

**Bank Guarantee as security on Advance towards payment of Arbitral Award
under litigation.**

(On Stamp paper of appropriate amount)

The Chairman,
North Easter Electric Power Corporation Ltd.
Shillong.

WHEREAS:

- (A) M/s....., the Concessionaire/Contractor and the Authority/Corporation, NEEPCO have entered into a Construction Contract Dtd..... (the**"Agreement"**) whereby the Authority/Corporation, NEEPCO has agreed to the Concessionaire/Contractor, M/s----- undertaking -----(the project) in the State of----- subject to and in accordance with the provisions of the Agreement.
- (B) During the course of implementation of the Project, disputes/claims arose in respect of the Agreement. As dispute could not be resolved amicably, the same were referred to Arbitration and accordingly a three member / Sole Arbitral Tribunal, as per the terms of the Agreement, was constituted to resolve the disputes between the Authority/Corporation, NEEPCO and the Concessionaire /Contractor, M/s----- under the Agreement.
- (C) The Arbitration Tribunal on (Date) passed the Award in favour of the Concessionaire /Contractor,M/s----- (herein referred to as the Arbitral Award) allowing (details of the claims to be inserted) of the Concessionaire /Contractor, M/s----- amounting to (Rs.-----) as on -----(Date)(along with the interest@-----% per annum till the date of Award if applicable) and the (total amount along with interest @- % as on ----- is Rs -----Lakhs).
- (D) Authority / Corporation,NEEPCO has preferred appeal against the Award under Section 34 of the Arbitration and Conciliation Act. 1996(herein referred to as the **"Appeal"**) before the (Details of the Court where the appeal has been filed to be provided) (herein referred to as the **"Court"**), challenging the Arbitral Award.
- (E) Pursuant to NITI Aayog's OM No.14070/14/2016-PPPAU Dtd.5th.Sept'2016, Ministry of Power vide its No.28/3/2016-Coord.(Pt-III),Govt. Of India, Ministry of Power, New Delhi, 29th.Sept'2016 ,NITI Aayog has directed the Authority/Corporation,NEEPCO that in case of claims where the Arbitration Tribunal has passed the Arbitral Award and the Authority/Corporation,

NEEPCO has challenged the Arbitral Award, the Authority /Corporation,NEEOPCO may pay an amount equal to 75%(Seventy Five Percent) of the Arbitral Award as awarded in favour of theConcessionaire/Contractor, M/s----- to theConcessionaire/Contractor, M/s----- against Bank Guarantee without prejudice to the final order of the Court in the manner under challenge, subjected to the terms as stated herein.

(F) The Concessionaire/Contractor, M/s----- is required to open an account with the Arbitral Award Escrow Bank (the "**Arbitral Award Escrow Account**") and entered into an Arbitral Award Escrow Agreement with the Authority/Corporation i.e. NEEPCO, Arbitral Award Escrow Bank and the Lenders Representative on -----("Arbitral Award Escrow Agreement").

(G) The **Arbitral Award Escrow Agreement** requires the Concessionaire /Contractor, M/s----- to furnish a Bank Guarantee to the Authority/Corporation,NEEPCO in a sum of Rs.....(Rupees-----only)(the "**Guarantee Amount**") as security the amount to be deposited by Authority/ Corporation,NEEPCO in the Arbitral Award Escrow Account and for due and faithful performance of its obligations under and in accordance with **Arbitral Award Escrow Agreement**.

(H) We,.....through our Branch at----- (the "**Bank**")have agreed to furnish this Bank Guarantee ("**Guarantee**").

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocablyguarantees the due and faithful performance of the Concessionaire's/Contractor's ,M/s----- obligations under and in accordance with the Arbitral Award Escrow Agreement and agrees and undertakes to pay to the Authority/Corporation,NEEPCO upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire /Contractor, M/s-----, such sum or sums upto an aggregate sum of the Guarantee Amount as the Authority/Corporation, NEEPCO shall claim, without the authority/Corporation being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority/Corporation, NEEPCO under the hand of an officer not below the rank of General Manager in the Authority/Corporation, NEEPCO that the Court has decided the appeal in favour of the Authority/Corporation, NEEPCO and the Concessionaire/Contractor, M/s..... needs to repay the Guaranteed Amount or that there has been an Arbitral Award Escrow Default by the Concessionaire/Contractor, M/s-----as per the provisions of Arbitral Award Escrow Agreement shall be conclusive, final, and binding on the Bank and the Bank shall immediately release the Guaranteed Amount to

