



GRIDCO LIMITED

Regd. Office, Janpath, Bhubaneswar -751022

Notice Inviting Tender (NIT)

BID DOCUMENT FOR
SALE OF POWER BY GRIDCO LTD. THROUGH
OPEN ACCESS

THROUGH: COMPETITIVE BIDDING

For further details, please visit the
website www.gridco.co.in

GRIDCO LIMITED
Janpath, Unit-IX, Bhubaneswar-751022

BID DOCUMENT FOR
SALE OF POWER BY GRIDCO LTD. THROUGH OPEN ACCESS
FROM 01.08.2017 to 31.01.2018

THROUGH: COMPETITIVE BIDDING

TENDER NO: 01/2017
Phone No. 0674-2545308

Fax No. 0674-2547180

E-mail:sgm.pp@gridco.co.in

Web: www.gridco.co.in

1	Last date and time of submission of tender document	24.06.2017 and 12:00 Hrs
2	Date and time of opening of tender document	24.06.2017 and 13:00 Hrs
3	Earnest Money Deposit	Rs 30000/MW/Month of quoted capacity of the bidder
4	Place of Tender Opening	Conference Hall, GRIDCO Limited, Janpath, Bhoinagar, Bhubaneswar-751022

1. Introduction and Background:

M/s GRIDCO LIMITED is a limited company incorporated under the companies Act 1956 and engaged in the business of bulk supply of electricity as a deemed Intra-state Trading Licensee in the State of Odisha. GRIDCO Ltd. wishes to invite offers from category-I& II Traders for sale up to **200 MW RTC power** through Open Access to Inter-State Open Access Customers only on short term basis for the period from 1st August **2017 to 31st January 2018** with the General Terms & Conditions annexed as **Annexure-I**.

2. Submission of Bid:

The Bid submitted by the Bidder and all correspondence and documents relating to the bid shall be written in the English Language. The Bidder shall submit their bids in 2 (two) parts (Part-A & Part-B) duly signed by the authorized signatory on each page of Bid Document, in sealed envelope.

2.1 Part A: -The envelope containing the documents of part A, should indicate as "Part-A" and the Tender Specification Number should be indicated on the top of the envelope. The envelope should contain the following documents;

1. Covering Letter indicating the list of documents enclosed in the envelope.
2. Bidder Company Data as per format annexed as **Annexure-II**.
3. Demand Draft towards the deposit of Earnest money or details of transfer of EMD amount through RTGS in the designated account of GRIDCO Ltd.
4. Deviations from General Terms and Conditions, as per **Annexure-III**.
5. Anti-collusion affidavit (**Annexure-IV**), to be executed on non-judicial stamp paper.
6. The Bidders are also required to submit photocopy of their valid license issued by CERC.

2.2 Part B: - The envelope containing the documents of part B should indicate as "Part-B" and contain the Financial Bid consisting of Price and Quantum for purchase of energy from GRIDCO Ltd. as per **Annexure-V** and shall be unconditional.

2.3 Both the part A & Part B shall be put together in one sealed envelope marked "**Offer for Sale of power to Open Access Consumers by M/s GRIDCO LIMITED**" and shall be sent to:

Chief General Manager
Power Procurement, GRIDCO Ltd.,
Janapath, Bhubaneswar-751022
Fax No.0674-2547180,Tel (O) – 0674-2545308

3. Procedure for opening of Bid:

The following procedure will be adopted for the opening of tenders.

Firstly the part-A will be opened in the presence of the bidder's representatives who choose to be present at the prescribed time, date and address. If the Part-A is found to be as per the requirement of the specifications, only then the Part B shall be opened.

The bids without Earnest money shall be out rightly rejected. The price bids will be opened in the presence of the representatives of the qualifying bidders who choose to attend.

4. Contract Documents:

GRIDCO Ltd. shall intimate the award of supply of power to the Bidder(s) whose bid has been accepted through a letter of award to be dispatched by speed post/ e-mail/Fax. Both the parties shall execute a Power Sale Agreement (PSA) within seven days of issuance of the Letter of Award in format of PSA enclosed as **Annexure-VI**. However, the buyer shall submit the contract performance guarantee (CPG) as per clause -9 before execution of PSA.

