

**TATA POWER - COMMENTS ON VARIOUS DISTRIBUTION FRANCHISEES- ISSUED BY GRIDCO - CUM - ADMINSTRATOR**

SL. No	Issue	Description	Clarification sought / remarks	Reply
1	Minimum Capex Investment	RFP documents does not include any minimum CAPEX investment requirement by the franchisee or the intended investment by the Licensee for the DF term.	CAPEX investment by both DF and utility is necessary to achieve the expected objectives of the DF process. A minimum investment figure shall ensure that only serious players with definite commitment shall participate. It is, therefore, suggested that Minimum Capex commitment by DF and utility for initial 4-5 years is to be specified in the RFP document.	Please refer to Corrigendum-V dated 21.10.2017, Clause 2.5.9 asking bidders to furnish details of minimum capital expenditure (equivalent to 50% of total revenue billed for the base year) to be carried out by DF over initial period of 7 years. The Utility has been making capital expenditure under Govt. schemes or otherwise the details of which can be availed from the Superintendent of the Circle.
2	New HT Customers	All new connection of HT consumers will be given by DISCOM but billing will be done by franchisee, As per the RFP document.	As ownership of O&M and billing lies with DF, it is strongly suggested that "new connection should also be provided by DF". This shall be ensure that DF pay due attention to the ensuring quality supply to the HT consumers.	<p>The DF is to provide new service connection to all consumers (both HT &amp; LT) as per the Regulation. The service connection charge is to be retained by DF for meeting the expenditure for the purpose.</p> <p>However, as per the OERC Regulations, the consumer has to make agreement with the licensee. Hence, DF is required to submit all the documents (collected from intending consumers) to the Licensee for necessary permission. The Utility will issue permission within seven days where no extension of line is required or else within a reasonable PERIOD. After submission of completion certificate and inspection report necessary agreement and extension of power supply will be effected within seven days.</p>

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3	Franchisee scope of work	Currently complete ownership of only 11 KV network is proposed in the RFP document. Further, all 33 KV consumers are not included within the Franchisee scope.	GRIDCO is requested to allow the scope to be modified so to include entire network (LT to 33 kV) under the franchisee scope of work. Request for inclusion of all current as well future 33 KV consumers within the scope of Franchisee for better operational alignment as well as for commercial viability of the opportunities. Entire circle should be handed over to DF.	For administrative reasons, DF scope includes entire franchisee area except dedicated 33KV consumers.
4	Franchisee Term	Currently only 15 years of operation is proposed in the RFP.	GRIDCO is requested to increase the proposed term to 20 years, minimum. This will help the Bidder to consider significant investment in the franchisee area. This shall be in line with the recent similar DF initiatives taken up in the country.	Tender Clause stands
5	Amount of Penal Charges to be retained by the DF	Currently the RFP allows only 25% of penal collection amount to the DF. The DF is expected to reduce the loss on an aggressive manner to make the opportunity techno-commercially viable, such reduced incentive on account of penal charge will	GRIDCO is requested to pass the entire penal amount to DF, as this will make the opportunity more viable and sustainable.	The DF shall be paid 75% of penal collection amount as incentive which is collected under section 126 of EA 2003, rest amount shall be refunded to Utility.

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		only deter serious bidders.		
6	Proposed Payment Security Mechanism	Current provision of Letter of Credit, Performance Guarantee and Escrow mechanism will only increase the operational cost, which will ultimately add to the cost of the franchisee.	GRIDCO is requested to consider retaining the Letter of Credit as a payment security mechanism, as the other mechanisms shall unduly burden the DF cash flow thereby increasing the bidding cost.	No Payment Security Deposit required from the DF in view of Default Escrow Agreement under 11.8. Please refer corrigendum-V dated 21.10.2017.
7	Timeline for submission	Current deadline of 17th July 2017 is insufficient to prepare a realistic bid.	GRIDCO is requested to provide at least 4 months from the date of issue of final revised RFP document. This will enable the Bidders to proceed on exhaustive Due Diligence and submit an optimized - realistic quote.	One month time will be given for submission of bid from the date of uploading of revised RPU.
8	Data of 33 kV level customers	The RFP doesn't contain information on the HT customers (33 kV level).	GRIDCO is requested to provide data related to all 33 kV customers in the proposed franchisee area in the respective RFP documents.	May be collected from the Superintendent of the Circle during field visit.
9	Purchase of Land	Land to be purchased for construction of substation, etc.	Any land to be purchased for the purpose of construction of sub-station shall be provided by Discom. In case the DF purchases any such land after taking due permission from Discom for suitability of land and also about its price, the cost of such land shall be remitted by	The purchase of land by DF for construction of sub-station is not required. The right of way is the sole responsibility of the intending consumer for power supply to that consumer.

