

**Nepal Electricity  
Authority (NEA)**  
**Durbar Marg, Kathmandu, Nepal**

BID DOCUMENT FOR

SALE OF POWER GENERATED FROM HYDRO PROJECTS BY  
NEA

FROM 1<sup>st</sup> July, 2022 to 15<sup>th</sup> November, 2022

THROUGH: COMPETITIVE BIDDING

**BID IDENTIFICATION NO.:** NEA/PS/2022-01

**Web:** [www.nea.org.np](http://www.nea.org.np)

1	Sale of Bid Document/Date of first publication	6 <sup>th</sup> May, 2022
2	Non-refundable cost of Bid Document*	Indian Currency (INR) 7,500 or Equivalent Nepali Rupees on the date of first publication of IFB at the selling rate published by Nepal Rastra Bank
3	Pre-Bid Meeting	13:00 hrs of 13 <sup>th</sup> May, 2022
4	Last date & time for submission of Bid	12.00 hrs of 27 <sup>th</sup> May, 2022
5	Date and time of opening of Bid Document	13:00 hrs of 27 <sup>th</sup> May, 2022
6	Earnest Money Deposit (EMD)	INR 30,000/MW/Month of quoted capacity of the bidder or Equivalent Nepali Rupees on the date of first publication of IFB at the selling rate published by Nepal Rastra Bank
7	Place of Bid Opening	NEA Head Office, Durbar Marg, Kathmandu, Nepal

*\*In case of downloaded documents, the cost of the Bid Document shall be paid in the form of a Demand Draft drawn on any commercial bank in Nepal in favor of Nepal Electricity Authority or evidence of payment through electronic funds transfer to NEA's bank account.*

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## 1. Background:

Nepal Electricity Authority (NEA) is a Government of Nepal (GoN)-undertaking established for the purpose of generation, transmission, distribution and import/export of electricity. NEA has obtained approval from the Designated Authority (DA), Government of India, to sell a total of 363.83 MW power from hydropower projects. NEA wishes to sell up to 200 MW Round-The-Clock (RTC) power on a short-term basis during the period from 01<sup>st</sup> July, 2022 to 15<sup>th</sup> November, 2022 in accordance with the General Terms & Conditions annexed as **Annexure-1**.

## 2. Eligibility:

All Open Access Consumers, Regulated Utilities, DISCOMs and Traders having valid trading license issued by Central Electricity Regulatory Commission (CERC), Government of India, are eligible to participate in this Bid.

## 3. Submission of Bid:

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

**3.1.Part-A:-** The envelope containing the documents of part A, should indicate as "Part-A" and the Bid Identification Number should be indicated on the top of the envelope. The envelope shall contain the following documents:

- i. A covering letter indicating the list of documents enclosed in the envelope;
- ii. Bidder Company Data in the format annexed as **Annexure-2**;
- iii. A Demand Draft in INR 30,000/MW/Month of quoted capacity of the bidder or equivalent Nepali Rupees on the date of first publication of IFB at the selling rate published by Nepal Rastra Bank towards the Earnest Money Deposit or details of transfer of EMD amount through Electronic Transfer in the designated account of NEA;
- iv. A Demand Draft/Payment Slip/any Proof of Payment, if payment made through electronic mode to NEA bank account, as mentioned in Clause 6 (Earnest Money Deposit) of this Bid Document towards the payment of non-refundable cost of Bid Document;
- v. Deviations from General Terms and Conditions, as per **Annexure-3**;
- vi. In case the Bidder is also a trader, the applicant shall submit a notarized copy of its valid trading license issued by CERC;

**3.2.Part-B:-** The envelope containing the documents of part B should indicate as "Part-B" and contain the Price Bid consisting of Price (in INR) and Quantum (MW) for purchase of electricity from NEA as per **Annexure-4** and shall be unconditional.

Both Part-A and Part-B shall be put together in one sealed envelope marked "**Offer for**



**Sale of Power by NEA"** and shall be delivered to:

**Director  
Power Trade Department  
Nepal Electricity Authority  
Durbar Marg, Kathmandu  
Tel: +977-01-4153110**

#### **4. Procedure for opening of Bid:**

The following procedure shall apply to the opening of all Bids.

First, Part-A shall be opened in the presence of the Bidder's representatives who choose to be present at the prescribed time, date, and address. If the Bidder qualifies under Part-A of the bid, then Part B shall be opened.

