SECTION A

Request For Qualification for

Procurement of 50MW/100MWh (1 Cycle) Battery Energy Storage System (BESS) Power for a Period of 15 years through Tariff-Based Competitive Bidding Process (followed by e-reverse auction) from Grid Connected Inter-State Project

RfS No. TPCD/PP/FY27/002
Date – 11th August 2026

ISSUED BY

The Tata Power Company Limited

Bombay House, 24, Homi Mody Street, Fort, Mumbai – 400001

DISCLAIMER:

1. Though adequate care has been taken while preparing the Request for Selection (RfS) document (RfQ and RfP) , the Bidders shall satisfy themselves that the document is complete in allrespects. Intimation of any discrepancy shall be given to this office immediately. If no intimation is received from any Bidder on or before the date of Pre-Bid Meeting as specified in the Bid Information Sheet, it shall be considered that the RfS document is complete in all respects and has been received by theBidder.

2. The Tata Power Company Limited - Distribution (Tata Power - D) reserves the right to modify, amend, cancel or supplement this RfS document including the draft BESPA.

3. While this RfS has been prepared in good faith, neither Tata Power - D nor their employeesor advisors make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein,or the accuracy, completeness or reliability of information, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this RfS, even if any loss or damage is caused by any act or omission on their part.

Place: Mumbai
Date: 11.08.2026

BID INFORMATION SHEET

1. The brief details of the bid documents are as below:

(A)	**NAME OF WORK/ BRIEF SCOPE OF WORK/ JOB**	Request For Selection for Procurement of 50MW/100MWh BESS Power for a period of 15 years for 'On Demand Usage' for Tata Power-D under Tariff-based Competitive Bidding.
(B)	**Bid NO. & DATE**	TPCD/PP/FY27/002 11th August 2026
(C)	**TYPE OF BIDDING SYSTEM**	Single Stage Bidding with Two Envelopes
(D)	**TYPE OF TENDER**	E – Tender
(E)	**COMPLETION/ CONTRACT PERIOD**	As mentioned in RfQ and RfP Document
(F)	**DOCUMENT FEE/ COST OF Bid DOCUMENT (NON-REFUNDABLE)**	Amount of INR 29,500/- (Indian Rupees Twenty-Nine Thousand Five Hundred Only) including GST shall be submitted through NEFT/ RTGS transfer in the account of Tata Power-D.
(G)	**DOCUMENT PROCESSING FEE (NON- REFUNDABLE)**	Rs. 5 Lakh + 18% GST for total Project capacity quoted by each bidder, shall be submitted through NEFT/RTGS transfer in the account of Tata Power-D.
(H)	**EARNEST MONEY DEPOSIT (EMD)**	Amount of INR Rs 1,00,000 (Indian rupees One Lakh only) per MW shall be submitted in the form of Bank Guarantee/POI.
(I)	**PERFORMANCE BANK GUARANTEE**	Bidders selected by Tata Power-D based on this RfQ and RfP documents shall submit Performance Bank Guarantee (PBG) for a value @ INR 5,00,000/- (Rupees Five Lakhs only per MW), prior to signing of BESPA as per terms of RfQ and RfP documents. Payment on Order Instrument (POI) is allowed as an alternative to Performance Bank Guarantee (PBG).
(J)	**PRE-BID MEETING**	To be held as per date & time mentioned in RfS or communicated appropriately. Bidders shall submit their queries to Tata Power-D through email on or before 24th August 2026.
(K)	**OFFLINE & ONLINE BID-SUBMISSION DEADLINE**	As per NIT on ISN-ETS (BHARAT ELECTRONIC TENDER) portal.

(L)	**TECHNO-COMMERCIAL BID OPENING**	As per NIT on ISN-ETS (BHARAT ELECTRONIC TENDER) portal
(M)	**e-Reverse Auction (e- RA)**	Will be informed to eligible bidders. Date and time of e-RA shall be intimated through portal/mail.
(O)	**Name, Designation, Address and other details (For Submission of Response to RfQ and RfP)**	Head - Power System Control Centre, Tata Power Company Limited Trombay Thermal Power Station, Mahul Road, Chembur, Mumbai – 400074 Tel: 022-67175371
(P)	**Details of person to be contacted in case of any assistance required**	Mr. Nitin Lothe Group Head – Power Management nitin.lothe@tatapower.com 9029002403
(q)	Bank Account details of Tata Power-D **(For Tender Fees and Processing Fees)**	Name of A/c : The Tata Power Co. Ltd A/c No : 00600110000763 Name of Bank : HDFC Bank Ltd Branch : Fort, Mumbai, Maharashtra 400001 IFSC Code : HDFC0000060

Important Note: Prospective Bidders are requested to remain updated for any notices/amendments/clarifications etc. to the RfQ and RfP Document through the websites htttps://www.bharat-electronictender.com and No separate notifications will be issued for such notices/amendments/clarifications etc. in the print media or individually.

1. Bids must be submitted strictly in accordance with RfQ and RfP documents, depending upon Type of Tender as mentioned at Clause no.(C) and (D) of Bid Information Sheet.
2. Bidders are required to quote strictly as per terms and conditions of the RfQ and RfP documents and not to stipulate any deviations/ exceptions.
3. Any bidder, who meets the Qualifying Requirement and wishes to quote against this RfQ and RfP, may download the complete RfQ and RfP documents along with its amendment(s) and clarifications if any, from ISN-ETS Portal (https://www.bharat-electronictender.com) and/or Tata Power-D website (www.tatapower.com) and submit their Bid complete in all respect as per terms & conditions of RfQ and RfP documents on or before the due date of bid submission.
4. Clarification(s)/ Corrigendum(s) if any shall also be available on the above referred websites only. No individual correspondence shall be made.

   Bidders are requested to remain updated for any notices/ amendments/ clarifications etc. to the RfQ and RfP documents through the websites https://www.bharat-electronictender.com and www.tatapower.com. No separate notifications will be issued for such notices/ amendments/ clarifications etc. in the print media or individually. Intimation regarding notification on the above shall be updated on www.tatapower.com and the details only will be available from https://www.bharat-electronictender.com.

1. INTRODUCTION

1.1 Background

1.1.1 The Tata Power Company Limited ("Tata Power") is a company incorporated under the provisions of the Indian Companies Act, VII of 1913, with its registered office at Bombay House, 24, Homi Mody Street, Fort, Mumbai 400001. Tata Power has a license to operate and maintain a distribution system and supply electric energy to the consumers of Mumbai area as enumerated in Maharashtra Electricity Regulatory Commission (MERC) Specific conditions of Distribution License applicable to The Tata Power Company Limited Regulations, 2008. Tata Power carries out the distribution business in Mumbai through its division, Tata Power-Distribution business hereinafter referred to as "**Tata Power-D" / "The Procurer"**

1.1.2 Tata Power-D seeks to procure electricity from a Battery Energy Storage System Project that shall supply 50 MW/100MWh BESS power ("**Supply Capacity**"), maintaining a Supply of minimum 95% availability on monthly basis, thereof for a period of 15 (Fifteen) years and has, therefore, decided to carry out the bidding process for selection of an entity as the successful Bidder to whom the contract may be awarded for supply thereof as per the terms and conditions specified in the Bidding Documents.

The primary objective of the BESS is to provide energy storage capacity on an "on demand" basis to Tata Power-D, for charging and discharging in accordance with dispatch instructions issued by Tata Power-D. The energy for charging the BESS shall be provided by Tata Power-D.

Brief particulars of the Supply Capacity are as follows:

Req No.	**Battery Energy Storage System power supply**				
	Supply Start Date	**Supply Capacity**	**Minimum Availability - Monthly**	**Min Bid Capacity**	**Delivery Point**
1	12 months from BESPA	50 MW / 100 MWh	$\geq$ 95%	50 MW / 100 MWh	CTU Periphery

Tata Power-D shall enter into a Battery Energy Storage Purchase Agreement (BESPA) with the successful Bidder selected based on this RfS, for providing Energy Storage facility to Tata Power-D as per the terms, conditions, and provisions of the RfS and BESPA.

Battery Energy Storage System Developer (supplier/bidder) selected by Tata Power-D based on this RfS, shall set up the BESS on Build Own Operate (BOO) basis in accordance with the provisions of this RfS document and standard BESPA.

Whereas, the Tata Power-D has signed a Power Purchase Agreement (PPA) with M/s Tata Power Renewable Energy Limited ("Solar Power Generator") on dated 3rd January 2020 ("Executed PPA"), for procurement of 150 MW of solar power for a period of 25 years, i.e. till 23rd August 2046. This project is set up at village – Chhayan, Taluka – Pokhran, Dist. – Jaisalmer, Rajasthan State and already commissioned on 24th August 2021. Tata Power-D shall facilitate and make available solar power from this 150 MW project to the Selected Bidder, for BESS project charging purpose, through interconnection point. Interconnection point shall mean a single point, where the proposed BESS Project shall be connected to 33kV side of the mentioned existing solar site (under executed PPA) at Chhayan-Rajasthan, for Supply of BESS power at delivery point.

Under BESPA, the Selected Bidder shall be responsible to coordinate with Tata Power-D for charging BESS, from the already commissioned 150 MW Solar Project, so as to meet Tata Power-D's dispatch requirements on day-ahead/intra-day basis and shall be independently responsible for supply of BESS Capacity under BESPA as per its terms and conditions.

The selected bidder shall be solely responsible for arranging the land required to set up the BESS project, securing non-solar hour connectivity for the proposed BESS, and developing, operating, and maintaining the BESS transmission system up to the delivery point, entirely at its own cost and expense, so as to meet the obligations as per RFQ/RFP and BESPA documents.

All transmission charges and losses, as applicable, shall be borne by Tata Power-D, beyond the delivery point.

1.1.3 The Procurer intends to 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 Process (the "**Qualified Bidders**"), for awarding the Supply Capacity through an open competitive bidding process in accordance with the procedure set out herein.

1.1.4 The selected Bidder (the "**Supplier**"/ "**Selected Bidder**") shall be responsible for supply of electricity from Energy Storage System (Charged through mentioned solar power only, under existing PPA arrangement). Scheduling power to the Procurer under this BESPA, while satisfying the obligations, shall be at the sole discretion of the Procurer.

1.1.5 The Procurer has invited bids in accordance with the Guidelines issued by the Central Government under Section 63 of the Act vide Notification No. 23/05/2020-R&R. dated 22.07.2020, including subsequent amendments and clarifications thereto and based on the

Guidelines for “Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services”, issued by Ministry of Power vide Gazette Notification dated 10.03.2022 and subsequent amendment dated 30th May 2022 and clarifications issued thereto until the bid submission deadline for this RfS issued and this RfS in the capacity of “Procurer” as defined in the aforementioned Guidelines.

1.1.6 The scope of work will broadly include setting up BESS with complete operation and maintenance having a total aggregate storage capacity of 50 MW / 100 MWh and supply of electricity from the Supply Capacity, in accordance with the terms of the BESPA. Under the BESPA, selected bidder shall be free to schedule power from the mentioned 150MW solar plant (existing PPA) so as to meet the BESS dispatch requirement of Tata Power-D.

1.1.7 A single Bidder shall be required to bid for the entire capacity of 50 MW and no part capacity other than such bid capacity shall be allowed to participate and for allocation.

1.1.8 The Procurer 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 Procurer, 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**”).

1.1.9 The Bidders will be free to avail fiscal incentives like Accelerated Depreciation, Concessional Customs and Excise Duties, Tax Holidays etc. available if any for such Projects. The same will not have any bearing on comparison of bids for selection. As equal opportunity is being provided to all Bidders at the time of tendering itself, it is up to the Bidders to avail various tax and other benefits. No claim shall arise on Tata Power-D for any liability if Bidders are not able to avail fiscal incentives and this will not have any bearing on the applicable tariff. Tata Power-D does not however, give a representation on the availability of fiscal incentive and submission of bid by the Bidder shall be independent.

1.2 Brief description of Bidding Process:

1.2.1 The Procurer has adopted a single-stage two envelope competitive bidding process (collectively referred to as the **"Bidding Process"**) for selection of the bidder for award of the Supply Capacity. The **e-Tender** 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 ("first envelope") and RFP ("second envelope") (the **"Bidder"**). Prior to submission of the Application, the Bidder shall pay to the Procurer a sum of Rs. 29,500 (twenty-nine thousand five hundred) (inclusive of GST 18%) including applicable taxes as indicated above, as the cost of the Bidding documents (non-refundable). After the completion of bid evaluation and opening of price bid of e- Tender , system will send an email to all Qualified Bidders who are eligible to participate in the e-Reverse Auction (e-RA) to be conducted by Procurer (i.e. the "**e-Reverse Auction Process**").

1.2.2 All the Bidders would be able to participate in the e-Bidding events on making payment of the bid processing fees of Rs. [5,00,000] (excluding GST @ 18%) per requisition for the total capacity sought by the Procurer for that particular requisition for which the bidder is willing to bid. The requisite fee shall be deposited through NEFT/IMPS/RTGS after adding the applicable taxes. This bid processing fees is non-refundable.

1.2.3 The e-Tender shall be a two-fold/envelope process, where the Bidders will be required to submit their Application and Bid online at the ISN - ETS portal (https://www.bharat-electronictender.com) - BHARAT ELECTRONIC TENDER Portal, on or before the Bid Due Date. The necessary changes associated with the registration on Bharat portal shall be borne by the bidder.

1.2.4 Interested bidders have to necessarily register themselves on the portal (BHARAT ELECTRONIC TENDER Portal) to participate in the bidding under this invitation for bids. It shall be the sole responsibility of the interested bidders to get themselves registered at the aforesaid portal.

1.2.5 The 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).

1.2.6 The Bid shall be valid for a period of not less than 180 days from the Bid Due Date. The Financial Bids of only those Bidders that are qualified and short-listed by the Procurer after evaluation of their Application, shall be opened and e-reverse auction will be conducted. Tata Power-D shall conduct e-Reverse Auction (e-RA) as per provisions of RFP documents. The Procurer is likely to provide a comparatively short time span for submission of the Bids for the Project. The Bidders are, therefore, advised to familiarize themselves with the terms of the Model/draft BESPA that will govern the structure of this Project.

1.2.7 The Bidders will be required to submit their Application and Bid online at the (BHARAT ELECTRONIC TENDER Portal) on or before the Bid Due Date & time.

1.2.8 Bidder shall submit bid proposal along with non-refundable Bidding Document Fees and Bid Processing Fees and Earnest Money Deposit (EMD) complete in all respect as per the Bid Information Sheet. Bid proposals received without the stipulated Bidding Document Fees, Bid Processing Fees and EMD, will be rejected. In the event of any date indicated being declared a holiday, the next working day shall become operative for the respective purpose mentioned herein. Bidding documents which include Eligibility Criteria, Technical Specifications, various Conditions of Contract, Formats etc. can be downloaded from the Portal or from Tata Power-D's website. It is mandatory to download official copy of the Bidding Document from Portal to participate in the Tender. Any amendment(s)/ corrigendum(s)/ clarification(s) with respect to this Bidding document shall be uploaded on Portal. The Bidder should regularly check for any Amendment(s)/Corrigendum(s)/Clarification(s) on the above-mentioned Portal. The same may also be uploaded on Tata Power-D's website. However, in case of any discrepancy, the information available on Bharat Portal shall prevail.

1.2.9 **Interpretations**

(a) Words comprising the singular shall include the plural & vice versa.

(b) An applicable law shall be construed as reference to such applicable law including its amendments or re-enactments from time to time.

(c) A time of day shall save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.

(d) Different parts of this contract are to be taken as mutually explanatory and supplementary to each other and if there is any differentiation between or among the parts of this contract, they shall be interpreted in a harmonious manner so as to give effect to each part.

(e) The table of contents and any headings or sub headings in the contract has been inserted for case of reference only & shall not affect the interpretation of this agreement.

1.2.10 For the qualified and short-listed Bidder(s) the financial bid (second envelope) shall be opened in accordance with the RFP and other documents to be provided by the Procurer (collectively the "**RFP Documents**").

1.2.11 In terms of the RFP, a Bidder will be required to deposit, as part of its Bid, a bid security of Rs 1,00,000 (Rupees One lakh) per MW of capacity offered by the Bidder (the **"Bid Security"**), refundable not later than 60 (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 BESPA. The Bidders will have to provide Bid Security in the form of a Demand Draft or a Bank Guarantee or an Insurance Surety Bond or a Payment on Order Instrument acceptable to the Procurer by the Bid Due Date. The Bid Security shall be kept valid for a period not less than 180 (one hundred and eighty) days from the Bid Due Date, by submitting another Bid Security before expiry of the existing Bid Security and may be further extended as may be mutually agreed between the Procurer and the Bidder from time to time. In case a Bank Guarantee/ Insurance Surety Bond / Payment on Order Instrument 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 Procurer and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security and/or Bid Security has not been submitted by the Bid Due Date.

1.2.12 In e-Reverse Auction Process, the lowest Bid received in the e-Tender shall be displayed to the Bidders on the (BHARAT ELECTRONIC TENDER Portal) and thereafter any subsequent lowest bid in e-Reverse Auction Process on a real time basis. During the e-Reverse Auction Process, the Bidders will have the option of reducing the Tariff in decrements of 1 (one) paise 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**”).

1.2.13 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 selected in case such Lowest Bidder withdraws or is not selected for any reason. It is hereby clarified that the Procurer will only accept the entire capacity offered by the Selected Bidder.

1.2.14 During the Bidding Process, Bidders are invited to examine the bid documents in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids.

1.2.15 As part of this Bidding Documents, the Procurer will provide a draft BESPA, existing Executed PPA of Tata Power-D for supply of required solar power to Selected Bidder and other information pertaining/ relevant to the Project available with it.

1.2.16 Bids are invited for the Supply Capacity under Section B of this Bidding Document, on the basis of a tariff at delivery point in accordance with the terms of the draft BESPA forming part of the Bidding Documents.

The Tariff has to be quoted in Indian Rupee per MW per month (Applicable Tariff) in whole numbers only (no decimal places allowed), at the Delivery Point and shall be fixed for the entire contract period of the BESPA.

Tata Power-D shall make available suitable power, required for BESS charging purpose, from the existing 150 MW Solar project (already set up under the Executed PPA) to the selected Supplier, through the interconnection point. Therefore, Bidder shall not consider any expenses towards BESS charging power, while quoting BESS tariff (Indian Rupee per MW per month) at the delivery point.

There shall be connectivity-related charges in Rs/MW/Month for availing charging power from the existing 150MW solar project. Bidders shall include these charges while quoting the tariff at delivery point.

It is clarified that Tariff payments under the BESPA shall be computed at the Applicable Tariff for the entire power supply. Tata Power-D shall be responsible for Solar charging power payment obligations with respect to Solar Power scheduled/supplied under the Executed PPA to the BESS supplier. Given the above adjustment, Tata Power-D shall not seek any payments from the Supplier, for the Solar Power scheduled/supplied under the Executed PPA, for BESS charging purpose.

The Supply Capacity shall be awarded to the Bidder quoting the lowest Tariff in accordance with 1.2.16, after the completion of the process under Clause 1.2.9 above.

In this Section A, the term "**Lowest Bidder**" shall mean the Bidder who is offering the lowest Tariff. This will be fixed for the entire term of contract.

Tariff to be quoted in the Financial Bid shall be exclusive of GST (for offering storage service). GST levied on the storage service being provided by the Project, if any, shall be passed through to the Tata Power-D.

1.2.17 Notwithstanding anything to the contrary contained in this Agreement the tariff under this agreement shall not be changed on account of any change in tariff under the executed PPA, including on account of occurrence of any change in law event under the executed PPA.

1.2.18 Further details of the process for submission of Bid to be followed at the e-Tender and the terms thereof will be spelt out in Section B of this Bidding Document.

1.2.19 Any queries or request for additional information concerning this Section A shall be submitted in writing on the (BHARAT ELECTRONIC TENDER Portal) or by speed post/courier and 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 50MW BESS Project".

