

**PROCUREMENT OF CONVENTIONAL POWER ON SHORT-TERM BASIS THROUGH  
TARIFF BASED COMPETITIVE BIDDING PROCESS**

(As per “Guidelines for short-term (i.e. for a period of more than one day to one year)  
Procurement of Power by Distribution Licensees through Tariff based bidding process”  
issued by Government of India as amended time to time)

**Tata Power Delhi Distribution Limited (TPDDL)**

**INVITATION FOR BIDS**

**Tender enquiry No.- Tata Power-DDL/PMG/Tender/Conventional Power  
/Purchase-2021-22/01**

**Event No. PFC Consulting Limited / Short /21-22 /**

S. No.	Event	Date & Time
1.	Publication of RfP/ Activation of Event	11 <sup>th</sup> March' 2022
2.	Queries by bidders ( if any)	14 <sup>th</sup> March' 2022
3.	Response to bidder's queries	15 <sup>th</sup> March' 2022
4.	Last date of submission of RfP Bids including EMD (15:00 hours)	22 <sup>nd</sup> March' 2022
5.	Opening of non-financial technical Bids (15:30 hours)	22 <sup>nd</sup> March' 2022
6.	Clarification, if any, sought from Bidder(s)	23 <sup>rd</sup> March' 2022
7.	Opening of IPOs (upto 1500 hrs) & Start of e-RA (15:00 hours)	25 <sup>th</sup> March' 2022
8.	Issuance of LOA and submission of signed LOA.	After receipt of DERC Approval (as per the requirement).
Hard Copy of EMD and sealed bids should reach Tata Power-DDL by 22 <sup>nd</sup> March' 2022		

<b>Bids to be submitted through</b>	DEEP e-Bidding Portal
<b>Office inviting bids &amp; Place of submission of EMD</b>	<b>Sh. Sumit Sachdev</b> <b>HOD-Power Management Group</b> <b>TATA Power Delhi Distribution Limited</b> <b>CENNET SCADA Building, 1<sup>st</sup> Floor</b> <b>Near PP-3 Grid, Kabir Dass Marg, Pitampura,</b> <b>New Delhi -110034</b> <b>E-mail: <a href="mailto:sumit.sachdev@tatapower-ddl.com">sumit.sachdev@tatapower-ddl.com</a></b> <b>Land line: 011-66050742</b>

<b>Details of persons to be contacted in case of any assistance/query</b>	Shri Sandeep Kumar, H.O.G (Power Management Group) Mob: - 9971174097 Email: - <a href="mailto:sandeep.k@tatapower-ddl.com">sandeep.k@tatapower-ddl.com</a>
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Bidding will be done as per the guidelines for short term procurement of power notified by the Ministry of Power vide resolution dated 15<sup>th</sup> May' 2012, 30<sup>th</sup> March' 2016, 30<sup>th</sup> December' 2016 & 21<sup>st</sup> Feb' 2022 through e-bidding portal (DEEP) only. The link for the e-bidding portal is [www.mstcecommerce.com](http://www.mstcecommerce.com), and is also available on the website of Ministry of Power ([www.Powermin.nic.in](http://www.Powermin.nic.in)) and PFC Consulting Limited ([www.pfcclindia.com](http://www.pfcclindia.com)). Bidders are requested to familiarize themselves with the Short term Power procurement Guidelines notified by the Ministry of power along with amendments issued from time to time carefully before submitting the offer.

## 1. INTRODUCTION AND BACKGROUND

M/s TATA Power Delhi Distribution Limited (Tata Power-DDL) is a Company incorporated under the Companies Act 1956 having its registered office at NDPL house, Hudson Lines, Kingsway Camp, New Delhi-110009, engaged in the business of distribution of electricity within its licensed area in NCT of Delhi. Tata Power-DDL is inviting bids for procurement of Up to 300 MW RTC POWER under Short Term arrangement for the period from 16.04.2022 to 15.10.2022. The power would be procured under 'Guidelines for short-term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process' (Guidelines).