Bids without Earnest Money Deposit shall be rejected out-right. Price Bids shall be opened in the presence of the representatives of the qualifying Bidders who choose to be present at the prescribed time, date, and address.

#### **5. Contract Documents:**

NEA shall intimate the acceptance of supply of power to the Bidder(s) whose Bid has been accepted through a Letter of Acceptance (LOA) to be dispatched by e-mail. Both the Parties shall execute a Power Sale Agreement (PSA) within seven days of issuance of the Letter of Acceptance in format of PSA enclosed as **Annexure-5**. However, the buyer shall submit the Payment Security Mechanism (PSM) as per Clause-10 of **Annexure-I** before execution of PSA.

#### **6. Earnest Money Deposit (EMD)**

The Bid shall be accompanied with Earnest Money Deposit (EMD) in form of Bank Draft drawn in any Commercial Bank, in Nepal in favor of NEA or through electronic mode in the designated account of NEA as detailed below;

- Account Name : NEA-Central Payment Division
  - Bank Name : NMB Bank Limited, Babarmahal, Kathmandu
  - Account Number : 0010001460000561
  - Swift Code : NMBBNPKA
- The EMD shall be calculated at the rate of INR 30,000 / MW / month. For example, if the requirement of 1 MW is for 30 days for 24 hours, the EMD shall be  $\{ \text{INR } 30,000 * (30\text{days}/30 \text{ days}) * (24 \text{ hours}/24 \text{ hours}) \} = \text{INR } 30,000$ .

The Bid shall be summarily rejected if the Earnest Money Deposit of the stipulated amount is not accompanied with the Bid. Further, it is to be noted that the EMD shall carry no interest.

##### **6.1. Forfeiture of EMD:**

- i. If Bidder withdraws or modifies Bid during Bid Validity Period.





- ii. For non-submission of Payment Security Mechanism by Successful Bidder.

#### **6.2. Refund of EMD:**

- i. The EMD shall be refunded on relevant request of the unqualified / non-selected Bidders after 10 days of expiry of Bid Validity period.
- ii. The EMD of the selected Bidders shall be refunded on request of the Bidders after submission of Payment Security Mechanism.

#### **7. Bid Submission and Evaluation:**

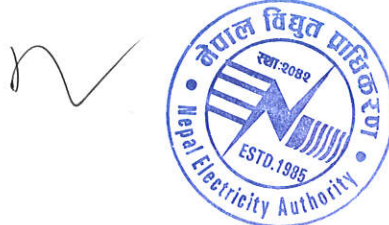
The Bids shall be opened in the presence of representatives of Bidders who choose to be present. The Price Bid shall be strictly as per the format prescribed in the Bid Document and shall be unconditional.

#### **8. Methodology of Bid Evaluation**

- a. Price Bids shall be evaluated on the basis of rate quoted by the Bidders at the delivery point (Muzaffarpur Sub-station, Bihar, India). The Bid ranking shall be prepared on the basis of the price quoted by the Bidders in the Price Bids. The Bidder who has quoted highest rate shall be H1; the Bidder quoting the second highest rate shall be H2 and so on.
- b. In case of a tie, the Bidder with higher Bid quantum shall be given preference in Bid ranking. However, if there is a tie in both the Bid price and Bid quantum, then the ranking of such Bidders shall be decided by lottery.
- c. The power available with NEA shall be allotted to the qualified Bidders as per the Bid ranking. Moreover, suppose multiple Bidders submit Bids for the same requisition, then the available power shall be allocated as per the Bid ranking. That means, the available power, if any, shall be first assigned to the Bidder which has quoted the highest rate (H1), then if any power is left, it shall be offered to the next Bidders as per the bid ranking at the H2 rate. If any power is left after the aforesaid exercise, then the power shall be offered at H3 rate to the remaining Bidders as per their Bid ranking and so on.
- d. NEA in its own discretion has the right to reject all/part of Bid(s) or call off the Bid without assigning any reasons whatsoever of and without any liability.

#### **9. Bid Validity Period**

The offer shall remain valid for a period of 28 days from the date of opening of part B of the 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.

#### **10. Pre-Bid Meeting:**

A Pre-Bid Meeting shall be convened through video conferencing (VC). The prospective participants should communicate their queries/suggestions regarding the Bid Document through e-mail. Further, the Bidders shall provide the e-mail ids authorized by the respective companies to participate in the Pre-Bid Meeting. The authorization letter along with a brief company profile is also required to be submitted by the Bidders. All the aforesaid information needs to be mailed to [powertrade@nea.org.np](mailto:powertrade@nea.org.np) before 11:00 hrs of 13/05/2022. The VC link for the Pre-Bid Meeting shall be forwarded to the authorized e-mail ids only. During Pre-Bid Meeting, the applicant will be free to seek clarification and make suggestions for consideration of NEA. NEA shall endeavor to provide clarification and further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive bidding process. The entry is permitted to Bidders/ Bidders' representatives only.