1.2.20 It is to be noted that Bidder is required to submit Tariff (Indian Rupee per MW per month) at the time of Bid Submission for its Supply Capacity. The evaluation of Bidder will be done at Tariff at Delivery Point (i.e. excluding the ISTS transmission charges and ISTS losses, as applicable).

1.2.21 Any DSM penalties due to violation of the schedule of discharging the BESS at delivery point shall be to the account of the selected bidder. Reactive power charges shall be on account of selected bidder as applicable, at BESS end during charging and discharging, as per CERC regulations.

1.3 Schedule of Bidding Process

The Procurer shall endeavor to adhere to the following schedule:

	Event Description	Date and Time
1.	Date and time of Start of e-Tender	11th August 2026 17:00 Hrs.
2.	Last date and time for receiving queries on RFQ and RFP	24th August 2026
3.	Pre-Bid Meeting	27th August 2026 15:00 Hrs.
4.	Procurer response to queries latest by	4th September 2026
5.	Last date and time of procurement of tender documents	14th September 2026 11:00 Hrs.
6.	Last date and time of submission of Application and Bids – **Bid Due Date**	15th September 2026 14:00 Hrs.
7.	Techno-commercial Bid Opening	15th September 2026 15:00 Hrs.
8.	e-Reverse Auction	Will be informed to eligible bidders.
Note: The prospective bidders are requested to remain updated for any notices/ amendments/ clarifications etc. to the bidding document through the website/ ISN - ETS portal and NO separate notification will be issued for such notices/ amendments/ clarifications etc. in the print media or individually. The timelines are tentative and may change appropriately.		

1.4 Pre-Bid Meeting

The date and time and mode (Online/Offline) of the Pre-Bid meeting shall be communicated appropriately.

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Scope of Application:

2.1.1 The Procurer wishes to receive Applications in order to short- list experienced and capable Bidder for procurement of 50 MW / 100 MWh BESS power under this RFP process.

2.1.2 The Techno-commercial Bids will be opened as per 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 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 / Energy Storage System ;

2.2.2 To be eligible for qualification and short-listing, a Bidder shall fulfill the following conditions of eligibility:

(A) **Technical Capacity**: For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder shall have experience in construction, commissioning, owning, operating and maintaining Battery Energy Storage station(s) having an installed capacity equivalent to at least half the capacity for which the Bidder is willing to Bid. Bidders shall not be allowed to increase their capacity at e- Reverse Auction Process greater than for which Technical Capacity has been demonstrated.

(B) **Financial Capacity**: The Bidder shall have a (a) minimum Net Worth (the **"Financial Capacity-1"**) equivalent to Rs. 50 lakh (Rs. Fifty lakh) per MW of the capacity the Bidder is willing to Bid, at the close of the immediately preceding financial year; (b) minimum Turnover (the **"Financial Capacity-2"**) 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; and (c) (b) minimum EBITDA (the **"Financial Capacity-3"**) equivalent to Rs. 50 lakh (Rs. Fifty lakh) 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 Process greater than for which Financial Capacity has been demonstrated.

It is clarified that the Bidders are allowed to use the credentials of its Associate(s) / Affiliate(s)

to meet the Technical as well as Financial eligibility criteria. However, if the Bidder and its Associate(s) / Affiliate(s) are participating in this bid, in such case, the credential of technical and financial criteria must be fulfilled for cumulative bid capacity of the Bidder and its Associate(s) / Affiliate(s).

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**$**:

(i) certificate(s) from statutory auditors of the Bidder, stating the power stations which are constructed, commissioned, owned and operated by the Bidder or its Associate(s) / Affiliate(s), as the case may be, as specified in paragraph 2.2.2 (A) above; and

(ii) certificate(s) from statutory auditors of the Bidder specifying the net worth, turnover and EBITDA 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 mean the net worth as per the Companies Act, 2013.

2.2.4 The Bidder should submit a Power of Attorney as per the format at Appendix-II, authorizing 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 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.

2.2.6 A Bidder 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, 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. Provided, however, that where a Bidder claims that its 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 Procurer for seeking a waiver from the disqualification hereunder and the Procurer 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.

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 [BHARAT ELECTRONIC TENDER Portal] only and upload clearly marked and referenced documents/sheets in the e-Tender.

(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 qualification; and

(c) In responding to the qualification submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below.

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 Supply Capacity.

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 Procurer 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 Supply 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 Bidding Document;

(b) received all relevant information requested from the Procurer;

(c) accepted the risk of inadequacy, error or mistake in the information provided in this Bidding Document or furnished by or on behalf of the Procurer 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 Procurer 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 Procurer.

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

2.6.1 Notwithstanding anything contained in this Bidding Documents, the Procurer reserves the right to accept or reject any Applications 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 Procurer rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.6.2 The Procurer 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 Procurer, the supplemental information sought by the Procurer for evaluation of the Application.

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

(a) invite the remaining Bidders to match the Lowest Bidder/ submit their Bids in accordance with the Bidding Document; or take any such measure as may be deemed fit in the sole discretion of the Procurer, 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 BESPA or after its execution and during the period of subsistence thereof, including the contract thereby granted by the Procurer, that one or more of the 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 BESPA, and if the Bidder/SPV has already been issued the LOA or has entered into the BESPA, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this bidding document, be liable to be terminated, by a communication in writing by the Procurer to the Bidder, without the Procurer being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Procurer may have under this Bidding document, the Bidding Documents, the BESPA or under applicable law.

2.6.4 The Procurer reserves the right to verify all statements, information and documents submitted by the Bidder in response to this bidding document. Any such verification or lack of such verification by the Procurer shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Procurer 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 this bidding document may notify the Procurer in writing online at [BHARAT ELECTRONIC TENDER Portal] or by speed post/courier and by e-mail attaching the queries in Microsoft word file in accordance with Clause 1.2.13.

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 Procurer shall endeavour to respond to the queries prior to the Bid Due Date. The responses will be sent by e-mail or online at the [BHARAT ELECTRONIC TENDER Portal]. The Procurer 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 [BHARAT ELECTRONIC TENDER Portal].

2.8.2 The Procurer shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, the Procurer 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 Procurer to respond to any question or to provide any clarification.

2.8.3 The Procurer may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Procurer shall be deemed to be part of this bidding document. Verbal clarifications and information given by

Procurer or its employees or representatives shall not in any way or manner be binding on the Procurer.

2.9 Amendment of Bidding Document

2.9.1 At any time prior to the deadline for submission of Application, the Procurer may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the Bidding document by the issuance of Addenda.

2.9.2 Any Addendum thus issued will be available at the [BHARAT ELECTRONIC TENDER Portal]. The Bidders are advised to check the [BHARAT ELECTRONIC TENDER 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 Procurer 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 bidding document. The Procurer 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 [BHARAT ELECTRONIC TENDER 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 [BHARAT ELECTRONIC TENDER Portal] for participation in the Bidding Process.

2.11.6 The Official Copy of the Bidding Document shall be available for download on the [BHARAT ELECTRONIC TENDER Portal] and on the website of Procurer 15 days prior to Bid Due Date

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 [BHARAT ELECTRONIC TENDER 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 duly audited balance sheet and profit and loss account for the preceding three years;

(v) Omitted; and

(vi) Omitted; and

(vii) any other specific requirement that may be specified by the Procurer].

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:

Head - Power System Control Centre, Station A, 1st Floor,

Tata Power Company Limited
Trombay Thermal Power Station, Mahul Road,
Chembur, Mumbai – 400074
Tel: 022-67175371

Such hard copies along with the physical copy of Bid Security should reach the aforementioned address on or before bid due date and time 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 [BHARAT ELECTRONIC TENDER 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 Procurer 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, all Bidders after uploading on the [BHARAT ELECTRONIC TENDER 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 as per the schedule mentioned above, on the Bid Due Date, at the BHARAT ELECTRONIC TENDER Portal in the manner and form as detailed in this RFQ.

2.13.2 The Procurer 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

Applications will not be accepted for submission at the (BHARAT ELECTRONIC TENDER 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 [BHARAT ELECTRONIC TENDER 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 [BHARAT ELECTRONIC TENDER 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 **e-Reverse Auction** 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 Procurer, shall be disregarded.

D. EVALUATION PROCESS

2.16 Opening and Evaluation of Applications

2.16.1 The Procurer may open the Applications at 16:00 hours IST on the Bid Due Date or thereafter, at the place specified in Clause 2.12.3.

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 15 working days in accordance with Clause 2.20.2.

2.16.3 The Procurer will subsequently examine and evaluate Applications in accordance with the provisions set out in Clause 3.

2.16.4 Bidders are advised that qualification of Bidders will be entirely at the discretion of the Procurer. 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 Procurer, 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 Procurer 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 Procurer 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 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 Procurer in relation to, or matters arising out of, or concerning the Bidding Process. The Procurer 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 Procurer 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 Procurer 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 Procurer 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) Bid Security in the form of specified format as per RFQ received by the Bid Due Date
(d) it is digitally signed and uploaded as stipulated in Clauses 2.11 and 2.12;
(e) it is accompanied by the Power of Attorney as specified in Clause 2.2.4;
(f) it contains all the information and documents (complete in all respects) as requested in this RFQ;
(g) it contains information in formats same as those specified in this RFQ;
(h) it contains certificates from its statutory auditors in the formats specified at Appendix-I of the RFQ;
(i) Omitted;
(j) Omitted;
(k) it contains an attested copy of the system generated receipt or receipt of the Procurer for payments towards the cost of the Bidding Process, e-Bidding fees submitted as per Clause 1.2.1 and Bid Security as specified in Clause 1.2.6;
(l) it does not contain any condition or qualification; and
(m) it is not non-responsive in terms hereof.

2.18.2 The Procurer 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 Procurer in respect of such Application. Provided, however, that the Procurer 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 Procurer 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 Procurer 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 Procurer 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 Procurer.

E. QUALIFICATION AND BIDDING

2.20 Qualification and notification

2.20.1 **Omitted**

2.20.2 **Omitted**

2.21 Submission of Bids

The Bidders will be requested to submit a Bid online in the form and manner to be set in this Bidding Document.

The Financial Bids of only qualified Bidders shall be opened by the Procurer on such date as specified in this Bidding Document. The Procurer is likely to provide a comparatively short time span for submission of the Bids for the Supply Capacity. 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 Supply Capacity. 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 Procurer or submitted by a Bidder to the Procurer shall remain or become the property of the Procurer. 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 Procurer will not return any Application or any information provided along therewith.

2.23 Correspondence with the Bidder

Save and except as provided in this bidding document, the Procurer 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.

3.1.2 The Bidder's competence and capability is proposed to be established by the following parameters:

(a) Technical Capacity; and
(b) Financial 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). For a Bidder to qualify, it should have experience in constructing, commissioning, owning, operating and maintaining Battery Energy Storage station(s), 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.

3.3 Financial Capacity for purposes of evaluation

3.3.1 The Application must be accompanied by the Annual Reports of the Bidder for the last 3 (three) financial years, immediately preceding the year in which the Application is made.

3.3.2 In case the Annual Reports for the latest financial year are not available and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Annual Reports for 3 (three) years preceding the year for which the Annual Report is not being provided.

3.3.3 The Bidder must establish the minimum Net Worth, Turnover and EBITDA specified in Clause 2.2.2 (B), and provide details as per format at Annex-III of Appendix-I.

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 Procurer 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 Procurer under Clause 4.1 hereinabove, if an Bidder is found by the Procurer 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 issued by the Procurer during a period of 2 (two) years from the date such Bidder is found by the Procurer 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:

(c) "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 Procurer 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 BESPA 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 Procurer, 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 Procurer in relation to any matter concerning the Project;

(d) "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;

(e) "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;

(f) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Procurer 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

(g) "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. PRE-BID MEETING

5.1 A Pre-Bid meeting of the interested parties shall be convened at the designated date, time and place in online/offline mode. A maximum of two representatives of each interested party shall be allowed to participate on production of identity.

5.2 During the course of Pre-Bid meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of the Procurer. The Procurer shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

5.3 A report of the Pre-Bid meeting shall be prepared and be made available to all the participating Bidders, through bidding portal 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 Procurer 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 Procurer, 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) qualify or not to 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 Procurer 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 Procurer, its employees, agents and advisers, SPD under Executed PPA 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 Qualification to be uploaded during e-Tender

To,

Head – Power System Control Centre

Sub: Application for qualification for 50MW/100MWh Supply Capacity.

Ref: RfQ No. ………………. dated …………..

Dear Sir,

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 capacity. The Application is unconditional and unqualified.

2. I/ We acknowledge that the Procurer will be relying on the information provided in the Application and the documents accompanying such Application for qualification of the Bidders for the aforesaid capacity, 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 Supply Capacity and for sale of electricity to the Procurer.

4. I/ We shall make available to the Procurer any additional information it may find necessary or require to supplement or authenticate the Qualification statement.

5. I/ We acknowledge the right of the Procurer 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 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 Procurer;

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 Procurer 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 the Net Worth, Turnover and EBITDA criteria and meet all the requirements as specified in Section A of the Bidding Document and are/ am qualified to submit a Bid.

10. I/ We further declare that we are fully aware of the binding provisions as contained in the O.M. dated 09.12.2024 issued by MNRE on the subject Amendment to ALMM Order for Implementation of ALMM for Solar PV cells and its subsequent amendments and clarifications, in this bid document.

11. ***Omitted.***

12. I/ We certify that in regard to matters other than security and integrity of the country, we 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 Supply Capacity 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 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 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 Procurer 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 Procurer 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, [my/our Networth is Rs. … … . (Rs. in words), Turnover is Rs. ..... (Rs. in words), EBITDA is ..... (Rs. in words) and our Technical Capacity is equivalent to ……MW (MW in words).]$

21. I/We offer a Supply Capacity of {50 MW / 100 MWh} which conforms to Clause 1.1.5 of Section A of the Bidding Document 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.

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 Authorized 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 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 paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last three years?		

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 (Battery Energy Storage System)		
Date of completion/ Commissioning	4	

@ *Provide details of only those projects that have been undertaken by the Bidder under its own name or in name of its Associate(s)/Affiliate(s) .*

Instructions:

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

Certificate from the Bidder's, as applicable, auditor$ must be furnished as per formats below:

Certificate from the Auditor regarding projectsΦ

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:

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.

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

Certificate from the Auditor regarding projects$^{\Phi}$
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 at ………………………………………………owns 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:

6. 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 Supply Capacity.

ANNEX-III

Financial Capacity of the Bidder

(*Refer to Clauses 2.2.2(B), 2.2.3(ii) and 3.3 of the RFQ*)

Applicant Name	
Net Worth (In Rs. Crore)	
Turnover (In Rs. Crore)	
EBITDA (In Rs. Crore)	

€The Bidder should provide details of its own Financial Capacity or of its Associate(s) / Affiliate(s).

Name & address of Bidder's Bankers:

Instructions:

1. The Bidder shall attach copies of the financial statements and Annual Reports for 3 (three) years preceding the Bid Due Date. The financial statements shall:

   (a) Omitted.

   (b) be audited by a statutory auditor;

   (c) be complete, including all notes to the financial statements; and

   (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

2. Net Worth shall be as the networth as per The Companies Act, 2013.

3. Year will be the latest completed financial year, preceding the bidding. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.9 the Year shall be Year immediately preceding the latest completed Financial Year.

4. The Bidder shall provide an Auditor‟s Certificate specifying the net worth of the Bidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.3 (ii) of the RFQ document.

Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder)

Ref. Date:

To,

Head – Power System Control Centre

Sub: Application for qualification for 50MW/100MWh BESS Supply Capacity.

Ref: RfQ No. ……………..dated ……………

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 authorized 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……………………………..

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 qualification and submission of our bid for the 50 MW Supply Capacity proposed by the ***** (the “Procurer”) 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 Procurer, representing us in all matters before the Procurer, signing and execution of all contracts including the **Power Purchase Agreement** and undertakings consequent to acceptance of our bid, and generally dealing with the Procurer in all matters in connection with or relating to or arising out of our bid for the said Supply Capacity and/ or upon award thereof to us and/or till the entering into of the BESPA with the Procurer.

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 ….2…..

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 Appostille certificate.*

SECTION B

Request For Proposal for

Procurement of 50MW/100MWh (1 Cycle) Battery Energy Storage System (BESS) Power for a Period of 15 years through Competitive Bidding Process (followed by e-reverse auction) from Grid Connected Inter-State Project

(Bid submission, e-Reverse Auction)

RfS No. TPCD/PP/FY27/002
Date – 11th August 2026

ISSUED BY

The Tata Power Company Limited

Bombay House, 24, Homi Mody Street, Fort, Mumbai – 400001

INTRODUCTION

1.1 Brief description of Bidding Process

1.1.1. The Procurer has adopted a single-stage two envelope competitive bidding process (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Supply Capacity. The "**e-Tender**" process involves qualification of interested parties in accordance with the provisions of the Section A and opening of the Bid of the qualified and short-listed Qualified Bidders in accordance with this Section B. At the end of the e-Tender, system will send an email to all Qualified Bidders which are eligible to participate in e-Reverse Auction (e-RA) to be conducted by Procurer. The Bid shall be valid for a period of not less than 180 days (one hundred eighty days) from the Bid Due Date.

1.1.2. The Bidding Documents include the draft BESPA for the Supply Capacity and Executed PPA of Solar Power from Tata Power-D. 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, as part of its Bid, a bid security of Rs. 1,00,000 (Rupees One lakh) per MW of capacity offered by the Bidder (the "**Bid Security**"), refundable not later than 60 (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 BESPA. The Bidders will have an option to provide Bid Security in the form of a Demand Draft or a Bank Guarantee or an Insurance Surety Bond or a Payment on Order Instrument acceptable to the Procurer and shall be submitted in Physical form by the Bid Due Date. The Bid Security shall be kept valid for a period not less than 180 (one hundred and eighty) days from the Bid Due Date, by submitting another Bid Security before expiry of the existing Bid Security and may be further extended as may be mutually agreed between the Procurer and the Bidder from time to time. In case a Bank Guarantee/ Insurance Surety Bond / Payment on Order Instrument 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 Procurer and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security and/or Bid Security has not been submitted in physical form by the Bid Due Date. 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.

1.1.4. 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 supply of electricity in accordance with the terms of the draft BESPA forming part of the Bidding Documents. For the purposes of bidding hereunder, the Bidder shall quote Tariff (exclusive of all applicable transmission charges and losses) at Delivery Point for the quantum offered (the "Tariff"). The contract period shall be pre-determined and will be indicated in the draft BESPA. All transmission charges and losses (including GNA/ISTS charges and ISTS losses) beyond the

Delivery Point shall be borne by Procurer.

The Tariff shall be quoted at the Delivery Point (“Applicable **Tariff**”) and shall be fixed for the entire contract period of this Agreement.

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

1.1.5. In e-Reverse Auction Process, the lowest Bid received in the e-Tender shall be displayed to the Bidders on the (BHARAT ELECTRONIC TENDER Portal - www.bharat-electronictender.com) and thereafter any subsequent lowest bid in e-Reverse Auction Process on a real time basis. During the e-Reverse Auction Process, the Bidders will have the option of reducing the Tariff quoted by them in e-Tender in their Bids in decrements of 1 (one) paisa 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”).

1.1.6. 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 selected in case such Lowest Bidder withdraws or is not selected for any reason. It is hereby clarified that the Procurer will only accept the entire capacity offered of the Selected Bidder.

Tariff under the BESPA shall remain fixed in accordance with Article 11 of the BESPA.

1.1.7. The Supplier shall be entitled to receive Tariff (capacity charge) for energy scheduled at the Delivery Point(s).

1.1.8. Details of the process to be followed at the e-Tender and the terms thereof are spelt out in this RFP.

1.1.9. Any queries or request for additional information concerning this RFP shall be submitted in writing online at the [BHARAT ELECTRONIC TENDER Portal] or by speed post/courier and 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 50 MW BESS Supply Capacity for Tata Power-D".

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 Supply Capacity.

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 Procurer 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 BESPA 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 BESPA.

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 BESPA.

2.1.7 The Bidder shall deposit a Bid Security as specified in Clause 1.1.3 of this RFP. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee or an Insurance Surety Bond or a Payment on Order Instrument acceptable to the Procurer, as per format at Appendix–II.