5. Earnest Money

The Bid shall be accompanied with Earnest Money Deposit (EMD) in shape of Bank Draft at the rate of Rs30,000/MW/ month drawn in any Nationalized Bank / Scheduled Commercial Bank in favor of "GRIDCO LIMITED" payable at BHUBANESWAR or through RTGS in the designated account of GRIDCO Ltd as detailed below;

- **Account Name** : GRIDCO Limited
- **Bank Name** : Union Bank of India, Bhubaneswar Main Branch,
38-Ashok Nagar, Bhubaneswar-751001
- **Account Number** : 380801014022021
- **IFSC Code** :UBIN0538086

The bid shall be summarily rejected automatically if the Earnest Money of the stipulated amount is not accompanied with the bid.

5.1 Forfeiture of EMD:

- i. If Bidder withdraws or modifies bid during Bid Validity Period.
- ii. For non-submission of Contract Performance Guarantee by Successful Bidder.

5.2 Refund of EMD:

- i. The EMD shall be refunded to the unqualified bidders within 10 days of expiry of Bid validity period.
- ii. The EMD shall be refunded to the bidders who qualified but whose offers are not accepted after 30 days of opening of bids.

- iii. The EMD of the Successful Bidders shall be refunded after furnishing Contract Performance Guarantee.
- iv. EMD shall not carry any interest.

6. Bid submission and evaluation:

The bids shall be opened in the presence of representatives of bidders who wish to be present. The financial bid shall be strictly as per the format prescribed in the bid document & shall be unconditional.

7. Methodology of Bid Evaluation

Financial Bids shall be evaluated on the basis of tariff quoted at GRIDCO Delivery point, worked out on the basis of the price quoted by the respective bidders for entire contract period.

The bidder who has quoted highest tariff shall be declared as Successful Bidder for the quantum of power (in MW). GRIDCO Ltd. in its own discretion has a right to reject all/ part of Bids without assigning any reasons whatsoever thereof and without any liability.

8. Bid Validity Period:

The offer shall remain valid for a period of 30 days from the date of opening of bid ("Bid Validity Period") and the Bidders shall have no right to withdraw the offer or alter any terms and conditions during the period of validity. In case the bidder withdraws or alters any terms and conditions during the period of validity, EMD submitted by the bidder shall be forfeited.

9. CONTRACT PERFORMANCE GUARANTEE (CPG)

- a) The Successful Bidder(s) shall furnish CPG before execution of PSA for an amount calculated at Rs. 4 lac per MW per month.
- b) The CPG shall be in the form of BG issued by any Nationalized/Scheduled Commercial Bank as per format at **Annexure-VII** and valid for the period of Contract with a claim period of one month after the expiry of contract period.
- c) In the event, the CPG is not furnished within the stipulated date, the EMD submitted against the Notification shall be forfeited.
- d) The CPG provided by the Successful Bidder(s) shall be forfeited for non-performing the contractual obligations. The CPG shall be released within 30 days after completion of Contract Period.

10. Governing Law:

All matters arising out of or in conjunction with the Bid Documents and/or the bidding process shall be governed by and construed in accordance with Indian Law and the courts of BHUBANESWAR shall have exclusive jurisdiction.



For and on behalf of GRIDCO LTD.

ANNEXURE-I

General Terms and Conditions

Terms and conditions for the sale of GRIDCO Ltd. power through Open Access to bidders shall be as under:-

1. Quantum

GRIDCO Ltd. invites sealed tender in the prescribed format for sale of power through Open Access as per the details given below:-

Month	Period	Quantum in MW
1 st August 2017 to 31 st January 2017	00:00 to 24:00 Hrs	Up to 200 MW

- The bid should be for at least for a full month on Round The Clock (RTC) basis with minimum of 1 MW of power.
- No bid would be accepted for specific Days/hours of the month.
- Sources/bids from WR/ER/NER/NR/SR shall be considered based on the corridor availability.

2. Delivery Point:

The delivery point of power shall be at **GRIDCO periphery** i.e. interconnection of **Odisha STU** with **CTU**.

