



# KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under Companies Act, 1956)

CIN: U40100KL2011SGC027424

Registered Office: Vidyuthi Bhavanam, Pattom, Thiruvananthapuram – 695 004 Website: [www.kseb.in](http://www.kseb.in)

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## **ABSTRACT**

KFON Project – Execution of Tripartite Agreement between KSITIL, KSEBL & M/s. BEL for Package B to avoid double taxation issue – Sanctioned - Orders issued.

### **CORPORATE OFFICE (IT&CR)**

B.O.(FTD) No. 665/2021 (CE-IT/RITU/KFON/MoU/2021-22) TVPM. Dated 17-09-2021

- Read: 1) BO(DB) No.276/2018 (CE-IT/RITU/LMC/2014-15/KFON) dated 29.01.2018.
- 2) MoU No.01/KSITIL-KFON/2020-21 dtd.18.05.2020 between KSITIL & KSEBL
- 3) BO (DB) No. 398/2020 /D (T, SO&S)/T6/Reliable communication/2019-20 dated 10.06.2020.
- 4) Minutes of the meeting held on 21.04.2021 chaired by the Chairman and Managing Director, KSEBL
- 5) Minutes of the Meeting between KSEBL & KSITIL held on 21.05.2021
- 6) BO(FTD)No.426/2021 (CEIT/RITU/KFON/MoU/2021-22) dated 04.06.2021.
- 7) Email dated 07.06.2021 of KSITIL.
- 8) Note No. CEIT/RITU/KFON/MoU/2021-22/182 dated 28.06.2021 of the Chief Engineer (IT, CR & CAPs) submitted to the Full Time Directors.
- 9) Note No. CEIT/RITU/KFON/MoU/2021-22/201 & 201A dated 06.07.2021 of the Chief Engineer (IT, CR & CAPs) to the LA & DEO and Financial Advisor.
- 10)Note No. FA/RC/KFON/2021 dated 26.07.2021 of the Financial Advisor.
- 11)Note No. LA & EDO/R/72/2021 dated 28.07.2021 of the LA & DEO.
- 12)Letter No. CEIT/RITU/KFON/MoU/2021-22/310 dated 02.08.2021 of the Chief Engineer (IT, CR & CAPs) to the Chief Engineer (Trans.- System Operation).
- 13)Letter No: CESO/Tech/Reliable Communication/OPGW part/Tripartite Agmt/21-22/1258 dated 13.08.2021 of the Chief Engineer (Trans.- System Operation).
- 14)Note No. CEIT/RITU/KFON/MoU/2021-22/371 of the Chief Engineer (IT, CR & CAPs) dated 17.8.2021 submitted to the Full Time Directors (Agenda 17/9/21).

## **ORDER**

KSEBL as per Order read as 1<sup>st</sup> above, approved the formation of KFON Joint Venture Company. As per the BO, KSEBL engaged the SPV (KFON) as the Bid process coordinator for implementing the PSDF funded OPGW fibre infrastructure to ensure timely completion of KFON, with single point coordination. The work of KFON project was tendered in two packages (Package-A & Package-B). Package-A includes KFON project

funded by KIIFB and Package-B (Reliable Communication & Data Acquisition Network) includes PSDF funded projects of KSEBL. The work was awarded to M/s. Bharath Electronics Limited for both the Packages A & B.

An MoU was executed between KSEBL and KSITIL on 18.05.2020 for Package-B of KFON project which enables KSITIL to raise invoices for the work to KSEBL. As per the contract, M/s. BEL will submit invoices to KSITIL. As per the MoU, KSITIL will submit invoices to KSEBL for satisfactory filing of utilization certificates to PSDF.

In the meeting convened by the Chairman and Managing Director, KSEBL on 21.04.2021, it was decided to schedule a meeting for finalising the accounting, billing methodologies and taxing. Accordingly, a meeting between KSEBL and KSITIL was convened on 21.05.2021 chaired by the Director (Trans.& System Operation) and the Director (Distr. & IT). KSITIL informed that they have discussed the double taxation issue with GST authorities and resolved that invoice shall be raised by BEL directly to KSEBL. For that, a tripartite agreement is to be executed between KSEBL, KSITIL & BEL for resolving the GST issue.

Accordingly, KSITIL, as per email read as 7<sup>th</sup> above, has submitted the draft tripartite agreement to be executed between KSITIL, KSEBL, M/s. BEL with respect to Package B of KFON Project.

The draft tripartite agreement submitted by KSITIL was then forwarded to the Financial Advisor and the Legal Advisor & Disciplinary Enquiry Officer for remarks/ opinion as per notes read as 9<sup>th</sup> above and remarks were furnished as per letters read as 10<sup>th</sup> and 11<sup>th</sup> above. The remarks of the Financial Advisor and modifications suggested by the LA & DEO were also incorporated in the draft tripartite agreement.

Further, the draft of tripartite agreement was forwarded to the Chief Engineer (Trans.- System Operation) as per letter read as 12<sup>th</sup> above. The Chief Engineer (Trans.- System Operation) as per note read as 13<sup>th</sup> above, submitted the modified draft tripartite agreement incorporating the remarks/ opinion of FA and LA&DEO and also incorporating the decisions taken as per Board Order read as 6<sup>th</sup> above.

The matter was placed before the Full Time Directors as per the Note read as 14<sup>th</sup> above. Having considered the matter in detail, the Full Time Directors, in the meeting held on 10.09.2021:

1. Resolved to accord sanction to proceed with the execution of tripartite agreement between KSITIL, KSEBL & M/s. BEL with respect to Package B of KFON Project, to

- facilitate M/s. BEL to raise invoices directly to KSEBL so as to avoid double taxation.
2. Further resolved to approve the revised draft tripartite agreement (attached as Annexure to Board order) submitted by Chief Engineer (Trans.- System Operation), incorporating the remarks of the LA & DEO and the Financial Advisor.
  3. Further resolved to authorise the Director (Distribution & IT) to enter into the tripartite agreement on behalf of KSEBL.

Orders are issued accordingly.

**By Order of the Full Time Directors**

**SD/-**

**LEKHA.G**

**COMPANY SECRETARY**

To:

1. The Director ((Distribution & IT).
2. The Chief Engineer (IT, CR& CAPs).
3. The Chief Engineer (Trans.- System Operation).

Copy to:

1. The T.A. to Chairman & Managing Director/Director (D&IT/ Director (T& SO)/Director (Finance&G-E)/Director (G-C)/Director(Planning&Safety)/Director(REES & SOURA).
2. The P.A. to Director (Finance)/ Senior CA to Secretary (Admn.).
3. The Financial Adviser/ Chief Internal Auditor.
4. The Company Secretary
5. The Fair Copy Superintendent/ Library/ Stock File.

Forwarded / By Order



Assistant Engineer

ANNEXURE TO B.O.(FTD) No. 665 /2021 (CE-IT/RITU/KFON/MoU/2021-22) TVPM.

Dated 17-09-2021

This TRIPARTITE AGREEMENT (hereinafter referred to as the Agreement) is made at Thiruvananthapuram and entered on this \_\_\_\_ day of \_\_\_\_ Two Thousand and Twenty-one AMONGST

Kerala State Information Technology Infrastructure Limited (KSITIL), a company registered under the Companies Act, 2013 (hereinafter called as "KSITIL") having its registered office at First Floor, Sankarankal Road, Pattom Palace P.O., Thiruvananthapuram-695004 being the IMPLEMENTING AGENCY for implementing the OPGW part of Reliable Communication and Data Acquisition Project of KSEBL included as Package-B of the KFON project of Government of Kerala (GoK), represented by Sri/Smt....., Managing Director (which expression unless repugnant to the subject or context thereof, include its successors and assigns) of the FIRST PART.

AND

Kerala State Electricity Board Limited (KSEBL), a company incorporated under the Companies Act, 1956, having its registered office at Vydyuthi Bhavanam, Pattom, Thiruvananthapuram-695004, being the OWNER issuing administrative sanction and financial assistance for OPGW part of Reliable Communication Project of KSEBL (PACKAGE B of the KFON Project) represented by Sri/Smt....., Director (Distribution, IT & HRM) (which expression unless it be repugnant to the subject or context thereof, include its successors and assigns) of the SECOND PART

AND

Bharat Electronic Limited (BEL), a company registered under the Companies Act, 1956, having its registered office at ..... (Full registered office address of contractor) being the EXECUTION AGENCY of the OPGW part of Reliable Communication and Data Acquisition Project of KSEBL included as Package B of KFON Project represented by Sri/Smt....., Managing Director (hereinafter referred to as 'Contractor' which expression unless it be repugnant to the subject or context thereof, include its successors and assigns) of the THIRD PART.

The IMPLEMENTING AGENCY, the OWNER and the EXECUTION AGENCY are hereinafter collectively referred as PARTIES and each individually as such or as a "PARTY".

This Tripartite Agreement is in connection with the OPGW Part of Reliable Communication and Data Acquisition Project of KSEBL included as Package B of KFON project (hereinafter referred to as "PACKAGE B PROJECT") awarded to THIRD PART by the FIRST PART as per LOI dated 18-02-2019 of the FIRST PART and Master Service Agreement dated 09-03-2019 between the FIRST PART and THIRD PART.

WHEREAS the SECOND PART has provided an administrative sanction and financial assistance of PACKAGE B PROJECT and assigned the responsibility of implementing the said PROJECT to the FIRST PART and the FIRST PART through open tender has entered into CONTRACT (hereinafter referred to as "Master Service Agreement") with the THIRD PART for executing PACKAGE B OF THE PROJECT.

WHEREAS Memorandum of Understanding (MoU) dated 18-05-2020 has executed between the FIRST PART and SECOND PART for setting out the terms and conditions in relation to the implementation of PACKAGE B PROJECT complying with the PSDF guidelines issued by the Government of India as per concurrence obtained from the Power System Development Fund (PSDF) Secretariat.

WHEREAS as per Master Service Agreement between the FIRST PART and THIRD PART, the THIRD PART submits the invoices to the FIRST PART and as per the terms of the MoU executed between FIRST PART and SECOND PART, FIRST PART shall submit the invoices to the SECOND PART for satisfactory filing of utilization certificate to avail grant from PSDF authorities.

WHEREAS it was decided in the meeting between the stakeholders on 21.5.2021 to raise the invoices directly to the SECOND PART by the THIRD PART to avoid double taxation issue with GST authorities.

WHEREAS it was resolved in the meeting to modify the MoU dated 18-05-2020 between the FIRST PART and SECOND PART to that extent.

Whereas it was further resolved to execute tripartite agreement between the parties to resolve the GST issue.

NOW, THEREFORE, IT IS HEREBY AGREED amongst the Parties as follows: -

1. This Tripartite Agreement signed between the parties shall be implemented by the Parties in letter and spirit.
2. THIRD PART shall raise tax invoice on SECOND PART in respect of the PACKAGE B PROJECT only which is funded by PSDF.
  - 2.1. Tax invoice shall be raised by the THIRD PART on the SECOND PART through FIRST PART in respect of the actual quantity executed by the THIRD PART under PACKAGE B PROJECT @ Rs.2.94 lakhs/km which is the effective rate for supply, installation, and commissioning of 24 fibre OPGW works approved/sanctioned by the PSDF authority.
  - 2.2. The tax invoice shall be duly scrutinized and certified by the FIRST PART and forward to the SECOND PART for clearance. The SECOND PART shall release the payment to the THIRD PART, at such rate as agreed in para (2.1) above, through direct payment transfer mechanism to the designated bank of the THIRD PART registered with the SECOND PART as per guidelines of the PSDF. Bank Mandate Form for registering of bank account shall be submitted to the SECOND PART by the THIRD PART through FIRST PART. Any discrepancy noticed/pointed out in the claims/invoices shall be duly rectified by the FIRST PART before its transmission to the SECOND PART, except as decided otherwise by the SECOND PART.
  - 2.3. Tax invoice for the differential amount, i.e., Rs.3.25 lakhs/km (contracted amount between FIRST PART and THIRD PART) minus Rs.2.94 lakhs per km (PSDF

approved rate), shall be raised by the THIRD PART on the FIRST PART and the payment shall be made by the FIRST PART directly to the THIRD PART.

- 2.4. All statutory recoveries made by the SECOND PART from the admissible claim of PACKAGE-B PROJECT executed by the THIRD PART shall be remitted to the respective statutory authorities by the SECOND PART within the due date prescribed by the relevant statute. FIRST PART and THIRD PART shall not be responsible for any delay in remitting statutory payments on time. SECOND PART shall furnish the remittance details of statutory payments/ tax deduction certificates to THIRD PART through FIRST PART.
- 2.5. FIRST PART shall be responsible for the recovery and remittance of statutory payment from the tax invoice raised by the THIRD PART on FIRST PART in respect of the differential amount as mentioned under para (2.3) above. SECOND PART shall not be responsible for any delay in remitting statutory payments on time. FIRST PART shall furnish the remittance details of statutory payments/ tax deduction certificates to THIRD PART.
3. Any amount of grant disallowed, if any, by the PSDF authority in respect of the supply, installation and commissioning of the Package B Project shall be borne by the FIRST PART and the disallowed amount of grant shall be refunded to SECOND PART by the FIRST PART on demand.
4. All other clauses mentioned in the Master Service Agreement dated 09-03-2019 between FIRST PART and THIRD PART shall be binding on FIRST PART and THIRD PART.
5. All other clauses mentioned in the MoU dated 18-05-2020 between the FIRST PART and SECOND PART shall be binding on the FIRST PART and SECOND PART.
6. The FIRST PART shall furnish to SECOND PART a monthly progress report of PACKAGE B PROJECT in the prescribed format and mode. Any deviations in scope

design, agreement rates, quantities and terms and conditions of the execution of the PACKAGE B PROJECT shall be identified and specifically informed to the FIRST PART by the SECOND PART. If there is any additional requirement of funding due to any deviation as stated above in PACKAGE B PROJECT; such additional funds shall be provided by the SECOND PART with the approval from competent authority.

7. SECOND PART shall monitor and review implementation of PACKAGE-B PROJECT. For this purpose, SECOND PART shall be competent to inspect PACKAGE-B PROJECT or documents pertaining to Package-B Project. FIRST PART shall carry out the suggestion or alterations as required by the SECOND PART subject to technical feasibility and the extra costs, if any, involved being met by the SECOND PART.
8. The FIRST PART shall identify payment milestones in respect of PACKAGE B PROJECT after consultation with the SECOND PART for release of payment. The physical milestones corresponding to payment milestones must be completed satisfactorily for release of payment. The FIRST PART shall have adequate conditions in the CONTRACT to fulfil the above condition as a pre-requisite for effecting periodical payments against the bills. Any subsequent changes or deviations from the milestones for payments may be permitted by the FIRST PART only after satisfying itself and the SECOND PART that such changes or deviations in the payment milestones are reasonable and expedient to the completion of Package B project. The SECOND PART shall reserve the right to direct changes to the milestones, if required, and such changes, if directed by the SECOND PART, shall be carried out by the FIRST PART based on merit and technical feasibility.
9. Payment Conditions and Insurance Cover will be in accordance with clauses (22) & (25) respectively of the MoU dated 18.05.2020 and its amendments.

#### 10. TERMINATION OF AGREEMENT

- i. This agreement shall stand terminated on termination of master agreement entered between first part and third part and MoU entered between First Part and Second



ii. The agreement may further also be terminated by mutual agreement between the parties.

IN WITNESS WHEREOF, all the Parties have put their hands on these presents of the Tripartite Agreement in the presence of witnesses.

1. Signed by Shri..... Managing Director for and on behalf of KSITIL (FIRST PART).
2. Signed by Shri....., Director (D, IT & HRM) for and on behalf of KSEBL (SECOND PART).
3. Signed by Shri....., Managing Director for and on behalf of BEL (THIRD PART)

WITNESSES:

1. ....
2. ....
3. ....

Schedule I

TRIPARTITE AGREEMENT No.....Dated.....

Administrative sanctions granted for projects forming part of Schedule II shall be annexed as part of this schedule.

List shall be updated and signed every time a new administrative sanction is include as part of this schedule.)

Details of Administrative Sanction Order	
1.	B.O.No.....

**SIGNATORIES:**

1 Signed by....., Managing Director, KSITIL and on behalf of KSITIL  
(FIRST PART)

2 Signed by ..... for and on behalf of Public Agency (SECOND PART)

3 Signed by .....for and on behalf of Contractor (THIRD PART)

**WITNESSES:**

1 .....

2 .....

Schedule II

TRIPARTITE AGREEMENT No..... Dated.....

1.	Name of the Project	Package B project of KFON project
2.	Work Order No & Date and Value	W.O No/LOA.....dated.....issued to BEL by KSITIL.
3.	Agreement No:.....& Date:.....	1. Master Service Agreement No.....dated.....executed between KSITIL and BEL. 2. Memorandum of Undertaking

4.	Funding approved by .....	Partly from Power System Development Fund (PSDF) and Party by KSEBL
5.	Date of commencement (Date of signing this Schedule)	

The FIRST PART hereby concur that the project shall be executed as per the Approved Detailed Project Report and Technical Sanction accorded.

**SIGNATORIES:**

4 Signed by ....., Managing Director, KSITIL and on behalf of KSITIL (FIRST PART)

5 Signed by ..... for and on behalf of Public Agency (SECOND PART)

6 Signed by ..... for and on behalf of Contractor (THIRD PART)

**WITNESSES:**

.....

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