

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT
GANDHINAGAR**

PETITION NO.....OF 2021

IN THE MATTER OF:

MISCELLANEOUS PETITION UNDER SECTION 86 READ WITH SECTION 63
OF THE ELECTRICITY ACT 2003 FOR APPROVAL OF DEVIATIONS FROM
THE MINISTRY OF POWER GUIDELINES DATED 30.01.2019 FOR
PROCUREMENT OF ELECTRICITY FOR MEDIUM TERM FROM POWER
STATIONS SET UP ON FINANCE, OWN & OPERATE BASIS

IN THE MATTER OF:

Gujarat Urja Vikas Nigam Limited

Sardar Patel Vidyut Bhawan

Race Course, Vadodara 390007

Gujarat

Petitioner

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For Gujarat Urja Vikas Nigam Ltd

Place – Vadodara, Gujarat

Date – 01-06-2021



**BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION, GANDHINAGAR**

Filing No:

Petition No:

IN THE MATTER OF

**MISCELLANEOUS PETITION UNDER SECTION 86 READ WITH
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DEVIATIONS FROM THE MINISTRY OF POWER GUIDELINES
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OWN & OPERATE BASIS**

PETITIONER

Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan,
Race Course,
Vadodara - 390 007



MOST RESPECTFULLY SHOWETH:

- 1) The Petitioner, Gujarat Urja Vikas Nigam Limited (herein after referred to as "GUVNL") is a Company incorporated under the provisions of the Companies Act, 1956 with registered office at Sardar Patel Vidyut Bhawan, Race Course, Vadodara (Gujarat). The Petitioner is engaged in the activities of bulk purchase and bulk supply of electricity for & on behalf of its four Distribution companies viz. Uttar Gujarat Vij Company Ltd. (UGVCL), Madhya Gujarat Vij Company Ltd. (MGVCL), Dakshin Gujarat Vij Company Ltd. (DGVCL) and Paschim Gujarat Vij Company Ltd. (PGVCL) and is a licensee for the said activities under the provisions of the Electricity Act, 2003.

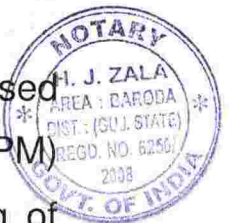
2) The Petitioner have been tying up power on long term, medium term as well as short term basis from time to time in order to ensure availability of adequate power as per the requirement at competitive rates.

2.1 As on 30.04.2021, GUVNL has tied up capacity of 18,453 MW from Conventional sources on long / medium term basis out of which around 2,645 MW capacity is Gas based capacity. In order to meet the peak power demand, operation of Gas based stations is necessary however presently cheaper gas is available for operating only meagre capacity. With international market prices of RLNG being very high, this capacity cannot be utilized fully as generation cost is very high.

2.2 State has implemented Kisan Suryodaya Yojana (KSY) with an objective to enable utilization of generation from upcoming solar capacity for meeting power demand of agriculture sector during day period instead of present arrangement of supplying power to Agriculture sector under various groups during day & night period.

2.3 With implementation of scheme, State has witnessed increase in power demand during day period (5 AM–9 PM) due to shifting of Agriculture load. Further, with shifting of additional load in phased manner in upcoming period, the day power demand to be catered by State DISCOMs would further increase.

2.4 Generation from Renewable projects is infirm in nature and depends upon availability of wind / solar. State is having 8192 MW wind capacity operational out of which capacity of GUVNL / DISCOMs is 4219 MW. Wind generation is mainly during night hours and availability is very less / unavailable during peak demand hours. Therefore, wind generation cannot be considered for meeting peak power requirement.



Similarly, solar generation during day hours is parabolic in nature and increases in gradual manner reaching upto full capacity by noon and reduces rapidly after around 3:00-3:30 PM. Therefore, thermal generation capacity is required to be operated for balancing the grid requirement.

- 3) It is humbly submitted that in order to meet the power requirement of its subsidiary DISCOMs and with an objective of optimization of power purchase cost, the Petitioner intends to procure power through competitive bidding process on medium term basis for the period 1st September 2021 to 31st July 2023.
- 4) It is further submitted that Ministry of Power vide letter dated 29.01.2019 has issued revised Model Bidding documents and vide resolution dated 30.01.2019 has notified Revised Guidelines for Procurement of Electricity from Medium Term from Power Stations set up on Finance, Own & Operate (FOO) basis which provides as under:
 - 4.1 The aforesaid Guidelines provides for Model Bidding Documents comprising RFQ, RFP & PPA.
 - 4.2 The guidelines would be applicable for purchase of power with a contract period between one and five years.
 - 4.3 The tariff determined through DEEP e-Bidding process using e-reverse Auction based on these Guidelines comprising the Model Bidding Documents shall be adopted by the Appropriate Commission in pursuance of the provisions of section 63 of the Act.
 - 4.4 As per para (4) of Ministry of Power Guidelines dated 30.01.2019 (Annexure A to petition), any deviation from the Model Bidding Documents shall be made only with the prior approval of the Appropriate Commission.

Provided, however, that any project specific modifications expressly permitted in the Model Bidding Documents shall not



be construed as deviations from the Model Bidding Documents.

The copy of Ministry of Power Letter dated 29.01.2019 & Guidelines dated 30.01.2019 is placed herewith as Annex-A.

- 5) It is humbly submitted that the Petitioner vide letter no. 419 dated 06.04.2021 has apprised Hon'ble Commission regarding the initiation of bid invitation process for tie up of 1000 MW power on medium term basis in accordance with Ministry of Power Guidelines dated 30.01.2019. (the copy of GUVNL's letter dated 6.04.2021 is placed herewith at Annexure-B)
- 6) It is humbly submitted that the Petitioner has published a Notice Inviting Tender in 2 national newspapers on 06.04.2021. Further, Petitioner has also uploaded the Draft Bid Documents (RFQ, RFP & PPA) on DEEP Portal of Ministry of Power and Petitioner's website to accord wider publicity. As per the Guidelines, the Petitioner has invited the suggestions / queries from the prospective bidders. The Petitioner has received queries / comments as well as suggestions from various bidders. The Petitioner has released the Clarification to the Queries of interested bidders on 31.05.2021. (the copy of Notice Inviting Tender is placed herewith at Annexure-C and Clarification issued with regard to queries received from prospective Bidders is attached herewith at Annexure-D)
- 7) The Petitioner has prepared draft bid documents based on Model Bid Documents of Ministry of Power. However, the Petitioner intends to make certain deviations to Model Bidding Documents in order to ensure commercial clarity with regard to contractual provisions and in order to safeguard the interest of the Petitioner. Further, certain modifications in the Bid Documents are proposed in order to align contractual terms in accordance with prevailing Rules & Regulations and to avoid cost implication on the Petitioner.



8) The Petitioner is seeking following deviations / modifications from the model bidding documents for simplification of commercial aspects and to optimize the overall cost of power procurement.

a. **Delivery Point** – With regard to Delivery Point, clarification has been added that for Projects connected with Gujarat State Transmission Utility (STU) network i.e. GETCO – Delivery Point shall be Interconnection of Generator & Gujarat STU in intra-state Grid where supply is received by Utility and for Projects connected to network other than Gujarat State Transmission Utility i.e. GETCO – Delivery Point shall be Interconnection Point of Central Transmission Utility (CTU) with Gujarat STU network in intra-state Grid where supply is received by Utility.

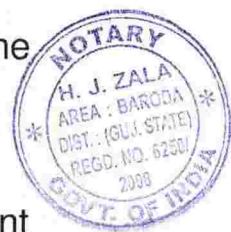
It is to submit that the above modification is proposed in order to have clarity with regard to evaluation of bids from projects connected at different network and to have landed cost working of all Projects at equal interconnection point for comparison and to have parity for evaluation of bids for projects in Gujarat or outside Gujarat.

b. **Financial Capacity / Net Worth criteria for pre-qualification** –

As per the Model Bidding Documents, the Bidder shall have a minimum Net Worth (the “Financial Capacity”) equivalent to Rs. 1 Crore per MW of the capacity the Bidder is willing to Bid, at the close of the preceding financial year.

In view of various stressed power plants having merchant capacity willing to participate, in the tender invited by Power Finance Corporation in Jan-2020 for aggregated power of 2500 MW under Pilot scheme-II, no financial capacity was solicited from bidders to encourage participation.

Accordingly, the Petitioner proposed to take the deviation to the Model Bidding Documents by removing the financial capacity /



Net Worth criteria in line with Pilot Scheme II of Govt. of India. It is to humbly submit that for ensuring adequate risk coverage regarding supply commitment under the contract, Bidder / Supplier would be required to submit Bid Security and Performance Security to Utility (i.e. Petitioner).

c. Right to accept or reject any Bid / Application – GUVNL at present is having litigations pending with Generator(s) regarding non-fulfilment of contractual obligations which are pending at various forum. Accordingly, allowing / making eligible such applicant(s) for participation under this tender may compromise/dilute the stand taken by the Petitioner (GUVNL) before regulatory forum and judicial body and may pose consequential implications.

In order to avoid any implications under the pending litigations of the Petitioner (i.e. Utility), an additional clause has may be incorporated in the Draft Bid Documents under RFQ (as 2.6.2 (c) clarifying that the Petitioner shall have a discretion to accept / reject such bids at qualification stage.

d. Extension of Contract Period – Clause 3.2 of PPA providing for damages to be paid by the Utility (i.e. Petitioner) to Supplier in case of non extension of contract after original period may be deleted as in the Tender to be floated by the Petitioner, the contract period is pre-defined and any extension would be mutual and in accordance in terms laid out in the Bid Documents.

e. Transmission Charges, Losses & Open Access: The bid documents may be appropriately revised clarifying that the Supplier (incl. Trading Licensee, in case of a Trader) shall be responsible for timely making application for Short / Medium Term open Access, for & on behalf of the Utility. Further, for ensuring uniformity in transmission charges & losses to be quoted by bidder(s), it may be clarified that for projects connected with other than Gujarat STU network, the Petitioner shall pre-specify the

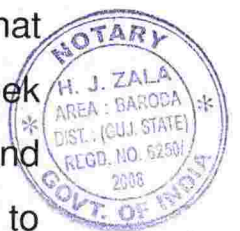


ISTS transmission charges (in Rs/unit) (based on prevailing Medium Term Open Access charges grossed up at 85%) and transmission losses for ISTS network (in %) to be quoted by the Bidder while submitting the bid. Whereas, the transmission charges & losses to be quoted by Projects connected with Gujarat STU shall be assumed as NIL as such projects would not be incurring transmission charges & losses of ISTS network for supply of power to the Petitioner.

It is to humbly submit that the above clarification & modification would enable evaluation of bids from various Projects at uniform level, provide transparency with regard to applicability of ISTS transmission charges as well as pass through of the transmission charges & losses during the contract period in addition to clarity on responsibility of open access.

f. **Payment Security Mechanism:** The Model Bidding Documents provides for establishment of Default Escrow Agreement and Deed of Hypothecation by the Petitioner in addition to Letter of Credit equal to 20% of annual capacity charge payable by Utility for a month.

In order to help with avoiding the implementation of multiple payment security mechanism under the arrangement and avoid associated cost thereof specifically taking into consideration that contract period is 23 months only, the Petitioner intends to seek deviation towards removal of Default Escrow Agreement and Deed of Hypothecation as payment security mechanism to Supplier / Bidder and in lieu of the same has increased the amount of Letter of Credit equivalent to one month energy bill at normative availability to ensure adequate risk coverage to Supplier.



g. **Force Majeure** – Various provision(s) with regard to Force Majeure conditions and sharing of cost implications thereof has

been deleted in order to avoid any unfettered cost implication on Utility (i.e. Petitioner) as the same would be more relevant in power tie up on long term basis. The details of clauses which are proposed to be deleted is as under:

- i. Clause 17.2 (d) – regarding delay or failure of an overseas contractor to deliver equipment in India – the clause may be deleted as the same would not be relevant in the present tender proposed to be floated by the Petitioner wherein participation would be pre-dominantly from operational projects.
- ii. Clause 17.4 (a) – any Change in law event shall be considered as Political Event under Force Majeure if consequences thereof cannot be dealt with under Article 21 (Change in Law) and its impact in financial terms exceeds the sum specified in Article 21. To avoid consequential implication on the Petitioner due to claim referring to such events, the Petitioner intends to delete the same.
- iii. Clause 17.7.1 (b) – upon occurrence of a Political Event, all Force Majeure costs attributable to Political event shall be reimbursed to Supplier by the Utility – the Petitioner hereby seeks a deviation and clarifies that such costs shall be borne by Supplier only and the Utility (i.e. Petitioner) shall not be required to bear the same.
- iv. Clause 17.10 – Relief for Unforeseen Events provides that upon occurrence of an unforeseen event, parties may refer the matter to Conciliation Tribunal for appropriate relief / remedy including costs, expense, revenues of Power Station etc – allowing relief to Supplier on account of unforeseen events may lead to dispute / litigations and consequential impact including cost on the Petitioner (i.e. Utility). Accordingly, since the tender is being invited on medium term basis and risk /obligation with regard to fuel arrangement being on Supplier / Bidder, the Petitioner intends to take a deviation and delete the above provision.

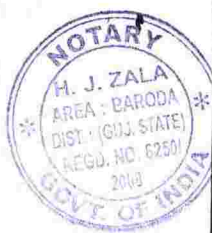


h. **Change in Law** – In case Supplier suffers an increase / reduction in costs or reduction / increase in net after-tax return or other financial burden due to Change in law, the aggregate financial effect of which exceeds the higher of Rs. 1 Crore and 0.1% of the Capacity Charge in any Accounting Year, Supplier may notify the Utility and propose amendments to PPA so as to place the Supplier in the same financial position as it would have enjoyed had there been no such Change in Law. Further, Parties shall endeavor to establish a NPV of the net cash flow and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, so as the NPV of the net cash flow is the same as it would have been if no Change in Law had occurred.

As the cost reimbursement as well as adjustments for NPV working may lead to complexity and dispute in calculation, the Petitioner intends to modify the change in Law provision in line with the provisions adopted for Short Term tender (for less than 1 year) in order to simplify pass through of cost and delete the provision regarding Protection of NPV (Article 21.3 of Model Bidding Documents) & Restriction on Cash compensation (Article 21.4 of Model Bidding Documents).

i. **Dispute Resolution** – As per Model Bidding Documents, dispute if not settled mutually shall be referred to Conciliation and then Arbitration. While any dispute under applicable laws if required to be adjudicated by Commission, be submitted before Commission.

In order to ensure adjudication of disputes under the contractual arrangement by Hon'ble Gujarat Electricity Regulatory Commission, the Petitioner intends to delete the provision with regard to conciliation and arbitration and clarified that any dispute if not resolved amicably may be referred to adjudication by Hon'ble Gujarat Electricity Regulatory Commission for all purpose.

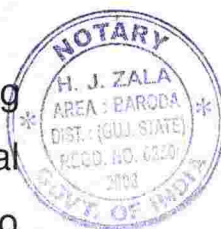


j. **Non-Availability as a consequence of shortage of Fuel:** As per Model Bidding documents, in case of non-availability as a consequence of shortage of fuel caused by an event of Force Majeure, for the purpose of Fixed Charge payment availability to extent of 30% of Non-Availability shall be considered. As the responsibility as well as risk for assured supply of fuel/arrangement thereof is on the Supplier/Bidder, the provision with regard to deemed availability to the extent of 30% for payment of fixed charge to Supplier may be deleted.

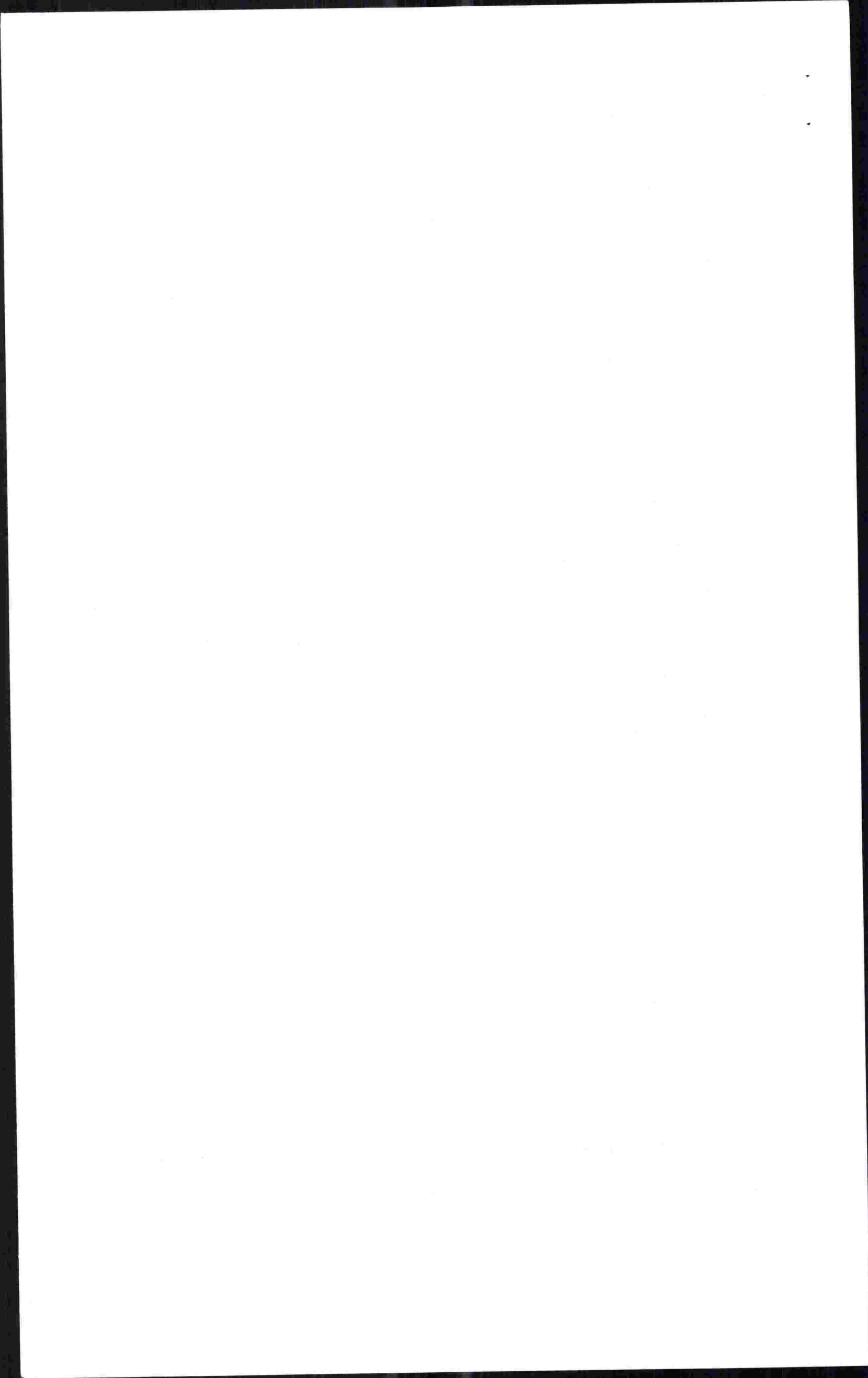
k. **Indexation / escalation of Fixed Charge as per WPI :** As per Model Bidding documents, Base Fixed Charge quoted by the bidder shall be revised annually to reflect 20% of WPI variation occurring between Jan month immediately preceding the Bid Due Date and Jan month for the accounting year for which revision is undertaken.

As the contract period is 23 months only, the Petitioner proposes to take a deviation and delete the above provision with regard to escalation in Fixed Charge and add clarification that Fixed Charge shall remain constant for the entire contract period. It is to humbly submit that the same is in line with the Tender Documents floated by PFC under Pilot Scheme II for 2500 MW power under Medium Term basis.

9) It is to humbly submit that the Petitioner intends to add following new provisions to the Bid Documents in order to have commercial clarity with regard to cost implication due to compliance to environment norms, if any and sharing of risk towards transmission cost burden.



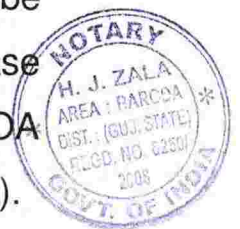
a. **Impact of additional expenditure due towards compliance to revised Environmental norms (Clause 5.12)** – the Petitioner through this provision intends to clarify that any impact on Tariff on account of compliance to revised environmental norms shall be on account of Supplier / Trader at all times during the contract



period and the same shall not qualify for adjustment in Tariff under Change in Law provisions. It is to humbly submit that since the tender to be invited by the Petitioner being on Medium Term Basis on Lumpsum Tariff wherein selection would be on L1 basis, the above provision may be incorporated in order to have parity inter-se bidders with regard to cost pass through during the contract tenure after selection.

- b. **Cost of Transmission Charges (Clause 12.6)** - Model Bidding Documents provides that Cost of Transmission Charge shall be a part of Base Variable Charge which would be payable to Supplier by Utility as per actual despatch of electricity. While as per the CERC Sharing of Inter-State Transmission Charges and Losses Regulation 2020, the bill for transmission charges for Medium Term Open Access would be raised on the Buyer i.e. the Petitioner while in case of flow of power under Short Term Open access no additional charges would be payable in case of application of open access on behalf of Utility i.e. the Petitioner.

Accordingly, the Petitioner proposed to incorporate a new provision (Clause 12.6) to clarify that in case the Utility schedules less power than availability actually declared by Supplier, Utility shall reimburse/ adjust the cost of transmission charge to the extent of normative availability or actual availability whichever is lower. Further, it is proposed to clarify that Supplier shall be responsible for applying open access on behalf of Utility. In case of power flow under STOA, transmission charges towards MTOA would not be payable to Supplier by Utility (Clause 5.11 of PPA).



The linking of recovery of transmission charges will ensure declaration of adequate availability by the Supplier and avoid cost burden on the Utility (the Petitioner) towards transmission charges in case project is unavailable for the Utility (Petitioner).

The list of deviations & modifications along with the detailed reasons / rationale for modifications is attached herewith at Annexure-E.

The draft bid documents (RFQ, RFP & PPA) incorporating the above deviations is attached herewith at Annexure-F.

10) In accordance with the Ministry of Power Guidelines, the Petitioner has filed the present petition for approval of bidding documents and the deviations to the Guidelines for initiating the tender process.

11) It is humbly submitted that Hon'ble Commission may accord approval to the Draft Bidding Documents along with the proposed deviations as well as modifications in order to enable the Petitioner to initiate the process of inviting tender.

PRAYER

The Petitioner most respectfully prays to the Hon'ble Commission;

- a) To admit this Petition.
- b) To approve the deviations from Guidelines dated 30.01.2019 including modifications as proposed by Petitioner as per details stated in the present petition
- c) To approve the Draft Bidding Document (RFQ, RFP & PPA) annexed with the Petition.
- d) To condone any inadvertent omissions / errors / shortcomings and permit the petitioner to make minor addition / change / modification / alter this filing and make further submissions as may be required at a future date
- e) To crave relief for filing any further submissions
- f) Pass any other Order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case, to avoid further delay and in the interest of justice.