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			Discom to the DF. Further, Discom shall facilitate DF in obtaining RoW for laying of the electrical lines and metering equipment wherever required	
10	Investment through Government Funded schemes	Capital Investment through national and state Government funded schemes or other funds to be made available to DF	<p>If attractive funding options are provided through national or state governments, etc. and are more attractive than DF funding options, the Discom shall make it available to the DF. Detailed project proposals shall be prepared and submitted by the DF to Discom within the scope of such funding schemes. Discom may avail such schemes and get the same</p> <p>Implemented in the Franchisee Area through the DF. There shall be a back to back arrangement between Discom and the DF with negotiated terms and conditions along with requisite bank guarantees mechanism for meeting the finance cost and loan liabilities of such schemes</p>	Agreed. It will be mutually decided by the utility and successful DF when such opportunity arises.
11	Compensation for	Discom to compensate the DF for the assets	On the expiry/termination of the	Since capex amount is being considered in

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	Assets	by DF created during the franchisee period	DF Agreement, Discom shall compensate DF for the Distribution Assets added by DF, to the extent funded by the DF, at the depreciated value of such assets. Such assets in normal working condition shall be transferred to Discom at the depreciated value in the audited books of accounts of the DF	the Annualized benchmarked input rate / RPU . therefore, the question of compensation of assets does not arise.
12	Purchase of Energy beyond the energy provided by Discom	As per RFP, DF may be entitled to get higher quantum of energy	Kindly confirm whether Discom will make available the extra quantum of energy required or the DF shall have to make own arrangements. In case of latter, we understand that while the franchisee will identify and procure power from diverse sources, the agreements for purchase of power shall be executed by Discom as the Principal Party	Utility will make available extra quantum of energy required.
13	Day-to Day Coordination	-	Discom shall create a separate cell headed by an officer of the rank of Superintending Engineer for coordinating with DF for day to day activities.	Accepted.

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14	Tariff Adjustment Factor	Tariff Adjustment Factor formula is quite complex	<p>It is suggested to simplify the formula as: <math>TAF = (ABR \text{ of } nth \text{ year}) / (ABR \text{ of base year})</math>.</p> <p>Based on the variation of the TAF (increase or decrease), input rate should be revised accordingly.</p>	TAF formulae is already in vogue with some other prospective bidder posing no problem. Hence, will be continued as such, or with certain modification to take care of sales mix.
15	Effect of Acceptance	RFP states "By accepting the Franchisee and executing this Distribution Franchisee Agreement, the Distribution Franchisee accepts and agrees to comply with the provisions of this Distribution Franchisee Agreement and the Act"	Kindly clarify the compliance requirement with respect to the Act as mentioned herein.	The same will be as per provisions of Electricity act -2003 and OERC regulation-2004 and amended provisions time to time.
16	Liabilities and Obligations		Any liability which is only applicable to DF area and responsibilities, can be undertaken by DF.	Agreed.
17	Security Deposit	As per RFP, the Security Deposit collected by Franchisee for giving	The Security Deposit should be kept with DF only, as per	Tender Clause stands

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		new connections shall be transferred to Discom standard practices		
18	Metering System	As per RFP, DF is only responsible for 11 KV and below installations	Accordingly, metering & billing to be done on 11 KV	This arrangement is only meant for energy audit purpose. However for monthly input billing the meter reading of apex meter will be considered as per RFP.
19	Meter Rent		We understand that this implies that meter rent shall be collected from consumer on every change of meter. Kindly clarify.	The collection of meter rent will be dealt as as per RST order by OERC from time to time.
20	Tax	As per RFP, Distribution Franchisee shall be responsible for payment of all taxes, duties (other than electricity duty), and statutory taxes/local levies arising out of this sale and purchase of electricity of input energy applicable at the time of bidding.	The DF should be responsible for payment of statutory taxes only.	All applicable taxes are statutory in nature. The DF will be responsible for payment of all taxes arising out of franchise business.

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21	Benchmark rate		<p>As per industry benchmark followed in other DF opportunity we find the benchmark rate financially unviable for the business. We would request to you kindly remove the benchmark rate or modify it considering the following inputs:</p> <ol style="list-style-type: none"> <li>1. The loss reduction target considered for the arriving at the benchmark rate are not achieved in any DF business. Since, these are high loss rural area, the loss reduction target rates should be suitably rationalized. Further only 50% of the efficiency achieved through loss reduction should be considered for calculation of yearly benchmark rate. In addition, considering the network topography of the DF area, terminal level AT&amp;C losses should be considered as 15%.</li> <li>2. The current CAPEX requirement is not sufficient to bring about the expected loss reduction. It should be therefore, increased</li> </ol>	<p>The revised benchmark annualized input rate / RPU will be uploaded shortly.</p>
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			<p>significantly in line with other RFPs for Distribution Franchisees floated recently in the country.</p> <p>3. For consideration of Opex, present rate allowed by OERC for the DISCOMs should be considered.</p> <p>4. Financial expense like, Return on Capital, Depreciation, and Interest on loan, Loan principal repayment, Working capital requirement should be considered for finalizing the benchmark rate.</p>	
22	Qualification Requirement		<p>In the past various Distribution Franchise business have failed due to involvement of non-serious players. We propose to modify the QR as per following points for involvement of the serious players:</p> <p>1. The bidder or its associate should not be blacklisted/issued notice for termination regarding operation of DF in other states of India</p> <p>2. Minimum average annual turnover for last three years should be Rs. 500 Cr</p>	<p>Please refer to Corrigendum-V. The qualifying requirement modified as follows:</p> <p>i. The bidder should be a limited company.</p> <p>iii. The minimum Net worth of the Bidder should be [Equivalent to 20% Annual Revenue Billed in the franchisee area for the year preceding the year in which the bidding is done].</p> <p>iv. The Internal Resource Generation of</p>

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			<p>3. Minimum Network of the bidder should be 10% of revenue billed of the target DF area.</p> <p>4. Bidder should have experience of handling at least present consumer base of the DF area for last 5 years (on its own or through its affiliate)</p>	<p>the Bidder should be [Equivalent to 10% of the Annual Revenue Billed in the franchisee area for the year preceding the year in which the bidding is done].</p> <p>v. The bidder should have experience of handling at least 40% of number of consumers of the franchisee area in metering, billing, collection and consumer services of any public Utility for the year preceding the year in which the bidding is done.</p>

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## Torrent Power Limited

### Suggested Amendments in DFA for Appointment of Distribution Franchisee

Sl No.	Article: NO Of DFA and its exiting Provision	TPL Suggestion*	Rationale	Reply
1	<b>Article 1 Definition of Input Energy</b>  Shall mean sum total of energy supplied through all Input Points.	<b>Article 1 Definition of Input Energy</b>  Shall mean sum total of net energy supplied through all Input Points.	It is likely that the energy exchange takes place at cross-over points.	Agreed
2	<b>Article 1 Definition of Major Incident</b>  Means an incident associated with the Distribution and retail supply of electricity in the Franchise Area, which results in a significant interruption of service, substantial damage to equipment, or loss of life or significant injury to human beings and shall include any other incident, which [NESCO Utility] expressly declares to be a major incident. Significant interruption of service for this purpose shall mean interruption impacting more than 10,000 Consumers continuously for a period of more than 24 hours and substantial damage to equipment shall mean damage to Distribution Assets exceeding Rs 50 Lacs in gross value.	<b>Article 1 Definition of Major Incident</b>  Means an incident associated with the Distribution and retail supply of electricity in the Franchise Area, which results in a significant interruption of service, substantial damage to equipment, or loss of life or Significant injury to human beings <del>and shall include any other incident, which [NESCO utility] expressly declares to be a major incident.</del> Significant interruption of service for this purpose shall mean interruption impacting more than <del>10,000</del> 25000 Consumers continuously for a period of more than 24 hours and substantial damage to equipment shall mean damage to Distribution Assets exceeding Rs &14 500 Lacs in gross value.		Tender Clause Stands