2.1.8 The validity period of the Bank Guarantee/ Insurance Surety Bond / Payment on Order Instrument 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 Procurer and the Bidder. The Bid Security shall be refundable no later than 60 (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 Performance Security under the BESPA.

2.1.9 The Bidder should submit a Power of Attorney as per the format at Appendix– III, authorizing 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 Procurer are and shall remain or become the property of the Procurer 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 Procurer 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/ Affiliate / Associate prior to signing of BESPA, whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of 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 Procurer forthwith along with all relevant particulars about the same and the Procurer may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the BESPA but prior to the Appointed Date of the Supply Capacity, it would, notwithstanding anything to the contrary contained in the BESPA, be deemed to be a breach of the BESPA, and the same shall be liable to be terminated without the Procurer being liable in any manner whatsoever to the Supplier. In such an event, notwithstanding anything to the contrary contained in the BESPA, the Procurer 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 Procurer under the Bidding Documents and/ or the BESPA or otherwise. For avoidance of doubt, the Bidder shall not be mandated to provide any ownership details for the source and/or project from which power is supplied.

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 Procurer 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 familiarizing 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 Procurer;

(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 Procurer 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 Procurer, or a ground for termination of the BESPA by the Supplier; and

(g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.4.3 The Procurer 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 Procurer.

2.5 **Verification and Disqualification**

2.5.1 The Procurer 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 Procurer, 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 Procurer shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Procurer thereunder.

2.5.2 The Procurer 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 Procurer, the supplemental information sought by the Procurer for evaluation of the Bid.

(c) not received the Bid Security within the timeline of Bid Due Date.

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 Procurer reserves the right to:

(i) invite the remaining Qualified Bidders to submit their Bids in accordance with Clause 4.4; or

(i) take any such measure as may be deemed fit in the sole discretion of the Procurer, 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 BESPA or after its execution and during the period of subsistence thereof, including the Contract thereby granted by the Procurer, that one or more of the 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 BESPA, and if the Selected Bidder has already been issued the LOA or has entered into the BESPA, 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 Procurer to the Selected Bidder or the Supplier, as the case may be, without the Procurer being liable in any manner whatsoever to the Selected Bidder or Supplier. In such an event, the Procurer 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 Procurer under the Bidding Documents and/ or the BESPA, 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 / Insurance Surety Bond / Payment of Order Instrument for Bid Security
III. Power of Attorney for signing of Bid

2.6.2 The draft BESPA provided by the Procurer as part of the Bidding Documents shall be deemed to be part of this Document.

2.6.3 Executed PPA provided by the Procurer as part of 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 Procurer in writing online at the [BHARAT ELECTRONIC TENDER Portal] or by speed post/courier and 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 Clause1.3 of the RFQ. The Procurer shall endeavour to respond to the queries prior to the Bid Due Date. The responses will be sent by e-mail. The Procurer will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2.7.2 The Procurer shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Procurer 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 Procurer to respond to any question or to provide any clarification.

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

2.8 **Amendment of RFP**

At any time prior to the Bid Due Date, the Procurer 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.

2.8.1 Any Addendum issued hereunder will be in writing and shall be available at the [BHARAT ELECTRONIC TENDER Portal]. The Bidders are advised to check the [BHARAT ELECTRONIC TENDER Portal] for any amendments or notifications.

2.8.2 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Procurer 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 Procurer will evaluate only those Bids that are received in the required formats on the [BHARAT ELECTRONIC TENDER Portal] and complete in all respects.

2.9.2 The Bid shall be uploaded and submitted only on the [BHARAT ELECTRONIC TENDER 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 [BHARAT ELECTRONIC TENDER 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 BESPA 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 copy of Executed PPA for Solar Power procurement with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinabove. 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 Executed PPA as specified in Clause 2.10.2 (e) shall be uploaded separately. The pages in copy shall be numbered serially, and every page shall be initialed in blue ink by the authorized signatory of the Bidder.

2.10.4 The Bidders shall send the hard copy of all the original documents except for Executed PPA for Solar Power procurement 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 on or before the bid due date and time 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 [BHARAT ELECTRONIC TENDER Portal] and the hard copies submitted in accordance with this Clause 2.10.4, the documents uploaded online shall prevail. It is to be noted that physical copy of Bid Security as per prescribed format in RfP should be reached by the Bid Due Date.

2.10.5 If the Bids are not uploaded and signed as instructed above, the Procurer 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 e-Tender, all Bidders after uploading on the [BHARAT ELECTRONIC TENDER 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 [BHARAT ELECTRONIC TENDER Portal - www.bharat-electronictender.com] 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 Procurer 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 [BHARAT ELECTRONIC TENDER Portal] after the time specified on the Bid Due Date.

2.13 **Contents of the Bid**

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 BESPA.

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

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

2.13.3 The draft BESPA 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 [BHARAT ELECTRONIC TENDER 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 BHARAT ELECTRONIC TENDER Portal and the Bidder may submit fresh Bids prior to the Bid Due Date.

2.14.2 However not withstanding this Clause, all Bids submitted in **e-Reverse Auction** 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 Procurer, shall be disregarded.

2.15 Rejection of Bids

2.15.1 Notwithstanding anything contained in this Section B, the Procurer 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 therefor. In the event that the Procurer rejects or annuls all the Bids, it may, in its discretion, invite all Qualified Bidders to submit fresh Bids hereunder.

2.15.2 The Procurer 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 180 (one hundred and eighty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Procurer.

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 Procurer in relation to, or matters arising out of, or concerning the Bidding Process. The Procurer 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 Procurer 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 Procurer 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 Procurer 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 nationalized bank, or a Scheduled Bank in India, in favour of the Procurer 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 Procurer and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

As another alternative to submission of Bid Security as above, the Bidder also has an option to submit Insurance Surety Bond from an Insurer as per the guidelines issued by the Insurance Regulatory and Development Authority of India (IRDAI). The Surety Bond issuing organization undertakes to pay in all scenarios under which the EMD would be liable to be encashed by Procurer within the provisions of RFP/BESPA. This instrument would be furnished as per Format Annexure-IV of the RFP, within the timelines as per Clause 1.1.3 above, for the amount and validity period as mentioned herein above.

Bidder may also has an option to submit a letter of undertaking issued by either of the following three organizations, viz. (i) Indian Renewable Development Agency Limited (IREDA) or (ii) Power Finance Corporation Limited or (iii) REC Limited. This Letter of Undertaking shall be issued as

"Payment on Order Instrument" (POI), wherein the POI issuing organization undertakes to pay in all scenarios under which the EMD would be liable to be encashed by Procurer within the provisions of RFP/BESPA. This instrument would have to be furnished as per Format Annexure-V of the RFP, within the timelines as per Clause 1.1.3 above, for the amount and validity period as mentioned herein above.

Bid Security in the form of Insurance Surety Bond / Payment on Order Instrument may also be acceptable.

2.19.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Procurer and payable at (the "**Demand Draft**"). The Procurer 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 by the Bid Due Date shall be summarily rejected by the Procurer as non-responsive. No exemption shall be granted for submission of Bid Security.

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 Procurer, 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 Procurer, and in any case within 60 (sixty) days from the Bid Due Date. Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Procurer give the name and address of the person in whose favour the said demand draft shall be drawn by the Procurer for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.

2.19.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the Supplier signing the BESPA and furnishing the Performance Security in accordance with the provisions thereof.

2.19.6 The Procurer 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 Procurer 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 Procurer under the Bidding Documents and/ or under the BESPA, or otherwise, if,

a. not submitted by the Bid Due Date;
b. a Bidder submits a non-responsive Bid;
c. 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;

d. 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 Procurer;

e. the Selected Bidder fails within the specified time limit-

   i. to sign and return the duplicate copy of LOA;
   ii. to sign the BESPA; or
   iii. to furnish the Performance Security within the period prescribed therefor in the BESPA; or

f. the Selected Bidder, having signed the BESPA, 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 Procurer shall open the Bids at 15:00 hours on the Bid Due Date of only those Bidders whose Bid Security received by the Bid Due date.

3.1.2 The Procurer 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 Procurer 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 Procurer 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 Procurer 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 Procurer in respect of such Bid. Provided, however, that the Procurer 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.

3.2.3 Right of Tata Power-D to Reject a Bid

Tata Power-D reserves the right to reject any or all of the responses to RfS or cancel the RfS or modify/annul the bidding process for any project at any stage without assigning any reasons whatsoever and without thereby any liability.

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.

4.2 All the shortlisted qualified Bidders in e-Tender 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 Process, the Bidders will have the option of reducing the Tariff quoted by them in e-Tender in their Bids in decrements of 1 (one) paise or multiples thereof.

5. COMMENCEMENT OF POWER SUPPLY

5.1 Scheduled Commencement Date of Supply "Supply Start Date" and Penalty for Delay in Commencement of Supply

5.1.1. The Scheduled Commencement Date of Supply, "Supply Start Date" (SSD), for supplying power from the Supply Capacity shall be 12 months from the signing of Battery Energy Storage Purchase Agreement (BESPA).

5.1.2. Omitted.

5.1.3. The maximum time period allowed for commencement of power supply from the Supply Capacity with applicable penalty, shall be limited to the date as on 6 (six) months from the Scheduled Commencement Date of Supply or the extended Scheduled Commencement Date of Supply (if applicable).

5.1.4. For delay in commencement of power supply beyond the date as per Clause 5.1.3 above, the Supply Capacity shall stand reduced to the Supply Capacity that has commenced supply of power until the date as per Clause 5.1.3 above, and BESPA for the balance Supply Capacity will stand terminated.

5.1.5. In case of delay in commencement of supply of power beyond the scheduled date as per Clause 5.1.3 above, as part of the penalty, the total PBG amount for the Supply Capacity shall be encashed on per-day-basis and proportionate to the Supply Capacity that has not commenced supply of power. For example, in case of a Supply Capacity of 50 MW capacity, if commencement of power supply from 20 MW capacity is delayed by 18 days beyond the scheduled date / extended scheduled date, then the penalty shall be calculated as: PBG amount X (20/50) X (18/180).

5.1.6. It is to clarify that the bidder shall unconditionally commence power supply from the scheduled date as per Clause 5.1.1 above.

5.2 Part Commencement of Supply of Power

5.2.1. Part Commencement of power supply from the Supply Capacity shall be accepted by Procurer subject to the condition that the minimum capacity for acceptance of first and subsequent part(s) shall be 10 MW (with the last part being the balance Supply Capacity), without prejudice to the imposition of penalty, in terms of the BESPA on the part which has not yet commenced supply of power.

5.2.2. However, the scheduled Commencement Date of Supply will not get altered due to part-commencement of power supply. Irrespective of dates of part or full commencement of power supply, the BESPA will remain in force for the period specified in the BESPA.

5.3 Solar Power from Tata Power-D

5.3.1. Tata Power-D shall make suitable quantum of solar power available (after adjusting RtE) from the already commissioned 150 MW project, to the Selected Bidder to be used for BESS charging purpose, to meet Tata Power-D's discharging obligations under the BESPA.

5.3.2. Under this tender, Selected Bidder shall be responsible to daily coordinate with Tata Power-D and plan the required quantum (at its discretion) from already commissioned 150 MW Solar Project, so as to meet the Tata Power-D dispatch requirements.

5.3.3. Tata Power-D shall intimate the dispatch requirement to the selected bidder on day-ahead/intra-day basis. Accordingly, selected bidder shall schedule power from the solar plant (under the Executed PPA), so as to charge the BESS and meet the supply requirement of Tata Power-D. Tata Power-D shall suggest suitable period for charging. Selected bidder shall be obligated to confirm the charging schedule from Tata Power-D. Charging and discharging schedules and periods shall be flexible and shall be at the sole discretion of Tata Power-D.

5.3.4. Tata Power-D shall facilitate, so as to make the suitable quantum of solar power available for BESS charging for the Selected Bidder.

5.3.5. Tata Power-D shall continue to pay Solar Tariff under the Executed PPA to the Solar Power Generator as per terms of Executed PPA. Tata Power-D shall not seek any payments from the selected bidder/Supplier, for the Solar power scheduled/supplied under the Executed PPA, for BESS charging purpose.

5.4 Early Commencement of Supply of Power

5.4.1. The Bidder shall be permitted for commencement of power supply from full as well as part Supply Capacity even prior to the respective SSD. Procurer to purchase power from such early part/full Supply Capacity prior to SSD, and such power will be purchased by Procurer at the BESPA tariff.

5.4.2. In case Procurer does not purchase such energy, early part/full commencement of power supply from the Supply Capacity shall still be allowed and the Bidder will be free to sell such energy to a third party until SSD of the Supply Capacity.

6. Performance Criteria of the Project

6.1 The Contracted Capacity of the Project shall be in terms of 'MW'. Tata Power-D's obligation shall be for off-take of the Contracted Capacity at delivery point.

For ex:, for the Contracted Capacity of 50 MW, the supplier shall ensure a discharge of 100 MWh of energy from the BESS in each cycle, with no reduction in capacity over the term of BESPA. The supplier shall be responsible for ensuring this availability by considering degradation, augmenting capacity, undertaking replacements as necessary, at its own cost and expenses. The supplier shall guarantee 100 MWh discharge per cycle throughout the term of the BESPA.

6.2 The Tata Power-D will schedule charging (adjusted for the guaranteed Round-Trip Efficiency-RtE) and discharging of the BESS on day-ahead/intra-day basis, in coordination with the supplier. This shall be achieved by mitigating degradation through necessary augmentation, thereby maintaining full deliverable capacity throughout the agreement. The quantum of charging energy shall be revised in accordance with the RtE values committed in the BESPA.

6.3 The power rating of the Project shall be 50 MW, i.e., the maximum active Output at the Delivery Point. The energy rating of 100 MWh shall be ensured at COD and maintained throughout the term of BESPA by the selected bidder/supplier. Terms and definitions of terminologies related to BESS shall be as defined in IEC 62933- 2-1.

6.4 The supplier shall guarantee an Average System Availability of 95% on monthly basis. The supplier shall pay the liquidated damages for shortfall, if any, to Tata Power-D. Amount of such liquidated damages shall be twice the ' Tariff in Rs per unit ' for the shortfall of energy.

Here, ' Tariff in Rs per unit ' for a month = $\dfrac{\text{Total Capacity Charge for a Month}}{\text{(Guaranteed Energy for a Month)}}$

Guaranteed Energy for a Month (having 30 days) with 95% availability : - =50*2*30*0.95 = 2.85 Mus

Availability of the Project shall mean the ability of the BESS to execute a function i.e. charging or discharging, when called upon to do so, as per the schedule or signal provided by Tata Power-D.

6.5 The supplier shall guarantee a minimum AC to AC roundtrip efficiency (RtE) of 85% for the system on monthly basis. For the actual RtE less than the 85% of declared RtE (minimum 85%), liquidated damages shall be paid to Tata Power-D, at the Tariff (in Rs per unit- as calculated above) for extra energy required on account of excess conversion losses. To calculate RtE, metered energy for charging and scheduled energy (at delivery point) shall be considered.

6.6 All the damages shall be calculated considering force majeure events and grid constraints.

7. SELECTION OF BIDDER

7.1 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 single Tariff (the "L1 tariff") offered to the Procurer after e-Tender, in conformity with the provisions of Clause 1.1.7 shall be declared as the selected Bidder and the Selected Bidder shall be allocated the quantum of power/capacity offered by him. In the event that the Procurer (Tata Power-D) rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

7.2 In the event that two or more Bidders quote the same Tariff for (a) the full Capacity Required (the "Tie Bidders"), the Procurer 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.

7.3 In the event that any Selected Bidder as per Clause 7.1 withdraws or is not selected for any reason in the first instance (the "first round of bidding"), the Procurer may allocate the whole of capacity to subsequent Bidders at the Tariff quoted by L1 in the e-Reverse Auction Process.

7.4 ***Omitted***.

7.5 After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Procurer 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 Procurer 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.

7.6 After acknowledgement of the LOA as aforesaid by the Selected Bidder, Tata Power-D shall approach the Maharashtra Electricity Regulatory Commission (MERC) for the tariff adoption. After the necessary approval from the Hon'ble Commission, BESPA shall be executed within 30 days, if not extended by Tata Power-D. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the BESPA. The BESPA shall be valid for a period of 15 years from the date of full commissioning of the Project. Any extension of the BESPA beyond the term of the BESPA shall be through mutual agreement between supplier and Tata Power-D.

7.7 ***Omitted***

7.8 ***Contacts during Bid Evaluation***

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Procurer 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 Procurer and/ or their employees/ representatives on matters related to the Bids under consideration.

7.9 *Bid Parameter*

7.9.1. The Bid shall comprise the Tariff (Indian Rupee per MW per month) offered by the Bidder for supply of electricity from the storage system to the Procurer including connectivity charges (for charging power), at the Delivery Point in accordance with the provisions of the BESPA. All the applicable transmission charges and losses beyond the delivery point shall be borne by the procurer. The Tariff comprising the Bid shall be offered in accordance with the provisions of Clauses of the BESPA.

Bidder to submit 'Tariff' for its Supply Capacity at Delivery Point, at time of Bid Submission, which shall include connectivity charges and shall remain fixed for the entire contract period.

8. MISCELLANEOUS

8.1 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 Procurer has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

8.2 The Procurer, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

8.2.1. 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;

8.2.2. consult with any Bidder in order to receive clarification or further information;

8.2.3. retain any information and/ or evidence submitted to the Procurer by, on behalf of, and/ or in relation to any Bidder; and/ or

8.2.4. 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.

8.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Procurer, 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.

8.4 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:

8.4.1. the Section B;
8.4.2. 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 Procurer and uploaded with Bid)

Dated:

Head – Power System Control Centre

Sub: Bid for 50 MW / 100 MWh Supply Capacity

Ref: RfS No. …………dated …………

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 Supply Capacity. The Bid is unconditional and unqualified.

2. I/ We acknowledge that the Procurer will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Supplier for the aforesaid Supply Capacity, 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 sale of Supply Capacity to the Procurer.

4. I/ We shall make available to the Procurer any additional information it may find necessary or require to supplement or authenticate the Bid.

5. I/ We acknowledge the right of the Procurer 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 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 Procurer; 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 Procurer 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 the Net Worth, Turnover and EBITDA criteria and meet the requirements as specified in Section A of the Bidding Document.

10. *Omitted.*

11. Omitted.

12. I/ We certify that in regard to matters other than security and integrity of the country, we 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 Supply Capacity 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 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 or against our CEO or any of our directors/ managers/ employees[$].

[$] In case the Applicant is unable to provide the certification specified in para 14, it may precede the paragraph by the words, viz. "Except as specified in Schedule **** hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Procurer will consider the contents of such Schedule and determine whether or not the exceptions/ disclosures are of a nature that could cast a doubt on the ability or suitability of the Applicant to undertake the Project.

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 Procurer of the same immediately.

16. I/ We acknowledge and agree that in the event of a change in control of Bidder was taken into consideration for the purposes of qualification under and in accordance with Section A, I/We shall inform the Procurer forthwith along with all relevant particulars and the Procurer 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 BESPA, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the BESPA shall be liable to be terminated without the Procurer 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 Procurer in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Supply Capacity 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 BESPA 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 and also surveyed the Site. We understand that except to the extent as expressly set forth in the BESPA, we shall have no claim, right or title arising out of any documents or information provided to us by the Procurer 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 Procurer in accordance with Section B of the Bidding Document.

21. The Bid Security in the form of a Demand Draft/ Bank Guarantee/ Insurance Surety Bond / Payment on Order Instrument (strike out whichever is not applicable) is attached and physical copy of the same has already been submitted in compliance to the Tender documents.[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 [BHARAT ELECTRONIC TENDER Portal].

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 Supply Capacity / 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 BESPA, our own estimates of costs and revenues and includes connectivity charges to be paid for availing charging power.

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. Omitted.

28. I/We offer a 50MW/100MWh capacity which conforms Clause 1.1.1 of Section A of the Bidding Document.

29. I/ We shall keep this offer valid for 180 (one hundred eighty) days from the Bid Due Date specified in the Bidding document.