Date: 01.06.2021

Place: Vadodara

DECLARATION

Declaration that subject matter of the Petition has not been raised by the Petitioner before any other competent forum and that no other competent forum is currently seized of the matter or has passed any order in relation thereto.



f Gujarat Urja Vikas Nigam Limited
PETITIONER

01.06.2021
Date: 31.05.2021

Place: Vadodara



**BEFORE THE GUJARAT ELECTRICITY REGULATORY
COMMISSION, GANDHINAGAR**

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OPERATE BASIS.

PETITIONER

Gujarat Urja Vikas Nigam Limited
Sardar Patel Vidyut Bhavan,
Race Course, Vadodara - 390 007 Fax: 0265-2344543

AFFIDAVIT

Sr. No. 12817
Date: 116 / 2021

I, Sanjay Mathur, son of Shri. R. K. Mathur, aged about 45 years resident of
Vadodara do hereby solemnly affirm and state as under:

1. I am Chief Finance Manager working in Gujarat Urja Vikas Nigam Limited and am well conversant with the facts of the case and able to swear to the present Affidavit.
2. I, on behalf of the Petitioner, Gujarat Urja Vikas Nigam Limited have gone through the contents of the accompanying Petition and say that the contents stated therein are based on the records of Petitioner maintained in normal course of business.


DEPONENT

VERIFICATION:

I, the Petitioner above named do hereby verify that the contents of my above Affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from.

Identified before me.

Date: 01.06.2021
Place: Vadodara



My Commission Expires
on 04/06/2023


DEPONENT

Solemnly Affirmed/Declared
Sworn Before Me by Sanjay Mathur

H. J. ZALA
NOTARY (Govt. of INDIA)



Annexure **A**

No. 23/17/2013-R&R-Vol-VI (Part 2)
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi, the 29th January, 2019

To

1. The Chairperson, Central Electricity Authority, Sewa Bhavan, R. K. Puram, New Delhi.
2. The Secretary, Central Electricity Regulatory Commission (CERC)/FOR, Chanderlok Building, Janpath, New Delhi.
3. Principal Secretaries/Secretaries (Power/Energy) of all State Governments/UTs.
4. Secretaries of all State Electricity Regulatory Commissions(SERCs)/JERCs
5. Chairman/CMDs of all PSUs under administrative control of Ministry of Power.
6. CMDs/MDs of Discoms/Gencos of all State Governments.
7. DG, Association of Power Producers(APP), New Delhi

Subject: Revised Guidelines and Model Bidding Documents (MBDs) for procurement of electricity for Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis – Reg

Sir/Madam,

I am directed to say that the Model Bidding Documents for procurement of electricity by Distribution Licensees for Medium Term from power stations set up on Finance, Own and Operate (FOO) basis, through competitive bidding process were issued under the provisions of Section 63 of the Electricity Act, 2003 on 29th January, 2014. Guidelines in this regard were also issued on 10th February, 2014. These Model Bidding Documents and Guidelines were amended on 20th August, 2015. These Guidelines and Model Bidding Documents were further revised in January 2017 to introduce e-bidding and e-reverse auction.

2. Coal linkage Allocation Policy for Power Sector known as 'Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India' (**SHAKTI Policy**) was issued by the Ministry of Coal on 22nd May 2017. Under the SHAKTI scheme, use of linkage coal has also been allowed in Medium term power procurement.

3. Subsequently, an Advisory was issued by Ministry of Power on 16th November 2017 on introduction of provisions of SHAKTI (Scheme for Harnessing and Allocating

JKL

Koyala (Coal) Transparently in India) in procurement of power for Medium Term by distribution licensees. It was advised that during the pendency of the approval and notification of the revised MBDs for procurement of power on Medium term basis, the distribution licensees who are willing to invite bids for procurement of power on Medium Term basis in line with SHAKTI Policy, may carry out appropriate modifications in the existing MBDs for Medium Term procurement of power issued on 16th January 2017, and obtain the approval of the Appropriate Commission.

4. Now, in accordance with the provisions of Para B (I), B (III) & B (IV) of SHAKTI Policy, Ministry of Power has revised bidding documents for Medium Term Procurement of Power i.e. **Standard Bidding Document** (comprising of both the Model Request for Qualification and Model Request for Proposal) and the **Model Agreement for Procurement of Power** (collectively referred as '**Model Bidding Documents**') and enclosed herewith. The Guidelines in this regard, are being issued separately.

5. The link for the e-Bidding Portal shall be made available at the website of PFC Consulting Limited (www.pfcclindia.com) and shall also be available on the website of Ministry of Power (www.powermin.nic.in).

6. The soft copy of the Model Bidding Documents is available at the website of Ministry of Power i.e. www.powermin.nic.in under "Current Notices".

Yours faithfully,



(Debranjana Chattopadhyay)
Under Secretary to Govt. of India
Tele No. 2373 0265

Copy to:

1. All JSs of Ministry of Power/JS&FA & Economic Adviser, Ministry of Power
2. All Directors/DSs of Ministry of Power

Copy for information to: PS to MoSP(I/C) for Power, & NRE, PPS to Secy.(P), PPS to AS(SNS), PS to CE(RR & OM), PS to Dir(R&R)

Copy to: In-charge, NIC Cell for uploading on MOP's website under "Current Notices".

3. मॉडल बोली दस्तावेजों को शामिल करते हुए इन दिशा-निर्देशों के आधार पर ई-रिवर्स ऑक्शन का प्रयोग करते हुए डीईईपी ई-बिडिंग प्रक्रिया के माध्यम से निर्धारित प्रशुल्क अधिनियम की धारा 63 के प्रावधानों के अनुसरण में उपयुक्त आयोग द्वारा अपनाया जाएगा।
4. वितरण लाइसेंसियों द्वारा मॉडल बोली दस्तावेजों से कोई विचलन उपयुक्त आयोग के पूर्व अनुमोदन से ही किया जाएगा। बशर्ते यह कि मॉडल बोली दस्तावेजों में अभिव्यक्त रूप से अनुमति दिए गए किसी परियोजना विशेष संशोधनों का अर्थ मॉडल बोली दस्तावेजों से विचलन के रूप में नहीं लगाया जाएगा।
5. कोयला मंत्रालय द्वारा जारी की गई नई कोयला ब्लॉक नीलामी नीति को ध्यान में रखते हुए, विद्युत मंत्रालय के दिनांक 16 अप्रैल, 2015 के संकल्प सं. 23/9/2015-आरएंडआर के माध्यम से डिजाइन, निर्माण, वित्त, स्वामित्व और प्रचालन (डीवीएफओओ) आधार पर स्थापित ताप विद्युत केंद्रों से विद्युत की अधिप्राप्ति के दिशा-निर्देशों में किए गए संशोधन **यथाआवश्यक परिवर्तनों** सहित, वित्त, स्वामित्व और प्रचालन (एफओओ) आधार पर स्थापित विद्युत स्टेशनों से मध्यकालिक अवधि के लिए विद्युत की अधिप्राप्ति पर भी लागू होंगे।

वितरण लाइसेंसियों द्वारा, 17 जनवरी, 2017 को जारी मानक बोली दस्तावेजों सहित विद्युत की अधिप्राप्ति के लिए बोली प्रक्रिया द्वारा प्रशुल्क के निर्धारण हेतु 16 जनवरी, 2017 को जारी किए गए दिशा-निर्देशों को निरसित किया जाता है। बशर्ते यह कि इस तारीख से पूर्व हस्ताक्षर किया गया कोई भी करार या की गई कोई भी कार्यवाई उक्त दिशा-निर्देशों के ऐसे निरसन द्वारा प्रभावित नहीं होगी और इसके अंतर्गत निरसित दिशा-निर्देशों द्वारा शासित होती रहेंगी।

घनश्याम प्रसाद, मुख्य अभियंता

MINISTRY OF POWER

RESOLUTION

New Delhi, the 30th January, 2019

Revised Guidelines for Procurement of Electricity for Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis

No. 23/17/2013-R&R-Vol-VI (Part 2).—Whereas the Central Government is engaged in creating an enabling policy and regulatory environment for the orderly growth of generation of electricity in accordance with the provisions of the Electricity Act, 2003 (the "Act");

Whereas it is incumbent upon the Central Government, State Governments, Electricity Regulatory Commissions and the distribution licensees to promote competition in the procurement of electricity through competitive and transparent processes;

Whereas the Central Government has, after extensive consultations with various stakeholders and experts, evolved a model contractual framework for procurement of electricity by the Distribution Licensees from power producers who agree to construct and/or operate power generating stations set up on 'Finance, Own and Operate ("FOO") basis for medium term power or from Traders/ Distribution Licensees having back to back arrangements with power producers.

Whereas, The Central Government had, therefore vide its letter No. [No.23/17/2013-R&R] (Vol-II) dated 29th January 2014, issued the Model Documents comprising the Model Request for Qualification (the "MRFQ") and the Model Request for Proposal (the "MRFP"), and Model Agreement for Procurement of Power (the "MAPP") (collectively, the "Model Bidding Documents") to be adopted by the distribution licensees for procurement of power from the power producers.

Based on the above, the Central Government had notified the Guidelines vide resolution No. 23/17/2013-R&R (Vol-II) dated 10th February 2014, which were further amended vide resolution dated 20th August, 2015. Further, the Central Government vide its letter No. 23/17/2013-R&R (Vol-IV) dated 16th January 2017, had issued a single document as the "Standard Bidding Document" comprising both the Model Request for Qualification (the "MRFQ") and the Model Request for Proposal (the "MRFP"), and the Model Agreement for Procurement of Power (the "MAPP") (collectively, the Standard Bidding Document and the MAPP are referred to as the "Model Bidding Documents") to be adopted by distribution licensees for procurement of electricity from the power producers/Traders/Discoms. Based on the same, the Central

Government had notified the Guidelines vide resolution No. 23/17/2013-R&R (Vol-V) dated 17th January 2017.

Ministry of Coal, vide its letter No. no 23011/15/2016-CPD/CLD dated 22nd May, 2017, has introduced the policy guidelines for allocation of Coal linkages to Power Sector - new more transparent Coal allocation policy for power Sector, 2017- SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) (referred as the "SHAKTI Policy"). Under the SHAKTI scheme, use of linkage coal has also been allowed in Medium term power procurement.

Based on the above, for enabling the use of linkage coal as per the provisions of Para B (I), B (III) & B (IV) of SHAKTI Policy, the Central Government, vide its letter No. No. 23/17/2013-R&R-Vol-VI (Part 2) dated 29th January 2019, has issued the revised bidding documents (i) a single document as the "Standard Bidding Document" comprising both the Model Request for Qualification (the "MRFQ") and the Model Request for Proposal (the "MRFP"), and the (ii) Model Agreement for Procurement of Power (the "MAPP") (collectively, the Standard Bidding Document and the MAPP are referred to as the "Model Bidding Documents") to be adopted by distribution licensees for Procurement of Electricity from the Power Producers/Traders/Distribution Licensees through a process of open and transparent competitive bidding conducted by Distribution Licensees through an electronic platform (DEEP e-Bidding Portal) based on offer of the lowest tariff from power generating stations constructed and/or operated on FOO basis.

The link for the e-Bidding portal is available on the website of Ministry of Power (www.powermin.nic.in) and PFC Consulting Limited (www.pfcclindia.com).

Now, therefore, in exercise of the powers conferred under section 63 of the Electricity Act, 2003, the Central Government hereby notifies these guidelines to be known as the 'Guidelines for Procurement of Electricity for medium term from Power Stations set up on Finance, Own and Operate (FOO) basis (the "Guidelines"). These Guidelines shall come into effect from the date of publication in the official gazette subject to the following terms and conditions:

1. The terms and conditions specified in the Model Bidding Documents referred to hereinabove shall, by reference, form part of these Guidelines and shall be treated as such.
2. The application of these Guidelines shall be restricted to projects from which power is procured in accordance with an Agreement for Procurement of Power for a period between one and five years, with a provision for extension of this period upto 25% of the initial contract period or one year whichever is lower, with mutual consent.
3. The tariff determined through the DEEP e-Bidding process using e-reverse Auction based on these Guidelines comprising the Model Bidding Documents shall be adopted by the Appropriate Commission in pursuance of the provisions of section 63 of the Act.
4. Any deviation from the Model Bidding Documents shall be made by the Distribution Licensees only with the prior approval of the Appropriate Commission. Provided, however, that any project specific modifications expressly permitted in the Model Bidding Documents shall not be construed as deviations from the Model Bidding Documents.
5. The amendments made in the Guidelines for Procurement of Electricity from Thermal Power Stations set up on Design, Build, Finance, Own and Operate (DBFOO) basis vide Ministry of Power Resolution No. 23/9/2015-R&R dated 16th April, 2015 in view of new coal block auction policy issued by Ministry of Coal, shall also apply, mutatis mutandis, for procurement of electricity for Medium Term from Power Stations set up on Finance, Own and Operate (FOO) basis.

The 'Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees' issued on 17th January, 2017, including the Model Bidding Documents issued on 16th January, 2017 are hereby repealed. Provided, however, that any agreements signed or actions taken prior to the date hereof shall not be affected by such repeal of the said Guidelines and shall continue to be governed by the Guidelines repealed hereunder.

GHANSHYAM PRASAD, Chief Engineer

GUJARAT URJA VIKAS NIGAM LIMITED

Sardar Patel Vidyut Bhavan, Race Course, Vadodara 390007

CIN U40109GJ2004SGC045195

Tele. No. : 0265-2310582 to 86 (PBX)
Fax : 0265-2344543, 2337918

Ref. No.: GUVNL : GM (Comm.): 419
Date : 06.04.2021

To
Secretary
Gujarat Electricity Regulatory Commission
6th Floor, GIFT One
GIFT City, Gandhinagar

Fax: 079 2360 2054/55

Sub: Invitation of bids for procurement of 1000 MW power on medium term basis through tariff based competitive bidding process as per Ministry of Power Guidelines dated 30.1.2019 – Reg.

Sir,

GUVNL for & on behalf of its subsidiary Distribution Companies (DISCOMs) has tied up adequate generation capacity for meeting peak power demand. However, the entire tied up capacity is not utilizable for generation during high demand period due to non-availability of adequate gas. Moreover, load curve of State DISCOMs is witnessing increased power demand during day period (5 AM – 9PM) with implementation of Kisan Suryodaya Yojana. The demand is likely to further increase with implementation of the Scheme across the State which would be in addition to normal growth in overall demand.

In order to ensure availability of adequate power on firm basis at competitive rates and to avoid implication due to price volatility under short term market, GUVNL has initiated the process of inviting bids for procurement of 1000 MW power on medium term basis for the period 1.09.2021 to 31.07.2023 through tariff based competitive bidding process as per Ministry of Power Guidelines dated 30.01.2019.

In the above context, GUVNL shall file a Petition for approval of bid documents including deviation before the Hon'ble Commission in due course.

Accordingly, it is requested to kindly apprise the Hon'ble Commission regarding invitation of bid for medium term power procurement by GUVNL for and behalf of its subsidiary DISCOMs.

Thanking you.

Yours faithfully,



(K. P. Jangid)
General Manager (Comm.)

**GUJARAT URJA VIKAS NIGAM LIMITED**

Sardar Patel Vidyut Bhavan, Race Course, Vadodara 390007
Phone: (0265) 2310582-86 www.guvnl.com

NOTICE INVITING TENDER

GUVNL invites bids for procurement of 1000 MW power on medium term basis through Competitive Bidding process as per Ministry of Power Guidelines dated 30-01-2019 for procurement of electricity for Medium Term (1-5 years) from Power Stations set up on Finance, Own & Operate Basis. Tender documents (RfQ, RfP and PPA) and further details would be available on www.mstcecommerce.com & www.guvnl.com. The last for registration is 15-04-2021.

Date: 06-04-2021 General Manager (Commerce)

**GUJARAT URJA VIKAS NIGAM LIMITED**
Sardar Patel Vidyut Bhavan, Race Course, Vardhara 390007
Phone: (0255) 2310582-83 www.guvnl.com

NOTICE INVITING TENDER
GUVNL invites bids for procurement of 1000 MW power on medium term basis through Competitive Bidding process as per Ministry of Power Guidelines dated 30-01-2019 for procurement of electricity for Medium Term (1-5 years) from Power Stations set up on Finance, Own & Operate Basis. Tender documents (RIQ, RIP and PPA) and further details would be available on www.mstcecommerce.com & www.guvnl.com. The last for registration is 15-04-2021.
Date:06-04-2021 General Manager (Commerce)

GUVNL TENDER FOR PROCUREMENT OF 1000 MW POWER FOR THE PERIOD 1.09.2021 TO 31.07.2023

DEEP Portal Event No.: GUVNL/Medium/Lumpsum Tariff/21-22/ET/5

CLARIFICATIONS RELATED TO QUERIES REGARDING BIDDING DOCUMENT

Sr	Clause No.	Existing Provision	Query Received from Bidders	Reply / Clarification
RFQ & RFP				
1	1.1.1 (RFQ) Pg 9	Capacity Required is 1000 MW	Whether 1000 MW is at Supplier's Interconnection Point or Delivery Point	Contracted Capacity is at Delivery Point.
		Delivery Point: (i) Projects connected with Gujarat STU – Interconnection of Generator & Gujarat STU in intra-state Grid (ii) Projects connected to network other than Gujarat STU – Interconnection Point of Central Transmission Utility (CTU) with Gujarat STU network	As for projects connected with Gujarat STU Network, National Transmission Loss is not applicable while for Projects connected to network other than Gujarat STU, national transmission losses would be applicable. This will create room for competitive advantage to few generators over the others It is requested that delivery point may be changed to Generator Bus bar/ CTU interconnection for all the bidders.	No Change. Delivery Point is defined to ensure parity in landed cost evaluation and selection.
2	1.2.13 (RFQ) Pg 13 & 5.8.2 (RFP)	Lumpsum tariff shall include supply of electricity, irrespective of source of Fuel including renewable source of energy.	Please clarify whether usage of linkage coal (existing/future) is allowed?	There is no restriction on use of coal from any type of source for participation by Bidder(s). However, the same shall be in accordance with the Terms of FSA, allocation and Govt. Policy / prevailing norms.
		However, Bidders whose source of Fuel is from	Whether Linkage coal supply where Bidders who has valid LOA/FSA can provide power from operationalizing coal under the FSA.	

	Pg 71	option (b) - Coal Mine/Blocks allocated through auction by Govt. Instrumentality or Option (c) - Linkage Coal allocated by Utility shall not be eligible to Bid under this sub-clause (k) (Lumpsum Tariff).	Whether Projects having coal allocated under SHAKTI Scheme (B(iii)) are allowed to participate Power plants sourcing coal from linkage be allowed to bid under this tender Whether project having coal mine allocated by GOI through linkage but not through auction is eligible to participate or not	Bidder/Supplier shall be responsible for compliance towards norms for end usage of fuel as per FSA / allocation / Policy / prevailing norms. Any implication / consequence / risk arising out of non-availability / shortage / non-compliance of fuel allocation conditions etc. shall be to the account of Bidder / Supplier only.
3	2.2.1(b) - Pg.16	The Bidder should either be the owner and operator of the Power Station from where electricity shall be supplied for a Trading Licensee;	(i) Whether a Trading Licensee can participate through multiple generation sources? (ii) If a Trading Licensee can participate through multiple generation sources: a. Whether the Trading Licensee be required to submit different financial bids for each generation source? b. Whether the Trading Licensee be allowed to submit bids for cumulative capacity exceeding 1000 MW? For instance, a Trading Licensee may tie-up with two generation sources and bid for 700 MW from Source-1 and 500 MW from Source-2, thus bidding for a cumulative capacity of 1200 MW. c. would it be required to pay the Registration Fees of INR 3 Lakh for each generation source?	Yes. Subject to terms as mentioned at Clause 1.2.10 (RFQ), 2.2.1 (RFQ), 2.3.1 (RFQ) & 2.1.1 (RFP) Kindly refer clarification at Sr. (4) A bidder / Trader can submit a bid for maximum 1000 MW at Delivery Point. Separate registration for each source is required

4	2.2.2 (B) RFQ Pg 17	Financial Capability Net worth	Kindly allow the Bidder to satisfy the Net worth criteria by using credentials of its Associates also. Proposed suggestion is in line with the amendment to the Model Bidding Documents. State Governments / Govt. Department will not have any net worth and hence this condition shall be waived off for them or the same may be fulfilled through Trading Licensee	It is to clarify that in order to encourage better participation, the financial capability / Net Worth criteria is proposed to be removed. Bidder shall be required to furnish Bid security / Performance security as per the GUVNL bidding documents.
5	2.2.1 (d) (RFQ) Pg 16 2.12.2 (vi) (RFQ) Pg 23	Eligibility of Bidders for pre-qualification: Power Station has access to an assured supply of Fuel A copy of FSA or equivalent arrangement for Power Station	As tariff to be quoted is on Lumpsum basis and bidders can source fuel from open market/e-auction/imported coal etc. - criteria for assured supply of fuel may be waived off or eligibility may be considered upon submission of an undertaking by bidder who are not having LOA / FSA / assured supply. Kindly confirm regarding source of fuel allowed to participate. Therefore, Bidders/Developers may arrange e-auction coal for supply of power under this tender. Hence FSA or equivalent arrangement may not be possible to submit. Therefore, requirement of copy of FSA or equivalent arrangement to be uploaded by Bidders may be removed. Various fuel sources including imported coal can be readily procured on spot basis, bidders may be given flexibility to	Kindly refer clarification at Sr. (2) with regard to fuel source for participation. No change regarding eligibility towards Access to assured supply of Fuel. Bidder required to submit details regarding firm fuel arrangement/ FSA / LOA / any other document showing fuel arrangement to the satisfaction of Utility towards assured supply of fuel.

			give assurance on fuel through submission of undertaking that generator will ensure adequate coal for successful operations of the contract - FSA copy may not be mandated as a Condition Precedent Whether any compliance / undertaking required by a renewable source project/plant towards fuel arrangement The requirement for submission of hard copies may be deleted Single mode of submission i.e. online only is proposed The Clause may be relevant for long term PPA signed for 25 years. For medium term power sale, arrangement of contracted capacity as per this tender is the obligation of supplier so surrendering any quantum existing LOA/FSA may not be relevant and hence may be omitted. Clause 4.8 is not there in the documents. Kindly provide the correct reference.	It is to clarify that any implication / consequence / risk arising out of non-availability / shortage of fuel shall be to the account of Bidder / Supplier only. As there is no pre specified requirement, Declaration is to be submitted regarding generation source covering technical aspects of non-conventional plant. No change. As per bidding documents. Clause deleted. Modified appropriately Reference is to Clause 5.8 (Pg 70) Appendix I (Sr. 30) – Clause 4.8 may be read as Clause 5.8
6	2.12.3 RFQ Pg 23	The Bidders shall send the hard copy of all the original documents.....		
7	Appendix x-I: (RFQ) Pg 33	Letter Comprising the application for pre-qualification SI.No.19 Regarding surrendering of existing coal linkage / FSA		
8	5.1 RFP Pg.69	Selection of Bidder Reference cited to Clause 4.8 with regard to selection of bidder		

9	ANNEX II (Pg 40)	Technical Capacity of Bidder	This certificate format is not as per ICAI guidelines. Thus, statutory auditor may not be able to provide the certificate in the same format.	No change. As per Bid documents.
10	1.2.13-RFQ (Pg 13) & 1.1.5-RFP Pg 53	The Base Fixed Charge and the Base Variable Charge shall each be at least 35% of the Tariff.	As per the Bid document, Base Fixed Charge and Base Variable Charge have to be minimum 35% of the total tariff. Base variable charge & fixed charge are dependent on various factors. Base variable charge will be less for pit head plants than for plants located far off from coal mines. Application of equal ceiling in Fixed & Variable charge for both categories of plants may not be comparable. It is requested that such ceiling / cap with regard to base fixed and variable charge in reference to total tariff may be deleted. The same may be clarified by way of an illustration.	No change. As per Bid Documents
11	1.1.6 RFP (Pg 53)	During the e-Reverse Auction Stage, the Bidders will have the option of reducing the Tariff in decrements of 1 (one) paise or multiples thereof and to increase/maintain quantum quoted by them at e-Tender Stage by 1 MW or multiples thereof.	During reverse auction, if Bidder decreases the Base Variable Charge by 1 paise then the impact on total tariff will be 2 paise in DEEP Portal. Kindly allow to decrease the Base Variable Charge by 0.5 paise instead of 1 paise during Reverse auction on DEEP Portal	The provision in Self-explanatory. No change. This is as per Model Bidding Documents.