3. Transmission / Operation Charges & Losses

- a. The Charges including Open Access Charges , SLDC concurrence charges and Operating charges, application fees, Application processing charges , STU transmission Charges and Losses , respective consent / operating charges upto Delivery Point shall be borne by Seller.
- b. The Charges including Open Access Charges , Buyers respective SLDC concurrence charges and Operating charges, Application fees, Application processing charges , Buyers respective STU transmission Charges , distribution wheeling charges and Losses(if any) , CTU POC injection charges and losses ,CTU PoC withdrawal charges & Losses , Respective RLDC consent / operating charges if any beyond Delivery Point as amended from time to time shall be on account of Buyer .
- c. The statutory Open Access charges such as cross subsidy surcharges, additional Surcharges, Reactive Energy charges or any other charges (determined by respective SERC as amended from time to time) which are directly recoverable by the respective Distribution Company from buyer shall be on account of Buyer.

4. Booking of Open Access Transmission/ Distribution Corridor.

The Buyer shall be responsible to apply for and be granted all Open Access and associated permissions required to draw power under the Agreement in accordance with the applicable laws including Indian Electricity Grid Code and the CERC/ SERCs Open Access Regulations for Booking of Open Access Transmission / Distribution Corridor.

5. Scheduling:

Scheduling of power shall be as per IEGC and shall include, following:

Buyer shall schedule the contracted Capacity in full, except in case of transmission constraint. The Scheduling & dispatch of power shall be in coordination with the respective RLDCs/SLDCs as per the relevant provision of IEGC/SLDCs & strictly in accordance with the approved procedure issued by the respective SLDC/RLDC for scheduling.

6. Timely submission of bid:

- (a) The Bids shall be opened on the scheduled date & time in presence of the representatives of the Bidders who wish to be present at the time of opening.
- (b) Telegraphic offer or offers received in the form of telex messages or by cable or fax or E-mail shall not be entertained and considered under any circumstances.
- (c) GRIDCO Ltd. shall not be responsible for the postal delay in receipt of the tender of the Bidders.
- (d) The tender received after the schedule date and time of submission shall not be accepted.

7. Tariff:

The interested buyer shall quote the rate in Rs/Kwh at delivery point. The quoted rate should be limited up to three decimal points. Tariff for the contracted power shall be as quoted by the buying utilities in the "Price Bid" given in Annexure-III. All other charges such as Open Access , Transmission , wheeling charges , losses & operating charges and fees of RLDCs & SLDCs shall be paid by the respective parties in terms of Clause 3(a , b& c) above.

8. Billing:

For the power supplied, GRIDCO Ltd. shall raise weekly bills on provisional basis, for the period from 1st-8th, 9th-15th, 16th-23rd and 24th to end of the month. Provisional Weekly bills will be raised on 9th, 16th, 24th of the current month & 1st of the next month towards supply of energy for any particular month based on energy data released by concerned RLDC/SLDC in their website. The final monthly bill shall be raised by the Seller based on the Energy Accounting Reports issued by ERPC/ SLDC, as the case may be and shall form the basis of

final settlements and reconciliations to be undertaken by the parties and the surplus or shortfall shall be adjusted in the subsequent billing cycle.

9. Payment:

The Buyer shall make payment to GRIDCO Ltd. account through ECS/NEFT/RTGS within seven (7) days from the date of submission of the Weekly energy bills by GRIDCO LIMITED by Fax/Email hereinafter referred as "Due Date". In case of default in payment by the Due Date then the billing amount shall be recovered through Letter of Credit.

10. Payment Security Mechanism:

That the Buyer shall provide the weekly revolving Letter of Credit (LC) for an amount equivalent to 30 days of estimated energy billing at price discovered through tender as payment security mechanisms. The LC shall be established in favour of GRIDCO at least 15 days before the start of the flow of power.

The LC opening, negotiation & all other charges shall be borne by the successful bidder. GRIDCO shall have full authority to adjust any default amount under the agreement by negotiating the LC.

The LC shall be established and remain valid up to 45 days beyond the expiry of the contract.

GRIDCO will not commence flow of power in absence of adequate payment security mechanism. In the event of failure to provide payment security mechanism before the start of flow power, GRIDCO reserves the right to cancel the award or not to schedule the power at its sole discretion.

In the event of delay in providing payment security mechanism all charges including any penalty/ compensation or DSM charges liability if any, payable under the contract shall be to the account of Buyer. In such case, the contracted quantum shall be considered as deemed scheduled and compensation clause shall be applicable.