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

Yours faithfully,

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

Place: 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 "Procurer", 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………… Supply Capacity (hereinafter referred to as the "Project") pursuant to the Bidding Document ……….(Ref No) dated …… issued in respect of the Project and other related documents including without limitation the draft Agreement for Procurement of Power (the "BESPA") (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 Procurer 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 Procurer 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 Procurer is disputed by the Bidder or not, merely on the first demand from the Procurer stating that the amount claimed is due to the Procurer by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including but not limited to the 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 Procurer 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 Procurer 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 Procurer that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Procurer 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 Procurer shall be entitled to treat the Bank as the principal debtor. The Procurer 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 Procurer, and the Bank shall not be released from its liability under these presents by any exercise by the Procurer 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 Procurer or any indulgence by the Procurer to the said Bidder or by any change in the constitution of the Procurer 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 authorized to receive the said notice of claim.

10. It shall not be necessary for the Procurer 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 Procurer 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 unrealized.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Procurer in writing.

12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorized 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 Procurer 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 Authorized 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 50 MW BESS Supply Capacity proposed or being developed by the ***** (the "Procurer") 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 Procurer, representing us in all matters before the Procurer, signing and execution of all contracts including the Agreement for Procurement of Power (BESPA) and undertakings consequent to acceptance of our Bid, and generally dealing with the Procurer 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 BESPA with the Procurer.

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 shareholder's 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 confirming Apostille certificate.*

APPENDIX – IV

Insurance Surety Bond for Bid Security (Refer Clauses 2.1.7 and 2.19.1)

(To be stamped in accordance with stamp act of India)

Insurance Surety Bond No.
Date:
To [.]

Dear Sir,

In accordance with your RFP No. …………………….dated ……………., M/s ……………………[Insert name of the Bidder] having its Registered/Head Office at………………………. [Insert address of the bidder] (hereinafter referred to as „bidder") wish to participate in the said bid for ....[Insert name of the RFP].

As an irrevocable Insurance Surety Bond against Bid Security for an amount of .... [Insert amount not less than that derived in line with Clause no. 1.3.1 of the RFP] valid for……………………………………[insert date of validity in accordance with Clause no. 2.19] of this RFP required to be submitted by the bidder as a condition precedent for participation in the said bid which amount is liable to be forfeited on the happening of any contingencies as mentioned under the RFP Documents.

We, the……………………. [Insert name of the „Insurer"] having our Head Office at …....................... [Insert address of the Insurer] guarantee and undertake to pay immediately on demand by __________ Limited (hereinafter referred to as „Procurer") the amount of .... [Insert amount not less than that derived in line with Clause no. 2.19 of this RFP] without any condition, demur, reservation, contest, recourse or protest and/or without any reference to the Bidder. Any such demand made by Procurer shall be conclusive and binding on us irrespective of any dispute or difference raised by the Bidder and/or any right/remedy available to the Bidder in terms thereof.

This Insurance Surety Bond shall be unequivocal, unconditional as well as irrevocable and shall remain valid upto........................... [insert date of validity in accordance with Clause no. 2.19 of this RFP]. If any further extension of this Insurance Surety Bond is required, the same shall be extended to such required period on receiving instructions from M/s ……………………[Insert name of the Bidder] on whose behalf this Insurance Surety Bond is issued.

The Insurer hereby agrees and acknowledges that the Procurer shall have a right to invoke this Insurance Surety Bond in part or in full, as it may deem fit.

The Insurer hereby expressly agrees that it shall not require any proof in addition to the written demand by Procurer, made in any format, raised at the above-mentioned address of the Insurer, in order to make the said payment to Procurer. The Insurer shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by [Insert name of the Bidder] and/ or any other person. The Insurer shall not require Procurer to justify the invocation of this Insurance Surety Bond, nor shall the Insurer have any recourse against Procurer in respect of any payment made hereunder.

This Insurance Surety Bond shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Insurer.

This Insurance Surety Bond shall be a primary obligation of the Insurer and accordingly Procurer shall not be obliged before enforcing this Insurance Surety Bond to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder or to enforce any security held by Procurers or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

In witness where of the Insurer, through its authorized officer, has set its hand and stamp on this .... day of .... 20.......... at ....

....
(Signature)
....
(Name)
....
(Designation with Insurer Stamp) Power
of Attorney No........................
Date...................................
Email id of the Branch for confirmation of this Bond: ....

NOTE:
1. The Insurance Surety Bond shall be from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI) as amended from time to time.

2. Procurer shall be the Creditor, the bidder shall be the Principal debtor and the Insurance company/Insurer shall be the Surety in respect of the Insurance Surety Bond to be issued by the Insurer.

3. The Insurance Surety Bond should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the Insurance Surety Bond is submitted or is to be acted upon or the rate prevailing in State where the Insurance Surety Bond is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of bidder/Insurer issuing the Insurance Surety Bond.

APPENDIX – V

Payment on Order Instrument for Bid Security (Refer Clauses 2.1.7 and 2.19.1)

FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY IREDA/REC/PFC (IN LIEU OF BG TOWARDS BID SECURITY)

No. Date

Procurer Registered,

___

____

Reg: M/s __________(insert name of the Bidder) – Issuance of Payment on Order Instrument for an amount of Rs.

Dear Sir,

1. It is to be noted that M/s. __________ (insert name of the POI issuing Agency) („IREDA/REC/PFC") has sanctioned a non-fund based limit loan of Rs. _________ (Rupees __________only) to M/s __________ under the Loan Agreement executed on _______ to supply power.

2. At the request of M/s ________, on behalf of __________ (insert name of the Bidder), this Payment on Order Instrument (POI) for an amount of Rs. _______(Rupees__________(in words)). This Payment on Order Instrument comes into force immediately.

3. In consideration of the ________ [Insert name of the Bidder] (hereinafter referred to as 'Bidder') submitting the response to RFP inter alia for supply of 50 MW Supply Capacity for supply of power, in response to the RFP No. ____________________________dated __________issued [.] (hereinafter referred to as Procurer) and Procurer considering such response to the RFP of ……… [Insert the name of the Bidder] as per the terms of the RFP, the [Insert name & address of IREDA/PFC/REC] hereby agrees unequivocally, irrevocably and unconditionally to pay to Procurer at [Insert Name of the Place from the address of Procurer] forthwith without demur on demand in writing from Procurer or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees [Insert amount not less than that derived in line with Clause 1.1.3 of the RFP], only, on behalf of M/s [Insert name of the Bidder]. _______________

4. In consideration of the above facts, IREDA/REC/PFC, having its registered office at, agrees to

make payment for the sum of Rs. lakhs (in words) to Procurer on the following conditions:-___

(a) IREDA/REC/PFC agrees to make payment of the said amount unconditionally, without demur and without protest upon receipt of request from Procurer within the validity period of this letter as specified herein;

(b) The commitment of IREDA/REC/PFC, under this Payment of Order Instrument will have the same effect as that of the commitment under the Bank Guarantee issued by any Public Sector Bank and shall be enforceable in the same manner as in the case of a Bank Guarantee issued by a Bank and the same shall be irrevocable and shall be honored irrespective of any agreement or its breach between IREDA/REC/PFC or its constituents notwithstanding any dispute that may be raised by the against Procurer;

(c) The liability of IREDA/REC/PFC continues to be valid and binding on IREDA/REC/PFC and shall not be terminated, impaired and discharged, by virtue of change in its constitution and specific liability under letter of undertaking shall be binding on its successors or assignors;

(d) The liability of IREDA/REC/PFC shall continue to be valid and binding on IREDA/REC/PFC and shall not be terminated/ impaired/ discharged by any extension of time or variation and alternation made given or agreed with or without knowledge or consent of the parties (Procurer and Bidding Party), subject to the however to the maximum extent of amount stated herein and IREDA/REC/PFC is not liable to any interest or costs etc.;

(e) This Payment of Order Instrument can be invoked either partially or fully, till the date of validity;

(f) IREDA/REC/PFC agrees that it shall not require any proof in addition to the written demand by Procurer made in any format within the validity period. IREDA/REC/PFC shall not require Procurer to justify the invocation of the POI against the Bidder, to make any claim against or any demand against the Bidder or to give any notice to the Bidder;

(g) The POI shall be the primary obligation of IREDA/REC/PFC and Procurer shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the Bidder;

(h) Neither Procurer is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against Procurer in respect of the payment made under letter of undertaking;

5. Notwithstanding anything contrary contained anywhere in this POI or in any other documents, this POI is and shall remain valid up to ________and IREDA/REC/PFC shall make payment thereunder only if a written demand or request is raised within the said date and to the maximum extent of Rs and IREDA/REC/PFC shall in no case, be liable for any interest, costs, charges and expenses and IREDA"s/REC"s/PFC"s liability in no case will exceed more than the above amount stipulated.

6. In pursuance of the above, IREDA/REC/PFC and Procurer have signed an Umbrella Agreement dated _________ setting out the terms and conditions for issue of letter of undertaking by IREDA/REC/PFC to Procurer and the said terms and conditions shall be read as a part of this letter of undertaking issued for the project of the project of PP mentioned above.

Thanking you,

Yours faithfully

For and on behalf of M/s.(Name of the POI issuing agency).

(______________)
General Manager (TS)

Copy to:-
M/s. _________PP __________

________________ as per their
________________ request

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DRAFT

BATTERY ENERGY STORAGE PURCHASE AGREEMENT

FOR

Procurement of 50MW/100MWh (1 Cycle) Battery Energy Storage System (BESS) Power for a Period of 15 years

Between

Bidders/SPV Name

And

Tata Power Co. Limited

Date

……………………

This Battery Energy Storage Purchase Agreement is made on the ……. [Insert date] day of………. [Insert month] of …….. [Insert year] at [Insert place]

Between

……………… [Insert name of the BESSD], a Company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at …………. [Insert address of the registered office of BESSD] (hereinafter referred to as "**Battery Energy Storage System Developer**" **or** "**Storage Project Developer" "Developer" or** "**BESSD**", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the **First Part**;

And

Tata Power Company Limited ("Tata Power-D") (a company incorporated under the provisions of Companies Act 1956) having its registered office at **……………………………………………………………………..**, (hereinafter referred to individually, as "Tata Power-D" or "Power Procurer" or "Procurer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of the **second part.**

The BESSD and Tata Power-D are individually referred to as 'Party' and collectively referred to as 'Parties'.

WHEREAS:

A. The Ministry of Power, Government of India has issued the "*Guidelines for Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services*" vide Resolution dated 10th March 2022, including subsequent amendments and clarifications thereof, if any, issued till date.

Tata Power-D had initiated a Tariff Based Competitive Bid Process for development of cumulative capacity of 50 MW/ 100 MWh of Battery Energy Storage Project(s) (Projects) on the terms and conditions contained in the Request for Selection Documents (herein after referred to as 'RFS') issued by Tata Power-D vide RfS No. TPCD/PP/FY27/002 dated ……………. and it's subsequent addendums.

B. Tata Power-D has issued the Letter of Award No. __________dated _______in favor of the M/s. ____________________(Successful Bidder). for development and establishment of the 50MW/ 100MWh of "Project" or "BESS" as per the terms and conditions contained in the RfS, this Battery Energy Storage Purchase Agreement (BESPA) and other bidding documents as well as the conditions contained in the Letter of Award.

C. _______________(Successful Bidder). has been selected in the Competitive Bidding Process {in case Bidding Company is executing the Project through SPV}, and has constituted a ………… **[Insert Name of the SPV]** (hereinafter referred to as '**BESSD**'), for development, and supply of BESS Capacity from the 50MW/100MWh of the Project / BESS to be established by BESSD at the location ………………… (proposed location for BESS project), and for making available such Battery Energy Storage Capacity to Tata Power-D.

D. Tata Power-D has agreed to purchase such Battery Energy Storage Capacity from the BESSD as per the provisions of the RfS and as per the given provision of this Agreement.

E. In terms of the RfS and the Bidding Documents, the BESSD has furnished the Performance Bank Guarantee/Payment on Order Instrument with no. …………dated…………. in the sum of Rs. _____ Crs. in favour of Tata Power-D as per the format provided as a part of the Bidding Documents and a copy of the Electronic Bank Guarantee/Payment on Order Instrument provided in Schedule –C to this Agreement.

F. BESSD has fulfilled the terms of the RfS Documents and the terms of the Letter of Award for signing this Battery Energy Storage Purchase Agreement as a definitive agreement for developing the "Project" (or "BESS") of _____50MW/ 100MWh, for making available Battery Energy Storage Capacity by the BESSD to Tata Power-D;

G. The parties have agreed to execute this Battery Energy Storage Purchase Agreement in terms of the provisions of the RfS, the bidding documents and the Letter of Award in regard to the terms and conditions for development of the Project on "Build, Own Operate" basis and for making available such Battery Energy Storage Capacity by the BESSD to Tata Power-D.

Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, it is hereby agreed by and between the Parties as follows:

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 *Definitions*

The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under, including those issued / framed by the Appropriate Commission (as defined hereunder), as amended or re-enacted from time to time.

“Act” or “Electricity Act, 2003”	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Adjusted Equity”	shall mean the Equity funded in Indian Rupees and adjusted on the first day of the current month (the “Reference Date”), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring between the first day of the month of Appointed Date (the date of achievement of Financial Closure) and the Reference Date; a. On or before Commercial Operation Date (COD), the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date; b. An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the “Base Adjusted Equity”); c. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by X% (wherein X=100%/ (12 * Term of BESPA)) thereof at the commencement of each month following the COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date; For the avoidance of doubt, the Adjusted Equity shall, in the event of termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that

	no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the BESPA period is extended, but the revision on account of WPI shall continue to be made.
“Agreement” or "Battery Energy Storage Purchase Agreement" or “Storage Capacity Agreement” or “BESPA”	shall mean this Battery Energy Storage Purchase Agreement including its recitals and Schedules, amended or modification from time to time in accordance with the terms hereof;
"Appropriate Commission"	Appropriate Commission shall mean Maharashtra Electricity Regulatory Commission/ Central Electricity Regulatory Commission as applicable;
“Auxiliary Consumption”	shall means the electrical energy consumed by the BESS associated equipment in the BESS project for control, monitoring, protection, cooling/heating, maintenance and other supporting functions of the BESS Project.
“Average Power Purchase Cost or APPC”	Average Power Purchase Cost (APPC) is Rs. per unit cost as declared by Tata Power-D.
“Battery Energy Storage Project” or “Project” Or “BESS PROJECT”, “Battery Energy Storage systems” or “BESS”	shall mean the system(s)/projects of 50 MW/ 100 MWh, having a separate control system, metering and single point of injection into the grid at Delivery/Metering point at CTU substation and transmission system till interconnection point (for BESS charging) as applicable and utilizing methods and technologies such as electrochemical batteries (Lead Acid, Li-ion, solid state batteries, flow batteries etc.), providing a facility that can store energy and deliver the stored energy in the form of electricity. It also includes all units and auxiliaries, Battery Energy Management System including associated applications / software; bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery Point, if any, and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the Energy Storage; whether completed or at any stage of development and construction or intended to be developed and

	constructed for the purpose of supply of above mentioned Battery Energy Storage Capacity as per this Agreement;

“Business Day”	shall mean with respect to BESSD and Tata Power-D, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Mumbai
Capacity Charges	Capacity Charges shall mean Applicable Tariff as defined under Article 9 of the BESPA
“CERC”	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
“CTU” or “Central Transmission Utility”	shall mean the Government Company notified by the Central Government under Sub-Section (1) of Section 38 of the Electricity Act, 2003.
Charging Power	Shall mean the requirement of energy to charge the contracted capacity and additional energy considering minimum system efficiency as per clause 4.4 Charging power shall be provided by Tata Power-D/Procurer under this agreement. Further, in case early commissioning of the project, if BESSD sales storage capacity to third party, then Tata Power-D shall not be responsible for providing charging power.
“Change in Law”	shall have the meaning ascribed thereto in Article 12 of this Agreement;
“Commissioning”	The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed, synchronized with Grid, demonstrated all required parameters as per procedure in Schedule D of this Agreement and certification of the same by Tata Power-D authorized representatives.
“Commercial Operation Date (COD)”	shall mean the date of next day on which the Project Capacity or the last part capacity of the Project (as the case may be) has achieved successful commissioning (as per provisions of this Agreement Documents).
“Competent Court of Law”	The Maharashtra Electricity Regulatory Commission shall be the appropriate commission to exercise the regulatory and adjudicatory jurisdiction in regard to matters between BESSD and Tata Power-D. Subject to the above, only High Courts Bombay shall have exclusive jurisdiction in all matters pertaining to this RfS.

“Consents, Clearances and Permits”	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up Project and providing energy storage facility under this Agreement;
“Consultation Period”	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a BESSD Preliminary Default Notice or Tata Power-D Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
“Contract Year”	shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement
"Contracted Capacity"	shall mean 50MW/ 100 MWh, which is the Energy Storage Capacity contracted with Tata Power-D for supply of discharge capacity at the Delivery Point from the Project.
“Controlling Shareholding”	shall mean more than 51% of the voting rights and paid up share capital in the Company/ Consortium.
“Day”	shall mean a day, if not a Business Day, the immediately succeeding Business Day.