## 2. E BIDDING FEE

The Procurer(s) or their Authorized Representative can raise indents on the e-Bidding portal and create events. All the Bidders would be able to participate in the e-Bidding events on making payment of the requisite fees of Rupees 500 per MW per requisition for the total capacity sought by the Utility for that particular requisition for which the bidder is willing to bid, to PFC Consulting Limited (PFCL). The requisite fee plus applicable taxes shall be deposited through the portal by e-Payment Gateway provided by MSTC Ltd. After the completion of the bidding process, only successful Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded by PFCL within seven (7) working days without any interest. The fee deposited by non-Selected Bidder(s) will also be refunded by PFCL within seven (7) working days of completion of the event without any interest. For more details, bidders may contact PFCL for the same.

### 3. QUANTUM OF POWER

The Bidder(s) should be capable of supplying power to Tata Power -DDL, for the period from 16.04.2022 to 15.10.2022 as detailed below:

Month/Hours	16 <sup>th</sup> April' 2022 to 15 <sup>th</sup> October' 2022
RTC	Upto 300 MW
<p>1. The Successful bidders/traders would be required to apply Short Term Open Access on behalf of Tata Power-DDL (beneficiary in this case is Tata Power-DDL) in such a manner that separate STOA charges upto delivery point are neither to be billed to Tata Power –DDL nor payable by the bidder in respect of this transaction and the same is dealt within Tata-Power-DDL long term Transmission Access (LTA) as per the provisions of CERC Sharing Regulations' 2020. Further, the bidders/traders should ensure that they are able to supply their contracted quantum within the supply period offered by them.</p> <p>2. Tata Power-DDL may decide to take any quantum upto 300 MW during any specific month/period based upon requirement and competitiveness of bids received, subsequent to Approval by Hon'ble DERC (as per requirement).</p> <p>3. Tata Power-DDL reserves the right to increase the supply quantum (in MW) by 20% if there is a shortfall in the Total quantum of energy to be procured by Tata Power-DDL or the same is required otherwise. Successful bidders would be liable to supply this additional quantum of energy on same terms and conditions as mentioned in this RFQ.</p>	

#### 1. RTC Requirement

Requisition No.	Period	Time Block (hrs.)	Quantum	Minimum Bid Quantity	Delivery
			(MW)	(MW)	Point
1	16 <sup>th</sup> April' to 30 <sup>th</sup> April' 22	00:00 to 24:00	Upto 300	25	*NR Periphery
2	1 <sup>st</sup> May' to 31 <sup>st</sup> May'22	00:00 to 24:00	Upto 300	25	
3	1 <sup>st</sup> June' to 30 <sup>th</sup> June'22	00:00 to 24:00	Upto 300	25	
2	1 <sup>st</sup> July' to 31 <sup>st</sup> July'22	00:00 to 24:00	Upto 300	25	
3	1 <sup>st</sup> Aug' to 31 <sup>st</sup> Aug'22	00:00 to 24:00	Upto 300	25	
4	1 <sup>st</sup> Sep' to 30 <sup>th</sup> Sep'22	00:00 to 24:00	Upto 300	25	
5	1 <sup>st</sup> Oct' to 15 <sup>th</sup> Oct'22	00:00 to 24:00	Upto 300	25	

\*Delivery point has been specified in line with clause 5.3 of guidelines for short term procurement of power notified by the Ministry of Power vide resolution dated 30<sup>th</sup> March' 2016.