The LC will be used only as a standby mechanism. The LC will be used only as a Payment Security Mechanism. In the event payment is not made by the "Due Date" then the seller has the right to realize the payment through Letter of Credit.

In case of drawl of the LC amount by GRIDCO as per the terms and conditions of the contract, then the LC amount shall be reinstated automatically not later than **three days** from such drawl. In case LC is not reinstated in three days, GRIDCO shall have the right to stop scheduling and terminate the contract.

The terms and conditions for the LC are given as attachment to Annexure-I;

11. Rebate :

The Seller shall allow 2% rebate on the energy bill if the payment is made by buyer within seven (7) days from the date of submission of the bill by fax/e-mail. Rebate shall not be applicable on part payment.

12. Surcharge for late Payment :

A surcharge of 18% (Eighteen Percent) per annum for the number of days of delay shall be applied on all payments outstanding after 07 days from the date of submission of the bill by fax/e-mail. This surcharge would be calculated on a day-to-day basis for each day of the delay.

13. Liquidated Damages:

- I. Both the parties would ensure that actual scheduling does not deviate by more than 15% of the contracted power as per the approved open access on monthly basis. In case deviation from Buyer side is more than 15% of contracted energy for which, open access has been allocated on monthly basis, Buyer shall pay compensation at 20% of Tariff per KWh for the quantum of shortfall in excess of permitted deviation of 15% while continuing to pay open access charges as per the contract.
- II. In case deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller shall pay compensation to buyer at 20% of Tariff per KWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied and pay for the open access charges to the extent not availed by the Buyer.
- III. Party seeking revision of open access shall be liable to pay Open Access Charges as per CERC Regulations and compensation as per Compensation Clause as above.

14. Force Majeure:

Neither party shall be liable for any claim for any loss or damage whatsoever arising out of failure to carry out the terms of the contract to the extent that such a failure is due to force Majeure events such as war , rebellion , mutiny , civil commotion , riots , strikes , lock-out , forces of nature, accident, act of GOD or any other such reasons which are beyond the control of concerned party ,any legal or regulatory intervention pursuant to a judgment or order of any court of judicial authority in India which makes this agreement fully or partially unworkable or which makes the transaction at the contracted rate un-implementable and denial of Open Access by NLDC/RLDCs/SLDCs etc. Any party claiming the benefit of this clause shall reasonably satisfy the other party the existence of such an event and give written notice within a reasonable time to the other party to this effect. Supply / drawl of

power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.

15. Disputes:

Any dispute or difference, arising under, out of, or in connection with this Tender shall be subject to exclusive jurisdiction of competent Court at BHUBANESWAR only.

16. Arbitration:

Subject to the statutory provisions for arbitration under the Electricity Act 2003, all other differences or disputes between the parties arising out of or in connection with this "Bid Document" shall be settled through arbitration with appointment of sole arbitrator by the GRIDCO Ltd. The proceeding of the Arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996. The venue for arbitration shall be at BHUBANESWAR. The Language of the arbitration shall be in English. Expenses of the arbitration shall be borne by the parties in equal proportion. The Award of the Arbitrator shall be final and binding upon all parties.

17. Change of Law:

In case of change of law of restriction imposed by regulator (Central or State) or Government (Central or State) or Appellate Tribunal or Courts on any aspect of sale or purchase of power, the same shall be binding on both the parties.

The Draft PSA is enclosed herewith at Annexure-VIII to the Bid document and the terms of the same are deemed to be the part of this Tender.

18. Address of contact person of GRIDCO Ltd.

Umakanta Sahoo, DGM (Trading)

Power Procurement Branch, GRIDCO Ltd.,

Janapath, Bhubaneswar-751022

Fax No.0674-2547180 ,Tel (O) – 0674-2545308

Mobile No-9437185507

ATTACHMENT TO ANNEXURE-I

Terms for Letter of Credit

1. The weekly bill/ monthly final bill will be presented in four copies.
2. (a) This LC is irrevocable and shall revolve automatically after negotiation of payment up to a limit of Rs. _____ Lakhs.
(b) LC will be re-instated within three days of devolvement of the bill.
(c) LC shall be negotiable at Union Bank of India, Main Branch, BHUBANESWAR.
3. All Letter of Credit charges i.e. opening, amendment, recoupment, operation, usance, negotiation, remittance etc., shall be borne by the opener.
4. The LC shall remain valid up to-----.
5. The bill would be paid immediately on presentation to the bank.

(To be given on the official letter of the Bidder)

Annexure-II

BIDDERS COMPANY DATA:

- a) Name:
- b) Name of the Contact Person:
- c) E-Mail Address:
- d) Postal Address:
- e) Telephone:
- f) Fax Number:
- g) Complete details of any suit pending against/filed by Bidder in CERC / OERC / Courts / Arbitrator related with trading of Energy and details of penalties imposed in earlier decisions.
- h) Other Information, if any.

Signature of the Authorized Representative with seal

Annexure-III

**SCHEDULE OF DEVIATIONS
(To be filled by Bidder)**

Sr. no	Clause no of specification	Deviations

We hereby certify that the above mentioned are the only deviations from seller's aforesaid general terms & conditions. Except for the above deviations in general Terms and Conditions of Tender no ----- all other terms and provisions are hereby accepted.

Signature of Authorized Signatory

Dated.

Name: _____

Designation: _____

**Format for Anti-collusion Affidavit
(To be executed on the non-judicial stamp paper)**

We hereby certify and confirm that in the preparation and submission of this proposal, we have not acted in concert or in collusion with any other Bidder or other person(s) and also not done any act, deed or thing which is or could be regarded as anti-competitive/formation of cartel.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with instant proposal.

Date this..... Day of..... 2017.

Name of the Bidder

Signature of the authorized person

Name of the authorized person

(To be given on the official letter of the Bidder)

Annexure-V

To

.....

GRIDCOLTD.

.....

Fax No.

E-mail:

1. We are submitting our Price Bid as under: -

Month	Period	Duration	Offered Quantum	Bid Quantum (MW)	Price (Rs./Kwh)

Signature: (Authorized Signatory)

Name: _____

Designation: _____

Telephone No: _____

Fax No: _____

E-mail ID: _____

Annexure-VI

Draft Power Sale Agreement

GRIDCO LIMITED, a company incorporated under the companies Act, 1956 and having its principal place of Business at (hereinafter referred to as **"Seller"**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its administration, successors and permitted assigns);

And

....., a company incorporated under the companies Act, 1956 and having its principal place of Business at (Hereinafter referred to as **"Buyer"**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its administration, successors and permitted assigns);

Each of seller and Buyer shall be referred to individually as "party" or collectively as "Parties" as the case may be.

WHEREAS

The----- (Name of Buyer) -----herein after referred as Buyer wants to purchase electricity for resale of the same for the operations of the Plant at ---- of M/s ----- and is desirous of procuring the same from the Seller as an open access customer under the provisions of the Electricity Act, 2003("Act").

The Seller is a deemed intra-state electricity trader under the Act and is in position to supply the electricity required by the Buyer, subject to the terms & conditions contained in this Agreement.

The Seller is desirous of selling and the Buyer is desirous of buying the power from the Seller at Delivery Point (as defined herein below).

NOW, THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERE TO AS UNDER:

1. Scope of Work/Services

a) The Buyer is ready to take the contracted quantum of MW Power subject to maximum of approved Open Access corridor capacity (herein after the present "Contracted Capacity") on a 24(twenty four) hours Round The Clock(RTC) basis between 00:00hours to 24:00 hours, at the Delivery point in accordance with the terms and conditions contained in this Agreement. The buyer may increase its power demand in future through a separate amendment to this contract in consultation with the seller subject to surplus availability of power with seller.

b) The buyer shall apply to their respective State Load Dispatch Centre (referred hereinafter to as the "SLDC")/ Regional Load Dispatch Center (referred hereinafter to as the "RLDC" for grant of No Objection Certificate (referred hereinafter to as the "NOC") to enable it to Procure the Contracted Capacity through open access from Seller.

c) The Seller shall acquire and maintain all the necessary NOC and approval from the respective SLDC / RLDC up to the Delivery Point as are required to supply the contracted capacity to the buyer .

2. Transmission / Operation Charges & Losses

a) The charges including Open access Charges , SLDC concurrence charges and Operating charges, application fees, Application processing charges , STU transmission Charges and Losses , respective consent / operating charges up to Delivery Point shall be borne by Seller .

b)The charges including Open access Charges , Buyers respective SLDC concurrence charges and Operating charges, application fees, Application processing charges , Buyers respective STU transmission Charges,distribution wheeling charges and Losses(if any) , respective CTU POC injection & drawal charges & Losses , Respective RLDC consent / operating charges if any beyond Delivery Point as amended from time to time shall be on account of Buyer .

c)Further the buyer agrees to bear all the statutory Open Access charges such as cross subsidy surcharges, additional Surcharges, Reactive Energy charges or any other charges (determined by respective SERC as amended from time to time) which are directly recoverable by the respective Distribution Company from buyer.

3. Delivery point:

The Delivery point of power shall be at GRIDCO periphery i.e. Inter-connection point of Odisha STU and CTU.

4. Booking of Open Access Transmission/ Distribution Corridor:

The Buyer shall be responsible to apply for and be granted all Open Access and associated permissions required to draw power under the Agreement in accordance with the applicable laws including Indian Electricity Grid Code and the CERC/ SERC Open Access Regulations for Booking of Open Access Transmission / Distribution Corridor.

5. Tariff :

The tariff for the contracted power is Rs/ kwh at delivery point as discovered through tender. It is made clear that all other charges such as Open Access , Transmission , wheeling charges , losses & operating charges and fees of RLDCs & SLDCs shall be paid by the respective parties in terms of Clause 2 (a, b &c) above.

6. Scheduling

Scheduling of power shall be as per IEGC and shall include, following:

Buyer shall schedule the Open Access approved Capacity in full, except in case of transmission constraint. The Scheduling & Dispatch of power shall be in coordination with the respective RLDCs as per the relevant provision of IEGC & strictly in accordance with the approved procedure issued by the respective SLDC/RLDC for scheduling.

7. Monthly Energy Accounting

Energy delivery measurement and accounting to the Buyer will be in accordance with the prevalent norms and procedure of RLDC/ SLDC/ Regional Power Committee ("RPC").

The measures of the total Energy supplied to buyer at delivery point during a month shall be based on the Regional Energy Account (REA) issued by the concerned RPC and shall be on the basis of final settlements, reconciliation and/or adjustments of energy accounting for the month.

8. Billing

For the power supplied, GRIDCO Ltd. shall raise weekly bills on provisional basis, for the period from 1st -8th, 9th -15th, 16th -23rd and 24th to end of the month, Provisional Weekly bills will be raised on 9th, 16th, 24th of the current month & 1st of the next month towards

supply of energy for any particular month based on energy data released by concerned RLDC in their website. The final monthly bill shall be raised by the Seller based on the Energy Accounting reports issued by ERPC and shall form the basis of final settlements and reconciliations to be undertaken by the parties and the surplus or shortfall shall be adjusted in the subsequent billing cycle.

9. Payment :

The Buyer shall make payment to GRIDCO Ltd. account through ECS/NEFT/RTGS within seven (7) days from the date of submission of the weekly energy bills by GRIDCO Ltd. by Fax/Email hereinafter referred as "Due Date". In case of default in payment by the Due Date then the billing amount shall be recovered through Letter of Credit.

10. Rebate:

The Seller shall allow 2% rebate on the energy bill if the payment is made by buyer within seven (7) days from the date of submission of the bill by Fax/E-mail. Rebate shall not be applicable on part payment.

11. Surcharge for Late Payment:

A surcharge of 18% (Eighteen Percent) per annum for the number of days of delay shall be applied on all payments outstanding after 07 days from the date of submission of the bill by Fax/E-mail. This surcharge would be calculated on a day-to-day basis for each day of the delay.

12. Liquidated Damages:

- I. Both the parties would ensure that requisition /offer of the contracted capacity does not deviate by more than 15% of the contracted power as per the approved open access on monthly basis. In case deviation from Buyer side is more than 15% of contracted energy for which, open access has been allocated on monthly basis, Buyer shall pay compensation at 20% of Tariff per KWh for the quantum of shortfall in excess of permitted deviation of 15% while continuing to pay open access charges as per the contract.
- II. In case deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller shall pay compensation to buyer at 20% of Tariff per KWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied and pay for the open access charges to the extent not availed by the Buyer.

