

Revenue Sharing Agreement



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AGREEMENT

This Agreement is made on this ___ day of _____ by and between the Central Transmission Utility (CTU) and the ISTS Licensees whose names and registered offices are set out in **Schedule** which shall include their successors and permitted assigns

WHEREAS

- A. The Central Electricity Regulatory Commission (CERC) in exercise of the powers conferred under section 178 read with Part V of the Electricity Act, 2003 (36 of 2003), has issued regulations for Sharing of Inter State Transmission Charges and Losses in June, 2010 (hereinafter referred to as “**Sharing Regulations**”), pursuant to which the Central Transmission Utility (CTU) has entered into a Transmission Service Agreement (TSA) with all the ISTS Licensees and the Designated ISTS Customers (DICs); and the CTU is also entering into this Revenue Sharing Agreement (RSA) with all the ISTS Licensees and , Deemed ISTS Licensees and other non-ISTS Licensees whose assets have been certified as being used for interstate transmission by the RPCs entitled to share transmission charges collected from DICs;

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- B. The TSA provides for billing of transmission charges in accordance with the detailed “Billing, Collection and Disbursement Procedures”, by the CTU on behalf of all the ISTS Licensees and Deemed ISTS Licensees and other non-ISTS Licensees whose assets have been certified as being used for interstate transmission by the RPCs.;
- C. The transmission charges collected pursuant to such “Billing, Collection and Disbursement Procedure” shall be disbursed to each ISTS Licensee by the CTU pursuant to and in accordance with this Agreement (“**Revenue Sharing Agreement**”);
- D. The impact of any delayed payment or partial payment or non-payment by any Designated ISTS Customer shall be borne by each ISTS Licensee in accordance with the Sharing Regulations and any subsequent amendments made there to, and CTU is hereby indemnified against all such delayed/partial/non-payment by any DIC;
- E. This Revenue Sharing Agreement (RSA) shall apply to all existing as well as new ISTS Licensees whose Yearly Transmission Charges have been considered while computing the Point of Connection (PoC) Charges by the Implementing Agency;
- F. This Revenue Sharing Agreement may have aspects that are amended from time to time by the signatories without the entire agreement being replaced or being rendered infructuous;
- G. The persons listed in **Schedule** are Parties to this Revenue Sharing Agreement. Any new ISTS Licensee for the purpose of providing inter-state transmission services shall have to enter into a **RSA Supplementary Agreement**, as provided for in Annexure, pursuant to this Revenue Sharing Agreement thereby binding itself to this Agreement.

Revenue Sharing Agreement

1.0 Definitions & Interpretations

1.1 Definitions

Unless the context otherwise requires the words/expressions when used in this Agreement shall have the respective meanings as specified below:

“Agreement” or **“this Agreement”** or **“Revenue Sharing Agreement”** means this agreement together with the Schedule, Annexure, and Documents referred to therein: as may be amended or modified from time to time;

“CERC” or **“Commission”** means the Central Electricity Regulatory Commission of India constituted under Section-76 of the Electricity Act, 2003 or its successors;

“Central Transmission Utility” or **“CTU”** means the utility notified by the Central Government under Section-38 of the Electricity Act, 2003;

“Due Date” means, as described in the “Billing, Collection and Disbursement Procedure”;

“Effective Date” for the purposes of this Agreement, shall have the same meaning as per Article 3.0 of this Agreement;

“Party” means a signatory to this Agreement, which shall be the CTU or an ISTS Licensee, and **“Parties”** shall mean a joint reference to all the signatories to this Agreement, which shall be the CTU and all the ISTS Licensees;

“Revenue Sharing Statement” means the summary receipt of the transmission charges disbursed by the CTU to the respective ISTS Licensees, corresponding to the payments made by the DICs against the First, Second, Third, Fourth and Supplementary Invoices under the “Billing, Collection and Disbursement Procedure”;

“Transmission Service Agreement” or **“TSA”** means the agreement entered into by the Central Transmission Utility (CTU) with all the ISTS Licensees and the Designated Inter-State Transmission Customers (DICs), as annexed to this Agreement;

“Working Day” means any day except Saturday, Sunday and statutory holiday.

Words and expressions used in this Agreement and not defined herein but defined in the Act or Regulations made by the Commission, shall have the meanings assigned to them respectively in the Act, and Regulations made by the Commission from time to time or the General Clauses Act failing which it shall bear the ordinary English meaning.

1.2 Interpretations

Save where the contrary is indicated, any reference in this Agreement to:

“**Agreement**” shall be construed as including a reference to its Schedule, Annexure and documents;

“**Rupee**”, “**Rupees**” and “**₹**” shall denote lawful currency of India;

“**Crore**” shall mean a reference to ten million (10,000,000) and a “**Lakh**” means a reference to one tenth of a million (1,00,000);

1.2.1 Words importing the singular shall include the plural and vice versa.

1.2.2 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented.

1.2.3 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time.

1.2.4 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.

1.2.5 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part.

1.2.6 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement.

1.2.7 Any interest payable under this Agreement shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty five (365) days.

1.2.8 The words “hereof” or “herein”, if and when used in this Agreement shall mean a reference to this Agreement.

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2.0 Parties to the Agreement

2.1 CTU and existing ISTS Licensees

2.1.1 All ISTS Licensees that are parties to the Transmission Service Agreement (TSA) shall be parties to this Agreement and shall bind themselves to the terms of this Agreement as of the date when Sharing Regulations come into force.

2.2 New ISTS Licensees

2.2.1 This Agreement shall be signed by any new ISTS Licensee for providing inter-State transmission system to the DICs and have already become a party to the Transmission Service Agreement (TSA) pursuant to and in accordance with the said Transmission Service Agreement.

2.2.2 A new ISTS Licensee shall become a Party to this Agreement by signing the RSA Supplementary Agreement between and by the CTU and that ISTS Licensee.

2.2.3 The ISTS Licensees and Deemed ISTS Licensees hereby irrevocably and unconditionally authorise CTU to execute on their behalf any RSA Supplementary Agreement duly executed by the new ISTS Licensee, and to thereby admit the new ISTS Licensee, as a Party to this Agreement. Agreements, as such executed, shall be deemed to have been signed by all the existing parties of the RSA. A copy of such RSA Supplementary Agreement shall be made available by the CTU to all the ISTS Licensees and Deemed ISTS Licensees.

2.3 Non ISTS Licensees whose assets have been certified for as being used for inter-State transmission by the RPCs and whose transmission charges have been considered for the purpose of calculation of PoC charges shall be considered deemed signatories to this agreement and therefore all such rights and obligations, as applicable to ISTS Licensees, shall be applicable to them mutatis mutandis.

3.0 Effectiveness and term of the Agreement

3.1 Effective Date

3.1.1 For the existing ISTS Licensees, irrespective of the date of their signing, this Agreement shall come into effect from the date, as notified under Sharing Regulations or as notified by the Commission to such effect.

3.1.2 For the new ISTS Licensees, whose Yearly Transmission Charges have been considered in the computation of PoC Charges, this Agreement shall be effective from the date of the RSA Supplementary Agreement, as executed by the CTU and the new ISTS Licensee.

3.1.3 For the other non-ISTS Licensees whose assets have been certified as being used for interstate transmission by the RPCs, whose Yearly Transmission Charges have been considered in the computation of PoC Charges, this Agreement shall be effective from the date of approval coming into force and their assets are included in the calculation of PoC charges.

3.2 Term of the Agreement

3.2.1 From the Effective Date, each ISTS Licensee undertakes to the CTU and the CTU to each ISTS Licensee to comply with and to perform their respective obligations in accordance with and subject to this Agreement.

3.2.2 The term of the Agreement shall begin on the Effective Date and shall continue in accordance with the term of Transmission Service Agreement until the validity of TSA.

4.0 Invoicing and Collection by CTU pursuant to the Transmission Service Agreement

4.1 The PoC charges for use of ISTS by each DIC shall be billed and collected by CTU on behalf of all ISTS Licensees in accordance with the “Billing, Collection and Disbursement Procedure”.

4.2 The CTU shall raise the Invoices and collect payments from each Designated ISTS Customer in accordance with the “Billing, Collection and Disbursement Procedure”.

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4.3 The CTU shall disburse the transmission charges, as collected by the CTU, to respective ISTS Licensees and owners of Deemed ISTS whose transmission charges have been considered for the purpose of calculation of PoC Charges in accordance with the “Billing, Collection and Disbursement Procedure”.

4.4 Delayed payment or partial payment or non-payment by any DIC shall result in pro-rata reduction in the payouts to all the ISTS Licensees and owners of Deemed ISTS whose transmission charges have been considered for the purpose of calculation of PoC Charges.

5.0 Disbursement by CTU to all ISTS Licensees

5.1 Timelines for disbursement by the CTU

5.1.1 Timelines for disbursement by the CTU shall be in accordance with the “Billing, Collection and Disbursement Procedure”.

5.2 Revenue Sharing Statements to be submitted by CTU

5.2.1 Revenue Sharing Statements to be submitted by the CTU shall be in accordance with the “Billing, Collection and Disbursement Procedure”.

5.3 Modality of disbursements by the CTU

5.3.1 The modality of disbursements by the CTU shall be in accordance with the “Billing, Collection and Disbursement Procedure”.

6.0 Annual Reconciliation

6.1 The modality of Annual Reconciliation between the CTU and the ISTS Licensees shall be in accordance with the “Billing, Collection and Disbursement Procedure”.

7.0 Payment Security Mechanism (PSM)

7.1 Each ISTS licensee hereby empowers the CTU to enforce recovery of payment from DICs through payment security mechanism in the event of default/ partial payment by the DIC, in accordance with the detailed “Billing, Collection and Disbursement Procedures”.

7.2 Each ISTS licensee shall further agree and empower the CTU to invoke the provisions of CERC (Regulation of Power Supply) Regulations, 2010 as amended from time to

time and in accordance with the detailed “Billing, Collection and Disbursement Procedure” for any default by the DICs.

- 7.2.1 The ISTS Licensees shall provide any assistance that may be required by the CTU to obtain the payment security from the DICs including transfer of existing letters of credit and other PSMs to the CTU, pursuant to and in accordance with the “Billing, Collection and Disbursement Procedure”.

8.0 Disputed Revenue Sharing Statements

- 8.1 If the ISTS Licensee does not question or dispute any Revenue Share Statement within thirty (30) days of receiving it, the Revenue Share Statement shall be considered correct, complete and conclusive between the CTU and the ISTS Licensee.
- 8.2 If an ISTS Licensee disputes any item or part of an item set out in any Revenue Sharing Statement (RSS) then such ISTS Licensee shall serve a notice ("**RSS Dispute Notice**") on the CTU setting out
- (a) the item or part of an item which is in dispute,
 - (b) its estimate of what such item or part of an item should be, and
 - (c) with all written material in support of its claim.
- 8.3 If the CTU agrees to the claim raised in the RSS Dispute Notice issued pursuant to Clause 8.2, the CTU shall revise such Revenue Share Statement within seven (7) days of receiving such RSS Dispute Notice from the said ISTS Licensee and if the ISTS Licensee has received less payment for reasons other than delayed payment or partial payment or non-payment by a DIC pursuant to the Transmission Service Agreement, the CTU shall raise a Supplementary Revenue Share Statement within seven (7) Days of receiving RSS Dispute Notice and shall pay the ISTS Licensee as and when the DIC pay.
- 8.4 If CTU does not agree to the claim raised in the RSS Dispute Notice issued pursuant to Clause 8.2, it shall, within fifteen (15) days of receiving the RSS Dispute Notice, furnish a notice to the said ISTS Licensee providing
- (a) reasons for its disagreement;

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- (b) its estimate of what the correct amount should be; and
 - (c) all written material in support of its counter-claim.
- 8.5 Upon receipt of notice of disagreement to the RSS Dispute Notice under Clause 8.2, authorised representative(s) of CTU and the said ISTS Licensee shall meet and make best endeavours to amicably resolve such Dispute within fifteen (15) days of receiving such notice of disagreement to the RSS Dispute Notice.
- 8.6 If CTU and the said ISTS Licensee could not amicably resolve the dispute within fifteen (15) days of receipt of notice of disagreement to the RSS Dispute Notice pursuant to Clause 8.2, the matter shall be referred to CERC for Dispute resolution in accordance with Clause 11.3.
- 8.7 If the Dispute is settled pursuant to Clause 8.5 or by Dispute resolution mechanism provided in this Agreement in favour of the said ISTS Licensee, the CTU shall raise Supplementary Revenue Sharing Statement within five (5) Working Days of receiving such decision and shall pay the ISTS Licensee as and when the DIC pay.

9.0 Reporting Requirements

- 9.1 CTU shall furnish details of the transmission charges payable and collected on a monthly, bi-annual and annual basis. The monthly reports to be submitted to each of the ISTS Licensees shall comprise of:
- (a) Details of total PoC charges billed to and collected from the DICs
 - (b) Payment defaults, if any, made by the DICs
 - (c) Details of Late Payment Surcharge
 - (d) Details of Rebates
 - (e) Details of total transmission charges disbursed to the ISTS Licensees

10.0 Administration

- 10.1 The Parties shall:
- (a) meet at least twice a year to review compliance with this Agreement;

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- (b) resolve any issues relating to implementation of this Agreement through amicable discussions; and
- (c) carry-out such other activities relating to this Agreement as the Parties may agree from time to time to be appropriate within the ambit of the Sharing Regulations.

10.2 Co-ordination Committee

10.2.1 The Parties shall form a committee (“**Co-ordination Committee**”) to co-ordinate the activities mentioned in Clause 10.1.

10.2.2 The Co-ordination Committee shall comprise of two representatives from the CTU, one representative from the Implementation Agency, one representative from each RPC and one representative each from each of the ISTS Licensees.

11.0 Governing Law and Dispute Resolution

11.1 Governing Law

11.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in New Delhi.

11.2 Amicable Settlement:

11.2.1 The CTU or an ISTS Licensee is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement by giving a written notice to the other Party, which shall contain:

- (a) a description of the Dispute;
- (b) the grounds for such Dispute; and
- (c) all written material in support of its claim.

11.2.2 The Party against which the Dispute has been raised (“**Party in Dispute**”) shall, within thirty (30) days of issue of notice under Clause 11.2.1, furnish:

- (a) counter-claim and defenses, if any, regarding the Dispute; and

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(b) all written material in support of its defenses and counter-claim.

11.2.3 Within thirty (30) days of issue of notice by the Party pursuant to Clause 11.2.1 if the Party in Dispute does not furnish any counter claim or defense under Clause 11.2.2, or thirty (30) days from the date of furnishing counter claims or defense by the other Party, both the parties to the Dispute shall meet to settle such Dispute amicably. If the parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Clause 11.2.3, the Dispute shall be referred for dispute resolution in accordance with Clause 11.3.

11.3 Dispute Resolution

11.3.1 Where any Dispute arises from a claim made in accordance with the provisions of this Agreement either of the parties to the dispute may approach the Commission for reference of the case for adjudication of the dispute in accordance of the Electricity Act, 2003.

11.3.2 In respect of all other purpose of the Arbitration proceeding, the provisions of Arbitration and Conciliation Act, 1996 shall be applicable.

11.3.2.1 The place of Arbitration shall be New Delhi. The language of the Arbitration shall be English.

11.3.2.2 Courts at New Delhi shall have exclusive jurisdiction.

11.4 Continuity in Performance of Obligations

11.4.1 Notwithstanding the pendency of any Dispute before CERC or any other Court/Tribunal with regard to this agreement or its implementation, as per the Electricity Act the parties to the dispute shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

12.0 Indemnification

12.1 Indemnification by the ISTS Licensees

12.1.1 The ISTS Licensees shall agree to indemnify and hold the CTU harmless from and against any and all damages, losses, liabilities, obligations, claims of any kind including any tax liability, interest, cost, fee, or expenses (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "**Losses**"), suffered, incurred or paid, directly, as a result of, in connection with or arising out of exercise of CTU's obligations of billing and collecting transmission charges on behalf of ISTS Licensees pursuant to and in accordance with the Transmission Service Agreement, and subsequently disbursing them to all ISTS Licensees in accordance with this Agreement.

12.2 Indemnity to Survive Termination

12.2.1 The obligations of the ISTS Licensees under Clause 12.1 shall survive the termination of this **Agreement**.

INWITNESS WHEREOF THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED BY THEIR DULY AUTHORISED REPRESENTATIVE AS OF THE DATE AND PLACE AS HEREIN AFTER APPEARING

WITNESS:

	For and on behalf of Power Grid Corporation of India Ltd. (a Central Transmission Utility) at..... on.....
Signature:	Signature:.....
Name:	Name:
Designation:.....	Designation:
Address	Address :.....
	For and on behalf of
at.....on.....
Signature:	Signature:
Name:	Name:
Designation:.....	Designation:
Address :.....	Address :.....

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Schedule

S.No.	Name of the ISTS Licensee	Address of Registered Office	Phone No./ FAX No./ e-mail
1	.		
2	.		
3	.		
4	.		
5	.		
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n			

RSA Supplementary Agreement

RSA SUPPLEMENTARY AGREEMENT

BETWEEN

Central Transmission Utility (CTU)

AND

[Insert name of the new ISTS Licensee]

THIS SUPPLEMENTARY AGREEMENT entered into on [Insert date] [Insert day] of[Insert month] in [Insert year] by and between the Central Transmission Utility (here in after referred to as “CTU”, which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the first part,

AND

..... [Insert name of the new ISTS Licensee] having its registered office at..... [Insert address of the new ISTS Licensee] (which expression shall unless repugnant to the context or meaning thereof include its successors, and permitted assigns) as Party of the second part.

WHEREAS:

- A. All the existing ISTS Licensees, as listed out in **Schedule** of this RSA, have executed the RSA with CTU.
- B. The new ISTS Licensee has been awarded the license to provide the inter-state transmission service by the Central Electricity Regulatory Commission (CERC).
- C. The new ISTS Licensee has signed the Transmission Service Agreement (TSA), as entered into by the Central Transmission Utility (CTU) with all the ISTS Licensees and the Designated ISTS Customers (DICs), through execution of the Supplementary Agreement, as mentioned in the TSA thereof.

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NOW THEREFORE THIS AGREEMENT WITNESSETH as under:

- 1) The new ISTS Licensee and its transmission project as on this date.... are as detailed below:

Name of the new ISTS Licensee	Details of the Transmission Project

- 2) The new ISTS Licensee agrees to the terms and conditions laid down in the RSA.
- 3) All terms and conditions of the RSA between the CTU and the existing ISTS Licensees (as listed out in Schedule 1 of this RSA Supplementary Agreement) shall apply, *mutatis mutandis* without any change, to the new ISTS Licensee.

IN WITNESS WHEREOF the parties have executed these presents through their Authorised Representatives

WITNESS:

For and on behalf of CTU

1. Signature:

Signature:

Name:

Name:

Designation:

Designation:

For and on behalf of new ISTS Licensee

2. Signature:

Signature:

Name:

Name:

Designation:

Designation: