares the same rank till 50% of the rank (with any fraction rounded off to higher integer) determined above, shall be allowed to participate in the electronic reverse auction stage. In case 50% of the rank is having less than four (4) Bidders and the rank of the fourth (4<sup>th</sup>) Bidder is shared by more than one Bidder, then all such all such Bidders who share the rank of the fourth Bidder shall be allowed to participate in the electronic reverse auction.

3.5.1.2. The Financial Bids comprising of both Initial Offer and Final Offer submitted by the Bidders shall be scrutinized to ensure conformity with the provisions of Clause 2.5.3 of this RFP. Any Bid not meeting any of the requirements as per Clause 2.5.3 of this RFP may cause the Bid to be considered "Non-responsive", at the sole decision of the BPC. Financial Bid not in conformity with the requirement of SI. No.(c) and (g) of Clause 2.5.3

of this RFP shall be rejected.

3.5.1.3. The Bidders shall quote the different components of Transmission Charges as specified in the format at Annexure – 22. Based on the Quoted Transmission Charges provided by the Bidders, the Levelised Transmission Charges (only in Rupees per year) of each Bid shall be calculated for the term of the Implementation & Service Agreement as per the methodology mentioned below:

- (a) For the purposes of comparison of the both Initial Offer and Final Offer of Financial Bids, the Quoted Escalable Transmission Charges of each Bidder shall be uniformly escalated as per the escalation rate mentioned below. However, for the purpose of actual payment of Transmission Charges, such escalation rate shall be applied as per the provisions of the Implementation & Service Agreement.

S. No.	Head	Value
1.	Annual escalation rate applicable to Quoted Escalable Transmission Charges	This shall be as per the rate notified by the CERC, applicable on the seventh day prior to the Bid Deadline
2.	Discount rate for computation of Levelised Transmission Charges	This shall be as per the rate notified by the CERC as applicable for transmission projects, applicable on the seventh day prior to the Bid Deadline

- (b) The factor at Sl. No. 1 in the above table shall be applied from the Scheduled COD of the Project and shall be applied as at the midpoint of each Contract Year.

### 3.5.2. Computation of Levelised Transmission Charges

3.5.2.1. The computed Quoted Transmission Charges (in Rupees per year) of each of the Bidders for each Contract Year for the term of Implementation & Service Agreement, calculated as per provisions of Clause 3.5.1.3, shall then be discounted up to the Scheduled COD of the Project mentioned in Clause 2.6 of this RFP, by applying the discount factors (based on the discount rate as mentioned at serial no. 2 of the table in Clause 3.5.1.3 above) and such aggregate discounted value for the term of the Implementation & Service Agreement shall be divided by the sum of such discount factors so as to calculate the Levelised Transmission Charge of each Bidder.

3.5.2.2. The Levelised Transmission Charges shall be calculated by assuming uniformly the following for all the Bidders

- Transmission Charges shall be Levelised over a period from the Scheduled COD of the Project, up to thirty five (35) years.

3.5.2.3. The methodology of computation of Levelised Transmission Charges is explained in the example provided in Annexure-23.

### 3.6. STEP V - Bidder Selection

3.6.1. The prevailing lowest Levelised Transmission Charges derived from Final Offers calculated

as per Clause 3.5.2 shall only be displayed during the e-reverse bidding and the Bidder quoting such Final Offer will always remain anonymous during the e-reverse bidding. The Bidder with the prevailing lowest Levelised Transmission Charges derived from Final Offers at the close of the scheduled or extended period of e-reverse bidding as mentioned in clause 2.5 shall be declared as the Successful Bidder and the Letter of Intent shall be issued to such Successful Bidder in two (2) copies.

However, if no bid is received during the e-reverse bidding stage then the Bidder with lowest quoted initial Levelised transmission charges ("Initial Offer") during e-bidding stage shall be declared as the Successful Bidder.

- 3.6.2. The Selected Bidder shall unconditionally accept the LoI, and record on one (1) copy of the LoI, "Accepted unconditionally", under the signature of the authorized signatory of the Successful Bidder and return such copy to the BPC within seven (7) days of issue of LoI.
- 3.6.3. If the Successful Bidder, to whom the Letter of Intent has been issued, does not fulfill any of the conditions specified in Clauses 2.15.2, 2.15.3 and Clause 2.15.4, then subject to Clause 2.15.5, the BPC reserves the right to annul the award of the Project and cancel the Letter of Intent. Further, in such a case, the provisions of Clause 2.5.6 (j) shall apply.
- 3.6.4. The BPC, in its own discretion, has the right to reject all Bids if the Quoted Transmission Charges are not aligned to the prevailing prices.

### **3.7. Misrepresentation by the Bidder**

If the Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in the Technical Bid or Bid, as the case may be, in any manner whatsoever, in order to create circumstances for the acceptance of its Technical Bid/Bid, the BPC reserves the right to reject such Technical Bid/Bid, and/ or cancel the Letter of Intent, if issued. Further, in case Letter of Intent is cancelled, consequences as per provisions of the RFP shall follow.

### **3.8. Disposition of Technical Bid**

- 3.8.1. Technical Bid found to be Non-responsive as per Clause 3.2, due to any of the following conditions, shall be liable for rejection.
  - Technical Bid that is incomplete.
  - Technical Bid not signed by authorized signatory and / or stamped in the manner indicated in this RFP.
  - All pages of the Technical Bid submitted but not initialed by the authorized signatories on behalf of the Bidder.
  - Technical Bid not including the covering letter as per Annexure 1.
  - Technical Bid contains material inconsistencies in the information and documents submitted by the Bidder, affecting the Qualification Requirements.
  - Information not submitted in formats specified in the RFP.
  - The Bidder has not submitted a disclosure as per Annexure 13.
  - The Bidder has not submitted the original hard copies of Annexure 3, 4 and 6 as applicable

- Bidders delaying in submission of additional information or clarifications sought by the BPC.

3.8.2. Technical Bid found to be Non-responsive as per Clause **3.2**, due to any of the following conditions, shall be rejected.

- Technical Bid not received by the scheduled date and time.
- Technical Bid submitted by a Bidding Consortium not including the Consortium Agreement.
- Bidder submitting or participating in more than one response either as a Bidding Company or as a Member of Bidding Consortium.
- More than one Member of the Bidding Consortium or a Bidding Company using the credentials of the same Parent/Affiliate.
- Technical Bid having Conflict of Interest.
- If the Bidder makes any misrepresentation as specified in Clause**3.2**.

3.9. BPC reserves the right to interpret the Bid in accordance with the provisions of this RFP document and make its own judgment regarding the interpretation of the same. In this regard, BPC shall have no liability towards any Bidder and no Bidder shall have any recourse to BPC with respect to the qualification process.

BPC shall evaluate Bid using the process specified in Clause 3.1 to 3.6, at its sole discretion. BPC's decision in this regard shall be final and binding.



**SECTION - 4**

**ANNEXURES FOR BID**

## SECTION – 4

### I. Formats for Technical Bid

The following formats are required to be included in the Bidder's Technical and Financial Bid. These formats are designed to demonstrate the Bidder's compliance with the Qualification Requirements set forth in Clause 2.1 of Section – 2.

#### Technical Bid

1. Format for the Covering Letter
2. Format for Letter of Consent from Consortium Members
3. Format for evidence of authorized signatory's authority (Power of Attorney)
4. Format for Power of Attorney from to be provided by each of the other Members of the Consortium in favor of the Lead Member
5. Format for Bidder's composition and ownership structure and Format for Authorization
6. Format for Consortium Agreement
7. Formats for Qualification Requirement
8. Format of Bidders Undertaking and details of Equity Investment
9. Authorization from Parent/Affiliate of Bidding Company/Member of Bidding Consortium whose technical/financial capability has been used by the Bidding Company/Member of Bidding Consortium.
10. Undertaking from the Technically / Financially Evaluated Entity(ies) or from Ultimate Parent Company for equity investment
11. Format of Board Resolutions
12. Format for Illustration of Affiliates
13. Format for Disclosure
14. Format for Bid Bond
15. Format for Contract Performance Guarantee
16. Checklist for Technical Bid submission requirements
23. Format for Affidavit

In addition, the Bidder to submit the original hard copies of Annexure 3, Annexure 4 and Annexure 6 to the office of BPC by the Bid Deadline.

#### Financial Bid

21. Format for Financial Bid

### II. The following formats are for the information to the Bidders to enable them to submit their Bid.

- 11A. Illustration For Applicable Board Resolution Requirements Under Clause 2.5.2
17. List of Banks
18. GRID Map of the Project
19. Format for clarification/amendments on the RFP/RFP Project Documents
20. Formats for RFP Project Documents
22. Illustration of Bid Evaluation/Computation of Levelised Transmission Charges

Bidder may use additional sheets to submit the information for its detailed Bid.

**ANNEXURE 1 - COVERING LETTER**

**(The covering letter should be on the Letter Head of the Bidding Company/ Lead Member of the Consortium)**

Date: .....  
 From: .....  
 .....  
 .....  
 Tel. No.: .....  
 Fax No.: .....  
 E-mail address: .....

To,  
**[Insert Name and Address of BPC]**

Dear Sir,

**Sub: Bid for selection of Bidder as Transmission Service Provider to establish Inter-State Transmission System for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process.**

1. Being duly authorized to present and act on behalf of M/s ..... (insert name of Bidding Company / Bidding Consortium) (hereinafter called the “Bidder”) and having read and examined in detail the Request for Proposal (RFP) document, the undersigned hereby submit our Technical Bid with duly signed formats in one (1) original + one (1) copy and Financial Bid (Initial Offer) as stipulated in RFP document for your consideration.
2. It is confirmed that our Bid is consistent with all the requirements of submission as stated in the RFP document and subsequent clarifications/amendments as per Clause 2.3 and 2.4 of RFP.
3. The information submitted in our Bid is complete, is strictly as per the requirements stipulated in the RFP document and is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our Bid.
4. We hereby agree and undertake to procure the following products associated with the Transmission System for the project from manufacturing facilities situated in India and owned and operated in India by an Indian company, a foreign company or a joint venture between an Indian and foreign company:

S. No.	Items
1.	400 kV and above Transformers and reactors
2.	220 kV and below Transformers and reactors
3.	Instrument Transformers

S. No.	Items
4.	HTLS conductors & hardware
5.	Conventional conductors & hardware
6.	Porcelain Insulators
7.	Composite insulators
8.	Air Insulated Switchgear, LA, Wave Trap (72.5 kV to 800 kV)
9.	HV Gas insulated Switchgear
10.	800 kV UHV Gas Insulated Switchgear
11.	Control & Power Cables
12.	EHV Cables
13.	Control & Relay Panels, SCADA, RTU, Optic Cable, OPGW etc.
14.	Substation structures & Transmission Line Towers
15.	DG Set
16.	DC System in a substation
17.	Illumination System
18.	Grounding System
19.	HVDC System

5. We are herewith submitting legally binding board resolution for the total equity requirement of the Project.
6. We hereby confirm that in accordance with Clause 2.1.4 of the RFP, we are herewith submitting legally binding undertaking supported by a board resolution from the .....(Insert name of Technically Evaluated Entity and/or Financially Evaluated Entity or its Ultimate Parent Company, as the case may be) that all the equity investment obligations of ..... (Insert name of the Bidding Company) shall be deemed to be equity investment obligations of the ..... (Insert name of Technically Evaluated Entity and/or Financially Evaluated Entity or its Ultimate Parent Company, as the case may be) and in the event of any default by..... (Insert name of the Bidding Company), the same shall be met by ..... (Insert name of Technically Evaluated Entity and/or Financially Evaluated Entity or its Ultimate Parent Company, as the case may be).

**[Sl. No 5 to be inserted only in case the Bidder is a Bidding Company / Lead Member of a Consortium and has sought qualification on the basis of technical and financial capability of its Affiliate(s) and/or its Parent]**

7. We confirm that there are no litigations or disputes against us, which materially affect our ability to fulfill our obligations with regard to the Project.
8. We hereby confirm that we shall continue to maintain compliance with Qualification Requirements till the execution of the Implementation & Service Agreement.
9. We confirm that we have studied the provisions of relevant Indian laws and regulations required to enable us to build, own, operate and transfer the said Project and to prepare this Bid.
10. We hereby confirm that we shall abide unreservedly with BPC's decision in the qualification process for selection of Qualified Bidder and further warrant that under no

circumstances we shall challenge either the BPC’s decision or its right to make such decision at any time in the future.

11. We confirm that the Bid shall remain valid for a period of one eighty (180) days from the Bid Deadline.

12. The details of contact person are furnished as under:

Name: .....  
Designation: .....  
Name of the Company: .....  
Address of the Bidder: .....  
Phone Nos.: .....  
Fax Nos.: .....  
E-mail address: .....

**13. Bid Bond**

We have enclosed a Bid Bond of Rupees ..... Crores (Rs. ....) only or US\$ ..... (.....US Dollars), in the form of bank guarantee no.....[Insert number of the Bank Guarantee] dated.....[Insert Date of the Bank Guarantee] as per your proforma (Annexure-14) from.....[Insert name of bank providing Bid Bond] and valid up to .....in terms of Clause 2.11 of the RFP.

**14. Acceptance**

We hereby unconditionally and irrevocably agree and accept that the decision made by the BPC on any matter regarding or arising out of the RFP shall be binding on us. We hereby expressly waive any and all claims in respect of Bid process.

**15. Familiarity With Relevant Indian Laws & Regulations**

We confirm that we have studied the provisions of relevant Indian laws and regulations as required to enable us to submit this Bid and execute the RFP Project Documents (other than ISA), in the event of our selection as the TSP. We further undertake and agree that all such factors as mentioned in Clause 2.5.7 of RFP have been fully examined and considered while submitting the Bid.

It is confirmed that our Bid is consistent with all the requirements of submission as stated in the RFP and subsequent communications from BPC.

The information submitted in our Bid is complete, strictly as per the requirements stipulated in the RFP and is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our Bid.

We confirm that we have not taken any deviation so as to be deemed non-responsive with respect to the provisions stipulated at Clause 2.5.1, of this RFP.

Thanking you,

..... [Insert name of the BPC] 61

Yours sincerely,

.....  
**(Name and Signature of the authorized signatory in whose name Power of Attorney/ Board Resolution as per Clause 2.5.2 is issued)**

Name: .....  
Designation: .....  
Address: .....

Date: .....  
Place: .....

**Company Rubber Stamp**

**ANNEXURE 2 - LETTER OF CONSENT FROM CONSORTIUM MEMBERS**

**(On the letter head of each Member of the Consortium including Lead Member)**

Date: .....  
From: .....  
.....  
.....  
Tel. No.: .....  
Fax No.: .....  
E-mail address: .....

To,  
**[Insert Name and Address of BPC]**

Dear Sir,

**Sub: Bid for selection of Bidder as Transmission Service Provider to establish Inter-State Transmission System for “\_\_\_\_\_ [Insert Name of Project]” through tariff based competitive bidding process.**

We, the undersigned Member of ..... (Insert name of the Bidding Consortium) have read, examined and understood the RFP document for the short-listing of Bidders as prospective TSP to establish Inter-State Transmission System for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process. We hereby confirm our concurrence with the Bid including in particular the Consortium Agreement submitted by ..... (Insert name of the Lead Member) in response to the RFP document.

We hereby confirm our commitment to participate in the said Bidding Consortium and invest ..... % of the total equity requirement for the Project as per the terms of the Consortium Agreement dated ..... and board resolution for such investment commitment is enclosed herewith.

We hereby confirm that in accordance with Clause 2.1.4 of the RFP, we are enclosing legally binding undertaking supported by a board resolution from the ..... (Insert name of Technically Evaluated Entity and / or Financially Evaluated Entity or its Ultimate Parent Company, as the case may be) that all the equity investment obligations of ..... (Insert name of the Member) shall be deemed to be equity investment obligations of the ..... (Insert name of Technically Evaluated Entity and / or Financially Evaluated Entity or its Ultimate Parent Company, as the case may be) and in the event of any default by..... (Insert name of the Member), the same shall be met by..... (Insert name of Technically Evaluated Entity and / or Financially Evaluated Entity or its Ultimate Parent Company, as the case may be). [Insert if applicable]

**[To be inserted by the Lead Member only]** We are also enclosing legally binding board resolution for the total equity requirement of the Project in case of any breach of any of the equity investment commitment by any of the Consortium Members, in line with the provisions of the Consortium Agreement dated ..... [Bidder to insert date of Consortium Agreement].

The details of contact person are furnished as under:

Name: .....  
Designation: .....  
Name of the Company: .....  
Address: .....  
Phone Nos.: .....  
Fax Nos.: .....  
E-mail address: .....

Dated the ..... day of ..... of 20...

Thanking you,

Yours faithfully,

.....  
**(Signature)**

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

(Signature, Name, Designation of Authorized Signatory of Consortium Member and Company's Seal)



**ANNEXURE 3 - FORMAT FOR EVIDENCE OF AUTHORIZED SIGNATORY'S AUTHORITY (POWER OF ATTORNEY)**

**POWER OF ATTORNEY**

**(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign companies submitting bids are required to follow the applicable law in their country)**

Know all men by these presents, We .....(name and address of the registered office of the Bidder) do hereby constitute, appoint and authorize Mr./Ms.....(name and residential address) who is presently employed with us and holding the position of ..... as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Bid for selection of Bidder as Transmission Service Provider to establish Inter-State Transmission System for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process in the country of India, including signing and submission of all documents related to the Bid, including, undertakings, letters, certificates, acceptances, clarifications, guarantees, etc., making representations to the BPC, and providing information / responses to the BPC, representing us in all matters before the BPC, and generally dealing with the BPC in all matters in connection with our Bid for the said Project till the completion of the bidding process in accordance with the RFP and signing of the Share Purchase Agreement by all the parties thereto.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

All the terms used herein but not defined shall have the meaning ascribed to such terms under the RFP.

**For ..... [Insert name of the Bidder on whose behalf PoA is executed]**

.....  
**(Signature)**

Name: .....  
Designation: .....

**Accepted**

.....  
**(Signature of the Attorney)**

Name: .....  
Designation: .....  
Address: .....

.....  
**(Name, Designation and Address of the Attorney)**

Specimen signatures of attorney attested by the Executant

.....  
**(Signature of the Executant)**

.....  
**(Signature of Notary Public)**

Place: .....

Date: .....

**Notes:**

- 1) To be executed by Bidding Company or the Lead Member, in the case of a Bidding Consortium, as the case maybe.
- 2) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal of the executant affixed in accordance with the applicable procedure. Further, the person whose signatures are to be provided on the power of attorney shall be duly authorized by the executant(s) in this regard.
- 3) Also, wherever required, the executant(s) should submit for verification the extract of the charter documents and documents such as a Board resolution / power of attorney, in favour of the Person executing this power of attorney for delegation of power hereunder on behalf of the executant(s).
- 4) In case of foreign Bidders, refer to clause 2.5.6 (p)

**ANNEXURE 4 - FORMAT FOR POWER OF ATTORNEY TO BE PROVIDED BY EACH OF THE OTHER MEMBERS OF THE CONSORTIUM IN FAVOUR OF THE LEAD MEMBER**

**POWER OF ATTORNEY**

**(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign companies submitting bids are required to follow the applicable law in their country)**

**KNOW ALL MEN BY THESE PRESENTS THAT** M/s....., having its registered office at ....., .....,.....and M/s ..... having its registered office at ..... , (Insert names and registered offices of all Members of the Consortium), the Members of Consortium, have formed a Bidding Consortium named ..... (insert name of the Consortium) (hereinafter called the **“Consortium”**) vide Consortium Agreement dated..... and having agreed to appoint M/s..... as the Lead Member of the said Consortium do hereby constitute, nominate and appoint M/s.....a company incorporated under the laws of .....and having its Registered / Head Office at .....as our duly constituted lawful Attorney (hereinafter called as **“Lead Member”**) which is one of the Members of the Consortium, to act as the Lead Member and our true and lawful attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to submission of Consortium's Bid for the Project, including signing and submission of the Bid and all documents related to the Bid, including, undertakings, letters, certificates, acceptances, clarifications, guarantees, etc, making representations to the BPC, and providing information / responses to the BPC, representing us and the Consortium in all matters before the BPC, and generally dealing with the BPC in all matters in connection with our Bid for the said Project, till completion of the bidding process in accordance with the RFP and signing of the Share Purchase Agreement by all the parties thereto.

It is expressly understood that in the event of the Consortium being selected as Successful Bidder, this Power of Attorney shall remain valid, binding and irrevocable until the Bidding Consortium achieves execution of all RFP Project Documents.

We, as the Member of the Consortium, agree and undertake to ratify and confirm all whatsoever the said Attorney/Lead Member has done on behalf of the Consortium Members pursuant to this Power of Attorney and the same shall bind us and deemed to have been done by us.

All the terms used herein but not defined shall have the meaning ascribed to such terms under the RFP.

**IN WITNESS WHEREOF** M/s ..... , as the Member of the Consortium have executed these presents on this..... day of .....

For and on behalf of  
Consortium Member

.....

**(Signature of the Authorized Signatory)**

Name: .....  
Designation: .....  
Place: .....  
Date: .....

Name: .....  
Designation: .....  
Place: .....  
Date: .....

**Accepted**

Specimen signatures of attorney attested

.....

**(Signature)**

.....

.....

**(Signature of Notary Public)**

.....

**(Name, Designation and Address  
of the Attorney)**

Place: .....

Date: .....

**Notes:**

1. The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal of the executant affixed in accordance with the applicable procedure. Further, the person whose signatures are to be provided on the power of attorney shall be duly authorized by the executant(s) in this regard.
2. Also, wherever required, the executant(s) should submit for verification the extract of the charter documents and documents such as a Board resolution / power of attorney, in favour of the Person executing this power of attorney for delegation of power hereunder on behalf of the executant(s).
3. In case of foreign Bidders, refer to clause 2.5.6 (p)

**ANNEXURE 5 - FORMAT FOR BIDDER'S COMPOSITION AND OWNERSHIP STRUCTURE**

**1. Corporate Details:**

Please provide the following information for the Bidder. If the Bidder is a Consortium, please provide this information for each Member including the Lead Member:

**a. Company's Name, Address, and Nationality:**

Name: .....

Address: .....  
.....  
.....

Website Address: .....

Country of Origin: .....

**b. Year Organized: .....**

**c. Company's Business Activities: .....**  
.....

**d. Status as a Bidder:**

- i. Bidding Company
- ii. Lead Member of the Bidding Consortium
- iii. Member of the Bidding Consortium

**Note: tick the applicable serial number**

**e. Company's Local Address in India (if applicable):**

.....  
.....  
.....

**f. Name of the Authorized Signatory: .....**

**g. Telephone Number: .....**

**h. Email Address: .....**

**i. Telefax Number: .....**

**j. Please provide the following documents:**

- i. Copy of the Memorandum and Articles of Association and certificate of incorporation or other equivalent organizational document (as applicable), including their amendments, certified by the Company Secretary as

**Attachment 1** for Bidding Company / each Member of Bidding Consortium including Lead Member.

- ii. Authority letter (as per format for authorization given below) in favour of BPC from the Bidder/every Member of the Consortium authorizing BPC to seek reference from their respective bankers & others as **Attachment 2** as per Clause 2.1.6 of the RFP.

**2. Details of Ownership Structure:**

Equity holding of Bidding Company/ each Member of Bidding Consortium including Lead Member owning 10% or more of total paid up equity.

Name of the Bidding Company / Consortium Member: .....  
 Status of equity holding as on .....

Name of the Equity Holder	Type and No. of Shares owned	Extent of Voting Control (%)
1. ....		
2. ....		
3. ....		
4. ....		
5. ....		
6. ....		
7. ....		
8. ....		
....		

**Notes:**

- 1. The above table is to be filled in separately for each Consortium Member.
- 2. Status of equity holding should be provided not earlier than thirty (30) days prior to Bid Deadline.

**For and on behalf of Bidding Company / Lead Member of the Bidding Consortium**

M/s.....

.....  
**(Signature of authorized representative)**

Name: .....

Designation: .....

.....  
**(Stamp)**

Date: .....

Place: .....

**FORMAT FOR AUTHORISATION**

**(In case of Bidding Consortium, to be given separately by each Member)  
(On Non – judicial stamp paper duly attested by notary public. Foreign companies submitting bids are required to follow the applicable law in their country)**

The undersigned hereby authorize(s) and request(s) all our Bankers, including its subsidiaries and branches, any person, firm, corporation or authority to furnish pertinent information deemed necessary and requested by \_\_\_\_\_[Name of BPC] to verify our Bid for selection of Transmission Service Provider to establish Inter-State Transmission system for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process or regarding our project development experience, financial standing and general reputation.

**For and on behalf of M/s..... (Insert Name of Bidding Company or Member of the Consortium)**

.....  
**(Signature)**

Name of Authorized Signatory: .....

**(Signature and Name of the authorized signatory of the Company)**

Place: .....

Date: .....

.....  
**(Company rubber stamp/seal)**

.....  
**(Signature of Notary Public)**

Place: .....

Date: .....

**ANNEXURE 6 - FORMAT FOR CONSORTIUM AGREEMENT**

**(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign companies submitting bids are required to follow the applicable law in their country)**

**THIS CONSORTIUM AGREEMENT** executed on this..... day of .....Two thousand.....between M/s....., a company incorporated under the laws of ..... and having its Registered Office at ..... (hereinafter called the "Party 1", which expression shall include its successors, executors and permitted assigns) and M/s.....a Company incorporated under the laws of ..... and having its Registered Office at ..... (hereinafter called the "Party n", which expression shall include its successors, executors and permitted assigns) and for the purpose of submitting the Bid, acquisition of {**Name of the SPV Company or "Project specific SPV to be incorporated by the BPC"**}(in case of award) and entering into other Agreement(s) as specified in the RFP (hereinafter referred to as "Agreements") as may be entered into with the Nodal Agency.

**WHEREAS**, the BPC had invited Bid in response to RFP issued to ..... (insert the name of purchaser of RFP) for selection of the bidder as the Transmission Service Provider to establish Inter-State Transmission System for ".....**[Name of Project]**".

**AND WHEREAS**, Clause 2.2.4 of the RFP document stipulates that the Bidders qualifying on the strength of a Bidding Consortium will have to submit a legally enforceable Consortium Agreement in a format specified in the RFP document wherein the Consortium Members have to commit equity of a specific percentage in the Project.

**AND WHEREAS**, Clause 2.2.4 of the RFP document also stipulates that the Bidding Consortium shall provide along with the Bid, a Consortium Agreement as per prescribed format whereby the Consortium Members undertake to be liable for raising the required funds for its respective equity investment commitment as specified in Consortium Agreement.