III. Party seeking revision of open access shall be liable to pay Open Access Charges as per CERC Regulations and compensation as per Compensation Clause as above.

13. Alternate Source of Procurement of power by Buyer:

During the term of this Agreement, if at any time, the Seller is unable to supply part or full, contracted quantum for any reason whatsoever, the buyer is free to procure electricity from any alternate source to meet its requirement, without prejudice to its rights of claim damages and penalty from the Seller under this Agreement.

14. Alternate Source of sale of power by seller:

During the term of this Agreement, if at any time, the Buyer is unable to draw part or full, contracted quantum for any reason whatsoever, the seller is free to sale electricity to any alternate source to dispose of the surplus capacity without prejudice to its rights of claim damages and penalty from the Seller under this Agreement.

15. Payment Security Mechanism (PSM):

That the Buyer shall provide the weekly revolving Letter of Credit (LC) for an amount equivalent to 30 days of estimated energy billing at price rate discovered through tender as payment security mechanisms. The LC shall be established in favour of GRIDCO at least 15 days before the start of the flow of power.

The LC opening, negotiation & all other charges shall be borne by the successful bidder. GRIDCO shall have full authority to adjust any default amount under the agreement by negotiating the LC.

The LC shall be established and remain valid upto 45 days beyond the expiry of the contract.

GRIDCO will not commence flow of power in absence of adequate payment security mechanism. In the event of failure to provide payment security mechanism before the start of flow power, GRIDCO reserves the right to cancel the award or not to schedule the power at its sole discretion.

In the event of delay in providing payment security mechanism all charges including any penalty/ compensation or DSM charges liability if any, payable under the contract shall be to the account of Buyer. In such case, the contracted quantum shall be considered as deemed scheduled and compensation clause shall be applicable.

The LC will be used only as a standby mechanism. The LC will be used only as a Payment Security Mechanism. In the event payment is not made by the "Due Date" then the seller

has the right to realize the payment through Letter of Credit.

In case of drawl of the LC amount by GRIDCO as per the terms and conditions of the contract, then the LC amount shall be reinstated automatically not later than three days from such drawl. In case LC is not reinstated in three days, GRIDCO shall have the right to stop scheduling and terminate the contract.

The terms and conditions for the LC are given as attachment to Annexure-I.

16. CONTRACT PERFORMANCE GUARANTEE (CPG):

- a) The Successful Bidder(s) shall furnish CPG before execution of PSA for an amount calculated at Rs. 4 lac per MW per month.
- b) The CPG shall be in the form of BG issued by any Nationalized/Scheduled Bank as per format at Annexure-VII to the tender document and valid for the period of Contract with a claim period of 1 month after the expiry of contract period.
- c) In the event, the CPG is not furnished within the stipulated date, the EMD submitted against the Notification shall be forfeited.
- d) The CPG provided by the Successful Bidder(s) shall be forfeited for non-performing the contractual obligations. The CPG should be released within 30 days after completion of Contract Period.

17. Force Majeure:

Neither party shall be liable for any claim for any loss or damage whatsoever arising out of failure to carry out the terms of the contract to the extent that such a failure is due to force Majeure events such as war, rebellion, mutiny, civil commotion, riots, strikes, lock-out, forces of nature, accident, act of GOD or any other such reasons which are beyond the control of concerned party, any legal or regulatory intervention pursuant to a judgment or order of any court of judicial authority in India which makes this agreement fully or partially unworkable or which makes the transaction at the contracted rate unimplementable and denial of Open Access by NLDC / RLDC/ SLDC etc. Any party claiming the benefit of this clause shall reasonably satisfy the other party the existence of such an event and give written notice within a reasonable time to the other party to this effect. Supply / drawl of power shall be started as soon as practicable by the parties concerned after such eventuality has come to an end or ceased to exist.

18. Disputes:

Any dispute or difference, arising under, out of, or in connection with this PSA, shall be subject to exclusive jurisdiction of competent court at BHUBANESWAR only.

19. Notices:

All Notices required to be issued hereunder shall be delivered personally, by registered/Speed post or certified mail or fax, or e-mail (upon successful transmission thereof) to the following address.

For the GRIDCO Limited (The Seller)

Address :

Attention :

Facsimile No :

Telephone No :

Email :

For (Buyer)

.....