## **ANNEXURE-I**

### **General Terms and Conditions**

Terms and Conditions for the sale of power generated from hydro projects by NEA to Bidders shall be as follows:

#### **I. Quantum**

NEA invites sealed Bid(s) in the prescribed format for sale of power on Firm Basis through Open Access as per the details given below:

<b>Requisition No.</b>	<b>Month</b>	<b>Period</b>	<b>Duration</b>	<b>Quantum in MW</b>
1	July	01/07/2022 to 31/07/2022	RTC	200
2	August	01/08/2022 to 31/08/2022	RTC	200
3	September	01/09/2022 to 30/09/2022	RTC	200
4	October	01/10/2022 to 31/10/2022	RTC	200
5	November	01/11/2022 to 15/11/2022	RTC	200

- The Bid should be for at least a single requisition on Round-the-Clock (RTC) basis with a minimum of 50 MW of power. NEA reserves the right to increase the quantum in line with its availability.
- No Bid shall be accepted for specific days/hours of the month.

#### **2. Delivery Point:**

The Power from Nepal shall be injected at Muzaffarpur end of Bihar, India of Muzaffarpur-Dhalkebar Line. The delivery point shall be Muzaffarpur end of Bihar, India.

#### **3. Transmission/Operation Charges & Losses**

- a. All the Charges up to the Delivery Point shall be borne by Seller.
- b. All the Open Access Charges and losses beyond Delivery Point as amended from time to time by Government of India shall be for on account of the Buyer.





#### 4. Booking of Open Access Transmission/Distribution Corridor

The Buyer shall be responsible to apply to the Designated Authority (DA) in India and obtain Approval from the DA and subsequently obtain Open Access from Nodal Agency, in India for commencement of supply of power. The relevant required documents for DA application will be provided by NEA. All other associated permissions required to draw power under the Agreement in accordance with the applicable laws including Indian Electricity Grid Code (IEGC) and the CERC / SERCs Open Access Regulations for Booking of Open Access Transmission / Distribution Corridor shall be the responsibility of the Buyer.

#### 5. Scheduling:

The Buyer shall schedule the contracted capacity in full, except in case of transmission constraint. The Scheduling & Dispatch of power shall be as per the relevant provision of IEGC, strictly in accordance with the approved procedure issued by the NLDC for scheduling.

#### 6. Timely Submission of Bid:

- (a) The Bids shall be opened on the scheduled date and time in presence of the representatives of the Bidders who choose to be present at the time of opening.
- (b) Telegraphic offers or offers received in the form of telex messages or by cable or fax shall not be entertained or considered under any circumstances.
- (c) The NEA shall not be responsible for any postal delays in receipt of the Bids of the Bidders.
- (d) The Bid(s) received after the schedule date and time shall not be accepted.

#### 7. Tariff:

The interested buyer shall quote the rate in INR / kWh at delivery point. The quoted rate should extend to three decimal points. The tariff-and the contracted power shall be as quoted by the buyers in the "Price Bid" given in Annexure-4. All other charges including Open Access, Transmission Wheeling Charges, Losses & Operating Charges, and Fees of NLDC & SLDCs shall be paid by the respective Parties in terms of Clause 3(a & b) above.

#### 8. Billing:

For the power supplied, NEA shall raise weekly bills on a provisional basis, for the period from 1<sup>st</sup> -8<sup>th</sup>, 9<sup>th</sup>-15<sup>th</sup>, 16<sup>th</sup>-23<sup>rd</sup> and 24<sup>th</sup> to end of the month. Provisional weekly bills shall be raised on 9<sup>th</sup>, 16<sup>th</sup>, 24<sup>th</sup> of the current month and 1<sup>st</sup> of the following month towards supply of energy for any particular month based on energy data released by concerned



NLDC / RLDC in their website. The final monthly bill shall be raised by the Seller based on the Energy Accounting Reports issued by Eastern Region Power Committee (ERPC), 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 the NEA account through electronic mode within seven (7) days from the date of submission of the weekly energy bills by NEA by e-mail 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:**