**NOW THEREFORE, THIS INDENTURE WITNESSTH AS UNDER:**

In consideration of the above premises and agreement all the parties in this Consortium do hereby mutually agree as follows:

1. In consideration of the selection of the Consortium as the selected bidder by the BPC, we the Members of the Consortium and parties to the Consortium Agreement do hereby unequivocally agree that M/s..... (Insert name of the Lead Member), shall act as the Lead Member as defined in the RFP for self and agent for and on behalf of ....., ....., ....., ..... (the names of all the other Members of the Consortium to be filled in here).
2. The Lead Member is hereby authorized by the Members of Consortium and parties to the Consortium Agreement to bind the Consortium and receive instructions for and on behalf of the Members.



3. Notwithstanding anything contrary contained in this Consortium Agreement, the Lead Member shall always be liable for the equity investment obligations of all the Consortium Members, i.e., for both its own liability as well as the liability of other Members.
4. The Lead Member shall be liable and responsible for ensuring the individual and collective commitment of each of the Members of the Consortium in discharging all their respective equity obligations. Each Consortium Member further undertakes to be individually liable for the performance of its part of the obligations without in any way limiting the scope of collective liability envisaged in this agreement.
5. Subject to the terms of this agreement, the share of each Member of the Consortium in the “issued equity share capital of the project company” shall be in the following proportion: (if applicable)

Name	Percentage of equity holding in the Project
Party 1	.....
.....	.....
Party n	.....
<b>Total</b>	<b>100%</b>

[Note: The percentage equity holding for any Consortium Member in the Project cannot be zero in the above table]

6. The Lead Member shall inter alia undertake full responsibility for liaising with lenders and mobilizing debt resources for the Project and achieving financial closure.
7. In case of any breach of any of the equity investment commitment by any of the Consortium Members, the Lead Member shall be liable for the consequences thereof.
8. Except as specified in the Agreement, it is agreed that sharing of responsibilities as aforesaid and equity investment obligations thereto shall not in any way be a limitation of responsibility of the Lead Member under these presents.
9. It is further specifically agreed that the financial liability for equity contribution of Lead Member shall, not be limited in any way so as to restrict or limit its liabilities. The Lead Member shall be liable irrespective of their scope of work or financial commitments.
10. It is expressly understood and agreed between the Members that the responsibilities and obligations of each of the Members shall be as delineated as annexed hereto as **Appendix-I**, forming integral part of this Agreement. It is further agreed by the Members that the above sharing of responsibilities and obligations shall not in any way be a limitation of joint and several responsibilities and liabilities of the Members, with regards to all matters relating to the Project.
11. It is clearly agreed that the Lead Member shall ensure performance under the Agreements and if one or more Consortium Members fail to perform its /their respective obligations under the Agreement(s), the same shall be deemed to be a default by all the Consortium Members.

12. This Consortium Agreement shall be construed and interpreted in accordance with the Laws of India and courts at **New Delhi** alone shall have the exclusive jurisdiction in all matters relating thereto and arising there under.
13. It is hereby agreed that if the Bidding Consortium is qualified to submit a Bid, the Lead Member shall furnish the bid bond, as stipulated in the RFP, on behalf of the Consortium Members.
14. It is hereby agreed that in case of selection of Bidding Consortium as the selected bidder, the parties to this Consortium Agreement do hereby agree that they shall furnish the contract performance guarantee on behalf of the TSP in favor of the Nodal Agency, as stipulated in the RFP and Implementation & Service Agreement.
15. It is further expressly agreed that the Consortium Agreement shall be irrevocable and shall form an integral part of the RFP Project Document and shall remain valid till the execution of the Share Purchase Agreement, unless expressly agreed to the contrary by the Nodal Agency. Over the term of the Implementation & Service Agreement, the TSA and the RSA shall apply on the Consortium Members.
16. The Lead Member is authorized and shall be fully responsible for the accuracy and veracity of the representations and information submitted by the Consortium Members respectively from time to time in response to the RFP and for the purposes of the Project.
17. It is hereby expressly agreed between the parties to this Consortium Agreement that neither party shall assign or delegate its rights, duties or obligations under this Agreement except with the prior written consent of the Nodal Agency.

**THIS CONSORTIUM AGREEMENT:**

- a. has been duly executed and delivered on behalf of each party hereto and constitutes the legal, valid, binding and enforceable obligation of each such party,
- b. sets forth the entire understanding of the parties hereto with respect to the subject matter hereof;
- c. may not be amended or modified except in writing signed by each of the parties and with prior written consent of the Nodal Agency.

**IN WITNESS WHEREOF**, the parties to the Consortium Agreement have, through their authorized representatives, executed these present on the Day, Month and Year first mentioned above.

For and on behalf of Consortium Member 1 (Party 1)  
M/s.....

.....  
**(Signature of authorized signatory)**

..... [Insert name of the BPC]	74
--------------------------------	----

Name: .....  
Designation: .....  
Place: .....  
Date: .....

For and on behalf of Consortium Member n (Party n)  
M/s.....

.....  
**(Signature of authorized signatory)**

Name: .....  
Designation: .....  
Place: .....  
Date: .....

**Attested:**

.....  
**(Signature)**  
**(Notary Public)**

Place: .....  
Date: .....

Note: In case of foreign Bidders, refer to clause 2.5.6 (p)

**Appendix 1 to the Consortium Agreement:**

<b>Name of the Consortium Member</b>	<b>Responsibilities under the Consortium Agreement</b>
M/s ..... (Party 1)	
M/s .....	
M/s ..... (Party n)	

**ANNEXURE 7 A - FORMAT FOR QUALIFICATION REQUIREMENT****A. NET WORTH**

To,

**[Insert Name and Address of BPC]**

Dear Sir,

**Sub: Bid for selection of Bidder as Transmission Service Provider to establish Inter-State Transmission System for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process**

**1. [Note: Applicable in case of Bidding Company]**

We certify that the Financially Evaluated Entity(ies) had a Networth of Rs. .... Crore or equivalent USD\* computed as per instructions in this RFP based on unconsolidated audited annual accounts (refer Note-2 below) of last preceding year, as provided in Clause 2.2.3, immediately preceding the Bid Deadline.

<b>Name of Financially Evaluated Entity(ies)</b>	<b>Relationship with Bidding Company**</b>	<b>Networth (Rs. Crore)</b>
<b>1.</b> .....		
<b>2.</b> .....		
<b>3.</b> .....		
....		
<b>Total Networkth</b>		

\*Equivalent USD shall be calculated as per provisions of Clause 3.4.1.

\*\* The column for “Relationship with Bidding Company” is to be filled in only in case financial capability of Parent/Affiliate has been used for meeting Qualification Requirements.

**2. [Note: Applicable in case of Bidding Consortium]**

We certify that the Financially Evaluated Entity(ies) had a minimum Networth of Rs. .... Crore or equivalent USD\* computed as per instructions in the RFP and based on unconsolidated audited annual accounts (refer Note-2 below) of preceding financial year, as provided in Clause 2.2.3, immediately preceding the Bid Deadline.

Name of Consortium Member	Equity Commitment in the Project (%)	Networth of Member (Rs. Crore)	Networth Requirement to be met by Member in proportion to the Equity Commitment (Rs. Crore)	Whether the Member meets the Networth Requirement
(1)	(2)	(3) (As per table below)	(4 = 2 x Total Networth requirement for the Project )	(5)
1. ....				Yes / No
2. ....				Yes / No
..				Yes / No
<b>Total Networth for financial requirement</b>				

**Member – I (Lead Member)**

[Note: Similar particulars for each Member of the Consortium is to be furnished, duly certified by the Member's Statutory Auditors]

- i. Name of Member: .....
- ii. Total Networth requirement: Rs ..... Crore
- iii. Percentage of equity commitment for the Project by the Member: .....%
- iv. Networth requirement for the Member\*\*\*: Rs ..... Crore
- v. Financial year considered for the Member: .....

Name of Financially Evaluated Entity(ies)	Relationship** with Member of Consortium	Networth (Rs. Crore)
1. ....		
2. ....		
3. ....		
<b>Total Networth</b>		

\* Equivalent USD shall be calculated as per provisions of Clause 3.4.1;

\*\* The column for "Relationship with Member of Consortium" is to be filled in only in case the financial capability of Parent / Affiliate has been used for meeting Qualification Requirements;

\*\*\* Networth requirement to be met by Member should be in proportion to the equity commitment of the Member for the Project.

**Yours faithfully**

.....  
**(Signature and name of the authorized signatory of the Company and Stamp)**

Name: .....  
Date: .....  
Place: .....

.....  
**(Signature and Stamp of statutory Auditors of Bidding Company / each Member of Consortium)**

Name: .....  
Date: .....  
Place: .....  
  
Date: .....

**Notes:**

1. Along with the above format, in a separate sheet, please provide details of computation of Networth duly certified by Statutory Auditor.
2. Audited consolidated annual accounts of the Bidder may be used for the purpose of financial criteria provided the Bidder has more than 50% equity in each company whose accounts are merged in the audited consolidated accounts and provided further that the financial capability of such companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of the Bid.
3. In case Bidder or a Member of Consortium takes recourse to its Parent/Affiliate for meeting technical / financial requirements, then the financial years considered for such purpose should be same for the Bidder / Member of Consortium and their respective Parent / Affiliate.

**ANNEXURE 7B - FORMAT FOR TECHNICAL REQUIREMENT**

To,

[Insert Name and Address of BPC]

Dear Sir,

**Sub: Bid for selection of Bidders as Transmission Service Provider to establish Inter-State Transmission System for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process**

**1. To be used by Bidder using the development experience in infrastructure sector**

We certify that M/s. .... (Insert name of Technically Evaluated Entity(ies)) have experience of development of projects in the Infrastructure sector in the last five (5) years whose aggregate capital expenditure is Rs. .... Crore or equivalent USD\*. We further certify that the capital expenditure of any single project considered for meeting the technical Qualification Requirement is not less than Rs. .... Crore or equivalent USD\*. For this purpose, capital expenditure incurred on projects which have been either wholly completed / commissioned or partly completed projects put under commercial operation and for which operation has commenced till at least seven (7) days prior to the Bid Deadline has been considered.

The project(s) considered for the purpose of technical experience (as per table given below) have been executed and owned to the extent as indicated in the table below (to be atleast twenty – six percent (26%)) by the Bidding Company / Lead Member of the Consortium / our Parent / our Affiliate(s) [strike off whichever is not applicable] on operation of the projects.

This technical requirement has been calculated as per the instructions provided in the RFP on the basis of following projects:

Name of Company (which has executed the project at (3)) whose technical capability has been used for Qualification Requirement	Relationship** with Bidding Company / Lead Member	Project name	Nature of Project (BOOT, BOT, BOOM, DBFOT etc.)	Relevant Infrastructure sector	Date of Financial Closure of the Project (in DD / MM / YYYY)	Date of Completion / Commissioning / Commercial Operation of partly completed projects	Project cost (Rs. Crore)	Percentage Equity Holding of Company at (1) in Completed project(s)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
.....		(Project 1)						
.....		.....						
<b>Total (Rs. Crore)</b>								

\* Equivalent USD shall be calculated as per provisions of Clause \_\_\_\_\_



\*\* The column for “Relationship with Bidding Company / Lead Member” is to be filled in only in case technical capability of Parent/Affiliate has been used for meeting Qualification Requirements.

We further certify that the Company(ies) as indicated in column (1) of the above table, whose technical capability has / have been used for meeting the qualification requirement, has / have held shareholding respectively of atleast twenty – six percent (26%) from the date of financial closure till the date of commissioning / completion of the above project(s).

**2. To be used by Bidder using construction experience in infrastructure sector.**

We certify that M/s. .... (Insert name of Technically Evaluated Entity(ies)) have received aggregate payments not less than Rs. .... Crore or equivalent USD (calculated as per provisions in Clause 3.4.1) from its client(s) for construction works fully completed during the last 5(five) financial years. We further certify that the payment received from each project shall not be less than Rs. .... Crore or equivalent USD (calculated as per provisions in Clause 3.4.1). For this purpose, payments received on projects that have been commissioned/completed at least seven (7) days prior to the Bid Deadline shall be considered. Further only the payments (gross) actually received, during such 5 (five) financial years shall qualify for purposes of computing the technical capacity.

We also confirm that construction works does not include cost of land supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project.

This technical requirement has been calculated as per the instructions provided in the RFP on the basis of following projects:

Name of Company (which has executed the project at (3)) whose technical capability has been used for Qualification Requirement	Relationship** with Bidding Company / Lead Member	Project name	Nature of Project (EPC, Turnkey etc)	Relevant Infrastructure sector	Date of award of contract (in dd/mm/yy)	Date of Completion / Commissioning	Payment received (Rs. Crore)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
.....		..... Project 1					
.....		.....					
.....		.....					
Total (Rs. Crore)							

Yours faithfully

.....  
**(Signature and name of the authorized signatory of the Company and stamp)**

Name: .....  
Date: .....  
Place: .....

.....  
**(Signature and Stamp of statutory Auditors of Bidding Company/ Lead Member of Consortium)**

Name: .....  
Date: .....  
Place: .....

Date: .....

**Notes:**

1. Along with the above format, in a separate sheet, please provide details of computation of capital expenditure of projects duly certified by Statutory Auditor of the project company. In addition, the Statutory Auditor of the project company should also certify that the capital expenditure of projects commissioned or completed 7 days prior to Bid Deadline has been capitalized in the books of accounts.

Additionally, in case construction experience is used, a certificate(s) from the statutory auditors stating the payments received and the concerned client(s) stating the works commissioned during the past 5 years in respect of the projects specified above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client.

2. The unconsolidated audited annual accounts of both the TEE and the Bidding Company / Lead Member for the respective financial years (financial years in which financial closure was achieved to the financial year in which the said project was completed / commissioned) should be submitted.

**ANNEXURE 7C - FORMAT FOR TECHNICAL & FINANCIAL REQUIREMENT –  
RELATIONSHIP & DETAILS OF EQUITY SHAREHOLDING**

[To be filled by Bidding Company / each Member of the Bidding Consortium including Lead Member if credentials of Parent and / or Affiliates have been used by them]

To,

[Insert Name and Address of BPC]

Dear Sir,

**Sub: Bid for selection of Bidder as Transmission Service Provider to establish Inter-State Transmission System for “\_\_\_\_\_ [Name of Project]” through tariff based competitive bidding process**

We certify that M/s. .... (insert name of the **Bidding Company / Consortium Members**) have considered the technical and financial capability of its Parent and / or Affiliates, for the purpose of meeting Qualification Requirements as per the instructions provided in the RFP. The name of Parent and / or Affiliate, nature of relationship(s) with such Parent and / or Affiliate and details of equity holding are as follows:

<b>Name of Company whose credentials considered</b>	<b>Type of credentials considered (technical and / or financial)</b>	<b>Relationship with Bidding Company / Consortium Member (Parent / Affiliate)</b>	<b>Details of equity shareholding (refer notes below)</b>
Company 1			
.....			
.....			
.....			
.....			

**NOTES:**

- i. In case of Parent, the equity holding of the Parent in the Bidding Company / Member of the Bidding Consortium, including the Lead Member of the Consortium, need to be specified.
- ii. In case of Affiliate under direct control of Bidder, the equity holding of the Bidding Company / Member of the Bidding Consortium, including the Lead Member of the Consortium in the Affiliate, needs to be specified.
- iii. In case of Affiliate under common control of Parent, the equity holding of the Parent in the Affiliate of the Bidding Company / Member of the Bidding Consortium, including the Lead Member of the Consortium, needs to be specified.
- iv. Relationship of Parent / Affiliate with Bidding Company / Member of Consortium to be as on seven (7) days prior to the Bid Deadline (as per Clause 2.1.4 of RFP)

Yours faithfully

.....  
**(Signature and name of the authorized signatory of the Company and stamp)**

Name: .....  
Date: .....  
Place: .....

.....  
**(Signature and Stamp of statutory Auditors of Bidding Company / each Member of Bidding Consortium)**

Name: .....  
Date: .....  
Place: .....  
Date: .....

**ANNEXURE 7D - ADDITIONAL INFORMATION FOR VERIFICATION OF FINANCIAL AND TECHNICAL CAPABILITIES OF BIDDERS.**

.....

**(Name of Bidder (Bidding Company/ Bidding Consortium or Technically/Financially Evaluated Entity(ies))**

**(Note:** In case of Consortium, details to be filled in by Lead Member for each Member of the Consortium including the Lead Member and in case of the qualification requirements of Technically / Financially Evaluated Entity(ies) being used, to be filled by each of such entity(ies)

**i. Financial capability (Attachment 1):**

1. Bidders shall attach unconsolidated / consolidated audited annual accounts, statements, as the case may be, (refer Clause 2.1.3) for the last three (3) financial years as Attachment 1. Such unconsolidated audited annual accounts shall include a Balance Sheet, Profit and Loss Account, Auditors Report and profit appropriation account.

**ii. Technical capability (Attachment 2):**

- a. This attachment shall include details of projects completed/commissioned or partly completed projects for which commercial operation has commenced to be considered for the purpose of meeting Qualification Requirements.

1. To be used by Bidder using development experience in infrastructure sector

<b>Particulars</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Name(s) of project(s) from Infrastructure sectors					
Location(s) including country(s) where project was set up					
Nature of Project					
Voltage level (if any)					
Capital cost of project(s) Rs. in Crore					
*Status of the project					
% of equity owned in the project(s)					

**\*Note 1:** Date of completion/commissioning/commercial operation to be mentioned

**Note 2:** For each project listed in the table, the Bidder shall furnish an executive summary including the following information:

- Project model, i.e., BOO, BOOT, BOOM;

- Debt financing and equity raised and provided by Bidder/Bidder's Parent/Bidder's Affiliate for the project, including names of lenders and investors;
- Size and type of installation;
- Technical data/information on major equipment installed
- Description of role performed by the Bidder/Bidder's Parent/Bidder's Affiliate on the project
- Clearances taken by the Bidder/Bidder's Parent/Bidder's Affiliate including but limited to right-of-way (RoW), forest clearance and other statutory / Govt. clearances.
- Cost data (breakdown of major components)
- Name of EPC and/or other major contractor
- Construction time for the project
- Names, addresses and contact numbers of owners of the projects
- Operating reliability over the past five (5) years or since date of commercial operation
- Operating environmental compliance history
- Names of supervisory entities or consultant, if any
- Date of commercial operation
- Total duration of operation

2. To be used by Bidder using construction experience in infrastructure sector

Particulars	Year 1	Year 2	Year 3	Year 4	Year 5
Name(s) of project(s) from Infrastructure sectors					
Location(s) including country(s) where project was set up					
Nature of Project					
Voltage level (if any)					
Revenue received Rs. in Crore					
*Status of the project					
% of equity owned in the project(s)					

**\*Note 1:** Date of completion/commissioning/commercial operation to be mentioned

**Note 2:** For each project listed in the table, the Bidder shall furnish an executive summary including the following information:

- Project model, i.e., EPC, Turnkey;
- Size and type of installation;
- Technical data/information on major equipment installed
- Description of role performed by the Bidder/Bidder's Parent/Bidder's Affiliate on the project
- Cost data (breakdown of major components)
- Name of sub-contractor
- Construction time for the project
- Names, addresses and contact numbers of owners of the projects

- Operating reliability over the past five (5) years or since date of commercial operation
- Operating environmental compliance history
- Names of supervisory entities or consultant, if any
- Date of commercial operation
- Total duration of operation

**iii. Attachment-3:**

- a. For each project listed in Attachment 2 above, certificates of final acceptance and/or certificates of good operating performance duly issued by owners for the project and the same shall be certified as true by authorized signatory of the Bidding Company or the Lead Member of Consortium). In case the project listed in Attachment 2 is under BOOT / DBFOT mechanism, the certificates of final acceptance and/or certificates of good operating performance must be issued by the authority / independent engineer of the project as defined in the respective project agreement.

For and on behalf of Bidding Company/Consortium

M/s.....

.....  
**(Signature of authorized signatory)**

Name: .....

Designation: .....

Date: .....

Place: .....

**ANNEXURE 8 -UNDERTAKING AND DETAILS OF EQUITY INVESTMENT**

**Format 1: Bidders' Undertakings**

**[On the Letter Head of the Bidding Company/Lead Member of Bidding Consortium]**

**Date:** .....

**To,**

**[Insert Name and Address of BPC]**

Dear Sir,

**Sub: Bidders' Undertakings in respect of Bid for selection of TSP to establish Inter-State transmission system for \_\_\_\_\_[Name of Project]**

We hereby undertake on our own behalf and on behalf of the TSP, that if selected as the Successful Bidder for the Project:

1. The Project shall comply with all the relevant electricity laws, codes, regulations, standards and Prudent Utility Practices, environment laws and relevant technical, operational and safety standards, and we shall execute any agreements that may be required to be executed as per law in this regard.
2. We confirm that the Project shall also comply with the standards and codes as per Clause 1.6.1.2 of the RFP and the TSP shall comply with the provisions contained in the Central Electricity Regulatory Commission Grant of Connectivity, Long-term Access and Medium-term Open Access in inter-state Transmission and related matters Open Access) Regulations, 2009.
3. We give our unconditional acceptance to the RFP dated \_\_\_\_\_ issued by the BPC and the RFP Project Documents, as amended, and undertake to ensure that the TSP shall execute all the RFP Project Documents except the ISA, as per the provisions of this RFP.
4. We have submitted the Bid on the terms and conditions contained in the RFP and the RFP Project Documents. Further, the Financial Bid submitted by us is strictly as per the format provided in Annexure 21 of the RFP, without mentioning any deviations, conditions, assumptions or notes in the said Annexure.
5. Our Bid is valid up to the period required under Clause 2.8 of the RFP.
6. Our Bid has been duly signed by authorized signatory and stamped in the manner and to the extent indicated in this RFP and the power of attorney / Board resolution in requisite format as per RFP has been enclosed in original with this undertaking.
7. We have assumed that if we are selected as the Successful Bidder, the provisions of the Consortium Agreement, to the extent and only in relation to equity lock in and our liability

..... **[Insert name of the BPC]**



thereof shall get modified to give effect to the provisions of Clause 2.5.8 of this RFP and Article 18.2 of the Implementation & Service Agreement. (*Note: This is applicable only in case of a Bidding Consortium*)

8. We confirm that our Bid meets the Scheduled COD of each transmission Element and the Project as specified below:

<b>S. No.</b>	<b>Name of the Transmission Element</b>	<b>Scheduled COD in months from Effective Date</b>	<b>Percentage of Quoted Transmission Charges recoverable on Scheduled COD of the Element of the Project</b>	<b>Element(s) which are pre-required for declaring the commercial operation (COD) of the respective Element</b>  <b>[BPC to insert precedence of commissioning of Element(s)] in project specific RFP and RFP Project Documents]</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

We agree that the payment of Transmission Charges for any Element irrespective of its successful commissioning on or before its Scheduled COD shall only be considered after the successful commissioning of Element(s) which are pre - required for declaring the commercial operation of such Element as mentioned in the above table.

**Scheduled COD for the Project:** \_\_\_ months from the Effective Date

9. We confirm that our Financial Bid conforms to all the conditions mentioned in this RFP, and in particular, we confirm that:
  - a. Ratio of minimum and maximum Quoted Transmission Charges during the term of the Implementation & Service Agreement for which Transmission Charges have been quoted in the format at Annexure 21 of the Bid is not less than zero point seven (0.7) as provided in Clause 2.5.3.
  - b. Further, the Quoted Escalable Transmission Charges (after duly escalating the Quoted Escalable Transmission Charges on the basis of the escalation rates specified in Clause 3.5.1.3) rounded off to two decimal places for any Contract Year does not exceed fifteen percent (15%) of the corresponding Quoted Non-Escalable Transmission Charges rounded off to two decimal places for that Contract Year, for the entire period for which the Transmission Charges have been quoted..
  - c. Financial Bid in the prescribed format of Annexure 21 has been submitted duly signed by the authorized signatory.
  - d. Financial Bid is unconditional.
  - e. Only one Financial Bid has been submitted.
10. We have neither made any statement nor provided any information in this Bid, which to the best of our knowledge is materially inaccurate or misleading. Further, all the confirmations, declarations and representations made in our Bid are true and accurate. In case this is found to be incorrect after our acquisition of \_\_\_\_\_[Name of SPV], pursuant to our selection as Selected Bidder, we agree that the same would be treated as a TSP's Event of Default under Implementation & Service Agreement, and relevant provisions of Implementation & Service Agreement shall apply.
11. We confirm that there are no litigations or other disputes against us which materially affect our ability to fulfill our obligations with regard to the Project as per the terms of RFP Project Documents.
12. Original power of attorney/ Board resolution as per Clause 2.5.2 is enclosed.

**Signature and name of the authorized signatory of the Company and stamp of Bidding Company or Lead member of Consortium**

**Note:**

1. In case of foreign Bidders, refer to clause 2.5.6 (p)

**Format 2: Details of equity investment in Project**

- 1.1.a Name of the Bidding Company/ Bidding Consortium:
- 1.1.b Name of the Lead Member in the case of a Bidding Consortium:
- 1.2 Investment details of the Bidding Company/Member of the Bidding Consortium investing in \_\_\_\_ [Name of SPV] as per Clause 2.5.8.2.

S. No.	Name of the Bidding Company/ Member in case of a Bidding Consortium	Name of the Company investing in the equity of the ____ [Name of SPV]	Relationship with Bidding Company /Member of the Bidding Consortium	% of equity participation in the ____ [Name of SPV]
(1)	(2)	(3)	(4)	(5)
TOTAL				100%

\* In case the Bidder proposes to invest through its Affiliate(s) / Parent Company / Ultimate Parent Company, the Bidder shall declare shareholding pattern of such Affiliate(s) / Parent Company / Ultimate Parent Company and provide documentary evidence to demonstrate relationship between the Bidder and the Affiliate(s) / Parent Company / Ultimate Parent Company. These documentary evidences could be, but not limited to, demat account statement(s) / Registrar of Companies' (ROC) certification / share registry book, etc duly certified by Company Secretary.

Members of the Consortium or the Bidding Company making investment in the equity of the \_\_\_\_ [Name of SPV] themselves to fill in their own names in the column (3)

**Signature and Name of authorized signatory in whose name power of attorney has been issued**

Signature of authorized signatory

Name: .....

Designation: .....

Date.....

Company rubber stamp

**ANNEXURE 9 -AUTHORISATION FROM PARENT / AFFILIATE OF BIDDING COMPANY / MEMBER OF BIDDING CONSORTIUM WHOSE TECHNICAL / FINANCIAL CAPABILITY HAS BEEN USED BY THE BIDDING COMPANY / MEMBER OF BIDDING CONSORTIUM.**

**[On the Letter Head of the Parent /Affiliate]**

Name: .....  
Full Address: .....  
Telephone No.: .....  
E-mail address: .....  
Fax / No.: .....

**To**

**[Insert Name and Address of BPC]**

Dear Sir,

**Sub: Authorization for use of Technical / Financial Capability of M/s..... (Insert name of Parent / Affiliate) by M/s ..... (Insert name of Bidding Company / Member of Bidding Consortium).**

We refer to the RFP dated ..... ('RFP') issued by you for selection of Transmission Service Provider for establishing the Inter-State Transmission System for “\_\_\_\_\_[Name of Project]”.