"Debt Due"	shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date: The principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the 'Principal') but excluding any part of the principal that had fallen due for repayment 2 (two) years prior to the Transfer Date; All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub-clause (a) above until the Transfer Date but excluding: (i) any interest, fees or charges that had fallen due 2 (two) years prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Procurer Default, and (iv) any Subordinated Debt which is included in the Financial

	Package and disbursed by equity investors or their Affiliates for financing the Total Project Cost. Provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed not to be Debt Due even if no such conversion has taken place and the principal thereof shall be dealt with as if such conversion had been undertaken. Provided further that the Debt Due, on or after COD, shall in no case exceed 80% (eighty percent) of the Total Project Cost.
“Dispute”	shall mean any dispute or difference of any kind between Tata Power-D and the BESSD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;
"Due Date"	shall mean the thirtieth (30th) day (excluding bill receipt day) after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received by Tata Power-D. if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by the Tata Power-D.
“Effective Date”	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
“Electricity Laws”	shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Energy Accounts"	shall mean the Regional/State energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof
“Event of Default”	shall mean the events as defined in Article 13 of this Agreement;
“Expiry Date”	Shall mean the date occurring as on Fifteen (15) years from the SCD or extended SCD, as per terms & conditions of this Agreement;
“Financial Closure”	shall mean compliance with the requirements under Article 3.1 of this Agreement;

"Financing Agreements"	shall mean the agreements pursuant to which the BESSD has sought financing for the Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of Tata Power-D;

"Force Majeure" or "Force Majeure Event"	shall have the meaning ascribed thereto in Article 11 of this Agreement;
"Guidelines" or "Scheme"	shall mean the Guidelines for "Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services" issued by the Ministry of Power vide Gazette Resolution dated 10th March 2022, including subsequent amendments and clarifications thereon.
"Grid Code" / "IEGC" or "State Grid Code"	shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;
"Indian Governmental Instrumentality"	shall mean the GoI, the GoM and their ministries, inspectorate, departments, agencies, bodies, authorities, legislative bodies.
"Insurances"	shall mean the insurance cover to be obtained and maintained by the BESSD in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on BESSD's side of the Delivery Point for scheduling, transmitting and metering the electrical output and input in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment (for charging/discharging) , transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;

“Delivery Point/Metering Point”	Delivery Point shall be at the CTU periphery For interconnection with grid and metering, the BESSD shall abide by the relevant and applicable regulations, Grid Code notified by the CERC or (and) Central Electricity Authority (Installation and Operation of Meters) Regulations, 2014 as amended and revised from time to time, or orders passed there under by the appropriate commission or CEA.
“Invoice” or “Bill”	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
“Joint Control”	shall mean a situation where none of the promoter shareholders has more than 50% shareholding in the paid-up share capital and voting rights in the BESSD, and the control is exercised jointly;
“Late Payment Surcharge”	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;
"Law"	shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;
“Letter of Credit” or “LC”	shall have the meaning ascribed thereto in Article 10.3 of this Agreement;
“MERC”	shall mean the Maharashtra Electricity Regulatory Commission;
“MoP”	shall mean the Ministry of Power, Government of India;
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
“Monthly Availability”	“Monthly Availability” shall be the average availability of the Contracted BESS capacity during that particular month

"Party" and "Parties"	shall have the meaning ascribed thereto in the recital to this Agreement;
“Payment Security Mechanism”	shall have the meaning ascribed thereto in Article 10.3 of this Agreement;
“Performance Bank Guarantee” (PBG) or “Payment on Order Instrument” (POI)	shall mean the irrevocable unconditional e-bank guarantee/ Payment on Order Instrument” (POI), submitted by the BESSD to Tata Power-D in the form attached hereto as Schedule-C;
“Preliminary Default Notice”	shall have the meaning ascribed thereto in Article 13 of this Agreement;
“Project Capacity”	Shall mean 50 MW/100 MWh of BESS, which [……….Insert name of BESSD] is required to “Build Own Operate” and supply such Battery Energy Storage Capacity as per provisions of this Agreement read harmoniously with RfS Documents and LOA.
"Prudent Utility Practices"	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of Energy Storage System equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be installed / used for the Project Battery Energy Storage Project; b) the requirements of Indian Law; and the physical conditions at the site of the Project; c) Installation, Operation, Maintenance and Safety Guidelines / Rules / Regulations for BESS/ Projects / Power Projects issued by Indian Government Instrumentality;
“Rebate”	shall have the same meaning as ascribed thereto in Article 10.3.4 of this Agreement;
"Rupees", "Rs.", “₹”	shall mean Indian rupees, the lawful currency of India;

“Scheduled Commissioning Date” or “SCD” of the Project	shall mean..................... [Insert Date]; in relation to the contracted capacity corresponding to the date of commencement of supply of contracted storage capacity (i.e. 18 months from the date of BESPA).
“SLDC”	shall mean the State Load Dispatch Center of the Maharashtra State established under Sub-section (1) of Section 31of the Electricity Act 2003;

“SLDC Charges”	shall mean the charges levied by the SLDC;
“State Transmission Utility” or “STU”	shall mean the State Transmission Utility notified by respective State Government
"Tariff" or “Applicable Tariff”	Shall have the same meaning as provided for in Article 9 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
“Termination Notice”	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
“Unit/ Part Commissioning”	Subject to the compliance of conditions / procedure as detailed under Schedule-D of this Agreement, Unit / Part Commissioning shall mean the Energy Storage Power Capacity (AC MW/ AC MWh) to be commissioned as per provisions of this Agreement and schedule-E of this agreement and to be certified by the Commissioning Committee subject to other applicable provisions.
“Unit Commercial Operation Date (UCOD)”	shall mean the date of the next day of commissioning of the respective part(s) of the Battery Energy Storage Project subsequent to the demonstration of the compliance of commissioning as per this Agreement and witnessed by the Committee (as applicable) duly constituted by Tata Power-D and also start of injection / drawl and scheduling of power from the BESS at the Delivery Point and availability / installation of all necessary arrangements / equipment including RTU for scheduling of power charged and discharged from the Project and transmission of data to the concerned authority as per applicable regulation;
"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;

1.2 Interpretation

Save where the contrary is indicated, any reference in this Agreement to:

1.2.1 "Agreement" shall be construed as including a reference to its Schedules and/or Appendices and/or Annexures;

1.2.2 An "Article", a "Recital", a "Schedule" and a "paragraph / clause" shall be construed as a reference to an Article, a Recital, a Schedule and a paragraph/clause respectively of this Agreement;

1.2.3 A "crore" means a reference to ten million (10,000,000) and a "lakh" means a reference to one tenth of a million (1,00,000);

1.2.4 An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;

1.2.5 "Indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

1.2.6 A "person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;

1.2.7 "Rupee", "Rupees", "Rs" or new rupee symbol "₹ " shall denote Indian Rupees, the lawful currency of India;

1.2.8 The "Winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, Winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;

1.2.9 Words importing the singular shall include the plural and vice versa;

1.2.10 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;

1.2.11 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time;

1.2.12 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time;

1.2.13 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part;

1.2.14 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement;

1.2.15 All interest, if applicable and payable under this Agreement, shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty-five (365) days;

1.2.16 The words “hereof” or “herein”, if and when used in this Agreement shall mean a reference to this Agreement;

1.2.17 The terms “including” or “including without limitation” shall mean that any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

1.2.18 This Agreement and other documents such as Request for Selection Documents, Guidelines including subsequent clarifications, amendments and further clarifications in regard to the tender shall be read in conjunction with each other and interpreted in harmonious manner. However, in case of any mismatch/contradiction between provisions of different documents, following shall be the order of precedence:

1. Applicable orders/rules/regulations/procedures from regulatory/statutory bodies

2. Battery Energy Storage Purchase Agreement

3. RfS Document

ARTICLE 2: TERM OF AGREEMENT

2.1 Effective Date

2.1.1 This Agreement shall come into effect from the date of signing by both parties and such date shall be referred to as the Effective Date.

2.1.2 The Parties agree that decisions pertaining to adoption of the Tariff and approval of the same, for procurement of Contracted Capacity, shall be binding on all Parties concerned, as contained in the Electricity Act, 2003 and any amendments thereof.

2.2 Term of Agreement

2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a term from the Effective Date until the Expiry Date. However, the term of agreement may be extended for mutually agreed period on such terms & conditions as agreed mutually by both the parties.

2.3 Early Termination

2.3.1 This Agreement shall terminate before the Expiry Date if either Tata Power-D or BESSD terminates the Agreement, pursuant to Article 13 of this Agreement.

2.4 Survival

2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive penalty as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability and Indemnification), Article 16 (Governing Law and Dispute Resolution), Article 17 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.

ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the BESSD

The BESSD agrees and undertakes to duly perform and complete all the following activities at its own cost and risk unless such completion is affected by any Force Majeure event, or for the activities specifically waived off in writing by Tata Power-D:

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(i) BESSD at its own cost and risk by …………….. [Enter the date as on Six (6) Months after the Effective Date] shall make Project financing arrangements (i.e. *arrangement of necessary funds by the Battery Storage System Developer towards 100 % project cost either by way of commitment of funds by the Company from its internal resources (by a resolution passed by the Board of Directors) and/or tie up of funds through a bank/financial institution by way of sanction of a loan or firm commitment letter agreeing to finance*) for Projects(s) and shall provide necessary certificates to Tata Power-D in this regard;

(ii) Detailed Project Report (DPR) of the Project along with the detailed project cost break-up, including item-wise costs, all applicable taxes, duties, and cesses, detailing out project configuration and proposed commissioning schedule of the Project.

(iii) The BESSD shall also submit to Tata Power-D the relevant documents as stated above, complying with the Conditions Subsequent, within Six (6) months from the Effective Date.

(iv) The BESSD will have to submit the documents to Tata Power-D at least 14 days prior to the scheduled Financial Closure date. In case of delay in submission of documents mentioned above, Tata Power-D shall not be liable for delay in verification of documents and subsequent delay in Financial Closure.

3.2 Consequences of non-fulfilment of conditions subsequent and financial closure

3.2.1 In case of a failure to submit the documents as above, Tata Power-D may encash the E-Performance Bank Guarantee/Payment on Order Instrument submitted by the BESSD, terminate this Agreement and remove the Project by giving a notice to the BESSD in writing of at least thirty (30) days, unless the delay BESSD is on account of delay in allotment of Land not owing to any action or inaction on the part of the BESSD or caused due to a Force Majeure. Unless extended as per provisions of Article 3.2.2 (i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 30th day of the above notice.

3.2.2 (i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of BESSD, on payment of Rs. 1000/-per day per MW to Tata Power-D. Such extension charges are required to be paid to Tata Power-D in advance, for the period of extension required. In case of any delay in depositing this extension charge, BESSD shall pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI-MCLR (1Year). In case such delay in making payment of the extension charges to Tata Power-D is more than 30 days, the termination of the Agreement shall take effect pursuant to issuance of termination notice of 30 days which may be issued by Tata Power-D. In case of the BESSD meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the excess amount deposited by the BESSD shall be returned by Tata Power-D without interest. This extension will not have any impact on the Scheduled Commissioning Date. Any extension charges paid so by the BESSD, shall be returned to the BESSD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioning Date. However, in case the BESSD fails to commission the Contract Capacity by Scheduled Commissioning Date, the extension charges deposited by the BESSD shall not be refunded by Tata Power-D. This shall be without prejudice to the further right of Tata Power-D to claim liquidated damages for the delay in achieving the Commissioning of the project.

3.2.3 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.

3.2.4 In case of inability of the BESSD to fulfil the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions

Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event.

3.2.5 Provided that due to the provisions of this Article 3.2.1, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall not lead to an equal extension in the Scheduled Commissioning date

3.3 Performance Bank Guarantee/Payment on Order Instrument

3.3.1 The Performance Bank Guarantee (PBG)/Payment on Order Instrument (POI) having validity from the date of submission of PBG/POI until 12 months after the SCD with additional claim period of 1 year submitted for a value of 5 Lakh/MW to be furnished under this Agreement shall be for guaranteeing the commencement of the supply (injection / drawl) of power / energy up to the Project Capacity within the time specified in this Agreement as per Schedule-C.

3.3.2 The failure on the part of the BESSD to furnish and maintain the Performance e-Bank Guarantee/Payment on Order Instrument shall be a material breach of the term of this Agreement on the part of the BESSD.

3.3.3 If the BESSD fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement or any further extension thereof granted by Tata Power-D, subject to conditions mentioned in Article 4.5, Tata Power-D shall encash the Performance Bank Guarantee/Payment on Order Instrument equivalent to the amount calculated as per liquidated damages applicable under Article 4.6 as on the date of encashment without prejudice to the other rights of Tata Power-D under this Agreement.

3.3.4 BESSD acknowledges and accepts that the amount of the Performance Bank Guarantee/Payment on Order Instrument and the methodology specified herein above for calculation of the compensation payable for non-fulfillment of conditions subsequent within the stipulated time as well as non-commencement of supply within the stipulated time is a genuine and accurate pre-estimation of the actual loss that will be suffered by Tata Power-D. BESSD further acknowledges and accepts that a breach of any of the obligations contained herein result in injuries and that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this document is a genuine and reasonable pre estimate of the damages that may be suffered by Tata Power-D in each case specified under this Agreement.

3.4 Return of Performance Bank Guarantee/ Payment on Order Instrument

3.4.1 Subject to Article 3.3, Tata Power-D shall return / release the Performance Bank Guarantee/ Payment on Order Instrument within 45 days after the successful Commissioning of the Project after taking into account any liquidated damages / penalties due to delays or any other recovery in as per provisions stipulated in this Agreement.

3.4.2 The return / release of the Performance Bank Guarantee/ Payment on Order Instrument shall be without prejudice to other rights of Tata Power-D under this Agreement.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 BESSD's Obligations

4.1.1 The BESSD undertakes to be responsible, at BESSD's own cost and risk, for the following:

4.1.1.1 The BESSD shall be solely responsible and make arrangements for associated infrastructure for development of the BESS Project and for Interconnection with the 33 kV system at mentioned 150MW solar project at village-Chhayan, Rajasthan (for drawing charging power) for confirming the evacuation of power at the delivery point, by the Scheduled Commissioning date and all clearances related thereto. Land for installation of BESS project and arrangement of Non-solar grid connectivity shall be in the scope of BESSD. All the requisite costs associated with and including fees for obtaining connectivity shall be borne by the BESSD. Further, all the applicable charges and losses up to the delivery point (CTU periphery) shall be borne by the BESSD.

4.1.1.2 Obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement. Except for the mandatory interconnection for the Project at 33kV bus of existing solar project (for BESS charging) , Tata Power-D shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Project/land/connectivity. The BESSD shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing and operating the project. Any steps that may be taken by Tata Power-D in regard to grant of such consents and permits or any other approval to be taken by the BESSD shall only be a voluntary endeavor with no intention of being bound by any legal or binding obligation.

4.1.1.3 Designing, constructing, erecting, commissioning, completing and testing the Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.

4.1.1.4 The commencement of charging & discharging of power / energy up to the Contracted Capacity to Tata Power-D no later than the Scheduled Commissioning Date and continuance of the charging & discharging of power throughout the term of the Agreement;

4.1.1.5 Connecting the Project switchyard with the Interconnection Facilities at the Delivery Point; The BESSD shall make adequate arrangements to connect the Project switchyard with the Interconnection Facilities at Metering / Delivery Point.

4.1.1.6 Owning the Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15.

4.1.1.7 Maintaining its shareholding pattern as per Schedule-F in the agreement.

4.1.1.8 Fulfilling all other obligations required to be undertaken by the BESSD under this Agreement for development of Project on "Build, Own, Operate" basis and supply of BESS Capacity during Term of this Agreement and as per provisions of this Agreement, RfS and LOA.

4.1.1.9 The BESSD shall be responsible to for directly coordinating and dealing with the Tata Power-D/CTU/NLDC/RLDC/Regional Power Committees as applicable, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Stored Energy Capacity and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations as applicable, acknowledging that the BESSD and Tata Power-D are the Grid connected entities in respect of the Battery Energy Storage Capacity contracted under this Agreement.

4.1.1.10 The BESSD shall fulfil the technical requirements according to criteria mentioned under Schedule-E for Technical requirement for Project under the Guidelines.

4.1.1.11 Further, the Project being implemented under this Agreement shall fulfill the criteria as per CERC/CEA Regulations on grid connectivity.

4.1.1.12 As part of scheduling of power from the Project for discharging, the BESSD will be required to punch-in their respective schedules and subsequent revisions, by themselves, at the delivery point for the power flow, as per the Regulations in force, under intimation to Tata Power-D and in consultation with Tata Power-D. The BESSD shall be solely responsible for discrepancy identification and its rectification to avoid any DSM penalties, as applicable as per the applicable regulation.

4.1.1.13 After signing of BESPA, the BESSD shall apply for Non-Solar connectivity from the CTU as applicable, as required.

4.1.1.14 The BESSD shall obtain financial closure within 6 (Six) months period and satisfy all conditions mentioned in Article 3.1.

4.1.1.15 BESSD shall be liable to make available on first priority to Tata Power-D, all available capacity from the Project namely and there shall be no commitment entered into by the BESSD affecting the said rights of Tata Power-D.

4.1.1.16 BESSD shall have to coordinate and comply with the Charging and Discharging Schedule as intimated by Tata Power-D, on day-ahead/intra-day basis. For the agreed charging schedule, Tata Power-D shall arrange charging power. Quantum (in MW) required for charging shall be confirmed by the BESSD.

4.1.1.17 For the BESS project, the land identification, acquisition, possession, and maintenance shall be entirely within the scope and responsibility of the BESSD, for the entire duration of BESPA.

4.1.1.18 BESSD shall coordinate with Tata Power-D on daily basis for implementing charging and discharging schedules as required by Tata Power-D and shall be liable to maintain the BESS project availability accordingly.

4.2 Information regarding Interconnection Facilities

4.2.1 The BESSD shall be required to obtain all information from the C TU /concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection facilities on the BESSD's side of the Delivery Point to enable injection of electricity at the Delivery Point. The transmission of power from interconnection point (for charging) till BESS and from BESS up to the delivery point (with metering) shall be the responsibility of the BESSD at its own cost.

4.2.2 Penalties, fines and charges imposed by the Tata Power-D/CTU under any statute or regulation in relation to delay in commissioning of Project shall be under the Scope of BESSD and there shall be no recourse to Tata Power-D in this regard. In case, there is any liability on Tata Power-D under the extant Regulations for any delay in commissioning of BESSD, Tata Power-D shall be reimbursed for the same from BESSD and Tata Power-D shall be entitled to encash the Electronic Bank Guarantees available/ Payment on Order Instrument available with it or adjust against the payments due to BESSD for recovery of such amounts.

4.2.3 The responsibility of getting connectivity with the transmission system up to the delivery Point, will lie with the BESSD. The transmission of power up to the point of delivery where the metering is done for energy accounting and commercial settlement shall be the responsibility of the BESSD at his own cost.

4.2.4 The maintenance of Transmission system along with the grid connectivity up to the designated point as per the applicable terms and conditions shall be the responsibility of the BESSD. All costs, charges and Connectivity has been assured to be provided to the BESSD.

4.2.5 The arrangement of connectivity shall be made by the BESSD through a dedicated transmission line, if applicable. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the interconnection point till BESS project and up to delivery point shall be borne by the BESSD.

4.2.6 Following studies may be conducted (not limited to below) by BESS Developer(s) in this regard as per requirements of CTU:

i. Harmonic studies considering network and BESS system along with flicker studies

ii. Transient and dynamic studies

iii. Small signal stability studies

iv. Sub-Synchronous Oscillations/ Sub-Synchronous Resonance /Sub-Synchronous Torsional Interaction studies

v. Sub-synchronous control interactions studies between different converter based equipment.

vi. Any other studies stipulated by CTU/CEA.

1. In addition, BESS system shall comply to requirements/performance parameters stipulated in applicable CERC/CEA Regulations or statutory bodies and its amendments, at his own cost.
2. Communication Equipment Requirement at BESS end shall be as per stipulations of CTU/CEA.
3. Communication Equipment Requirement at CTU end shall be as per stipulations of CTU.

4.3 Purchase and sale of Contracted Capacity

4.3.1 Subject to the terms and conditions of this Agreement, the BESSD undertakes to sell to Tata Power-D and Tata Power-D undertakes to pay Applicable Tariff as per this Agreement for the Battery Energy Storage Capacity up to the Contracted Capacity at the Delivery Point. BESSD shall not arrange and not pay for BESS charging power.

4.4 Right to Project / Contracted Capacity

4.4.1 Tata Power-D, in any Contract Year, shall not be obliged to off-take any capacity beyond/ over and above Contracted Capacity.

Moreover, during a day in any Contract year, BESSD shall not be asked as well as BESSD shall not be allowed to schedule for more than 1 Cycle/day. For this Agreement, Cycle shall mean charging of the BESS up to the Contracted capacity followed by discharge of such stored energy including any intervening recovery time. The BESSD shall not use the Contracted Capacity for any purpose other than that specified in this Agreement.

4.4.2 Subsequent to commissioning of the Project, for any Contract Year, the BESSD shall be required to maintain and demonstrate the following performance parameters:

4.4.2.1 **Minimum Monthly Availability of 95%:** During any Contract Year for the Unit Contracted Capacity, BESSD shall be required to maintain minimum monthly Availability of 95%.

If Monthly Availability is found lesser than minimum requirement then the liquidated damages shall be twice the ‘ Tariff in Rs per unit ‘ for the shortfall of energy.

Here, ‘ Tariff in Rs per unit ‘ for a month = $\frac{\text{Total Capacity Charge for a Month}}{\text{(Guaranteed Energy for a Month)}}$

Guaranteed Energy for a Month (having 30 days) with 95% availability : - =50*2*30*0.95 = 2.85 Mus

In case of shortfall in meeting the above criteria, the BESSD shall be levied liquidated damages for such shortfall and shall duly pay such damages to Tata Power-D. The Liquidated damages for shortfall of monthly Availability shall be applicable at the end of each month and shall be deducted from the monthly invoices raised by the BESSD, in subsequent month.

The Minimum monthly Availability as specified above, shall however be relaxable by Tata Power-D to the extent of grid non-availability for evacuation, which is beyond the control of the BESSD (as certified by the Tata Power-D /CTU/RLDC) and / or upon occurrence of Force Majeure event as identified in BESPA (and occurrence of such Force Majeure event(s) has been mutually agreed) and affecting availability and supply of Contracted Capacity.

4.4.2.2 **Round Trip Efficiency:** The BESSD shall maintain AC to AC roundtrip efficiency (RtE) of 85% on monthly basis.