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3	<p><b>Article 2.1.5 Calibration of Meters</b></p> <p>The authorized representatives of [NESCO Utility], OPTCL and the Distribution Franchisee shall conduct a joint Calibration of the interface meters at the Input points.</p>	<p><b>Article 2.1.5</b></p> <p>The authorized representatives of [NESCO Utility], OPTCL and the Distribution Franchisee shall conduct a joint audit and Calibration of the interface <u>Main</u> Meters at the Input Points.</p> <p><u>In case such Meters being found defective or are not as per the specification laid down in Central Electricity Authority (installation and operation of Meters) Regulation 2006), it shall be replaced by the NESCO before the Effective Date.</u></p>	<p>Any non-compliance to the specification of the interface metering system as per CEA Central Electricity Authority (installation and operation of Meters) Regulation 2006 has to be cured before the effective date for accurate interface metering and billing.</p>	<p>Agreed</p>
	<p><b>Article 2.1.7 (a) Authorisation to Dr to Represent</b></p> <p>Sufficient number of officers of the Distribution Franchisee should be authorized under Section 126, Section 135(1A) and Section 135 (2) of the Electricity Act 2003 for taking necessary action to prevent the unauthorized use, theft and pilferage of electricity in Franchise Area. The Franchisee must inform the utility about the categories of officers and the relevant sections of the Electricity Act, 2003 for which authorization is needed. It shall be the responsibility of the [NESCO Utility] to have the officers of the Distribution Franchisee designated as such by the</p>	<p><b>Article 2.1.7 (a)</b></p> <p>Sufficient number of officers of the Distribution Franchisee <del>should</del> <u>shall</u> be authorized under Section 126, Section <del>135(1A), and Section 135 (2)</del> <u>and Section 152</u> of the Electricity Act 2003 for taking necessary action to prevent the unauthorized use, theft and pilferage of electricity in Franchise Area. <u>The officers of the Distribution Franchisee shall also be empowered to search and seizures vide Government notification # _____ dated _____.</u></p> <p>The Franchisee must inform the utility about the categories of officers and the relevant sections of the Electricity Act, 2003 <b>&amp; other relevant laws</b> for which</p>	<p>The employees of the DF to be authorized for effective control over AT&amp;C losses. This is a pre requisite for the success of the DF model.</p>	<p>Tender Clause Stands.</p>

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	State Government.	authorization is needed. It shall be the responsibility of the NESCO Utility to have the officers of the Distribution Franchisee designated as such by the State Government.		
5	<b>Article 2.1.8</b>  All the conditions precedent stated herein above shall be satisfied within 60 (sixty) days of signing of this Agreement or such further period as may be extended by the parties mutually...	<b>Article 2.1.8</b>  All the conditions precedent stated herein above shall be satisfied within <del>60(sixty)</del> 90 <b>(Ninety)</b> days of signing of this Agreement or such further period as may be extended by the parties mutually...	Considering the area, the amount of assets and lead time for procurement of check metering System, the time period of 60 days is too short and needs to be extended to 90 days.	Agreed
6	<b>Article 2.2.3</b>  [NESCO Utility] shall identify the Consumers for which Service Connection Charges (SCC) have been received by it, but connections have not been provided. The DF shall be required to take necessary action for release of all those connections which have been applied for but not released as on the date of hand over. For this purpose, either the Service Connection Charges already deposited by the consumer shall be transferred to the OF or the installation material for such connections shall be issued by [NESCO Utility] to the Distribution Franchisee and further •supervision charges received from the Consumers, if any, towards	<b>Article 2.2.3</b>  [NESCO Utility] shall identify the Consumers for which Service Connection Charges (SCC) have been received by it, but connections have not been provided. The DF shall be required to take necessary action for release of all those connections which have been applied for but not released as on the date of hand over. For this purpose, either the Service Connection Charges already deposited by the consumer <u>with NESCO</u> shall be transferred to the DF <del>or the installation material for such connection shall be issued by NESCO to the Distribution franchisee</del> and further supervision charges received from the Consumers; if any,	After taking over distribution operation, the Distribution Franchisee should be solely responsible for all the distribution related activities in the franchisee area. The DF shall be allowed to release the connection as per OERC regulations.	Agreed

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	such connections shall be remitted to the Distribution Franchisee.	towards such connections shall be remitted to the Distribution Franchisee.		
7.	<b>Article 2.2.4</b>  All the conditions subsequent stated above shall be satisfied within thirty (30) days except for condition mentioned in Article 2.2.1.5 which shall be completed within six months' time, from the Effective Date or such further time as may be mutually extended by the Parties.	<b>Article 2.2.4</b>  All the conditions subsequent stated above shall be satisfied within thirty (30) days <del>except for condition mentioned in Article 2.2.1.5 which shall be completed within six months time</del> , from the Effective Date or such further time as may be mutually extended by the Parties.	The joint audit of credit balance from consumers (Article 2.2.1.5) should be completed with other conditions subsequent as Consumers insist DF to adjust the credit balance against the electricity bills. May lead to customer dissatisfaction.	Agreed
8	<b>Article 3.1 Term of Agreement</b>  The term of this Agreement shall be for a period of Fifteen (15) years from the Effective Date.	<b>Article 3.1 Term of Agreement</b>  The term of this Agreement shall be for a period of <del>Fifteen (15)</del> <b>Twenty (20)</b> years from the Effective Date.	Contract Period should be at least 20 years to ensure that the required investments are undertaken by the Franchisee	Tender Clause Stands
9	<b>New article to be added</b>	<b>New article to be added</b>  <b>5.2 New Capital Expenditure (Please refer Annexure 1)</b>	It is imperative for the DF to invest the network for reducing AT&C losses and improving the reliability and customer services	The details of minimum capital expenditure [Equivalent to 50% of Total Revenue Billed for the Base Year] to be carried out by the franchisee over the initial period of seven (7) years.



10	<b>Article 5.6.6 (f)</b>  The DF is to provide new service connection only to LT consumers (both single-phase & three- phase) as per the Regulation. The service connection charge is to be retained by DF for meeting the expenditure for the purpose. NESCO Utility is to provide new service connection for all HT consumers.	<b>Article 5.6.6 (f)</b>  The DF is to provide new service connection <del>only to LT Consumers</del> <b>of all voltage levels</b> <del>(both single phase &amp; three phase)</del> as per the Regulation. The service connection charge is to be retained by DF for meeting the expenditure for the purpose. <del>NESCO Utility is to provide new service connection for all HT consumers.</del>	All the customers in the OF area as well the entire network and its O&M should be under the jurisdiction of DF to ensure reduction in AT&C losses, improvement in reliability and customer services	The DF is to provide new service connection to all consumers (both HT & LT) as per the Regulation. The service connection charge is to be retained by DF for meeting the expenditure for the purpose.
11	<b>Article 6.2.1</b>  [NESCO Utility / OPTCL] shall inspect and if necessary, recalibrate the metering system on a regular basis but in any event, at least once every three (3) months or at a shorter interval at the request of either party regular basis but in any event, at least once every three (3) months or at a shorter interval at the request of either party.	<b>Article 6.2.1</b>  NESCO Utility] / OPTCL] <b>and Distribution Franchisee</b> shall <b>jointly</b> inspect and if necessary recalibrate the metering system on a regular basis but in any event, at least once every three (3) months or at a shorter interval at the request of <del>either party</del> <b>any of the three parties</b> .	A joint team of NESCO, Distribution Franchisee and OPTCL should be authorized for Testing, calibration and sealing of the interface metering system.	Agreed
12	<b>Article 2.5</b>  In the event that any HT Consumer in the Franchise Area avails Open Access under the relevant Regulations issued by OERC, the Distribution Franchisee shall retain the cross-subsidy surcharge paid and adjustment for Distribution Losses of such Consumer. The wheeling charges	<b>Article 7.2.5</b>  In the event that any HT Consumer in the Franchise Area avails Open Access under the relevant Regulations issued by OERC, the Distribution Franchisee shall retain the cross-subsidy surcharge paid, and adjustment for Distribution Losses of such Consumer. The wheeling charges for	To avoid dispute at a later stage, it is proposed to share the wheeling charges equally between NESCO and OF.	Tender Clause Stands