12	2.19 RFP Pg 63	Bid Security: 2.19.1. Bidder shall furnish Bid Security in form of a bank guarantee or e-bank guarantee issued by a banks, as per the list of Banks approved by Govt. of Gujarat vide GR no. EMD/10/2020/42/DMDated 11.01.2021 in favour of Utility	As the validity of above GR was upto 31.03.2021, kindly clarify whether the same order shall be valid for this tender as well.	Kindly refer latest GR dated 12.04.2021 (attached herewith)
13	2.17 RFQ Pg 25	Confidentiality..... Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualifiedUtility in relation to, or matters arising out of, or concerning the Bidding Process	Please share the details of legal, financial or technical adviser of the Utility for this bidding process, so that applicant can avoid having conflict of interest by not availing services from the same consultant for this bid.	No Adviser has been engaged by Utility for this tender.
14	Annex-II RFQ Pg 40	Certificate from the Auditor Eligible regarding Projects	Please modify the Certificate in case the SPV and the bidding company are the same.	No change.
15	Clause 4.4 RFP Pg.68	The Bidders matching the Lowest Tariff will also be required to give the break-up of the Tariff.....	Transmission Charges: Whether the same is fixed and same for all the bidders at delivery point. It may be confirmed whether bidder can change Transmission charges during Reverse auction. In line with the recent CERC PoC Regulations 2020, as required under	Please refer Point 30 of Appendix-I of RFP – GUVNL to pre-specify transmission charges in Rs./unit (ISTS network) to be quoted by Bidder while submitting the bid online on DEEP Portal while variation thereafter shall be treated as pass through under Change in Law. Transmission Charges cannot be changed during reverse auction.

		Appendix-I (point 30), it may kindly be notified to bidders which all charges & Losses (CTU/STU) are to be considered while quoting the Tariff for submission of bid online on DEEP Portal.	It is to clarify that transmission charges & losses for the State wherein Generator / Bidder is located, if any applicable, shall be on the account of Generator / Bidder at all times. Further, all applicable charges (SLDC, RLDC, Open Access charges etc.) for delivery of contracted capacity at Delivery Point shall be on account of Supplier Please refer Point 30 of Appendix-I of RFP – GUVNL to pre-specify transmission losses (in %) (ISTS network) to be quoted by Bidder while submitting the bid online on DEEP Portal while variation thereafter shall be treated as a pass through under Change in Law. Transmission losses (in Rs/unit) is to be quoted by Bidder based on ISTS losses (in %) pre-specified by Utility prior to bid due date. Bidder can change this parameter during reverse auction. It is to clarify that technical capacity can be demonstrated collectively from all the generating stations owned & operated by Bidder
		Transmission Losses: Transmission Losses are the function of the total Tariff. In Case, bidder reduces the total tariff during reverse auction, accordingly Transmission losses have to change. It may be clarified whether bidder can change Transmission losses (in kWh) during Reverse auction.	
16	2.2.2 RFQ Pg 16	(A) For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder shall own and operate power generating station(s) having an installed capacity equivalent to at least twice the capacity for which the Bidder is willing to Bid.	Please mention that the installed capacity must be from a single source for Technical Eligibility or can be demonstrated from multiple generating source / power stations

RFQ, RFP & PPA

17	Def: PPA Pg 80	Trading Licensee(s) shall mean the Electricity Trader or a Distribution Licensee in terms of the Electricity Act, 2003 and submits its Application on the basis of an exclusive power purchase agreement executed with the entity with identified generation source from where the power is proposed to be supplied by the Bidder	Trading licensee may not have signed a power purchase agreement with generator and may have signed any other agreement/ authorization received for participation in the tender. Kindly incorporate suitable modification for allowing other arrangement / agreement between Trading Licensees & Generation Source.	Appropriately modified. In addition to Power Purchase Agreement, any other agreement / authorization allowing Trading Licensee to submit the bid on behalf of Generator accepting the terms & conditions under Bid Documents would be allowed.
18	5.11 PPA Pg 20	Obligations relating to Open Access	Kindly clarify if the Medium Term procurement is within the approved LTA of GUVNL. (CERC PoC Regulation). As in case the procurement is within the LTA granted, there will not be any implication of PoC on bidders and will provide a level playing field. It is understood that till the time MTOA is granted, scheduling of power would be under STOA as obtaining MTOA requires at-least five months. As per the CERC PoC Regulations 2020, no STOA charges would be payable by the Utility and only STOA charges of the State of Generator may be payable by Generator. Further, MTOA charges would be directly	Please refer Clause 5.11 of PPA – Supplier/ Trader shall have the obligation to apply for separate open access. It is to clarify that till the time MTOA is available, scheduling of power would be under Short term open access. Please refer Clause 5.11 of PPA – Supplier responsible for apply for open access on behalf of Utility. In case of power flow under STOA, transmission charges towards MTOA would not be payable to Supplier by Utility.

			billed to the Utility. In such circumstances, the STOA charges billed on the STOA applicant, if any, would likely be different than MTOA charges billed to the Utility. Whether STOA related charges would be payable by the Utility at actual. Mechanism for recovery of STOA charges at actual may be clarified. Whose responsibility to apply for short / medium term open access.	All applicable charges (SLDC, RLDC, Open Access charges etc.) for delivery of contracted capacity at Delivery Point shall be on account of Supplier. As Bidder / Trader would be applying open access on behalf of Utility, no STOA charges would be payable. Please refer Clarification at Sr. 15 above with regard to Transmission Charges & Losses
19	1.2.8 RFQ Pg 12 1.1.3 RFP Pg 52	In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time.	It is interpreted that as per the Bid Documents, validity of Bank Guarantee is 180 days as against intended period of 120 Days Validity and 60 Days Claim Period. At present, Banks are stipulating a minimum claim expiry period of 1 year for Bank Guarantees. The wording of the clause, along with the one-year claim period stipulation, eventually leads to issuance of a Bank Guarantee of 180 Days Validity + 365 Days Claim Period, and thus increases the cost (in form of BG charges/ commissions) increased working capital requirements.	No change. As per Bid documents.

			The clause may be suitably amended as below "In case a bank guarantee is provided, its validity period shall not be less than 120 (One Hundred and Twenty) days from the Bid Due Date, and an additional claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time."	
20	1.1.3 RFP Pg 52	A Bidder is required to deposit, along with its Bid, a bid security of Rs. 5 lakh (Rupees five lakh) per MW of capacity offered by the Bidder	Bid security may be reduced to Rs 2 Lakh/MW towards alleviating the financial costs to the stressed thermal power plants.	No change. As per Bidding Documents.
21	2.2.2 (B) RFQ Pg 17	Financial Capacity Bidder shall have a minimum Net Worth (the "Financial Capacity") equivalent to Rs. 1 crore (Rs. one crore) per MW of the capacity the Bidder is willing to Bid, at the close of the preceding financial year... In case the Bidder is a Trading Licensee, the condition under Clause 2.2.2(B) may be either fulfilled jointly or severally by the Trading Licensee and Developer.	It may be clarified how Financial Capacity requirement fulfilled in case of multiple bids by a Trading Licensee. Trading Licensee places multiple & independent bids from different developers. It may win one or several bids. Since each bid is separate & independent, Net worth criteria should be individually fulfilled separately considering the same certificate & financial capacity.	Kindly refer clarification at Sr. (4) No financial capacity solicited

22	5.12 Pg 20 PPA	Any impact on Tariff on account of compliance to revised environmental norms shall be on account of the Supplier / Trader at all times during the contract period and the same shall not qualify for adjustment in Tariff under Change in Law provisions.	Kindly clarify whether any change / promulgation of new law towards environmental norms after Bid Due Date becomes applicable/ effective shall be eligible for cost reimbursement under change in law.	As per the bid documents.
23	1.1.5 RFP Pg 53	Base Variable Charge shall constitute the tariff for the Power Station (the "Tariff"). [The cost of Fuel, transportation/transit thereof, transmission charges and the transmission losses /supply from Hydro-electric Power Station or for Lump sum Tariff, generating cost of electricity, the transmission charges and the transmission losses, shall form part of the Base Variable Charge.]	Since Normative Availability is 85%, however the supplier has to book entire quantum for Open Access - clarify whether transmission charges to be quoted at 85% or 100% of capacity. In case off-take by the Utility is less than 85% whether Utility will compensate the Supplier for such transmission expenses to the extent of availability declared but not off-taken by Utility. Kindly clarify that adjustment / reimbursement of transmission charges as under CERC POC mechanism, bill towards transmission charges would be raised on Utility while Bidder has quoted the same as a part of tariff. If in any month Utility procures less power from the Supplier from the required quantum, then the	Please refer the clarification at Sr. 15 above – transmission charges for ISTS network to be pre-specified by Utility – Utility will specify the charges in Rs/unit after grossing up the same at 85% (normative availability) It is to clarify that in case the Utility schedules less power than availability actually declared by Supplier, Utility shall reimburse/ adjust the cost of transmission charge to the extent of normative availability or actual availability whichever is lower. New Clause 12.6 is now added in the PPA for the same. (attached separately) The obligation towards transmission charges & losses shall be on the Supplier / Bidder. In case Utility is required to pay the transmission charges for ISTS network
	5.1 PPA Pg 20	Obligation towards Open Access		

	5.5 & 5.6 PPA Pg 19	Obligation towards Transmission Charges & losses Supplier is liable to pay all the transmission charges as applicable as on Bid Date.	transmission charges should be fully reimbursable to the supplier since under MTOA Supplier shall be required to make monthly payments towards transmission charges irrespective of the quantum of power supplied whereas transmission charges being part of the Variable charge, supplier will be receiving lower transmission charges. For clarity in payment of transmission charges, Utility shall reimburse the transmission charges on actual. Under the current regime, transmission charges are billed directly to the DISCOMs / Utility. It is requested to explain the settlement procedure with illustration. In case of some bidders, already they have LTOA with WR as the target region, please clarify whether such bidders can supply power under the existing LTOA or they have to specifically supply power applying for MTOA	on behalf of Supplier, Supplier/ Trader shall be responsible for reimbursement or Utility shall adjust the same from the monthly energy bills raised by Supplier. The mechanism of Transmission charges already clarified above. As per the bid documents. As per the bid documents. As per the bid documents.
24	5.11 PPA Pg 20	Obligation related to Open Access	Kindly clarify whether tariff quoted shall include SLDC Charges and RLDC Charges Whether this component needs to be quoted separately	Please refer clause 5.11 – obligation towards the same shall be on Supplier / Bidder during the contract period Tariff Parameters & sub-component of tariff to be quoted shall be as specified in RFP & PPA only

25	4.4 RFP Pg 68	After the completion of e-Reverse Auction, the prevailing lowest Tariff would be visible to all the Bidders ("Lowest Tariff") and a time period of 30 minutes shall be given to all the Bidders qualified at e-Tender Stage for matching the Lowest Tariff ("L-1 Matching").	As per the existing provision, it will be a challenge for a bidder to match the Lowest Bidder Tariff since each & every Bidder has its own economics. Hence it is suggested that bidders be selected through bucket filling method.	No change. As per Bid documents.
26	Clause 11.4.3	Pursuant to the provisions of Clause 11.4.4, the Supplier shall not, for and in respect of any day, be entitled to receive payment of Fixed Charge for Availability exceeding 85% (eighty five per cent) thereof, and in the event it supplies electricity to the Utility in excess of such 85% (eighty five per cent), such excess supply shall be eligible only for payment of Variable Charge, save and except the payment of Incentive due under the provisions of Clause 11.4.2.	We understand the availability will be computed based on Monthly availability (as in case of all other PPA's / contracts), however, the clause 11.4.4 restricts to 85% availability on day basis. Kindly confirm that availability shall be worked out on monthly basis or yearly basis.	Provision is self explanatory. Availability as well as Incentive / Damages shall be worked out on Monthly Basis and shall be trued up at the end of Accounting Year (Kindly refer Clause 11.6.3 – Pg 35 of PPA for further clarification) The word "for and in respect of any day" is deleted.
27	14.2.2 PPA Pg 42	Utility shall have the first right to despatch, in the form of UI, any surplus electricity	Power scheduling under the PPA shall be governed by respective CERC/IEGC Guidelines. Further, UI dispatch/ Scheduling should be	It is to clarify that dispatch / schedule of power shall be in accordance with prevailing operational norms / regulations.

		generated from the contracted Capacity, and 90% (ninety per cent) of the revenues accruing from such UI charges, after deducting an amount equal to the Tariff payable for such electricity, shall be paid by the Supplier to the credit of the Utility and the balance remaining may be appropriated by the Supplier.	regulated as per Deviation Settlement regulations and not separately as per the PPA guidelines. The quoted provision may be appropriately aligned in line with DSM regulations / Grid Code.	Clause 14.2.2 and reference thereof is accordingly deleted
28	11.3 PPA Pg 32	For determining the Fixed Charge due and payable to the Supplier, the Base Fixed Charge shall be revised annually to reflect 20% (twenty per cent) of the variation in WPI "The Parties agree that the generating cost component of Base Variable Charge specified in Clause 12.2 shall be increased for every Accounting Year following the Base Year so as to reflect 50% (fifty per cent) of the variation in WPI. Non – grant of long term open access shall be mutually decided by the Utility and the Supplier	Coal price fluctuates and it would not be feasible to predict the future market trends. It is requested that escalation in Variable Cost should be linked with 100% WPI of coal as WPI for coal is already being published separately Providing escalation in Base Variable Charges at 50% WPI is not justifiable. The escalation on base variable charge shall be linked to WPI for non-coking coal used in Power Sector or with CERC Escalation rate for domestic coal as per the fuel utilized by the supplier.	It is clarify that as the contract period is 23 months only, the provision with regard to escalation in Fixed Charge is removed. It is to clarify that Fixed Charge shall remain constant for the entire contract period. No change. As per Bid Documents.
29	5.1.5 PPA Pg 17	Non – grant of long term open access shall be mutually decided by the Utility and the Supplier	"Long Term Open Access" seems to inadvertent.	"Long" Term Open Access has been replaced by "Open Access"

30	5.1.5(a) PPA Pg 17	make, or cause to be made, necessary applications to the relevant Government Instrumentalities..... Non-grant of long term open access shall be mutually decided by the Utility and Supplier;	Non-availability of open access shall be considered as Force Majeure. As per Bid Documents, Bidder is required to apply for Medium Term Open Access. As the contracted capacity is at delivery point i.e. GETCO Periphery and as per open access regulation, MTOA shall be granted at CTU-Interface, therefore, kindly change delivery point from GETCO periphery to CTU Interface or provide the quantum of MTOA, required to be taken by the Bidder and the quantum provided by Utility shall be considered as power to be supplied by the supplier at CTU interface.	No change. As per Bid Documents Delivery Point is already defined in the Bid Document. Please refer clarification issued in this document. For the purpose of Open Access, Bidder / Supplier is responsible to avail open access taking into consideration the applicable transmission loss for supply of contracted capacity at Delivery Point. Contracted Capacity is the Capacity to be made available at Delivery Point and Bidder shall have to apply for open access after grossing up the transmission loss while factoring such cost in the Tariff which is to be quoted while submitting the bid. The clarification with regard to open access, transmission charges & losses and Delivery Point is already issued above.
31	11.4.4 PPA Pg 33	In the event that any shortfall in supply of electricity to the Utility occurs on account of deficiency in transmission between the Point of Grid Connection and Delivery Point.....	Availability of the Power Station should not be linked to the transmission deficiency. Transmission deficiency is beyond the control of Supplier and hence 100% fixed charge recovery should be permitted even in case of deficiency in transmission.	No change.

32	4.1.2 Pg 13 PPA	Conditions Precedent required to be satisfied by the Utility (c) procured approval of the Commission for payment of Tariff by the Utility to the Supplier in accordance with the provisions of this Agreement.....	Since start of power supply is from 1 st Sept 2021 & PPA signing date would be in the month of June/July 2021, Utility would be required to satisfy conditions precedent regarding approval of Appropriate Commission latest by 1 st August 2021 – suitable clarification / modification may be issued in this regard	Kindly refer clarification at Sr. 52 of this document.
33	4.1.3 Pg 14 PPA	The Conditions Precedent required to be satisfied by the Supplier (d) submitted the Capacity Certificate and evidence of the capacity of the Power Station; and	Please share the format of providing Capacity Certificate and evidence of the capacity of the Power Station;	Provision is self explanatory
34	5.9 Pg 20 PPA	Obligations relating to taxes The Supplier shall pay, at all times during the subsistence of this Agreement, all taxes, levies, duties, cess and all other statutory charges payable in respect of the Power Station.	Please clarify, if the taxes, duties etc as per this clause shall be loaded in the tariff or the same shall be reimbursed additionally. In case, the same is to be reimbursed additionally, what shall be the procedure for claiming the same	Kindly refer Clause 11.8, Definition of "Tax" & other provisions of Bid Documents. The same is self explanatory.
35	9.1.1 PPA Pg 28	The Supplier shall, for the performance of its obligations hereunder, provide to the Utility no later than 30 (thirty) days from the date of this Agreement, an	As per the instruction from Ministry of Finance (MOF Office Memorandum dated 12 th Nov 2020), the value of CPG shall be reduced by at least half of its current value i.e. Rs. 5 lakhs per MW or less.	No change. The same is as per Model bidding documents.

		irrevocable & unconditional guarantee from for a sum equivalent to Rs. 10 Lakh/MW of contracted capacity			
36	9.4 PPA Pg 29	Deemed Performance Security Upon release of Performance Security, a substitute Performance Security for a like amount shall be deemed to be created, as if it is a Performance Security during entire Contract Period (the "Deemed Performance Security"). Deemed Performance Security shall be unconditional and irrevocable, and shall constitute the first and exclusive charge on all amounts due and payable by the Utility to the Supplier, and the Utility shall be entitled to enforce the Deemed Performance Security by making a deduction from the amounts due and payable by it to Supplier	Deemed Performance Security is an additional financial and operational burden on the Supplier. If the supplier has already supplied power to Utility for six months, Supplier has displayed its credibility. In such a case, there shall be no need for Performance Security. This clause is burdensome for the Supplier and is requested to be deleted.	No change. As per Bid documents.	
37	10.1 PPA	Contracted Capacity Pursuant to the provisions	RFQ state that the contracted capacity shall be supplied at Delivery Point, however as per this clause,	Kindly refer the following clarification(s) in this document:	

	Pg 30	of this Agreement, the Supplier shall dedicate a generating capacity of ****MW to the Utility as the capacity contracted hereunder (the "Contracted Capacity") and the Contracted Capacity shall at all times be operated and utilized in accordance with the provisions of this Agreement	contracted capacity is generating capacity. Kindly clarify if contracted capacity is Gross capacity at Station or capacity required at Delivery Point. Kindly clarify the quantum for booking of Open Access in case the quantum is to be supplied at the delivery point as the Transmission Losses changes every week, hence a fixed quantum at the delivery point cannot be supplied for the entire contract period.	Sr. 1 - Delivery Point Sr. 15 - Transmission Charges & Losses Sr.18 - Obligation for Open Access & other charges Sr. 23 - Component of variable charges, cost sharing & pass through
38	10.2.2 PPA Pg 30	In the event that any part of the Contracted Capacity, which is not utilized by the Utility or its nominees, and is, therefore, utilized for production of electricity and sale thereof to any Buyer, the Fixed Charge due and payable for and in respect of such Contracted Capacity shall be deemed to be waived and accordingly, no Fixed Charge shall be due or payable by the Utility in respect thereof;	The sale of power to third party if refused by the utility may be because of various factors like maintaining technical minimum, grid stability etc. the seller may not be making profit in such case, hence non-payment of fixed charge will result in additional burden to seller. Hence this clause shall be deleted.	No change. As per Bid Documents.
39	10.3 PPA Pg 30	Substitute Supply In the event the Availability of the Power Station is reduced on account of scheduled	Compensation shall not be applicable in case Utility refuses off take from alternate source and in such case	The provision is self explanatory. The same shall be read in conjunction with Clause of 2.6.2 (c) of RFQ.

		maintenance, unscheduled maintenance, shortage of Fuel or Force Majeure, the Supplier may, with prior consent of the Utility, which consent the Utility may deny in its sole discretion or convey acceptance with such conditions as it may deem fit, supply electricity from any alternative source, and such supply shall, for payment of Fixed Charge and Variable Charge, be deemed to be supply under and in accordance with the provisions of this Agreement	power shall be counted as available to the extent of quantum being arranged from alternate source for the purpose of calculating Fixed Charges	
40	11.6 Pg 34 PPA	Incentive and Damages In the event that the Availability in any month exceeds the Normative Availability, the Supplier shall, in lieu of a Fixed Charge, be entitled to an Incentive which shall be calculated and paid at the rate of 50 % (fifty per cent) of the Fixed Charge for Availability in excess of Normative Availability. Provided, however, that any Incentive hereunder shall be due and payable	Incentive shall be linked with Availability and not actual dispatch since actual dispatch will depend on the utility requirement, hence seller may not get the incentive even after making the power available to utility if utility refuse to off-take power.	No change. As per Bid Documents.

41	11.6.2 PPA Pg 35	only to the extent of Despatch of the Power Station. In the event that Availability in any month is less than the Normative Availability, the Fixed Charge for such month shall be reduced to the extent of shortfall in Normative Availability and in addition, any reduction below the Normative Availability shall be multiplied by a factor of 0.25 (zero point two five) to determine the Damages payable for such reduction in Availability.	It is requested that damages shall be payable if Availability during the month is less than 80% and not Normative Availability (85%) since seller is already making loss by not recovering full fixed cost if Availability falls between 80-85%. Levy of penalty for availability less than normative availability would be double loss for the seller.	No change. As per Bid documents.
42	13.2 PPA Pg 40	Letter of Credit 13.2.1 The Utility shall, no later than 30 (thirty) days prior to the likely date of the Appointed Date, provide to the Supplier, an unconditional, revolving and irrevocable letter of credit for an amount equivalent to the Minimum Monthly Payment (the "Letter of Credit"), which may be drawn upon by the	Since billing is on monthly basis and payment due date is 30 days after billing date, by the time first payment is due the supplier has already supplied power for almost two and a quarter months, hence the value of LC must be equivalent to at least two months billing amount.	No change. As per Bid documents.

		Supplier for recovery of payment due against the Monthly Invoice in accordance with the provisions of this Agreement			
43	16.1.3 PPA Pg 46	On or before the thirty-first day of May each Year, the Supplier shall provide to the Utility, for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarised information on (a) receipts on account of Tariff, (b) revenues from sale of electricity to other Distribution Licensees and Buyers, and (c) such other information as the Utility may reasonably require	Audited accounts certified by Statutory Auditors are generally available till September, hence providing the same in May will be difficult, Hence it is requested that audited accounts shall be provided by October each year for preceding Financial Years.	No change. As per Bid Documents.	
44	21.5 Pg 64 PPA	No claim in the event of recovery from Buyers Notwithstanding anything to the contrary contained in this Agreement, the Utility shall not in any manner be liable to reimburse to the Supplier any sums on account of a Change in Law if the same are recoverable from the Buyers.	Please clarify how can change in law be claimed from buyers for the capacity dedicated for the utility?	The clause is self-explanatory.	

45	25.4 PPA Pg 70	Delayed payments 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,	As per the standard industry practice Delayed payment surcharge rate shall be linked to the SBI Prime Lending Rate rather than Bank Rate as per section 49 of the Reserve Bank of India Act, 1934 to avoid confusion.	No Change. As per Bid Documents.
46		Definitions: "Capacity Certificate" means the certificate issued by an experienced and qualified firm of technical consultants certifying the installed capacity, plant configuration, station Heat Rate and other principal parameters of the Power Station;	Please specify the need of providing such a certificate as the seller has to provide power in Medium Term. Please clarify meaning of "experienced and qualified firm of technical consultant."	As per Bid documents The provision is self-explanatory

47		Annex – I (Schedule-A) Description of Coal-based Power Station (v) 5. Station Heat Rate The Station Heat Rate of the Power station shall be no more than [2,300 (two thousand three hundred and fifty)] kCal per kWh at 100% (hundred per cent) maximum continuous rating (MCR) or such lower Station Heat Rate as may be specified in the Capacity Certificate.	In case of Lumpsum Tariff, there shall be no implication of SHR, so there shall be no cap on SHR in this case. Further, in numerals, value of SHR is mentioned as two thousand three hundred and fifty. Please address the discrepancy.	Appropriately modified. The bidder shall be required to submit the details of SHR as per the prescribed formats.
48	11.9.3 PPA Pg 36	The Utility shall, within 30 (thirty) days of receipt of a Monthly Invoice in accordance with Clause 11.9.1 (the "Payment Due Date"), make payment.....	It may be revised as below: The Utility shall, within 30 (thirty) days of receipt of a Monthly Invoice, through e-mail/fax, in accordance with Clause 11.9.1 (the "Payment Due Date"), make payment.....	Modified appropriately Invoice can be raised through email however it shall be ensured that original invoice is received by the Utility within 3 working days from date of invoice raised (via email). In case of non-receipt of original invoice as per above, the date of receipt of Invoice shall stand revised to the date of receipt of original invoice by Utility.
49	11.11 PPA Pg 37	11.11 Discount for early payment The Parties expressly agree that in the event the Utility pays the Energy Bills within 7 (seven) days of the date	Suggested modification: 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	No Change. As per Bid Documents.

		of submission of the invoice thereof, it shall be entitled to deduct 2% (two per cent) of the amount comprising the Energy Bills by way of discount for early payment	the Tariff by way of discount for early payment. Please align the clause as per the Model Bidding Documents.	
50	PPA	SCHEDULE-B Performance Security 7....this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Utility on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, 11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of two years from the date hereof or until it is released earlier by the Utility pursuant to the provisions of the Agreement.	Clause 9.1.1 of the APP provides that Bank Guarantee shall be for a period of 6 (six) months. Therefore, in order to align with the above provisions, the suggested changes should be incorporated.	Sr. 11 of Schedule B (Pg 94) – Performance Security is appropriately modified. “for a period of two years from the date hereof....” may be read as “for a period of six months from the date hereof.....”
51	PPA	General	Finance Ministry vide circular dated 29.09.2020 has made mandatorily applicable Tax Collection at Source (TCS) @ 0.075% of sale	As per new Section 194 (Q), TDS provision is applicable w.e.f 1.7.2021.

			consideration with effect from 01.10.2020. It is requested to clarify the methodology of claim for this TCS.	Utility shall deduct tax at 0.1%. The same would be applicable from time to time as per prevailing norms.
52	4.1.2	Conditions Precedent 4.1.2. The Supplier may, upon providing the Performance Security to the Utility in accordance with Article 9, at any time after 15 (fifteen) days from the date of this Agreement or on an earlier day acceptable to the Utility, by notice require the Utility to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 30 (thirty) days of the notice		In view of time required for availing regulatory approval, the clause is revised as under: Conditions Precedent 4.1.2. The Supplier may, upon providing the Performance Security to the Utility in accordance with Article 9, at any time after 30 (thirty) days from the date of this Agreement or on an earlier day acceptable to the Utility, by notice require the Utility to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 30 (thirty) days of the notice
52	11.4.5 PPA Pg 33	11.4.5. In the event that any shortfall in supply of electricity to the Utility occurs on account of shortage of Fuel, Availability shall be deemed to be reduced in accordance with the provisions of Clause 11.5.3. <u>Provided, however, that the Non-Availability arising as a consequence of shortage of Fuel caused by any</u>		As the responsibility as well as risk for assured supply of fuel/arrangement thereof is on the Supplier/Bidder, the provision with regard to deemed availability to the extent of 30% has been deleted.

	event of Force Majeure shall, for the purpose of payment of Fixed Charge, be deemed to be availability to the extent of 30% (thirty per cent) of the Non- Availability hereunder.		
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New Clause added under Draft PPA:

Clause 12.6: Cost of Transmission Charge:

As per the Agreement, the Cost of Transmission Charge is a part of Base Variable Charge and is payable to Supplier / Bidder by Utility as per actual despatch of electricity. Cost of Transmission Charge shall be payable upto Normative Availability level i.e. 85% in line with Clause 11.4.3 of this Agreement even in the cases when actual energy scheduled in a month is more than normative availability (85%).

In the case where the availability declared by the Supplier is less than the Normative Availability during a month, then Supplier shall be obliged to bear the cost of transmission charge for shortfall i.e. difference between Normative Availability & Actual Availability. Whereas, in the case when Utility schedules power less than the availability actually declared by the Supplier during the month, Utility shall be obliged to bear the cost of transmission charge to the extent of difference between lower of Actual or Normative Availability less Energy Scheduled by Utility..

Note:

- (i) The above clarifications issued are only for the purpose of preliminary information to prospective bidders
- (ii) The same is subject to approval of terms & conditions including Bid Documents by Hon'ble Gujarat Electricity Regulatory Commission
- (iii) Terms & Conditions as per the final Bid Documents which would be subsequently released by GUVNL shall be final

Annexure-E

Deviations & Modifications in RFQ & RFP

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
1.1.1 RFQ & Definition PPA	Definition: Delivery Point means any point in the intra-state Grid where the electricity supplied under this Agreement is received by the Utility	i. For Projects connected with Gujarat State Transmission Utility (STU) network i.e. GETCO – Delivery Point shall be Interconnection of Generator & Gujarat STU in intra-state Grid where supply is received by Utility ii. For Projects connected to network other than Gujarat State Transmission Utility i.e. GETCO – Delivery Point shall be Interconnection Point of Central Transmission Utility (CTU) with Gujarat STU network in intra-state Grid where supply is received by Utility	The clarification has been incorporated for having clarity with regard to evaluation of bids from projects connected at different network and to have landed cost working of all Projects at equal interconnection point for comparison
1.2.13 RFQ	Different option / categories of Tariff based on fuel sources is provided i.e. Option (a) to (k) Depending upon the choice of Fuel source, only the applicable Sub-clause may be retained and the remaining Sub-clauses should be omitted	GUVNL has invited Bids based on Option (k) – Lumpsum Tariff wherein Bidder would be required to quote only Base Variable Charge comprising Cost of Generation, cost towards transmission charges & losses while Base Fixed Charge to be considered would be equal to Base Variable Charge excluding transmission cost quoted.	As bids from multiple operational project is expected based on different fuel source, the option of Lumpsum tariff has been selected as the same allows supply of power irrespective of source of fuel including Renewable / Hydro as source of energy
2.2.1 RFQ	Eligibility of Bidders: For determining the eligibility of Bidders for their pre-qualification hereunder, the following shall apply (d) the Power Station has access to an assured supply of Fuel	No change: (d) the Power Station has access to an assured supply of Fuel Clarification added with regard to documents to be submitted showing fuel arrangement to the satisfaction of Utility	In the present scenario, various generators / projects are procuring fuel from market including e-auction, SHAKTI Scheme, spot market etc. Accordingly, GUVNL has clarified that for eligibility towards pre-qualification, Bidder shall be required to submit details regarding firm fuel arrangement/ FSA /

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
			LOA / any other document showing fuel arrangement to the satisfaction of Utility towards assured supply of fuel. GUVNL has also clarified in the bid document that any implication/consequence/risk arising out of non-availability / shortage of fuel shall be on the account of Bidder / Supplier only.
2.2.2 (B) RFQ	Financial Capacity The Bidder shall have a minimum Net Worth (the "Financial Capacity") equivalent to Rs. 1 crore (Rs. one crore) per MW of the capacity the Bidder is willing to Bid, at the close of the preceding financial year. Bidders shall not be allowed to increase their capacity at e- Reverse Auction Stage or L1 Matching round greater than for which Financial Capacity has been demonstrated. In case the Bidder is a Trading Licensee, the condition under Clause 2.2.2(B) may be either fulfilled jointly or severally by the Trading Licensee and Developer.	The clause has been deleted. No financial capacity has been solicited	In order to encourage participation from various operational projects, the requirement of Financial Capacity has been modified taking into consideration the willingness to participate by various stressed operational projects. The same is in line with the PFC Tender Document under Pilot Scheme II for supply of 2500 MW power on Medium Term Basis through Aggregator. In the aforesaid tender, PFC has also removed the financial capacity criteria to encourage participation from stressed projects.
2.2.3 (ii) RFQ	certificate(s) from statutory auditors of the Bidder specifying the net worth of the Bidder as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.3 (ii). For the purposes of this Section A, net worth (the "Net Worth") shall	Clause deleted	The same has been deleted as no financial capacity has been solicited

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	mean the net worth as per the Companies Act, 2013.		
2.6.2 RFQ	2.6.2. The Utility reserves the right to reject any Application and/ or Bid if (a) at any time, a material misrepresentation is made or uncovered, or (b) the Bidder does not provide, within the time specified by the Utility, the supplemental information sought by the Utility for evaluation of the Application.	New provision added as 2.6.2 (c): c) Utility considers that the implementation of the Award and / or PPA is affected by implications of any pending litigation or otherwise disputes with the bidder / supplier or the Award and / or PPA under this RFP will have any impact of implication on the pending litigation or otherwise disputes with the bidder / supplier	GUVNL at present is having litigations pending with Generator(s) regarding non-fulfilment of contractual obligations which are pending at various forum. Allowing such applicant(s) for participation may compromise/ dilute the stand taken by the GUVNL before regulatory forum and judicial body and may pose consequential implications.
2.12.2	2.12.2. Documents required to be uploaded as per this RFQ shall contain: i..... ii..... ... vi. a copy of Fuel Supply Agreement or equivalent arrangement for the Power Station;	Modification: (vi) a copy of Fuel Supply Agreement or equivalent arrangement for the Power Station to the satisfaction of <u>Utility</u>	The modification made in accordance with clarification added at 2.2.1 (d) of RFQ
2.18.1 RFQ	2.18.1. Prior to evaluation of Applications, the Utility shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive if: (i) it contains a statement on fuel supply arrangement for the Power Station.....	Modification: (i) it contains a statement on fuel supply arrangement for the Power Station or <u>equivalent arrangement to the satisfaction of Utility</u>	The modification made in accordance with clarification added with regard to documents to be uploaded towards fuel arrangement at Clause 2.2.1 (d) of RFQ & Clause 2.12.2 (vi)

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
3.3 RFQ	Financial information for purpose of evaluation 3.3.1 The Application must be.... 3.3.2 In case the Annual Reports... 3.3.3 The Bidder must establish the minimum.....	Clause deleted	As no financial capacity has been solicited
Annexure-III RFQ	Financial Capacity of the Bidder	Deleted	As the financial capacity condition has been removed
2.19 RFP	Bid Security 2.19.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of a bank guarantee or e-bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one thousand crore), in favour of the Utility in the format at Appendix-II (the "Bank Guarantee").....	2.19.1. The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of a bank guarantee or e-bank guarantee issued by a banks, as per the list of Banks approved by Govt. of Gujarat vide GR no. EMD/10/2021/7729/DMO dated 12.04.2021 (List attached) in favour of the Utility in the format at Appendix-II (the "Bank Guarantee")	The clarification with regard to list of Bank approved by Govt. of Gujarat for submission of Bank Guarantee has been added.
Appendix I RFP	Letter comprising the Bid: Sr. 30 – A Tariff of Rs.....and paise.....\$ (Rupees.....and paise.....) per kWh comprising a Base Variable Charge of Rs.....and paise.....\$ (Rupees.....and paise.....) per kWh including (i) Rs.....and paise.....\$ (Rupees.....and paise.....) per kWh as the cost of generation (ii) Rs.....and paise.....\$ (Rupees.....and paise.....) per kWh as the cost of transmission charge and (iii) Rs.....and paise....\$ (Rupees.....and	Following clause added at Sr. 30 : The cost of transmission charge (in Rs./unit) for Projects connected to network other than Gujarat STU shall be specified by the Utility before Bid Due Date based on the prevailing NLDC notified charges. Bidders shall be required to quote the same while submitting the bid. Further, transmission loss (in %) shall be specified by Utility based on prevailing NLDC notified losses before Bid Due Date and Bidders shall be required to quote the	The proposed mechanism is explained as under: GUVNL to pre-specify transmission charges in Rs./unit (ISTS network) to be quoted by Bidder while submitting the bid online on DEEP Portal while variation thereafter shall be treated as pass through under Change in Law. As per present CERC POC framework, only one rate is applicable for ISTS Transmission Charges for Gujarat. Accordingly, Transmission

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	paise....) per kWh as the cost of transmission loss and a Base Fixed Charge of Rs.....and paise.....\$ (Rupeesand paise) per kWh which is equal to the cost of generation	cost of transmission loss (in Rs./unit) considering the same. Whereas, cost of transmission charge & transmission loss for Project connected with Gujarat STU shall be considered as NIL.	Charges cannot be changed during reverse auction as it will remain same for all Bidders. GUVNL to pre-specify transmission losses (in %) (ISTS network) to be quoted by Bidder while submitting the bid online on DEEP Portal while variation thereafter shall be treated as a pass through under Change in Law. Transmission losses (in Rs./unit) is to be quoted by Bidder based on ISTS losses (in %) pre-specified by Utility prior to bid due date. Bidder can change this parameter during reverse auction. Transmission charges & losses for the State wherein Generator / Bidder is located, if any applicable, shall be on the account of Generator / Bidder at all times. Further, all applicable charges (SLDC, RLDC, Open Access charges etc.) for delivery of contracted capacity at Delivery Point shall be on account of Supplier The above mechanism has been proposed for ensuring uniformity in transmission charges & losses to be quoted by bidder(s) for enabling bid evaluation at comparable level and landed cost working.

PPA:

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
3.2	Extension of Contract Period	Clause deleted	As the contract period is pre-defined, the provision with regard to damages to be paid by the Utility to Supplier in case of non extension of contract after original period has been deleted
	The Supplier may, upon providing the Performance Security to the Utility in accordance with Article 9, at any time after 15 (fifteen) days from the date of this Agreement or on an earlier day acceptable to the Utility, by notice require the Utility to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 30 (thirty) days of the notice	Modification: The Supplier may, upon providing the Performance Security to the Utility in accordance with Article 9, at any time after 30 (thirty) days from the date of this Agreement or on an earlier day acceptable to the Utility, by notice require the Utility to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 30 (thirty) days of the notice	As a part of conditions precedent, Utility (GUVNL) required to (i) Open Letter of Credit & (ii) procure approval of Hon'ble GERC for payment of tariff as per the Agreement. Accordingly, GUVNL has increased the time limit for submission of Notice by Supplier to GUVNL from 15 days to 30 days after signing of PPA to have sufficient time for undertaking process of regulatory approval involving filing of petition along with signed PPA
4.1.2	Conditions Precedent (a) executed and procured execution of the Default Escrow Agreement in accordance with the provisions of Clause 13.1; (b) executed the Deed of Hypothecation in accordance with the provisions of Clause 13.1.2; (c) procured approval of the Commission for payment of Tariff by the Utility to the Supplier in accordance with the provisions of this Agreement; and	The clause has been modified as under: a. Opened and submitted the Letter of Credit in accordance Payment Security mechanism under this Agreement; b. procured approval of the Commission for payment of Tariff by the Utility to the Supplier in accordance with the provisions of this Agreement; and	GUVNL has proposed to remove Default Escrow Agreement and Deed of Hypothecation as payment security mechanism to Supplier / Bidder and in lieu of the same amount of Letter of Credit to be opened by GUVNL has been increased equivalent to one month energy bill at normative availability to ensure adequate risk coverage to Supplier. The same will avoid multiple payment security mechanism under the arrangement and associated cost thereof taking into consideration that contract period is 23 months.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
5.1.4	The Supplier shall ensure that the Developer shall if Supplier is a Trading Licensee] operate and maintain the Power Station in accordance with the Specifications and Standards and the Maintenance Requirements such that the Availability of the Contracted Capacity of the Power Station is at least [85% (eighty five per cent) thereof during each year of the Contract Period (the "Normative Availability").	Clarification added that: Contract Period under this arrangement shall be sub-divided into three parts i.e. (i) Sep-2021 to Mar-2022 (ii) Apr-2022 to Mar-2023 & (iii) Apr-2023 to July-2023. Accordingly, Normative Availability as well as Incentive / Penalty as per the provision of this Agreement shall be worked out for above contract period respectively.	The clarification has been incorporated in order to have commercial clarity with regard to availability, fixed charges, incentive, and damages.
5.1.5	Obligation of Supplier: The Supplier shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement: (a) (b) (j)	New clauses added at (k) & (l) as under: k. ensure and comply that the Power Station has access to an assured supply of Fuel in order to supply power under this agreement. l. ensure compliance towards norms for end usage of fuel as per FSA / allocation / Policy / prevailing norms in order to supply power under this Agreement.	The clauses have been added in order to ensure commitment of Supplier towards arrangement of fuel for supply of power under the Agreement and to ensure compliance towards end usage of fuel as per the fuel allocation conditions.
5.5	Obligation related to transmission Charges	Clarification added that only differential arising from revision of regulated tariffs and rates after Bid Due Date for Inter-State Transmission charges determined by National Load Despatch Centre in accordance with Regulation notified by Central Commission and specified by Utility shall be payable or recoverable as the case may be. Clarification also added that all intra-state	The clarification has been incorporated in order to have clarity with regard to applicability of National & State level transmission charges and pass through of variation after bid due-date.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
5.6	Obligation related to transmission losses	transmission charges, including any changes therein, of the State where project is located shall be borne by the Supplier throughout the contract period Clarification added that only differential arising after bid due date from revision of transmission losses for Inter-State Transmission losses notified by National Load Despatch Centre in accordance with Regulation notified by Central Commission and specified by Utility shall be payable or recoverable as the case may be. Clarification also added that all intra-state losses, including any changes therein, of the State where project is located shall be borne by the Supplier throughout the contract period	The clarification has been incorporated in order to have clarity with regard to applicability of National & State level transmission losses and pass through of variation after bid due-date
5.9	Obligation related to taxes: The Supplier shall pay, at all times during the subsistence of this Agreement, all taxes, levies, cesses and all other statutory charges payable in respect of the Power Station. Provided, however, that all payments made by the Supplier with respect to service tax, value added tax, general sales tax or electricity duty, if any, levied on or in respect of the supply of electricity to the Utility under this Agreement shall be reimbursed by the Utility upon receipt of particulars thereof.	The Supplier shall pay, at all times during the subsistence of this Agreement, all taxes, levies, duties, cesses and all other statutory charges payable in respect of the Power Station	As the tender is invited based on Lumpsum tariff, Bidder is required to factor in all the cost component while submitting the bid and there shall not be separate reimbursement towards taxes, duties etc. unless the same is qualifying under Change in Law (Article 21 of PPA)

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
5.11	---	Clause 5.11: New provision added The Supplier (incl. Trading Licensee, in case of a Trader) shall be responsible for timely making application for Short Term Open Access / Medium Term open Access for & on behalf of the Utility. It is to clarify that all applicable charges (SLDC, RLDC, Open Access charges etc.) for delivery of contracted capacity at Delivery Point shall be on account of Supplier (incl. Trader). Further, the obligations towards payment of transmission charges & losses for supply upto Delivery Point shall be on the account of Supplier. In case, Utility pays the transmission charges on behalf of Supplier, the Supplier shall be responsible for reimbursing same to Utility or Utility is authorized to adjust the same from monthly Energy Bills. In case of power flow under Short term open access, transmission charges towards Medium Term Open Access would not be payable to Supplier by Utility. Clause 5.12: New provision added	The clarification has been incorporated in order to have for incorporating clarity with regard to: -Responsibility of Open Access -obligation to bear cost towards applicable charges (SLDC, RLDC, Open Access etc.) -Reimbursement / adjustment in case transmission charges are paid by Utility on behalf of Supplier to CTU
5.12	---	It is to clarify that any impact on Tariff on account of compliance to revised environmental norms shall be on account of the Supplier / Trader at all times during the contract period and the same shall not qualify for adjustment in Tariff under Change in Law provisions.	To ensure parity inter-se bids submitted by various bidders and avoid unfettered cost implication on GUVNL pursuant to claim towards change in law citing compliance to environment norms.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
6.1.3	The Utility shall provide and facilitate non-discriminatory open access to its network for enabling the Supplier to supply electricity to Buyers in the licence area of the Utility in accordance with the provisions of sections 42 and 49 of the Act.	Clause deleted	The clause has been deleted as not relevant under present tender
7.1	Representations and warranties of the Supplier [it has entered into a Fuel Supply Agreement for assured supply of Fuel required for meeting obligations under this Agreement if Supplier is NOT a Trading Licensee, or the Developer has entered into a Fuel Supply Agreement for assured supply of Fuel required for meeting obligations under this Agreement if Supplier is a Trading Licensee];	Following clarification added: Bidder / Supplier acknowledges that any implication / consequence / risk arising out of non-availability / shortage of fuel shall be to the account of Bidder / Supplier only	The clarification has been added to highlight the obligation of the Bidder/Supplier to have assured access of fuel and consequences on account of non-availability or shortage of fuel.
9.2	Appropriation of Performance Security Upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Supplier shall be entitled to an additional Cure Period of 120 (one hundred and twenty) days for remedying the Supplier Default or to meet any Condition Precedent.....	Upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Supplier shall be entitled to an additional Cure Period of 60 (sixty) days for remedying the Supplier Default or to meet any Condition Precedent.....	The cure period has been reduced from 120 days to 60 days as the Supply commencement is envisaged from month of Sep-2021.
10.3	Substitute Supply: In the event the Availability of the Power Station is reduced on account of scheduled maintenance, unscheduled maintenance,	Following clarification added: For avoidance of doubt, it is to clarify that, the Utility may deny in its sole discretion to accept supply from such alternative source	The clarification has been added in line with the RFQ Clause 2.6.2 (c) – regarding generation sources ineligible for

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	shortage of Fuel or Force Majeure, the Supplier may, with prior consent of the Utility....	which is ineligible in accordance with Clause 2.6.2 of RFQ and therefore the same shall not be considered as compliance for the purpose of determination of availability and payment of Fixed Charge.	participation
10.4	Supply during Off-peak hours	Clause(s) deleted	As the same is relevant for the tender wherein procurement of electricity is confined to peak / off-peak hours
10.5	Supply during Peak Hours		
11.2	Base Fixed Charge The Parties agree that the fixed charge payable for Availability shall, in accordance with the offer of the Supplier for the Base Year, be Rs. (Rupees (the "Base Fixed Charge"), which shall be revised annually in accordance with the provisions of Clause 11.3 to determine the Fixed Charge for the relevant Accounting Year	The Parties agree that the fixed charge payable for Availability shall, in accordance with the offer of the Supplier for the Base Year, be Rs. (Rupees (the "Base Fixed Charge"), which shall remain constant for the entire contract period.	Considering the contract tenure of 23 months and supply commencement from Sep-2021, GUVNL in the Bid Documents has clarified that Fixed Charge shall remain constant for the entire contract period.
11.3	Fixed Charge For determining the Fixed Charge due and payable to the Supplier, the Base Fixed Charge shall be revised annually to reflect 20% (twenty per cent) of the variation in WPI occurring between January 31 immediately preceding the Bid Date and January 31 immediately preceding the Accounting Year for which such revision is undertaken.	Clause deleted	The same is in line with the PFC Tender Document under Pilot Scheme II for supply of 2500 MW power on Medium Term Basis through Aggregator

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
11.4.1	Computation of Fixed Charge Subject to the provisions of this Clause 11.4, the Base Fixed Charge, as corrected for variation in WPI Index in accordance with Clause 11.3 shall be the Fixed Charge payable for Availability in each month of the relevant Accounting Year	Clause deleted	As the Fixed Charge shall remain constant for the entire contract period
11.4.3	Pursuant to the provisions of Clause 11.4.4, the Supplier shall not, for and in respect of any day, be entitled to receive payment of Fixed Charge for Availability exceeding 85% thereof, and in the event it supplies electricity to the Utility in excess of such 85%, such excess supply shall be eligible only for payment of Variable Charge, save and except the payment of Incentive due under the provisions of Clause 11.4.2.	Pursuant to the provisions of Clause 11.4.4, the Supplier shall not, for and in respect of any day, be entitled to receive payment of Fixed Charge for Availability exceeding 85% thereof, and in the event it supplies electricity to the Utility in excess of such 85%, such excess supply shall be eligible only for payment of Variable Charge <u>excluding cost of transmission charge</u> , save and except the payment of Incentive due under the provisions of Clause 11.4.2.	As per the Bid Documents, the Availability as well as Incentive / Damages shall be worked out on Monthly Basis and shall be trued up at the end of Accounting Year (in accordance with Clause 11.6.3 of PPA). Thus, the word "for and in respect of any day" has been deleted for clarity. As Supplier / Bidder would be recovering full transmission charge upon declaring normative availability (85%), the transmission charge would not be payable in case of scheduling above 85%
11.4.5	In the event that any shortfall in supply of electricity to the Utility occurs on account of shortage of Fuel, Availability shall be deemed to be reduced in accordance with the provisions of Clause 11.5.3. Provided, however, that the Non-Availability arising as a consequence of Force Majeure shall, for the purpose of payment of	In the event that any shortfall in supply of electricity to the Utility occurs on account of shortage of Fuel, Availability shall be deemed to be reduced in accordance with the provisions of Clause 11.5.3. Provided, however, that the Non-Availability arising as a consequence of shortage of Fuel caused by any event of Force Majeure shall, for the	As per the GUVNL's Bid Documents, the responsibility as well as risk for assured supply of fuel/arrangement thereof is on the Supplier/Bidder. Thus, the provision with regard to deemed availability to the extent of 30% in the event of non-availability arising as a consequence of Force Majeure event, for payment of fixed

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	Fixed Charge, be deemed to be availability to the extent of 30% (thirty per cent) of the Non-Availability hereunder.	purpose of payment of Fixed Charge, be deemed to be availability to the extent of 30% (thirty per cent) of the Non-Availability hereunder.	charge to Supplier has been deleted
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.	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	
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 thereon shall be paid by the Supplier and reimbursed by the Utility upon submission of necessary particulars by the Supplier	The Tariff and Incentives payable by the Utility under this Article 11 shall be <u>inclusive</u> 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 particulars by the Supplier.	As per the GUVNL's Draft Bid Documents, bids are invited based on Lumpsum tariff. As per the terms of Bid Documents, Bidder(s) are required to factor in all the applicable taxes, duties etc. while submitting the bid and there shall not be any separate reimbursement towards taxes, duties etc. unless the same is qualifying under Change in Law (Article 21 of PPA)
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.	Any payment to be made by the Utility shall be subject to any tax deduction at source / tax collection at source, if required to be made by the Utility as per Applicable Laws	The clarification is added to ensure compliance with prevailing laws.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
11.9.3	The Utility 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").	The Utility shall, within 30 (thirty) days of receipt of a Monthly Invoice, <u>through email/ courier/ hand delivery</u> 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"). <u>It is to clarify that, in case Monthly Invoice is raised through email, it shall be ensured that original invoice is received by the Utility within 3 working days from date of invoice raised. In case of non-receipt of original invoice as per above, the date for receipt of Invoice shall stand revised to the date of receipt of original invoice by Utility</u>	The proposed modification to Billing mechanism is for providing clarification with regard to raising of invoice and payment due date.
11.11	Discount for early payment 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	Modification: The Parties expressly agree that in the event the Utility pays the Energy Bills within 7 (seven) 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 Energy Bills by way of discount for early payment.	The proposed modification to Billing mechanism is for providing clarification with regard to consideration of due date and eligibility towards discount for early payment as per the Bid Documents. Further, the discount applicable for early payment has been revised in line with present practise of GUVNL.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
12.6	----	In case the event of due date for payment including for early payment being a Bank Holiday / strike/ GUVNL Holiday, the next working day shall be considered as due date New Provision added: As per the Agreement, the Cost of Transmission Charge is a part of Base Variable Charge and is payable to Supplier / Bidder by Utility as per actual despatch of electricity. Cost of Transmission Charge shall be payable upto Normative Availability level i.e. 85% in line with Clause 11.4.3 of this Agreement even in the cases when actual energy scheduled in a month is more than normative availability (85%). In the case where the availability declared by the Supplier is less than the Normative Availability during a month, then Supplier shall be obliged to bear the cost of transmission charge for shortfall i.e. difference between Normative Availability & Actual Availability. Whereas, in the case when Utility schedules power less than the availability actually declared by the Supplier during the month, Utility shall be obliged to bear the cost of transmission charge to the extent of difference between lower of Actual	Cost of Transmission Charge is a part of Base Variable Charge which would be payable to Supplier by Utility as per actual despatch of electricity. As per the CERC Sharing of Inter-State Transmission Charges and Losses Regulation 2020, the bill for transmission charges for Medium Term Open Access would be raised on the Buyer i.e. GUVNL while in case of flow of power under Short Term Open access no additional charges would be payable in case of application of open access on behalf of Utility i.e. GUVNL. Accordingly, the GUVNL has added a new provision (Clause 12.6) wherein it is clarified that in case the GUVNL schedules less power than availability actually declared by Supplier, GUVNL shall reimburse/ adjust the cost of transmission charge to the extent of

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL or Normative Availability less Energy Scheduled by Utility.	Rationale for modifications / deviations
			normative availability or actual availability whichever is lower. The linking of recovery of transmission charges will ensure declaration of adequate availability by the Supplier and avoid cost burden on GUVNL towards transmission charges in case project is unavailable for the GUVNL for procurement of power.
13.1	Payment Security Mechanism Default Escrow Account	Clause deleted	
13.2	Letter of Credit The Utility shall, no later than 30 (thirty) days prior to the likely date of the Appointed Date, provide to the Supplier, an unconditional, revolving and irrevocable letter of credit for an amount equivalent to the Minimum Monthly Payment (the "Letter of Credit")	The Utility shall, no later than 30 (thirty) days prior to the likely date of the Appointed Date, provide to the Supplier, an unconditional, revolving and irrevocable letter of credit for an amount equivalent to the Minimum Monthly Payment (the "Letter of Credit") The Letter of Credit shall be substantially in the form specified in Schedule-E and shall come into effect on the Appointed Date	GUVNL in the bid documents has removed the Default Escrow Agreement and Deed of Hypothecation as payment security mechanism to Supplier / Bidder and in lieu of the same has increased the amount of Letter of Credit equivalent to one month energy bill at normative availability to ensure adequate risk coverage to Supplier

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	Schedule E – \$\$ Footnote: 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 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	As provided in the Agreement for Procurement of Power, this amount shall be equal to 1 month energy bill payable by the <u>Utility to the Supplier for Normative Availability</u> of the power station. The Letter of Credit shall be modified and renewed once every year to reflect the <u>revision in Average Monthly Payment</u> for previous year	
14.2.2 & 14.2.3	Settlement of Deviation Settlement Mechanism (DSM) charges <i>(Relevant Clause not reproduced here entirely for sake of brevity)</i>	Clause deleted	Clause 14.2.2 & 14.2.3 are deleted as power under UI / DSM cannot be scheduled to Utility as per prevailing norms.
17.2 (d)	Force Majeure – Non Political Event any delay or failure of an overseas contractor to deliver equipment in India [or to supply Fuel from an overseas Captive Mine], if such delay or failure is caused outside India by any event specified in Sub-clause (a) above and which does not result in any offsetting compensation being payable to the [Supplier if Supplier is	Clause deleted	The same being not relevant under the present bid to be invited by GUVNL has been deleted to avoid any consequential implication thereof

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	NOT a Trading Licensee, or Developer if Supplier is a Trading Licensee] by such contractor		
17.4 (a)	Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 21 and its effect, in financial terms, exceeds the sum specified in Clause 21.1	Clause deleted	In order to avoid the interpretational disputes for apportionment / pass through of cost whether qualifying under Change in Law or Force Majeure, the above clause has been deleted as the contract period is pre-determined. i.e. 23 months
17.7.1	Allocation of costs arising out of Force Majeure Upon occurrence of a Force Majeure Event after the Appointed Date..... (b) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Utility to the Supplier	Clause modified as under: “(b) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be borne by the Supplier. ”	It is proposed to modify the clause in order to avoid unfettered cost implication on GUVNL on account of Political Event.
17.10	Relief for unforeseen events: The above clause provided that that upon occurrence of an unforeseen event, parties may refer the matter to Conciliation Tribunal for appropriate relief / remedy including costs, expense, revenues of Power Station etc.	Clause deleted	It is anticipated that the provision with regard to relief to Supplier on account of unforeseen events may lead to dispute / litigation and consequential impact thereof including cost.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
19.1	Termination for Supplier Default a.. b.. c.. d.. a breach of the Fuel Supply Agreement or any other Project Agreements by the [Supplier if Supplier is NOT a Trading Licensee, or Developer if Supplier is a Trading Licensee] has caused a Material Adverse Effect;	Clarification added as under: d.a breach of: (a) the Fuel Supply Agreement or (b) commitment to arrange fuel for supply of power as per Clause 2.2.1 (d) & Clause 2.12.2 (vi) of RFQ or (c) compliance of fuel allocation conditions or (d) any other Project Agreements by the [Supplier if Supplier is NOT a Trading Licensee, or Developer if Supplier is a Trading Licensee] has caused a Material Adverse Effect;	Therefore, it is proposed to delete the above provision in the tender to be invited by GUVNL for tie up of power on medium term basis. The modification added to clarify the events of default by the Supplier in accordance with the provision of the GUVNL Bid Documents.
21	21.1 – Increase in Costs 21.2 – Reduction in Costs 21.3 – Protection of NPV 21.4 – Restriction on Cash Compensation Change in Law – provides that if as a result in Change in law, in case Supplier suffers an increase / reduction in costs or reduction / increase in net after-tax return or other financial burden, the aggregate financial effect of which	Clause 21.2, 21.3 & 21.4 have been deleted Clause 21.1 modified as under: 21.1. Adjustment in costs Change in Law means the occurrence of any of the following events after the last date of the submission of bid resulting into any additional recurring/non recurring expenditure by the Supplier or any income to the	It is to mention that the Cost reimbursement as well as adjustment for arriving at Net Present Value may lead to complexity and dispute in methodology for calculation. Further, the bids being invited by GUVNL is based on Lumpsum Tariff basis wherein Fixed Cost is constant

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	exceeds the higher of Rs. 1 Crore and 0.1% of the Capacity Charge in any Accounting Year, place the Supplier in the same financial position as it would have enjoyed had there been no such Change in Law. Further, it is mentioned that Parties shall endeavor to establish a NPV of the net cash flow and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, so as the NPV of the net cash flow is the same as it would have been if no Change in Law had occurred. <i>(Relevant Clause not reproduced here entirely for sake of brevity)</i>	Supplier. i) Any change in transmission charges & losses (as determined by NLDC from time to time) and open access charges ii) Any change in taxes (excluding income tax), duties, cess or introduction of any tax, duty, cess made applicable on sale of power by the Bidder(s) / Seller(s). It is clarified that any income / gain to the Supplier due to reduction in (i) & (ii) above after last date of bid submission, shall be passed on to the Utility whereas any expenditure / loss to the Supplier due to increase in (i) & (ii) above shall be reimbursed to the Supplier	throughout the contract period while Variable Charges quoted are indexed with pre-defined Wholesale Price Index (WPI) variation. It is to mention that the Change in Law provision has been modified in line with the provision being adopted for Short term Tender (for less than 1 year) in order to simplify the pass through of cost for Change in law occurring after bid deadline.
23	Article 23 - Dispute Resolution Clause 23.2 – Conciliation: Any Dispute which is not resolved amicably by conciliation, as provided in Clause 23.2, and is not required under..... ...pending the Award in any arbitration proceedings hereunder Clause 23.3 - Arbitration: Any Dispute which is	Clause 23.2 – Conciliation – clause deleted	In order to ensure adjudication of disputes under the contractual arrangement by Appropriate Commission i.e Hon'ble Gujarat Electricity Regulatory Commission

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	not resolved amicably by conciliation, as provided in Clause 23.2, and is not required under Applicable Laws to be adjudicated or referred to arbitration by the Commission	Clause 23.3 – Arbitration – clause deleted	in accordance with the provisions of Electricity Act, the provision with regard to conciliation and arbitration are proposed to be deleted.
24	Article 23 - Dispute Resolution Clause 23.4 - Adjudication by the Commission 23.4.1 - In the event a Dispute is required under Applicable Laws to be adjudicated upon by the Commission, such Dispute shall, instead of reference to arbitration under Clause 23.3, be submitted for adjudication by the Commission in accordance with Applicable Laws and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal, if any, against such adjudication has been decided by the appellate tribunal, or no such appeal has been preferred within the time specified in the Applicable Law. 23.4.2 Where any dispute is referred by the Commission to be settled through arbitration,	Clause 23.4.1 modified as under: Where any Dispute arising out of or in connection with this Agreement is not resolved mutually then such Dispute shall be submitted to adjudication by Gujarat Electricity Regulatory Commission and the Commission may refer the matter for Arbitration as provided under Sec 86 of the Electricity Act. For disputes beyond the power conferred upon Gujarat Electricity Regulatory Commission, such disputes shall be subject to the jurisdiction of the High Courts of Gujarat. 23.4.2 this clause has been deleted	In order to ensure adjudication of disputes under the contractual arrangement by Hon'ble GERC, GUVNL has taken the deviation and deleted the provision with regard to conciliation and arbitration. Further, clarification has been added that any dispute if not resolved amicably may be referred to adjudication by Hon'ble Gujarat Electricity Regulatory Commission for all purpose. Article 23 has been appropriately amended by GUVNL in the draft bid document.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
	the procedure specified in Clause 23.3 shall be followed to the extent applicable.		
23.5	Adjudication by a tribunal: In the event of constitution of a statutory tribunal with powers to adjudicate upon disputes between the Supplier and the Utility, all Disputes arising after such constitution shall, instead of reference to arbitration or adjudication under Clauses 23.3 and 23.4 respectively, be adjudicated upon by such tribunal in accordance with Applicable Laws and all references to Dispute Resolution Procedure shall be construed accordingly	Clause deleted	As stated above, any dispute if not resolved amicably may be referred to adjudication by Hon'ble Gujarat Electricity Regulatory Commission. Hence, the provision 23.5 regarding adjudication by a tribunal is proposed to be deleted.
25.4	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 at a rate equal to 5% (five per cent) above the Bank Rate for the first month	The clause has been modified as under: 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 for the first month	Ministry of Power has notified Electricity Late Payment Surcharge Rules 2021 on 22.02.2021. The provision with regard to rate / interest towards Late Payment Surcharge for delayed payment has been appropriately modified as per the above Rules notified by Ministry of Power.

Clause Ref (#)	As per Ministry of Power Model Bidding Documents dated 30.01.2019	Deviation / Modification undertaken by GUVNL	Rationale for modifications / deviations
		of default, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof. The rate of interest for the period of delay for the successive months of default shall increase by 0.5 percent for every month of delay provided that the such rate shall not be more than 3 percent higher than the (Bank Rate plus 5 percent) at any time.	
Schedule B	Performance Security Sr. 11 This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of two years from the date hereof or until it is released earlier by the Utility pursuant to the provisions of the Agreement.	Sr. 11 This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of six months from the date hereof or until it is released earlier by the Utility pursuant to the provisions of the Agreement	The modification has been done in order to align the time period with Clause 9.3 – Release of Performance Security
Definition	"Bank Rate" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect	Definition modified as under: "Bank Rate" means one year Marginal Cost of Funds Based Lending Rate (MCLR) fixed by State Bank of India (SBI)/any replacement thereof by SBI for the time being in effect applicable for 1 year period, as on 1 st April of the respective Financial Year in accordance with the regulations and guidelines of Reserve Bank of India or any replacement of such Bank Rate for the time being in effect;	The definition for Bank Rate has been appropriately modified as per business practises of linking with Marginal Cost of Funds Based Lending rate fixed by SBI from time to time.

Request for Qualification

&

Request for Proposal

**Invitation for e-Tender and e-Reverse Auction for
Medium Term Procurement of Electricity on DEEP
Portal**

Issued by:

**Gujarat Urja Vikas Nigam Ltd (GUVNL)
Sardar Patel Vidyut Bhawan, Race Course,
Vadodara, 390007**

Issued date: May 2021

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DISCLAIMER

The information contained in this document (the "**Bidding Document**") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form, by or on behalf of the Utility or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out here and such other terms and conditions subject to which such information is provided.

This Bidding Document is not an agreement and is neither an offer nor invitation by the Utility to the prospective Bidders or any other person. The purpose of this Bidding Document is to provide interested parties with information that may be useful to them in the formulation of their application (the "**Application**") for qualification and selection pursuant to Section A ("**Request for Qualification**" or "**RFQ**") and financial bids (the "**Bid**") for qualification and selection pursuant to Section B ("**Request for Proposal**" or "**RFP**") of this Bidding Document. This Bidding Document includes statements, which reflect various assumptions and assessments arrived at by the Utility in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This Bidding Document may not be appropriate for all persons, and it is not possible for the Utility, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Bidding Document. The assumptions, assessments, statements and information contained in this Bidding Document may not be complete, accurate, adequate or correct. Each Bidder should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Bidding Document and obtain independent advice from appropriate sources.

Information provided in this Bidding Document to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Utility accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Utility, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Bidding Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Bidding Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Bidding Document or arising in any way with pre-qualification of Bidders for participation in the Bidding Process.

The Utility also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this Bidding Document.

The Utility may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Bidding Document.

The issue of this Bidding Document does not imply that the Utility is bound to select and short-list pre-qualified Applications for opening of the Bids or to appoint the selected Bidder or Supplier, as the case may be, for the Project and the Utility reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Application and Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Utility or any other costs incurred in connection with or relating to its Application and Bid. All such costs and expenses will remain with the Bidder and the Utility shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Application and Bid, regardless of the conduct or outcome of the Bidding Process.

SECTION A

Request For Qualification

for

Agreement for Procurement of Power

For Medium Term

Issued by:

**Gujarat Urja Vikas Nigam Ltd (GUVNL)
Sardar Patel Vidyut Bhawan, Race Course,
Vadodara, 390007**

Issued date: May 2021

GLOSSARY

APP	As defined in Clause 1.1.3
Application	As defined in the Disclaimer
Bid Due Date	As defined in Clause 1.1.6
Bids	As defined in the Disclaimer
Bid Security	As defined in Clause 1.2.6
Bidder(s)	As defined in Clause 1.2.1
Bidding Documents	As defined in the Disclaimer
Bidding Process	As defined in Clause 1.2.1
BOLT	Build, Own, Lease and Transfer
BOO	Build, Own and Operate
BOOT	Build, Own, Operate and Transfer
BOT	Build, Operate and Transfer
Developer	shall mean the owner and operator of the Power Station from which the supplier shall supply the Power to the Utility(ies);
FOO	Finance, Own and Operate
Eligible Projects	As defined in Clause 3.2.1
e-Reverse Auction Stage	As defined in Clause 1.2.1
Government	Government of India/State
LOA	Letter of Award
Lowest Bidder	As defined in Clause 1.2.10
PPP	Public Private Partnership
Project	As defined in Clause 1.1.1
Qualification	As defined in Clause 1.2.1
Qualified Bidder	As defined in Clause 1.1.2
Re. or Rs. or INR	Indian Rupee
SECTION A (RfQ)	As defined in the Disclaimer
SECTION B (RfP)	As defined in the Disclaimer
Supplier/ Selected Bidder	As defined in Clause 1.1.3
Tariff	As defined in Clause 1.2.10
Technical Capacity	As defined in Clause 2.2.2 (A)
Trading Licensee(s)	shall mean the Bidder which is an Electricity Trader or a Distribution Licensee in terms of the Electricity Act, 2003 and submits its Application on the basis of an exclusive power purchase agreement / any other agreement / authorization allowing Trading Licensee to submit the bid on behalf of Generator accepting the terms & conditions under Bid Documents executed with the entity with identified generation source from where the power is proposed to be supplied by the Bidder
Utility	As defined in Clause 1.1.1

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto hereinabove.

[GUJARAT UJRA VIKAS NIGAM LTD.]

1. INTRODUCTION

1.1. Background

1.1.1. The Gujarat Urja Vikas Nigam Ltd. (the "Utility") is engaged in the business of bulk purchase and sale of electricity for & on behalf of its subsidiary four Distribution Companies namely Uttar Gujarat Vij Company Ltd. (UGVCL), Dakshin Gujarat Vij Company Ltd. (DGVCL), Madhya Gujarat Vij Company Ltd. (MGVCL) and Paschim Gujarat Vij Company Ltd. (PGVCL). As part of this endeavour, the Utility, for and on behalf of its four electricity distribution companies has decided to procure electricity from a power generating station that would dedicate a contracted capacity of 1000 MW for production of electricity and supply thereof for a period of 1st September 2021 to 31st July 2023 from (the "**Project**") through Public Private Partnership (the "**PPP**") on Finance, Own and Operate (the "**FOO**") basis, and has, therefore, decided to carry out the bidding process through for selection of a corporate entity (ies) as the Bidder to whom the contract may be awarded for production of electricity and supply thereof as per the terms and conditions specified in the Bidding Documents.

Brief particulars of the Project are as follows:

Requisition	Capacity Required* (in MW)	Supply Period	Delivery Point
RTC	1000 MW (at Delivery Point)	1 st September 2021 to 31 st July 2023	(i) For Projects connected with Gujarat State Transmission Utility (STU) network i.e. GETCO – Delivery Point shall be Interconnection of Generator & Gujarat STU in intra-state Grid where supply is received by Utility (ii) For Projects connected to network other than Gujarat State Transmission Utility i.e. GETCO – Delivery Point shall be Interconnection Point of Central Transmission Utility (CTU) with Gujarat STU network in intra-state Grid where supply is received by Utility

1.1.2. The Utility intends to pre-qualify and short-list suitable bidders (the "**Bidders**") whose Bid shall be opened on the date specified at Clause 1.3 of this RFQ and will be eligible for participation in the e-Reverse Auction Stage (the "Qualified Bidders"), for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein.

- 1.1.3. The selected Bidder (the "**Supplier**" / "**Selected Bidder**") shall be responsible for financing, operation and maintenance of the Project, and in case of Supplier being a Trading Licensee, it shall be responsible for supply of electricity from the Power Station, under and in accordance with the provisions of a medium-term Agreement for procurement of power (the "Agreement for Procurement of Power" or the "APP") to be entered into between the Supplier and the Utility in the form provided by the Utility as part of the Bidding Documents pursuant hereto.
- 1.1.4. The scope of work will broadly include operation and maintenance of the Power Station and supply of electricity, and in case of Supplier being a Trading Licensee, the scope of work will be supply of electricity from the Power Station, in accordance with the terms of the APP.
- 1.1.5. All Bidders shall indicate the particulars of the relevant Power Station in the form specified at Annex-V of Appendix-I and at National e-Bidding Portal ("**DEEP Portal**") developed by PFC Consulting Ltd. Bidders may bid for the capacity specified in Clause 1.1.1, or a part thereof, not being less than 10% (ten per cent) of such capacity or 100 (one hundred) MW, whichever is lower. The remaining capacity, if any, may be procured from other Bidders who are willing to match the lowest Bid.
- 1.1.6. The Utility shall receive Applications pursuant to this Bidding Document in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Utility, and all Applications shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Applications (the "**Bid Due Date**").

1.2. Brief description of Bidding Process:

- 1.2.1. The Utility has adopted a two-stage bidding process (collectively referred to as the "**Bidding Process**") for selection of the bidder for award of the Project. The first stage (the "**e-Tender Stage**") of the process involves qualification (the "**Qualification**") of interested parties who submit Application and Bids in accordance with the provisions of this Bidding Document, comprising of RFQ and RFP (the "**Bidder**"). Prior to submission of the Application, the Bidder shall pay to the Utility a sum of Rs 3,00,000 (Rupees three lakhs only) plus 18% GST applicable taxes, as the cost of the Bidding Process (non-refundable). Applicants willing to participate in the bid process, including pre-application query process or pre-bid conference are required to register by paying above cost. At the end of e-Tender stage, system will send an email to all Qualified Bidders who are eligible to participate in the second stage of the Bidding Process (the "**e-Reverse Auction Stage**").
-

- 1.2.2. All the Bidders would be able to participate in the e-Bidding events on making payment of the requisite fees of ₹500 per MW per requisition for the total capacity sought by the Utility for that particular requisition for which the bidder is willing to bid, to PFC Consulting Limited (PFCCL). The requisite fee shall be deposited through NEFT/IMPS/RTGS after adding the applicable taxes. After the completion of the bidding process, only successful Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded by PFCCL within seven (7) working days of issuance of LOA without any interest. The fee deposited by non Selected Bidder(s) will also be refunded by PFCCL within seven (7) working days of issuance of LOA without any interest.
- 1.2.3. The e-Tender Stage shall be a two-fold process, where the Bidders will be required to submit their Application and Bid online at the DEEP Portal on or before the Bid Due Date.
- 1.2.4. In the e-Tender Stage, Bidders would be required to furnish all the information specified in this Bidding Document by submitting (a) its Application under Section A (RFQ) for its qualification in accordance with the eligibility requirement under the RFQ and (b) its Bid in accordance with Section B (RFP).
- 1.2.5. The Bid shall be valid for a period of not less than 120 days from the Bid Due Date. The Bids of only those Bidders that are pre-qualified and short-listed by the Utility after evaluation of their Application, shall be opened on such date as specified under Clause 1.3 of this Section A and shall be invited to participate in e-Reverse Auction Stage for the Project, in accordance with Clause 4 of Section B, to submit their revised financial bids in e-Reverse Auction stage. The Utility is likely to provide a comparatively short time span for submission of the Bids for the Project. The Bidders are, therefore, advised to familiarise themselves with the terms of the Model/draft APP that will govern the structure of this Project. The said Model APP has been notified by the Government under section 63 of the Electricity Act 2003 for tariff based bidding by the Utilities.
- 1.2.6. The Bidders will be required to submit their Application and Bid online at the DEEP Portal on or before the Bid Due Date.
- 1.2.7. In the e-Reverse Auction Stage, the "**Bids**" of qualified and short-listed Bidder(s) shall be opened in accordance with the RFP and other documents to be provided by the Utility (collectively the "**RFP Documents**").
- 1.2.8. In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security of Rs 5,00,000 (Rupees five lakh) per MW of capacity offered by the Bidder (the "**Bid Security**"), refundable not later than 120 (sixty) days from the Bid Due Date, except in the case of the selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the APP. The

Bidders will have an option to provide Bid Security in the form of a bank guarantee acceptable to the Utility^{\$} or may be submitted as e-bank guarantee or deposited online through NEFT/IMPS/RTGS payment. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

- 1.2.9. In e-Reverse Auction Stage, the lowest Bid received in the e-Tender Stage shall be displayed to the Bidders on the DEEP Portal and thereafter any subsequent lowest bid in e-Reverse Auction Stage on a real time basis. During the e-Reverse Auction Stage, the Bidders will have the option of reducing the Tariff in decrements of 1 (one) paise or multiples thereof and to increase/maintain the quantum quoted by them at e-Tender Stage by 1 MW or multiples thereof. At the end of the e-Reverse Auction, lowest bidder will be identified by the system, the system will check all bids received in e-Tender and e-Reverse Auction and identify the Bidder who has quoted the lowest Tariff therein ("**Lowest Bidder**").

- 1.2.10. Generally, the Lowest Bidder shall be the selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified here, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason or in case the Capacity Required as per Clause 1.1.1 is not fully met by the Lowest Bidder. All other bidders will be asked to match the Lowest Bid in the system ("**L-1 Matching**"). In L-1 Matching round, the Qualified Bidders will be displayed the bid of the Lowest Bidder ("**Lowest Bid**") and available quantity, they will be required to input the quantity in MW that they wish to supply at the Lowest Bid. At the end of L-1 Matching round, system will allocate power to bidders in the order as they were at the end of e-Reverse Auction Stage (like L-1, L-2, L-3 cumulative in e-Tender Stage and e-Reverse Auction Stage) for the quantity bid by Lowest Bidder in Bid Stage and other bidders in L-1 Matching. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. In the event that none of the other Qualified Bidders match the Bid of the Lowest Bidder, the Utility may, in its discretion, (i) allocate the remaining capacity, if any, after completion of L-1 Matching round to the Bidders at the Tariff quoted cumulative in e-Tender Stage and e-Reverse Auction Stage in the order as they were at the end of L-1 Matching round or (ii) invite fresh Bids from the remaining Qualified Bidders or (iii) annul the Bidding Process, as the case may be. Further, it is clarified that any single Bidder cannot quote part capacity from different power stations.

^{\$} The format for the bank guarantee has been published as part of Section B of this Standard Bidding Document

- 1.2.11. During the Bidding Process, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the contract including implementation of the Project.
- 1.2.12. As part of this Bidding Documents, the Utility will provide a draft APP and other information pertaining/ relevant to the Project available with it.
- 1.2.13. Bids are invited for the Project under Section B of this Bidding Document, on the basis of a tariff to be offered by a Bidder for production and supply of electricity in accordance with the terms of the draft APP forming part of the Bidding Documents. For the purposes of bidding hereunder, the Base Fixed Charge and Base Variable Charge shall constitute the tariff for the Power Station (the "**Tariff**"). [for Lumpsum Tariff, generating cost of electricity, the transmission charges and the transmission losses,] shall form part of the Base Variable Charge. The Base Fixed Charge and the Base Variable Charge shall each be at least 35% of the Tariff. The contract period shall be pre-determined, and will be indicated in the draft APP. The Project shall be awarded to the Bidder quoting the lowest Tariff, after the completion of the process under Clause 1.2.7 above.

Explanation⁸:

(k) *Lumpsum Tariff*²⁰

The Bidder shall quote a Base Variable Charge comprising the generating cost of electricity, the transmission charges and the transmission losses for supplying contracted capacity at Delivery Point. Based on its Bid, a lumpsum tariff shall be paid to the Supplier comprising of (a) a Base Variable Charge, and (b) a Base Fixed Charge, as per the provisions of Clause 12.3.1 of the APP. The Tariff shall be revised as per the terms of the APP. The Bid for the Project shall, therefore, comprise the Base Fixed Charge and the Base Variable Charge and the Bidder seeking the lowest Tariff shall be the Selected Bidder

In this Section A, the term "**Lowest Bidder**" shall mean the Bidder who is offering the lowest Tariff.

²⁰ Lumpsum tariff shall include supply of electricity irrespective of source of Fuel including renewable source of energy. There is no restriction on use of coal from any type of source for participation by Bidder(s). However, the same shall be in accordance with the Terms of FSA, allocation and Govt. Policy / prevailing norms. Any implication / consequence / risk arising out of non-availability / shortage / non-compliance of fuel allocation conditions etc. shall be on the account of Bidder /Supplier only.

1.2.14. Omitted

1.2.15. Any queries or request for additional information concerning this Section A shall be submitted in writing by e-mail attaching the queries in Microsoft word file so as to reach the officer designated in Clause 2.12.3 by the specified date. The envelopes/ communications shall clearly bear the following identification/ title:

"Queries/ Request for Additional Information: Bidding for *** Project".

1.3. Schedule of Bidding Process

Tentative schedule for Bidding Process would be as under:

Sr.	Event Description	Timelines	Tentative Schedule
1	Date of floating of Draft Bid Documents (RFQ, RFP & PSA)	T	06-04-21
2	Last date for registration for participation	T+10 days	01-05-21
3	Last date for receiving Queries	T+15 days	01-05-21
4	Pre-bid Conference (through VC)	May only be arranged if required	
5	Utility response to queries	T+ 20 days	15-05-21
6	Issuance of Final Bid Documents by GUVNL (after duly approved by GERC)	T+50 days	16-06-21
7	Bid Due Date (last date to receive bids)	T+60 days	30-06-21
8	Opening of Application		Within 7 days of bid due date
9	Opening of Bids for Qualified Bidders		Within 15 days of bid due date
10	Reverse Auction		
11	L-1 Matching		Within 10 days of Reverse Auction & L1 matching
12	Letter of Award (LoA)		
13	Validity of Bids		120 days from bid due date
10	Signing of PPA		Within 10 days of LoA

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. Scope of Application

- 2.1.1. The Utility wishes to receive Applications for Pre-Qualification in order to short-list experienced and capable Bidders for opening of the Bids in the RFP process.
- 2.1.2. The Bids of the short-listed Qualified Bidders may be opened subsequently as per the schedule specified in Clause 1.3. of this RFQ.

2.2. Eligibility of Bidders

- 2.2.1. For determining the eligibility of Bidders for their pre-qualification hereunder, the following shall apply:
 - (a) The Bidder should be a corporate entity;
 - (b) The Bidder should either be the owner and operator of the Power Station from where electricity shall be supplied [or a Trading Licensee;
 - (c) In case of Bidder being a Trading Licensee, such Trading Licensee should have executed a power purchase agreement or an equivalent arrangement with the Developer for atleast the Capacity for which the Application has been made];
 - (d) the Power Station has access to an assured supply of Fuel
- 2.2.2. To be eligible for pre-qualification and short-listing, a Bidder shall fulfil the following condition of eligibility:

Technical Capacity: For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder shall own and operate power generating station(s) having an installed capacity equivalent to at least twice the capacity for which the Bidder is willing to Bid. Bidders shall not be allowed to increase their capacity at e-Reverse Auction Stage or L1 Matching round greater than for which Technical Capacity has been demonstrated.

In case the Bidder is a Trading Licensee, the condition under Clause 2.2.2 shall be fulfilled through the Developer.

- 2.2.3. The Bidders shall enclose with its Application, to be submitted as per the format at Appendix-I, complete with its Annexes, the following^s:

certificate(s) from statutory auditors of the Bidder or in case the Bidder is a Trading Licensee, then of the Developer, stating the power stations which are owned and operated by the Bidder or the Developer, as the case may be, as specified in paragraph 2.2.2 above;

- 2.2.4. The Bidder should submit a Power of Attorney as per the format at Appendix-II, authorising the signatory of the Bidder to digitally sign and submit the Application and Bid.
- 2.2.5. Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application. In case the Bidder is a Trading Licensee, the entity herein shall be construed as the Trading Licensee as well as the Developer.
- 2.2.6. An Bidder and/or the Developer (in case the Bidder is a Trading Licencee) should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder and/or the Developer, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder and/or the Developer. Provided, however, that where a Bidder claims that its or the Developers disqualification arising on account of any cause or event specified in this Clause 2.2.6 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Utility for seeking a waiver from the disqualification hereunder and the Utility may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the Supply of Electricity.
- 2.2.7. Omitted.
- 2.2.8. The following conditions shall be adhered to while submitting an Application:
- (a) Bidders should submit their Application online at the DEEP Portal only and upload clearly marked and referenced documents/sheets in the e-Tender Stage.
 - (b) Information supplied by a Bidder must apply to the Bidder named in the Application. The Bid of only those Bidders will be opened whose identity and/ or constitution is identical to that at pre-qualification; and
 - (c) In responding to the pre-qualification submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below.

⁵ In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.3 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required under this RFQ.

- 2.2.9. Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the 3 (three) years preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.3. Number of Applications and costs thereof

- 2.3.1. No Bidder shall submit more than one Application for the Project from the same Power Station.
- 2.3.2. The Bidders shall be responsible for all of the costs associated with the preparation of their Applications and their participation in the Bidding Process.

The Utility will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.4. Verification of information

- 2.4.1 Bidders are encouraged to submit their respective Applications after familiarising themselves with the information and physical conditions relevant to the Project, including the transmission capacity, applicable laws and regulations, and any other matter considered relevant by them.

2.5. Acknowledgement by Bidder

- 2.5.1. It shall be deemed that by submitting the Application, the Bidder has:

- (a) made a complete and careful examination of this Section A;
- (b) received all relevant information requested from the Utility;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in this Section A or furnished by or on behalf of the Utility relating to any of the matters referred to in Clause 2.4 above; and
- (d) agreed to be bound by the undertakings provided by it under and in terms hereof.

- 2.5.2. The Utility shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to this document or the Bidding Process, including any error or mistake therein or in any information or data given by the Utility.

2.6. Right to accept or reject any or all Applications/ Bids

- 2.6.1. Notwithstanding anything contained in this Section A, the Utility reserves the right to accept or reject any Application and to annul the Bidding Process and

reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.6.2. The Utility reserves the right to reject any Application and/ or Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Utility, the supplemental information sought by the Utility for evaluation of the Application.
- (c) Utility considers that the implementation of the Award and / or PPA is affected by implications of any pending litigation or otherwise disputes with the bidder / supplier or the Award and / or PPA under this RFP will have any impact of implication on the pending litigation or otherwise disputes with the bidder / supplier.

If such disqualification/ rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Utility reserves the right to:

- (a) invite the remaining Bidders to match the Lowest Bidder/ submit their Bids in accordance with the Section B; or
- (b) take any such measure as may be deemed fit in the sole discretion of the Utility, including annulment of the Bidding Process.

2.6.3. In case it is found during the evaluation or at any time before signing of the APP or after its execution and during the period of subsistence thereof, including the contract thereby granted by the Utility, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Supplier either by issue of the LOA or entering into of the APP, and if the Bidder/SPV has already been issued the LOA or has entered into the APP, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Section A, be liable to be terminated, by a communication in writing by the Utility to the Bidder, without the Utility being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Utility may have under this Section A, the Bidding Documents, the APP or under applicable law.

2.6.4. The Utility reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ. Any such verification or lack of such verification by the Utility shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Utility thereunder.

B. DOCUMENTS

2.7. Contents of the RFQ (Section A)

This RFQ comprises the Glossary; Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for Qualification

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Criteria for Evaluation
- Section 4. Fraud & Corrupt Practices
- Section 5. Pre Application Conference
- Section 6. Miscellaneous

Appendices

- I. Letter comprising the Application
- II. Power of Attorney for signing of Application
- III. List of Application-specific Provisions

2.8. Clarifications

- 2.8.1. Bidders requiring any clarification on the RFQ may notify the Utility in writing by e-mail attaching the queries in microsoft word file in accordance with Clause 1.2.12. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3 of the RFQ. The Utility shall endeavour to respond to the queries within the period specified therein, but no later than 7 (seven) days prior to the Bid Due Date. The responses will be sent by e-mail or online at the DEEP Portal. The Utility will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries or upload all the queries and its responses on the DEEP Portal.
- 2.8.2. The Utility shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Utility reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Utility to respond to any question or to provide any clarification.
- 2.8.3. The Utility may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Utility shall be deemed to be part of the RFQ. Verbal clarifications and information given by Utility or its employees or representatives shall not in any way or manner be binding on the Utility.

2.9. Amendment of RFQ

- 2.9.1. At any time prior to the deadline for submission of Application, the Utility may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFQ by the issuance of Addenda.
- 2.9.2. Any Addendum thus issued will be available at the DEEP Portal. The Bidders are advised to check the DEEP Portal for any amendments or notifications.
- 2.9.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Utility may, in its sole discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF APPLICATION

2.10. Language

- 2.10.1 The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Application may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

2.11. Format and signing of Application

- 2.11.1. The Bidder shall provide all the information sought under this RFQ. The Utility will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.
- 2.11.2. The Bidder shall submit their Application online on the DEEP portal, signed by a valid digital signature of the authorized signatory of the Bidder.
- 2.11.3. For the documents uploaded online, the Application shall be typed or written in indelible ink. It shall be signed by the authorized signatory of the Bidder who shall also initial each page of the Bidder (including each Appendix and Annex) in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Application shall be initialed by the person(s) signing the Application. The Application shall contain page numbers.
- 2.11.4. The Bidder shall ensure that its authorized signatory has a Digital Signature Certificate (DSC).
- 2.11.5. The Bidder shall register on the DEEP Portal for participation in the Bidding Process.
- 2.11.6. The Official Copy of the Bidding Document shall be available for download on

the DEEP Portal and on the website of Utility.

2.12. Sealing and Marking of Applications

2.12.1. The Bidder shall submit the Application in the format specified at Appendix-I and the format created online in the DEEP portal, together with the documents specified in Clause 2.12.2.

2.12.2. Documents required to be uploaded as per this RFQ shall contain:

- (i) Application in the prescribed format (Appendix-I) along with Annexes and supporting documents;
- (ii) Power of Attorney for digitally signing the Application as per the format at Appendix-II;
- (iii) copy of Memorandum and Articles of Association,;
- (iv) copies of Bidder's and Developer's (in case of Trading Licensee) duly audited balance sheet and profit and loss account for the preceding three years;
- (v) if the Bidder is a Trading Licensee, a copy of the power purchase agreement or an equivalent arrangement with the Developer; and
- (vi) a copy of Fuel Supply Agreement or equivalent arrangement for the Power Station to the satisfaction of Utility; [; and
- (vii) any other project-specific requirement that may be specified by the Utility].

2.12.3. The Bidders shall send the hard copy of all the original documents stated at Clause 2.12.2 in an envelope clearly indicating the name and address of the Bidder, addressed to:

ATTN. OF:	Mr K.P. Jangid
DESIGNATION:	General Manager (Commerce)
ADDRESS:	2 nd Floor, Sardar Patel Vidyut Bhavan, Race Course, Vadodara – 390 007, Gujarat
FAX NO:	0265-2344543
E-MAIL ADDRESS:	coacom@gebmail.com

Such hard copies should reach the aforementioned address within 5 days after the opening of the Application in accordance with Clause 1.3 of this RFQ. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.12.3, the documents uploaded online shall prevail.

2.12.4. If the Application is not uploaded and digitally signed as instructed above, the

Utility assumes no responsibility for rejection of the Application and consequent losses, if any, suffered by the Bidder.

Applications submitted by fax or e-mail shall not be entertained and shall be rejected.

- 2.12.5. In the e-Tender stage, all Bidders after uploading on the DEEP Portal the Application and the Bid as per the RFP and digitally signing the same must click on 'Final submit' button to finally submit their Application and Bid, without clicking the 'Final submit' button the system will not consider the Application or the Bid.

2.13. Bid Due Date

- 2.13.1. Applications should be submitted online latest by *** hours IST on the Bid Due Date, at the DEEP Portal in the manner and form as detailed in this RFQ.
- 2.13.2. The Utility may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.14. Late Applications

- 2.14.1. Applications will not be accepted for submission at the DEEP Portal after the time specified on the Bid Due Date.

2.15. Modifications/ substitution/ withdrawal of Applications

- 2.15.1. The Bidder may modify, substitute or withdraw its Application after submission, provided that such modification, substitution or withdrawal is made prior to the Bid Due Date. No Application shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date. The DEEP Portal shall provide the option to Bidders, after submission of the Application and the Bid as per this Bidding Document, to withdraw and delete the Application. Clicking on withdraw, system will withdraw the Application and no further submission will be allowed whatsoever for the Bidder(s). While clicking on delete, system will delete all the encrypted data saved on the DEEP Portal and the Bidder(s) may submit fresh Application prior to the Bid Due Date.
- 2.15.2. However, notwithstanding this Clause, all bids submitted in L1 Matching will be considered final and cannot be modified after the bid has been accepted by the system
- 2.15.3. Any alteration/ modification in the Application or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Utility, shall be disregarded.

D. EVALUATION PROCESS

2.16. Opening and Evaluation of Applications

- 2.16.1. The Utility shall open the Applications at *** hours IST on the Bid Due Date, at the place specified in Clause 2.12.3 and in the presence of the Bidders who choose to attend.

- 2.16.2. Applications which are withdrawn in accordance with Clause 2.15 shall not be opened and payments if any made shall be refunded within 7 working days in accordance with Clause 2.20.2.
- 2.16.3. The Utility will subsequently examine and evaluate Applications in accordance with the provisions set out in Clause 3.
- 2.16.4. Bidders are advised that pre-qualification of Bidders will be entirely at the discretion of the Utility. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.16.5. Any information contained in the Application shall not in any way be construed as binding on the Utility, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.16.6. The Utility reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Application(s) without assigning any reasons.
- 2.16.7. If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Utility may, in its sole discretion, exclude the relevant project from computation of the Technical Capacity of the Bidder.