.....

20. Arbitration :

Subject to the statutory provisions for arbitration under the Electricity Act 2003, all other differences or disputes between the parties arising out of or in connection with this "PSA" shall be settled through arbitration with the appointment of sole arbitrator by GRIDCO Ltd.. The proceeding of the arbitration shall be in accordance with the provision of the Arbitration and Conciliation Act, 1996. The venue for arbitration shall be at Bhubaneswar. Language of the arbitration shall be in English. Expenses of the arbitration shall be borne by the parties in equal proportion. Award of the Arbitrator shall be final and binding upon all parties.

21. Change of law :

In case of change of law or restriction imposed by Regulators (Central or State) or Government (Central or State) or Appellate tribunal or Courts on any aspect of sales or purchase of power, the same shall be binding on both the parties .

For Buyer	For Seller
Name/Designation	Name/Designation
Witnessed by	Witnessed by:

FORMAT OF THE BANK GUARANTEE FOR CPG

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

In consideration of (Insert name of the Bidder) submitting the Bid *inter alia* for supply of power during the period {Insert Period} on short term basis, in response to Tender (Ref no-----) Issued by **GRIDCO Ltd.** and {Insert Name of the bidder} (Hereinafter called bidder) being a bidder is required to deposit CPG as per terms of Tender, having agreed to production of a irrevocable bank guarantee for **Rupees Figures----- [Rupees words----- Only]**, as a security / guarantee for compliance of his obligations in accordance with the terms and conditions of the Tender.

{Name of Bank} ("Guarantor Bank")

Address:-BHUBANESWAR Branch

BANK GUARANTEE NO: { }

DATE { Date of creation}

Amount : { }

We **{Name & Address of Bank}** (here in after referred to as "Guarantor Bank") hereby agree unequivocally, irrevocably and unconditionally to pay **GRIDCO Ltd.** (hereinafter referred to as "Seller") or any representative authorized by it in this behalf an amount not exceeding **Rupees {figures--- }/- [Rupees { words-----}]** on demand by the GRIDCO Ltd. .

The Guarantor Bank do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demand from the **Seller** or any representative authorized by it. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the bank under this guarantee however, our liability under this guarantee shall be restricted to an amount not exceeding **Rupees {figures--- }- [Rupees {words-----}]**

The Guarantor Bank hereby expressly agree that it shall not require any proof in addition to the written demand from the **Seller** 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 the Seller or its authorized representative.

We, the said bank further undertake to pay to the **Seller** or any representative authorized by it any money so demanded notwithstanding any disputes raised by the bidder in any suit or proceeding pending before any court or Tribunal relating thereto, our liability under this present being absolute and unequivocal.

The Guarantor Bank further agree that the guarantee herein contained shall remain in full force until **{Date to be inserted by Seller}**. The Seller shall be entitled to invoke this Guarantee until **{insert date which is one month after the date in the preceding sentence}**

The Guarantor Bank further agree that **Seller** shall have the fullest liberty without our consent and without effecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Tender. We shall not be relieved from our liability by reason of any such variation.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at BHUBANESWAR shall have exclusive jurisdiction.

The Guarantor Bank represent 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 **Seller** or its authorized representative shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against Bidder, to take any claim against or any demand on Bidder or to give any notice to the Bidder to enforce any security held by the **Seller** or its authorized representative or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

The Guarantor Bank hereby agree and acknowledge that **Seller** shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit. The bank guarantee amount will be remitted to the account of **GRIDCO Ltd.** as mentioned in written demand from the **Seller**.

We { Name of Bank} lastly undertake not to revoke this guarantee except with the previous consent of the Seller in writing.

Notwithstanding anything contained herein,

- (i) Our liability under this guarantee shall not exceed Rupees { figures----} [Rupees words-----]
- (ii) This bank guarantee shall be valid up to { Date to be inserted by Seller } The Seller shall be entitled to invoke this Guarantee until {insert date which is one month after the date in the preceding sentence}
- (iii) We are liable to pay guarantee amount or any part thereof under this guarantee only if you serve us a written claim or demand at our office, { Name and Address of Bank BHUBANESWAR Branch} within the validity period of this Bank Guarantee. After which the bank shall be discharged from all the liabilities.

Dated :

Place : BHUBANESWAR