#### 4. QUALIFICATION CRITERIA

- 4.1 The Bidder may offer power up to the quantum indicated in the RfP Document for the respective periods. The supply of power may be offered from one or more than one source subject to condition that offers from each source shall not be less than 25 MW **(Minimum Bid quantum)**. Offer of less than above specified quantity will result into non responsiveness of bid.
- 4.2 The quantum of power offered by the bidder shall be firm power for the duration mentioned above.
- 4.3 If the bidder is a company, he/they must submit the details of bidder Company as per Annexure '1' of tender specification for consideration of their bid.
- 4.4 If the bidder is a Trader, he/they should submit a copy of the valid category of Trading License or equivalent Trading License issued by the Appropriate Commission.
- 4.5 If bidder is a trader, he/they should submit a copy of executed power purchase agreement with the Generator/Supplier or an equivalent arrangement for supply of power and/or a copy letter of authorization from the generator / Supplying utility.
- 4.6 The bidder will be required to submit an undertaking to the effect that all the Terms & Conditions of this RfP Document have been accepted along with a signed copy of the RfP document annexed with the Technical Bid.

Non-fulfillment of any of the above mentioned conditions, will result into non responsiveness of bid.

**NOTE: Bidders who are found qualified in technical Bid shall only be considered for opening of Financial Bid (IPOs).**

#### 5. EARNEST MONEY DEPOSIT (EMD) / BANK GUARANTEE (BG)

The Bidders are required to submit EMD ( as specified in Annexure -2 of this RFP) for the maximum capacity which they wish to offer (in single bid or sum total of multiple bids) @ Rs. 30,000/- per MW per month on RTC (30 days, 24 hours) basis and same shall be reduced on pro-rata basis in case bids are invited on hourly basis, in the form of Bank Guarantee /e-Bank Guarantee issued by any Nationalized/Scheduled Bank or should be Electronically Transferred through RTGS/NEFT in the beneficiary account.

**For Example:** For a requirement of 1 MW for 15 days for 4 hours, the EMD shall be calculated as Rs. 30,000 x (15 days / 30 days) x (4 hrs / 24 hrs).

The original EMD needs to be submitted and uploaded online on DEEP Portal before the opening of the Non-Financial Technical Bid.

EMD shall be valid for a period of 90 days after the closing date of e-Reverse –auction and the same shall be issued in the form of Bank Guarantee /e-Bank Guarantee issued by any Nationalized/Scheduled Bank or Electronically Transfer through RTGS / NEFT as per details given below:-

Account Name : Tata Power Delhi Distribution Limited.  
Name of the Bank : Axis Bank  
Account No. : 915030039791179  
RTGS/NEFT/IFSC code : UTIB0001609

5.1 The EMD shall be forfeited:

- a. If Bidder withdraws bid during Bid Validity Period except as provided in the MoP Guidelines for Short Term Power purchase as amended from time to time.
- b. For non-submission of Contract Performance Guarantee as specified in this RfP document, by Successful Bidder(s).

5.2 The EMD shall be refunded to the unsuccessful Bidders within 10 days of expiry of Bid validity period.

The EMD of the Successful Bidder (s) shall be refunded after furnishing the Contract Performance Guarantee (CPG).

## **6 CONTRACT PERFORMANCE GUARANTEE (CPG)**

6.1 The Successful Bidder(s) shall be required to furnish CPG within 7 days from the date of Selection of Successful Bidder(s) for an amount calculated at Rs. 2 lac per MW per month (30 days, 24 hours) of contract period or part thereof. The CPG for the procurement of power on hourly basis shall be calculated on pro-rata basis as per the example given above for calculating EMD.

6.2 The CPG shall be in the form of BG issued by any Nationalized/Scheduled Bank and valid for the period of Contract with a claim period of 1 month after the expiry of contract period.

6.3 In the event, the CPG is not furnished within the stipulated date, the EMD submitted against the Notification shall be forfeited.

6.4 The CPG provided by the Successful Bidder(s) shall be forfeited for non-performing the contractual obligations. The CPG shall be released within 30 days after completion of Contract Period and fulfilment of contractual obligations by the successful bidder.

## **7 TARIFF STRUCTURE**

7.1 The Bidder shall quote single tariff in INR at the Delivery Point up to three (3) Decimal places which shall include capacity charge, energy charge, trading margin (in case of Bidder being a Trader), applicable charges/losses up to Delivery Point and all taxes, duties, cess etc. imposed by Central Govt. / State Govt. / Local bodies. Tariffs shall be designated in Indian Rupees only.