2.17. Confidentiality

- 2.17.1 Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Utility in relation to, or matters arising out of, or concerning the Bidding Process. The Utility will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. The Utility may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Utility or as may be required by law or in connection with any legal process.

2.18. Tests of responsiveness

- 2.18.1. Prior to evaluation of Applications, the Utility shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive if:
 - (a) it is received as per format at Appendix-I.
 - (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.13.2;
 - (c) it is digitally signed and uploaded as stipulated in Clauses 2.11 and 2.12;
 - (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.4;

- (e) it contains all the information and documents (complete in all respects) as requested in this RFQ;
- (f) it contains information in formats same as those specified in this RFQ;
- (g) it contains certificates from its statutory auditors\$ in the formats specified at Appendix-I of the RFQ for each Eligible Project;
- (h) it contains a copy of power purchase agreement or equivalent arrangement with the Developer in case the Bidder is a Trading Licensee;
- (i) it contains a statement on fuel supply arrangement for the Power Station or equivalent arrangement to the satisfaction of Utility;
- (j) it contains an attested copy of the system generated receipt or receipt of the Utility for payments towards the cost of the Bidding Process, e-Bidding fees submitted to PFCCL as per Clause 1.2.1 and Bid Security as specified in Clause 1.2.6;
- (k) it does not contain any condition or qualification; and
- (l) it is not non-responsive in terms hereof.

2.18.2. The Utility reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Utility in respect of such Application. Provided, however, that the Utility may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Application

2.19. Clarifications

2.19.1. To facilitate evaluation of Applications, the Utility may, at its sole discretion, seek clarifications from any Bidder regarding its Application. Such clarification(s) shall be provided within the time specified by the Utility for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.19.2. If a Bidder does not provide clarifications sought under Clause 2.19.1 above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the Utility may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Utility.

E. QUALIFICATION AND BIDDING

2.20. Pre-qualification and notification

2.20.1. After the evaluation of Applications, the Utility would announce a list of pre-qualified Bidders (Bidders) whose Bid submitted online shall be opened on the date specified in accordance with Section B of this Bidding Document. At the same time, the Utility would notify the other Bidders that they have not been pre-qualified. The Utility will not entertain any query or clarification from Bidders who fail to qualify.

2.20.2. The Bid Security submitted by the Bidders who do not qualify after the evaluation of the Applications shall be refunded by the Utility, without any interest, to such Bidders within 7 working days on issuance of LOA.

2.21. Submission of Bids

The Bidders will be requested to submit a Bid online in the form and manner to be set out in Section B of the Bidding Document.

The Bids of only pre-qualified Bidders shall be opened by the Utility on such date as specified in this Bidding Document. The Utility is likely to provide a comparatively short time span for submission of the Bids for the Project. The Bidders are therefore advised to examine the Bidding Documents, and to carry out such scrutiny and studies as may be required for submitting their respective Bids for award of the Project. No extension of time is likely to be considered for submission of Bids.

2.22. Proprietary data

All documents and other information supplied by the Utility or submitted by a Bidder to the Utility shall remain or become the property of the Utility. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Utility will not return any Application or any information provided along therewith.

2.23. Correspondence with the Bidder

Save and except as provided in this Section A, the Utility shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Application.

3. CRITERIA FOR EVALUATION

3.1. Evaluation parameters

- 3.1.1. Only those Bidders who meet the eligibility criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Clause 3. Applications of Bidders who do not meet these criteria shall be rejected.

The Bidder's competence and capability is proposed to be established by the following parameter: Technical Capacity;

3.2. Technical Capacity for purposes of evaluation

- 3.2.1. Subject to the provisions of Clause 2.2, the Bidders must establish the minimum Technical Capacity specified in Clause 2.2.2 (A) (the "Eligible Projects"). For a power generating project to qualify as an Eligible Project, it should be owned and operated by the Bidder, and shall include a power station built and operated on PPP, BOLT, BOO, BOOT, BOT, DBFOO or on other similar basis.
- 3.2.2. The Bidder should furnish the required project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-II of Appendix-I.
- 3.2.3. In case the Bidder is a Trading Licensee, the condition under Clause 3.2 shall be fulfilled through the Developer.

4. FRAUD AND CORRUPT PRACTICES

- 4.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Utility may reject an Application without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2. Without prejudice to the rights of the Utility under Clause 4.1 hereinabove, if an Bidder is found by the Utility to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Bidder shall not be eligible to participate in any tender or Section A issued by the Utility during a period of 2 (two) years from the date such Bidder is found by the Utility to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3. For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
 - (a) "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Utility who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the PPA or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Utility, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under this RFQ, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the APP, as the case may be, any person in respect of any matter relating to the Project or the LOA or the APP, who at any time has been or is a legal, financial or technical adviser of the Utility in relation to any matter concerning the Project;
 - (b) "fraudulent practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
 - (c) "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

- (d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Utility with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5. Omitted

6. MISCELLANEOUS

- 6.1. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Utility has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2. The Utility, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) pre-qualify or not to pre-qualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the Utility by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3. It shall be deemed that by submitting the Application, the Bidder agrees and releases the Utility, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

APPENDIX I
Letter Comprising the Application for Pre-Qualification
to be uploaded during e-Tender Stage

To,

[The,

***]

Sub: Application for pre-qualification for *** Project

Dated:

Dear Sir,

1. With reference to your Bidding Document dated\$, I/we, having examined Section A of the Bidding Document and understood its contents, hereby submit my/our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.
2. I/ We acknowledge that the Utility will be relying on the information provided in the Application and the documents accompanying such Application for pre-qualification of the Bidders for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to V is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Bidder for the aforesaid Project and for sale of electricity to the Utility.
4. I/ We shall make available to the Utility any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
5. I/ We acknowledge the right of the Utility to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

^{\$} All blank spaces shall be suitably filled up by the Applicant to reflect the particulars relating to such Applicant.

7. I/ We declare that:
 - 7.1 I/ We have examined and have no reservations to the Bidding Document, including any Addendum issued by the Utility;
 - 7.2 I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of Section A of the Bidding Document, in respect of any tender or Section B of the Bidding Document issued by or any agreement entered into with the Utility or any other public sector enterprise or any government, Central or State; and
 - 7.3 I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of Section A of the Bidding Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to open the Bid of the Bidders, without incurring any liability to the Bidders, in accordance with Clause 2.16.6 of Section A of the Bidding Document.
9. I/ We believe that we/ satisfy and meet all the requirements as specified in Section A of the Bidding Document and are/ am qualified to submit a Bid.
10. Omitted.
11. I/We declare that the Developer is not a Bidder or Member of any other Bidder applying for pre-qualification where I/We as Trading Licensee am/are applying for pre-qualification. (Clause Applicable only if Bidder is a Trading licensee).
12. I/ We certify that in regard to matters other than security and integrity of the country, we {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
13. I/ We further certify that in regard to matters relating to security and integrity of the country, we {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

14. I/ We further certify that no investigation by a regulatory authority is pending against us {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} or against our CEO or any of our directors/managers/ employees.
15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of Section A of this Bidding Document, we shall intimate the Utility of the same immediately.
16. The Statement of Legal Capacity as per format provided at Annex-IV in Appendix-I of Section A of the Bidding Document, and duly signed, is enclosed.
17. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Utility in connection with the selection of Bidders, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
18. I/ We agree and undertake to abide by all the terms and conditions of the Bidding Document.
19. Omitted.
20. I/ We certify that in terms of Section A of the Bidding Document, [our Technical Capacity is equivalent toMW (MW in words).][§]
21. I/We offer a Capacity of {...MW[§]} from {Capacity, Name and address of the Project} which conforms to Clause 1.1.4 of Section A of the Bidding Document out of the Capacity Required of {... MW} given under Clause 1.1.1 of Section A of the Bidding Document.

In witness thereof, I/ we submit this application under and in accordance with the terms of Section A of the Bidding Document.

§ In case the Applicant is a Trading Licensee, the words in square parenthesis shall be replaced by the following "I/We certify that in terms of the RFQ our Network is Rs. (Rs. In words) and Technical Capacity of the Developer is equivalent to MW (MW in words)"

[§] Maximum capacity offered

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)
Place: Name and seal of the Applicant

ANNEX-I
Particulars of the Bidder

1. (a) Name:
 (b) Date of commencement of business:
 (c) Address of the corporate headquarters:
2. Brief description of the Company including details of its main lines of business:
3. Particulars of individual(s) who will serve as the point of contact/ communication for the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:
4. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
 - (e) Fax Number:
5. The following information shall also be provided for the Bidder:

Name of Bidder:

No.	Criteria	Yes	No
1.	Has the Bidder {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} been barred by the Central/State Government, or any entity controlled by it, from participating in any project (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Application?		
3.	Has the Bidder {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

6. A statement by the Bidder disclosing material non- performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

Note: In case the Bidder is a Trading Licensee, the information required at point 5 and 6 above shall be provided by the Bidder for itself and the Developer.

ANNEX-II

Technical Capacity of the Bidder[@]*(Refer to Clauses 2.2.2(A) and 3.2 of the RFQ)*

Item	Refer Instruction	Particulars of the Project
Title of the project	1	
Location		
Total Project cost	3	
Installed capacity of the plant	2	
Project Type (Coal/ Gas etc.)		
Date of completion/ Commissioning	4	

[@] Provide details of only those projects that have been undertaken by the Bidder under its own name . In case the Bidder is a Trading Licensee, provide details of only those projects that have been undertaken by a Developer in accordance with Clause 3.2.1.

Instructions:

1. A separate sheet should be filled for each Eligible Project.
2. The total number of units along with the details of the capacity of each unit should be provided.
3. Provide the capital cost of the Eligible Project.
4. The date of commissioning of the project, upon completion, should be indicated.

5. Certificate from the Bidder's or Developer's, as applicable, statutory auditor^{\$} must be furnished as per formats below for each Eligible Project.

Certificate from the Statutory Auditor regarding Eligible Projects^Φ

Based on its books of accounts and other published information authenticated by it, this is to certify that (*name of the Bidder*) is an equity shareholder in (*title of the power station*) and holds Rs. cr. (Rupees crore) of equity (which constitutes% of the total paid up and subscribed equity capital) of the project company. The project was commissioned on (*date of commissioning of the project*).

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the authorised signatory)

Date:

^Φ Provide Certificate as per this format only. Attach explanatory notes to the Certificate, if necessary. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this RFQ.

^{\$} In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

6. In case the generating station is not under a separate SPV the following format shall be used, Certificate from the Bidder's or Developer's, as applicable, statutory auditor must be furnished as per formats below for each Eligible Project.

Certificate from the Statutory Auditor regarding Eligible Projects^Φ

Based on its books of accounts and other published information authenticated by it, this is to certify that (name of the Bidder) having its registered office atowns the.....
.....(name of project) from..... (date).
The project was commissioned on(date of commissioning of the project).

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the authorised signatory)

Date:

^Φ Provide Certificate as per this format only. Attach explanatory notes to the Certificate, if necessary. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this RFQ.

7. Omitted.

8. In the absence of any detail in the above certificates, the information would be considered inadequate and could lead to disqualification of the project.

ANNEX-IV

Statement of Legal Capacity*(To be forwarded on the letterhead of the Bidder)*

Ref.

Date:

To,

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the Bidding Document.

We have agreed that (insert individual's name) will act as our representative on its behalf and has been duly authorized to submit the Application and the Bid. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

ANNEX- V

Particulars of the Power Station

1. Name of the Developer, Date of commencement of business, Address of the corporate headquarters, Brief description of the Company including details of its main lines of business: ^{\$}
2. Location of Power Station (Specify place, district and state):
3. No. of units and installed capacity of each unit (in MW):

Existing No. of Units	Installed Capacity (in MW)	COD
--------------------------	-------------------------------	-----
- | | | |
|--------------------------|-------------------------------|-----|
| Proposed
No. of Units | Installed Capacity
(in MW) | COD |
|--------------------------|-------------------------------|-----|
4. Quantum of electricity contracted with other purchasers, if any (in MW):
5. Details of surplus capacity (in MW):
6. Proposed Supply of electricity (in MW):

Signature:

Name:

Designation:

Date:

Place:

^{\$} In case the Bidder is a Trading Licensee, provide details of the Developer, else Not Applicable will be mentioned.

APPENDIX II
Power of Attorney for signing of Application and Bid^{\$}
(Refer Clause 2.2.4)

Know all men by these presents, we..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorised Mr/ Ms (name), son/daughter/wife of and presently residing at..., who is presently employed with us and holding the position of , as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the ***** Project under the Tender invited for tie up of power on Medium Term basis by ***** (the "Utility") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Applications and other conferences and providing information/ responses to the Utility, representing us in all matters before the Utility, signing and execution of all contracts including the Agreement for Procurement of Power (APP) and undertakings consequent to acceptance of our bid, and generally dealing with the Utility in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the APP with the Utility.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ... DAY OF2.....

For

....

(Signature, name, designation and address)

Witnesses:

^{\$} To be submitted in original.

Affixation of Common Seal

1.

(Notarised)

2

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

Notes:

1. *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
2. *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as aboard or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
3. *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

[APPENDIX – III]²⁵

Omitted

SECTION B

Request For Proposal

for

Agreement for Procurement of Power

For Medium Term
(Bid submission, e-Reverse Auction and L-1
Matching)

Issued by:

Gujarat Urja Vikas Nigam Ltd (GUVNL)
Sardar Patel Vidyut Bhawan, Race Course,
Vadodara, 390007

Issued date: May 2021

1. INTRODUCTION^s

1.1. Brief description of Bidding Process

- 1.1.1. The Utility has adopted a two-stage bidding process (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project. The first stage (the "**e-Tender Stage**") of the process involves pre-qualification of interested parties in accordance with the provisions of the Section A and opening of the Bid of the pre-qualified and short-listed Qualified Bidders in accordance with this Section B. At the end of the e-Tender Stage, system will send an email to all Qualified Bidders which are eligible to participate in the second stage of the bidding process. The Bid shall be valid for a period of not less than 120 days (one hundred twenty days) from the Bid Due Date.
- 1.1.2. The Bidding Documents include the draft APP for the Project [which is enclosed/ which will be provided to the Bidders on or near about ***]. Subject to the provisions of Clause 1.1.3, the aforesaid documents and any addenda issued subsequent to this RFP, will be deemed to form part of the Bidding Documents.
- 1.1.3. A Bidder is required to deposit, along with its Bid, a bid security of Rs. 5 lakh (Rupees five lakh) per MW of capacity offered by the Bidder (the "**Bid Security**"), refundable not later than 120 (one twenty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the APP. The Bidders will have an option to provide Bid Security in the form of a bank guarantee acceptable to the Utility or may be deposited online through NEFT/IMPS/RTGS payment. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security
- 1.1.4. During the Bidding Process, Bidders are invited to examine the Bidding Documents in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Contract including implementation of the Project.
- 1.1.5. Bids are invited for the Project on the basis of a tariff to be offered by a Bidder for and in respect of the Project. For the purposes of evaluation hereunder, the Base Fixed Charge and Base Variable Charge shall constitute the tariff for the Power Station (the "**Tariff**"). [for Lump sum Tariff, generating cost of electricity, the transmission charges and the transmission losses, shall form part of the Base Variable Charge.] The Base Fixed Charge and the Base Variable Charge shall each be at least 35% of the Tariff. The contract period shall be pre-determined and specified in the Bidding Documents.

In this RFP, the term "**Lowest Bidder**" shall mean the Bidder who is offering the lowest Tariff.

1.1.6. In e-Reverse Auction Stage, the lowest Bid received in the e-Tender Stage shall be displayed to the Bidders on the DEEP Portal and thereafter any subsequent lowest bid in e-Reverse Auction Stage on a real time basis. During the e-Reverse Auction Stage, the Bidders will have the option of reducing the Tariff quoted by them at e-Tender Stage in their Bids in decrements of 1 (one) paise or multiples thereof and to increase/maintain the quantum quoted by them at e-Tender Stage by 1 MW or multiples thereof. At the end of the e-Reverse Auction, lowest bidder will be identified by the system, the system will check all bids received in e-Tender and e- Reverse Auction and identify the Bidder who has quoted the lowest Tariff therein ("**Lowest Bidder**").

1.1.7. Generally, the Lowest Bidder shall be the Selected Bidder. The remaining Qualified Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3 of this RFP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason or in case the capacity required as per Clause 1.1.1 of the RFQ is not fully met by the Lowest Bidder. All other bidders will be asked to match the Lowest Bid in the system ("**L-1 Matching**"). In L-1 Matching round, the Qualified Bidders will be displayed the bid of the Lowest Bidder ("**Lowest Bid**") and available quantity, they will be required to input the quantity in MW that they wish to supply at the Lowest Bid. At the end of L- 1 Matching round, system will allocate power to bidders in the order as they were at the end of e-Reverse Auction Stage (like L-1, L-2 , L-3 cumulative in e-Tender Stage and e-Reverse Auction Stage) for the quantity bid by Lowest Bidder in Bid Stage and other bidders in L-1 Matching. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. In the event that none of the other Qualified Bidders match the Bid of the Lowest Bidder, the Utility may, in its discretion, (i) allocate the remaining capacity, if any, after completion of L-1

Matching round to the Bidders at the Tariff quoted cumulative in e-Tender Stage and e-Reverse Auction Stage in the order as they were at the end of L-1 Matching round or (ii) invite fresh Bids from the remaining Qualified Bidders or (iii) annul the Bidding Process. Further, it is clarified that any single Bidder cannot quote part capacity from different power stations.

1.1.8. The Supplier shall, in consideration of its investment and services, be entitled to receive a Tariff comprising of Fixed Charge and a Variable Charge.

1.1.9. Details of the process to be followed at the Bid Stage and the terms thereof are spelt out in this RFP.

1.1.10. Any queries or request for additional information concerning this RFP shall be submitted in writing by e- mail attaching the queries in Microsoft word file so as

to reach the officer designated in Clause 2.13.3 of the RFQ by the specified date. The envelopes/ communication shall clearly bear the following identification/ title:

"Queries/Request for Additional Information: RFP for ***** Project".

2. INSTRUCTIONS TO BIDDERS

A. General

2.1. General Terms of Bidding

- 2.1.1. No Bidder shall submit more than one Bid for the Project from the same Power Station.
- 2.1.2. Unless the context otherwise requires, the terms not defined in this Section B, but defined in Section A of this Bidding Document shall have the meaning assigned thereto in Section A.
- 2.1.3. The Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Any variations or deviations found subsequently shall not confer any right on the Bidders, and the Utility shall have no liability whatsoever in relation to or arising out of any variations or deviations detected subsequently.
- 2.1.4. Notwithstanding anything to the contrary contained in this Section B, the detailed terms specified in the draft APP shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the APP.
- 2.1.5. The Bid should be furnished in the format at Appendix-I, clearly indicating the Bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.1.6. The Bid shall consist of a Tariff to be quoted by the Bidder, as per the terms and conditions of this Section B and the provisions of the APP.
- 2.1.7. The Bidder shall deposit a Bid Security as specified in Clause 1.1.3 of this RFP. The Bidder has to provide the Bid Security in the form of a Bank Guarantee acceptable to the Utility, as per format at Appendix-II or through NEFT/RTGS payment online.
- 2.1.8. The validity period of the Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 120 (one hundred and twenty) days from the Bid Due Date except in the case of the Selected Bidder(s) whose Bid Security shall be retained till it has provided a Performance Security under the APP.

- 2.1.9. The Bidder should submit a Power of Attorney as per the format at Appendix-III, authorising the signatory of the Bid to commit the Bidder.
- 2.1.10. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.11. The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.12. The documents including this Section B and all attached documents, provided by the Utility are and shall remain or become the property of the Utility and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.12 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Utility will not return to the Bidders any Bid, document or any information provided along therewith.
- 2.1.13. This Bidding Document is not transferable.
- 2.1.14. Any award of Contract pursuant to this Section B shall be subject to the terms of Bidding Document.
- 2.1.15. Omitted

2.2. Change in Ownership

By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed that in the event of a change in control of the Bidder and/or the Developer (in case of the Bidder being a Trading Licensee), whose Technical Capacity was taken into consideration for the purposes of pre-qualification under and in accordance with Section A, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Utility forthwith along with all relevant particulars about the same and the Utility may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder(s), as the case may be. In the event such change in control occurs after signing of the APP but prior to the Appointed Date of the Project, it would, notwithstanding anything to the contrary contained in the APP, be deemed to be a breach of the APP, and the same shall be liable to be terminated without the Utility being liable in any manner whatsoever to the Supplier. In such an event, notwithstanding anything to the contrary contained in the APP, the Utility shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or the APP or otherwise.

³ Other Project specific conditions of bidding or restrictions, if any, may be stated here, such as a limit on the supply of electricity that may be contracted with a Bidder.

2.3. Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Utility will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.4. Verification of information

2.4.1. Bidders are encouraged to submit their respective Bids after familiarising themselves with the information and physical conditions relevant to the Project, including the transmission capacity, applicable laws and regulations, and any other matter considered relevant by them.

2.4.2. It shall be deemed that by submitting a Bid, the Bidder has:

- a. made a complete and careful examination of the Bidding Documents;
- b. received all relevant information requested from the Utility;
- c. accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Utility relating to any of the matters referred to in Clause 2.4.1 above;
- d. satisfied itself about all matters, things and information including matters referred to in Clause 2.4.1 hereinabove necessary and required for
- e. submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
- f. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.4.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Utility, or a ground for termination of the APP by the Supplier; and
- g. agreed to be bound by the undertakings provided by it under and in terms hereof.

2.4.3. The Utility shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Bidding Document or the Bidding Process, including any error or mistake therein or in any information or data given by the Utility.

2.5. Verification and Disqualification

2.5.1. The Utility reserves the right to verify all statements, information and documents submitted by the Bidder in response to the document, the RFQ or RFP and the Bidder shall, when so required by the Utility, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Utility shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Utility thereunder.

2.5.2. The Utility reserves the right to reject any Bid and appropriate the Bid Security if

- a. at any time, a material misrepresentation is made or uncovered, or
- b. the Bidder does not provide, within the time specified by the Utility, the supplemental information sought by the Utility for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then the Utility reserves the right to:

- i. invite the remaining Qualified Bidders to submit their Bids in accordance with Clause 4.4; or
- ii. take any such measure as may be deemed fit in the sole discretion of the Utility, including annulment of the Bidding Process.

2.5.3. In case it is found during the evaluation or at any time before signing of the APP or after its execution and during the period of subsistence thereof, including the Contract thereby granted by the Utility, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Supplier either by issue of the LOA or entering into of the APP, and if the Selected Bidder has already been issued the LOA or has entered into the APP, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Section B, be liable to be terminated, by a communication in writing by the Utility to the Selected Bidder or the Supplier, as the case may be, without the Utility being liable in any manner whatsoever to the Selected Bidder or Supplier. In such an event, the Utility shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or the APP, or otherwise.

B. DOCUMENTS

2.6. Contents of the RFP

- 2.6.1. This RFP comprises the Glossary, Disclaimer, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.8.

Invitation for Bids

Section 1.	Introduction
Section 2.	Instructions to Bidders
Section 3.	Evaluation of Bids
Section 4.	Miscellaneous

Appendices

- I. Letter comprising the Bid
- II. Bank Guarantee for Bid Security
- III. Power of Attorney for signing of Bid

- 2.6.2. The draft APP provided by the Utility as part of the Bidding Documents shall be deemed to be part of this Document.

2.7. Clarifications

- 2.7.1. Bidders requiring any clarification on the RFP may notify the Utility in writing by e-mail attaching the queries in Microsoft word file in accordance with Clause 1.1.9. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3 of the RFQ. The Utility shall endeavour to respond to the queries within the period specified therein, but no later than 7 (seven) working days prior to the Bid Due Date. The responses will be sent by e-mail / uploaded on GUVNL's website. The Utility may issue clarifications to queries and its responses thereto, without identifying the source of queries.

- 2.7.2. The Utility shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Utility reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Utility to respond to any question or to provide any clarification.

- 2.7.3. The Utility may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Utility shall be deemed to be part of the Bidding Document. Verbal clarifications and information given by Utility or its employees or representatives shall not in any way or manner be binding on the Utility.

2.8. Amendment of RFP

- 2.8.1. At any time prior to the Bid Due Date, the Utility may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

- 2.8.2. Any Addendum issued hereunder will be in writing and shall be available at the DEEP Portal. The Bidders are advised to check the DEEP Portal for any amendments or notifications.
- 2.8.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Utility may, in its sole discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BIDS

2.9. Format and Signing of Bid

- 2.9.1. The Bidder shall provide all the information sought under this RFP. The Utility will evaluate only those Bids that are received in the required formats on the DEEP Portal and complete in all respects.
- 2.9.2. The Bid shall be uploaded and submitted only on the DEEP Portal, signed by a valid digital signature of the authorized signatory of the Bidder. No hard copies of the same shall be separately submitted, unless as otherwise provided herein. All documents shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid.

2.10. Sealing and Marking of Bids

- 2.10.1. The Bidder shall submit the Bid in the format specified herein at the DEEP Portal only.
- 2.10.2. The documents accompanying the Bid shall be submitted in original to the designated contact mentioned at Clause 2.12.3 of the RFQ. The documents shall include:
- a. Letter comprising the Bid at Appendix-I;
 - b. Bid Security in the format at Appendix-II;
 - c. Power of Attorney for signing of Bid in the format at Appendix-III; and
 - d. A copy of draft APP with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinabove.
- 2.10.3. A true copy of the documents accompanying the Bid, as specified in Clause 2.10.2 (a), (b), (c) and (d) above, shall be uploaded together and a copy of draft APP as specified in Clause 2.10.2 (d) shall be uploaded separately. The pages in copy shall be numbered serially and every page shall be initialled in blue ink by the authorised signatory of the Bidder.

- 2.10.4. The Bidders shall send the hard copy of all the original documents stated at Clause 2.10.2 in an envelope clearly indicating the name and address of the Bidder, addressed to the designated contact mentioned at Clause 2.12.3 of the RFQ.

Such hard copies should reach the aforementioned address within 5 days after the opening of the Application in accordance with Clause 1.3 of the RFQ. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.10.4, the documents uploaded online shall prevail.

- 2.10.5. If the Bids are not uploaded and signed as instructed above, the Utility assumes no responsibility for rejection of the Bid submitted and consequent losses, if any, suffered by the Bidder.

- 2.10.6. Bids submitted by fax or e-mail shall not be entertained and shall be rejected.

- 2.10.7. In the Bid stage, all Bidders after uploading on the DEEP Portal the Application and the Bid as per the RFP and digitally signing the same must click on „Final submit“ button to finally submit their Application and Bid, without clicking the „Final submit“ button the system will not consider the Application or the Bid.

2.11. Bid Due Date

- 2.11.1. Bids should be submitted online latest by the Bid Due Date and time specified on the DEEP Portal in the manner and form as detailed in this Section B. A system generated email shall be sent to the Bidder as a receipt thereof.

- 2.11.2. The Utility may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.8 uniformly for all Bidders.

2.12. Late Bids

Applications will not be accepted for submission at the DEEP Portal after the time specified on the Bid Due Date.

2.13. Contents of the Bid

- 2.13.1. The Bid shall be furnished in the format at Appendix-I and shall consist of a Tariff to be quoted by the Bidder. The Bidder shall specify (in Indian Rupees) the Tariff to undertake the Project in accordance with this RFP and the provisions of the APP.

- 2.13.2. Generally, the Project will be awarded to the Lowest Bidder after the completion of process under Clause 1.1.6 above.

- 2.13.3. The opening of Bids and acceptance thereof shall be substantially in accordance with this Section B.

- 2.13.4. The draft APP shall be deemed to be part of the Bid.

2.14. Modifications/ Substitution/ Withdrawal of Bids

- 2.14.1. The Bidder may modify, substitute or withdraw its Bid after submission, provided that such modification, substitution or withdrawal is made prior to the Bid Due Date. The DEEP Portal shall provide the option to Bidders, after submission of the Bid as per this Bidding Document, to withdraw and delete Bids. Clicking on withdraw Bid, will withdraw the Bidder's Bid and no further submission will be allowed whatsoever. While clicking on Delete Bid, will delete all the encrypted data saved on the DEEP Portal and the Bidder may submit fresh Bids prior to the Bid Due Date.
- 2.14.2. However notwithstanding this Clause, all Bids submitted in LI Matching round will be considered final and cannot be modified after the bid has been accepted by the system. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.
- 2.14.3. Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Utility, shall be disregarded.

2.15. Rejection of Bids

- 2.15.1. Notwithstanding anything contained in this Section B, the Utility reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all Qualified Bidders to submit fresh Bids hereunder.
- 2.15.2. The Utility reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

2.16. Validity of Bids

The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Utility.

2.17. Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Utility in relation to, or matters arising out of, or concerning the Bidding Process. The Utility will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Utility may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Utility or as may be required by law or in connection with any legal process.

2.18. Correspondence with the Bidder

Save and except as provided in this Section B, the Utility shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

B. BID SECURITY

2.19. Bid Security

- 2.19.1. The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.7 and 2.1.8 hereinabove in the form of a bank guarantee or e-bank guarantee issued by a banks, as per the list of Banks approved by Govt. of Gujarat vide GR no. EMD / 10/2021/ 7729/DMO dated 12.04.2021 (List attached) in favour of the Utility in the format at Appendix-II (the "Bank Guarantee") and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time.
- 2.19.2. Bid Security can also be, drawn in favour of the Utility and payable at Vadodara submitted online to Utility though NEFT/IMPS/RTGS payment. The Utility shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.19.3. Any Bid not accompanied by the Bid Security shall be summarily rejected by the Utility as non-responsive.
- 2.19.4. Save and except as provided in Clauses 1.1.3 above, the Bid Security of unsuccessful Bidders will be returned by the Utility, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Utility, and in any case within 120 (one twenty) days from the Bid Due Date.
- 2.19.5. The Selected Bidder's Bid Security will be returned, without any interest, upon the Supplier signing the APP and furnishing the Performance Security in accordance with the provisions thereof. The Utility may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the APP.
- 2.19.6. The Utility shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.19.7 herein below. The Bidder, by submitting its Bid pursuant to this Section B, shall be deemed to have acknowledged and confirmed that the Utility will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this Section B. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.19.7. The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Utility under the Bidding Documents and/ or under the APP, or otherwise, if,:

- a. a Bidder submits a non-responsive Bid;
- b. a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this Section B;
- c. a Bidder withdraws its Bid during the period of Bid validity as specified in this SECTION B and as extended by mutual consent of the respective Bidder(s) and the Utility;
- d. the Selected Bidder fails within the specified time limit-
 - i. to sign and return the duplicate copy of LOA;
 - ii. to sign the APP; or
 - iii. to furnish the Performance Security within the period prescribed thereof in the APP; or
- e. the Selected Bidder, having signed the APP, commits any breach thereof prior to furnishing the Performance Security.

3. EVALUATION OF BIDS

3.1. Opening and Evaluation of Bids

- 3.1.1. The Utility shall open the Bids at **** hours on the Bid Due Date.
- 3.1.2. The Utility will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Clause 3.
- 3.1.3. To facilitate evaluation of Bids, the Utility may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2. Tests of responsiveness

- 3.2.1. Prior to evaluation of Bids, the Utility shall determine whether each Bid is responsive to the requirements of this Section B. A Bid shall be considered responsive only if:
 - a. it is received as per the format at Appendix-I;
 - b. it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.11.1;
 - c. it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.9 and 2.10;
 - d. it is accompanied by the Bid Security as specified in Clause 1.1.3;
 - e. it is accompanied by the Power(s) of Attorney as specified in Clause 2.1.9;
 - f. it contains all the information (complete in all respects) as requested in this Section B and/or Bidding Documents (in formats same as those specified);
 - g. it does not contain any condition or qualification; and
 - h. it is not non-responsive in terms hereof.
- 3.2.2. The Utility reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Utility in respect of such Bid. Provided, however, that the Utility may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

4. e-Reverse Auction

- 4.1. After the opening of the Bids of the Bidders who have qualified in the evaluation of their Applications, the system will rank the Bidders according to their Tariffs quoted in their Bids. The Bidder with the highest Tariff in the Bid will be called the "H1 Bidder". The system will then analyze all the capacity of electricity (in MW) offered by the Bidders in the e-Tender Stage. If the total quoted capacity is greater than twice the Capacity Required by the Utility, the H1 Bidder will be eliminated provided that the total quoted capacity after elimination is not less than or equal to twice the Capacity Required.
- 4.2. The shortlisted Bidders after elimination in e-Tender stage will be intimated individually by system generated emails only. The e-Reverse Auction shall start within 120 minutes of opening of the RFP bids and shall continue for a period of next 120 minutes with auto extension of 10 minutes, as applicable.

Provided that during the last 10 (ten) minutes before the scheduled close time of e-Reverse auction, if a price bid is received which is lower than the lowest prevailing price bid recorded in the system during e-Reverse auction, the close time of e-Reverse auction will be automatically extended by 10 (ten) minutes from the time of the last price bid received. This process of auto extension will continue till there is a period of 10 (ten) minutes during which no price bid is received which is lower than the prevailing lowest price bid.

- 4.3. During the e-Reverse Auction Stage, the Bidders will have the option of reducing the Tariff quoted by them at e-Tender Stage in their Bids in decrements of 1 (one) paise or multiples thereof and to increase/maintain the quantum of capacity quoted by them at e-Tender Stage by 1 MW or multiples thereof.
- 4.4. After the completion of e-Reverse Auction, the prevailing lowest Tariff would be visible to all the Bidders ("**Lowest Tariff**") and a time period of 30 minutes shall be given to all the Bidders qualified at e-Tender Stage for matching the Lowest Tariff ("**L-1 Matching**"). The Bidders matching the Lowest Tariff will also be required to give the break-up of the Tariff. The list after completion of L-1 Matching would also include the name, quantum offered and Tariff quoted by those qualified Bidder(s) who have not changed the quantum of electricity and Tariff from e-Tender stage to e-Reverse Auction stage.

5. SELECTION OF BIDDER

- 5.1. Subject to the provisions of Clause 2.15.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the Lowest Tariff offered to the Utility after Bid Stage, in conformity with the provisions of Clause 5.8 shall be declared as the selected Bidder(s) (the "Selected Bidder(s)"). In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 5.2. In the event that two or more Bidders quote the same Tariff for (a) the full Capacity Required; (b) one full Capacity Required and other part of the Capacity Required; (c) Capacity totalling more than the Capacity Required; and (d) Capacity totalling to the Capacity Required; (e) equal capacity offered but not upto full quantum and Capacity totaling more than the Capacity Required (the "Tie Bidders"), the Utility shall identify the Selected Bidder under (a) [the time of submission of the Bid will be the deciding factor for their ranking with the Bidder submitting the Bid earlier given the priority]; under (b) by declaring the Bidder who has offered full Capacity Required as the Selected Bidder; under (c) by declaring the Bidder with maximum Capacity as first Selected Bidder and other Bidder as second Selected Bidder with remaining Capacity under (d) by declaring both the Bidders as the Selected Bidder with respective Capacity and under (e) the time of submission of the Bid will be the deciding factor for their ranking with the Bidder submitting the Bid earlier will be declared as first Selected Bidder for full Capacity offered and other Bidder as second Selected Bidder with remaining Capacity.
- 5.3. In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance or the capacity required is not met by the Lowest Bidder (the "first round of bidding"), the Utility may invite all the remaining Qualified Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the "second round of bidding"). If in the second round of bidding (i.e. L-1 Matching), only one Qualified Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Qualified Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder. It is hereby clarified that the Utility will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. The Bidder will have the option to indicate their minimum threshold quantity and the same would be considered for allocation of electricity to the Selected Bidder(s).
- 5.4. In the event that no Qualified Bidder offers to match the Lowest Bidder in the second round of bidding as specified in Clause 4.3, the Utility may, in its discretion, invite fresh Bids (the "third round of bidding") from all Qualified Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Qualified Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only

such Bids shall be eligible for consideration which are lower than the Bid of the second lowest Bidder in the first round of bidding.

5.5. After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Utility to the Selected Bidder and the Selected Bidder shall, within 7 (seven) working days of the issuance of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Utility may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

5.6. After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Supplier to execute the APP within the period prescribed in Clause 1.1.3 of the RFQ. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the APP.

5.6 A. Omitted

5.7. **Contacts during Bid Evaluation**

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Utility makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Utility and/ or their employees/ representatives on matters related to the Bids under consideration.

5.8. **Bid Parameter**

5.8.1. The Bid shall comprise the Tariff offered by the Bidder for production and supply of electricity to the Utility in accordance with the provisions of the APP. The Base Fixed Charge and the Base Variable Charge shall each be at least 35% of the Tariff. The Tariff comprising the Bid shall be offered in accordance with the provisions of Clause 5.8.2.

5.8.2. (k) *Lumpsum Tariff**

The Bidder shall quote a Base Variable Charge comprising the generating cost of electricity, the transmission charges and the transmission losses. Based on its Bid, a lumpsum tariff shall be paid to the Supplier comprising of (a) a Variable Charge, and (b) a Fixed Charge as per the provisions of Clause 12.3.1 of the APP. The Tariff shall be revised as per the terms of the APP. The Bid for the Project shall, therefore, comprise the Base Fixed Charge and the Base Variable Charge and the Bidder seeking the lowest Tariff shall be the Selected Bidder.

* Lumpsum tariff shall include supply of electricity, irrespective of source of Fuel including renewable source of energy. There is no restriction on use of coal from any type of source for participation by Bidder(s). However, the same shall be in accordance with the Terms of FSA, allocation and Govt. Policy / prevailing norms. Any implication / consequence / risk arising out of non-availability / shortage / non-compliance of fuel allocation conditions etc. shall be on the account of Bidder /Supplier only .

6. MISCELLANEOUS

- 6.1. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Utility has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2. The Utility, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- a. suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - b. consult with any Bidder in order to receive clarification or further information;
 - c. retain any information and/ or evidence submitted to the Utility by, on behalf of, and/ or in relation to any Bidder; and/ or
 - d. independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Utility, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 6.4. The Section B and Section A are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Section B, in the event of any conflict between them the priority shall be in the following order:
- a. the Section B;
 - b. the Section A.
- i.e. the Section B at (a) above shall prevail over the Section A at (b) above.

APPENDIX – I

Letter comprising the Bid

(Refer Clauses 2.1.5 and 2.13 in section B, signed copy to be submitted to Utility and uploaded with Bid)

Dated:

[The ,

.....

.....

Sub: Bid for Project

Dear Sir,

1. With reference to your Bidding Document dated, comprising of the RFQ & RFP, I/we, having examined the Bidding Document and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Utility will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Supplier for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Supplier for the development, construction, operation and maintenance of the aforesaid Project and for sale of electricity to the Utility.
4. I/ We shall make available to the Utility any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Utility to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we and the Developer (to be inserted in case of a Trading Licensee being the Bidder) have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - 7.1. I/ We have examined and have no reservations to the Bidding Document, including any Addendum issued by the Utility; and

- 7.2. I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4 of Section A of the Bidding Document, in respect of any tender or Section B issued by or any agreement entered into with the Utility or any other public sector enterprise or any government, Central or State; and
 - 7.3. I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of Section A of the Bidding Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
 - 7.4. the undertakings given by us along with the Application in response to the Section A for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
- 8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.15 of Section B of the Bidding Document.
 - 9. I/ We believe that we satisfy and meet the requirements as specified in Section A of the Bidding Document.
 - 10. Omitted.
 - 11. I/We declare that the Developer is not a Bidder or Member of any other Bidder applying for pre-qualification where I/We as Trading Licensee am/are applying for pre-qualification.[§]
 - 12. I/ We certify that in regard to matters other than security and integrity of the country, we {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
 - 13. I/ We further certify that in regard to matters relating to security and integrity of the country, we {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} have not been charge-sheeted by any agency of the Government or convicted by a Court.
 - 14. I/ We further certify that no investigation by a regulatory authority is pending either against us {and the Developer (to be inserted in case of a Trading Licensee being the Bidder)} or against our CEO or any of our directors/ managers/ employees[§].

[§] Applicable only if the Applicant is a Trading Licensee.

15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Utility of the same immediately.
16. I/ We acknowledge and agree that in the event of a change in control of Bidder {and/or the Developer (to be inserted in case of a Trading Licensee being the Bidder) whose Technical Capacity } was taken into consideration for the purposes of pre-qualification under and in accordance with Section A, I/We shall inform the Utility forthwith along with all relevant particulars and the Utility may, in its sole discretion, disqualify or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the APP but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the APP shall be liable to be terminated without the Utility being liable to us in any manner whatsoever.
17. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Utility in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
18. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a APP in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
19. I/ We have studied all the Bidding Documents carefully. We understand that except to the extent as expressly set forth in the APP, we shall have no claim, right or title arising out of any documents or information provided to us by the Utility or in respect of any matter arising out of or relating to the Bidding Process including the award of Contract.
20. I/ We offer a Bid Security of Rs..... (Rupees..... only) to the Utility in accordance with Section B of the Bidding Document.
21. The Bid Security in the form of Bank Guarantee is attached.¹⁹
22. The documents accompanying the Bid, as specified in Clause 2.10.2 of Section B of the Bidding Document, have been submitted online at the e-Bidding Portal.

¹⁹ In case the Bid Security is submitted online, a receipt of the same shall be submitted.

23. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Document. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to me/us or our Bid is not opened or rejected.
24. The Tariff has been quoted by me/us after taking into consideration all the terms and conditions stated in the bidding document, draft APP, our own estimates of costs and revenues, and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.
25. I/ We agree and undertake to abide by all the terms and conditions of the Bidding Document.
26. I/ We undertake to feed electric supply into the grid at a point that is economical and efficient, as determined by the RLDC or SLDC, as the case may be.
27. I/ We undertake to bear the transmission charges and transmission losses upto the point of delivery of electricity to the Utility from out of the Tariff offered below and in accordance with the terms to be set forth in the APP.
28. I/We offer a Capacity of {...MW} from {Capacity, Name and address of the Project} which conforms to Clause 1.1.4 of Section A of the Bidding Document out of the Capacity Required of {... MW} given under Clause 1.1.1 of Section A of the Bidding Document.
29. I/ We shall keep this offer valid for 120 (one hundred twenty) days from the Bid Due Date specified in the Bidding document.
30. I/ We hereby submit the following Bid²⁰ and offer, as on the Bid Due Date, in accordance with the provisions of the APP and Clause 5.8 of this RFP: ²¹

A Tariff of Rs.....and paise.....[§] (Rupees.....and paise.....) per kWh comprising a Base Variable Charge of Rs.....and paise.....[§] (Rupeesand paise) per kWh including (i) Rs.....and paise...[§] (Rupees.....and paise....) per kWh as the cost of generation (ii) Rs.....and paise...[§] (Rupees.....and paise....) per kWh as the cost of transmission charge and (iii) Rs.....and paise...[§] (Rupees.....and paise....) per kWh as the cost of transmission loss and a Base Fixed Charge of Rs.....and paise.....[§] (Rupeesand paise) per kWh which is equal to the cost of generation

The cost of transmission charge (in Rs./unit) for Projects connected to network other than Gujarat STU shall be specified by the Utility before Bid Due Date based on the prevailing NLDC notified charges. Bidders shall be required to quote the same while submitting the bid. Further, transmission loss (in %) shall be specified by Utility based on prevailing NLDC notified losses before Bid Due Date and Bidders shall be required to quote the cost of transmission loss (in Rs./unit) considering the same.

Whereas, cost of transmission charge & transmission loss for Project connected with Gujarat STU shall be considered as NIL.

²⁰ Bid to be submitted on Portal only in case of e-bidding.

[§] Paise may be quoted only in whole numbers.

In witness thereof, I/we submit this Bid under and in accordance with the terms of this document.

Yours faithfully,

Place:

Date: (Signature, name and designation of the Authorised signatory)

Name and seal of

Bidder

/

APPENDIX – II

Bank Guarantee for Bid Security (Refer Clauses 2.1.7 and 2.19.1)

B.G. No. Dated:

1. In consideration of you, *****, having its office at *****, (hereinafter referred to as the “Utility”, which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns) having agreed to receive the Bid of(a company registered under the Companies Act, 1956/2013) and having its registered office at ((hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the Project (hereinafter referred to as the “Project”) pursuant to the Bidding Document dated issued in respect of the Project and other related documents including without limitation the draft Agreement for Procurement of Power (the “APP”) (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of Section B of the Bidding Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Document (including the RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Utility an amount of Rs. ***** (Rupees ***** only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Utility stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Utility is disputed by the Bidder or not, merely on the first demand from the Utility stating that the amount claimed is due to the Utility by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. ***** (Rupees ***** only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Utility and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Utility shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Utility that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Utility and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Utility shall be entitled to treat the Bank as the principal debtor. The Utility shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Utility, and the Bank shall not be released from its liability under these presents by any exercise by the Utility of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Utility or any indulgence by the Utility to the said Bidder or by any change in the constitution of the Utility or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for the Utility to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Utility may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Utility in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. *** crore (Rupees ***** crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Utility serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [*** (indicate date falling 180 days from the Bid Due Date)].

Signed and Delivered by Bank
By the hand of Mr./Ms, its .. and authorised official.

(Signature of the Authorised Signatory)
(Official Seal)

APPENDIX – III

Power of Attorney for signing of Bid (Refer Clause 2.1.9)

Know all men by these presents, We, ... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./Ms (Name), son/daughter/wife of ... and presently residing at ..., who is presently employed with us and holding the position of ..., as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the ***** Project proposed or being developed by the ***** (the "Utility") including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Utility, representing us in all matters before the Utility, signing and execution of all contracts including the Agreement for Procurement of Power (APP) and undertakings consequent to acceptance of our Bid, and generally dealing with the Utility in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the APP with the Utility.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ..., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF ..., 20...

For.....

(Signature, name, designation and address)

Affixation of Common Seal

Witnesses:

- 1.
- 2.

Accepted

Notarised

(Signature, name, designation and address of the Attorney)

Notes:

1. *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
2. *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
3. *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

**MODEL
AGREEMENT
FOR
PROCUREMENT OF POWER
ON
FINANCE, OWN AND OPERATE BASIS**

Issued by:

**Gujarat Urja Vikas Nigam Ltd (GUVNL)
Sardar Patel Vidyut Bhawan, Race Course,
Vadodara, 390007**

Issued date: May 2021

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