- a. The Buyer shall provide the weekly revolving Letter of Credit (LC) for an amount equivalent to **21 days** of estimated energy billing at price discovered through Bid as Payment Security Mechanism. The LC shall be established in favor of NEA at least **07 days** before the start of the flow of power. The LC shall be issued by a commercial bank located in Nepal or if issued by the foreign bank, it shall be counter-guaranteed by a commercial bank in Nepal in such a way that NEA is entitled to claim the LC through the commercial bank in Nepal.
- b. The LC opening, negotiation and all other charges shall be borne by the successful Bidder. NEA shall have full authority to adjust any default amount under the Agreement by negotiating the LC.
- c. The LC shall be established and remain valid up to 45 days beyond the expiry of the contract.
- d. The LC shall 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 the LC.
- e. In case of drawl of the LC amount by NEA as per the terms and conditions of the contract, then the LC amount shall be reinstated automatically not later than **three working days** of India from such drawl. In case LC is not reinstated in three working days, NEA shall have the right to stop scheduling and terminate the contract.
- f. The terms and conditions for the LC are given as attachment to Annexure-I.

#### **11. Rebate:**

The Seller shall allow:

- a. 1% rebate on the energy bill if the payment is made by buyer within two (2) working days in India from the date of submission of the bill by e-mail.
- b. No rebate on the energy bill if the payment is made by buyer beyond two (2)





working days in India but within seven (7) working days in India from the date of submission of the bill by e-mail.

c. Rebate shall not be applicable on a partial payment.

## **12. Surcharge for Late Payment:**

A surcharge of 12% (Twelve 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 e-mail. This surcharge shall be calculated on a day-to-day basis for each day of the delay.

## **13. Liquidated Damages:**

- a. Each of the Parties shall ensure that actual scheduling does not deviate by more than 15% of the contracted power as per the approved open access on monthly basis. If the deviation from Buyer's side is more than 15% of contracted energy for which open access has been allocated on monthly basis, the Buyer shall pay compensation at 20% of the Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15%, while continuing to pay open access charges in line with the contract.
- b. If the deviation from Seller side is more than 15% of contracted energy for which open access has been allocated on monthly basis, the Seller shall pay compensation to buyer at 20% of the Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied while continuing to pay the open access charges to the extent not availed by the Buyer.
- c. The Party seeking revision of Open Access shall be liable to pay Open Access Charges in line with CERC Regulations and Compensation under the Compensation Clause, above.

## **14. Force Majeure:**

Neither Party shall be liable for any claim for any loss or damage whatsoever arising out of a failure to carry out the terms of the contract, to the extent that such a failure is due to Force Majeure events and such Force Majeure event impacts the performance of obligations of such Party such as war, rebellion, earthquake, landslides, flood, 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 or Nepal which makes the Agreement fully or partially unworkable or which makes the transaction at the contracted rate un-implementable and denial of Open Access by NLDC/RLDC. Any Party claiming the benefit of this clause shall reasonably satisfy the other Party the existence of such an event and how such event has impacted the performance



of obligation of such Party and give written notice within a period of 7 (seven) working days 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. Any restriction imposed by NLDC/RLDC in scheduling of power due to breakdown of Transmission/Grid constraint shall be treated as Force Majeure without any liability on either side.

**15. Governing Law:**

Any dispute or difference, arising under, out of, or in connection with this Bid shall be subject to applicable laws of Nepal.

**16. Compliance by the Bidder with Laws:**

The Bidder shall comply with the applicable laws of India and Nepal.

**17. Arbitration:**

The 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 NEA. The proceeding of the Arbitration shall be in accordance with the Arbitration Act of Nepal, 1999. The venue for arbitration shall be at Kathmandu. 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.

**18. Change in Law:**

In case of change in law of restriction imposed by regulators in India (Central) 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-5 to the Bid Document and the terms of the same are deemed to be the part of this Bid.

**19. Address of Contact Person of NEA**

Director,  
Power Trade Department, NEA  
Durbar Marg, Kathmandu, Nepal  
Tel: +977-01-4153110  
E-mail: powertrade@nea.org.np



**ATTACHMENT TO  
ANNEXURE-I**

**Terms for Letter of Credit**

1. The weekly bill / monthly final bill shall be presented in four copies.
2. (a) This LC is irrevocable and shall revolve automatically after negotiation of payment up to a limit of INR\_\_\_\_\_
- (b) LC shall be re-instated within three working days of negotiation of the bill.
- (c) LC shall be negotiable at branch of the issuing bank operating at Kathmandu.
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 45 days beyond the expiry of the contract.
5. The bill would be paid immediately on presentation to the bank.





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

**Annexure-2**

**BIDDER'S COMPANY DATA:**

- a) Name:
- b) Name of the Contact Person:
- c) E-Mail Address:
- d) Postal Address:
- e) Telephone:
- f) Complete details of any suit pending against/filed by the Bidder in India or outside / CERC/Courts/ Arbitrator related with trading of Energy.
- g) Other Information, if any.

Signature of the Authorized Representative with seal





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

S.N.	Clause No. of Bid Document	Deviations

We hereby certify that the above mentioned are the only deviations from seller's aforesaid general terms & conditions. Except for the above deviations, all other terms and provisions are hereby accepted.

Signature of Authorized

Signatory

Dated.

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

Designation:\_\_\_\_\_

*[Handwritten Signature]*



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

**Annexure-4**

To  
Director,  
Power Trade Department  
Nepal Electricity Authority  
Durbar Marg, Kathmandu, Nepal

Email: powertrade@nea.org.np

I/We are submitting our Price Bid as under:-

Month	Period	Duration	Bid Quantum (MW)	Price (INR/ kWh)
		RTC		

Signature:(Authorized Signatory)

Name:

Designation:

Telephone No:

Email ID:





**Draft Power Sale Agreement**

Nepal Electricity Authority (NEA) is a Government of Nepal (GoN)-undertaking established for the purpose of generation, transmission, distribution and import/export of electricity and having its principal place of business at Durbar Marg, Kathmandu, Nepal (herein after 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 or 2013 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 seller has obtained approval from the Designated Authority (DA), Government of India, to sell a total of 363.83 MW power from six hydropower projects, namely, Trisuli, Devighat, Marshyangdi, Middle Marshyangdi, Kaligandaki-A and Likhu-4, and 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:

**I. Scope of Work/Services**

- a. The Buyer is ready to take the contracted quantum of .... MW Power subject to maximum of approved Open Access (OA) corridor capacity (herein after the present "Contracted Capacity") on a 24 (twenty-four) hours Round-The-Clock (RTC) basis from 00:00 hours to 24:00 hours, at the Delivery point in accordance with the terms and conditions contained in this Agreement.
- b. The Buyer shall take all necessary action in India for grant of Open Access to enable it to procure the Contracted Capacity through open access from Seller.
- c. The Seller shall acquire and maintain all the necessary approvals up to the Delivery Point as are required to supply the Contracted Capacity to the Buyer.



- d. The Buyer shall take necessary approval from Designated Authority of India as per CBET Procedure issued by competent authority. NEA shall provide all relevant documents to Buyers to obtain DA approval in a timely manner.

**2. Transmission / Operation Charges & losses.**

- a. All Transmission Charges up to Delivery Point shall be borne by Seller.
- b. All Charges including Open Access Charges, application fee beyond Delivery Point as amended from time to time by Government of India shall be on account of Buyer.

**3. Delivery point:**

The Power from Nepal shall be injected at Muzaffarpur end of Bihar, India of Muzaffarpur-Dhalkebar Line. The delivery point shall be Muzaffarpur end of Bihar, India.

**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 INR...../kWh at delivery point as discovered through Bid. It is made clear that all other charges such as Open Access, Transmission Wheeling Charges, Losses & Operating Charges, and Fees of NLDC/RLDC & SLDCs shall be paid by the respective Parties in terms of Clause 2(a & b) above.

**6. Scheduling**

The Buyer shall schedule the Contracted Capacity in full, except in case of transmission constraint. The Scheduling & Dispatch of power shall be as per the relevant provision of IEGC, strictly in accordance with the approved procedure issued by the NLDC for scheduling.

**7. Monthly Energy Accounting**

- a. Energy delivery measurement and accounting to the Buyer will be in accordance with the prevalent norms and procedure of NLDC/RLDC/Regional Power Committee("RPC").
- b. 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, NEA shall raise weekly bills on provisional basis, for the period from 1<sup>st</sup> -8<sup>th</sup>, 9<sup>th</sup>-15<sup>th</sup>, 16<sup>th</sup>-23<sup>rd</sup> and 24<sup>th</sup> to end of the month. Provisional Weekly bills will be raised on 9<sup>th</sup>, 16<sup>th</sup>, 24<sup>th</sup> of the current month & 1<sup>st</sup> of the next month towards supply of energy for any particular month based on energy data released by the NLDC / RLDC in their website. The final monthly bill shall be raised by the Seller based on the Energy Accounting Reports issued by Eastern Region Power Committee (ERPC), 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 NEA account through Electronic mode within seven (7) working days in India from the date of submission of the weekly energy bills by NEA by E-mail 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:

- a. 1% rebate on the energy bill if the payment is made by buyer within two (2) working days in India from the date of submission of the bill by e-mail.
- b. No rebate on the energy bill if the payment is made by buyer beyond two (2) days but within seven (7) working days in India from the date of submission of the bill by e-mail.
- c. Rebate shall not be applicable on partial payment.

#### **11. Surcharge for Late Payment:**

A surcharge of 12% (Twelve Percent) per annum for the number of days of delay shall be applied on all payments outstanding after 07 working days in India from the date of submission of the bill by e-mail. This surcharge would be calculated on a day-to-day basis for each day of the delay.

#### **12. Liquidated Damages:**

- a. 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.

- b. 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.
- c. 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. Payment Security Mechanism (PSM):**

- a. The Buyer shall provide the weekly revolving Letter of Credit (LC) for an amount equivalent to 21 days of estimated energy billing at price discovered through Bid as Payment Security Mechanism. The LC shall be established in favor of NEA at least 07 days before the start of the flow of power. The LC shall be issued by a commercial bank located in Nepal or if issued by the foreign bank, it shall be counter-guaranteed by a commercial bank in Nepal in such a way that NEA is entitled to claim the LC through the commercial bank in Nepal.
- b. The LC opening, negotiation and all other charges shall be borne by the successful Bidder. NEA shall have full authority to adjust any default amount under the Agreement by negotiating the LC.
- c. The LC shall be established and remain valid up to 45 days beyond the expiry of the contract.
- d. The LC shall 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 the LC.
- e. In case of drawl of the LC amount by NEA as per the terms and conditions of the contract, then the LC amount shall be reinstated automatically not later than three working days of India from such drawl. In case LC is not reinstated in three working days, NEA shall have the right to stop scheduling and terminate the contract.
- f. The terms and conditions for the LC are given as attachment to Annexure-I.

### **14. Force Majeure:**

Neither Party shall be liable for any claim for any loss or damage whatsoever arising out of a failure to carry out the terms of the contract, to the extent that such a failure is due to Force Majeure events and such Force Majeure event impacts the performance of



obligations of such Party such as war, rebellion, earthquake, landslides, flood, 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 or Nepal which makes the Agreement fully or partially unworkable or which makes the transaction at the contracted rate un-implementable and denial of Open Access by NLDC/RLDC/SLDCs. Any Party claiming the benefit of this clause shall reasonably satisfy the other Party the existence of such an event and how such event has impacted the performance of obligation of such Party and give written notice within a period of 7 (seven) working days 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. Any restriction imposed by NLDC/RLDC/SLDC in scheduling of power due to breakdown of Transmission/Grid constraint shall be treated as Force Majeure without any liability on either side.

#### **15. Governing Law and Compliance by the Bidder with Laws;**

The Bidder shall comply with the laws of Nepal and India. This PSA and any dispute or claim arising out of or in connection with this PSA or its subject matter, existence, validity, termination, interpretation or enforceability shall be governed by and construed in accordance with the laws of Nepal.

#### **16. 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.

**Director**

**Power Trade Department**

**Nepal Electricity Authority**

**Durbar Marg, Kathmandu**

**Tel: +977-01-4153110**

**E-mail: powertrade@nea.org.np**

#### **17. Arbitration:**

The differences or disputes between the Parties arising out of or in connection with this PSA shall be settled through arbitration with appointment of sole arbitrator by the NEA. The proceeding of the Arbitration shall be in accordance with the Arbitration Act of Nepal, 1999. The venue for arbitration shall be at Kathmandu. 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.

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**18. Change in law:**

In case of change in law of restriction imposed by regulator in India (Central) 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.

**19. Additional Arrangement:**

If due to any circumstances the ultimate buyer/ consumer for which open access has been approved but is unable to draw the power, then the Bidder may schedule the same to an alternate buyer at same terms and conditions. However, any additional charges and losses due to cancellation of existing corridor and booking of new corridor, etc., shall be to the account of the Bidder / Procurer, i.e., there should be no financial implications on NEA.

<b>For Buyer</b>	<b>For Seller</b>
<b>Name/Designation</b>	<b>Name/Designation</b>
<b>Witnessed by:</b>	<b>Witnessed by:</b>