7.2 For avoidance of doubt, Intra-state open access charges, transmission charges and losses along with POC injection charges and loss up to the POC interface are on Seller's account and POC drawl charges and losses along with intra-state open access, transmission charges and losses are on Procurer's account.

7.3 Bidders(s) is / are required to ensure availability of necessary infrastructure before Participating in the bid.

If the power is being supplied through alternate source, additional charges and losses if any, due to cancellation of existing corridor and booking of new corridor etc., shall be to the account of Bidders.

## **8 BIDDING PROCESS**

8.1 Tata Power-DDL has issued an RfP for procurement of power on short term basis as per the details mentioned in clause 3 above and the RfP has been uploaded on the DEEP e-Bidding portal.

8.2 Bid Submission: Bids are to be submitted online through the DEEP e-Bidding portal. All the documents uploaded by Tata Power-DDL will form an integral part of the contract. Bidders are required to upload all documents as asked for in the RfP, through the above website within the stipulated date and time as given in the RfP. The Bidder shall carefully go through the RfP and prepare the required documents and upload the scanned documents in Portable Document Format (PDF) to the portal in the designated locations of Technical Bid.

8.3 The documents uploaded shall be digitally signed using the Digital Signature Certificate (DSC). Bidders should take note of all the addendum / corrigendum related to the RfP and upload the latest documents as part of the Bid.

- 8.4 The process of e-Bidding shall be conducted online, in accordance with the provisions laid herein. Each e-Bidding event shall comprise of two parts i.e. e-Tender and e-Reverse Auction. To participate in the event each Bidder will have to specify the source(s) of power for that particular bid. Each bid will have only one price per requisition accompanied by total quantum of power, the Bidder intends to supply and minimum threshold quantum acceptable to the Bidder. However, the Bidder shall have the option to choose the requisition of an event in which it intends to participate. Each of the bid will have to be signed by the Digital Signature of the Bidder.
- 8.5 Bidders shall be required to submit separate non-financial technical Bid and Financial Bids i.e. Initial Price Offer (IPO) through e-Bidding portal. The Bidder will have the option to indicate their minimum threshold quantity and the same would be considered for allocation of power to the Bidder(s). The non-financial Bids shall contain the acceptance of general terms and conditions without any deviation and information about the sources from which the Bidder shall supply the power. Bidders shall also be required to furnish necessary EMD / Bank Guarantee along with the Bids. The Bidders can revise their IPOs before date and time of submission of RfP.
- 8.6 The IPO shall be strictly as per the format prescribed in the RfP and shall be unconditional. The conditional price bid shall be summarily rejected.

## **9 VALIDITY OF TENDER AND OFFER**

The offer against tender should remain valid for a period of thirty (30) days from the day of closing of e-Reverse Auction. In case more time is required for regulatory approval beyond the initial validity of thirty (30) days, Tata Power-DDL shall seek validity extension from the bidders. In such case, bidders shall have the option of extending their bid along with EMD beyond the original validity period.

## **10 CONDITIONAL AND INCOMPLETE TENDER/BIDS**

Conditional and incomplete tenders/bids are liable to be rejected.

## **11 OPENING AND EVALUATION OF BID**

11.1 To ensure competitiveness, the minimum number of Bidders should be at least two for each requisition. If the number of Bidders responding to the RfP is less than two, and Procurer still wants to continue with the selection process, the selection of that single bidder may be done with the consent of the Appropriate Commission.

11.2 Technical proposals will be opened by Tata Power-DDL or its authorized representative electronically from the website stated above, using their Digital Signature Certificate.

11.3 Technical proposals for those tenders whose original copy of EMD has been received and who have deposited the E-Bidding Fee will only be opened and the remaining shall be rejected.

11.4 Decrypted (transformed into readable formats) documents will be downloaded for the purpose of evaluation.

11.5 Tata Power-DDL or its authorized representative can seek clarifications/documents required in connection with technical bid. After acceptance of the non-financial technical Bids, the Financial Bids, Initial Price offer (IPO) shall be opened as per the procedures specified in the Bid document.

11.6 In the event, if two or more Bidders quote the same amount of Tariff during IPO and e-Reverse Auction stage, the time of submission of bid will be the deciding factor for their ranking.

## **12. ELIMINATION OF BIDDERS**

**The elimination of the Bidders shall be done by the following method:**

- 12.1 After the opening of Initial Price Offers, the system will rank the Bidders according to their price bids. The Bidder with the highest price bid in IPO stage will be called the H1 Bidder. The system will then analyze all the quantities offered by the Bidders in the IPO stage. If the total quoted quantity is greater than twice the Requisitioned Quantity, the Highest Bidder (H1) will be eliminated provided that the total quoted quantity after elimination is not less than or equal to twice the Requisitioned Quantity.
- 12.2 The elimination process will be done for each of the requisition separately. One event may have more than one requisition.

## **13. E – REVERSE AUCTION (e-RA)**

- 13.1 The shortlisted Bidder after elimination will be intimated individually by system generated emails only. The Reverse auction should start within 120 minutes of opening of Initial Price Offers and shall continue for a period of next 120 minutes. During the Reverse Auction the Bidders will have the option of reducing the tariff quoted by them in decrements of one paise or multiples thereof and to increase the quantum quoted by them by 1 MW or multiples thereof. During the Reverse Auction the prevailing Lowest Tariff would be visible to all the Bidders.
- 13.2 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.
- 13.3 The Bidders will have the option to increase the quantum of power upto corresponding to the value of EMD submitted along with IPO, but decrease the Tariff during the e-Reverse Auction process.

## **14. ISSUANCE OF LETTER OF AWARD (LOA)**

- 14.1 The Bidder after the e-RA process will be ranked in accordance with the tariff

offered in ascending order. The list would also include the name, quantum offered and tariff quoted by those qualified Bidder(s) who have not changed the quantum of power and tariff from IPO stage to e-RA stage. The Bidder(s), in order of their rankings, offering the quantum of power upto the requisitioned capacity would be the Successful Bidder(s).

- 14.2 Tata Power-DDL shall procure power from the Successful Bidders in the order of their rankings decided on the basis of tariff quoted by them until the entire Requisitioned Capacity is met.
- 14.3 Tata Power-DDL shall have the right to issue Letter of Award (LoA) to the Successful Bidder(s) [Selected Bidder(s)] in the same order to fulfil its requirement, which can be lower than the Requisitioned Capacity but not less than the quantum of lowest bidder. In the event Tata Power-DDL rejects or annuls all the Bids, it may go for fresh Bids hereunder. In case Tata Power –DDL fails to issue the LoA within the offer validity period (30 days), the Successful Bidder(s) shall have the option to exit without forfeiting the EMD.
- 14.4 In case the Selected Bidder(s) is allocated a quantity of power less than the minimum threshold quantum mentioned by it, it shall have the option to exit without forfeiting the EMD.
- 14.5 In case the LOA is issued but Selected Bidder(s) is / are not in a position to fulfil the requirement, being selected in another bidding process or due to any other reason the EMD / CPG shall be forfeited as the case may be.
- 14.6 After selection, a Letter of Award (the “LOA”) shall be issued subsequent to Approval by Hon’ble DERC (as per requirement), in duplicate, by Tata Power-DDL to the Selected Bidder(s) and the Selected Bidder(s) shall, 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(s) is not received by the stipulated date (7 days from issuance of LOA), Tata Power –DDL may, unless it consents for extension of time for submission thereof, forfeit the EMD of such Bidder as Damages on account of failure of the Selected Bidder(s) to acknowledge the LOA. Bidder/trader will initiate the process of submission of Open Access application on behalf of Tata Power-DDL immediately after receipt of LOA.

## **15. CONTRACT AWARD AND CONCLUSION**

LOA will be issued by Tata Power-DDL to the selected Bidders within the offer validity period (30 days). Issuance of LOA by Tata Power-DDL in line with the terms and conditions specified

in this RfP and acceptance/ acknowledgement of the LOA by the Selected Bidder(s), will be construed as a binding contract. No separate Power Purchase Agreement (PPA) will be signed by Tata Power-DDL in this Regard. The Selected Bidder(s) shall not be entitled to seek any deviation, modification or amendment in the terms of LOA. Tata Power-DDL would appropriate the EMD of such Bidder as Damages on account of failure of the Selected Bidder(s) to provide the acceptance towards Tata Power-DDL LoA within seven (7) working days of date of issuance of such Letter of Award (LoA) by Tata Power-DDL.

#### **16. RIGHT TO ACCEPT / REJECT THE BID:**

Lowest valid rate of the tender cum reverse auction price should normally be accepted. Tata Power-DDL reserves the right to reject any or all bids or to accept any bid, at its sole discretion, without assigning any reasons whatsoever thereof and without any liability.

#### **17. FORCE MAJEURE:**

Force Majeure Events shall mean the occurrence of any of the following events:-

- a) Any restriction imposed by RLDC / SLDC in scheduling of power due to breakdown of Transmission / Grid constraint shall be treated as Force Majeure without any liability on either side.
- b) Any of the events or circumstances, or combination of events and circumstances such as act of God, exceptionally adverse weather conditions, lightning, flood, cyclone, earthquake, volcanic eruption, fire or landslide or acts of terrorism causing disruption of the system.
- c) The contracted power will be treated as deemed reduced for the period of transmission constraint. The non / part availability of transmission corridor should be certified by the concerned RLDC / SLDC.
- d) Tata Power-DDL would return the CPG in case of non-availability of transmission corridor during the contract period.

#### **18 Booking of Transmission Corridors**

18.1 The successful bidder(s)/Trader(s) shall apply for booking of the open access transmission Corridor on behalf of Tata Power-DDL to nodal RLDC in line with applicable short term open access Regulations in place (Presently Open Access can be applied three (3) months in advance). Successful bidder shall be fully responsible

for the timely filing of open – access application before the nodal RLDC and coordinating with the relevant RLDC / SLDC so as to get the timely booking of the open access corridor. The energy shall be scheduled and dispatched as per the relevant provisions of CERC regulations for Short term open access and Procedure for reservation of Transmission Capacity for Short-term open access customers (Inclusive of all the amendments till date).

18.2 The successful bidder(s)/Trader(s) shall apply for booking of advance reservation in such a manner so as to get the maximum/full quantum from the shortest route.

18.3 The successful bidder(s)/Trader(s) shall have to book the transmission corridor after making advance payment in full to the Nodal RLDC. The open access booking charges, if any, payable by Tata Power-DDL shall be reimbursed to the successful bidder(s)/Trader(s).

18.4 In case Tata Power-DDL surrenders the already booked Open Access corridor, Tata Power-DDL shall bear the Open Access Charges, to be deducted by NRLDC for such surrender of booked corridor as per the prevailing open access regulations.

18.5 In case if the transmission corridor booked on advance reservation basis, is surrendered / cancelled by the trader / seller, then all the transmission charges will be borne by Trader / Seller.

## 19 BILLING

Sellers will raise weekly bills on provisional basis based on the provisional energy data as per RLDC website. After receipt of Regional Energy Accounting (REA) for the previous month from RLDC, final bill for the month shall be raised with necessary adjustment along with complete details of power scheduled at the delivery point and/or other documents / information, as may be required for bill verification. For the purpose of weekly billing, each month shall be divided into four parts, starting from 00:00 hours of 1<sup>st</sup>, 9<sup>th</sup>, 16<sup>th</sup> and 24<sup>th</sup> day of month to 24:00 hours of 8<sup>th</sup>, 15<sup>th</sup>, 23<sup>rd</sup> and last day of the month respectively. The bills of compensation (as stipulated in this RfP document) for a month shall be included in the final monthly adjustment bill.

## 20. PAYMENT

Tata Power-DDL will make the payment of the energy bills to the Selected Bidder through RTGS within 7 days (**hereinafter referred to as due date, excluding the day on which the bill is received**) from the date of receipt of the complete & correct energy bills in favor of HOD

(Power Management Group) Tata Power-DDL, New Delhi. In the event of the due date of payment being a Bank / Discoms holiday, the next working day shall be considered as the due date of payment. In case of timely payment by Tata Power-DDL, adjustment for the admissible rebate as per the clause described hereinafter, shall be made while making the payment against the energy bills.

The due date of payment of open access bills will be 7 days from the issue of the bill (excluding the day on which the bill is received).

**21. REBATE ON PAYMENT**

A rebate @ 2 % shall be applicable on payment of Energy bill within due date of payment. No rebate shall be applicable on payment of Open Access Bills.

**22. LATE PAYMENT SURCHARGE**

A surcharge of 1.25% (One Point Two Five Percent) per month shall be applied on all payments, outstanding for more than 30 days beyond the due date. This surcharge would be calculated on a day-to-day basis for each day of the delay. Any disputes raised by the Discom on the energy bills shall not be treated as outstanding. No surcharge would be applicable up to 30 days from the due date.

**23. PAYMENT OF LIQUIDATED DAMAGES FOR FAILURE TO SUPPLY THE INSTRUCTED CAPACITY**

23.1 Both the parties would ensure that actual scheduling does not deviate by more than 15% of the contracted power as per the approved open access on monthly basis.

23.2 In case deviation from Procurer side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Procurer shall pay compensation at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% while continuing to pay open access charges as per the contract.

23.3 In case deviation from Seller/Bidder side is more than 15% of contracted energy for which open access has been allocated on monthly basis, Seller/Bidder shall pay compensation to Procurer at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% in the energy supplied in a month and continue to pay for the open access charges as per the contract.

## **24. PAYMENT SECURITY MECHANISM**

Tata Power-DDL shall provide revolving Letter of Credit (LC) equivalent to 100% of the weekly energy corresponding to Contracted Capacity at the tariff indicated in LOA. LC shall be opened before commencement of supply of power. The LC shall be operated only in case Tata Power-DDL fails to make payment after the bill due date.

## **25. Consequences on Sale of Contracted Power to third Party without consent of the Procurer-**

In case the Seller fails to offer the contracted power as per the Agreement to the Procurer and sells this power without Procurer's consent to any other party, the Procurer shall be entitled to claim damages from the Seller for an amount equal to the higher of :(a) twice the Tariff as per the LOI for the corresponding contracted power; and (b) the entire sale revenue accrued from Third Parties on account of sale of this contracted power. These damages shall be in addition to Liquidated Damages as per Para 23 of the bid documents, for failure to supply the Instructed Capacity.

On a complaint to this effect by the Procurer to the concerned load dispatch centre, the Seller shall be debarred from participating in power exchanges and also from scheduling of this power in any short term/ medium term / long term contracts from that generating station for a period of three months from the establishment of default, in the complaint. The period of debarment shall increase to six months for second default and shall be one year for each successive default.

## **26. COMMUNICATION**

26.1 All parties shall rely upon written communication only.

26.2 The Bid submitted by the Bidder and all correspondences and documents relating to the bid shall be in English Language only.

26.3 Tata Power-DDL reserves the right to ask for additional information from the Bidder through e-mail / fax only.

## **27. GOVERNING LAW**

All matters arising out of or in conjunction with the Bid Document and / or the bidding process shall be governed by and construed in accordance with Indian law and the Courts in the State (New Delhi) shall have exclusive jurisdiction.

## **28. Change in Law**

- 28.1 Any change in transmission charges and open access charges
- 28.2 Any change in taxes (excluding income tax), duties, cess or introduction of any tax, duty, cess made applicable for supply of power by the Seller.

## **29. DISCLAIMER**

Neither Tata Power-DDL nor its employees shall be liable to any Bidder or any other person under any law including the law of contract., tort, the principles of restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise, or be incurred, or suffered, in connection with the bid, or any other information supplied by or on behalf of Tata Power-DDL or its employees.

## **30. DISPUTE RESOLUTION**

- 30.1 All differences or disputes between the parties arising out of or in connection with this matter shall be settled through the statutory provisions under the Electricity Act 2003. Where any dispute arises claiming any change in or regarding determination of the tariff or any tariff related matters, or which partly or wholly could result in change in tariff, such dispute shall be adjudicated by the Appropriate Commission.
- 30.2 All other disputes shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996.
- 30.3 Notwithstanding any legal dispute, disagreement or difference, the parties here to, shall continue to perform the respective obligations under the contract.

## **Annexure-1**

### **BIDDERS COMPANY DATA:**

- 1.** Name of the Organization:
- 2.** Name of the Contact Person:
- 3.** Email Address:
- 4.** Postal Address:
  
- 5.** Telephone Number:
- 6.** Fax Number:
- 7.** Mobile Number of the contact Person:
- 8.** Inter/Intra state Trading license (Scanned copy enclosed)
  - 8.1** Category of Trading License:
  - 8.2** Validity:
- 9.** LOI of each Source (Scanned Copy enclosed)
- 10.** Complete details of any suit pending against/filed by Bidder in CERC / DERC / Courts / Arbitrator related with trading of Energy and details of penalties imposed in earlier decisions.
- 11.** Other Information, if any.

## Annexure-2

### FORMAT OF THE UNCONDITIONAL AND IRREVOCABLE BANK GUARANTEE FOR EMD & CPG

(To be on non-judicial stamp paper of Rs. 100)

In consideration of the \_\_\_\_\_ (Bidder) submitting the Bid inter alia for supply of power during the period \_\_\_\_\_ to \_\_\_\_\_ on short term basis, in response to the RfP issued vide Event No. \_\_\_\_\_ and \_\_\_\_\_ being a bidder, required to deposit EMD as per the terms of the RfP, the \_\_\_\_\_ (Bank) hereby agrees unequivocally, irrevocably and unconditionally to pay Tata Power-DDL (hereinafter referred to as "Procurer") forthwith on demand in writing from Tata Power-DDL or any Officer authorized by it in this behalf, any amount upto and not exceeding Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only), on behalf of M/s \_\_\_\_\_ (Bidder).

This guarantee shall be valid and binding on this bank up to and including \_\_\_\_\_ and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between concerned parties. The guarantor Bank hereby agrees and acknowledges that the Procurer shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit

Our liability under this Guarantee is restricted to Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only). Our Guarantee shall remain in force until \_\_\_\_\_. The Procurer shall be entitled to invoke this Guarantee until \_\_\_\_\_ (enter the date one month later than above mentioned date).

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by the Procurer, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to the Procurer.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by the Bidder or any other person. The Guarantor Bank shall not require the Procurer to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against the Procurer in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be primary obligation of the Guarantor Bank and accordingly the Procurer shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against Bidder, to take any claim against or any demand on Bidder or to give any notice to the Bidder to enforce any security held by the Procurer or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to the Procurer and may be assigned, in whole or in part, (whether absolutely or by way of security) by Procurer to any entity to whom the Procurer is entitled to assign its rights and obligations.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. \_\_\_\_\_/- (Rupees \_\_\_\_\_ only) and it shall remain in force until \_\_\_\_\_ with an additional claim period of one month thereafter. We are liable to pay the guaranteed amount or any part thereof under this BANK GUARANTEE only if the Procurer serves upon us a written claim or demand.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Power of Attorney No. \_\_\_\_\_

For \_\_\_\_\_ (Insert name of the Bank)

Banker's Stamp and Full Address.

Dated this \_\_\_\_\_ day of \_\_\_\_\_