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	for using the Distribution System shall. be remitted to the [NESCO Utility] by the Distribution - Franchisee, Further additional surcharges, if any, also shall be remitted to [NESCO Utility] along with the regular payments. -	using the Distribution System shall be <del>remitted to</del> <b>apportion equally</b> between the NESCO and the Distribution Franchisee <del>on the basis of a mutually agreed formula.</del>		
13	<b>Article 7.2.16</b>  The DF shall be paid 25% of penal collection amount as incentive which is collected under section 126 of EA 2003, rest amount shall be refunded to SOUTHCO Utility.	<b>Clause to be deleted</b>	The DF should be allowed to retain the entire penal collection amount entire risk of reduction in AT&C as the OF has already taken the loss in bidding	The DF shall be paid 75% of penal collection amount which is collected under section 126 of EA 2003, rest amount shall be refunded to the Utility.
14	<b>8.13 ARREARS ...</b> If at any stage, notice of such a connection [NESCO Utility], comes to the Distribution Franchisee shall immediately disconnect the Consumer and the DF is liable to pay all the arrear amount of the consumers at time of PDC to NESCO utility. [NESCO Utility] and Distribution Franchisee shall jointly defend the legal cases arising out of such an action by the Distribution Franchisee. Distribution Franchisee shall bear the associated costs.	If at any stage, such a connection comes to the always possible to detect an old notice of [NESCO Utility], the Distribution Franchisee shall immediately disconnect the Consumer and <del>the DF is liable to pay all the arrear amount of the consumers at time of PDC to NESCO Utility.</del> [NESCO Utility] and Distribution Franchisee shall jointly defend the legal cases arising out of such an action by the Distribution Franchisee. Distribution Franchisee shall bear the associated costs.	In large geographic areas with a large consumer base, it is not connection. The OF should not be penalised for this.	Arrears shall be collected by the DF from both connected live consumers and permanent Disconnected (PD) consumers which will be retained with them and suitably adjusted in the Annualized Input Rate / Rate per Unit (RPU). The contents of Article 8.1 to 8.14 which are redundant due to this change will be deemed to be deleted.

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15	<b>New Article to be added under Article # 9</b>	<b>New Article to be added under Article # 9</b> Govt. of Orissa or any other Government Instrumentality may, at its sole discretion decide to provide electricity connection free of cost/ subsidised cost to the consumers or to carry any such other capital or O&M project in an geographic area which is not mandatory for the Distribution Franchisee under the Agreement. Such expenditure incurred by Distribution Franchisee shall be reimbursed by the NESCO		Regarding subsidy from Govt. the Article -9 is sufficient.
16	<b>Article 11.1</b>  As provisioned in the Article-2.1.1 of this Agreement, the Distribution Franchisee shall submit and maintain valid .for the term of this Agreement, a security deposit to the satisfaction of [NESCO UTILITY] in the form of an irrevocable and unconditional Letter of Credit 'from any nationalized bank or Scheduled Bank for an amount equivalent to two months' estimated amount payable to *NESCO UTILITY] by Distribution Franchisee based on two months average energy input at Input Points in the Franchise Area during Financial Year [FY 2016-17] and Rates quoted by the Distribution Franchisee for first year of Franchisee term. The Letter of Credit shall be provided from the bank which is appointed as Default Escrow	As provisioned in the Article-2.1.1 of this Agreement, the Distribution Franchisee shall submit and maintain valid for the term of this Agreement, a security deposit to the satisfaction of NESCO in the form of an irrevocable and unconditional Letter of Credit from any nationalized bank or Scheduled Bank for an amount equivalent to two months' estimated amount payable to NELCO by Distribution Franchisee based on two months average energy input at Input Points in the Franchisee Area during' Financial -Year- FY 2016-17 and Rates quoted by the' Distribution Franchisee for first year of Franchisee term. <del>The Letter of Credit shall be provided from the bank which is appointed as Default Escrow Agent under the Default Escrow Agreement. The Security Deposit shall be governed in the manner described in this</del>	As the OF is already providing LC -equivalent to two months power purchase, further security mechanism through Escrow Account should not be required.	No Payment Security Deposit required from the DF in view of Default Escrow Agreement under 11.8.

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	Agent under the Default Escrow Agreement. The Security Deposit shall be governed in the manner described in this Article	Article		
17	<b>Article 11.8: Escrow Account</b>  As an additional measure to ensure compliance of [Name of the Franchisee] obligations under this Agreement, [Name of the Franchisee] and the [NELCO Utility], on or prior to the Effective Date, shall execute a separate Default Escrow Agreement	<b>Delete Article 11.8 relating to Escrow Account</b>	As the OF is already providing LC equivalent to two months power purchase, further security mechanism through Escrow Account should not be required. It will be practically impossible to arrange borrowings if Escrow Account is to be opened. Requirement of Escrow Account is not there in other successful operational Franchise arrangements	Tender Clause Stands
18	<b>Article 11.9 to 11.15 Performance Security</b>  As provisioned in the Article-2.1.2 of this Agreement, the Distribution Franchisee shall submit and maintain valid for the term of this Agreement, a performance guarantee to the satisfaction of [NESCO UTILITY] in the form of an irrevocable and unconditional Performance Guarantee from any nationalized bank or	<b>Delete the Articles relating to Performance Security</b>	As the OF is already providing LC equivalent to two months power purchase, further Performance security should not be required. It is the DF's risk if it does not incur the desired Capex. PG will only add to the cost of the DF which will be factored in	As provisioned in the Article-2.1.2 of this Agreement, the Distribution Franchisee shall submit and maintain valid for the term of this Agreement, a performance guarantee to the satisfaction of [UTILITY] in the form of



	Scheduled Bank for an amount equivalent to 1/5th of the total annual revenue billed in the [FY 2016- 17].The Performance Guarantee shall be governed in the manner described in this Article.		the bid. Requirement of Performance Security is not there in other successful operational Franchises.	an irrevocable and unconditional Bank Guarantee from any nationalized bank or Scheduled Bank for an amount equivalent to 1/10 <sup>th</sup> of the total annual revenue billed in the [FY 2016-17].The Performance Guarantee shall be governed in the manner described in this Article.
19	<b>Article 12.1</b>  [NESCO Utility's employees shall provide handholding support to the franchisee for the first 3 months for which- the franchisee shall bear the cost of salary & allowances payable to the. [NESCO Utility's employees involved therein.	<b>Article 12.1</b>  <u>On the request of the Distribution Franchisee, the</u> [NESCO Utility's employees shall provide hand holding support to the franchisee for the first 3 months for which the franchisee shall bear the cost of salary & allowances payable to the [NESCO Utility's employees involved therein.	Handholding by NESCO employees for first 3 months should be optional for the DF	[Utility]'s employees shall provide handholding support to the franchisee for the first six (6) months with phased withdrawal after initial three (3) months through mutual discussion between Utility and DF for which the Utility shall bear the cost of salary & allowances payable to the [Utility]'s employees involved therein.

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20	<b>Article 13.1.4</b>  Distribution Franchisee shall be required to update the asset register and submit the same to [NESCO Utility] on a quarterly basis for the first year and thereafter on a monthly basis within 30 days after the end of respective periods.	<b>Article 13.1.4</b>  Distribution Franchisee shall be required to update the asset register and submit the same to [NESCO Utility] on a quarterly basis <del>for the first year and thereafter on a monthly basis within 30 days after the end of respective periods.</del>	Monthly updation of Asset Register and its validation every month is cumbersome without much of value addition.	Agreed
21	<b>Article 14.1.1</b>  Any acts of omissions/commission of Distribution Franchisee with regard to the input electricity and/or services, if any, under the agreement provided by [NESCO Utility]. In such event Distribution Franchisee shall have no claim for compensation, incentive or any other claim against [NESCO Utility].	<b>Article 14.1.1</b>  Any acts of omissions/commission of Distribution Franchisee with regard to the input electricity and/or services, if any, under the agreement provided by [NESCO Utility]. In such event Distribution Franchisee shall have no claim for compensation, incentive or any other claim against [NESCO Utility]. <u>Except in the case where such loss is attributable to NESCO.</u>	The Distribution Franchisee should not be -penalized for reasons not attributable to DF. For example, the penalty on account of non-supply of power due to non-supply of power by NESCO shall not be passed on to the Distribution Franchisee.	Tender Clause Stands
22	<b>Article 14.2.2</b>  Third party claims on account of [NESCO Utility] Distribution Assets as on Effective Date, for a period of six months from the Effective Date provided the Distribution Franchisee has taken all reasonable care of the Distribution Assets. The aggregate amount of the liabilities to be compensated. by- [NESCO Utility] during the said period of six months in respect of all such claims shall be limited to Rs.	<b>Article 14.2.2</b>  Third party claims Distribution Assets period of [NESCO Utility] Distribution Assets s on Effective date, for a period of <del>six months</del> <u>two years</u> from the Effective Date provided the Distribution franchisee has taken all reasonable care of the Distribution Assets. The aggregate amount of the liabilities to be compensated by [NESCO Utility] during the said period of six months in in respect of all such claims	Large and complex distribution network in DF area requires at least two years period to make it compliant to all safety related requirements.	Tender Clause Stands

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	50 Lakhs. However such indemnity shall be limited only to legally established claims.	shall be limited to Rs. 50 Lakhs. However such limited only to legally established claims.		
23	<p>16.8.1 The Termination payment to the Distribution Franchisee shall consist of the following:</p> <p>i) Arrears accrued in the last one-month prior to termination as per Article-8.11</p>	<p>16.8.1 The Termination payment to the Distribution Franchisee shall consist of the following:</p> <p>i) Arrears accrued in the last one-month prior to termination as per Article-8.11</p> <p>ii) Depreciated Value of capital assets worked out as per Article-5.2</p> <p>iii) Value of current assets worked out as per Article-5.3</p>		Tender Clause Stands
24	<p><b>Article 16.1.1.1 (b) Critical Event of Default</b></p> <p>Failure to submit in time the Information Report as per Article 13.1.1, 13.1.2 and 13.1.3;</p>	This should be kept as Non-Critical Event of Default	Failure to submit information should not be treated as a Critical Event of Default.	Tender Clause Stands
25	<p><b>Article 16.1.1.1 (d)</b></p> <p>Failure to maintain minimum service quality as per OERC regulations</p>	This should kept as Non-Critical Event of Default		Tender Clause Stands

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26	<p><b>Article 16.1.2.4</b></p> <p>Persistent non-compliance of Standards of Performance laid down by OERC after the first Contract Year. Persistent - "would mean noncompliance of any of terms of Standards of Performance in all similar cases for a continuous period of three months..</p>	<p><b>Article 16.1.2.4</b></p> <p>Persistent non-compliance of Standards of Performance laid down .by OERC after the first Contract Year. Persistent would mean non-compliance of any of terms of Standards of Performance in all similar cases for a continuous period of three months. <u>The non-compliance of Standards of Performance arising out of non-availability of adequate power from the NESCO or due to reasons not attributable to the Distribution Franchisee shall not be considered as event of default of the Distribution Franchisee.</u></p>	<p>At least during the initial periods of operation, DF would require shutdowns for augment/ maintenance of the network. The conduct of willful default by the Distribution Franchisee should be adjudicated by the OERC.</p>	Agreed
27	<p><b>Article 16.1.2.5</b></p> <p>Persistent non-compliance of OERC "Electricity Supply Code and Other Conditions of Supply" as approved and modified from time to time after the first Contract Year. Persistent would mean repeated non-compliance of any of terms of OERC "Electricity Supply Code and Other Conditions of Supply for a continuous period of three months.</p>	<p><b>Article 16.1.2.5</b></p> <p>Persistent ' non-compliance of OERC "Electricity Supply Code and Other Conditions of Supply" as approved and modified from time to time after the first Contract Year. <u>The non-compliance due to reasons not attributable to the. Distribution Franchisee shall not be considered as event of default of the Distribution Franchisee.</u> Persistent would mean repeated non-compliance of any of terms of OERC "Electricity Supply Code and Other Conditions of Supply for a continuous period of three months.</p>	<p>At least during the initial periods of operation, or would require shutdowns for augment / maintenance of the network. The conduct of willful default by the Distribution Franchisee should be adjudicated by the OERC.</p>	Agreed

JK Oz