

Ownership of TL	: (POWERGRID)
Diversion requested by	: NHIDCL
Implementation by	: Concessionaire of NHIDCL

**AGREEMENT
FOR SUPERVISION OF WORK OF DISMANTLING OF PART OF THE
FOLLOWING EXISTING LINES OF POWERGRID AND
DIVERSION/SHIFTING OF THE SAME**

132 KV S/C Badarpur-Khliehriat Transmission Line (Loc No 12 to Loc No 18)

BETWEEN

**NATIONAL HIGHWAY AND INFRASTRUCTURE DEVELOPMENT
CORPORATION LIMITED**

AND

POWER GRID CORPORATION OF INDIA LIMITED

DRAFT AGREEMENT

This Agreement is made on ----- day of ----- (month) ----- (year) at.....(City).

BETWEEN

National Highway and Infrastructure Development Corporation Limited [NHIDCL] having its Registered office at 3rd Floor, PTI Building, 4-Parliamentary Street, New Delhi-110001 (hereinafter referred to as “NHIDCL” which expression shall unless repugnant to the context include its administrators, successors, executors and permitted assigns) on the **FIRST PART**

AND

Power Grid Corporation of India Limited, a company registered under the Companies Act, 1956, and having its registered office at B-9, Qutab Institutional Area, Katwaria Sarai, New Delhi- 110016 and Corporate Office at Plot No.2, Sector-29, Gurgaon – 122001, Haryana (hereinafter referred to as "POWERGRID" or “Consultant” which expression shall unless repugnant to the context or meaning thereof, include its administrators, successors, executors and permitted assigns) on the **SECOND PART**

NHIDCL and POWERGRID are hereinafter individually referred to as "Party" and collectively as "Parties".

WHEREAS **NHIDCL** has requested **POWERGRID** for supervision of diversion / shifting works of its existing **132 KV S/C Badarpur-Khliehriat Transmission Line (tower loc.12 to 18)** infringing with proposed ROW of Pkg.3 i.e Badarpur bypass of Silchar-Badarpur-Churaibari Project.

WHEREAS, **POWERGRID's** part of 132 KV S/C Badarpur-Khliehriat Transmission Line are required to be diverted for construction / development of four lane NH road.

WHEREAS **POWERGRID** has consented to supervise the implementation of the Project (defined below) on the terms and conditions stipulated herein.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL RIGHTS AND OBLIGATIONS SET OUT IN THIS AGREEMENT, THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

1.0 DEFINITIONS

1.1 In this Agreement, the words and expressions listed herein below shall have the meanings assigned therein to them except where the context otherwise requires.

Agreement	Means these conditions and all other documents expressly annexed thereto or incorporated therein and intended to form part of the contractual relationship between the Parties.
Contractor	EPC Contractor/Concessionaire deployed by NHIDCL
Equipment/Material	Shall mean the equipment/material for this Project.
Project	Shall mean and comprise following: Diversion/ Shifting Works of existing 132 KV S/C Badarpur-Khliehriat Transmission Line in between tower loc.12 to loc.18, in order to facilitate construction of four lane NH Road.
Project Manager	Shall mean the official nominated by NHIDCL who shall be responsible for co-ordination with for all activities concerning the implementation of the Project.
Nodal Officer	Shall mean the official nominated by POWERGRID who shall be nodal officer for supervision with for all activities concerning the implementation of the Project
Site	Shall mean and include the land and other places at which the Project and related facilities are to be constructed and any adjacent land, path etc., which may be used by NHIDCL in performance of work under this Agreement

2.0 SCOPE OF SERVICES:

2.1 NHIDCL :-

The scope of services to be undertaken by {NHIDCL} under the Agreement shall include;

- i) Planning, Design, Engineering, Dismantling and transportation of material to store, supply, erection, stringing and commissioning of modified transmission line/lines.
- ii) Engagement of specialized agency with previous experience of execution of similar nature of jobs with prior approval from POWERGRID, Execution of work shall be as per Electricity Act/Rules in vogue.
- iii) Responsibility to clear the ROW issues, obtaining statutory clearances from various authorities for diversion/modification of above said transmission. However, if required necessary assistance shall be provided by POWERGRID.
- iv) Payment of land/Crop/Tree compensation after assessment & verification by local Revenue/Govt./Concern authority.

- v) To comply with the provisions of Laws, Rules and Bye-laws for the time being in force affecting the said works and will give all necessary notices and to obtain requisite sanction or permission from the concerned local authorities in respect of the said works.
- vi) Procurement of all materials & services from approved vendors of POWERGRID.
- vii) To maintain the high standards of quality at workplace, quality of material and equipment to be procured and erected by EPC Contractor/Concessionaire should be as per prevalent standards/technical specifications of POWERGRID.
- viii) Sale/disposal of dismantled line materials & scrap.
- ix) To follow the prevailing safety Norms for diversion work. All the risk insurance/other insurances as per Laws shall be taken by NHIDCL.
- x) Any other activities not explicitly mentioned but required for successful completion/commissioning of diverted route.