We confirm that M/s. .... (Insert name of Bidding Company/ Consortium Member) has been authorized by us to use our technical and/or financial capability [strikeout whichever is not applicable] for meeting the Qualification Requirements for “\_\_\_\_\_[Name of Project]”.

We have carefully read and examined in detail the RFP including in particular, Clause 2.1.4 of the RFP, and we are also submitting legally binding undertaking supported by a board resolution that all the equity investment obligations of M/s..... (Insert Name of Bidding Company / Consortium Member), shall be deemed to be our equity investment obligations and in the event of any default the same shall be met by us. For and on behalf of M/s..... (Insert Name of Parent / Affiliate)

.....  
**(Signature and Name of the authorized signatory of the Company and stamp)**

Name: .....  
Date: .....  
Place: .....

**Notes:**

1. The above undertaking can be furnished by Ultimate Parent of Technically Evaluated Entity or Financially Evaluated Entity, as the case maybe, if legally binding undertaking is also furnished by the Ultimate Parent on behalf of such Financially Evaluated Entity/Technically Evaluated Entity.

**ANNEXURE 10- FORMAT OF UNDERTAKING BY TECHNICALLY / FINANCIALLY EVALUATED ENTITY / ULTIMATE PARENT COMPANY**

**[On the Letter Head of the Technically / Financially Evaluated Entity / Ultimate Parent Company]**

Name: .....

Full Address: .....

Telephone No.: .....

E-mail address: .....

Fax/No.: .....

**To:**

**Chief Executive Officer  
[Name & Address of BPC]**

**Sub: Undertaking for equity investment**

Dear Sir,

We refer to the Request for Proposal dated \_\_\_\_\_ ('RFP') issued by you regarding setting up of Inter-State transmission system for \_\_\_\_\_[Name of Project] Project on build, own, operate and transfer basis.

We have carefully read and examined in detail the RFP and the RFP Project Documents, including in particular, Clause 2.1.4 of the RFP and Clauses 2.5.2 and 2.5.8 of the RFP, regarding submission of an undertaking regarding the investment in the equity share capital of \_\_\_\_\_[Name of SPV] and provisions for minimum equity holding and equity lock-in. We have also noted the amount of the equity investment required to be made in \_\_\_\_\_[Name of SPV] by the ..... [Insert the name of the Bidder or the Consortium Member] for the Project.

In view of the above, we hereby undertake to you and confirm that in the event of failure of .....[Insert the name of the Bidder or the Consortium Member] to invest in full or in part, in the equity share capital of \_\_\_\_\_[Name of SPV] as specified in the Bid, we shall invest the said amount not invested by.....[Insert the name of the Bidder or the Consortium Member] in \_\_\_\_\_[Name of SPV] by purchase of existing shares or subscribing to the new shares of \_\_\_\_\_[Name of SPV], as stipulated by you.

We have attached hereto certified true copy of the Board resolution whereby the Board of Directors of our Company has approved issue of this Undertaking by the Company.

All the terms used herein but not defined, shall have the meaning as ascribed to the said terms under the RFP.

Certified as true.

..... [Insert name of the BPC]	94
--------------------------------	----

.....  
**(Signature and Name of the authorized signatory of the Bidding Company or of the Member, in case of Consortium)**

**Note:**

1. Wherever required, extract of the charter documents and documents such as a Board resolution should be submitted for verification.

**ANNEXURE 11 - FORMATS FOR BOARD RESOLUTIONS**

**Format 1**

**Format of the Board resolution for the Bidding Company / each Member of the Consortium / investing Affiliate / Parent Company / Ultimate Parent Company, where applicable**

[Reference Clause 2.5.2 of the RFP and the illustrations in Annexure 11A]

[**Note:** The following resolution no.1 needs to be passed by the Boards of each of the entity/(ies) making equity investment]

The Board, after discussion, at the duly convened Meeting on ..... [Insert date], with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 1956/2013, passed the following Resolution:

**1. RESOLVED THAT** pursuant to the provisions of the Companies Act, 1956 / Companies Act 2013 (as the case may be) and compliance thereof and as permitted under the Memorandum and Articles of Association of the company, approval of the Board be and is hereby accorded for investment of.....% (.....per cent) of the total equity share capital of \_\_\_\_\_[Name of SPV] representing the entire amount proposed to be invested by the company for the transmission system for \_\_\_\_\_[Name of Project], partly by acquisition of the existing equity shares from \_\_\_\_\_[Name of BPC] and / or partly by subscribing to the new equity shares, as per the terms of the RFP.

[**Note:** Equity investment obligations by the Bidding Company/each Member of the Bidding Consortium/investing Affiliate or Parent or Ultimate Parent should add up to 100%.]

[**Note:** In the event the Bidder is a Bidding Consortium, the following Board resolution no. 2 also needs to be passed by the Lead Member of the Bidding Consortium]

**2. RESOLVED THAT** approval of the Board be and is hereby accorded to contribute such further amount over and above the ;..... percentage (\_\_\_%) limit to the extent becoming necessary towards the total equity share in the \_\_\_\_\_[Name of SPV], obligatory on the part of the company pursuant to the terms and conditions contained in the Consortium Agreement dated .....executed by the company as per the provisions of the RFP.

[**Note:** In the event, the investing entity is an Affiliate or Parent or Ultimate Parent of the Bidder, the following Board resolution no. 3 shall also be passed by the Bidder]

**3. FURTHER RESOLVED THAT** the Board hereby acknowledges the Board Resolution(s) passed by the..... [Name of the Affiliate(s)/ Parent / Ultimate Parent] regarding the investment of.....(....%) of the equity share capital requirements of \_\_\_\_\_[Name of SPV], which is to be invested by the .....[Name of the Affiliate(s)/ Parent / Ultimate Parent] for the \_\_\_\_\_[Name of SPV], partly by acquisition of the existing equity shares from \_\_\_\_\_[Name of BPC] and partly by subscribing to the new equity shares, as per the terms of the RFP.

[**Note:** The following resolution no. 4 is to be provided by the Bidding Company / Lead Member of the Consortium only]

..... [Insert name of the BPC]



4. FURTHER RESOLVED THAT MR/MS .....be and is hereby authorized to take all the steps required to be taken by the Company for submission of the Bid, including in particular, signing of the Bid, making changes thereto and submitting amended Bid, all the documents related to the Bid, certified copy of this Board resolution or letter or undertakings etc, required to be submitted to BPC as part of the Bid or such other documents as may be necessary in this regard.

Certified True Copy

Company rubber stamp to be affixed

**[Notes:**

- 1) This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary or any Whole Time Director/ Manager (supported by a specific board resolution) of the Bidding Company or the Lead Member of Consortium.
- 2) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution, i.e., the Bidding Company, each Member of the Bidding Consortium.
- 3) This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act 1956 / Companies Act 2013 (as the case may be) may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing company and the authorizations granted therein are true and valid.]

**Format 2**

**Format for the Board resolution of Technically / Financially Evaluated Entity / Ultimate Parent Company (in case credentials of such TEE/ FEE has been utilized by the Bidding Company or Bidding Consortium)**

The Board, after discussion, at the duly convened Meeting on ..... [Insert date], with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 1956 / 2013, passed the following Resolution:

**RESOLVED THAT** pursuant to the provisions of the Companies Act, 1956 / Companies Act, 2013 (as the case may be) and compliance thereof and as permitted under the Memorandum and Articles of Association of the company, approval of the Board be and is hereby accorded for issuing an Undertaking to the BPC, in the format specified in the RFP issued by the BPC, draft of which is attached hereto and initialed by the Chairman whereby the company undertakes to invest .....percent (.... %) of the total equity share capital of \_\_\_\_\_[Name of SPV] representing the entire amount proposed to be invested by .....[insert the name of the Bidder or Member] for the said Project, in case of failure of .....[Insert the name of the Bidder or Member] to make such investment".

**FURTHER RESOLVED THAT** .....,be and is hereby authorized to take all the steps required to be taken by the Company, including in particular, signing the said Undertaking, submitting the same to the BPC through .....[Insert name of Bidding Company/Lead Member of the Consortium] of all the related documents, certified copy of this Board resolution or letter, undertakings etc, required to be submitted to BPC as part of the Bid or such other documents as may be necessary in this regard.

**Certified True Copy**

**Company rubber stamp to be affixed**

**Note:**

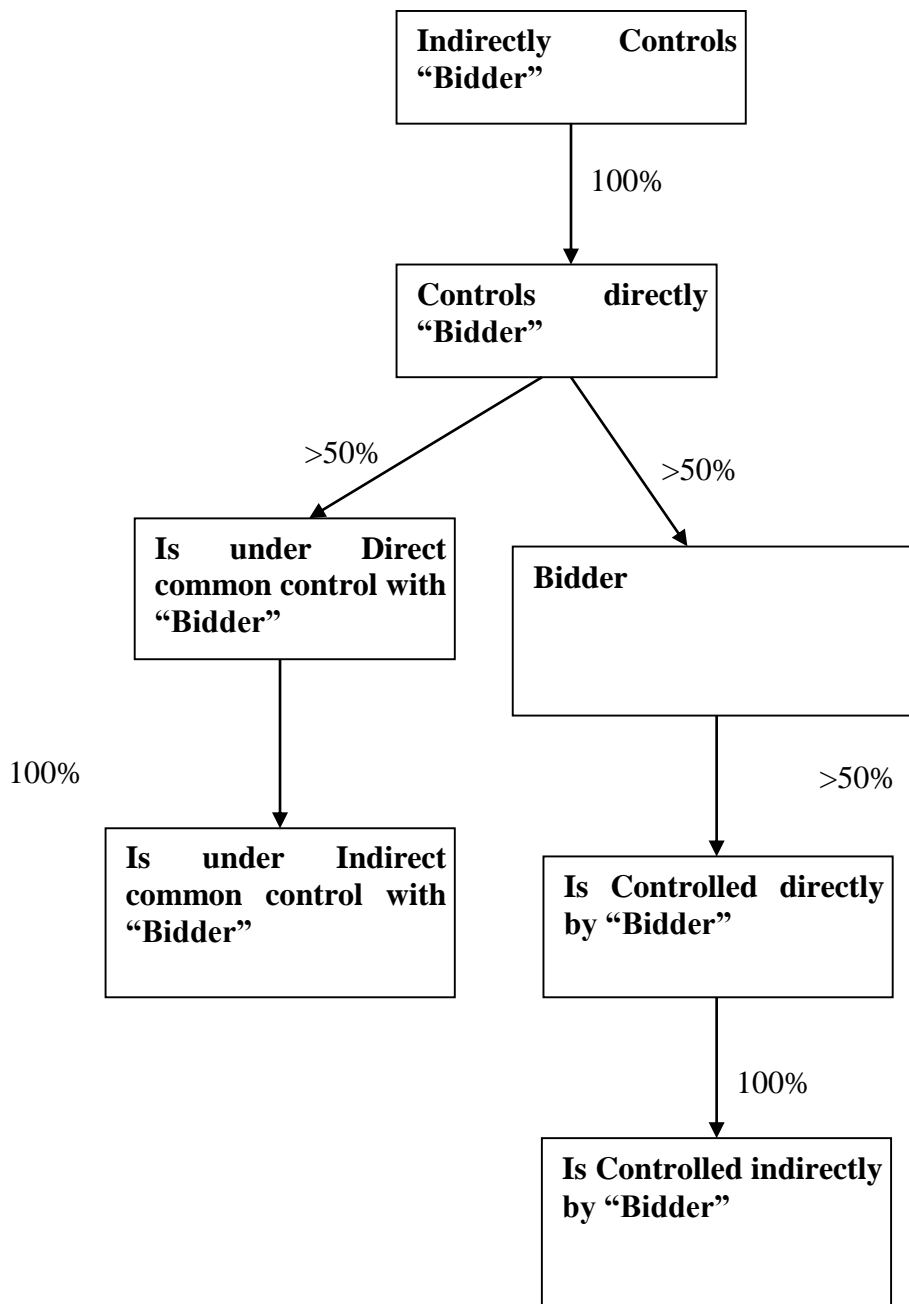
1. This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary or any Whole-time Director/Manager (supported by a specific board resolution) of Bidding Company or Lead Member of the Consortium.
2. The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.
3. This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act 1956 / Companies Act 2013 (as the case may be) may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing company and the authorizations granted therein are true and valid.

**ANNEXURE 11A – ILLUSTRATION FOR APPLICABLE BOARD RESOLUTION REQUIREMENTS UNDER CLAUSE 2.5.2**

<b>Investor in the TSP</b>	<b>Entities (other than Bidder) whose credentials (financial and/or technical) used by the Bidder for meeting RFP criteria</b>	<b>Applicable Board Resolutions</b>	<b>Requirement of Undertaking (Annexure 10A)</b>
Bidder himself for 100% equity	None	a) Format 1 of Annexure 11 - Resolution: 1, 2 and 4 from the Bidder	None
Bidder himself for 100% equity	Affiliate and/or Parent Company and/or Ultimate Parent	<p>a) Format 1 of Annexure 11 - Resolution: 1, 2, and 4 from the Bidder</p> <p>b) Format 2 of Annexure 11 by either Technically/ Financially Evaluated Entity(ies) whose credentials have been used, or Ultimate Parent.</p> <p>Provided, if the Bidder himself is the Ultimate Parent, then Format 2 need not be provided.</p>	<p>Yes, by either Technically / Financially Evaluated Entity(ies) Affiliate(s) whose credentials have been used, or Ultimate Parent.</p> <p>Provided, if the Bidder himself is the Ultimate Parent, then the undertaking need not be provided.</p>
Bidder himself + others (Affiliate and/or Parent Company and/or Ultimate Parent) in aggregate holding 100% equity	None	<p>a) Format 1 of Annexure 11 - Resolution: 1,2, 3 and4 from the Bidder.</p> <p>b) Format 1 of Annexure 11 - Resolution: 1 from the Affiliate and /or Parent and /or Ultimate Parent investing in the equity</p>	None
Bidder himself + others (Affiliate and/or Parent Company	Affiliate and/or Parent Company and/or Ultimate Parent	<p>a) Format 1 of Annexure 11 - Resolution: 1,2, 3 and 4 from the Bidder.</p> <p>b) Format 1 of Annexure 11 -</p>	Yes, by either Parent/ Affiliate(s) whose credentials have been used, or Ultimate Parent

<b>Investor in the TSP</b>	<b>Entities (other than Bidder) whose credentials (financial and/or technical) used by the Bidder for meeting RFP criteria</b>	<b>Applicable Board Resolutions</b>	<b>Requirement of Undertaking (Annexure 10A)</b>
and/or Ultimate Parent) in aggregate holding 100% equity		Resolution: 1 from the Affiliate and/or Parent and/or Ultimate Parent investing in the equity c) Format 2 of Annexure 11 by either Parent / Affiliate(s) whose credentials have been used and /or Ultimate Parent investing in the equity	

**ANNEXURE 12 - FORMAT FOR ILLUSTRATION OF AFFILIATES**



**NOTE:** Bidder to provide the illustration, as applicable in their case, duly certified by the Company Secretary and supported by documentary evidence in this regard.

**ANNEXURE 13 - FORMAT FOR DISCLOSURE**

**[On the letter head of Bidding Company / Each Member in a Bidding Consortium]**

**Date: .....**

**DISCLOSURE**

We hereby declare that the following companies with which we/ have direct or indirect relationship are also separately participating in this Bid process as per following details

<b>S. No.</b>	<b>Name of the Company</b>	<b>Relationship</b>
<b>1.</b>		
<b>2.</b>		
<b>3.</b>		

In case there is no such company please fill in the column “name of the company” as Nil.

Further we confirm that we don’t have any Conflict of Interest with any other company participating in this bid process.

**Certified as True**

.....  
**(Signature)**

**Name:** .....

**Signature & Name of authorized signatory of the Company and Stamp**

The above disclosure should be signed and certified as true by the authorized signatory of the Bidding Company or of the Member, in case of a Consortium).

**ANNEXURE 14 - FORMAT OF THE BID BOND**

**FORMAT OF THE UNCONDITIONAL AND IRREVOCABLE BANK GUARANTEE FOR BID BOND**

**(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.)**

In consideration of the .....[Insert name of the Bidder] submitting the Bid inter alia for establishing the Inter-State transmission system for \_\_\_\_\_[Name of Project] on build, own, operate and transfer basis, in response to the RFP dated \_\_\_\_\_ issued by \_\_\_\_\_[Name of BPC], and the Bid Process Coordinator (hereinafter referred to as BPC) agreeing to consider such Bid of ..... [Insert the name of the Bidder] as per the terms of the RFP, the [Insert name and address of the bank issuing the Bid Bond, and address of the Head Office] (hereinafter referred to as "Guarantor Bank") hereby agrees unequivocally, irrevocably and unconditionally to pay to \_\_\_\_\_[Name of BPC] or its authorized representative at \_\_\_\_\_[Address of BPC] forthwith on demand in writing from \_\_\_\_\_[Name of BPC] or any representative authorized by it in this behalf, any amount up to and not exceeding Rupees \_\_\_\_\_ Only (Rs \_\_\_\_\_ Crore),on behalf of M/s.....[Insert name of the Bidder].

This guarantee shall be valid and binding on the Guarantor Bank up to and including ..... [Date to be inserted on the basis of Clause 2.11 of this RFP] and shall not be terminable by notice or any change in the constitution of the Guarantor Bank or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between concerned parties.

Our liability under this Guarantee is restricted to Rupees \_\_\_\_\_ Only (Rs \_\_\_\_\_ Crore). Our Guarantee shall remain in force until .....[Date to be inserted on the basis of Clause 2.11 of this RFP]. \_\_\_\_\_[Name of BPC] or its authorized representative shall be entitled to invoke this Guarantee until ..... [Insert Date, which is three sixty five days (365) days after the date in the preceding sentence]. The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from \_\_\_\_\_[Name of BPC] or its authorized representative, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to \_\_\_\_\_[Name of BPC] or its authorized representative.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection, disputes, or disparities raised by the Bidder or any other person. The Guarantor Bank shall not require \_\_\_\_\_[Name of BPC] or its authorized representative to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against \_\_\_\_\_[Name of BPC] or its authorized representative in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly \_\_\_\_\_[Name of BPC] or its authorized representative shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder to enforce any security held by \_\_\_\_\_[Name of BPC] or its authorized representative or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rupees \_\_\_\_\_ Only (Rs \_\_\_\_ Crore) and it shall remain in force until ..... [Date to be inserted on the basis of Clause 2.11 of RFP], with an additional claim period of three hundred sixty five (365) days thereafter. We are liable to pay the guaranteed amount or any part thereof under this BANK GUARANTEE only if \_\_\_\_\_[Name of BPC] or its authorized representative serves upon us a written claim or demand.

In witness whereof the Bank, through its authorized officer, has set its hand and stamp on this..... day of ..... at.....

**Witness:**

1.....  
Name and Address

Signature: .....  
Name: .....

2. ....  
Name and Address

Designation with Stamp:

Signature .....

Attorney as per power of attorney  
No.....

For:  
..... [Insert Name of the Bank]

**Banker's Stamp and Full Address:**

Dated this.....day of..... 20.....

**Notes:**

- 1. The Stamp Paper should be in the name of the Executing Bank.



**ANNEXURE 15 - FORMAT FOR CONTRACT PERFORMANCE GUARANTEE**

**(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.  
Foreign entities submitting Bids are required to follow the applicable law in their country)**

In consideration of the ..... [Insert name of the SPV or Selected Bidder on behalf of SPV or Lead Member in case of the Consortium, with address] agreeing to undertake the obligations under the Implementation & Service Agreement dated ..... and the other RFP Project Documents and the Nodal Agency and ..... [Name of BPC], agreeing to execute the RFP Project Documents with the Selected Bidder, regarding setting up the Project, the.....[Insert name and address of the bank issuing the guarantee and address of the head office] (hereinafter referred to as "Guarantor Bank") hereby agrees unequivocally, irrevocably and unconditionally to pay to the Nodal Agency at..... [Insert Place and Address of the Nodal Agency indicated in ISA] forthwith on demand in writing from the Nodal Agency or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees.....Crores (Rs.....) only [Insert the amount of the bank guarantee] on behalf of M/s..... [Insert name of the Selected Bidder / SPV].

This guarantee shall be valid and binding on the Guarantor Bank up to and including .....and shall not be terminable by notice or any change in the constitution of the Bank or the term of the Implementation & Service Agreement or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rupees ..... Crores (Rs.....) only. Our Guarantee shall remain in force until..... [Insert the date of validity of the Guarantee as per Clause 2.12.1 of the RFP]. The Nodal Agency shall be entitled to invoke this Guarantee up to three hundred sixty five (365) days of the last date of the validity of this Guarantee.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from the Nodal Agency, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Nodal Agency.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by \_\_\_\_\_[Name of SPV], ..... [Insert name of the Selected Bidder], ..... [Insert name of the TSP] and/or any other person. The Guarantor Bank shall not require the Nodal Agency to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Nodal Agency in respect of any payment made hereunder.

**This BANK GUARANTEE** shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

**This BANK GUARANTEE** shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Guarantor Bank.

**This BANK GUARANTEE** shall be a primary obligation of the Guarantor Bank and accordingly the Nodal Agency shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against \_\_\_\_\_[Name of SPV] or the Selected Bidder, to make any claim against or any demand on \_\_\_\_\_[Name of SPV] or the Selected Bidder, as the case may be, or to give any notice to \_\_\_\_\_[Name of SPV] or the Selected Bidder, as the case may be, or to enforce any security held by the Nodal Agency or to exercise, levy or enforce any distress, diligence or other process against .....\_[Name of SPV] or the Selected Bidder, as the case may be.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the Nodal Agency and may be assigned, in whole or in part, (whether absolutely or by way of security) by Nodal Agency to any entity to whom the Nodal Agency is entitled to assign its rights and obligations under the Implementation & Service Agreement.

The Guarantor Bank hereby agrees and acknowledges that the Nodal Agency shall have a right to invoke this Bank Guarantee either in part or in full, as it may deem fit.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rupees .....Crores (Rs .....) only and it shall remain in force until [Date to be inserted on the basis of Article 3.1.2 of ISA], with an additional claim period of three hundred sixty five (365) days thereafter. This BANK GUARANTEE shall be extended from time to time for such period, as may be desired by..... [Insert name of the Selected Bidder or Lead Member in case of the Consortium or SPV]. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if the Nodal Agency serves upon us a written claim or demand.

**In witness where of:**

Signature.....

Name: .....

Power of attorney No.: .....

**For:**

..... [Insert Name of the Bank]  
Banker's Seal and Full Address, including mailing address of the Head Office

**Notes:**

- 1. The Stamp Paper should be in the name of the Executing Bank.

## ANNEXURE 16 – FORMAT OF CHECKLIST FOR TECHNICAL BID SUBMISSION REQUIREMENTS

**[This format needs to be duly filled in, signed by the authorized signatory of the Bidder (Bidding Company / Lead Member in case of a Bidding Consortium) and submitted along with the Bidder's Technical Bid]**

Technical Bid Submission Requirements	Response (Yes / No)
1. Format for the Covering Letter on the letterhead of Bidding Company or Lead Member of the Consortium, as applicable;	
2. Format for Letter of Consent from each Consortium Member, including Lead Member, on their respective letterheads;	
3. Format for evidence of authorized signatory's authority (Power of Attorney to be submitted in original);	
4. Board resolution from the Bidding Company / Lead Member of the Consortium in favour of the person executing the Power of Attorney as per <b>Annexure 3</b> ;	
5. Power of Attorney from each Consortium Member in favour of Lead Member to be provided by each of the other Members of the Consortium (to be submitted in original) as per <b>Annexure 4</b> ;	
6. Board Resolution from each Member of the Consortium, other than the Lead Member, in favour of their respective authorized representatives for executing the POA, Consortium Agreement and signing of the requisite formats;	
7. Format for Bidder's composition and ownership structure, along with status of equity holding (owning ten percent or more of the total paid up equity) not earlier than thirty (30) days prior to the Bid Deadline as per <b>Annexure 5</b> ;	
8. Consortium Agreement duly signed as per <b>Annexure 6</b> (to be submitted in original), along with Appendix-1, indicating the responsibilities and obligations of each Member of the Consortium;	
9. Format for Qualification Requirement: <ul style="list-style-type: none"> <li>a. Calculation sheets, detailing computation of Networth considered for meeting Qualifying Requirements, duly signed and stamped by the Statutory Auditor of the Bidding Company / each Member in case of a Bidding Consortium / FEE in cases where credentials of FEE is taken;</li> <li>b. Calculation sheets, detailing computation of capital expenditure of projects and revenue received in</li> </ul>	

Technical Bid Submission Requirements	Response (Yes / No)
<p>construction projects considered for meeting Qualification Requirements, duly signed and stamped by the Statutory Auditor of the Bidding Company / Lead Member in case of Bidding Consortium / TEE in cases where credentials of TEE is taken;</p> <p>c. Last three (3) financial years' unconsolidated / consolidated audited annual accounts / statements, as the case may be, of the Financially Evaluated Entity / Technical Evaluated Entity</p> <p>d. Unconsolidated audited annual accounts of both the TEE and the Bidding Company/Lead member, as applicable, for the financial years in which financial closure was achieved and the financial year in which the said project was completed / commissioned.</p> <p>10. Copy of the Memorandum and Articles of Association and certificate of incorporation or other organizational document (as applicable), including their amendments, certified by the Company Secretary of Bidding Company or each Member in case of a Consortium including Lead Member.</p> <p>11. Attachment of <b>Annexure 7(D)</b>, detailing projects completed / commissioned and for which commercial operation has commenced including Executive Summary for each project.</p> <p>12. For each project listed in the attachment above, certified true copy of the certificates of final acceptance and / or certificates of good operating performance duly issued by owners or clients for the project, duly signed by authorized signatory in support of technical capability as defined in Clause 2.1.2 of RFP.</p> <p>13. Authority letter in favour of BPC from the Bidder/every Member of the Consortium authorizing the BPC to seek reference from their respective bankers &amp; others.</p> <p>14. Authorization from Parent / Affiliate of Bidding Company / Member of Bidding Consortium whose technical / financial capability has been used by the Bidding Company / Member of Bidding Consortium.</p> <p>15. Initialing of all pages of Technical Bid by the Authorized Signatory in whose favour the POA (<b>Annexure 3</b>) has been executed.</p> <p>16. Format for Illustration of Affiliates as on seven (7) days prior to the Bid Deadline, duly certified by Company Secretary and supported by documentary evidence.</p>	

Technical Bid Submission Requirements	Response (Yes / No)
17. Certified copy of the Register of Members / Demat Account Statement, Share Certificate, Annual Return filed with ROC etc. submitted as documentary evidence along with <b>Annexure 12.</b>	
18. Format for Disclosure by Bidding Company / each Member of the Consortium.	
19. Format for Affidavit by the Bidding Company / each Member of the Consortium	
20. Format for Authorization submitted in Non-Judicial stamp paper duly notarized.	
21. Bidders Undertaking and details of Equity Investment	
22. Proof of Payment of RFP Fees	
23. Bid Bond	
24. Contract Performance Guarantee	
25. Board Resolution as per Annexure 11 (If required)	

[**Note:** The checklist is not exhaustive. Bidders are required to submit all the information/documents as per requirement of RFP]

**For and on behalf of Bidder**

M/s. ....

.....

**(Signature of authorized signatory)**

### ANNEXURE 17 – LIST OF BANKS

The list of banks shall include all Scheduled Commercial Banks as per Second Schedule of RBI Act-1934 and any amendments thereof.

Note:

The above list of banks is indicative and can be modified by the BPC as required and any such change shall not be construed as a deviation from this document.

**ANNEXURE 18 -GRID MAP OF THE PROJECT**

**ANNEXURE 19 - FORMAT FOR CLARIFICATIONS / AMENDMENTS ON THE RFP / RFP PROJECT DOCUMENTS**

S. No.	Name of the Document	Clause No. and Existing provision	Clarification required	Suggested text for the amendment	Rationale for the Clarification or Amendment

Signature .....

Name.....

For

**Bidder's Rubber Stamp and Full Address.**

(Note: This format shall be used for submission of requests for clarifications/ amendments on the draft RFP Project Documents as per the provisions of Clause 2.3.1)



**ANNEXURE 20 - LIST FOR RFP PROJECT DOCUMENTS**

**ENCLOSURE 1: IMPLEMENTATION & SERVICE AGREEMENT (Provided separately)**

**ENCLOSURE 2: TRANSMISSION SERVICE AGREEMENT (Provided separately)**

**ENCLOSURE 3: REVENUE SERVICE AGREEMENT (Provided Separately)**

**ENCLOSURE 4: SHARE PURCHASE AGREEMENT (Provided Separately)**

.....

[To be inserted by the BPC]

## ANNEXURE 21 - FORMAT FOR FINANCIAL BID

[To be uploaded online]

[BPC to fill in the Scheduled COD for the Project and respective years in Columns 2 and 3]

## Quoted Transmission Charges

Year (Term of Contract Year)	Commencement Date of Contract Year	End Date of Contract Year	Quoted Non-Escalable Transmission Charges (in Rupees Millions)	Quoted Escalable Transmission Charges (in Rupees Millions)
(1)	(2)	(3)	(4)	(5)
1	Scheduled COD  (Refer note 7 and 9)	31-March		
2	1-April	31-March		
3	1-April	31-March		
4	1-April	31-March		
5	1-April	31-March		
6	1-April	31-March		
7	1-April	31-March		
8	1-April	31-March		
9	1-April	31-March		
10	1-April	31-March		
11	1-April	31-March		
12	1-April	31-March		
13	1-April	31-March		
14	1-April	31-March		
15	1-April	31-March		
16	1-April	31-March		
17	1-April	31-March		
18	1-April	31-March		
19	1-April	31-March		
20	1-April	31-March		
21	1-April	31-March		
22	1-April	31-March		
23	1-April	31-March		
24	1-April	31-March		
25	1-April	31-March		
26	1-April	31-March		
27	1-April	31-March		
28	1-April	31-March		
29	1-April	31-March		
30	1-April	31-March		
31	1-April	31-March		
32	1-April	31-March		

33	1-April	31-March		
34	1-April	31-March		
35	1-April	31-March		
36	1-April	35 <sup>th</sup> anniversary of the Scheduled COD (Refer note 8 and 9)		

### Notes

1. The Bidders are required to ensure compliance with the provisions of Clause 2.5.3 of this RFP.
2. Quotes to be in Rupees Millions and shall be up to two (2) decimal points.
3. The contents of this format shall be clearly typed.
4. The Financial Bid shall be digitally signed by the authorized signatory in whose name power of attorney as per Clause 2.5.2 is issued.
5. Ensure .... Values [BPC to insert total number of values to be quoted based on Scheduled COD] of the Quoted Non-Escalable Transmission Charges and only 1 value for Quoted Escalable Transmission Charges, unless firm Transmission Charges are quoted.
6. In the likely situation of Bidders quoting firm Transmission Charges, the single value for the Quoted Escalable Transmission Charges should be filled as Nil.
7. Transmission Charges for the first Contract Year are to be the quoted for the twelve month period starting from the immediately preceding 1 April from the Scheduled COD till the immediately succeeding 31 March.
8. Transmission Charges for the last Contract Year are to be quoted for the twelve month period starting from the immediately preceding 1 April to the date of thirty-fifth anniversary of the Scheduled COD till the immediately succeeding 31 March.
9. However, in cases of both (7) and (8) above, the total Transmission Charges payable to the TSP shall be computed proportionately for the total number of days in the first and the last Contract Year respectively.

**ANNEXURE 22 – ILLUSTRATION OF THE BID EVALUATION/COMPUTATION OF  
LEVELISED TRANSMISSION CHARGES**

Uploaded online

**ANNEXURE 23 – FORMAT FOR AFFIDAVIT**

**[On non-judicial stamp paper. Foreign companies submitting bids are required to follow the applicable law in their country]**

**AFFIDAVIT**

We hereby declare that we [including any of our Consortium Member or Affiliate] have not been:

- a. charge-sheeted by any agency of the Government or convicted by a Court of Law with regard to matters relating to security and integrity of the country;
- b. blacklisted and/or debarred by any government department and/ or government entity;
- c. undischarged insolvent;
- d. willful defaulter in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 (10 of 1949);
- e. prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities market.

We further declare that we [CEO or any of the directors/ manager/key managerial personnel of the Applicant/Consortium Member or their Affiliates]:

- a. have not been charge-sheeted by any agency of the Government or convicted by a Court of Law with regard to matters relating to security and integrity of the country.
- b. (i) have not been convicted for any offence punishable with imprisonment for two years or more under any Act specified under the Twelfth Schedule of Insolvency and Bankruptcy Code, 2016

or

have been convicted for an offence punishable with imprisonment for two years or more under an Act specified under the Twelfth Schedule of Insolvency and Bankruptcy Code, 2016 but a period of two years or more has elapsed since release from imprisonment for such conviction [strike off whichever is not applicable]

- (ii) have not been convicted for any offence punishable with imprisonment for seven years or more under any law for the time being in force

or

have been convicted for an offence punishable with imprisonment for seven years or more under a law for the time being in force but a period of two years or more has elapsed since release from imprisonment for such convection [strike off whichever is not applicable]

- c. have not been prohibited by the Securities and Exchange Board of India from trading in securities or accessing the securities market.

We further declare that following investigations are pending / no investigation is pending [strike off whichever is not applicable] against us [including any of our Consortium Member or Affiliate or Parent or Ultimate Parent or Affiliate] or CEO or any of our directors/ manager/key managerial personnel of the Applicant /Consortium Member or their Affiliates.

We further undertake to inform the BPC of any such matter as mentioned above on its occurrence after the date of this affidavit till the Effective Date.

We undertake that, in case, any information provided in relation to this affidavit is found incorrect at any time hereafter, our BID / Letter of Intent / contract (if entered) would stand rejected / recalled / terminated, as the case may be.

.....  
Signature and Name of the authorized signatory of the Company Bidding Company / Lead Member of the Bidding Consortium

.....  
(Signature of Notary Public)

Place: .....  
Date: .....

Note: In case any investigation is pending against the Applicant, including any Consortium Member or Affiliate, or CEO or any of the directors/ manager/key managerial personnel of the Applicant /Consortium /Member or their Affiliates, full details of such investigation including the name of the investigating agency, the charge/offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed under this affidavit.

## ANNEXURE A

S. No.	Items
1.	400 kV and above Transformers and reactors
2.	220 kV and below Transformers and reactors
3.	Instrument Transformers
4.	HTLS conductors & hardware
5.	Conventional conductors & hardware
6.	Porcelain Insulators
7.	Composite insulators
8.	Air Insulated Switchgear, LA, Wave Trap (72.5 kV to 800 kV)
9.	HV Gas insulated Switchgear
10.	800 kV UHV Gas Insulated Switchgear
11.	Control & Power Cables
12.	EHV Cables
13.	Control & Relay Panels, SCADA, RTU, Fibre Optic Cable, OPGW etc.
14.	Substation structures & Transmission Line Towers
15.	DG Set
16.	DC System in a substation
17.	Illumination System
18.	Grounding System
19.	HVDC System

**ANNEXURE B**

**Technical Details with respect to electronic bidding**

[To be provided by software vendor for electronic bidding & e- reverse auction]



**STANDARD  
IMPLEMENTATION AND SERVICE AGREEMENT**

**FOR**

**DEVELOPMENT AND OPERATION OF INTER-STATE  
TRANSMISSION SYSTEM**

**FOR TRANSMISSION OF ELECTRICITY THROUGH  
TARIFF BASED COMPETITIVE BIDDING FOR**

.....  
**[INSERT THE NAME OF PROJECT]**

**BETWEEN THE**

.....

**(NODAL AGENCY)**

**AND**

.....  
**[INSERT THE NAME OF TRANSMISSION SERVICE  
PROVIDER]**

.....2019

**CONTENTS**

1	Definitions and Interpretations .....	6
2	Effectiveness and Term of Agreement.....	21
3	Conditions Subsequent.....	24
4	Development of the Project.....	29
5	Construction of the Project .....	34
6	Connection and commissioning of the Project .....	39
7	Operation and Maintenance of the Project .....	45
8	Availability of the project .....	46
9	Insurances .....	47
10	Billing And Payment of Transmission Charges .....	49
11	Force Majeure .....	51
12	Change in Law .....	57
13	Events of Default and Termination .....	60
14	Liability and Indemnification .....	66
15	Assignments and Charges .....	72
16	Governing Law and Dispute Resolution .....	74
17	Representation and Warranties .....	76
18	Miscellaneous Provisions.....	78

**THIS IMPLEMENTATION AND SERVICE AGREEMENT** (hereinafter referred to as "ISA" or "Agreement" or "the Agreement" or "this Agreement") is made on the ..... [Insert day] of..... [Insert month] of Two Thousand and..... [Insert Year]

**BETWEEN:**

The .....[Insert name and registered address of Nodal Agency for the project], acting as a Nodal Agency (referred to as the "Nodal Agency"), which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the one part;

**AND**

..... [Insert Name of the Transmission Service Provider], incorporated under the Companies Act, 1956/ Companies Act, 2013 (as the case may be), having its registered office at ..... (herein after referred to as "Transmission Service Provider" or "TSP" or "ISTS Licensee", which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the other part;

**("Nodal Agency" and "TSP" are individually referred to as "Party" and collectively as the "Parties")**

**AND WHEREAS:**

- A) In accordance with the Bidding Guidelines, the Bid Process Coordinator (hereinafter referred to as BPC) had initiated a competitive e-reverse bidding process through issue of RFP for selecting a Successful Bidder to build, own, operate and transfer the Project comprising of the Elements mentioned in Schedule 1 (hereinafter referred to as the Project)
- B) Pursuant to the said e-reverse bidding process, the BPC has identified the Successful Bidder, who will be responsible to set up the the Project on build, own, operate and transfer basis to provide Transmission Service to the

..... [Insert Name of the SPV]

Designated ISTS Customers (DICs) in accordance with the terms of this Agreement and the Transmission License.

- C) The Selected Bidder have submitted the Contract Performance Guarantee and acquired one hundred percent (100%) of the equity shareholding of ..... [Insert Name of the SPV], along with all its related assets and liabilities in terms of the provisions of the Share Purchase Agreement.
- D) The TSP has agreed to make an application for a Transmission License to the Commission for setting up the Project on build, own, operate and transfer basis.
- E) The TSP has further agreed to make an application to the Commission for the adoption of the Transmission Charges under Section 63 of the Electricity Act, 2003, along with a certification from the Bid Evaluation Committee in accordance with the Bidding Guidelines issued by Ministry of Power, Government of India.
- F) The TSP has agreed to execute the Supplementary Agreement to the Transmission Service Agreement and the Supplementary Agreement to the Revenue Sharing Agreement with the CTU within seven (7) days from the date of grant of Transmission License from the Commission.
- G) The TSP agrees to the terms and conditions laid down in the Transmission Services Agreement (TSA) as approved by the Central Electricity Regulatory Commission (CERC), including amendments issued from time to time, for making available the ISTS for use by the DICs and charge the Transmission Charges in accordance with the terms and conditions of the TSA / Supplementary Agreement to the TSA.
- H) The billing, collection and disbursement of the Transmission Charges by the CTU to the ISTS Licensee shall be governed as per the provisions of the Sharing Regulations.
- I) The terms and conditions stipulated in the Transmission License issued by the Commission to the TSP shall be applicable to this Agreement and the TSP agrees to comply with these terms and conditions. In case of inconsistency between the License terms & conditions and the conditions of this Agreement, the conditions stipulated in the License granted by the Commission shall prevail.

**NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL AGREEMENTS, COVENANTS AND CONDITIONS SETFORTH HEREIN, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

..... [Insert Name of the SPV]

**ARTICLE: 1**

**1 DEFINITIONS AND INTERPRETATIONS**

**1.1 Definitions:**

1.1.1 The words / expressions used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under including those issued / framed by the Commission (as defined hereunder), as amended or re-enacted from time to time or the General Clauses Act, failing which it shall bear its ordinary English meaning.

The words/expressions when used in this Agreement shall have the respective meanings as specified below:

**“Acquisition Price”** shall have the same meaning as defined in the Share Purchase Agreement;

**“Act”** or **"Electricity Act"** or **“Electricity Act 2003”** shall mean the Electricity Act, 2003 and any amendments made to the same or any succeeding enactment thereof;

**“Affiliate”** shall mean a company that either directly or indirectly

- i. controls or
- ii. is controlled by or
- iii. is under common control with

a Bidding Company (in the case of a single company) or a Member (in the case of a Consortium) and **“control”** means ownership by one entity of more than fifty percent (50%) of the voting rights of the other entity;

**"Agreed Form"** in relation to any document shall mean the form of the document most recently agreed to by the Parties and initialled by them for identification;

**“Arbitration Tribunal”** shall mean the tribunal constituted under Article 16 of this Agreement;

**“Availability”** in relation to the Project or in relation to any Element of the Project, for a given period shall mean the time in hours during that period the Project is capable to transmit electricity at its Rated Voltage and shall

be expressed in percentage of total hours in the given period and shall be calculated as per the procedure contained in ..... [BPC to insert reference to applicable regulations], attached herewith in Schedule 7;

“**Bid**” shall mean technical bid and financial bid submitted by the Bidder, in response to the RFP, in accordance with the terms and conditions of the RFP;

“**Bid Deadline**” shall mean the last date and time for submission of the Bid in response to RFP, as specified in the RFP;

“**Bidding Company**” shall refer to such single company that has made a Response to RFP for the Project;

“**Bidding Consortium / Consortium**” shall refer to a group of companies that has collectively made a Response to RFP for the Project;

“**Bid Documents**” or “**Bidding Documents**” shall mean the RFP, along with all attachments thereto or clarifications thereof;

“**Bidding Guidelines**” shall mean the “Tariff Based Competitive Bidding Guidelines for Transmission Service” and “Guidelines for Encouraging Competition in Development of Transmission Projects” issued by Government of India, Ministry of Power dated 13th April 2006 under Section – 63 of the Electricity Act and as amended from time to time;

“**Bid Process Coordinator**” or “**BPC**” shall mean a person or its authorized representative as notified by the Government of India, responsible for carrying out the process for selection of Bidder who will acquire Transmission Service Provider;

“**Bill**” shall mean any bill raised by the CTU on the DICs to recover the Transmission Charges pursuant to the TSA in accordance with the Billing, Collection and Disbursement Procedure;

“**Business Day**” shall mean a day other than Sunday or a statutory holiday, on which the banks remain open for business in the State in which the Nodal Agency’s registered office is located and the concerned TSP are located;

“**CEA**” shall mean the Central Electricity Authority constituted under Section -70 of the Electricity Act;

**“Change in law”** shall have the meaning ascribed thereto in Article 12;

**“Commercial Operation Date”** or **“COD”** shall mean the date as per Article 6.2;

*Provided that the COD shall not be a date prior to the Scheduled COD mentioned in the Implementation & Service Agreement, unless mutually agreed to by all Parties (Applicable for project other than system strengthening schemes);*

Any preponing of COD of any element prior to scheduled COD must be approved by the CEA (*Applicable for system strengthening schemes*).

**“Commission”** or **“CERC”** shall mean the Central Electricity Regulatory Commission referred to in sub-section (1) of Section 76 of the Electricity Act, 2003 or its successors and assigns;

**“Competent Court of Law”** shall mean the Supreme Court or any High Court, or any tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to the Project;

**“Connection Agreement”** shall mean the agreement between the CTU or STU or any other concerned parties and the TSP, setting out the terms relating to the connection of the Project to the Inter-connection Facilities and use of the Inter State Transmission System as per the provisions of the IEGC, as the case may be;

**“Consultation Period”** shall mean the period of sixty (60) days or such longer period as the Parties may agree, commencing from the date of issue of a TSP’s Preliminary Notice or a Nodal Agency’s Preliminary Termination Notice, as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;

**“Consents, Clearances and Permits”** shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any Indian Governmental Instrumentality for the development, execution and operation of Project including without any limitation for the construction, ownership, operation and maintenance of the Transmission Lines and/or sub-stations;



**“Construction Period”** shall mean the period from (and including) the Effective Date of the Implementation & Service Agreement up to (but not including) the COD of the Element of the Project in relation to an Element and up to (but not including) the COD of the Project in relation to the Project;

**“Contractors”** shall mean the engineering, procurement, construction, operation & maintenance contractors, surveyors, advisors, consultants, designers, suppliers to the TSP and each of their respective sub-contractors (and each of their respective successors and permitted assigns) in their respective capacities as such;

**“Contract Performance Guarantee”** shall mean the irrevocable unconditional bank guarantee, submitted and to be submitted by the TSP or by the Selected Bidder on behalf of the TSP to the Nodal Agency from a bank mentioned in Annexure 15 of the RFP, in the form attached here to as Schedule 9, in accordance with Article 3 of this Agreement and which shall include the additional bank guarantee furnished by the TSP under this Agreement;

**“Contract Year”**, for the purpose of payment of Transmission Charges, shall mean the period beginning on the Scheduled COD, and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that the last Contract Year shall end on the last day of the term of the ISA;

**“CTU”** or **“Central Transmission Utility”** shall mean the Power Grid Corporation of India Limited notified as the CTU by the Central Government under Section-38 of the Electricity Act, 2003, or any other entity that may be notified by the Central Government from time to time;

**“Day”** shall mean a day starting at 0000 hours and ending at 2400 hours;

**“D/C”** shall mean Double Circuit;

**“Designated ISTS Customers”** or **“DICs”** shall have the meaning as ascribed in the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulation 2010 and as amended or modified from time to time;

**“Dispute”** shall mean any dispute or difference of any kind between the Nodal Agency and the TSP, in connection with or arising out of this

Agreement including any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16;

**“Due Date”** in relation to any Bill, shall have the same meaning as in the TSA;

**“Effective Date”** for the purposes of this Agreement, shall have the same meaning as per Article 2.1 of this Agreement;

**“Electrical Inspector”** shall mean a person appointed as such by the Government under sub-section (1) of Section 162 of the Electricity Act 2003 and also includes Chief Electrical Inspector;

**“Electricity Rules 2005”** shall mean the rules framed pursuant to the Electricity Act 2003 and as amended from time to time;

**“Element”** shall mean each Transmission Line or each circuit of the Transmission Lines (where there are more than one circuit) or each bay of Sub-station or switching station or HVDC terminal or inverter station of the Project, including ICTs, Reactors, SVC, FSC, etc. forming part of the ISTS, which will be owned, operated and maintained by the concerned ISTS Licensee, and which has a separate Scheduled COD as per Schedule 2 of this Agreement and has a separate percentage for recovery of Transmission Charges on achieving COD as per Schedule 5 of this Agreement;

**“Escalable Transmission Charges”** shall mean the charges as specified in Schedule 5 of this Agreement;

**“Event of Default”** shall mean the events as defined in Article 13 of this Agreement;

**“Expiry Date”** shall be the date which is thirty five (35) years from the Scheduled COD of the Project;

**“Financial Closure”** shall mean the first Business Day on which funds are made available to the TSP pursuant to the Financing Agreements;

**“Financially Evaluated Entity”** shall mean the company which has been evaluated for the satisfaction of the financial requirement set forth in the RFP;

**“Financing Agreements”** shall mean the agreements pursuant to which the TSP is to finance the Project including the loan agreements, security

documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of the Designated ISTS Customers / Nodal Agency;

**“Financial Year”** shall mean a period of twelve months at midnight Indian Standard Time (IST) between 1st April & 31st March;

**“Force Majeure”** and **“Force Majeure Event”** shall have the meaning assigned thereto in Article 11;

**“GOI”** shall mean Government of India;

**“Grid Code” / “IEGC”** shall mean the Grid Code specified by the Central Commission under Clause (h) of sub-section (1) of Section 79 of the Electricity Act;

**“Indian Governmental Instrumentality”** shall mean Government of India, Government of any State in India or any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or any State Government or both, any political sub-division of any of them including any court or Commission or tribunal or judicial or quasi-judicial body in India but excluding the CTU, TSP and the Designated ISTS Customers;

**“Insurances”** shall mean the insurance cover to be obtained and maintained by the TSP in accordance with Article 9 of this Agreement;

**“Interconnection Facilities”** shall mean the facilities as may be set up for transmission of electricity through the use of the Project, on either one or both side of generating station’s / CTU’s / STU’s / ISTS Licensee’s / Designated ISTS Customer’s substations (as the case may be) which shall include, without limitation, all other transmission lines, gantries, substations and associated equipments not forming part of the Project;

**“ISTS Licensee”** shall be the TSP under this Agreement, consequent to having been awarded a Transmission License by the CERC and shall be referred to as the TSP or the ISTS Licensee, as the context may require in this Agreement;

**“Law” or “Laws”** in relation to this Agreement, shall mean all laws including electricity laws in force in India and any statute, ordinance, rule, regulation, notification, order or code, or any interpretation of any of them

by an Indian Governmental Instrumentality having force of law and shall include all rules, regulations, decisions and orders of the Commission;

**“Lead Member of the Bidding Consortium” or “Lead Member”** shall mean a company who commits at least 26% equity stake in the Project, meets the technical requirement as specified in the RFP and so designated by other Member(s) in Bidding Consortium;

**“Lenders”** means the banks, financial institutions, multilateral funding agencies, non banking financial companies registered with the Reserve Bank of India (RBI), insurance companies registered with the Insurance Regulatory & Development Authority (IRDA), pension funds regulated by the Pension Fund Regulatory & Development Authority (PFRDA), mutual funds registered with Securities & Exchange Board of India (SEBI), etc., including their successors and assigns, who have agreed on or before COD of the Project to provide the TSP with the debt financing described in the capital structure schedule, and any successor banks or financial institutions to whom their interests under the Financing Agreements may be transferred or assigned;

Provided that, such assignment or transfer shall not relieve the TSP of its obligations to the Nodal Agency under this Agreement in any manner and shall also does not lead to an increase in the liability of the Nodal Agency;

**“Lenders Representative”** shall mean the person notified by the Lender(s) in writing as being the representative of the Lender(s) or the Security Trustee and such person may from time to time be replaced by the Lender(s) pursuant to the Financing Agreements by written notice to the TSP;

**“Letter of Intent” or “LOI”** shall have the same meaning as in the RFP;

**“Member in a Bidding Consortium / Member”** shall mean each company in the Bidding Consortium;

**“Month”** shall mean a period of thirty (30) days from (and excluding) the date of the event;

**“Monthly Transmission Charges”** for any Element of the Project, after COD of the Element till COD of the Project, and for the Project after COD of the Project, shall mean the amount of Transmission Charges for the relevant Contract Year as specified in Schedule 5 of this Agreement divided by 12;

**“National Load Despatch Centre”** shall mean the centre established as per sub-section (1) of Section 26 of the Electricity Act 2003;

**“Nodal Agency”** shall mean CTU, which shall execute and implement the Implementation and Service Agreement (ISA).

Provided that CTU shall consult CEA in all major decisions including but not limited to extension of time, termination of Implementation & Service Agreement, granting any relief to TSP, levying any penalty to TSP.

**“Non-Escalable Transmission Charges”** shall mean the charges as specified in column (4) of Schedule 5 of this Agreement;

**“Notification”** shall mean any notification, issued in the Gazette of India;

**“Operating Period”** for any Element of the Project shall mean the period from (and including) the COD of such Element of the Project, up to (and including) the Expiry Date and for the Project, shall mean the period from (and including) the COD of the Project, up to (and including) the Expiry Date;

**“Parent Company”** shall mean an entity that holds more than fifty percent (50%) of the paid - up equity capital directly or indirectly in the Bidding Company or in the Member in a Bidding Consortium, as the case may be;

**“Preliminary Termination Notice”** shall mean a Nodal Agency’s Preliminary Termination Notice as defined in Article 13 of this Agreement;

**“Project”** shall mean ..... [Insert Name of the Project], as detailed in Schedule 1 of this Agreement;

**“Project Assets”** shall mean all physical and other assets relating to and forming part of the Project including:

(a) rights over the Site for substations, ROW for transmission lines;

(b) tangible assets such as civil works and equipment including foundations, embankments, pavements, electrical systems, communication systems, relief centres, administrative offices and Sub-stations;

(c) project facilities situated on the Site;

- (d) all rights of the TSP under the project agreements;
- (e) financial assets, such as receivables, security deposits etc;
- (f) insurance proceeds; and
- (g) Applicable Permits and authorisations relating to or in respect of the Transmission System;”

**“Project Execution Plan”** shall mean the plan referred to in Article 3.1.3(c) hereof;

**“Project Milestones”** shall mean the project milestones as set forth in Schedule 10;

**“Prudent Utility Practices”** shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric transmission utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation, repair and maintenance of the Project and which practices, methods and standards shall be adjusted as necessary, to take account of:

- (i) operation, repair and maintenance guidelines given by the manufacturers to be incorporated in the Project,
- (ii) the requirements of Law, and
- (iii) the physical conditions at the Site;
- (iv) the safety of operating personnel and human beings;

**“Rated Voltage”** shall mean the manufacturers design voltage at which the Transmission System is designed to operate or such lower voltage at which the line is charged, for the time being, in consultation with the Central Transmission Utility;

**“Rebate”** shall have the meaning as ascribed to in Article 10.3 of this Agreement;

**“Revenue Sharing Agreement”** or **“RSA”** means the agreement, together with Schedules, Annexure and documents executed by the CTU and the ISTS Licensee notified by the CERC pursuant to the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations 2010;

**“RFP”** shall mean Request For Proposal dated ..... along with all schedules, annexures and RFP Project Documents attached thereto, issued by the BPC for tariff based competitive bidding process for selection of TSP to execute the Project, including any modifications, amendments or alterations thereto;

**“RFP Project Documents”** shall mean the following documents to be entered into in respect of the Project, by the Parties to the respective agreements:

- a. Implementation & Service Agreement,
- b. Share Purchase Agreement,
- c. Transmission Service Agreement,
- d. Revenue Sharing Agreement,
- e. Any other agreement as may be required;

**“RLDC”** shall mean the relevant Regional Load Dispatch Centre as defined in the Electricity Act, 2003, in the region(s) in which the Project is located;

**“RPC”** shall mean the relevant Regional Power Committee established by the Government of India for the specific Region(s) in accordance with the Electricity Act, 2003 for facilitating integrated operation of the Power System in that Region;

**“Scheduled COD”** in relation to an Element(s) shall mean the date(s) as mentioned in Schedule 2 as against such Element(s) and in relation to the Project, shall mean the date as mentioned in Schedule 2 as against such Project, subject to the provisions of Article 4.4 of this Agreement, or such date as may be mutually agreed among the Parties;

**“Scheduled Outage”** shall mean the final outage plan as approved by the RPC as per the provisions of the Grid Code;

**“Selected Bid”** shall mean the technical Bid and the Final Offer of the Selected Bidder submitted during e-reverse bidding, which shall be downloaded and attached in Schedule 8 on or prior to the Effective Date;

**“Share Purchase Agreement”** shall mean the agreement amongst ..... [Insert name of the holding company of

SPV]..... [Insert Name of the SPV] and the Successful Bidder for the purchase of one hundred (100%) per cent of the shareholding of the ..... [Insert name of SPV] for the Acquisition Price, by the Successful Bidder on the terms and conditions as contained therein;

**“Sharing Regulations”** shall mean the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and as amended from time to time;

**“Site”** in relation to a substation, switching station or HVDC terminal or inverter station, shall mean the land and other places upon which such station / terminal is to be established;

**“SLDC”** shall mean the State Load Despatch Centre established as per sub-section (1) of Section 31 of the Electricity Act 2003;

**“STU”** or **“State Transmission Utility”** shall be the Board or the Government company, specified as such by the State Government under sub-section (1) of Section 39 of the Electricity Act 2003;

**“Successful Bidder”** or **“Selected Bidder”** shall mean the Bidder selected pursuant to the RFP and who has acquire one hundred percent (100%) equity shares of ..... [Insert name of SPV], along with all its related assets and liabilities, which will be responsible as the TSP to establish the Project on build, own, operate and transfer basis as per the terms of the ISA and other RFP Project Documents;

**“TSP’s Notice”** shall mean a notice issued by the TSP in pursuant to the provisions of Article 13.4 of this Agreement;

**“TSP’s Preliminary Notice”** shall mean a notice issued by the TSP in pursuant to the provisions of Article 13.4 of this Agreement;

**“TSP’s Termination Notice”** shall mean a notice issued by the TSP in pursuant to the provisions of Articles 3.3.4 and 4.4.1 of this Agreement for the termination of this Agreement;

**“Target Availability”** shall have the meaning as ascribed hereto in Article 8.2 of this Agreement;

**“Technically Evaluated Entity”** shall mean the company which has been evaluated for the satisfaction of the technical requirement set forth in RFP;



**“Termination Notice”** shall mean a Nodal Agency’s Termination Notice given by the Nodal Agency to the TSP pursuant to the provisions of Articles 3.3.2, 3.3.4, 4.4.1 and 13.3 or the TSP’s Termination Notice given by the TSP to the Nodal Agency pursuant to the provisions of Articles 3.3.4 and 4.4.1, as the case may be, of this Agreement for the termination of this Agreement;

**“Term of Agreement”** for the purposes of this Agreement shall have the meaning ascribed thereto in Article 2.2 of this Agreement;

**“Transmission Charges”** shall mean the Final Offer of the Selected Bidder during the e-reverse bidding and adopted by the Commission, payable to the TSP by the Designated ISTS Customers, as per the provisions of TSA

**“Transmission License”** shall mean the license granted by the Commission in terms of the relevant regulations for grant of such license issued under the Electricity Act;

**“Transmission Lines”** shall mean all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switchgear and other works;

**“Transmission Service”** shall mean making the Project available for use by the Designated ISTS Customers as per the terms and conditions of this Agreement and the TSA;

**“Transmission Service Agreement”** or **“TSA”** shall be the agreement executed between the relevant parties pursuant to Regulation 2 (u) of the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulation 2010 and as amended from time to time;

**“Transmission System”** shall mean a line with associated sub-stations or a group of lines inter-connected together along with associated sub-stations and the term includes equipment associated with transmission lines and sub-stations;

**“Unscheduled Outage”** shall mean an interruption resulting in reduction of the Availability of the Element(s) / Project (as the case may be) that is not a result of a Scheduled Outage or a Force Majeure Event.

**“Ultimate Parent Company”** shall mean an entity which owns more than fifty percent (50%) equity in the Bidding Company or Member of a Consortium, (as the case may be) and in the Technically Evaluated Entity and / or Financially Evaluated Entity (as the case may be) and such Bidding Company or Member of a Consortium, (as the case may be) and the Technically Evaluated Entity and / or Financially Evaluated Entity (as the case may be) shall be under the direct control or indirectly under the common control of such entity;

**“Unforeseen Event”** shall mean an event, situation or similar circumstances not contemplated or referred to in this Agreement, which could not have been foreseen by a prudent and diligent person, and the impact of which shall destroy the sub-stratum and economic foundation of the Project.

## 1.2 Interpretation:

***Save where the contrary is indicated, any reference in this Agreement to:***

**“Agreement”** shall be construed as including a reference to its Schedules, Appendices and Annexures;

**“Rupee”, “Rupees” and “Rs.”** shall denote lawful currency of India;

**“crore”** shall mean a reference to ten million (10,000,000) and a **“lakh”** shall mean a reference to one tenth of a million (1,00,000);

**“encumbrance”** shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;

**“holding company”** of a company or corporation shall be construed as a reference to any company or corporation of which the other company or corporation is a subsidiary;

**“indebtedness”** shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

**"person"** shall have the meaning as defined in Section 2 (49) of the Act;

**"subsidiary"** of a company or corporation (the holding company) shall be construed as a reference to any company or corporation:

- (i) which is controlled, directly or indirectly, by the holding company, or
- (ii) more than half of the issued share capital of which is beneficially owned, directly or indirectly, by the holding company, or
- (iii) which is a subsidiary of another subsidiary of the holding company,

for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body;

**"winding-up", "dissolution", "insolvency", or "reorganization"** in the context of a company or corporation shall have the same meaning as defined in the Companies Act, 1956/ Companies Act, 2013 (as the case may be).

- 1.2.1 Words importing the singular shall include the plural and vice versa.
- 1.2.2 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented.
- 1.2.3 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time.
- 1.2.4 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.
- 1.2.5 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part.

- 1.2.6 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement.
- 1.2.7 All interest payable under this Agreement shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty five (365) days.
- 1.2.8 The words “hereof” or “herein”, if and when used in this Agreement shall mean a reference to this Agreement.
- 1.2.9 The contents of Schedule 8 shall be referred to for ascertaining accuracy and correctness of the representations made by the Selected Bidder in Article 17.2.1 hereof.

**ARTICLE: 2**

**2 EFFECTIVENESS AND TERM OF AGREEMENT**

**2.1 Effective Date:**

This Agreement shall be effective from later of the dates of the following events:

- a. The Selected Bidder, on behalf of the TSP, has provided the Contract Performance Guarantee, as per terms of Article 3.1 of this Agreement; and
- b. The Selected Bidder has acquired for the Acquisition Price, one hundred percent (100%) of the equity shareholding of ..... [Insert Name of the Holding Company] in ..... [Insert Name of the SPV] along with all its related assets and liabilities as per the provisions of the Share Purchase Agreement. and
- c. The Agreement is executed and delivered by the Parties;

**2.2 Term and Termination:**

2.2.1 Subject to Article 2.2.3 and Article 2.4, this Agreement shall continue to be effective in relation to the Project until the Expiry Date, when it shall automatically terminate.

2.2.2 Post the Expiry Date of this Agreement, the TSP shall ensure transfer of Project to CTU or its successors or an agency nominated by the Central Government at zero value and free from any encumbrance and liability.

2.2.3 This Agreement shall terminate before the Expiry Date:

- a. If a Nodal Agency’s Termination Notice is served in accordance with Article 13, or
- b. If the Nodal Agency or the TSP serves a Termination Notice in accordance with the provisions of Articles 3.3.2 and 3.3.4.

..... [Insert Name of the SPV]

## **2.3 Conditions prior to the expiry of the Transmission License**

- 2.3.1 In order to continue the Project beyond the expiry of the Transmission License, the TSP shall be obligated to make an application to the Commission at least two (2) years before the date of expiry of the Transmission License, seeking the Commission's approval for the extension of the term of the Transmission License up to the Expiry Date.
- 2.3.2 The TSP shall timely comply with all the requirements that may be laid down by the Commission for extension of the term of the Transmission License beyond the initial term of twenty-five (25) years & upto the Expiry Date and the TSP shall keep the Nodal Agency fully informed about the progress on its application for extension of the term of the Transmission License.

## **2.4 Survival:**

The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive liquidated damages as per the terms of this Agreement, nor shall it effect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Articles 3.3.3, 3.3.5, Article 9.3 (Application of Insurance Proceeds), Article 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability & Indemnification), Article 16 (Governing Law & Dispute Resolution), Article 18 (Miscellaneous).

## **2.5 Applicability of the provisions of this Agreement**

- 2.5.1 For the purpose of Availability, Target Availability and the computation of Availability, Incentive, Penalty, the provisions provided in this Agreement shall apply and any future modifications in the relevant Rules and Regulations shall not be applicable for this Project.
- 2.5.2 For the purposes of this Agreement for ISTS systems developed under the tariff based competitive bidding framework, the provisions relating to the definitions (Availability and COD), Article 3 (Contract Performance Guarantee and Conditions Subsequent), Article 5 (Construction of the Project), Article 6 (Connection and Commissioning of the Project), Article 8 (Target Availability and calculation of Availability), Article 11 (Force

Majeure), Article 12 (Change in Law), Article 13 (Event of Default), Article 14 (Indemnification), Article 15 (Assignment and Charges), Articles 16.1, 16.2 and 16.4 (Governing Laws and Dispute Resolution) and Article 17 (representation and warranties of the ISTS Licensee) of this agreement shall supersede the corresponding provisions in the TSA or the respective Supplementary TSA.

**ARTICLE: 3**

**3 CONDITIONS SUBSEQUENT**

**3.1 Satisfaction of conditions subsequent by the TSP**

3.1.1 Within ten (10) days from the date of issue of Letter of Intent, the Selected Bidder, shall:

- a. Provide the Contract Performance Guarantee, and
- b. Acquire, for the Acquisition Price, one hundred percent (100%) equity shareholding of ..... [Insert Name of the SPV] from ..... [Insert name of holding company of the SPV], who shall sell to the Selected Bidder, the equity shareholding of ..... [Insert Name of the SPV], along with all its related assets and liabilities.
- c. Execute this Agreement;

The TSP shall, within three (3) working days from the date of acquisition of SPV by the Selected Bidder, undertake to apply to the Commission for the grant of Transmission License and for the adoption of tariff as required under section-63 of the Electricity Act.

The Selected Bidder, on behalf of the TSP, will provide to the ..... (being the Nodal Agency) the Contract Performance Guarantee for an amount of Rs. .... Crores (Rupees ..... Crores only) [BPC to insert value both in numbers and figures] [Contract Performance Guarantee would be computed on the basis of Rs. 13.5 lakhs per km for the total Transmission Line length (including all 765 kV, 400 kV and other lines irrespective of conductors per phase), and Rs. 1.125 lakhs per MVA for substations of the Project]

3.1.2 The Contract Performance Guarantee shall be initially valid for a period up to three (3) months after the Scheduled COD of the Project and shall be extended from time to time to be valid for a period up to three (3) months after the COD of the Project. In case the validity of the Contract Performance Guarantee is expiring before the validity specified in this Article, the TSP shall, at least thirty (30) days before the expiry of the

..... [Insert Name of the SPV]



Contract Performance Guarantee, replace the Contract Performance Guarantee with another Contract Performance Guarantee or extend the validity of the existing Contract Performance Guarantee until the validity period specified in this Article.

- 3.1.3 The TSP agrees and undertakes to duly perform and complete the following activities within six (6) months from the Effective Date, unless such completion is affected due to any Force Majeure Event, or if any of the activities is specifically waived in writing by the Nodal Agency:
- a. To obtain the Transmission License for the Project from the Commission;
  - b. To obtain the order for adoption of Transmission Charges by the Commission, as required under Section 63 of the Electricity Act 2003;
  - c. To submit to the Nodal Agency and CEA, the Project Execution Plan, within one hundred and twenty (120) days from the Effective Date. Also, an approved copy each of Manufacturing Quality Plan (MQP) and Field Quality Plan (FQP) would be submitted to CEA in the same time period. The TSP’s Project Execution Plan should be in conformity with the Scheduled COD as specified in Schedule 2 of this Agreement, and shall bring out clearly the organization structure, time plan and methodology for executing the Project, award of major contracts, designing, engineering, procurement, shipping, construction, testing and commissioning to commercial operation.
  - d. To submit to the Nodal Agency and CEA a detailed bar (GANNT) chart of the Project outlining each activity (taking longer than one Month), linkages as well as durations;
  - e. To achieve Financial Closure;
  - f. To provide an irrevocable letter to the Lenders duly accepting and acknowledging the rights provided to the Lenders under the provisions of Article 15.3 of this Agreement and all other RFP Project Documents;
  - g. To award the Engineering, Procurement and Construction contract (“EPC contract”) for the design and construction of the Project and shall have given to such Contractor an irrevocable notice to proceed; and

- h. To sign the Supplementary Agreement to the TSA and the RSA respectively.

**3.2 Recognition of Lenders’ Rights by the Nodal Agency**

3.2.1 The Nodal Agency hereby accepts and acknowledges the rights provided to the Lenders as per Article 15.3 of this Agreement and all other RFP Project Documents.

**3.3 Consequences of non-fulfilment of conditions subsequent**

3.3.1 If any of the conditions specified in Article 3.1.3 is not duly fulfilled by the TSP even within three (3) Months after the time specified therein, then on and from the expiry of such period and until the TSP has satisfied all the conditions specified in Article 3.1.3, the TSP shall, on a monthly basis, be liable to furnish to ..... (being the Nodal Agency) additional Contract Performance Guarantee of Rupees. .... Crores (Rs. ....) [BPC to insert amount] [additional Contract Performance Guarantee to be computed at ten percent (10%) of the original Contract Performance Guarantee amount as per Article 3.1.1] within two (2) Business Days of expiry of every such Month. Such additional Contract Performance Guarantee shall be provided to ..... (being the Nodal Agency) in the manner provided in Article 3.1.1 and shall become part of the Contract Performance Guarantee and all the provisions of this Agreement shall be construed accordingly. .... (being the Nodal Agency) shall be entitled to hold and / or invoke the Contract Performance Guarantee, including such additional Contract Performance Guarantee, in accordance with the provisions of this Agreement.

3.3.2 Subject to Article 3.3.4, if:

- (i) the fulfilment of any of the conditions specified in Article 3.1.3 is delayed beyond nine (9) Months from the Effective Date and the TSP fails to furnish additional Contract Performance Guarantee to the Nodal Agency in accordance with Article 3.3.1 hereof; or
- (ii) the TSP furnishes additional Performance Guarantee to the Nodal Agency in accordance with Article 3.3.1 hereof but fails to fulfil the conditions specified in Article 3.1.3 within a period of twelve (12) months from the Effective Date,

the Nodal Agency shall have the right to terminate this Agreement, by giving a Termination Notice to the TSP in writing of at least seven (7) days, with a copy to the Commission and the Lenders' Representative.

- 3.3.3 If the Nodal Agency elects to terminate this Agreement as per the provisions of Article 3.3.2, the TSP shall be liable to pay to the Nodal Agency an amount of Rupees ..... Crores (Rs. ....) [Amount to be inserted in words and figures by the BPC] [Amount to be computed on the basis of Rs. 13.5 Lakhs per km for the total Transmission Line length (including all 765 kV, 400 kV and other lines irrespective of conductors per phase) and Rs. 1.125 Lakhs per MVA for substations of the Project] only as liquidated damages. The Nodal Agency shall be entitled to recover this amount of damages by invoking the Contract Performance Guarantee to the extent of liquidated damages, which shall be provided the Nodal Agency, and shall then return the balance Contract Performance Guarantee, if any, to the TSP.

It is clarified for removal of doubt that this Article shall survive the termination of this Agreement.

- 3.3.4 In case of inability of the TSP to fulfil the conditions specified in Article 3.1.3 due to any Force Majeure Event, the time period for fulfilment of the condition subsequent as mentioned in Article 3.1.3, shall be extended for a period of such Force Majeure Event, subject to a maximum extension period of three (3) Months, continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by the Nodal Agency or the TSP on mutually agreeable basis by giving a notice of at least seven (7) days, in writing to the other Party, with a copy to the Commission and the Lenders' Representative and the Contract Performance Guarantee shall be returned as per the provisions of Article 6.5.1.

Provided, that due to the provisions of this Article 3.3.4, any increase in the time period for completion of conditions subsequent mentioned under Article 3.1.3, shall lead to an equal increase in the time period for the Scheduled COD. No adjustments to the Transmission Charges shall be allowed on this account.

- 3.3.5 Upon termination of this Agreement as per Articles 3.3.2 and 3.3.4, the Nodal Agency shall approach the Commission within fifteen (15) days

..... [Insert Name of the SPV]

of such termination for further necessary directions as per the provisions of the Electricity Act 2003.

**3.4 Progress Reports**

The TSP shall notify the Nodal Agency and CEA in writing at least once a Month on the progress made in satisfying the conditions subsequent in Articles 3.1.3.

**ARTICLE: 4**

**4 DEVELOPMENT OF THE PROJECT**

**4.1 TSP's obligations in development of the Project:**

Subject to the terms and conditions of this Agreement, the TSP at its own cost and expense shall observe, comply with, perform, undertake and be responsible:

- a. for procuring and maintaining in full force and effect all Consents, Clearances and Permits, required in accordance with Law for development of the Project;
- b. for financing, constructing, owning and commissioning each of the Element of the Project for the scope of work set out in Schedule 1 of this Agreement in accordance with:
  - i. the Grid Code,
  - ii. the CEA Regulations applicable, and as amended from time to time, for Transmission Lines and sub-stations:
    - the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007;
    - Central Electricity Authority (Technical Standards for construction of Electrical Plants and Electric Lines) Regulation, 2010;
    - Central Electricity Authority (Grid Standard) Regulations, 2010;
    - Central Electricity Authority (Safety requirements for construction, operation and maintenance of Electrical Plants and Electrical Lines) Regulation, 2011;
    - Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulation, 2010;
  - iii. Prudent Utility Practices and the Law;

not later than the Scheduled COD as per Schedule 2 of this Agreement;

- c. for entering into a Connection Agreement with the concerned parties in accordance with the Grid Code.
- d. for owning the Project throughout the term of this Agreement free and clear of any encumbrances except those expressly permitted under Article 15 of this Agreement;
- e. to co-ordinate and liaise with concerned agencies and provide on a timely basis relevant information with regard to the specifications of the Project that may be required for interconnecting the Project with the Interconnection Facilities;
- f. for providing all assistance to the Arbitrators as they may require for the performance of their duties and responsibilities;
- g. to provide to the Nodal Agency and CEA, on a monthly basis, progress reports with regard to the Project and its execution (in accordance with Agreed Form) to enable the CEA to monitor and co-ordinate the development of the Project matching with the Interconnection Facilities;
- h. to procure the following products associated with the Project from manufacturing facilities situated in India and owned and operated in India by an Indian company, a foreign company or a joint venture between an Indian and foreign company:

Sl. No.	Items
1.	400 kV and above Transformers and reactors
2.	220 kV and below Transformers and reactors
3.	Instrument Transformers
4.	HTLS conductors & hardware
5.	Conventional conductors & hardware
6.	Porcelain Insulators
7.	Composite insulators
8.	Air Insulated Switchgear, LA, Wave Trap (72.5 kV to 800 kV)
9.	HV Gas insulated Switchgear
10.	800 kV UHV Gas Insulated Switchgear
11.	Control & Power Cables
12.	EHV Cables
13.	Control & Relay Panels, SCADA, RTU, Fibre Optic Cable, OPGW etc.
14.	Substation structures & Transmission Line Towers
15.	DG Set
16.	DC System in a substation
17.	Illumination System
18.	Grounding System
19.	HVDC System

- i. to comply with all its obligations undertaken in this Agreement.

#### **4.2 Obligation of the Nodal Agency in implementation of the Project:**

4.2.1 Subject to the terms and conditions of this Agreement, the Nodal Agency undertakes to be responsible for the following:

- a. to coordinate the availability of the Interconnection Facilities to enable the TSP to connect the Project; and

..... [Insert Name of the SPV]

- b. for providing all assistance to the Arbitrators as they may require for the performance of their duties and responsibilities.

#### **4.3 Time for Commencement and Completion:**

- a. The TSP shall take all necessary steps to commence work on the Project from the Effective Date of the Agreement and shall achieve Scheduled COD of the Project in accordance with the time schedule specified in Schedule 2 of this Agreement. In achieving this, the TSP shall also adhere to the Project Milestones as provided in Schedule 10;
- b. The COD of each Element of the Project shall occur no later than the Scheduled COD or within such extended time to which the TSP shall be entitled under Article 4.4 hereto.

#### **4.4 Extension of time:**

- 4.4.1 In the event that an Element or the Project cannot be commissioned by its Scheduled COD on account of any Force Majeure Event as per Article 11, the Scheduled COD shall be extended, by a 'day for day' basis, for a maximum period of one hundred and eighty (180) days. In case the Force Majeure Event continues even after the maximum period of one hundred and eighty (180) days, the TSP or the Nodal Agency may choose to terminate the Agreement as per the provisions of Article 13.5 by giving a notice of at least seven (7) days to the other Party.
- 4.4.2 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on how long the Scheduled COD should be deferred by, any Party may raise the Dispute to be resolved in accordance with Article 16.

#### **4.5 Metering Arrangements:**

- 4.5.1 The TSP shall comply with all the provisions of the IEGC and the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time, with regard to the metering arrangements for the Project. The TSP shall fully cooperate with the CTU / STU / RLDC and extend all necessary assistance in taking meter readings.



## **4.6 Interconnection Facilities:**

- 4.6.1 Subject to the terms and conditions of this Agreement, the TSP shall be responsible for connecting the Project with the interconnection point(s) specified in Schedule 1 of this Agreement. The Interconnection Facilities shall be developed as per the scope of work and responsibilities assigned in Schedule 1 of this Agreement. The Nodal Agency shall be responsible for coordinating to make available the Interconnection Facilities.

## **4.7 Consequences of delay in fulfilling the Project Milestones**

In the event the Project Milestones are not attained by the TSP by the date mentioned against each Project Milestone in Schedule 10, even after a period of 60 (sixty) days from the date mentioned against each Project Milestone in Schedule 10 for reasons solely attributable to the TSP, i.e not being attributable to a Force Majeure Event (s), the TSP shall pay to the Nodal Agency, Liquidated Damages computed as per Article 6.4.1 of this Agreement.

Provided that the TSP's maximum liability shall be limited to the amount derived in accordance with this Article 6.4.1 for a period of upto 6 (six) months from the date mentioned against a Project Milestone in Schedule 10 pursuant to which the provisions of Article 13 shall apply.

The Nodal Agency shall be entitled to recover the said amount of Liquidated Damages by invoking the Performance Bank Guarantee, and in the event the then existing Performance Guarantee is for an amount which is less than the amount of the Liquidated Damages payable by the TSP to the Nodal Agency, then the TSP shall be liable to pay to the Nodal Agency, the balance amount within 7 (seven) business days of the Nodal Agency' encashment of the Performance Guarantee.

Provided further that notwithstanding the delay in achieving the Project Milestones, in the event the COD of the Element/Project is achieved on or before their respective Scheduled Commercial Operation Date, the Liquidated Damages paid by the TSP shall be refunded by the Nodal Agency to the TSP, but without any interest thereon.

**ARTICLE: 5**

**5 CONSTRUCTION OF THE PROJECT**

**5.1 TSP’s Construction Responsibilities:**

5.1.1 The TSP, at its own cost and expense, shall be responsible for designing, constructing, erecting, completing and commissioning each Element of the Project by the Scheduled COD in accordance with the Regulations and other applicable Laws specified in Article 4.1 of this Agreement.

5.1.2 The TSP acknowledges and agrees that it shall not be relieved from any of its obligations under this Agreement or be entitled to any extension of time by reason of the unsuitability of the Site or Transmission Line route(s) for whatever reasons. The TSP further acknowledges and agrees that it shall not be entitled to any financial compensation in this regard.

5.1.3 The TSP shall be responsible for obtaining all Consents, Clearances and Permits relating but not limited to road / rail / river / canal / power line / crossings, Power and Telecom Coordination Committee (PTCC), defence, civil aviation, right of way / way-leaves and environmental & forest clearances from relevant authorities required for developing, financing, constructing, maintaining/ renewing all such Consents, Clearances and Permits in order to carry out its obligations under this Agreement in general and shall furnish to the Nodal Agency such copy/ies of each Consents, Clearances and Permits, on demand. Nodal Agency shall assist and support the TSP in obtaining the Consents, Clearances and Permits required for the Project and in obtaining any applicable concessions for the Project, by providing letters of recommendation to the concerned Indian Governmental Instrumentality, as may be reasonably required from time to time

5.1.4 The TSP shall be responsible for:

- (a) **[To be deleted by the BPC in case no land acquisition is involved in the Project and replaced by “deleted”]** acquisition of land for location specific substations, switching stations or HVDC terminal or inverter stations;

- (b) **[To be deleted by the BPC in case no land acquisition is involved in the Project and replaced by “deleted”]** final selection of Site including its geo-technical investigation;
- (c) survey and geo-technical investigation of line route in order to determine the final route of the Transmission Lines;
- (d) seeking access to the Site and other places where the Project is being executed, at its own costs, including payment of any crop compensation or any other compensation as may be required.

5.1.5 In case the Project involves any resettlement and rehabilitation, the resettlement and rehabilitation package will be implemented by the State Government authorities, for which the costs is to be borne by the TSP and no changes would be allowed in the Transmission Charges on account of any variation in the resettlement and rehabilitation cost. The TSP shall provide assistance on best endeavour basis, in implementation of the resettlement and rehabilitation package, if execution of such package is in the interest of expeditious implementation of the Project and is beneficial to the Project affected persons.

**5.2 Appointing Contractors:**

5.2.1 The TSP shall conform to the requirements as provided in this Agreement while appointing Contractor(s) for procurement of goods & services.

5.2.2 The appointment of such Contractor(s) shall neither relieve the TSP of any of its obligations under this Agreement nor make the Nodal Agency liable for the performance of such Contractor(s).

**5.3 Monthly Progress Reporting:**

The TSP shall provide to the CEA and Nodal Agency, on a monthly basis, progress reports with regard to the Project and its execution (in accordance with Agreed Form) to enable the CEA and Nodal Agency to monitor the development of the Project. CEA shall monitor the development of the Project for its timely completion for improving and augmenting the electricity system as a part of its statutory responsibility.

**5.4 Quality of Workmanship:**

The TSP shall ensure that the Project is designed, built and completed in a good workmanlike manner using sound engineering and construction practices, and using only materials and equipment that are new and of international – utility grade quality such that, the useful life of the Project will be at least thirty five (35) years from the COD of the Project.

The TSP shall ensure that design, construction and testing of all equipment, facilities, components and systems of the Project shall be in accordance with Indian Standards or IEC/ IEEE and only in case they are not applicable under certain conditions, the other equivalent internationally recognised Standards and Codes shall be followed.

**5.5 Inspection by the CEA:**

The CEA shall designate, from time to time by a written notice to the TSP, at the most three (3) representatives from the CEA, who shall have access at all reasonable times to the Site, to the Manufacturer’s works and to all such places where the Project is being executed for the purpose of inspecting the progress of the Project as well as to ensure quality of equipments, material, foundation, structures and workmanship etc. as laid down in Clause 5.4 and 6.1.4 of the ISA. Specifically, quality of Sub-station equipments, transmission line material and workmanship etc. would be checked in accordance with the detailed modalities devised by CEA from time to time. In case of any deficiency, CEA would be at the liberty to report the same to the Commission for taking action as deemed appropriate.

**5.6 Site regulations and Construction Documents**

The TSP shall abide by the Safety Rules and Procedures as mentioned in Schedule 3 of this Agreement

The TSP shall retain at the Site and make available for inspection at all reasonable times, copies of the Consents, Clearances and Permits, construction drawings and other documents related to construction.

**5.7 Supervision of work:**

The TSP shall provide all necessary superintendence for execution of the Project and its supervisory personnel shall be available to provide full-time

superintendence for execution of the Project. The TSP shall provide skilled personnel who are experienced in their respective fields.

**5.8 Remedial Measures:**

The TSP shall take all necessary actions for remedying the shortfall in achievement of timely progress in execution of the Project, if any, as intimated by the CEA. However, such intimation by the CEA and the subsequent effect of such remedial measures carried out by the TSP shall not relieve the TSP of its obligations in the Agreement. CEA may carry out random inspections during the Project execution, as and when deemed necessary by it. If the shortfalls as intimated to the TSP are not remedied to the satisfaction of the CEA, it may refer the same to the Commission for appropriate action.

**5.9 Adjustment in Transmission Charges for change in the Interconnection Points:**

5.9.1 Any increase / decrease in the overall capital cost of the Project due to the change in the location of the interconnection points of the Project from that specified in Schedule 1 of this Agreement due to reasons attributable to Parties other than the TSP during the Construction Period, shall be adjusted in the Non-Escalable Transmission Charges as per decision of the Commission.

-

For avoidance of doubt, it is clarified that, the TSP shall not be eligible for any adjustment in Transmission Charges under this Article in case of any change in the location of interconnection points within a radius of 5 kms from the co-ordinates specified in Schedule 1 of this Agreement.

For avoidance of doubt, it is further clarified that, in case where the interconnection facilities and / or terminal substations is in the scope of the TSP, any change in the location of interconnection points and / or Substations shall not make the TSP entitled for any adjustment in the Transmission Charges under this Article.

Further, any change in coordinates of the substation shall be notified by the TSP to the CEA and the Nodal Agency with self-certification stating the reason for such change in coordinates.

5.9.2 For any claims made under Article 5.9.1 above, the TSP shall provide to

..... [Insert Name of the SPV]

the Nodal Agency and the Commission documentary proof of such increase / decrease in cost of the Project for establishing the impact of such change in the location of the Interconnection Points.

- 5.9.3 The decision of the Commission with regards to the determination of the compensation mentioned above in Article 5.9.1, shall be final and binding on both Parties, subject to the rights of appeal provided under applicable Law.

**ARTICLE: 6****6 CONNECTION AND COMMISSIONING OF THE PROJECT****6.1 Connection with the Inter-Connection Facilities:**

- 6.1.1 The TSP shall give the RLDC(s), CTU, / STU, as the case may be, and any other agencies as required, at least sixty (60) days advance written notice of the date on which it intends to connect an Element of the Project, *{which date shall not be earlier than its Scheduled COD or Schedule COD extended as per Article 4.4.1 of this Agreement, (Applicable for project other than system strengthening schemes)}*. *{Any preponing of COD of any element prior to Scheduled COD must be approved by the Central Electricity Authority (Applicable for system strengthening schemes)}*.
- 6.1.2 The RLDC / SLDC (as the case may be) or the CTU / STU /any other Transmission Licensee (as the case may be), for reasonable cause, including failure to arrange for Interconnection Facilities as per Article 4.2, defer the connection for up to fifteen (15) days from the date notified by the TSP pursuant to Article 6.1.1, if it notifies to the TSP in writing, before the date of connection, of the reason for the deferral and when the connection is to be rescheduled. However, no such deferment on one or more occasions would be for more than an aggregate period of thirty (30) days. Further, the Scheduled COD would be extended as required, for all such deferments on day for day basis.
- 6.1.3 Subject to Articles 6.1.1 and 6.1.2, any Element of Project may be connected with the Interconnection Facilities when:
- a. it has been completed in accordance with this Agreement and the Connection Agreement;
  - b. it meets the Grid Code, Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 as amended from time to time and all other Indian legal requirements, and
  - c. The TSP has obtained the approval in writing of the Electrical Inspector certifying that the Element is ready from the point of view of safety of supply and can be connected with the Interconnection Facilities.
  - d. It has satisfactorily met all the testing requirements as per

## Articles 6.1.4

6.1.4 All major substation equipment / component (e.g. transformers, reactors, Circuit Breakers, Instrument Transformers (IT), Surge Arresters (SA), Protection relays, clamps & connectors etc.), equipment in terminal stations of HVDC installations including Thyristor valves, Converter Transformers, smoothing reactors, Transformer bushings and wall bushings and transmission line materials (conductors, earthwire, insulator, accessories for conductors & earthwires, hardware fittings for insulators etc) shall be of type tested and should have been subjected to Routine tests, Factory Acceptance Test (FAT), Site Acceptance Test (SAT) as per relevant IS / IEC/ IEEE as applicable. The FAT and SAT reports should be available with the substation / terminal station of HVDC installations for ready reference of operation and maintenance staff and has to be made available to the Nodal Agency or their authorised representatives, as and when they wish to examine the same.

**6.2 Commercial Operation:**

6.2.1 An Element of the Project shall be declared to have achieved COD seventy two (72) hours following the connection of the Element with the Interconnection Facilities or the date of deferment, if any, pursuant to Article 6.1.2, or seven (7) days after the date on which it is declared by the TSP to be ready for charging but is not able to be charged for reasons not attributable to the TSP .

Provided that an Element shall be declared to have achieved COD only after all the Element(s), if any, which are pre-required to have achieved COD as defined in Schedule 2 of this Agreement, have been declared to have achieved their respective COD.

6.2.2 Once any Element of the Project has been declared to have achieved deemed COD as per Article 6.2.1 above, such Element of the Project shall be deemed to have Availability equal to the Target Availability till the actual charging of the Element and to this extent, TSP shall be eligible for the Monthly Transmission Charges applicable for such Element

**6.3 Compensation for Direct Non Natural Force Majeure or Indirect Non Natural Force Majeure Events or Natural Force Majeure Event (affecting the Nodal Agency)**

6.3.1 If the TSP is otherwise ready to connect the Element(s) of the Project

..... [Insert Name of the SPV]

40



and has given due notice, as per provisions of Article 6.1.1, to the concerned agencies of the date of intention to connect the Element(s) of the Project, where such date is not before the Scheduled COD, but is not able to connect the Element(s) of the Project by the said date specified in the notice, due to Direct Non Natural Force Majeure or Indirect Non Natural Force Majeure Event or Natural Force Majeure Event affecting the Nodal Agency, provided such Direct Non Natural Force Majeure or Indirect Non Natural Force Majeure Event or Natural Force Majeure Event affecting the Nodal Agency has continued for a period of more than three (3) continuous or non-continuous Months, the TSP shall, until the effects of the Direct Non Natural Force Majeure Event or of Indirect Non Natural Force Majeure Event or Natural Force Majeure Event affecting the Nodal Agency no longer prevent the TSP from connecting the Element(s) of the Project , be deemed to have achieved COD relevant to that date and to this extent, be deemed to have been providing Transmission Service with effect from the date notified, and shall be treated as follows:

- a. In case of delay due to Direct Non Natural Force Majeure Event, the Designated ISTS Customers shall make payments to the TSP of Transmission Charges calculated on Target Availability for the period of such events in excess of three (3) continuous or non continuous Months in the manner provided in (c) below.
- b. In case of delay due to Indirect Non Natural Force Majeure Event or (Natural Force Majeure Event affecting the Nodal Agency), the Designated ISTS Customers shall make payment to the TSP for Transmission Charges calculated on Target Availability, which is due under the financing agreements for the period of such events in excess of three (3) continuous or non continuous Months in the manner provided in (c) below.
- c. In case of delay due to Direct Non Natural Force Majeure Event or Indirect Non Natural Force Majeure Event (or Natural Force Majeure Event affecting the Nodal Agency), the Designated ISTS Customers shall be liable to make payments mentioned in (a) and (b) above, after commencement of Transmission Service, in the form of an increase in Non Escalable Transmission Charges. These amounts shall be paid from the date, being the later of a) the date of cessation of such Indirect Non Natural Force Majeure Event (or Natural

Force Majeure Event affecting the Nodal Agency and b) the completion of sixty (60) days from the receipt of the financing agreements by the Nodal Agency from the TSP.

Provided such increase in Transmission Charges shall be determined by Commission on the basis of putting the TSP in the same economic position as the TSP would have been in case the TSP had been paid amounts mentioned in (b) and (c) above in a situation where the Force Majeure Event had not occurred.

For the avoidance of doubt, it is specified that the charges payable under this Article 6.3.1 shall be paid by the Designated ISTS Customers as calculated by the Implementing Authority as per the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, and shall become payable by the Nodal Agency only upon receipt of the same from the DICs.

**6.4 Liquidated Damages for Delay in achieving COD of Project:**

6.4.1 If the TSP fails to achieve COD of any Element of the Project or the Project, by the Element’s / Project’s Scheduled COD or such Scheduled COD as extended under Articles 4.4.1 and 4.4.2, or achieve any Project Milestone by the timeline mentioned in Schedule 10, then the TSP shall pay to the Nodal Agency, a sum equivalent to 3.33% of Monthly Transmission Charges applicable for the Element of the Project [in case where no Elements have been defined, to be on the Project as a whole] / Project, for each day of delay up to sixty (60) days of delay and beyond that time limit, at the rate of five percent (5%) of the Monthly Transmission Charges applicable to such Element / Project, as liquidated damages for such delay and not as penalty, without prejudice to any rights of the Nodal Agency under the Agreement.

6.4.2 The TSP’s maximum liability under this Article 6.4 shall be limited to the amount of liquidated damages calculated in accordance with Article 6.4.1 for and up to six (6) months of delay for the Element or the Project.

Provided that, in case of failure of the TSP to achieve COD of the Element of the Project even after the expiry of six (6) months from its Scheduled COD, the provisions of Article 13 shall apply.

6.4.3 The TSP shall make payment to ..... (being the Nodal

..... [Insert Name of the SPV]

Agency) of the liquidated damages calculated pursuant to Article 6.4.1 within ten (10) days of the earlier of:

- a. the date on which the applicable Element achieves COD; or
- b. the date of termination of this Agreement.

The payment of such damages shall not relieve the TSP from its obligations to complete the Project or from any other obligation and liabilities under the Agreement.

6.4.4 If the TSP fails to pay the amount of liquidated damages to ..... (being the Nodal Agency) within the said period of ten (10) days, the Nodal Agency shall be entitled to recover the said amount of the liquidated damages by invoking the Contract Performance Guarantee. If the then existing Contract Performance Guarantee is for an amount which is less than the amount of the liquidated damages payable by the TSP to the Nodal Agency under this Article 6.3 and the TSP fails to make payment of the balance amount of the liquidated damages not covered by the Contract Performance Guarantee, then such balance amount shall be adjusted in CF<sub>3</sub>, as laid out in the Billing, Collection and Disbursement Procedures 2010. The right of ..... (being the Nodal Agency) to encash the Contract Performance Guarantee is without prejudice to the other rights of the Nodal Agency under this Agreement.

## **6.5 Return of Contract Performance Guarantee**

6.5.1 The Contract Performance Guarantee as submitted by TSP in accordance with Article 3.1.1 shall be released by the Nodal Agency within three (3) months from the COD of the Project. In the event of delay in achieving Scheduled COD of any of the Elements by the TSP (otherwise than due to reasons as mentioned in Article 3.1.3 or Article 11) and consequent part invocation of the Contract Performance Guarantee by ..... (being the Nodal Agency), Nodal Agency shall release the Contract Performance Guarantee, if any remaining unadjusted, after the satisfactory completion by the TSP of all the requirements regarding achieving the Scheduled COD of the remaining Elements of the Project. It is clarified that the Nodal Agency) shall also return / release the Contract Performance Guarantee in the event of (i) applicability of Article 3.3.2 to the extent the Contract Performance Guarantee is valid for an amount in excess of Rupees .....Crores (Rs. ....) [Amount to be

inserted by the BPC, as computed in Article 3.3.3], or (ii) termination of this Agreement by any Party as mentioned under Article 3.3.4 of this Agreement.

6.5.2 The release of the Contract Performance Guarantee shall be without prejudice to other rights of the Nodal Agency under this Agreement.

**ARTICLE: 7**

**7 OPERATION AND MAINTENANCE OF THE PROJECT**

**7.1 Operation and Maintenance of the Project:**

The ISTS Licensee shall be responsible for ensuring that the Project is operated and maintained in accordance with the provisions contained in the Transmission Service Agreement approved by CERC under the CERC's (Sharing of Transmission Charges and Losses) Regulations, 2010.

**ARTICLE: 8****8 AVAILABILITY OF THE PROJECT****8.1 Calculation of Availability of the Project:**

Calculation of Availability for the Elements and for the Project, as the case may be, shall be as per..... [BPC to insert reference to applicable regulations], as applicable seven (7) days prior to the Bid Deadline and as appended in Schedule 7 of this Agreement.

**8.2 Target Availability:**

The Target Availability of each Element and the Project shall be ..... [to be inserted by the BPC] [The target availability shall be indicated as 98% for AC system and 95% for HVDC system].

If the availability of any Element or the Project is below the Target Availability, for six consecutive months in a Contract Year, the DIC(s) or the Nodal Agency may seek revocation of Transmission License as per the procedure laid down under the Electricity Act 2003 and in accordance with Rule 5 of Electricity Rules 2005.

**ARTICLE: 9**

**9 INSURANCES**

**9.1 Insurance:**

9.1.1 The TSP shall effect and maintain or cause to be effected and maintained during the Construction Period and the Operating Period, adequate Insurances against such risks, with such deductibles including but not limited to any third party liability and endorsements and co-beneficiary/insured, as may be necessary under

- a. any of the Financing Agreements,
- b. the Laws, and
- c. in accordance with Prudent Utility Practices.

The Insurances shall be taken effective from a date prior to the date of the Financial Closure till the Expiry Date.

**9.2 Evidence of Insurance cover:**

9.2.1 The TSP shall furnish to the Nodal Agency copies of certificates and policies of the Insurances, as and when the Nodal Agency may seek from the TSP as per the terms of Article 9.1

**9.3 Application of Insurance Proceeds:**

9.3.1 Save as expressly provided in this Agreement, the policies of Insurances and the Financing Agreements, the proceeds of any insurance claim made due to loss or damage to the Project or any part of the Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

9.3.2 If a Natural Force Majeure Event renders the Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, the portion of the proceeds of such Insurance available to the TSP (after making admissible payments to the Lenders as per the Financing Agreements) shall be allocated to the TSP and the Nodal Agency and / or concerned Designated ISTS Customers shall have no claim on such

proceeds of the Insurance.

9.3.3 Subject to the requirements of the Lenders under the Financing Agreements, any dispute or difference between the Parties as to whether the Project is no longer economically and technically viable due to a Force Majeure Event or whether that event was adequately covered in accordance with this Agreement by the Insurances shall be determined in accordance with Article 16.

**9.4 Effect on liability of the Nodal Agency / Designated ISTS Customers**

9.4.1 The Nodal Agency and / or the Designated ISTS Customers shall have no financial obligations or liability whatsoever towards the TSP in respect of this Article 9.



**ARTICLE: 10****10 BILLING AND PAYMENT OF TRANSMISSION CHARGES**

**10.1** Subject to provisions of this Article 10, the Monthly Transmission Charges shall be paid to the TSP, in Indian Rupees, on monthly basis as per the provisions of the Sharing Regulations, from the first day of the month subsequent to the date on which an Element(s) has achieved COD until the Expiry Date of this Agreement, unless terminated earlier and in line with the provisions of Schedule 4 of this Agreement.

**10.2 Calculation of Monthly Transmission Charges:**

The Monthly Transmission Charges for each Contract Year including Incentive & Penalty payment shall be calculated in accordance with the provisions of Schedule 4 of this Agreement.

**10.3 Payment of Rebate:**

10.3.1 Rebate payable by the TSP to the Designated ISTS Customers in respect of a Bill shall be as per the provisions of the Billing, Collection and Disbursement Procedure 2010.

**10.4 Surcharge**

10.4.1 Surcharge on the outstanding amount due from the Designated ISTS Customers to the CTU shall be dealt with as per the provisions contained in the Billing, Collection and Disbursement Procedure approved under the CERC (Sharing of Inter State Transmission Charges and Losses) Regulations 2010, as amended from time to time.

**10.5 Disputed Bills**

10.5.1 In case of disputed Bills, the provisions contained in the Billing, Collection and Disbursement Procedure approved under the CERC's (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 relating to settlement of Disputed Bills shall apply.

**10.6 Default in payment by the Designated ISTS Customers:**

..... [Insert Name of the SPV]

The provisions contained in the Billing, Collection and Disbursement Procedure approved under the CERC's (Sharing of Transmission Charges and Losses) Regulations, 2010 relating to payment default shall apply.

**10.7 Annual Reconciliation**

The provisions contained in the Billing, Collection and Disbursement Procedure approved under the CERC's (Sharing of Transmission Charges and Losses) Regulations, 2010 relating to annual reconciliation shall apply.

## **ARTICLE: 11**

### **11 FORCE MAJEURE**

#### **11.1 Definitions**

11.1.1 The following terms shall have the meanings given hereunder.

#### **11.2 Affected Party**

11.2.1 An Affected Party means the Nodal Agency, the DICs or the TSP whose performance has been affected by an event of Force Majeure.

11.2.2 An event of Force Majeure, which has affected the Interconnection Facilities, shall be deemed to be an event of Force Majeure affecting the Nodal Agency.

11.2.3 Any event of Force Majeure shall be deemed to be an event of Force Majeure affecting the TSP only if the Force Majeure event affects and results in, late delivery of machinery and equipment for the Project or construction, completion, commissioning of the Project by Scheduled COD and/or during the Operating Period thereafter;

#### **11.3 Force Majeure**

A 'Force Majeure' means any event or circumstance or combination of events and circumstances including those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

(a) **Natural Force Majeure Events:**

act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions, which are in excess of the statistical measures for the last hundred (100) years,

(b) **Non-Natural Force Majeure Events :**

i. Direct Non–Natural Force Majeure Events

- Nationalization or compulsory acquisition by any Indian Governmental Instrumentality of any material assets or rights of the Affected Party; or
- the unlawful, unreasonable or discriminatory revocation of, or refusal to renew, any Consents, Clearances and Permits required by the Affected Party to perform their obligations under the RFP Project Documents or any unlawful, unreasonable or discriminatory refusal to grant any other Consents, Clearances and Permits required for the development/ operation of the Project, provided that a Competent Court of Law declares the revocation or refusal to be unlawful, unreasonable and discriminatory and strikes the same down; or
- any other unlawful, unreasonable or discriminatory action on the part of an Indian Governmental Instrumentality which is directed against the Project, provided that a Competent Court of Law declares the action to be unlawful, unreasonable and discriminatory and strikes the same down.

ii. Indirect Non - Natural Force Majeure Events

- act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action; or
- radio active contamination or ionising radiation originating from a source in India or resulting from any other Indirect Non Natural Force Majeure Event mentioned above, excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Site by the Affected Party or those employed or engaged by the Affected Party; or
- industry-wide strikes and labour disturbances, having a nationwide impact in India.

## **11.4 Force Majeure Exclusions**

11.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- (a) Unavailability, late delivery, or changes in cost of the machinery, equipment, materials, spare parts etc. for the Project;
- (b) Delay in the performance of any Contractors or their agents;
- (c) Non-performance resulting from normal wear and tear typically experienced in transmission materials and equipment;
- (d) Strikes or labour disturbance at the facilities of the Affected Party;
- (e) Insufficiency of finances or funds or the Agreement becoming onerous to perform; and
- (f) Non-performance caused by, or connected with, the Affected Party's:
  - i. negligent or intentional acts, errors or omissions;
  - ii. failure to comply with an Indian Law; or
  - iii. breach of, or default under this Agreement or any Project Documents.

## **11.5 Notification of Force Majeure Event**

11.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

Provided that, such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure.

- 11.5.2 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

## **11.6 Duty to perform and duty to mitigate**

To the extent not prevented by a Force Majeure Event, the Affected Party shall continue to perform its obligations as provided in this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

## **11.7 Available Relief for a Force Majeure Event**

Subject to this Article 11,

- (a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
- (b) each Party shall be entitled to claim relief for a Force Majeure Event affecting its performance in relation to its obligations under Articles 3.3.4, 4.4.1 and 6.3.1 of this Agreement.
- (c) For the avoidance of doubt, it is clarified that the computation of Availability of the Element(s) under outage due to Force Majeure Event, as per Article 11.3 affecting the TSP shall be as per Appendix .... [To be inserted by the BPC as per the relevant appendix] to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations ..... [BPC to insert reference to applicable regulations] as on seven (7) days prior to the Bid Deadline. For the event(s) for which the Element(s) is/are deemed to be available as

..... [Insert Name of the SPV]

per ..... [BPC to insert reference to applicable regulations], then only the Non Escalable Transmission Charges, as applicable to such Element(s) in the relevant Contract Year, shall be paid by the Designated ISTS Customers as per Schedule 4, for the duration of such event(s).

(d) For so long as the TSP is claiming relief due to any Force Majeure Event under this Agreement, the Nodal Agency may, from time to time on one (1) day notice, inspect the Project and the TSP shall provide the Nodal Agency’s personnel with access to the Project to carry out such inspections, subject to the Nodal Agency’s personnel complying with all reasonable safety precautions and standard

**11.8 Relief for Unforeseen Event**

11.8.1 Upon occurrence of an Unforeseen Event, the Party affected by the Unforeseen Event shall have the right to refer the same to the Commission along with documentary evidence of the occurrence of the Unforeseen Event.

11.8.2 The Commission shall decide whether:

- (i) an Unforeseen Event has occurred;
- (ii) the effects of such Unforeseen Event cannot be mitigated without a remedy or relief which is not contemplated in the Agreement; and
- (iii) the Unforeseen Event or its effects have not been caused by any Party by any act or omission on its partd

11.8.3 If the Commission is satisfied that each of the conditions specified hereinabove is fulfilled, it shall issue an order to this effect and if necessary revise the Tariff.

..... [Insert Name of the SPV]



## ARTICLE: 12

### 12 CHANGE IN LAW

#### 12.1 Change in Law

12.1.1 Change in Law means the occurrence of any of the following after the Bid Deadline resulting into any additional recurring / non-recurring expenditure by the TSP or any savings of the TSP:

- the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law, subject to the provisions under Article 12.1.2;
- a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;
- the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;
- a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits;
- any change in the licensing regulations of the Commission, under which the Transmission License for the Project was granted if made applicable by such Commission to the TSP;
- any change in the Acquisition Price; or
- any change in tax or introduction of any tax made applicable for providing Transmission Service by the TSP as per the terms of this Agreement.

12.1.2 Notwithstanding anything contained in this Agreement, Change in Law shall not cover any change:

- a. on account of regulatory measures by the Commission, subject to the provisions of Article 2.5; and
- b. in any tax applied on the income or profits of the TSP.

**12.2 Relief for Change in Law**

12.2.1 During Construction Period:

During the Construction Period, the impact of increase/decrease in the cost of the Project in the Transmission Charges shall be as per the decision of the Commission:

12.2.2 During the Operation Period:

During the Operation Period, the compensation for any increase / decrease in revenues shall be determined and effective from such date, as decided by the Commission, whose decision shall be final and binding on both the Parties, subject to rights of appeal provided under applicable Law.

Provided that the above mentioned compensation shall be payable only if the increase/decrease in revenues or cost to the ISTS Licensee is in excess of an amount equivalent to one percent (1%) of the annual Transmission Charges in aggregate for a Contract Year.

12.2.3 For any claims made under Articles 12.2.1 and 12.2.2 above, the TSP shall provide to the Nodal Agency and the Commission documentary proof of such increase / decrease in cost of the Project / revenue for establishing the impact of such Change in Law.

12.2.4 The decision of the Commission, with regards to the determination of the compensation mentioned above in Articles 12.2.1 and 12.2.2, and the date from which such compensation shall become effective, shall be final and binding on both the Parties, subject to rights of appeal provided under applicable Law.

### **12.3 Notification of Change in Law:**

12.3.1 If the TSP is affected by a Change in Law in accordance with Article 12.1 and wishes to claim relief for such Change in Law under this Article 12, it shall give notice to Nodal Agency of such Change in Law as soon as reasonably practicable after becoming aware of the same.

12.3.2 The TSP shall also be obliged to serve a notice to the Nodal Agency even when it is beneficially affected by a Change in Law.

12.3.3 Any notice served pursuant to Articles 12.3.1 and 12.3.2 shall provide, amongst other things, precise details of the Change in Law and its effect on the TSP.

### **12.4 Payment on account of Change in Law**

12.4.1 The payment for Change in Law shall be through a separate Bill. However, in case of any change in Monthly Transmission Charges by reason of Change in Law, as determined in accordance with this Agreement, the Bills to be raised by the Nodal Agency after such change in Transmission Charges shall appropriately reflect the changed Monthly Transmission Charges.

**ARTICLE: 13**

**13 EVENTS OF DEFAULT AND TERMINATION**

**13.1 ISTS Licensee’s Event of Default**

The occurrence and continuation of any of the following events shall constitute a TSP Event of Default, unless any such TSP Event of Default occurs as a result of any non-fulfilment of its obligations as prescribed under this Agreement by the Nodal Agency or a Force Majeure Event:

- a. After having taken up the construction of the Project, the abandonment by the TSP or the TSP’s Contractors of the construction of the Project for a continuous period of two (2) months and such default is not rectified within thirty (30) days from the receipt of notice from the Nodal Agency in this regard;
- b. The failure to commission any Element of the Project by the date falling six (6) months after its Scheduled COD;
- c. If the TSP:
  - i. assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Project in contravention of the provisions of this Agreement; or
  - ii. transfers or novates any of its obligations pursuant to this Agreement, in a manner contrary to the provisions of this Agreement;

Except where such transfer is in pursuance of a Law and

- it does not affect the ability of the transferee to perform, and such transferee has the financial and technical capability to perform, its obligations under this Agreement;
- is to a transferee who assumes such obligations under the Project and this Agreement remains effective with respect to the transferee;

- d. If:

..... [Insert Name of the SPV]

- i. The TSP becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days; or
- ii. any winding up or bankruptcy or insolvency order is passed against the TSP; or
- iii. the TSP goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law,

Provided that a dissolution or liquidation of the TSP will not be a TSP’s Event of Default, where such dissolution or liquidation of the TSP is for the purpose of a merger, consolidation or reorganization with the prior approval of the Commission as per the provisions of Central Electricity Regulatory Commission (Procedure, terms and Conditions for grant of Transmission License and other related matters) Regulations, 2006 or as amended from time to time; or

- e. Revocation of the Transmission License of TSP; or
- f. Failure on the part of the TSP to comply with the provisions of Article 18.1 of this Agreement; or
- g. the TSP repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the Nodal Agency in this regard; or
- h. after Commercial Operation Date of the Project, the TSP fails to achieve monthly Target Availability of ..... [to be inserted by the BPC as applicable] [98% for AC system and 95% for HVDC system], for a period of six (6) consecutive months or within a non-consecutive period of six (6) months within any continuous aggregate period of eighteen(18) months except where the Availability is affected by Force Majeure Events as per Article 11; or

- i. any of the representations and warranties made by the TSP in Article 17 of this Agreement being found to be untrue or inaccurate. Further, in addition to the above, any of the undertakings submitted by the Selected Bidder at the time of submission of the Bid being found to be breached or inaccurate, including but not limited to undertakings from its Parent Company / Affiliates related to the minimum equity obligation; or
- j. the TSP fails to complete / fulfil all the activities / conditions within the specified period as per Article 3; or
- k. except where due to the Nodal Agency’s failure to comply with its obligations, the TSP is in material breach of any of its obligations under this Agreement and such material breach is not rectified by the TSP within thirty (30) days of receipt of notice in this regard from the Nodal Agency; or
- l. **[To be deleted by the BPC in case no land acquisition is involved in the Project and replaced with “deleted”]** the TSP fails to take the possession of the land required for location specific substations, switching stations or HVDC terminal or inverter stations and / or fails to pay the requisite price to the parties and / or any State Government authority from whom the land is acquired, within twelve (12) months from the Effective Date.

**13.2 Non-fulfilment of obligations of the Nodal Agency**

The occurrence and continuation of the following events shall constitute non-fulfilment of its obligations under the terms of this Agreement, unless any such non-fulfilment occurs as a result of a breach by the TSP of its obligations under this Agreement, a TSP Event of Default or a Force Majeure Event:

- a. except where due to the TSP’s failure to comply with its obligations, the Nodal Agency is in non-fulfilment of any of their obligations as per the provisions of Article 4.2 of this Agreement and such non-fulfilment is not rectified by the Nodal Agency within thirty (30) days of receipt of notice in this regard from the TSP to the Nodal Agency.

### **13.3 Termination Procedure for TSP Event of Default**

- a. Upon the occurrence and continuance of any TSP's Event of Default under Article 13.1 the Nodal Agency may serve notice on the TSP, with a copy to the Commission and the Lenders' Representative, of their intention to terminate this Agreement (a "Nodal Agency's Preliminary Termination Notice"), which shall specify in reasonable detail, the circumstances giving rise to such Nodal Agency's Preliminary Termination Notice.
- b. Following the issue of a Nodal Agency's Preliminary Termination Notice, the Consultation Period shall apply and would be for the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- c. During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement, and the TSP shall not remove any material, equipment or any part of the Project, without prior consent of the Nodal Agency.

Following the expiry of the Consultation Period, unless the Parties shall have otherwise agreed to the contrary or the circumstances giving rise to Nodal Agency's Preliminary Termination Notice shall have ceased to exist or shall have been remedied, the Nodal Agency may terminate this Agreement by giving written notice of thirty (30) days ("Nodal Agency's Termination Notice") to the TSP, with a copy to the Lenders' Representative and the Commission.

Unless the Lenders have exercised their rights of substitution as per the provisions of Article 15.3 of this Agreement and the Commission has agreed to such substitution rights of the Lenders or otherwise directed by the Commission, this Agreement shall terminate on the date of expiry of such Nodal Agency's Termination Notice. Upon termination of the Agreement, the Nodal Agency shall approach the Commission seeking revocation of the Transmission License and further action as per the provisions of the Electricity Act, 2003.

#### **13.4 Procedure for Nodal Agency's non-fulfilment of Obligations**

- a. Upon the Nodal Agency not being able to fulfil its obligations under Article 4.2, the TSP may serve notice on the Nodal Agency, with a copy to the Commission and the Lenders' Representative (a "TSP's Preliminary Notice"), which notice shall specify in reasonable detail the circumstances giving rise to such non-fulfilment of obligations by the Nodal Agency.
- b. Following the issue of a TSP's Preliminary Notice, the Consultation Period shall apply.
- c. The Consultation Period would be for the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant non-fulfilment of obligation by the Nodal Agency, having regard to all the circumstances.
- d. During the Consultation Period, both Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- e. Following the expiry of the Consultation Period, unless the Parties shall have otherwise agreed or the circumstances giving rise to the TSP's Preliminary Notice shall have ceased to exist or shall have been remedied, the TSP may approach the Commission by giving written notice of fifteen (15) days ("TSP's Notice") to the Nodal Agency, seeking necessary remedial measures from the Commission. The decision of the Commission in this regard shall be final and binding on both the Parties.

#### **13.5 Termination due to Force Majeure**

- 13.5.1 In case the Parties could not reach an agreement pursuant to Articles 3.3.4 and 4.4.1 of this Agreement and the Force Majeure Event or its effects continue to be present, either Party shall have the right to cause termination of the Agreement. The Nodal Agency shall also have the right to cause termination of the Agreement and to approach the Commission to seek further directions in this regard. In such an event, subject to the terms and conditions of the Financing Agreements, this Agreement shall terminate on the date of such Termination Notice. In



case of such termination, the Contract Performance Guarantee shall be returned to the TSP as per the provisions of Article 6.5.1.

13.5.2 In case of termination of this Agreement, the TSP shall provide to the Nodal Agency the full names and addresses of its Contractors as well as complete designs, design drawings, manufacturing drawings, material specifications and technical information, as required by the Nodal Agency within thirty (30) days of Termination Notice.

**13.6 Revocation of the Transmission License**

13.6.1 The Commission may, as per the provisions of the Electricity Act, 2003, revoke the Transmission License of the ISTS Licensee. In the event of the revocation of the Transmission License, the Commission would take necessary steps as per the provisions of the Electricity Act, 2003. Further, the Nodal Agency reserves the right to terminate the Agreement in the event of the revocation of the Transmission License of the ISTS Licensee by the Commission.

**ARTICLE: 14**

**14 LIABILITY AND INDEMNIFICATION**

**14.1 Indemnity**

14.1.1 The TSP shall indemnify, defend and hold the Nodal Agency harmless against:

(a) any and all third party claims, actions, suits or proceedings against the Nodal Agency for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the TSP of any of its obligations under this Agreement, except to the extent that any such claim, action, suit or proceeding has arisen due to a negligent act or omission, breach of this Agreement or non-fulfilment of statutory duty on the part of Nodal Agency; and

(b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by the Nodal Agency from third party claims arising by reason of:

i. a breach by the TSP of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the TSP, for which specific remedies have been provided for under this Agreement) except to the extent that any such losses, damages, costs and expenses including legal costs, fines, penalties and interest (together to constitute "Indemnifiable Losses") has arisen due to a negligent act or omission, breach of this Agreement or non-fulfilment of statutory duty on the part of the Nodal Agency, or

ii. any of the representations and warranties of the TSP under this Agreement being found to be inaccurate or untrue.

14.1.2 The Nodal Agency shall indemnify, defend and hold the TSP harmless against:

(a) any and all third party claims, actions, suits or proceedings against the TSP, for any loss of or damage to property of such third party,

or death or injury to such third party, arising out of any material breach by the Nodal Agency of any of their obligations under this Agreement, except to the extent that any such claim, action, suit or proceeding has arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of the TSP, its Contractors, servants or agents; and

- (b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the TSP from third party claims arising by reason of:
  - i. any material breach by the Nodal Agency of any of its obligations under this Agreement (provided that, this Article 14 shall not apply to such breaches by the Nodal Agency, for which specific remedies have been provided for under this Agreement), except to the extent that any such Indemnifiable Losses have arisen due to a negligent act or omission, breach of this Agreement or breach of statutory duty on the part of the TSP, its Contractors, servants or agents or
  - ii. any of the representations and warranties of the Nodal Agency under this Agreement being found to be inaccurate or untrue.

**14.2 Patent Indemnity:**

14.2.1

- (a) The TSP shall, subject to the Nodal Agency's compliance with Article 14.2.1 (b), indemnify and hold harmless the Nodal Agency and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which the Nodal Agency may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Agreement by reason of the setting up of the Project by the TSP.

Such indemnity shall not cover any use of the Project or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Agreement, any infringement resulting from the misuse of the Project or any part thereof, or any products produced in association or combination with any other equipment, plant or materials not supplied by the TSP, pursuant to the Agreement.

- (b) If any proceedings are brought or any claim is made against the Nodal Agency arising out of the matters referred to in Article 14.2.1(a), the Nodal Agency shall promptly give the TSP a notice thereof, and the TSP shall at its own expense take necessary steps and attend such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. The TSP shall promptly notify the Nodal Agency of all actions taken in such proceedings or claims.
- (c) If the TSP fails to notify the Nodal Agency within twenty-eight (28) days after receipt of such notice from the Nodal Agency under Article 14.2.1(b) above, that it intends to attend any such proceedings or claim, then the Nodal Agency shall be free to attend the same on their own behalf at the cost of the TSP. Unless the TSP has so failed to notify the Nodal Agency within the twenty eight (28) days period, the Nodal Agency shall make no admission that may be prejudicial to the defence of any such proceedings or claims.
- (d) The Nodal Agency shall, at the TSP’s request, afford all available assistance to the TSP in attending to such proceedings or claim, and shall be reimbursed by the TSP for all reasonable expenses incurred in so doing.

14.2.2

- (a) The Nodal Agency, subject to the TSP’s compliance with Article 14.2.2(b) shall indemnify and hold harmless the TSP and its employees, officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of whatsoever nature, including attorney’s fees and expenses, which the TSP may suffer as a result of any infringement or alleged infringement of any patent, utility model,

registered design, trademark, copyright or other intellectual property right registered or otherwise existing at the date of the Agreement by reason of the setting up of the Project by the TSP.

- (b) If any proceedings are brought or any claim is made against the TSP arising out of the matters referred to in Article 14.2.2 (a) the TSP shall promptly give the Nodal Agency a notice thereof, and the Nodal Agency shall at its own expense take necessary steps and attend such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. The Nodal Agency shall promptly notify the TSP of all actions taken in such proceedings or claims.
- (c) If the Nodal Agency fails to notify the TSP within twenty-eight (28) days after receipt of such notice from the TSP under Article 14.2.2(b) above, that it intends to attend any such proceedings or claim, then the TSP shall be free to attend the same on its own behalf at the cost of the Nodal Agency. Unless the Nodal Agency has so failed to notify the TSP within the twenty (28) days period, the TSP shall make no admission that may be prejudicial to the defence of any such proceedings or claim.
- (d) The TSP shall, at the Nodal Agency request, afford all available assistance to the Nodal Agency in attending to such proceedings or claim, and shall be reimbursed by the Nodal Agency for all reasonable expenses incurred in so doing.

**14.3 Monetary Limitation of liability**

14.3.1 A Party ("Indemnifying Party") shall be liable to indemnify the other Party ("Indemnified Party") under this Article 14 for any indemnity claims made in a Contract Year only up to an amount of Rupees ..... Crores (Rs. ....) [BPC to insert value].

**14.4 Procedure for claiming indemnity**

14.4.1 Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Articles 14.1 or 14.2 the Indemnified Party shall promptly notify the Indemnifying Party of such claim, proceeding, action or suit referred to in Articles 14.1 or 14.2 in respect of

which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim, proceeding, action or suit. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice.

Provided however that, if:

- i. the Parties choose to contest, defend or litigate such claim, action, suit or proceedings in accordance with Article 14.4.3 below; and
- ii. the claim amount is not required to be paid/deposited to such third party pending the resolution of the Dispute,

the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.

14.4.2 The Indemnified Party may contest, defend and litigate a claim, action, suit or proceeding for which it is entitled to be indemnified under Articles 14.1 or 14.2 and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified Party. However, such Indemnified Party shall not settle or compromise such claim, action, suit or proceedings without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.

14.4.3 An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

**14.5 Limitation on Liability**

14.5.1 Except as expressly provided in this Agreement, neither the TSP nor the Nodal Agency nor their respective officers, directors, agents, employees or Affiliates (including, officers, directors, agents or employees of such Affiliates), shall be liable or responsible to the other Party or its Affiliates

including its officers, directors, agents, employees, successors, insurers or permitted assigns for incidental, indirect or consequential, punitive or exemplary damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of transmission capacity or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of the Nodal Agency, the TSP or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

14.5.2 The Nodal Agency shall have no recourse against any officer, director or shareholder of the TSP or any Affiliate of the TSP or any of its officers, directors or shareholders for such claims excluded under this Article. The TSP shall also have no recourse against any officer, director or shareholder of the Nodal Agency, or any Affiliate of the Nodal Agency or any of its officers, directors or shareholders for such claims excluded under this Article.

**14.6 Duty to Mitigate**

The party entitled to the benefit of an indemnity under this Article 14 shall take all reasonable measures to mitigate any loss or damage which has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

**ARTICLE: 15****15 ASSIGNMENTS AND CHARGES****15.1 Assignments:**

15.1.1 This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party, except as provided in Article 15.2.4.

**15.2 Permitted Charges:**

15.2.1 Neither Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement.

15.2.2 However, the TSP may create any encumbrance over all or part of the receivables, or the Project Assets of the Project in favour of the Lenders or the Lenders' Representative on their behalf, as security for amounts payable under the Financing Agreements and any other amounts agreed by the Parties.

Provided that:

- i. the Lenders or the Lenders' Representative on their behalf shall have entered into the Financing Agreements and agreed in writing to the provisions of this Agreement; and
- ii. any encumbrance granted by the TSP in accordance with this Article 15.2.2 shall contain provisions pursuant to which the Lenders or the Lender's Representative on their behalf agrees unconditionally with the TSP to release from such encumbrances upon payment by the TSP to the Lenders of all amounts due under the Financing Agreements.

15.2.3 Article 15.2.1 does not apply to:

- a. liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of the TSP developing and operating the Project;

..... [Insert Name of the SPV]



- b. pledges of goods, the related documents of title and / or other related documents, arising or created in the ordinary course of the TSP developing and operating the Project; or
- c. security arising out of retention of title provisions in relation to goods acquired in the ordinary course of the TSP developing and operating the Project.

15.2.4 Neither the TSP nor the Nodal Agency can relinquish or transfer its rights and obligations, without prior approval of the Commission.

**15.3 Substitution Rights of the Lenders**

15.3.1 The TSP would need to operate and maintain the Project under the provisions of the Transmission License granted by the Commission and the provisions of this Agreement and cannot assign the Transmission License or transfer the Project or part thereof to any person by sale, lease, exchange or otherwise, without the prior approval of the Commission.

15.3.2 However, in the case of default by the TSP in debt repayments or in the case of default by the TSP as per Article 13 of this Agreement during the debt repayments, the Commission may, on an application from the Lenders, assign the Transmission License to the nominee of the Lenders subject to the fulfilment of the qualification requirements and provisions of the Central Electricity Regulatory Commission (Procedure, terms and Conditions for grant of Transmission License and other related matters) Regulations, 2006 and as amended from time to time.

## ARTICLE: 16

### 16 GOVERNING LAW AND DISPUTE RESOLUTION

#### 16.1 Governing Law:

This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in Delhi.

#### 16.2 Amicable Settlement:

16.2.1 Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement, including its existence or validity or termination or whether during the execution of the Project or after its completion and whether prior to or after the abandonment of the Project or termination or breach of the Agreement by giving a written notice to the other Party, which shall contain:

- (i) a description of the Dispute;
- (ii) the grounds for such Dispute; and
- (iii) all written material in support of its claim.

16.2.2 The other Party shall, within thirty (30) days of issue of notice issued under Article 16.2.1, furnish:

- (i) counter-claim and defences, if any, regarding the Dispute; and
- (ii) all written material in support of its defences and counter-claim.

16.2.3 Within thirty (30) days of issue of notice by the Party pursuant to Article 16.2.1, if the other Party does not furnish any counter claim or defense under Article 16.2.2, or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.3, the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

**16.3 Dispute Resolution:**

The provisions of Article 18.3 of the TSA approved by CERC as per the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 shall be applicable.

**16.4 Parties to Perform Obligations:**

Notwithstanding the existence of any Dispute and difference referred to the Commission or the Arbitration Tribunal as provided in Article 16.3 and save as the Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

**ARTICLE: 17**

**17 REPRESENTATION AND WARRANTIES**

**17.1 Representation and warranties of the Nodal Agency**

17.1.1 The Nodal Agency hereby represents and warrants to and agrees with the TSP as follows and acknowledges and confirms that the TSP is relying on such representations and warranties in connection with the transactions described in this Agreement:

- a. It has all requisite powers and authority to execute and consummate this Agreement;
- b. This Agreement is enforceable against the Nodal Agency in accordance with its terms;
- c. The consummation of the transactions contemplated by this Agreement on the part of Nodal Agency will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the Nodal Agency is a Party or to which the Nodal Agency is bound, which violation, default or power has not been waived;

**17.2 Representation and Warranties of the TSP:**

17.2.1 The TSP hereby represents and warrants to and agrees with the Nodal Agency as follows and acknowledges and confirms that the Nodal Agency is relying on such representations and warranties in connection with the transactions described in this Agreement:

- a. It has all requisite powers and has been duly authorized to execute and consummate this Agreement;
- b. This Agreement is enforceable against it, in accordance with its terms;
- c. The consummation of the transactions contemplated by this Agreement on the part of the TSP will not violate any provision of nor constitute a default under, nor give rise to a power to cancel any charter, mortgage, deed of trust or lien, lease, agreement, license, permit, evidence of indebtedness, restriction, or other contract to which the TSP is a Party or to

which the TSP is bound which violation, default or power has not been waived;

- d. The TSP is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against the TSP;
- e. There are no actions, suits, claims, proceedings or investigations pending or, to the best of the TSP's knowledge, threatened in writing against the TSP at law, in equity, or otherwise, and whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental agency or authority, and there are no outstanding judgments, decrees or orders of any such courts, commission, arbitrator or governmental agencies or authorities, which materially adversely affect its ability to execute the Project or to comply with its obligations under this Agreement.

17.2.2 The TSP makes all the representations and warranties above to be valid as on the Effective Date of this Agreement.

**ARTICLE: 18**

**18 MISCELLANEOUS PROVISIONS**

**18.1 Equity Lock-in Commitment:**

18.1.1 The aggregate equity share holding of the Selected Bidder in the issued and paid up equity share capital of ..... [Insert Name of the SPV] shall not be less than the following:

(a) Fifty one percent (51%) up to a period of two (2) years after COD of the Project; and

Provided that, in case the Lead Member or Bidding Company is holding equity through Affiliate/s, Ultimate Parent Company or Parent Company, such restriction as specified in (a) and (b) above shall apply to such entities.

Provided further, that in case the Selected Bidder is a Bidding Consortium, the Lead Member shall continue to hold equity of at least twenty six percent (26%) upto a period of two (2) years after COD of the Project and any Member of such Bidding Consortium shall be allowed to divest its equity as long as the other remaining Members (which shall always include the Lead Member) hold the minimum equity specified in (a) and (b) above.

18.1.2 If equity is held by the Affiliates, Parent Company or Ultimate Parent Company of the Selected Bidder, then, subject to the second proviso to Article 18.1.1, such Affiliate, Parent Company or Ultimate Parent Company shall be eligible to transfer its shareholding in ..... [Insert Name of the SPV] to another Affiliate or to the Parent Company / Ultimate Parent Company of the Selected Bidder. If any such shareholding entity, qualifying as an Affiliate / Parent Company / Ultimate Parent Company, is likely to cease to meet the criteria to qualify as an Affiliate / Parent Company / Ultimate Parent Company, the shares held by such entity shall be transferred to another Affiliate / Parent Company / Ultimate Parent Company of the Selected Bidder.

18.1.3 Subject to Article 18.1.1, all transfer(s) of shareholding of ..... [Insert Name of SPV] by any of the entities referred to in Article 18.1.1 and 18.1.2 above, shall be after prior written permission from the Nodal Agency.

..... [Insert Name of the SPV]

18.1.4 For computation of effective Equity holding, the Equity holding of the Selected Bidder or its Ultimate Parent Company in such Affiliate(s) or Parent Company and the equity holding of such Affiliate(s) or Ultimate Parent Company in ..... [Insert Name of SPV] shall be computed in accordance with the example given below:

If the Parent Company or the Ultimate Parent Company of the Selected Bidder A directly holds thirty percent (30%) of the equity in ..... [Insert name of the SPV], then holding of Selected Bidder A in ..... [Insert name of the SPV] shall be thirty percent (30%);

If Selected Bidder A holds thirty percent (30%) equity of the Affiliate and the Affiliate holds fifty percent (50%) equity in ..... [Insert Name of the SPV], then, for the purposes of ascertaining the minimum equity/equity lock-in requirements specified above, the effective holding of Bidder A in .....[Insert Name of SPV] shall be fifteen percent (15%), (i.e., 30% x 50%)

18.1.5 The provisions as contained in this Article 18.1 shall override the terms of the consortium agreement submitted as part of the Bid.

18.1.6 The TSP shall be responsible to report, within thirty (30) days from the occurrence of any event that would result in any change in its equity holding structure from that which existed as on the date of signing of the Share Purchase Agreement. In such cases, the Nodal Agency would reserve the right to ascertain the equity holding structure and to call for all such required documents / information / clarifications as may be required.

## 18.2 Language:

18.2.1 All agreements, correspondence and communications between the Parties relating to this Agreement and all other documentation to be prepared and supplied under the Agreement shall be written in English, and the Agreement shall be construed and interpreted in accordance with English language.

18.2.2 If any of the agreements, correspondence, communications or documents are prepared in any language other than English, the English translation of such agreements, correspondence, communications or documents shall prevail in matters of interpretation.

..... [Insert Name of the SPV]

**18.3 Affirmation**

The TSP and the Nodal Agency, each affirm that:

1. neither it nor its respective directors, employees, or agents has paid or undertaken to pay or shall in the future pay any unlawful commission, bribe, pay-off or kick-back; and
2. it has not in any other manner paid any sums, whether in Indian currency or foreign currency and whether in India or abroad to the other Party to procure this Agreement, and the TSP and the Nodal Agency hereby undertake not to engage in any similar acts during the Term of Agreement.

**18.4 Severability**

The invalidity or enforceability, for any reason, of any part of this Agreement shall not prejudice or affect the validity or enforceability of the remainder of this Agreement, unless the part held invalid or unenforceable is fundamental to this Agreement.

**18.5 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which collectively shall be deemed one and the same Agreement.

**18.6 Breach of Obligations**

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

**18.7 Restriction of Shareholders / Owners Liability**

- 18.7.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement.

..... [Insert Name of the SPV]



18.7.2 Further, the financial liabilities of the shareholder(s) of each Party to this Agreement shall be restricted to the extent provided in the Indian Companies Act, 1956 / Companies Act, 2013 (as the case may be).

## **18.8 Taxes and Duties:**

18.8.1 The TSP shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/levied on the TSP, its Contractors or their employees that are required to be paid by the TSP as per the Law in relation to the execution of the Project and for providing Transmission Service as per the terms of this Agreement.

18.8.2 The Nodal Agency shall be indemnified and held harmless by the TSP against any claims that may be made against the Nodal Agency in relation to the matters set out in Article 18.8.1.

18.8.3 The Nodal Agency shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the TSP by the Nodal Agency on behalf of TSP or its personnel, provided the TSP has consented in writing to the Nodal Agency for such work, for which consent shall not be unreasonably withheld.

## **18.9 No Consequential or Indirect Losses**

The liability of the TSP shall be limited to that explicitly provided in this Agreement.

Provided that, notwithstanding anything contained in this Agreement, under no event shall the Nodal Agency or the TSP claim from one another any indirect or consequential losses or damages.

## **18.10 Discretion:**

Except where this Agreement expressly requires a Party to act fairly or reasonably, a Party may exercise any discretion given to it under this Agreement in any way it deems fit.

## **18.11 Confidentiality**

18.11.1 The Parties undertake to hold in confidence this Agreement and RFP Project Documents and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

..... [Insert Name of the SPV]

- (a) to their professional advisors;
  - (b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
  - (c) disclosures required under Law,
- without the prior written consent of the other Parties.

Provided that, the TSP agrees and acknowledges that the Nodal Agency, may, at any time, disclose the terms and conditions of the Agreement and the RFP Project Documents to any person, to the extent stipulated under the Law and the Competitive Bidding Guidelines.

**18.12 Order of priority in application:**

In case of inconsistencies between the terms and conditions stipulated in Transmission License issued by the Commission to the TSP, agreement(s) executed between the Parties, applicable Law including rules and regulations framed thereunder, the order of priority as between them shall be the order in which they are placed below:

- terms and conditions of Transmission License;
- applicable Law, rules and regulations framed thereunder;
- this Agreement;
- Transmission Service Agreement executed pursuant to CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010; and
- Revenue Sharing Agreement, executed pursuant to CERC (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010.

**18.13 Independent Entity:**

18.13.1 The TSP shall be an independent entity performing its obligations pursuant to the Agreement.

18.13.2 Subject to the provisions of the Agreement, the TSP shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of the TSP or

Contractors engaged by the TSP in connection with the performance of the Agreement shall be under the complete control of the TSP and shall not be deemed to be employees, representatives, Contractors of the Nodal Agency and nothing contained in the Agreement or in any agreement or contract awarded by the TSP shall be construed to create any contractual relationship between any such employees, representatives or Contractors and the Nodal Agency.

**18.14 Amendments:**

18.14.1 This Agreement may only be amended or supplemented by a written agreement between the Parties and after obtaining approval of the Commission, where necessary.

**18.15 Waiver:**

18.15.1 No waiver by either Party of any default or breach by the other Party in the performance of any of the provisions of this Agreement shall be effective unless in writing duly executed by an authorised representative of such Party:

18.15.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by one Party to the other Parties shall act as a waiver of such breach or acceptance of any variation or the relinquishment of any such right or any other right under this Agreement, which shall remain in full force and effect.

**18.16 Relationship of the Parties:**

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership or agency or any such other relationship between the Parties or to impose any partnership obligation or liability upon either Party and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

**18.17 Entirety:**

18.17.1 This Agreement along with its sections, schedules and appendices is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their

agreement.

18.17.2 Except as provided in this Agreement, all prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement or the provision of Transmission Service under this Agreement to the Nodal Agency by the TSP shall stand superseded and abrogated.

**18.18 Notices:**

18.18.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language

18.18.2 If to the TSP, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the addressee below:

- Address :
- Attention :
- Email :
- Fax. No. :
- Telephone No. :

18.18.3 If to the Nodal Agency, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the addresses below:

(i) ..... [Insert Name of the Nodal Agency]

- Address :
- Attention :
- Email :
- Fax. No. :
- Telephone No. :

18.18.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All notices shall be deemed validly delivered upon receipt evidenced by an

..... [Insert Name of the SPV]

acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

- 18.18.5 Any Party may by notice of at least fifteen (15) days to the other Party change the address and/or addresses to which such notices and communications to it are to be delivered or mailed.

### **18.19 Fraudulent and Corrupt Practices**

- 18.19.1 The TSP and its respective officers, employees, agents and advisers shall observe the highest standard of ethics during the subsistence of this Agreement. Notwithstanding anything to the contrary contained in the Agreement, the Nodal Agency may terminate the Agreement without being liable in any manner whatsoever to the TSP, if it determines that the TSP has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bid process. In such an event, the Nodal Agency shall forfeit the Contract Performance Guarantee of the TSP, without prejudice to any other right or remedy that may be available to the Nodal Agency hereunder or subsistence otherwise.
- 18.19.2 Without prejudice to the rights of the Nodal Agency under Clause 18.19.1 hereinabove and the rights and remedies which the Nodal Agency may have under this Agreement, if a TSP is found by the Nodal Agency to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bid process, or after the issue of Letter of Intent (hereinafter referred to as Lol) or after the execution of the TSA, the Nodal Agency may terminate the Agreement without being liable in any manner whatsoever to the TSP. Further, the TSP shall not be eligible to participate in any tender or RFP issued by any BPC during a period of two (2) years from the date such TSP is found by the Nodal Agency to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 18.19.3 For the purposes of this Clause 18.19, the following terms shall have the

..... [Insert Name of the SPV]

meaning hereinafter respectively assigned to them:

(a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bid process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the BPC who is or has been associated or dealt in any manner, directly or indirectly with the Bid process or the Lol or has dealt with matters concerning the RFP Project Documents or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the BPC, shall be deemed to constitute influencing the actions of a person connected with the Bid Process); or (ii) engaging in any manner whatsoever, whether during the Bid Process or after the issue of the Lol or after the execution of the RFP Project Documents, as the case may be, any person in respect of any matter relating to the Project or the Lol or the RFP Project Documents, who at any time has been or is a legal, financial or technical adviser of the BPC in relation to any matter concerning the Project;

(b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bid process;

(c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bid process;

(d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the BPC with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bid process; or (ii) having a Conflict of Interest; and

(e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bid process;

**18.20 Compliance with Law:**

Despite anything contained in this Agreement but without prejudice to Article 12, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity

Act, 2003, or any rules and regulations made there under, such provision shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time.

**IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORISED REPRESENTATIVES AS OF THE DATE AND PLACE SET FORTH ABOVE.**

1. For and on behalf of TSP

.....

[Signature, Name, Designation and Address]

2. For and on behalf of .....[Insert name of the Nodal Agency]

.....

[Signature, Name, Designation and Address]

**WITNESSES:**

1. For and on behalf of  
: BPC

.....  
[Signature]

.....  
[Insert, Name, Designation and Address of the Witness]

2. For and on behalf of  
: Nodal Agency

..... [Insert Name of the SPV]

.....  
[Signature]

.....  
[Insert Name, Designation and Address of the Witness]

..... [Insert Name of the SPV]



# SCHEDULES

## Schedule: 1

### Project Description and Scope of Project

**[Note: Detail description of the Project, including all the Elements, details of the Interconnection Facilities, along with corresponding Scheduled COD, as referred to in recital of this Agreement and in Article 4.1 of this Agreement<sup>1</sup>]**

---

<sup>1</sup> [CEA/CTU shall provide to the BPC the inputs for this Schedule including in particular the scope pertaining to Interconnection Facilities.]

**Schedule: 2**  
**Scheduled COD**

**[Note: As referred to in the definition of “Element”, “Scheduled COD”, and in Articles 3.1.3 (c), 4.1 (b) and 4.3 (a) of this Agreement]**

[BPC to replicate the following table from the RFP]

SI. No.	Name of the Transmission Element	Scheduled COD in months from Effective Date	Percentage of Quoted Transmission Charges recoverable on Scheduled COD of the Element of the Project	Elements which are pre-required for declaring the commercial operation (COD) of the respective Element [BPC to insert precedence of commissioning of Element(s)] in project specific RFP and RFP Project Documents]
1.				
2.				
3.				
....				

The payment of Transmission Charges for any Element, irrespective of its successful commissioning on or before its Scheduled COD, shall only be considered after successful commissioning of the Element(s), which are pre-required for declaring the commercial operation of such Element as mentioned in the above table.

Scheduled COD for the Project is: ..... [to be inserted by BPC from the RFP].

**[Note: List of Element(s) along with the critical Element(s) to be provided by CEA]**

### Schedule: 3

## Safety Rules and Procedures

[Note: As referred to in Articles 5.6 of this Agreement]

**1: Site Regulations and Safety:**

The TSP shall establish Site regulations within sixty (60) days from fulfilment of conditions subsequent, as per Prudent Utility Practices setting out the rules to be observed in the execution of the Agreement at the Site and shall comply therewith.

Such Site regulations shall include, but shall not be limited to, rules in respect of security, safety of the Project, gate control, sanitation, medical care, and fire prevention, public health, environment protection, security of public life, etc.

Copies of such Site regulations shall be provided to the Nodal Agency and the CEA for the purpose of monitoring of the Project.

**2: Emergency Work:**

In cases of any emergency, the TSP shall carry out all necessary remedial work as may be necessary.

If the work done or caused to be done by any Party other than the TSP, the TSP shall, reimburse the actual costs incurred, to the other Party carrying out such remedial works.

**3: Site Clearance:**

In the course of execution of the Agreement, the TSP shall keep the Site reasonably free from all unnecessary obstruction, storage, remove any surplus materials, clear away any wreckage, rubbish and temporary works from the Site, and remove any equipment no longer required for execution of the Agreement. After completion of all Elements of the Project, the TSP shall clear away and remove all wreckage, rubbish and debris of any kind from the Site, and shall leave the Site clean and safe.

**4: Watching and Lighting:**

The TSP shall provide and maintain at its own expense all lighting, fencing, and watching when and where necessary for the proper construction, operation, maintenance / repair of any of the Elements of the Project, or for the safety of the owners and occupiers of adjacent property and for the safety of the public, during such maintenance / repair.

**Schedule: 4**

**Computation of Transmission Charges**

**1.1 General**

- a. The Monthly Transmission Charges to be paid by the Designated ISTS Customers to the TSP through the Central Transmission Utility, for providing Transmission Service for any Contract Year during the term of the Agreement shall be computed in accordance with this Schedule and paid as per the provisions of the TSA.
- b. The Transmission Charges to be paid to the TSP shall comprise of the Escalable Transmission Charges and the Non Escalable Transmission Charges, payable by the Designated ISTS Customers, for the Contract Year.
- c. For the purpose of payment, the Escalable Transmission Charges to be paid in any Contract Year shall be the Escalable Transmission Charge as per Schedule 5, duly escalated as provided in Schedule 6.
- d. In case of any extension of time period for the Scheduled COD, the applicable Transmission Charges, in relation to an Element, shall be the Transmission Charges of the Contract Year in which the COD of such Element occurs or it has deemed to have occurred, and in relation to the Project, the Transmission Charges applicable will be for the Contract Year in which the COD occurs.
- e. The Annual Transmission Charges shall be the sum of the Payable Annual Escalable Transmission Charges and the Payable Annual Non Escalable Transmission Charges for the Contract Year n.
- f. The Transmission Charges shall be payable on monthly basis as computed in clause 1.2. In case of Availability being lower than the Target Availability, the Transmission Charges shall be payable on proportionate basis as provided in this Schedule. In case of the Availability being lower than the level as specified in Article9, the TSP shall pay a penalty as per the provisions in this Schedule. This penalty payable by the TSP shall be adjusted as per the provisions of the Billing, Collection and Disbursement Procedure forming part of the TSA.
- g. Reactive Power compensations and payments shall be as per the provisions of the Grid Code.

**1.2 Computation of Monthly Transmission Charges**

The Monthly Transmission Charges for any month m in a Contract Year n shall be calculated as below:

For AC System:

- a. If Actual Transmission System Availability for the month m of contract year n is greater than or equal to 98% and less than or equal to 98.5%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * 1$$

- b. If Actual Transmission System Availability for the month m of contract year n exceeds 98.5% and less than or equal to 99.75%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (AA / 98.5\%)$$

- c. If Actual Transmission System Availability for the month m of contract year n is greater than 99.75%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (99.75\% / 98.5\%)$$

- d. If Actual Transmission System Availability for the month m of contract year n is less than 98% and less than or equal to 95.00%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (AA / 98\%)$$

- e. If Actual Transmission System Availability for the month m of contract year falls below 95%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (AA / 98\%) - 0.02 * (T_{mn} * (AA / 95\%))$$

For DC System:

- a. If Actual Transmission System Availability for the month m of contract year n is greater than or equal to 95% and less than or equal to 96%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * 1$$

- c. If Actual Transmission System Availability for the month m of contract year n exceeds 96% and less than or equal to 99.75%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (AA / 96\%)$$

- c. If Actual Transmission System Availability for the month m of contract year n is greater than 99.75%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (99.75\% / 96\%)$$

- d. If Actual Transmission System Availability for the month m of contract year n is less than 95% and less than or equal to 92.00%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (AA / 95\%)$$

- e. If Actual Transmission System Availability for the month m of contract year falls below 92%;

$$\text{Monthly Transmission Charges MTC}(m) = T_{mn} * (AA / 95\%) - 0.02 * (T_{mn} * (AA / 92\%))$$

where:

- AA is the actual Availability, as certified by RPC, as per procedure provided in Schedule 7.
- m is the month in Contract Year 'n' M= month considered for payment in the Contract Year 'n' T<sub>mn</sub>= Transmission Charges for the month 'm' in Contract Year 'n' and is equal to the sum of Monthly Escalable Transmission Charges (METC mn) and Monthly Non Escalable Transmission Charges (MNETC mn) = Annual Transmission Charges for the Contract Year n/ 12

- Monthly Escalable Transmission Charges (METC mn)

The Monthly Escalable Transmission Charges (METCmn) for month 'm' for the Contract Year 'n' shall be calculated by the following formula,

$$\text{METCmn} = [\text{Escalable Transmission Charge for the first Contract year (as provided in Schedule 6)} / 12 * p/q$$

**Where,**

'p' is the escalation index as per Schedule 7 at the beginning of the month 'm' (expressed as a number)

'q' is the escalation index as per Schedule 7 applicable as at the beginning of the first Contract Year mentioned in Schedule 6 (expressed as a number)

- Monthly Non Escalable Transmission Charges (MNETCmn)

The Monthly Non Escalable Transmission Charges (MNETCmn) for month 'm' for the Contract Year 'n' shall be calculated as follows;

$$\text{MNETCmn} = [\text{Non Escalable Transmission Charge for the Contract year 'n' (as provided in Schedule 6)} / 12$$



Provided, no Transmission Charges shall be paid during the period for which the RLDC has not allowed the operation of the Element/Project due to the failure of the TSP to operate it as per the provisions of the Grid Code.

**1.3 Scheduling Charges**

The payment of scheduling charges to the respective RLDC or SLDC, as the case may be, shall be the responsibility of the DICs.

**Schedule: 5****Quoted Transmission Charges**

**[Quoted Transmission Charges from Annexure - 21 of the RFP of the Selected Bidder to be inserted here]**

**[To be incorporated from the Bid of the Selected Bidder submitted during the e-reverse auction after its selection]**

**[BPC to fill in the Scheduled COD for the Project and the respective years in column 2 and 3]**

Year	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (in Rupees Millions)	Escalable Transmission Charges (in Rupees Millions)
(1)	(2)	(3)	(4)	(5)
1.	<b>Scheduled COD [To be inserted by the BPC]</b>	31-March		
2.	1-April	31-March		
3.	1-April	31-March		
4.	1-April	31-March		
5.	1-April	31-March		
6.	1-April	31-March		
7.	1-April	31-March		
8.	1-April	31-March		
9.	1-April	31-March		
10.	1-April	31-March		
11.	1-April	31-March		
12.	1-April	31-March		
13.	1-April	31-March		
14.	1-April	31-March		
15.	1-April	31-March		
16.	1-April	31-March		
17.	1-April	31-March		
18.	1-April	31-March		
19.	1-April	31-March		
20.	1-April	31-March		
21.	1-April	31-March		
22.	1-April	31-March		
23.	1-April	31-March		
24.	1-April	31-March		
25.	1-April	31-March		
26.	1-April	31-March		
27.	1-April	31-March		

..... [Insert Name of the SPV]

Year	Commencement Date of Contract Year	End Date of Contract Year	Non-Escalable Transmission Charges (in Rupees Millions)	Escalable Transmission Charges (in Rupees Millions)
28.	1-April	31-March		
29.	1-April	31-March		
30.	1-April	31-March		
31.	1-April	31-March		
32.	1-April	31-March		
33.	1-April	31-March		
34.	1-April	31-March		
35.	1-April	31-March		
36.	1-April	35 <sup>th</sup> anniversary of the Schedule COD		

[This table needs to be replicated exactly as from Annexure-21 of the RFP (i.e. Financial Bid of the Selected Bidder).]

**Notes:**

- a. Transmission Charges for the first Contract Year are to be quoted for the twelve month period (from the immediately preceding 1 April from the Scheduled COD till the immediately succeeding 31 March) irrespective of the duration of the first Contract Year.
- b. Charges for the second Contract Year are the Transmission Charges applicable for the full Contract Year.
- c. Transmission Charges for the last contract year are to be quoted for the twelve month period (from immediately preceding 1 April to the date of 35<sup>th</sup> anniversary of the Scheduled COD till the immediately succeeding 31 March), irrespective of the duration of the last Contract Year.
- d. In case of both (a) and (c) above, the total Transmission Charges payable to the TSP are computed proportionately for the total number of days in the first and last Contract Year respectively.

**Proportionate Transmission Charges payable for each Element of the Project:**

Name of the Transmission Element	Percentage of total Transmission Charges payable to the TSP on Commissioning / COD of the Element

1. ....	
2. ....	
3. ....	
.....	
n. ....	

**[Instruction to the BPC: BPC to fill in details for project-specific ISA based on information provided by the CEA as applicable]**

An illustration regarding payment of Transmission Charges is as below: -

**Case-1: In case the project elements achieve COD as per Schedule**

Quoted Tariff:

Contract Year	Quoted Non-Escalable Transmission Charges	Quoted Escalable Transmission Charges
1	140	Nil
2	130	
3	120	
4	110	
5-36	100	

Completion Schedule:

Element No.	Completion Schedule in Months	Scheduled CoD of the Element	Actual CoD of the Element	% Charges recoverable on Scheduled CoD of the Element
Element 1	28	31-Jan-2018	31-Jan-2018	25%
Element 2	38	30-Nov-2018	30-Nov-2018	75%

Tariff Payable as follows:

Transmission Charges for Element 1			Transmission Charges for Element 2		
1-Feb-18 to 31-Mar-18	$140 \times 25\% \times 2 / 12$	5.83		--	0.00
1-Apr-18 to 30-Nov-18	$130 \times 25\% \times 8 / 12$	21.66		--	0.00
1-Dec-18 to 31-Mar-19	$140 \times 100\% \times 4 / 12$				46.66
2	$130 \times 100\% \times 1$				130
3	$120 \times 25\% \times 1$				120
4	$110 \times 25\% \times 1 + 110 \times 75\% \times 1$				110
5	$100 \times 25\% \times 1$				100
.....					
.....					
36	$100 \times 25\% \times 8 / 12$				66.66

..... [Insert Name of the SPV]

101

**Case-2: In case of delay in achieving COD of an Element**

Quoted Tariff:

Contract Year	Quoted Non-Escalable Transmission Charges	Quoted Escalable Transmission Charges
1	140	Nil
2	130	
3	120	
4	110	
5-36	100	

Completion Schedule:

Element No.	Completion Schedule in Months	Scheduled CoD of the Element	Actual CoD of the Element	% Charges recoverable on Scheduled CoD of the Element
Element 1	20	31-Jan-2018	30-Jun-2018	25%
Element 2	28	30-Sep-2018	30-Sep-2018	75%

Tariff Payable as follows:

Transmission Charges for Element 1			Transmission Charges for Element 2		
1-Feb-18 to 31-Mar-18	--	0.00		--	0.00
1-Apr-18 to 30-Jun-18	--	0.00		--	0.00
1-Jul-18 to 30-Sept-18	130 X 25% X 3 / 12	8.125		--	0.00
1-Oct-18 to 31-Mar-19	140 X 100% X 6 / 12				70
2	130 X 100% X 1				130
3	120 X 100% X 1				120
4	110 X 100% X 1				110
5	100 X 100% X 1				100
.....					
.....					
36	100 X 100% X 6 / 12				50

..... [Insert Name of the SPV]

102

**Case-3: In case of delay in achieving COD of Project**

Quoted Tariff:

Contract Year	Quoted Non-Escalable Transmission Charges	Quoted Escalable Transmission Charges
1	140	Nil
2	130	
3	120	
4	110	
5-36	100	

Completion Schedule:

Element No.	Completion Schedule in Months	Scheduled CoD of the Element	Actual CoD of the Element	% Charges recoverable on Scheduled CoD of the Element
Element 1	38	30-Sep-2019	31-Mar-2020	25%
Element 2	38	30-Sep-2019	31-Mar-2020	75%

Tariff Payment to be paid as:

Transmission Charges for Element 1			Transmission Charges for Element 2		
1-Oct-19 to 31-Mar-20	--	0.00	1-Oct-19 to 31-Mar-20	--	0.00
1-Apr-20 to 31-Mar-21	130 X 100% X 1				130
3	120 X 100% X 1				120
4	110 X 100% X 1				110
5	100 X 100% X 1				100
.....					
.....					
36	100 X 100% X 6 / 12				100

..... [Insert Name of the SPV]

**Case-4: In case of early commissioning of Project**

Quoted Tariff:

Contract Year	Quoted Non-Escalable Transmission Charges	Quoted Escalable Transmission Charges
1	140	Nil
2	130	
3	120	
4	110	
5-36	100	

Completion Schedule:

Element No.	Completion Schedule in Months	Scheduled CoD of the Element	Actual CoD of the Element	% Charges recoverable on Scheduled CoD of the Element
Element 1	38	30-Sep-2019	30-June-2019	25%
Element 2	38	30-Sep-2019	30-June-2019	75%

Tariff Payment to be paid as:

Transmission Charges for Element 1		Transmission Charges for Element 2	
1-July-19 to 31-Mar-20	140 X 100% X 9/12		105
2	130 X 100% X 1		130
3	120 X 100% X 1		120
4	110 X 100% X 1		110
5	100 X 100% X 1		100
.....			
.....			
36	100 X 100% X 3/12		25

..... [Insert Name of the SPV]

104



## Schedule: 6

### Escalation Index

**[Note: As referred to in Clause 1.1 of Schedule 4 of this Agreement]**

The index (“Escalation Index”) to be applied for escalation of Escalable Transmission Charges shall be computed by assuming that as on the date of COD, the value of such Escalation Index is 100. Thereafter, for each month after the COD, the value of the Escalation Index shall be computed by applying the per annum inflation rate specified by CERC for payment of Escalable Transmission Charges, as per the provisions of the Competitive Bidding Guidelines.

For the avoidance of doubt, it is clarified that:

if the prevailing inflation rate specified by CERC is 4.7% per annum, then at the end of the first month after the COD, the value of the Escalation Index shall be 100.3917 [i.e.,  $100 * (1 + 0.047/12)$ ] for Escalable Transmission Charges. Thereafter, at the end of the second month beyond such first month, the value of the Escalation Index shall be 100.7833 [i.e.,  $100 * (1 + (0.047/12)*2)$ ] and so on. The value of the Escalation Index at the end of the N<sup>th</sup> Month after the COD shall be calculated as:  $100 * (1 + (0.047/ 12)*N)$  for Quoted Escalable Transmission Charges. An illustration in this regard is as below:

- Value of Escalation Index is 100
- Inflation rate specified by CERC is 4.7% per annum for first 6 months
- Inflation rate specified by CERC is 5% per annum for next 6 months

Month End	Calculation	Value of Escalation Index
1.	$100 * (1 + 0.047/12)$	100.3917
2.	$100 * (1 + (0.047/12)*2)$	100.7833
3.	$100 * (1 + (0.047/12)*3)$	101.1750
4.	$100 * (1 + (0.047/12)*4)$	101.5667
5.	$100 * (1 + (0.047/12)*5)$	101.9583
6.	$100 * (1 + (0.047/12)*6)$	102.3500
7.	$102.35 * (1 + (0.05/12))$	102.7764
	.....	.....

- The base index shall change at the end of 6 months. The escalated transmission charges at the end of 6th month shall be the base transmission charge for the next 6 month period.

- the per annum inflation rate specified by CERC shall be revised only at the end of every six (6) months.
- The value of the Escalation Index shall be calculated upto the fourth decimal point.

In case, due to any reason, CERC changes the periodicity of publication of the inflation rate mentioned above, same shall be applicable mutatis mutandis. Further, in case due to any reason, CERC discontinues the publication of the inflation rate mentioned above, then the Central Transmission Utility and the TSP shall replace the above inflation rate with an inflation rate which shall be computed on the same basis as was being used by CERC to estimate their notified inflation rate.

**Schedule: 7**

**Appendix .....**

**[Appendix of Regulations applicable seven (7) days prior to the Bid  
Deadline to be inserted by BPC]**

**[To be attached here by the BPC]**

**Schedule: 8**

**Entire Bid (both financial bid and technical bid) of the Selected Bidder to be attached here**

..... [Insert Name of the SPV]

## Schedule: 9

### Contract Performance Guarantee

**(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution. Foreign entities submitting Bids are required to follow the applicable law in their country.)**

In consideration of the .....[Insert name of the SPV or Selected Bidder on behalf of the TSP, or Lead Member in case of the Consortium, with address] agreeing to undertake the obligations under the Implementation & Service Agreement dated .....and the other RFP Project Documents and the Nodal Agency and the .....[Insert the name of the BPC], agreeing to execute the *RFP Project Documents* with the Selected Bidder, regarding setting up the Project, the ..... [Insert name and address of the bank issuing the guarantee and address of the head office] (hereinafter referred to as “Guarantor Bank”) hereby agrees unequivocally, irrevocably and unconditionally to pay to ..... (being the Nodal Agency) \_at .....[Insert the Place from the address of the Nodal Agency indicated in the ISA] forthwith on demand in writing from the Nodal Agency or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees ..... Crores (Rs. ....) only [Insert the amount of the bank guarantee] on behalf of M/s. .... [Insert name of the Selected Bidder or SPV].

This guarantee shall be valid and binding on the Guarantor Bank up to and including .....and shall not be terminable by notice or any change in the constitution of the Bank or the term of the Implementation & Service Agreement or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. .... Crores (Rs. ....) only. Our Guarantee shall remain in force until ..... [Insert the date of validity of the Guarantee as per Article 3.1.2 of this Agreement]. The Nodal Agency,

..... [Insert Name of the SPV]

shall be entitled to invoke this Guarantee up to three hundred sixty five (365) days of the last date of the validity of this Guarantee.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand from ..... (in its roles as the Nodal Agency), made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to Nodal Agency.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by ..... [Insert name of the Selected Bidder], ..... [Insert name of the TSP] and / or any other person. The Guarantor Bank shall not require Nodal Agency to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against Nodal Agency in respect of any payment made hereunder.

**THIS BANK GUARANTEE** shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

**THIS BANK GUARANTEE** shall not be affected in any manner by reason of merger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the Guarantor Bank.

**THIS BANK GUARANTEE** shall be a primary obligation of the Guarantor Bank and accordingly Nodal Agency shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against ..... [Insert name of the SPV] or the Selected Bidder, as the case may be, to make any claim against or any demand on ..... [Insert name of the SPV] or the Selected Bidder, as the case may be, or to give any notice to ..... [Insert name of the SPV] or the Selected Bidder, as the case may be, or to enforce any security held by the Nodal Agency or to exercise, levy or enforce any distress, diligence or other process against ..... [Insert name of the SPV] or the Selected Bidder, as the case may be.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to Nodal Agency and may be assigned, in whole or in part, (whether absolutely or by way of security) by Nodal Agency to any entity to

whom the Nodal Agency is entitled to assign its rights and obligations under the Implementation & Service Agreement.

The Guarantor Bank hereby agrees and acknowledges that Nodal Agency shall have a right to invoke this Bank Guarantee either in part or in full, as it may deem fit.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. .... Crores (Rs. ....) only and it shall remain in force until .....[Date to be inserted on the basis of Article 3.1.2of the Implementation & Service Agreement], with an additional claim period of three hundred sixty five (365) days thereafter. This BANK GUARANTEE shall be extended from time to time for such period, as may be desired by ..... [Insert name of the Selected Bidder or Lead Member in case of the Consortium or SPV]. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if Nodal Agency serves upon us a written claim or demand.

**In witness where of:**

Signature .....

Name: .....

Power of attorney No.: .....

**For:**

..... [Insert Name of the Bank]

**Banker's Seal and Full Address, including mailing address of the Head Office**

..... [Insert Name of the SPV]

## Schedule: 10 Project Milestones

Activity	Time line
<b>Project Implementation Stage</b>	
Survey	(a) <u>For the first half of the project cycle</u> Atleast 25% of the activity should be completed in 50% of the time agreed in Project Execution Plan
Stub-setting	
Foundation (Tower/Equipment)	
Tower Erection	(b) <u>By the 75% of the Project cycle</u> Atleast 40% of the activities should be completed
	(c) <u>By the 90% of the Project cycle</u> Atleast 75% of the activities should be completed

After considering the above Project Milestone, the TSP has to submit the Project Execution Plan to the Nodal Agency & CEA within 120 days of the Effective Date.

Please also note that any other monitoring milestone & conditions as per the provisions of this ISA shall prevail besides these milestones.