4.4.2.3 The BESSD shall be liable for liquidated damages, if any, as per following criteria:

For the actual RtE less than the 85% of declared RtE (minimum 85%), liquidated damages shall be paid to Tata Power-D, at the Tariff (in Rs per unit) for extra energy required on account of excess conversion losses. To calculate RtE, metered energy for charging and scheduled energy (at delivery point) shall be considered. Such damages shall be adjusted in monthly bill. Tariff (in Rs per unit) shall be calculated as explained in 4.4.2.1.

4.4.2.4 The power rating of the Project shall be 50 MW, i.e., the maximum active Output at the Delivery Point. The energy rating of 100 MWh shall be ensured at COD and maintained throughout the term of BESPA by the BESSD.

4.4.2.5 The Tata Power-D shall arrange charging of the BESS with equal amount of energy plus energy expected to be lost as conversion losses (determined from the guaranteed Round - Trip Efficiency (RtE) of the system) Illustration: For a Project / Contracted Capacity of 50 MW/ 100 MWh, with RtE of 85%, Tata Power-D shall supply charging power to the tune of (50*2)/0.85= 118 MWh, to expect a discharge of 100 MWh as per the desired schedule.

4.5 Extensions of Time

4.5.1 In the event that the BESSD is prevented from performing its obligations under Article 4.1 by the Scheduled Commissioning Date due to:

4.5.1.1 any Tata Power-D Event of Default; or

4.5.1.2 Force Majeure Events affecting Tata Power-D or

4.5.1.3 Force Majeure Events affecting the BESSD,

the Scheduled Commissioning Date and the Expiry Date may be deferred at Tata Power-D discretion for a reasonable period but not less than ‘day for day’ basis, to permit the BESSD or Tata Power-D through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the BESSD or Tata Power-D, or till such time such Event of Default is rectified by Tata Power-D.

4.5.2 In case of extension due to reasons specified in Article 4.5.1.2 and 4.5.1.3, and if such Force Majeure Event continues even after a maximum period of 180 days (or any mutually agreed extended period) from the date of the Force Majeure, any of the Parties may choose to terminate the Agreement as per the provisions of Article 11.10.

4.5.3 If the Parties have not agreed within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article 16.

4.5.4 As a result of such extension on account of Article 4.5.1, the newly determined Scheduled Commissioning Date and newly determined Expiry Date shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.

4.5.5 Delay in commissioning of the project beyond the scheduled commissioning date for reasons other than those specified in Article 4.5.1 shall be an event of default on part of the BESSD and shall be subject to the consequences specified in the Article 4.6.

4.6 Liquidated Damages not amounting to penalty for delay in Commissioning

4.6.1 The Project shall be fully commissioned within the Scheduled Commissioning Date as defined in this Agreement. If the BESSD is unable to commission the Project by the Scheduled Commissioning Date for the reasons other than those specified in Article 4.5.1, the BESSD shall pay to Tata Power-D, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:

(a) Delay beyond the Scheduled Commissioning Date up to (& including) the date of commissioning, as part of the liquidated damages, the total PBG/POI amount for the Project shall be encashed on per-day basis and proportionate to the balance capacity not commissioned. For the purpose of calculations of the liquidated damages, 'month' shall be considered consisting of 30 days.

(b) Delay beyond Six (6) Months from SCD: The BESPA capacity shall stand reduced/amended to the Project Capacity commissioned, the entire e-PBG will be encashed by Tata Power-D, and the BESPA for the Project shall stand terminated for the balance un-commissioned capacity.

(c) For avoidance of doubt, it is clarified that provisions of Article 4.6.1 will be applicable even in cases where no capacity (**i.e. 0 MW**) is commissioned.

4.6.2 The BESSD further acknowledges and accepts that the amount of the liquidated damages as specified above is a fixed, genuine and reasonable pre-estimate of the damages that may be suffered by Tata Power-D.

4.7 Acceptance/Performance Test

4.7.1 Prior to synchronization of the Project, the BESSD shall be required to get the Project certified for the requisite test including for safety as may be laid down by Central Electricity Authority or an agency identified by the State/Central government to carry out testing and certification for the Battery Energy Storage projects. Further, BESSD shall ensure that all technical, acceptance and performance criteria as specified in schedule - E, Documents and Guidelines are also complied and maintained.

4.8 Third Party Verification

4.8.1 The BESSD shall be further required to provide entry to the site of the Project free of all encumbrances at all times during the Term of the Agreement to Tata Power-D (or its authorized representatives) and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the BESSD at the site of the Project. The BESSD shall provide full support to Tata Power-D and/or the third party in this regard.

4.8.2 The third party may verify the construction works/operation of the Project being carried out by the BESSD and if it is found that the construction works/operation of the Project is not as per the Prudent Utility Practices, it may seek clarifications from BESSD or require the works to be stopped or to comply with the instructions of such third party.

4.9 Breach of Obligations

4.9.1 The Parties herein agree that during the subsistence of this Agreement, the BESSD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity which is the subject matter of this Agreement including in case of any dispute between the parties pending the orders of the adjudication authority under the Dispute Resolution Provisions. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

5.1.1 The BESSD shall give the concerned RLDC/NLDC and Tata Power-D as applicable at least sixty (60) days' advanced preliminary written notice and at least thirty (30) days' advanced final written notice of the date on which it intends to synchronize the Project to the Grid System.

5.1.2 Subject to Article 5.1.1, the Project may be synchronized by the BESSD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.

5.1.3 The synchronization equipment and all necessary arrangements / equipment including RTU / any other equipment for charge and discharge of power from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the BESSD at its facility of the Project at its own cost. The BESSD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned substation/Grid System and checking/verification is made by the concerned authorities of the Grid System.

5.1.4 The BESSD shall immediately after each synchronization/tripping of system, inform the sub-station of the Grid System to which the Project is electrically connected in accordance with applicable Grid Code under intimation to Tata Power-D. In addition, the BESSD at its own risk and cost, will be required to arrange for the charging and discharging of power for carrying out operational/ functional test prior to commercial operation as well as for commissioning of the Project. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.

For the successful achievement of Commissioning/Commercial Operation Date (COD), the bidder must demonstrate the continuous charging and discharging of the full contracted or commissioned capacity for three consecutive days. This requires the completion of one full charge-discharge cycle per day.

Further, it is clarified that bidder has to supply required energy for charging till COD/UCOD is achieved. Tata Power-D will provide charging power only after COD/UCOD.

5.1.5 The BESSD shall commission the Project as detailed in **"Schedule-D: Commissioning Procedure"** within Twelve (12) Months of the Effective Date of BESPA. Declaration of

COD / UCOD shall only be done by Tata Power-D subject to the demonstration of the compliances as per Schedule-D.

5.1.6 Part commissioning of the Project shall be permitted, without prejudice to the imposition of penalties on the un-commissioned portion, in accordance with this Agreement.

5.1.7 The minimum part commissioning capacity of the Project shall be 10 MW/20 MWh. Thereafter, additional part commissioning shall be accepted in multiples of 10 MW/20 MWh.

5.1.8 However, the SCD will not get altered due to part commissioning. Irrespective of dates of part commissioning or full commissioning, the BESPA will remain in force for the Term as defined in this Agreement.

5.1.9 The Parties agree that for the purpose of commencement of the BESS capacity by the BESSD to Tata Power-D, liquidated damages for delay etc., the Scheduled Commissioning Date (or extended Scheduled Commissioning Date) as defined in this Agreement shall be the relevant date.

5.1.10 Early Commissioning - The BESSD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the Scheduled Commissioning Date. Early commissioning of the Project will be allowed solely at the risk and cost of the BESSD, and Tata Power-D may purchase the BESS capacity from such early commissioned Project at BESPA tariff.

Such intimation for early commissioning shall be provided to Tata Power-D at least 15 days before the proposed early commissioning date as per the Commissioning Procedure. In case Tata Power-D does not agree to purchase such capacity, early part/full commissioning of the Project shall still be allowed and the BESSD will be free to sell such capacity to a third party at its own risk and cost; until SCD or the date of commencement of procurement of BESS Capacity notified by Tata Power-D, whichever is earlier.

In such cases, a Provisional Commissioning Certificate will be issued to BESSD for period up to SCD or date of commencement of Storage Capacity Procurement (whichever is earlier), along with a NOC for sale of Storage Capacity to 3rd Party for such period. UCOD/COD of the Project under the BESPA will be the date on which the commissioning certificate is issued upon successful commissioning of the part/full capacity of the Project. Subject to the provisions of this Agreement, in case of early commissioning, if BESSD sells any capacity to a third party, the BESSD will have to again demonstrate 100% of Contracted Capacity (as per the Commissioning Procedure) to the Procurer from the date of commencement of off-take of capacity by the Procurer.

Further, in case early commissioning of the project, if BESSD sales storage capacity to third party, then Tata Power-D shall not be responsible for providing charging power.

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 Dispatch and Scheduling

6.1.1 Tata Power-D at it's discretion will provide Charging and discharging schedules on day ahead/intra-day basis.

6.1.2 The BESSD shall strictly adhere to such charging and discharging schedule, given by Tata Power-D.

6.1.3 The BESSD, in consultation with Tata Power-D, shall be required to charge/ discharge the Battery System as per the applicable regulations / requirements / guidelines of CERC / R LDC/ Tata Power-D or any other competent agency and same being recognized by the Tata Power-D /RLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned Tata Power-D /RLDC from time to time. Any deviation from the discharging Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication like DSM charges, on account of this shall be on the account of the BESSD.

6.1.4 The BESSD shall be responsible for directly coordinating and dealing with Tata Power-D /RLDC, RLDCs, State/Regional Power Committees, and other authorities in all respects regarding declaration of availability, scheduling and dispatch of discharging power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the BESSD and Tata Power-D /RLDC are the Grid connected entities.

6.1.5 DSM charges, if any, shall be levied separately on the BESSD as applicable, for the discharging activities. DSM / UI charges on this account shall be directly paid by the BESSD as applicable. Reactive power charges shall be on account of the BESSD during discharging, as per Clause no. 9.2 of this BESPA.

BESSD has to oversize the PCS to comply with CERC Regulations which states that the BESS to deliver the rated active power at 0.95 leading or 0.95 lagging power factor and 0.95 voltage drop.

6.1.6 Auxiliary power shall be in the scope of BESSD. The BESSD should take separate auxiliary connection for auxiliary consumption. The charges for auxiliary consumption shall be borne by the BESSD. For ISTS-connected BESS Projects, the applicable tariff shall be as determined by the concerned SERC having jurisdiction over the Project location from time to time.

6.1.7 It is at Tata Power-D’s discretion to provide charging and discharging schedules for individual/all locations.

6.1.8 The dispatch instructions will be issued by Tata Power-D on the day ahead basis. Tata Power-D may revise the schedule by giving advance notice to the BESSD; Provided that, such revisions shall be effective from the 6th time block following the time block in which the request of revision has been received by the BESSD to be first one.

ARTICLE 7: METERING

7.1 Meters

7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the BESSD shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2014, the Grid Code, as amended and revised from time to time.

7.1.2 The BESSD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at BESSD side of Delivery Point for injection and drawl of power from the Grid during discharging and charging of BESS.

7.1.3 A set of Main Meter and Check Meter shall be required to be installed at CTU end and a Back-Up Meter shall be required to be installed at generation side.

7.1.4 Metering, scheduling, energy accounting, settlement, and billing shall be carried out in accordance with the applicable provisions of the Central Electricity Authority (Installation and Operation of Meters) Regulations, applicable energy accounting procedures, and the applicable regulations, procedures, guidelines, and directions issued by the CEA, NLDC (Annexure-IV), RLDC, SLDC, CERC, SERC, and other competent authorities, as applicable and as amended from time to time.

7.2 Reporting of Metered Data and Parameters

7.2.1 Online arrangement would have to be made by the BESSD for submission of metering data regularly for the entire period of this Agreement to the RLDC, Tata Power-D and the concerned Ministry or concerned agency as per applicable regulation / directions.

7.2.2 Reports on metering parameters on monthly basis, and/or as required by regulation /Guidelines, shall be submitted by the BESSD to Tata Power-D / RLDC for entire Term of the BESPA.

7.3 Sealing and Maintenance of Meters.

(i) The Main Metering System, the Backup Metering System and all the ABT Compliant Meters shall be sealed in the presence of representatives of BESSD/RLDC/CTU and Tata Power-D.

(ii) When the Main Metering System and / or Backup Metering System and / or any component thereof is found to be outside the acceptable limits of accuracy or otherwise not functioning properly, it shall be repaired, re-calibrated or replaced by the BESSD at BESSD's cost, as soon as possible.

(iii) Any meter seal(s) shall be broken only by Tata Power-D /RLDC/CTU representative in the presence of BESSD representative whenever the Main Metering System or the Backup Metering System is to be inspected, tested, adjusted, repaired or replaced.

(iv) All the Main and Check Meters shall be calibrated at least once in a period of three years.

(v) In case, both the Main Meter and Check Meter are found to be beyond permissible limit of error, both the meters shall be calibrated immediately and the correction applicable to main meter shall be applied to the energy registered by the Main Meter at the correct energy for the purpose of energy accounting / billing for the actual period during which inaccurate measurements were made, if such period can be determined or, if not readily determinable, shall be the shorter of:

A. the period since immediately preceding test of the relevant Main meter, or
B. one hundred and eighty (180) days immediately preceding the test at which the relevant Main Meter was determined to be defective or inaccurate.

7.4 Records

Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this agreement and the operation of the Project. Among such other records and data, the BESSD shall maintain an accurate and up-to-date operating log at the Power Plant with records of:
-

a) Fifteen (15) minutes logs of real and reactive power generation, frequency, transformer tap position, bus voltage(s), Main Meter and Back up Meter Readings and any other data mutually agreed;

b) any unusual conditions found during operation / inspections;

c) chart and printout of event loggers, if any, for system disturbances/ outages;

d) All the records will be preserved for a period of 36 months.

ARTICLE 8: INSURANCES

8.1 Insurance

8.1.1 The BESSD shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of BESPA, Insurances against such risks to keep the Project in good condition and shall take Industrial All Risk insurance policy covering risks against any loss or damage, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements, and under the applicable laws.

8.1.2 The BESSD shall submit the Insurance copy to Procurer, at the time of commissioning of project (UCOD/COD).

8.2 Application of Insurance Proceeds

8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the BESS or any part of the BESS shall be first applied to reinstatement, replacement or renewal of such loss or damage to the Contracted Capacity followed by outstanding claims of Tata Power-D against BESSD, if any.

In case of the Project being financed through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Project to any part of the BESS shall be applied as per such Financing Agreements.

8.2.2 If a Force Majeure Event renders the Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, Tata Power-D shall have claim on such proceeds of such Insurance limited to outstanding dues of Tata Power-D against BESSD.

8.3 Effect on liability of Tata Power-D

8.3.1 Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the BESSD can claim compensation, under any Insurance shall not be charged to or payable by Tata Power-D. It is for the BESSD to ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

9.1 The BESSD shall be entitled to receive the Tariff of INR ______/MW/Month (availability-based payment- Capacity Charge) fixed for the entire term of this Agreement, with effect from commissioning of Project or part thereof from the SCD, the Contracted Capacity made available to the Tata Power-D during BESPA Period, as per the provisions of RfS and this agreement.

Availability of the Project shall mean the ability of the BESS to execute a function i.e. charging or discharging, when called upon to do so, as per the schedule or signal provided by Tata Power-D, on daily/intra-day basis.

Tata Power-D shall communicate charging/discharging schedules to BESSD at required and BESSD shall be required to convey availability of contracted capacity to Tata Power-D for such period. Availability shall be 100% if BESS capacity of 30 MW is available for operations, if 30 MW is required by Tata Power-D, for the period. Availability shall be proportionately adjusted if some capacity as against instructed, is not available for charge/discharge.

Daily availability will be calculated basis on the actual charge/discharge functions carried out by the BESS against the instructions issued by Tata Power-D. Average monthly availability shall be calculated basis on the daily availability data.

To qualify for 100% payment of the tariff (capacity charges), the BESS system shall maintain a minimum **Monthly Availability of 95%**. Payment of monthly tariff shall be proportionately adjusted for the shortfall in availability, if any.

9.2 GST levied on the energy storage facility provided by the BESSD, if any, (as and when notified by GoI), shall be over and above the afore-mentioned tariff and shall be passed through to Tata Power-D.

ARTICLE 10: BILLING AND PAYMENT

10.1 General

10.1.1 From the commencement of availability of BESS Capacity, Tata Power-D shall pay to the BESSD the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with Article 9. All capacity charge Payments by Tata Power-D shall be in Indian Rupees.

10.2 Delivery and Content of Monthly Bills/Supplementary Bills

10.2.1 The BESSD shall submit Monthly Bill/Supplementary Bill through e-mail to Tata Power-D for the immediately preceding Month/relevant period, including the time-block-wise data for monthly availability calculations, along with all relevant documents. The BESSD shall also submit data of applicable liquidated damages if any and Round-trip Efficiency in line with provisions of this Agreement, as part of the Monthly Bill/Supplementary Bill.

10.3 Payment of Monthly Bills

10.3.1 Subject to the provisions of Article 10.3.4, Tata Power-D shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the BESSD, as shall have been previously notified by the BESSD. The BESSD shall open a bank account (the "BESSD's Designated Account") for all Tariff Payments (including Supplementary Bills) and notify Tata Power-D of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill.

10.3.2 Omitted

10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by Tata Power-D beyond Due Date, a Late Payment Surcharge shall be payable on the payment outstanding after the Due Date, as per the applicable LPS rules and regulations from the relevant authorities.

Subject to Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by Tata Power-D, the payment for the Capacity charges may be accounted from the date of UCOD, and BESSD would be allowed to raise Bills against such capacity as per Article 10.2.1, subject to the conditions as stipulated in Article 9.

10.3.4 **Rebate**

For payment of any Bill on or within 7 days from the presentation of the bill (excluding bill receipt date), Rebate of 1% of the billed amount shall be given by the BESSD to Tata Power-D. For the purpose of rebate consideration, the 7-day period shall commence from the next business day following the date of presentation of the bill.

10.3.5 **Payment Security Mechanism Letter of Credit (LC)**:

10.3.6 Tata Power-D shall provide to the BESSD, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained which may be drawn upon by the BESSD in accordance with this Article.

10.3.7 Before the start of supply of storage capacity, Tata Power-D shall, through a scheduled bank, open a Letter of Credit in favour of the BESSD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have term of twelve (12) Months and shall be renewed annually, for an amount equal to:

i) for the first Contract Year, equal to 100% of the estimated average monthly billing;

ii) for each subsequent Contract Year, equal to 100% of the average of the monthly billing of the previous Contract Year.

10.3.8 Provided that the BESSD shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill and shall not make more than one drawl in a Month.

10.3.9 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, Tata Power-D shall restore such shortfall before next drawl.

10.3.10 Tata Power-D shall ensure that the Letter of Credit shall be renewed not later than its expiry.

10.3.11 All costs relating to opening, maintenance of the Letter of Credit shall be borne by Tata Power-D.

10.3.12 If Tata Power-D fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 10.4.6 &10.5.1, the BESSD may draw upon the Letter of Credit, and accordingly the bank shall pay, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

i) a copy of the Monthly Bill or Supplementary Bill (only for energy related bills) which has remained unpaid to BESSD and;
ii) a certificate from the BESSD to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date;

In case of wrongful drawl of the Letter of Credit, the BESSD would be liable to further interest equivalent to late payment surcharge considered from the date of drawl of letter of credit.

10.4 Disputed Bill

10.4.1 If Tata Power-D disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 50% of the invoice amount provided either party shall have the right to approach the MERC to effect a higher or lesser payment on the disputed amount and it shall within thirty (30) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:

i) the details of the disputed amount;
ii) its estimate of what the correct amount should be; and
iii) all written material in support of its claim.

It is clarified that the non-issuance of a Bill Dispute Notice or payment of the Bill Amount would not foreclose Tata Power-D's rights and interests in regard to the Bills or any claims and Tata Power-D may also raise a Dispute at a later stage and take appropriate steps.

10.4.2 If the BESSD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.4.1 the BESSD shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.

10.4.3 If the BESSD does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.4.1, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the Tata Power-D providing:

i) reasons for its disagreement;

ii) its estimate of what the correct amount should be; and

iii) all written material in support of its counter-claim.

10.4.4 Upon receipt of the Bill Disagreement Notice by the Tata Power-D under Article 10.4.3, authorized representative(s) of the Tata Power-D and BESSD shall meet and make best endeavors to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

10.4.5 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.4.4, the matter shall be referred to Dispute resolution in accordance with Article 16.

10.4.6 For the avoidance of doubt, it is clarified the despite a Dispute regarding an invoice, Tata Power-D shall, without prejudice to its right to Dispute, be under an obligation to make payment of 50% of the invoice amount in the Monthly Bill.

10.5 Annual Reconciliation

10.5.1 The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to annual reconciliation at the end of each Contract Year within 45 days to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, liquidated damages or any other reasonable circumstance provided under this Agreement.

The Parties, therefore, agree that as soon as all such data in respect of a full Contract Year has been finally verified and adjusted, the BESSD and Tata Power-D shall jointly prepare such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, BESSD shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.

10.6 Payment of Supplementary Bill

10.6.1 BESSD may raise a ("Supplementary Bill") for payment on account of: Change in Law as provided in Article 12 and such Supplementary Bill shall be paid by the other Party.

10.6.2 Tata Power-D shall remit all amounts due under a Supplementary Bill raised by the BESSD to the BESSD's Designated Account by the Due Date.

ARTICLE 11: FORCE MAJEURE

11.1 Definition of Force Majeure

A ‘Force Majeure’ (FM) would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices.

An Affected Party means Tata Power-D or the BESSD whose performance has been affected by an event of Force Majeure.

11.2 Force Majeure Events

a) Act of God, including, but not limited to lightning, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, pandemic, cyclone, typhoon or tornado if it is declared / notified by the competent state / central authority / agency (as applicable), or verified to the satisfaction of Procurer;

b) radioactive contamination or ionizing radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Project by the Affected Party or those employed or engaged by the Affected Party.

c) The discovery of geological conditions, toxic contamination or archaeological remains on the Project land that could not reasonably have been expected to be discovered through an inspection of the Project land and/or as per prudent industry practices.

d) Exceptionally adverse weather condition which are in excess of the statistical measure of the last hundred (100) years.

e) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or

f) military action, or Industry wide strikes and labor disturbances, having a nationwide impact in India, if and only if it is declared / notified by the competent state / central authority / agency (as applicable)

g) Nationalization or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the BESSD, as a result of which the BESSD or its shareholders are deprived (wholly or partly) of their rights or entitlements under this BESPA. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Procurer or any other Government Authority as a result of any breach of any of the Applicable Laws or the Applicable Permits by the BESSD or the BESSD related parties

h) An event of Force Majeure affecting delivery / offtake of power / Contracted Capacity from BESSD to Procurer.

11.3 Force Majeure Exclusions

11.3.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project/ BESS;
b. Delay in the performance of any contractor, sub-contractor or their agents;
c. Non-performance resulting from normal wear and tear typically experienced in power generation / BESS materials and equipment;
d. Strikes at the facilities of the Affected Party;
e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and
f. Non-performance caused by, or connected with, the Affected Party's:

i. Negligent or intentional acts, errors or omissions or lack of due diligence expected from any prudent and rational human being;

ii. Failure to comply with an Indian Law; or

iii. Breach of, or default under this Agreement.

11.4 Notification of Force Majeure Event

11.4.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than fifteen (15) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement. The Party who receives the Force Majeure Notification, shall take a decision on the claim of occurrence of Force Majeure Event, within 30 days of the receipt of the intimation, accompanied with supporting documents available with the Affected Party.

11.4.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than weekly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

11.4.3 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.5 Performance Excused

11.5.1 The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under this Agreement as a consequence of the Force Majeure Event, shall be excused from performance of the obligations, provided that the period shall not exceed 180 (one hundred and eighty) Days from the date of issuance of the FM Notice or any extended period as mutually agreed. The Parties may mutually agree to extend the period for which performance is excused due to a

Force Majeure Event. However, in case of the FM continuing up to a period of 180 days or any extended period as mutually agreed, either Party has the right to terminate the BESPA.

11.5.2 For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the BESSD shall be entitled for a day to day extension of the period provided for Financial Closure or Scheduled Commissioning Period or the BESPA period, as the case may be. The Term of this Agreement will be suitably extended. However, adjustment in tariff shall not be allowed on account of Force Majeure event.

11.5.3 Provided always that a Party shall be excused from performance only to the extent reasonably warranted by the Force Majeure Event.

11.5.4 Provided further that, nothing shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

11.6 No Liability for Other Losses

Save as otherwise provided in this Agreement, no Party shall be liable in any manner, whatsoever, to the other Parties in respect of any loss relating to or arising out of the occurrence or existence of any Force Majeure Event.

11.7 Resumption of Performance

During the period that a Force Majeure Event is subsisting, the Affected Party shall, in consultation with the other Parties, make all reasonable efforts to limit or mitigate the effects of such Force Majeure Event on the performance of its obligations under the BESPA. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption, shall notify other Parties of the same in writing. The other Parties shall afford all reasonable assistance to the Affected Party in this regard.

11.8 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Article 11.2, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

11.9 Available Relief for a Force Majeure Event

Subject to this Article 11:

(a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event; However, no adjustment in tariff shall be allowed on account of Force Majeure event.

(b) For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.

(c) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.

11.10 Available Relief & Termination Due to Force Majeure Event

a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Force Majeure Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a Force Majeure Event is likely to continue beyond such 180 (one hundred and eighty) Day period or any extended period agreed in pursuance of Article 11.5 (Performance Excused); or that it is uneconomic or impractical to restore the affected Unit, then the Parties may mutually decide to terminate the BESPA, and the termination shall take effect from the date on which such decision is taken.

b) In case of occurrence of an event which is not a Force Majeure as per provision of this Agreement, but causes some hardship in development of the Project, which may or may not be recognized by the Government of India and for which the Government of India has or hasn't granted any extension of time or any other relief; such event, even if sustained beyond 180 days shall not be considered as a reason for termination of BESPA under this Article.

c) Without prejudice to the provisions of Article 11.10. (a) above, the Affected Party shall, after the expiry of the period of 180 (one hundred and eighty) Days or any other mutually extended period, be entitled to forthwith terminate the BESPA in its sole discretion by issuing a notice to that effect.

d) On termination of the BESPA pursuant to Article 11.10. (c):

In case of termination on account of event listed as Force Majeure as under Article 11.2 (a), (b), (c) and (d), no Termination Compensation shall be payable to the BESSD.

i. In case of termination at the instance of the BESSD, on account of an event listed as Force Majeure as per Article 11.2 (e) and (f) above, the Procurer will have the option to (but will not be obliged to) take- over the Project Assets by paying Debt Due. In case the Procurer chooses not to exercise the aforementioned option, and the same is not agreed to by the BESSD, it will result in a dispute as per the BESPA and will be resolved as per the Dispute Resolution mechanism under the BESPA.
ii. the BESSD shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event.

ARTICLE 12: CHANGE IN LAW IN INDIA

12.1 Definitions

In this Article 12, the following terms shall have the following meanings:

12.1.1 In this Article 12, the term Change in Law shall refer to the occurrence of any of the following events, after the last date of the bid submission:

(a) the enactment, bringing into effect, adoption, promulgation, amendment, modification or repeal, of any statute, decree, ordinance or other law, regulations, notice, circular, code, rule or direction by Governmental Instrumentality having a binding mandate or a change in its interpretation by a Competent Court of law, tribunal, government or statutory authority or any of the above regulations, taxes, duties charges, levies that results in any change with respect to any tax or surcharge or cess levied or similar charges by the Competent Government on the storage of electricity (leviable on final output i.e. the drawl or injection from BESS projects in the form of energy) or on supply of energy storage capacity.

(b) Introduction / modification / changes in rates of Safeguard Duty and/or Anti-Dumping Duty and/or Customs Duty and/or Goods and Services Tax including surcharge thereon which have direct effect on the Project cost.

12.1.2 For avoidance of doubt, it is clarified that any change in taxes or surcharge or cess or similar charges on inputs like material, labor or any other input for setting up the Project will not be allowed under Change in Law except as specified in 12.1.1(b). It is further clarified that, Change in Law/ Regulation shall not include

(i) any change in taxes on corporate income or any change in any withholding tax on income or dividends, or

(ii) change in respect of deviation settlement mechanism/charges or frequency intervals by an Appropriate Commission.

12.1.3 In the event of occurrence of any of events as provided under Article 12.1.1 which results in any adverse financial loss or gain to the BESSD then, the BESSD shall be entitled to compensation in case of financial loss from Tata Power-D and in case of financial gain shall be liable to compensate Tata Power-D, as the case may be, such compensation payment on account of such ‘Change in Law’ shall be determined and shall be effective from such date as may be decided by the Appropriate Commission and shall be adjusted in the tariff .

Provided however that, the compensation of Change in law shall be applicable only if the impact of the same in the Contract Year is on net basis more than or equal to one percent (1%) of,

(i) The estimated Project Cost (during the Construction period) or
(ii) Revenue for the Contract Year for which such adjustment becomes applicable (during Operation Period), as the case may be.

12.2 Relief for Change in Law

12.2.1 In case of Change in Law taking place prior to commissioning of the Project, the compensation may be passed through in the form of increase/decrease in the tariff, linked with increase/decrease in the Project cost, which is to be paid through the monthly billing. The pass through in this case shall be as per decision of Appropriate Commission and shall be effective from date of commissioning of the Project. BESSD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.

12.2.2 In case of Change in Law taking place subsequent to commissioning of the Project capacity, and changes in taxes/duties/cess etc. are defined as a percentage or the ratio of the tariff, the changes will be passed on as appropriate increment/decrement in the tariff, and will be paid through monthly billing as per decision of Appropriate Commission. In other cases, if any, where the Change in Law is not a percentage or ratio of tariff, suitable compensation will be provided as decided by the Appropriate Commission. BESSD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.

12.2.3 For the purpose of Article 12.1.2 above, BESSD or Tata Power-D , which intends to adjust and recover the costs due to change in law, may file a petition before Appropriate Commission with the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.

BESSD shall furnish to Tata Power-D , the computation of impact in tariff or charges to be adjusted and recovered and file the Petition with the Appropriate Commission, within 30 days of the occurrence of the change in law, and the recovery of the proposed impact in tariff or charges shall start after and in accordance with the approval of Appropriate Commission.

12.2.4 In the event of any decrease in the project cost by the BESSD or any income to the BESSD on account of any of the events as indicated above, BESSD, shall pass on the benefit of such reduction to Tata Power-D. In the event of the BESSD failing to comply with the aforementioned requirement, Tata Power-D, at its option, shall make such deductions in the monthly tariff payments on immediate basis or file a petition as per Clause 12.2.3 above.

12.2.5 After the adjustment of the amount of the impact in the tariff, the BESSD shall adjust the monthly tariff or charges annually based on actual amount recovered/ paid, to ensure that the payment is not more than the financial implication on account of Change in Law. It is to clarify further that the Change in Law compensation/payment shall be limited to the Contracted Capacity only.

12.3 Notification of Change in Law

12.3.1 In case any increase or decrease in the Project Cost occurs due to Change in Law affecting the Tariff payable under this Agreement, in accordance with Article 12, the BESSD shall serve notice to Tata Power-D of such Change in Law within 7 days about the proposed impact in tariff, positive or negative, to be recovered.

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 BESSD Event of Default

13.1.1 The occurrence and/or continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by Tata Power-D of its obligations under this Agreement, shall constitute an BESSD Event of Default:

13.1.2 the failure to commence availability of BESS for providing Energy Storage capacity to Tata Power-D up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to demonstrate guaranteed availability of such energy storage capacity to Tata Power-D within six months from the identification of reduced monthly availability during the term of this Agreement, or if

a) the BESSD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Project in contravention of the provisions of this Agreement; or

b) the BESSD transfers or novates any of its rights and/ or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer

- is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or

- is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;

(ii) if (a) the BESSD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the BESSD, or (c) the BESSD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the BESSD

(iii) will not be a BESSD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the BESSD and expressly assumes all obligations of the BESSD under this Agreement and is in a position to perform them; or

(iv) the BESSD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from Tata Power-D in this regard; or

(v) except where due to any Tata Power-D's failure to comply with its material obligations, the BESSD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the BESSD within thirty (30) days of receipt of first notice in this regard given by Tata Power-D.

(vi) change in controlling shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or

(vii) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the BESSD.

13.2 Tata Power-D Event of Default

13.2.1 The occurrence and the continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by the BESSD of its obligations under this Agreement, shall constitute the Event of Default on the part of defaulting Tata Power-D:

(i) Tata Power-D fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the BESSD is unable to recover the amount outstanding to the BESSD through the Letter of Credit,

(ii) Tata Power-D repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the BESSD in this regard; or

(iii) If

- Tata Power-D becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or

- any winding up or bankruptcy or insolvency order is passed against Tata Power-D, or
- Tata Power-D goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that it shall not constitute a Tata Power-D Event of Default, where such dissolution or liquidation of Procurer or Tata Power-D is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to Tata Power-D and expressly assumes all obligations of Tata Power-D and is in a position to perform them;

13.3 Procedure for cases of BESSD Event of Default

13.3.1 Upon the occurrence and continuation of any BESSD Event of Default under Article 13.1, Tata Power-D shall have the right to deliver to the BESSD, with a copy to the representative of the lenders to the BESSD with whom the BESSD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (Tata Power-D Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

13.3.2 Following the issue of a Tata Power-D Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

13.3.3 During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

13.3.4 On the date of expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the BESSD Event of Default giving rise to the Consultation Period shall have been remedied, the BESSD shall be liable pay to Tata Power-D, damages, equivalent to 6 (six) months, or balance BESPA period whichever is less, of charges for its contracted capacity. Tata Power-D shall have the right to recover the said damages from pending dues/bills to pay to BESSD, without prejudice to resorting to any other legal course or remedy.

13.3.5 In addition to the levy of damages as aforesaid, the lenders in concurrence with the Tata Power-D, may exercise their rights, if any, under Financing Agreements, to seek substitution of the BESSD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the BESSD and performing the obligations of the BESSD within a period of 90 days from the expiry of the Consultation Period. However, in the event the lenders are unable to substitute the defaulting BESSD within the stipulated period or there are no lenders, the BESPA shall stand terminated. If the Tata Power-D desires to acquire the Project assets, it may do so, by paying to the BESSD, a compensation as mutually decided by the Tata Power-D and the lender. In case the Tata Power-D chooses not to exercise the above option, or the Tata Power-D and the lender are unable to come to an agreement, the lenders may liquidate the Project assets and recover their dues, as the last resort. Provided that any substitution under this Agreement can only be made with the prior consent of Tata Power-D including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by Tata Power-D and accepts the terms and conditions of this Agreement.

13.3.6 The lenders in concurrence with Tata Power-D, may seek to exercise right of substitution under Article 13.3.5 by an amendment or novation of the BESPA in favour of the selectee. The BESSD shall cooperate with Tata Power-D to carry out such substitution and shall have the duty and obligation to continue to operate the Project in accordance with this BESPA till such time as the substitution is finalized. In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh BESPA with a new entity, an amount of Rs. 10 Lakh per Project+ 18% GST per transaction as facilitation fee (non-refundable) shall be deposited by the BESSD to Tata Power-D.

13.4 Procedure for cases of Tata Power-D Event of Default

13.4.1 Upon the occurrence and continuation of any Tata Power-D Event of Default specified in Article 13.2, the BESSD shall have the right to deliver to Tata Power-D, a BESSD Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue.

13.4.2 Following the issue of a BESSD Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

13.4.3 During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or Tata Power-D Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, Tata Power-D and the BESSD shall, subject to the prior consent of the BESSD, novate its part of the BESPA to any third party, including its Affiliates within the stipulated period. In this case, Tata Power-D shall pay amount equivalent to 3 (three) months of charges for its contracted capacity based on the declared availability, or balance Term of the BESPA, whichever is less, for its Contracted Capacity, with the Project assets being retained by the BESSD, and exit from the BESPA. In the event the aforesaid novation is not acceptable to the BESSD, or if no offer of novation is made by Tata Power-D within the stipulated period, then the BESSD may terminate the BESPA and choose to either continue operating the Project by itself finding an alternate procurer or to discontinue the operation of the Project. If the BESSD chooses to continue operating the project, Tata Power-D will pay to the BESSD, 'termination compensation' equivalent to 6 (six) months of charges for its contracted capacity corresponding to the declared availability, or balance Term of the BESPA, whichever is less, for its Contracted Capacity. If the BESSD decides to discontinue the operation of the Project, it may require Tata Power-D to make a payment of the 'termination compensation' which will be equivalent to the amount of the Debt due and 110% (one hundred and ten per cent) of the Adjusted Equity, less Insurance Cover if any, and the assets shall be transferred to Tata Power-D or any other entity nominated by Tata Power-D.

13.4.5 Provided further that at the end of three (3) months period from the period mentioned in this Article 13.4.4, this Agreement may be terminated by the BESSD.

13.4.6 In all cases, the lenders may also step in where appropriate as provided in the financing documents. Further, in all cases, the defaulting Party will be required to pay the applicable compensation within 3 months from the due date of such payment, subsequent to which, the defaulting Party will be required to pay a monthly interest @1% of the compensation.

13.4.7 In the event of termination of BESPA, any damages or charges payable to the CTU/ Tata Power-D /RLDC, for the connectivity / transmission charges of the plant, shall be borne by the by the entity due to whose failure, the termination was triggered.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 BESSD's Indemnity: The BESSD agrees to defend, indemnify and hold harmless Tata Power-D, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of the BESSD, or by an officer, director, sub-contractor, agent or employee of the BESSD except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, Tata Power-D, or by an officer, director, sub-contractor, agent or employee of the Tata Power-D.

14.1.2 Tata Power-D's Indemnity: Tata Power-D agrees to defend, indemnify and hold harmless the BESSD, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of Tata Power-D, or by an officer, director, sub-contractor, agent or employee of Tata Power-D except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, the BESSD, or by an officer, director, sub-contractor, agent or employee of the BESSD.

14.2 Limitation on Liability

14.2.1 Except as expressly provided in this Agreement, neither the BESSD nor Tata Power-D nor its/ their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, indirect or consequential damages, connected with or resulting from performance or non- performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of Tata Power-D , the BESSD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

14.2.2 Tata Power-D shall have no recourse against any officer, director or shareholder of the BESSD or any Affiliate of the BESSD or any of its officers, directors or shareholders for such claims excluded under this Article. The BESSD shall have no recourse against any employee, officer, director or shareholder of Tata Power-D , or any affiliate or any of its officers, directors or shareholders for such claims excluded under this Article.

14.3 Tata Power-D's Liability

14.3.1 It is specifically agreed that the payment of money becoming due from the Tata Power-D to the BESSD under this Agreement for supply of Energy / Capacity to the extent of the Contracted Capacity shall be as per the recourse under in the BESPA, shall be through Letter of Credit.

14.4 Duty to Mitigate

14.4.1 The Parties shall endeavor to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 14.

ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 Assignments

Neither Party shall assign this Agreement without the prior written consent of the other Party, provided further that any assignee expressly assume the assignor's obligations thereafter arising under this Agreement pursuant to documentation satisfactory to such other Party. However, such assignment shall be permissible only for entire contracted capacity & only after COD.

Provided however, no approval is required from Tata Power-D for the assignment by the BESSD of its rights herein to the Financing Parties and their successors and assigns in connection with any financing or refinancing related to the construction, operation and maintenance of the Project.

In furtherance of the foregoing, Tata Power-D acknowledges that the Financing Documents may provide that upon an event of default by the BESSSD under the Financing Documents, the Financing Parties may cause the BESSD to assign to a third party the interests, rights and obligations of the BESSD thereafter arising under this Agreement. Tata Power-D further acknowledges that the Financing Parties, may, in addition to the exercise of their rights as set forth in this Section, cause the BESSD to sell or lease the Project and cause any new lessee or purchaser of the Project to assume all of the interests, rights and obligations of the BESSD thereafter arising under this Agreement.

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 Governing Law

16.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in Mumbai.

16.2 Amicable Settlement and Dispute Resolution

16.2.1 Amicable Settlement

i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement ("Dispute") by giving a written notice (Dispute Notice) to the other Party, which shall contain:

(a) a description of the Dispute;

(b) the grounds for such Dispute; and

(c) all written material in support of its claim.

ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 16.2.1(i), furnish:

(a) counter-claim and defenses, if any, regarding the Dispute; and

(b) all written material in support of its defenses and counter-claim.

iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16

(i) if the other Party does not furnish any counter claim or defense under Article 16

(ii) or thirty (30) days from the date of furnishing counter claims or defense by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1.

(iii) the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

16.3 Dispute Resolution

16.3.1 Dispute Resolution by the Appropriate Commission

i) Where any Dispute or differences arises in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well as claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.

ii) Tata Power-D shall be entitled to co-opt the lenders (if any) as a supporting party in such proceedings before the Appropriate Commission.

16.4 *Parties to Perform Obligations*

16.4.1 Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission and save as the Appropriate Commission may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 Amendment

17.1.1 This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by an authorized representative of both Parties. However, Tata Power-D may consider any amendment or change that the Lenders may require to be made to this Agreement.

17.2 Third Party Beneficiaries

17.2.1 This Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and shall not be construed as creating any duty, standard of care or any liability to, any person not a party to this Agreement.

17.3 Waiver

17.3.1 No waiver by either Party of any default or breach by the other Party in the performance of any of the provisions of this Agreement shall be effective unless in writing duly executed by an authorized representative of such Party.

17.3.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by one Party to the other Parties shall act as a waiver of such breach or acceptance of any variation or the relinquishment of any such right or any other right under this Agreement, which shall remain in full force and effect.

17.4 Confidentiality

17.4.1 The Parties undertake to hold in confidence this Agreement and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

a) to their professional advisors;

b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or

c) disclosures required under Law, without the prior written consent of the other Party.

17.5 Severability

17.5.1 The invalidity or unenforceability, for any reason, of any part of this Agreement shall not prejudice or affect the validity or enforceability of the remainder of this Agreement, unless the part held invalid or unenforceable is fundamental to this Agreement.

17.6 Notices

17.6.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language.

17.6.2 If to the BESSD, all notices or other communications which are required must be delivered personally or by registered post or facsimile or any other method duly acknowledged to the addresses below:

Address :

Attention :

Email :

Fax. No. :

Telephone No.:

17.6.3 If to Tata Power-D, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address(es) below:

(i) Address :
Attention :
Email :

Fax. No. :

Telephone No. :

17.6.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office or other currier services in an envelope properly addressed to the appropriate Party for delivery by registered mail and E-mail. All notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

17.6.5 Any Party may by notice of at least fifteen (15) days to the other Party change the address and/or addresses to which such notices and communications to it are to be delivered or mailed.

17.7 Language

17.7.1 All agreements, correspondence and communications between the Parties relating to this Agreement and all other documentation to be prepared and supplied under the Agreement shall be written in English, and the Agreement shall be construed and interpreted in accordance with English language.

17.7.2 If any of the agreements, correspondence, communications or documents are prepared in any language other than English, the English translation of such agreements, correspondence, communications or documents shall prevail in matters of interpretation.

17.8 Restriction of Shareholders / Owners' Liability

17.8.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement, shall be restricted to the extent provided in the Indian Companies Act, 2013.

17.9 Taxes and Duties

17.9.1 The BESSD shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/ levied on the BESSD, contractors or their employees that are required to be paid by the BESSD as per the Law in relation to the execution of the Agreement and for supplying storage capacity as per the terms of this Agreement.

17.9.2 Tata Power-D shall be indemnified and held harmless by the BESSD against any claims that may be made against Tata Power-D in relation to the matters set out in Article Tata Power-D.

17.9.3 Tata Power-D shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the BESSD by Tata Power-D on behalf of BESSD.

17.10 Independent Entity

17.10.1 The BESSD shall be an independent entity performing its obligations pursuant to the Agreement.

17.10.2 Subject to the provisions of the Agreement, the BESSD shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of the BESSD or contractors engaged by the BESSD in connection with the performance of the Agreement shall be under the complete control of the BESSD and shall not be deemed to be employees, representatives, contractors of Tata Power-D and nothing contained in the Agreement or in any agreement or contract awarded by the BESSD shall be construed to create any contractual relationship between any such employees, representatives or contractors and Tata Power-D.

17.11 Compliance with Law

Despite anything contained in this Agreement but without prejudice to this Article, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2003, or any rules and regulations made there under, such provision of this Agreement shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time.

17.12 Breach of Obligations

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

17.13 Order of priority in application

In case of inconsistencies between the agreement(s) executed between the Parties, applicable Law including rules and regulations framed thereunder, the order of priority as between them shall be the order in which they are placed below:

i. applicable Law, rules and regulations framed thereunder;

ii. the Grid Code; and

iii. the terms and conditions of this Agreement;

Note:

1. Commissioning procedure, which forms part of Schedule-D of the BESPA. The indicative Single Line Diagrams & GA report and form part of Schedule G of the BESPA.

Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, it is hereby agreed by and between the Parties as follows:

IN WITNESS WHERE OF the Parties have caused the Agreement to be executed through their duly authorized representatives as of the date and place set forth above.

For and on behalf of	For and on behalf of
[Tata Power-D]	[BESSD]
Name, Designation and Address	Name, Designation and Address
Signature with seal	Signature with seal
Witness	Witness:
1.	1.
2.	2.

Format for PERFORMANCE BANK GUARANTEE (PBG)

(*To be stamped in accordance with Stamp Act, the Non-Judicial Stamp Paper of Appropriate Value*)

The..... ,
Tata Power Co Ltd.

WHEREAS:

(A) .... (the "**BESSD**"/ Supplier) and [the.... Tata Power-D] represented by and having its principal offices at.... ("**Tata Power-D**" / Utility) have entered into an Agreement for Procurement of Power dated (the "**Agreement**") whereby the Utility has agreed to the (Supplier if Supplier is NOT a Trading Licensee, or Developer if Supplier is a Trading Licensee) undertaking the financing and operation of the Power Station with a BESS capacity of .... MW in the State of .... on finance, own and operate (the "**FOO**") basis, subject to and in accordance with the provisions of theAgreement.

(B) The Agreement requires the Supplier to furnish a Performance Security to the Tata Power-D in a sum of [Rs.... cr. (Rupees. crore)] (the "**Guarantee Amount**") as security for due and faithful performance of its obligations, under and in accordance with the Agreement (as defined in the Agreement).

(C) We,.... through our Branch at .....the "**Bank**") have agreed to furnish this Bank Guarantee by way of Performance Security.

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

1. The Bank hereby unconditionally and irrevocably guarantees and undertakes to pay to the Utility upon occurrence of any failure or default in due and faithful performance of all or any of the Supplier's obligations, under and in accordance with the provisions of the Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Supplier, such sum or sums upto an aggregate sum of the Guarantee Amount as the Utility shall claim, without the Utility being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Utility, under the hand of an Officer, that the Supplier has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Utility shall be the sole judge as to whether the Supplier is in default in due and faithful performance of its obligations during the Contract Period under the Agreement and its decision that the Supplier is

in default shall be final, and binding on the Bank, notwithstanding any differences between the Utility and the Supplier, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Supplier for any reason whatsoever.

3. In order to give effect to this Guarantee, the Utility shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Supplier and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Utility to proceed against the Supplier before presenting to the Bank its demand under this Guarantee.

5. The Utility shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Supplier contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Utility against the Supplier, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Utility, and the Bank shall not be released from its liability and obligation underthese 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 Supplier or any other forbearance, indulgence, act or omission on the part of the Utility or of anyother matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Utility in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Supplier under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demandor 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, all rights of theUtility under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Performance Security shall cease to be in force and effect when the Supplier shall have provided another Performance Security in substitution of this Performance Security.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Utility in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorized to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Utility that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of one year from the date hereof or until it is released earlier by the Utility pursuant to the provisions of the Agreement.

Signed and sealed this.... day of ....20.... at ....

SIGNED, SEALED AND DELIVERED
For and on behalf ofthe BANK by:

(Signature)

(Name) (Designation)
(Code Number)

(Address)

NOTES:

(i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

(ii) The address, telephone number and other details of the Head Office of the Bankas well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

TECHNICAL AND REGULATORY REQUIREMENTS TO BE FOLLOWED FOR BATTERY ENERGY STORAGE SYSTEMS

1. Codes and Standards

The BESS shall comply with the following Codes and Standards (with amendments) or equivalent Indian Standards, as applicable.

Standard/ Code (or equivalent Indian Standards)	Description	Certification Requirements
IEC 62485-2	Safety requirements for secondary batteries and battery installations - to meet requirements on safety aspects associated with the erection, use, inspection, maintenance and disposal: Applicable for Lead Acid and NiCd / NiMH batteries	Applicable only for Lead Acid and NiCd/NiMH batteries
UL 1642 c Appendix E (cell) or IEC 62619 (cell) + IEC 63056 (cell)	Secondary cells and batteries containing alkaline or other non-acid electrolytes - Safety requirements for secondary lithium cells and batteries, for use in industrial applications	Required for Cell
UL 1973 (battery) or (IEC 62619 (battery) + IEC (battery))	Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail (LER) Applications / Secondary cells and batteries containing alkaline or other non-acid electrolytes - Safety requirements for secondary lithium cells and batteries, for use in industrial applications	Either UL 1642 or UL1973 or (IEC 62619 + IEC 63056) for the Battery level
IEC 62281 / UN 38.3	Safety of primary and secondary lithium cells and batteries during transport: Applicable for storage	uired for both Battery and Cell.

	systems using Lithium-Ion chemistries	
IEC 61850/ DNP3	Communications networks and management systems. (BESS control system communication)	
UL 9540 or (IEC TS 62933-5-1+ IEC 62933-5-2)	Electrical energy storage (EES) systems - Part 5-1: Safety considerations for grid-integrated EES systems – General specification / Standard for Energy Storage Systems and Equipment	Either UL9540 or (IEC 62933-5-1 + IEC 62933-5-2) is required for BESS system level
IEC 62933-2-1	Electrical energy storage (EES) systems - Part 2-1: Unit Parameters and testing methods - General Specification	Tests for Class B applications: . Duty Cycle Round Trip Efficiency Test . Equipment and Basic Function Test . Available energy Test . Insulation test

Power Conditioning Unit Standards for BESS	
IEC 62477-1	Safety requirements for power electronic converter systems and equipment - Part 1: General
IEC 62477-2	Safety requirements for power electronic converter systems and equipment - Part 2: Power electronic converters from 1 000 V AC or 1 500 V DC up to 36 kV AC or 54 kV DC
IEC 61000-6-2 Ed. 2	Electromagnetic compatibility (EMC) - Part 6-2: Generic standards - Immunity standard for industrial environments
IEC 61000-6-4 Ed. 2.1	Electromagnetic compatibility (EMC) - Part 6-4: Generic standards - Emission standard for industrial environments
IEC 62116 Ed. 2	Utility-interconnected photovoltaic inverters - Test procedure of islanding prevention measures
IEC 60068-2-1:2007	Environmental testing - Part 2-1: Tests - Test A: Cold
IEC 60068-2-2:2007	Environmental testing - Part 2-2: Tests - Test B: Dry heat
IEC 60068-2-14:2009	Environmental testing - Part 2-14: Tests - Test N: Change of temperature
IEC 60068-2-30:2005	Environmental testing - Part 2-30: Tests - Test Db: Damp heat, cyclic (12 h + 12 h cycle)

2. *System Testing and Commissioning*

The BESS shall be commissioned as per commissioning criteria and procedures specified by the CEA.

3. *Identification and Traceability*

Cells/Racks/Packs Assembly shall meet seismic requirement for the plant location of the BESS. Labelling of cells/batteries shall include manufacturer's name, cell type, name-plate rating, date of manufacture and date of expiry of parts and labor warranty.

4. *Other Sub-systems/Components*

Other subsystems/components used in the BESS must also conform to the relevant international/national Standards for Electrical Safety for ensuring Expected Service Life and Weather Resistance.

5. *Fire Protection*

The BESSD shall design and install a fire protection system that conforms to national and local codes. The fire protection system design and associated alarms shall take into account that the BESS will be unattended at most times. For high energy density technologies, the BESSD shall also obtain thermal runaway characterization of the battery storage systems.

6. *Authorized Test Centres*

Batteries/ Power Conditioning Units deployed in the power plants must have valid test certificates for their qualification as per above specified IEC/ BIS Standards by one of the ILAC member signatory accredited laboratories. In case of module types/ BESS/equipment forwhich such Test facilities may not exist in India at present, test certificates from reputed ILACMember body accredited Labs abroad will be acceptable.

7. *Warranty*

BESSD shall procure performance guarantees from the OEM to ensure minimum performance levels for predefined application(s) as per the terms of this agreement. The Warranty shall clearly indicate life expectancy given discharge profiles provided for the application.

8. Performance Monitoring

As part of the performance monitoring, the following shall be carried out:

a) The BESSD must install necessary equipment to continuously measure BESS operating parameters (including but not limited to voltage, current, ambient conditions etc.) as well as energy input into and energy output from the BESS along with Metering arrangement in accordance with extant regulations. They will be required to submit this data to Tata Power-D and RLDC online and/or through a report on regular basis every month for the entire duration of contract.

b) The BESSD shall provide access to Tata Power-D /MoP or their authorized representatives for installing any additional monitoring equipment to facilitate on-line transfer of data.

c) All data shall be made available as mentioned above for the entire duration of the Contract.

d) The plant SCADA should be OPC version 2.0a (or a later version including OPC UA) compliant and implement appropriate OPC-DA server as per the specification of OPC Foundation. All data should be accessible through this OPC server for providing real time online data (BESS parameters) to Tata Power-D / MoP. This time series data shall be available from the Project SCADA system to facilitate monitoring and should include among others as stated before, below parameters to facilitate daily, monthly and annual Report for performance monitoring.

e) Web-based monitoring should be available, which should not be machine dependent. The web-based monitoring should provide the same screens as available in the plant. Also, it should be possible to download reports from a remote web-client in PDF or Excel format.

9. Other necessary criteria

a) BESS shall be capacity of operating in the frequency range of 47.5 Hz to 52 Hz and be able to deliver rated output in the frequency range of 49.5 Hz to 50.5 Hz.

b) BESS shall be capacity of operating when voltage at the interconnection point on any or all phases dips/rises to the high or low levels. The levels applicable for wind/solar inverter-based generation may be referred as available in Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations.

c) The safe and reliable operation of power system is ensured by frequency control as well as voltage control. BESS to be implemented shall have provisions for Primary frequency control with a droop which can be set as per system requirement between 1-3percent. The BESS performs regulations in one or several pre-defined ways (e.g. regulating its own output power according to the orders given by SCADA system) to achieve an active power balance between generation and demand to maintain the power system frequency within a reasonable range.

d) BESS shall operate to maintain voltages as per specified voltage ranges in Grid standards.

BESS shall have feature to detect the voltage of interconnection point and regulate voltage independently. The response time of the BESS shall not exceed the value specified in relevant standards or grid codes.

e) BESS shall operate in a manner to promote the power system reliability and improve the power quality. When power quality problems, such as voltage dip, flicker, unsatisfactory power factor, etc., occur in power system, the BESS could eliminate these problems by flexible active and reactive power output in this function.

f) The BESS shall provide reliable protection and not be limited to as an overvoltage/under-voltage protection, overcurrent protection, low-temperature/over-temperature protection of battery, DC insulation monitoring, etc.

g) BESS is required to have the following basic functions:

   i) Monitoring: Monitor operational parameters, equipment status and communication status, alarm and faults of main equipment and BESS system, etc.

   ii) Information exchange: Receive and process information with Tata Power-D/RLDC/NLDC/CTU including operation parameters, switching information, various alarms and alerts, protective action signals, control information, etc.

   iii) Control: Including control mode and parameter setting with Tata Power-D/RLDC/NLDC/CTU.

h) The static information like detailed write-up on present operation methodology of BESS, forbidden zones, number of cycle limits, Auxiliary consumption details, capability curve, simulation models (RMS/PSCAD) along with description or any specific information about BESS shall also be furnished as and when required by Tata Power-D/RLDC/NLDC/CTU.

i) The applicable software for the Energy Management System (EMS) of the BESS project capacity shall be developed indigenously within India.

j) The BESSD is responsible for ensuring the BESS installed is of requisite quality as per best industrial practices and refurbished battery cells are not used in the project.

k) The Developer (BESSD) shall ensure compliance with all applicable cyber security regulations, directives, and guidelines issued by Central Government Authorities dealing with cyber security.

l) The Developer (BESSD) shall ensure full compliance with the Central Electricity Authority (Cyber Security in Power Sector) Guidelines, 2021 and all subsequent amendments, notifications, and regulations issued thereunder, as applicable from time to time.

10. Safe Disposal of unit Batteries from the BESS

The Developer will comply with the requirements under Hazardous & other Waste (Management and Transboundary Movement) Rules, 2016, as amended from time to time, as applicable. The BESSD shall ensure that all Unit Battery modules from the plant after their 'end of life' (when they become defective/ non-operational/ non-repairable) are disposed in accordance with the "e-waste (Management and Handling) Rules, 2016" notified by the Government and as revised and amended from time to time and Battery Waste Management Rules, as and when notified by the Government of India.

CHECK LIST FOR FINANCIAL CLOSURE

(To be signed by the Authorized signatory of the BESSD) **(RfS No.**

______________________________________ dated ________) Last Date

for submission of documents related to

Financial Closure – _______________(6 months from Effective Date of BESPA)

Project Company Name ____Project ID:- -
LOA No. -________________________________. Dtd. -_______________Effective Date of BESPA
- ____
Scheduled Commissioning Date: - _____________________________

1.0 Financial Closure - (Clause 23 of the RfS, including subsequent amendments & clarifications)

Details	**Presently given in BESPA**
Location	
Technology	
Certificate from all financial institutions	**In case of tie up through Bank / Financial Institutions: -** Document from Bank / Financial Institutions certifying arrangement of necessary funds by way of sanction of Loan **In case of Internal Resources: -** Copy of Board Resolution, Audited/Certified Balance sheet, Profit & Loss Account Statement, Bank Statement and Cash Flow Statement in support of availability of Internal resources of the Project Company and of the Company other than Project Company (in case the required funding will be raised from Company other than Project Company)

Note:-

(i) Copy of Final Detailed Project Report (DPR) along with the total project cost and its break-up, including item-wise costs, all applicable taxes, duties, and cesses.

(ii) Undertaking by the Project Company that all Consents, clearances and permits required for supply of Power to Tata Power-D as per the terms of BESPA have been obtained.

(iii) Non-solar connectivity agreement / Application to obtain such connectivity.

(iv) Undertaking towards Land arrangement.

2.0 Copy of Agreement/ MOU entered into / Purchase Order with acceptance, for the supply of Plants and Equipment

3.0 **Technical Parameters of the Project (Clause 37 of the RfS)**

3.0.1 Certificate from Project Company that Technical specifications and directives will be adhered.

3.0.2 Proposed Project configuration as part of DPR of the Project.

4.0 **Ownership of the BESSD:** Latest Shareholding Pattern of the Project Company (including Compulsorily Convertible Debentures (CCDs), Compulsorily Convertible Preferential Shares (CCPS) of the Project Company certified by Chartered Accountant

Shareholding pattern is not required to be submitted by a Listed Company.

Note: Declaration of Shareholding Pattern of the Project Company is to be submitted to Tata Power-D on monthly basis, i.e., by the 10^{th} day of every month for shareholding status of the Company up to the end of the previous month, till 3 years from the date of commissioning of the project.

The above checklist is to facilitate financial closure of projects. For any interpretation the respective provision of RfS / BESPA shall prevail.