2.2 **POWERGRID: -**

- i. Engineering support services required for successful completion/commissioning of modified transmission line/lines.
- ii. Inspection of various Transmission Line materials at Manufacturer's works.
- iii. Supervision of work at Site
- iv. Providing assistance to NHIDCL in resolving ROW, preparation of documentation for obtaining statutory clearance with civil authority, Forest, Railways etc.

3.0 **OWNERSHIP:**

- 3.1 The modified portion of above said transmission lines, to be executed by NHIDCL shall be owned and maintained by POWERGRID as their modified asset.
- 3.2 NHIDCL shall be owner of Dismantled material & scrap.

4.0 **PROJECT COST:**

- 4.1 The tentative estimated project cost as per attached **Annexure-A** is ₹1,91,82,255/- (Rs. One crore ninety one lacs eighty two thousand, two hundred fifty five only) excluding supervision charges and shutdown charges.
- 4.2 This Project cost is for estimation purpose only. Depending upon site conditions or for any other reason, the cost of the Project may undergo change during the implementation of the Project. The Final Project cost shall accordingly be ascertained after completion of the Project.

5.0 **SUPERVISION & SHUTDOWN CHARGES:**

- 5.1 NHIDCL shall pay to POWERGRID supervision charges @ **2.5%** of the Project Cost. The supervision charges on the specified project cost as per clause 4.0 above is estimated as ₹4,81,831/- (Rs. Four lacs eighty one thousand eight hundred thirty one only) inclusive of GST @18%. Final supervision charges to be paid by **NHIDCL** shall be @ **2.5%** of the final cost of the project.
- 5.2 **Shutdown Charges:** In case deemed availability certificate is not approved by RPC against the shutdown period of Transmission line for NHIDCL diversion work, NHIDCL shall

compensate POWERGRID towards financial loss due to drop in availability as per actual loss.

The invoice for these charges shall be raised by POWERGRID on actual basis after completion of diversion work along with applicable GST.

6.0 TERMS OF PAYMENTS:

- 6.1 NHIDCL shall deposit in advance the supervision charges **₹4,81,831/-** (inclusive of GST @18%) on estimated project cost excluding shutdown charges. Compensation for the loss of revenue due to drop in availability after completion of diversion work shall be raised by POWERGRID as mentioned in clause 5.2. The invoice raised shall be paid by NHIDCL within 15days of raising of invoice by POWERGRID. Any additional amount of supervision charges due to revision in the cost of the project during execution shall also be deposited by NHIDCL within 15 days of raising of invoice by POWERGRID.
- 6.2 Payment reconciliation shall be done after execution of the work. The deposited amount shall be adjusted towards the final supervision charges on the actual completed cost of the project and final amount of loss of revenue due to drop in availability on account of shutdown as applicable. In case of excess payment by NHIDCL, the balance amount will be refunded to NHIDCL after adjustment of the paid tax as applicable.

7.0 EFFECTIVE DATE:

The effective date of agreement shall mean the date of receipt of supervision charges (on the basis of estimated project cost) by POWERGRID.

8.0 TAXES & DUTIES:

- 8.1 All present and future applicable statutory Taxes, Duties and Levies or any other imposition(s) (including any variation thereof) as applicable on the supervision charges shall be paid by NHIDCL. At present, Goods and Service Tax (GST) @ 18 % is applicable on supervision charges and compensation towards financial loss due to the drop in availability on account of shutdown taken for the work.
- 8.2 Any TDS (Income Tax) deducted by NHIDCL from POWERGRID's Supervision charges shall be deposited by NHIDCL on timely Basis and TDS certificate (Form- 16A) should be provided accordingly on timely basis.
- 8.3 As per Notification No. 73/2018-Central Tax dated 31st December 2018, NHIDCL, being Government authority is not liable to deduct GST TDS U/s 51 of CGST Act 2017 from POWERGRID (A PSU).
- 8.4 POWERGRID will collect TCS @ 0.1% (0.075% up to March 2021) from the NHIDCL under newly introduced Section of 206C(1H) of Income tax Act 1961, if any goods are supplied by POWERGRID from its inventory to NHIDCL for execution of work.
- 9.0 **DEFECT LIABILITY PERIOD:** NHIDCL shall warrant that the Facilities or any part thereof is free from defects in the design, engineering, materials and workmanship of the Plant and Equipment supplied and of the work executed. The defect

liability/Guarantee/warranty shall be 12 (twelve) months from date of charging of Transmission line.

10.0 TERMINATION OF AGREEMENT:

- 10.1 In the event when the Parties mutually agree to terminate the Agreement, on account of Force Majeure or any other reasons, the termination shall take effect from the date and time to be agreed upon mutually.
- 10.2 In the event of termination of this Agreement, POWERGRID shall be paid proportionately for works which have been completed/partially completed. POWERGRID shall also be paid a reasonable amount of compensation for premature termination and towards drop in availability on account of shutdown taken for the work. The amount of compensation will be decided amicably by both the parties.

11.0 FORCE MAJEURE

Force Majeure shall mean any event(s) or circumstances which are beyond the control of POWERGRID or NHIDCL as the case may be which POWERGRID or NHIDCL could not foresee or with a reasonable amount of diligence could not have foreseen which substantially affects the performance of the Project including, but not limited to the following:

- i. Natural phenomena including but not limited to floods, droughts, earthquakes, epidemics etc.
- ii. Acts of any Government, domestic or foreign, including but not limited to war, declared or undeclared, quarantines, embargoes etc.,
- iii. Hostilities, revolutions, terrorism, riots, civil commotions, strike, including in the premises of the Contractors.

Such an event or circumstances shall hereinafter be referred to as "Force Majeure ".

During the period of such Force Majeure Event, if the Parties or a Contractor are unable to execute the Project, the affected Party may suspend the execution of the Project, for such time as the Force Majeure Event shall continue and no compensation or consideration shall accrue or become payable to the Party during the period of suspension, provided that the affected Party shall within 30 (thirty) days from the occurrence of such force majeure event, notify the other Party in writing of such event.

POWERGRID or NHIDCL shall not be liable for any delays in performing its obligation resulting from Force Majeure Events as stipulated in aforementioned clause. The date of completion will be extended by corresponding period equal to the period of Force Majeure Event if the situation so warrants and/or by such period to be mutually agreed to by POWERGRID and NHIDCL. Should one or both Parties be prevented from fulfilling their obligations by state of Force Majeure lasting for a period of 2 (two) months or more, Parties shall consult each other and decide with respect to further course of action.

12.0 AMENDMENT

This Agreement may be amended or modified, if necessary, by a written instrument signed by the Parties and the same shall be considered as an integral part & parcel of this Agreement.

13.0 SETTLEMENT OF DISPUTE & ARBITRATION

13.1 This MOU shall be governed and construed in accordance with the laws of Union of India.

13.2 In case of dispute or difference arising between both the parties, the dispute shall be resolved by both the parties on mutual consultation.

13.3 If the parties are unable to resolve the dispute or difference, through mutual consultation at any time, upon or in relation to or in connection with this MOU, the same shall be settled through Administrative Mechanism for Resolution of CPSE's Disputes (AMRCD) as mentioned in DPE OM No. 4(1)/2013/- DPE(GM)/FTS-1835 dated 22.05.2018 and DPE OM No. DPE-GM-05/0003/2019-FTS-10937 dated 20.02.2020. The decision through AMRCD will be final and binding on all the concerned.

13.4 During settlement of disputes and arbitration proceedings, both parties shall be obliged to carry out their respective obligation under the contract.

13.5 The place of arbitration shall be New Delhi and language shall be English. All the disputes arising out of this MOU or in connection with this MOU shall be subject to the exclusive jurisdiction of Courts of New Delhi only.

14.0 MISCELLANEOUS:

14.1 This agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written between the parties, with respect to the subject matter hereof.

14.2 Survival Clause - Clause pertaining to payment of supervision charges or other charges as may be payable, terms of payment taxes and duties, defect liability period shall survive the termination of this agreement.

15.0 CORRESPONDENCE:

15.1 All communications from **NHIDCL** to **POWERGRID** shall be addressed to the Nodal Officer nominated by **POWERGRID** in writing for the purpose of Supervision of this work.

15.2 All communication from **POWERGRID** to **NHIDCL** shall be addressed to the Project Manager nominated by **NHIDCL** in writing for the purpose of this work.

16.0 INDEMNITY:

NHIDCL shall indemnify and hold harmless POWERGRID from any loss suffered by POWERGRID on account of breach of this MOU by NHIDCL or any claim/action initiated by 3rd party including any claim/liability which may arise from the contractor engaged by it for execution of the project.

IN WITNESS WHEREOF the Parties hereto have fully executed these present through their duly authorized representatives on the Day, Month and Year mentioned above.

For and on behalf of

NHIDCL

For and on behalf of

**Power Grid Corporation
of India Limited**

[Office Seal]

[Office Seal]

WITNESS:

WITNESS: