

## **TERMS & CONDITIONS TO APPLY AS CONSORTIUM**

- 1) Two or more like minded contractor(s) may form a consortium agreement amongst themselves and apply against this tender specification, provided they jointly qualify as per qualification criteria of the tender. The sample format of consortium agreement is enclosed herewith as Annexure –I & II.
- 2) However, if the bidder is quoting against one or more Sub-stations in his individual capacity, he cannot be a part of consortium agreement to participate in **same** Sub-stations as notified against this tender specification & vice versa.
- 3) If the work experience of one partner is not meeting the entire qualifying criteria, the work experience of the other partner (s) specified in the scope of work shall be added for qualifying the bid in total.
- 4) One of the partners shall be nominated as Lead Partner and the lead partner shall be authorized to incur liabilities and receive instructions for and on behalf of all partners of the consortium and entire execution of the contract including receipt of payments shall be done exclusively through the lead partner. This authorization shall be evidenced by submitting by a Power of Attorney signed by legally authorized signatories of all partners.
- 5) All partners of consortium shall be liable jointly and severally for the execution of contract in accordance with the contract terms and a copy of the agreement entered into by the joint venture / consortium partners having such a provision shall be submitted with the Bid. A statement to this effect shall be included in the authorization mentioned as above as well as in the Bid form and in Contract form (in case of a successful bid).

**NOTE: 1) Consortium Partner shall be limiting to 04 (Four) Members.**

**2) All the Members should be Electrical Contractor(s) having valid HT License and all other related statutory licenses/documents as per tender.**

**3) Work Order shall be issued in favour of the Lead Partner only**

**FORM OF POWER OF ATTORNEY FOR CONSORTIUM**

**(On Non –Judicial Stamp Paper of Appropriate value to be purchased in the Name of Lead Member)**

KNOW ALL MEN BY THESE PRESENTS THAT WE, the Members whose details are given hereunder..... have formed a Consortium and having our Registered Office (s)/Head Office (s) at .....(hereinafter called the ‘Consortium’ which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) do hereby constitute, nominate and appoint M/s..... a company/Electrical Contractor incorporated under the laws of .....and having its Registered/Head Office at .....as our duly constituted lawful Attorney (hereinafter called “Attorney” (hereinafter called Lead Member) to exercise all or any of the powers for and on behalf of the Consortium in regard to Tender Notice No..... for Operation & Maintenance of 33/11 KV Substations & carry out RC/DC of defaulting consumers under jurisdiction of SOUTHCO (hereinafter called the “Owner”) for which bids have been invited by the Owner, to undertake the following acts :

- (i) To submit proposal, participate and negotiate in respect of the aforesaid Bid – Specification of the Owner on behalf of the “Consortium”.
- (ii) To negotiate with Owner the terms and conditions for award of the contract pursuant to the aforesaid Bid and to sign the contract with the Owner for and on behalf of the “Consortium”.
- (iii) To do any other act or submit any document related to the above.
- (iv) To receive, accept and execute the contract for and on behalf of the “Consortium”.
- (v) To submit the Contract performance security in the form of an unconditional irrecoverable Bank Guarantee in the prescribed format and as per terms of the contract.

It is clearly understood that the Lead Member shall ensure performance of the contracts(s) and if one or more Member fail to perform their respective portion of the contracts(s), the same shall be deemed to be a default by all the Members.

It is expressly understood that this power of Attorney shall remain valid, binding and irrevocable till expiry of contract period or any extension thereof.

The Consortium hereby agrees and undertakes to ratify and confirm all the whatsoever the said Lead Member quotes in the bid, negotiates and signs the Contract with the Owner and / or proposes to act on behalf of the Consortium by virtue of this Power of Attorney and the same shall bind the Joint Consortium as if done by itself.

IN WITNESS THEREOF the Members Constituting the Consortium as aforesaid have executed these presents on this ..... day of ..... under the Common Seal (s) of their Companies

for and on behalf of the members of Consortium

.....  
.....  
.....

The Seal of the above Partners of the Consortium:

The Seal has been affixed there unto in the presence of:

**WITNESS**

1. Signature .....
- Name .....
- Designation .....
- Occupation .....
  
2. Signature .....
- Name .....
- Designation .....
- Occupation .....

**FORM OF CONSORTIUM AGREEMENT**

(To be executed on non-judicial stamp paper of appropriate value to be purchased in the name of executants or as required by the Jurisdiction in which executed)

THIS Consortium Agreement executed on this ..... day of ..... Two thousand ..... by:

M/s. ....a company/Partnership Firm/Sole Proprietorship Organization incorporated under the ..... Act/Laws and having its Registered Office/Head Office at ..... (hereinafter called the "Lead Member/First Member" which expression shall include its successors),and

M/s. ....a company/Partnership Firm/Sole Proprietorship Organization incorporated under the ..... Act/Laws and having its Registered Office/Head Office at ..... (hereinafter called the " Second Member" which expression shall include its successors),and

M/s. ....a company/Partnership Firm/Sole Proprietorship Organization incorporated under the ..... Act/Laws and having its Registered Office/Head Office at ..... (hereinafter called the "Third Member" which expression shall include its successors),and

M/s. ....a company/Partnership Firm/Sole Proprietorship Organization incorporated under the ..... Act/Laws and having its Registered Office/Head Office at ..... (hereinafter called the "Fourth Member" which expression shall include its successors).

The Lead Member/First Member, Second Member, the Third Member and the Fourth Member shall collectively hereinafter be called as the “Consortium Members” for the purpose of submitting a bid proposal to Southern Electricity Supply Company of Orissa Ltd. (hereinafter referred to as SOUTHCO) being a company incorporated under the Companies Act. 1956 having its. Corporate Office at Courtpeta, Berhampur, Ganjam – 760004 hereinafter called the “Owner”) in response to the invitation of bids (hereinafter called as “Tender Notice No.....” Document) dated..... Operation & Maintenance of 33/11 KV Substations & carry out RC/DC of defaulting consumers under jurisdiction of SOUTHCO as per the scope of work .....(hereinafter called as “the Transaction”)

WHEREAS tender, stipulates that two or more bidder(s) may form a Consortium among them and apply against this tender specification, provided they fulfill the following eligible criteria;

1. They should have legally valid Consortium agreement as per the prescribed format for the purpose of participation in the bidding process. The total no of a Consortium shall be limited to four members.
2. All the Consortium members should be Electrical Contractors having valid HT License.
3. Consortium as a whole shall meet the qualifying norms specified in the tender, they participate.
4. All the Consortium member(s) shall authorize the lead partner by submitting a power of Attorney as per the prescribed format duly signed by the authorized signatories. The lead partner shall be authorized to receive instructions for and on behalf of all partners of the Consortium and entire execution of the contract.
5. The Consortium and its members shall be jointly and severally responsible and be held liable for the purpose of guaranteed obligation and any other matter as required under the contract.
6. Any member of the Consortium member(s) shall not be eligible either in an individual capacity or part of any other Consortium to participate in the tender, where the said Consortium participates.
7. Work Order(s) will be placed to lead members of the Consortium.
8. In addition to the above all the members of the Consortium should submit the following documents in part-I bid as qualifying terms.
  - A) EPF Code No.
  - B) ESI Code No.
  - C) Service Tax Registration No.
  - D) PAN No.
  - E) TIN No.
  - F) Registration Number of the Sole Proprietor/Firm/Organization.
  - G) Self attested copy of challan for the month of July 2015(EPF,ESI & Service Tax)
  - H) Valid Labour License

AND WHEREAS bid has been proposed to be submitted to the Owner by Lead Member based on this Consortium agreement all the members, signed by all the members.

NOW THIS INDENTURE WITNESSETH AS UNDER:

In consideration of the above premises, in the event of the selection of Consortium as successful bidder, all the parties to this Consortium Agreement do hereby agree abide themselves as follows:

M/s ..... Shall act as Lead Member for and on behalf of Consortium Members. The said Consortium members further declare and confirm that they shall jointly and severally be bound and shall be fully responsible to the Owner for Operation & Maintenance of 33/11 KV Substations & carry out RC/DC of defaulting consumers under jurisdiction of SOUTHCO as per the scope of work and successful performance of the works, obligations under the same by the Lead Member are as follows:

- i) Despite any breach by the Lead Member or other Member(s) of the Consortium agreement, the Member(s) do hereby agree and undertake to ensure full and effectual and successful performance of the contract with the Owner and to carry out all the obligations and responsibilities under the said Contract in accordance with the requirements of the Contract.
- ii) If the Owner suffers any loss or damage on account of any breach in the Contract or any shortfall in the performance of the equipment in meeting the performance guaranteed as per the specification in terms of the Contract, the Members (s) of these presents undertake to promptly make good such loss or damages caused to the Owner, on its demand without any demur. It shall not be necessary or obligatory for the Owner to proceed against Lead Member to these presents before proceeding against or dealing with the other Members(s). The obligation of each of the member is absolute and not independent of the Consortium or any member.
- iii) The financial liability of the Members of this Consortium agreement to the Owner, with respect to any of the claims arising out of the performance of non- performance of the obligations set forth in the said Consortium agreement, read in conjunction with the relevant conditions of the Contract shall, however, not be limited in any way so as to restrict or limit the liabilities of any of the Partners of the Consortium agreement. The liability of each Member is absolute and not severable.
- iv) It is expressly understood and agreed between the Members to this Consortium agreement that the responsibilities inter se amongst the Members shall not in any way be a limitation of joint and several responsibilities and liabilities of the Members to the Owner. It is clearly understood that the Lead member shall ensure performance under the agreements and if one or more Joint venture/Consortium Member(s) fail to perform its/their respective obligations under the agreement(s), the same shall be deemed to be a default by all the Joint

venture/Consortium Members. It will be open for the Owner to take any steps, punitive and corrective action including the termination of contract in case of such default also.

v) This Consortium agreement shall be construed and interpreted in accordance with the laws of India and the courts of Odisha shall have the exclusive jurisdiction within Berhampur in all matters arising there under.

vi) **In case of an award of a Contract, all the Members to the Consortium agreement do hereby agree that Lead Partner shall furnish Performance Bank Guarantee for value of 10% of the Contract Price and additional 1% by the other Consortium Member in the form of an unconditional irrecoverable Bank Guarantee in the prescribed format and as per terms of the contract.**

vii) It is further agreed that the Consortium agreement shall be irrevocable and shall form an integral part of the Contract, and shall continue to be enforceable till the Owner discharges the same. It shall be effective from the date first mentioned above for all purposes and intents.

viii) Capitalized terms used but not defined herein shall have same meaning as assigned to them in the Tender Documents and/or the agreements.

ix) In case of any dispute amongst the members of the Consortium, Owner shall not be in any way liable and also the Consortium members shall not be absolved from the contractual obligation in any manner.

IN WITNESS WHEREOF the Members to the Consortium agreement have through their authorized representatives executed these presents and affixed Common Seals of their companies, on the day, month and year first mentioned above.

1. Common Seal .....of For Lead Member/First Member  
has been affixed in my/our presence  
pursuant to the Board of Director's  
resolution dt.----- (Signature of authorized representative)  
Name... ..  
Signature.. .. Designation .. ..  
Name ..... Common Seal of the company  
Designation..... ..

2. Common Seal of ..... For Second Member  
has been affixed in my/our presence  
pursuant to the Board of Director's (Signature of authorized

resolution dated

representative)

Name.....

Signature.....

Designation .....

Name .....

Common Seal of the company

Designation.....

3. Common Seal of .....

For Third Member

has been affixed in my/our presence

pursuant to the Board of Director's

(Signature of authorized

resolution dated

representative)

Name.....

Signature.....

Designation .....

Name .....

Common Seal of the company

Designation.....

4. Common Seal of .....

For Fourth Member

has been affixed in my/our presence

pursuant to the Board of Director's

(Signature of authorized

resolution dated

representative)

Name.....

Signature.....

Designation .....

Name .....

Common Seal of the company

Designation.....

WITNESSES:

1.....

2.....

(Signature)

(Signature)

Name .....

Name .....

(Official address)

(Official address)