

		<p>Normative availability.</p> <p>However, it is clarified that no Damages shall be payable for reduction in Availability on account of transmission constraint.</p>
17.	<p>Agreement for Procurement of Power (APP)</p> <p>Article 11.8 Taxes and duties</p> <p>11.8.1 The Parties expressly agree that the Tariff shall be inclusive of all taxes and duties, save and except the taxes and duties specified in Clause 11.8.2. It is further agreed that the Supplier shall pay all taxes and duties, including the taxes and duties specified in Clauses 11.8.2, in accordance with Applicable Laws.</p> <p>11.8.2 The Tariff and Incentives payable by the Utility under this Article 11 shall be exclusive of Service Tax, Electricity Duty, Value Added Tax or General Sales Tax, Custom Duty on Fuel or any replacement thereof, if applicable, and any Service Tax, Electricity Duty, Value Added Tax or General Sales Tax and Custom Duty on fuel thereon shall be paid by the Supplier and reimbursed by the Utility upon submission of necessary</p>	<p>Agreement for Procurement of Power (APP)</p> <p>Article 11.8 Taxes and duties</p> <p>11.8.1 The Parties expressly agree that the Tariff shall be inclusive of all taxes and duties. It is further agreed that the Supplier shall pay all taxes and duties, including the taxes and duties specified in Clauses 11.8.2, in accordance with Applicable Laws.</p> <p>11.8.2 The Tariff and Incentives payable by the Aggregator under this Article 11 shall be inclusive of Service Tax, Electricity Duty, Value Added Tax or General Sales Tax, Custom Duty on Fuel or any replacement thereof, if applicable, and any Service Tax, Electricity Duty, Value Added Tax or General Sales Tax and Custom Duty on fuel thereon shall be paid by the Supplier.</p> <p>11.8.3 Any payment to be made by the Aggregator shall be subject to any tax deduction at source, if required to be</p>

	<p>particulars by the Supplier.</p> <p>11.8.3 Any payment to be made by the Utility shall be subject to any tax deduction at source, if required to be made by the Utility as per Applicable Laws.</p>	<p>made by the Aggregator as per Applicable Laws.</p>
18.	<p>Agreement for Procurement of Power (APP) Article 11.9.3</p> <p>The Aggregator shall, within 30 (thirty) days of receipt of a Monthly Invoice in accordance with Clause 11.9.1 (the "Payment Due Date"), make payment of the amount claimed directly, through electronic transfer, to the nominated bank account of the Supplier, save and except any amounts which it determines as not payable or disputed (the "Disputed Amounts").</p>	<p>Agreement for Procurement of Power (APP) Article 11.9.3</p> <p>The Aggregator shall, within 32 (thirty two) days of receipt of a Monthly Invoice in accordance with Clause 11.9.1 (the "Payment Due Date"), make payment of the amount claimed directly, through electronic transfer, to the nominated bank account of the Supplier, save and except any amounts which it determines as not payable or disputed (the "Disputed Amounts").</p>
19.	<p>Agreement for Procurement of Power (APP) Article 11.11 Discount for early payment</p> <p>The Parties expressly agree that in the event the Utility pays the Tariff within 5 (five) days of the date of submission of the invoice thereof, it shall be entitled to deduct 1% (one per cent) of the amount comprising the Tariff by way of discount for early payment.</p>	<p>Agreement for Procurement of Power (APP) Article 11.11 Discount for early payment</p> <p>The Parties expressly agree that in the event the Aggregator pays the Tariff within 5 (five) days of the date of submission of the invoice thereof, it shall be entitled to deduct 2% (two per cent) of the amount comprising the Tariff by way of discount for early payment. However, in case the Aggregator pays the tariff after 5</p>

		days till Due Date, it shall be entitled to deduct 1% (one per cent) of the amount comprising the Tariff.
20.	Agreement for Procurement of Power (APP) Article 13 Payment Security: 13.1 Default Escrow Account and Deed of Hypothecation 13.2 Letter of Credit	Agreement for Procurement of Power (APP) Article 13 Payment Security: 13.1 Deleted 13.2 Letter of Credit
21.	Agreement for Procurement of Power (APP) Article 14.2 Settlement of UI charges 14.2.1 All payments due to or from the Supplier on account of any unscheduled interchange in terms of the UI Regulations (the "Unscheduled Interchange" or "UI") shall be solely to the account of and borne by the Supplier, save and except as provided in Clause 14.2.2 and 14.2.3.	Agreement for Procurement of Power (APP) Article 14.2 Settlement of UI charges 14.2.1 All payments due to or from the Supplier on account of any unscheduled interchange in terms of the DSM Regulations (the "Deviation Settlement Mechanism" or "DSM") shall be solely to the account of and borne by the Supplier.
22.	Agreement for Procurement of Power (APP) Article 21 Change in Law Detailed provisions w.r.t. Change in Law is available.	Agreement for Procurement of Power (APP) Article 21 Change in Law Change in Law shall be in accordance with the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 published in the Extraordinary Gazette No. 608 dated October 22, 2021 of the Central

		Government.
23.	<p>Agreement for Procurement of Power (APP)</p> <p>Article 25.4 Delayed payments.</p> <p>The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.</p>	<p>Agreement for Procurement of Power (APP)</p> <p>Article 25.4 Delayed payments</p> <p>The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.</p>
24.	<p>Agreement for Procurement of Power (APP)</p> <p>SCHEDULE –E Letter of Credit (Foot note)</p> <p>As provided in the Agreement for Procurement of Power, this amount shall be equal to 20% of the annual Capacity Charge payable by the Utility to the</p>	<p>Agreement for Procurement of Power (APP)</p> <p>SCHEDULE –E Letter of Credit (Foot note)</p> <p>As provided in the Agreement for Procurement of Power, this amount shall be equal to 1 month energy bill payable by the Utility to the Supplier for Normative</p>

	Supplier for Normative Availability of the power station during a period of one month. The Letter of Credit shall be modified and renewed once every year to reflect the revision in Minimum Monthly Payment in accordance with the provisions of the Agreement.	Availability of the power station. The Letter of Credit shall be modified and renewed once every year to reflect the revision in Average Monthly Payment for previous year.
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3.17. The need for Power Procurement of 1500 MW RTC Power is stated below:

1. Out of the approved quantum of 1500 MW by Hon'ble TNERC under Pilot Scheme -II, the untied quantum is 1100 MW.
2. Power Supply Agreement executed under Pilot Scheme-I for supply of 550 MW expiring during March 2022.
3. Unavailed quantum of power is approximately 500 MW from the Intra State long term generators under MOD.
4. On the whole, the shortfall in quantum of RTC power is 2150 MW.

In order to meet the power requirement and with an objective of optimization of power purchase cost, TANGEDCO to start with intends to procure 1500 MW RTC power through competitive bidding process on medium term contract from Power Stations set up on Finance, Own and Operate (FOO) for a period of five years from April 2022 to March 2027 appointing M/s.PTC as an Aggregator.

3.18. Approval of the Board through circulation is under process for floating Medium Term Tender for procurement of 1500 MW RTC power for a period of

five years through the Aggregator M/s.PTC India Ltd under FOO (Finance, Own, Operate) Guidelines.

3.19. The floating of medium term tender is as per the MoP FOO (Finance, Own and Operate) guidelines through transparent competitive bidding process and approval of the State Commission has to be obtained under Section 63 of Electricity Act, 2003.

4. Additional Affidavit filed on 7.2.2022:-

4.1. The MP No.48 of 2021 filed on 17.12.21 before the Commission seeking approval for the proposed deviations in the Model Bidding Documents and floating of Medium Term Tender for procurement of 1500 MW RTC power for a period of five years through the Aggregator M/s.PTC India Ltd under FOO (Finance, Own, Operate) Guidelines.

4.2. The Commission vide its daily order dated 21.12.21 ordered to go ahead with the process of inviting tender for procurement of power.

4.3. M/s.PTC India Ltd vide its letter dated 20.12.21 suggested to retain the deviations proposed in the clauses with respect to Substitute supply, penalty charges and delayed payments as per the original Model Bidding Documents and TANGEDCO had accepted PTC's suggestion and incorporated the same in the

model bidding documents and floated the tender in anticipation of approval from Commission.

4.4. TANGEDCO floated medium term tender for procurement of 1500 MW RTC power for a period of five years through the Aggregator M/s.PTC India Ltd under FOO (Finance, Own, Operate) Guidelines with the proposed deviations sought in MP No.48 of 2021.

4.5. The pre-bid meeting for the above tender held on 03.01.2022 through online and offline to clarify the queries/doubts raised in the Model Bidding Document (MBD) with the generators. 11 Nos. persons came in person for the meeting and around 26 Nos. were participated through online.

During the meeting, TANGEDCO had clarified the queries/doubts raised by the generators in the Model Bid Documents and some generators had opposed the deviations proposed by TANGEDCO in the Model Bid Documents (MBD) and suggested to retain as per the original Bid Documents.

4.6. TANGEDCO has proposed the following deviations in the tender documents floated for procurement of 1500 MW power under medium term and to be issued as Corrigendum.

1. Fixed Charges: TANGEDCO in line with the Pilot Scheme-II proposed Fixed Charge as constant for Five Years. But the generators opposed stating that Pilot Scheme-II is for 3 years and the present tender is for a period of five years. Hence, the generators suggested that Fixed Charge

cannot be constant for five years and requested for escalation as per MBD. From the past, it is ascertained that the cost of domestic coal has changed once in three years period.

2. Condition Precedent: In order to meet out the demand during forthcoming summer, TANGEDCO has fixed the Appointed Date as 01.04.2022 in the MBD.

As per MBD, the time period for fulfilment of the condition precedent is 90 days.

But the finalization of the tender is expected in the month of January /February'2022, therefore the generators requested for postponement of Appointed Date in order to avail the condition precedent time period as prescribed in the MBD.

TANGEDCO has not accepted the above. However incorporated the Conditions Precedent timeline as "90 days from the date of the Agreement but not later than 1st April, 2022"

3. Performance Security: As per MBD, the Performance security validity is for six months but TANGEDCO proposed the validity upto the contract period which has not been accepted by the generators and requested to be in line with the MBD. TANGEDCO has proposed validity for six months and amount payable by the procurer for the supply made by the supplier will be treated as deemed Performance Security in line with MBD.
4. Damages: TANGEDCO has clarified that no Damages shall be payable for reduction in Availability on account of transmission constraint as requested by the generators.

4.7. Many generators raised queries in the MBD and sought clarifications through emails apart from pre-bid meeting for which TANGEDCO has to upload

its replies in the DEEP-e-PORTAL. The queries raised and TANGEDCO response is enclosed with the Additional Affidavit.

4.8. The corrigendum for the deviations proposed in the MBDs is enclosed with the Additional Affidavit.

4.9. From the outcome of the pre-bid meeting it is expected that more generators are likely to participate in the tender. In order to get competitive rates, TANGEDCO has accepted the genuine request of the generators.

5. Additional Affidavit based on Daily Order dated 15-02-2022 and 22-02-2022:-

5.1. TANGEDCO floated medium term tender for procurement of 1500 MW RTC power for a period of five years through the Aggregator M/s.PTC India Ltd under FOO (Finance, Own, Operate) Guidelines with the proposed deviations sought in MP No.48 of 2021 on 20.12.21 in anticipation of approval from the Commission.

5.2. The Commission vide its daily order dated 21.12.21 ordered to go ahead with the process of inviting tender for procurement of power.

5.3. TANGEDCO had filed additional affidavit on 07.01.2022 intimating the queries/doubts raised by the generators in the Model Bid Documents during the pre-bid meeting for the above tender held on 03.01.2022 through online and

offline and TANGEDCO response for the queries and the same was uploaded in the DEEP Portal.

5.4. The technical bid of the medium-term tender was opened on 31.01.2022 at 14.30 Hrs. Eleven bidders had participated in the tender and the details are tabulated below:

Sl. No.	Name of the Bidder	Location	Offered Capacity (MW)
1	GMR Kamalanga Energy Limited	Kamalanga, Odhisha	150
2	Jindal Power Limited	Tanmar, Raigarh, Chattisgarh	200
3	MB Power (Madhya Pradesh Limited)	Anuppur, Madhya Pradesh	175
4	IL&FS Tamil Nadu Power Company Ltd.	Cuddalore, TN	550
5	Shree Cement Limited	Ajmer, Rajasthan	285
6	DB Power Limited	Janjgir-Champa, Chhattisgarh	200
7	RKM Power Gen.Pvt. Ltd.	Janjgir-Champa, Chhattisgarh	350
8	Raipur Energen Ltd.	Raipur, Chhattisgarh	300
9	Sembcorp Energy India Ltd.	Nellore, Andhra Pradesh	150
10	OPG Power Generation Pvt. Ltd.	Gummidipondi, Tamil Nadu	300
11	Surya Dev Alloy and Power Pvt. Ltd.	Thiruvallur, Tamil Nadu	104
	Total		2764

5.5. As per the provisions of RFQ and RFP, the responsiveness check of technical bids submitted by all the bidders was carried out on 11 bidders

participated in the tender. All the eleven bids were checked for compliance as per the requirement of qualification prescribed in RFQ and RFP. All the 11 bidders participated in the tender were selected as qualified bidders.

5.6. TANGEDCO had intimated all 11 bidders as qualified bidders on DEEP Portal on 09.02.2022 @ 11.00 Hrs and the price bid of 11 bidders were downloaded from DEEP Portal and the details are tabulated below:

Sl. No.	Name of the Bidder	Bid Quantity (in MW)	Fixed Cost	Cost of Generation	Cost of Transmission Charges	Cost of Transmission Losses	Total Cost
			(Rs. / Kwh)				
1	GMR	102	2.02	2.02	0.44	0.18	4.66
2	IL&FS	430	2.135	2.135	0.44	0.19	4.99
3	MB Power	175	2.25	2.25	0.44	0.20	5.14
4	Jindal Power	200	2.29	2.29	0.44	0.20	5.22
5	RKM Powergen	350	2.37	2.37	0.44	0.22	5.40
6	Raipur Energen	300	2.5	2.5	0.44	0.22	5.66
7	DB Power	100	2.62	2.62	0.44	0.23	5.91
8	OPG Power	125	2.85	2.85	-	-	5.70
9	Suryadev	104	2.95	2.95	-	-	5.90
10	Sembcorp	100	3.1	3.1	0.44	0.27	6.91
11	Shree Cement	100	3.63	3.63	0.44	0.31	8.01
	Total	2086					

5.7. The process of e-Reverse Auction was started at 13.00 Hrs on 09.02.2022 in the DEEP Portal with lowest tariff of Rs.4.66/Kwh (Inclusive of Transmission Charges and Losses). On closing of Reverse Auction Event, three Bidders DB Power, MB Power and Jindal Power had matched L1 rate of Rs.4.66/Kwh.