

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

BHOPAL

Sub: In the matter of petition under Section 86(1) of the Electricity Act 2003 read with clause 4 of the Guidelines issued by the Government of India Ministry of Power vide resolution dated 6th March, 2019 seeking approval of the deviations in Model Bidding Documents for Long Term Procurement of Electricity from Thermal Power Stations set up on Design, Build, Finance, Own and Operate (DBFOO) basis and sourcing fuel as provided under Model Bidding Documents including allocation of coal under B(I), B(III) and B(IV) SHAKTI (Scheme for Harnessing and Allocating Koyala Transparently in India) Policy.

Petition No 36/2019

ORDER

(Date of Order: 08th November' 2019)

The Managing Director

M.P. Power Management Co. Ltd.(MPPMCL)
Shakti Bhawan, Rampur, Jabalpur – 482 008

- **Petitioner**

Shri Aashish Bernard, Advocate and Shri Deepak Vyas, Sr. GM appeared on behalf of the petitioner.

The petitioner, MPPMCL has filed the subject petition under Section 86(1) of the Electricity Act, 2003 read with clause 4 of the Guidelines issued by the Government of India, Ministry of Power vide resolution dated 6th March, 2019 for approval of the deviations in Model Bidding Documents for Long Term Procurement of power from Thermal Power Station to be set up on Design, Build, Finance, Own and Operate (DBFOO) basis and sourcing fuel as provided under Model Bidding Documents including allocation of coal under B (I), B(III) and B(IV) of SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) Policy.

2. The subject petition has been filed pursuant to Commission's order dated 17.09.2019 in IA No. 03/2019 in petition No. 27 of 2019 wherein the petitioner has been allowed to commence the process of procuring 1320 MW power through competitive bidding route subject to outcome of the main petition. The aforementioned petition No. 27 of 2019 has been filed with this Commission by the petitioner seeking in-principle approval for procurement of additional 3960 MW power up to FY 2028-29 to ensure continuity of 24X7 power supply in the state.

3. With the above background, the subject petition is filed by the petitioner seeking approval for the deviations in its Bidding Documents from Model Bidding Documents in terms of clause 4 of the Guidelines issued by the Government of India, Ministry of Power vide resolution dated 6th March, 2019 to commence the process of procuring 1320 MW power through competitive bidding route.

4. In the subject petition, by affidavit dated 18.09.2019, the petitioner referring Commission's aforesaid order dated 17.09.2019 in IA No. 03/2019 has submitted that due to the reasons mentioned in aforesaid IA for involving a substantial time in carrying out the competitive bidding process and the time required for setting up a thermal power project, the petitioner has issued the RFQ (Request for Qualification) to the prospective bidders however, the petitioner shall issue a requisite amendment /addendum under clause 2.10 of the Model Bidding Document in case any of the deviations made by MPPMCL in its bidding document is not approved by the Commission. With aforesaid contention, the petitioner has also filed an application for urgent hearing in the subject matter.

5. The petitioner has broadly submitted the following in the subject petition:

1. *"It is most respectfully submitted that MPPMCL (Petitioner) has signed "Management and Corporate Functions Agreement" on 05th June 2012, which is enclosed as Annexure-1, with the three Discoms of the State, wherein it has been agreed that MPPMCL shall perform inter alia the following functions of common nature for the Discoms:*
 - i. *In consultation with Discoms, undertake long-term/ medium-term/short-term planning and assessment of the power purchase requirements for the three Discoms and explore opportunities for power procurement as per the regulations of MPERC;*
 - ii. *Allocation of power among the Discoms from the forthcoming projects as per retail tariff order and as per the GoMP notification and further instructions in this regard;*
 - iii. *Economic, reliable and cost effective power procurement of Short-term, Medium-term and Long-term and sale of surplus power, if any, for the purpose of Banking / maximization of revenue;*
 - iv. *Exploring opportunities for procurement of power on long-term and medium-term basis, procure power and finalizing Power Purchase Agreements (PPAs);*
 - v. *The expenses of MPPMCL have been considered to be included as part of power purchase cost of the Discoms*
2. *It is most respectfully submitted that the Ministry of Coal, Govt. of India has notified the SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) Policy ("SHAKTI Policy") on 22.05.2017. Para B(iv) of the SHAKTI Policy provides for earmarking of coal linkages to States and the State may indicate these linkage to Discoms / SDA's and based on such linkages to undertake tariff based competitive bidding for long-term and medium-term procurement of power as per the guidelines issued by Ministry of Power and may recommend grant of these*

linkages to successful bidders. Para B(iv) of the SHAKTI Policy is reproduced hereunder:

“(iv) Coal linkages may also be earmarked for fresh PPAs, by pre-declaring the availability of coal linkage with description, to the States. States may indicate these linkages to Discoms/SDAs.

- I. The States/Discoms may, based on such linkages, undertake tariff based competitive bidding for long-term and medium-term procurement of power as per the guidelines issued by Ministry of Power and may recommend grant of these linkages to successful bidders. In case of the commissioned capacities, FSA shall be signed with the successful bidder after completion of the auction process. In case of the likely to be commissioned capacities, a Letter of Assurance may be issued by CIL/SCCL to the successful bidder and FSA shall be signed on commissioning of the unit. The successful bidder shall be required to meet the conditions specified in the Letter of Assurance and FSA. The existing FSA/LoA holders may also participate in the competitive bidding for PPA and, if successful, shall surrender proportionate quantity of the FSA/LoA for the corresponding tenure; or*
- II. The States/Discoms may recommend grant of the earmarked linkages to capacities that are covered under exceptions and proviso clauses of para 5.2 of the Tariff Policy dated 28.01.2016. A Letter of Assurance may be issued by CIL/SCCL to such capacities and FSA shall be signed on commissioning of the unit.*

Provided

- (a) The priority between (iv) I and (iv) II above will be decided by the State Government concerned considering its public interest and based on its requirements.*
- (b) The quantity remaining unutilized for 2 years continuously shall lapse. Detailed policy guidelines for sub para (iv) shall be formulated by Ministry of Power.”*

A copy of the SHAKTI Policy with amendment is annexed herewith and marked as Annexure-2.

- 3. It is most respectfully submitted that, the Ministry of Power in exercise of powers conferred under section 63 of Electricity Act, 2003 has issued/notified the Guidelines (the “**Guidelines**”) and Model Bidding Documents (the “**Model Bidding Documents / MBD**”) for long term Procurement of Electricity from Thermal Power Stations set up on Design, Build, Finance, Own and Operate (DBF00) basis and sourcing fuel as*

provided under Model Bidding Documents including allocation of coal under B (I), B(III) and B(IV) of SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India) Policy vide GoI Notification No. 23/17/2013-R&R (Vol-VI) Part 4 dated 6th March 2019. The Model Bidding Documents (MBD) are enclosed as Annexure-3

4. *That earlier, a Committee constituted by the Energy Department, GoMP, vide order No. F-3 /137/2010/13/(Vol-II) dated 5/2/2018, for assessment of demand and supply scenario in the state has submitted its detailed report dated 24/7/2018 on the possible scenario of demand and availability of power and requirement of future capacity addition. With the expected change in dynamics of electricity demand in the future on the basis of the actual position of 2018-19, the Committee felt the need to review various parameters in its report. The Committee after detailed study submitted the revised report on 13/5/2019. Key recommendations of the Report are reproduced below :*

- *It may be seen from the Demand and Availability scenario of the future, in terms of Peak (in MW), the State may start facing deficit during Rabi season from FY 2023-24 onwards as against FY 2024-25 envisaged earlier.*
- *The Peak deficit in Rabi season may reach upto 762 MW, 1114 MW, 1481 MW, 1782 MW, 2342 MW, 2903 MW and 3505 MW during 2023-24 to 2029-30 respectively.*
- *To overcome the Peak deficit, Generation Capacity to the tune of 3960 MW may be required from 2023-24 and onwards upto FY 2028-29.*
- *Looking to the yearwise quantum of the Peak Deficit, it may be needed to add one 660 MW each in the year 2023-24 to 2028-29 respectively.*
- *On the basis of the Committee's Report dated 24/7/2018, Energy Department, vide letter dated 8/8/2018 has already issued instructions for installation of 2X660 MW units by MP Genco and 2X660 MW under Case 2 Competitive Bidding*
- *The State may tie up additional 2X660 MW generation capacity through Competitive Bidding.*
- *The Committee recommends that the long term demand and availability scenario of the State may be revisited by the State Planning Cell (SPC) on yearly basis and all the stakeholders in two years or as may be felt necessary by SPC.*

5. *It is most respectfully submitted that the Petitioner has filed a Petition before this*

Hon'ble Commission being Petition No. 27 of 2019, seeking in-principle approval for the power procurement plan as per Committee Reports dated 24/7/2018 and 13/5/2019, with the following prayers:

- *Be pleased to grant in-principle approval for Power Procurement by the Petitioners for the State of MP as per Committee Reports dated 24/7/2018 and 13/5/2019 for the Review of Demand and Availability of power in the State up-to FY 2029-30 and accordingly, Finalization of Capacity Addition Plan under section 86(1)(b) of the Electricity Act, 2003 read along with the MPERC (Power Purchase and Procurement Process) Regulations, 2004, Revision 1, 2006 (RG – 19(I) of 2006);*
 - *Be pleased to pass any other order in the interest of justice.*
6. *It is further submitted that the Hon'ble Commission, vide Daily order dated 02.08.2019 in the matter of Pet. No. 27/2019, directed as follows :*
- “4. The Commission accepting the request has allowed the petitioner to submit the revised assessment of long term power demand in the State of Madhya Pradesh and availability of power by incorporating the additional availability and capacity addition programme accordingly.”*
- The Hon'ble Commission further directed the petitioner to submit the filings comprehensively.*
7. *Thereafter, a revised report dated 22.08.2019 on the possible scenario of demand & availability of power and requirement of future capacity addition after incorporating the availability of power from Tilaiyya UMPP also was submitted to the Government of MP. According to this report, the proposed Capacity Addition of 6x600 MW, as recommended by the Committee in its report dated 13th May 2019, still remains same, and thus, to cater the future demand, the State needs to add one unit of 660 MW each during 2023-24, 2024-25, 2025-26, 2026-27, 2027-28 and 2028-29.*
8. *It is most respectfully submitted that the Petitioner has also filed an Interim Application before this Hon'ble Commission interim approval on Petition No. 27 of 2019, for commencing the Bid Process for procuring 1320 MW through competitive bidding route (1/3 of the total requirement of 3960 MW), with the following prayers:*
- *It is, therefore, prayed that this Hon'ble Commission may at present kindly be pleased to grant as an interim approval for commencing the process of procuring 1320 megawatts through the competitive bidding route;*

- *Any other order which this Hon'ble Commission deems fit and proper in the facts and circumstances of the case.*

9. *Hon'ble Commission, vide Order dated 17.09.2019 in the above IA, observed as follows :*

" 12. Considering the contention of the petitioner in the subject I.A. and its submissions during the hearing, this I.A. is allowed and the petitioner may commence the process of procuring 1320 MW power through competitive bidding route subject to final outcome of petition No.27 of 2019."

Copy of Order dated 17.09.2019 is enclosed as Annexure-4.

10. *It is most respectfully submitted that the Petitioner has informed the Board Members that MoP, GoI, vide letter dated 5/3/2019 and resolution notified on 6/3/2019, has published the Model Bidding Documents (MBD) comprising of Model RfQ, RfP, Power Sale Agreement and guidelines for long term procurement of electricity from Thermal Power Stations set up on Case-1/DBFOO basis and sourcing fuel as provided under MBD's including allocation of coal under B(i), B(iii) and B(iv) of SHAKTI Policy.*

11. *It is most respectfully submitted that on the basis of recommendations of the Committee, in the 85th Meeting of the Board of MPPMCL on 2/7/2019 resolved the following:*

- *Case-1/DBFOO Model be followed comprehensively for long term power procurement. Accordingly Energy Dept, GoMP be requested to revisit the decision conveyed vide letter dated 8/8/2018 about procuring additional long term power through Case 2/DBFOT Competitive bidding ;*
- *Procurement of additional power be carried out by comprehensively adhering to the conditions of MBD issued by MoP;*
- *Further, State Government be also appraised about recommendations mentioned by M/s PwC that there are economic benefits like employment generation, income to the state through Cess and tax revenues, savings of CTU charges etc. for MP, if greenfield projects are set-up in the State under Case-1/DBFOO Model. Copy of report dated 18/6/2019, submitted by M/s PwC also be forwarded to Energy Department, GoMP for consideration and decision.*
- *Before issue of RfP, following conditions be fulfilled:*
 - ✓ *Approval from Hon'ble MPERC for procurement of additional 3960 MW power;*
 - ✓ *Approval from Hon'ble MPERC in case of any deviation in MBD due to (ii) above;*

- ✓ *Coal linkage is obtained from Coal India Ltd.
Copy of the resolution is annexed as Annexure-5.*

12. *It is herein pertinent to mention most respectfully that views from the MP Power Generating Company Ltd. (MPPGCL) comparing the benefits expected from projects set-up in the State of Madhya Pradesh were sought in this regard. MPPGCL prepared a report to provide a comparison of financial benefits accruing to the State, if a new 1320 MW Thermal Power Project is set up within the State to procure entire power or if the capacity is set up outside the State for procurement of entire power, with specific attention on the following:-*
- a. *Revenue to the State during Construction period i.e. revenue through GST etc.*
 - b. *Tax revenue to the State during operation period i.e. Royalty on coal, contribution to NMET, MPGSVAT Tax on coal, ad rail freight, GST compensation cess etc.*
 - c. *Electricity Duty on auxiliary consumption and Cess on power supplied to Discom, considering if the power is not supplied by MPPGCL*
13. *It is most respectfully submitted that MPPGCL to the effect submitted its report on 24.07.2019. The report reveals that for optimizing the cost of power procured, it would be beneficial for the State to install a plant, within MP periphery and connected to State Transmission Grid. Copy of report is enclosed as Annexure-6.*
14. *Based on the recommendation of MPPMCL, and the Reports from M/s PwC (enclosed as Annexure-7) and MPPGCL, Energy Department, GoMP, vide letter no. F-3/22/2018/13 dated 21.08.2019 intimated the following decision of the State Government (enclosed as Annexure- 8):*

“राज्य की दीर्घकालीन मांग की पूर्ति हेतु मध्य प्रदेश पावर जनरेटिंग कंपनी एवं प्रतिस्पर्धात्मक निविदा के आधार पर क्षमता वृद्धि किये जाने हेतु कंपनी के संचालक मंडल की दिनांक 25 जून, 2019 को सम्पन्न बैठक में प्रस्तुत प्रस्ताव तथा तत्संबंध में संचालक मण्डल द्वारा पारित संकल्प का कृपया अवलोकन करने का कष्ट करें।

उपरोक्त परिप्रेक्ष्य में राज्य शासन द्वारा निर्णय लिया गया है कि –

(1) एम. पी. पावर मैनेजमेंट कंपनी लिमिटेड (एमपीपीएमसीएल) द्वारा विद्युत मन्त्रालय, भारत सरकार द्वारा डीबीएफओओ हेतु जारी मॉडल बडिडिंग दस्तावेजों

(एमबीडी) के आधार पर 2640 मेगावाट विद्युत क्रय प्रतिस्पर्धात्मक आधार पर करने हेतु आगामी कार्यवाही की जावे। प्रथम चरण में 1320 मेगावाट विद्युत क्रय हेतु कार्यवाही की जावे तथा निविदा पश्चात शेष 1320 मेगावाट विद्युत क्रय हेतु एमपीपीएमसीएल द्वारा आगामी कार्यवाही की जावे।

(II) नवीन परियोजनाओं की स्थापना मध्यप्रदेश में होने से राज्य को होने वाले संभावित राजस्व लाभ एवं अतिरिक्त रोजगार के दृष्टिगत, प्रस्तावित नवीन ताप विद्युत परियोजनाओं से विद्युत क्रय हेतु विद्युत मंत्रालय, भारत सरकार द्वारा दिनांक 06 मार्च, 2019 को डीबीएफओओ हेतु जारी मॉडल दस्तावेज (एमबीडी) में इस आशय के संशोधन किए जावे, कि नवीन परियोजनाएं मध्य प्रदेश की सीमा में ही स्थापित की जाएंगी। इस हेतु एमपीपीएमसीएल द्वारा एमबीडी में आवश्यकतानुसार संशोधन कर, म.प्र. विद्युत नियामक आयोग से अनुमोदन प्राप्त किया जावे। अन्य संशोधन, जो यथा समय आवश्यक हो, पर एमपीपीएमसीएल नियामक आयोग से अनुमोदन प्राप्त कर कार्यवाही करें।

(III) कोल लिंकेज प्राप्त होने तथा मॉडल बidding दस्तावेज (एमबीडी) में किये गये संशोधनों हेतु मध्यप्रदेश विद्युत नियामक आयोग से अनुमोदन प्राप्त करने के उपरांत ही निविदा आमंत्रण की कार्यवाही की जावे। निर्देशानुसार, उपरोक्त निर्णयों का अनुपालन सुनिश्चित किए जाने का कृपया अनुरोध है। “

15. *It is pertinent to mention that there are many benefits that are likely to accrue to the Consumers of MP as well as the State, in case the Plant is set up in the State of MP instead of at a location of the choice of the bidders as provided in the Model Bidding Documents. The aforesaid deviation is also approved by the State Government. The benefits that will accrue to the State and Consumers in the state are provided hereunder:*

- a) *The State has been promoting itself as an attractive destination for investment. Setting up of a 1320 MW new thermal power project in the State would entail investments of around Rs. 12000 – 13000 Cr which would give a significant boost to the investment friendly image of the State and encourage further investments.*
- b) *Apart from the direct investment, several other opportunities are also created for ancillary business and support activities such as transportation, hotels and restaurant industry, development of petty contractors including labor and man power supply, construction equipment hiring, horticulture etc. Since most of these activities tend to be developed / sourced locally, it directly benefits the State and its citizenry.*
- c) *The Construction as well as operational phases of a Thermal Power Plant are both labor intensive and provide substantial job creation and*

employment generation opportunities. During the construction phase, an estimated 3250 direct & indirect job & employment opportunities are expected to be generated. Further, during the operations phase, a 1320 MW plant would generate employment for over 850 people (as per Report of M/s PwC, already annexed as Annex-7).

- d) Implementation of the said project in the State will help the consumers of the State save Inter-State Transmission Charges (CTU charges). Going by the CTU Charges applicable for months of April'2019 to June'2019 for Madhya Pradesh are Rs. 2,59,220.00 / MW / Month notified vide CERC order dated 02.05.2019 which translates to Rs. 0.42 / kWh. This is an avoided cost and MP by limiting the tender for setting up of power plant with in the State of MP sites can pre-empt in lowering the cost of power procurement for the State.*
- e) Implementation of the project in the State will also yield tax revenues of around Rs. 12000 – 13000 Cr over the construction and operational phase of the project (If the Coal is allocated from Mines within MP) and 5000 - 6000 Cr if the Coal is allocated from Mines outside MP). Moreover, Income generation of around Rs. 3,500 Cr from Cess Revenue and around 850 Cr as Electricity Duty for the 25-year life of the project is expected to accrue to the State Government. Computation of the above are as per the Reports of M/s PwC (Annexu-7) and MPPGCL (Annex-6).*

- 16. It is also pertinent to mention that M/s PwC, in their report dated 18.06.2019 (Annex-7) have reasoned that given the precarious state of most of the thermal power stations in the country, with many of them already undergoing or on the brink of insolvency and liquidation, it would not be prudent for the State to depend upon such capacities to meet its demand 4-5 years down the line. Developing a new Project under the DBFOO bidding process may ensure reliability and certainty of availability of power to the State when required.*
- 17. It is in light of the submissions made hereinabove that the Petitioner most respectfully submits and requests that in view of the above and given the fact that developing a project within the State would generate investment & employment opportunities, generate tax, ED & Cess revenue for the State and avoid transmission cost for the state, this Hon'ble Commission may approve setting up of new power project with in the State of MP for meeting the future power requirement of the State.*

18. *It is most respectfully submitted that that certain deviations would be required in the MBD in order to invite a State-specific bid. A list of all such deviations requested are given in the annexure attached herewith and marked as Annexure-9. It is submitted that most of the requested deviations flow from the principle deviation requested in terms of making the proposed bid State-specific. The consequential deviation is that MBD provides for selection of multiple bidders (based on prescribed minimum quantity) for total quantity of power to be sourced from different existing or to be set up power stations located anywhere in the country as against the total supply to be made by single successful bidder from the plant to be set up in the State of MP as proposed in the Petition.*

19. *It is submitted that in terms of the Guidelines issued by MoP for procurement of power under DBFOO competitive bidding process, approval of the Appropriate Commission is required in case any deviations are made to the Model Bidding Documents, save and except those modifications which are expressly permitted under the Model Bidding Documents. The relevant clause of the Guidelines is reproduced hereunder:*

*“...
4. Any deviation from the Model Bidding Documents shall be made only with the prior approval of the Appropriate Commission. Provided, however, that any project specific modifications expressly permitted in the Model Bidding Documents shall not be construed as deviations from the Model Bidding Documents....”*

20. *It is most respectfully submitted that this Hon’ble Commission is the Appropriate Commission and has the power and jurisdiction to adjudicate on the present Petition under the provisions of the Electricity Act, 2003.*

21. *It is most respectfully submitted that with the above background, the present Petition is being filed seeking approval of this Hon’ble Commission on deviations made to the Model Bidding Documents in line with the deviations annexed in Annexure-9. The proposed deviations have been predominantly made with respect to making the Bid a State-Specific bid requiring the Bidders to develop a Thermal Power Project in the state of Madhya Pradesh, with the ultimate objective of benefiting the State as well as its consumers. Besides these deviations there are some other changes also which are mainly editorial or for removal of internal*

inconsistency in the documents.

22. *It is submitted that for the convenience of this Hon'ble Commission, the Revised Bid documents incorporating the above changes is attached for verification as Annexure-10. The Revised Bid document would further be discussed with the Bidders and there may be some other changes as may be required based on the bidders responses for which the Petitioner will seek approval of the Hon'ble Commission separately."*

6. In support of all aforesaid submissions, the petitioner has filed the following documents with the subject petition:

- (i) Management and Corporate Functions Agreement between M.P. Power Management Company Limited and Madhya Pradesh Poorv Kshetra Vidyut Vitran Company Limited, Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited, Madhya Pradesh Paschim Kshetra Vidyut Vitran Company Limited.
- (ii) Order dated 06th February' 2018 issued by the Energy Department, Govt of M.P. for constitution of a committee for assessment of Long Term demand and addition of capacity programme in the state.
- (iii) Committee's report for assessment of Long Term Power Demand in the State of Madhya Pradesh and Generation Capacity Addition programme for M.P. Genco up to FY 2026.
- (iv) Energy Department GoMP's letter No. F-3574 dated 08th Aug' 2019 for constitution of Committee for assessment of long term power demand and accordingly preparation of capacity addition programme of MPPGCL
- (v) Letter No- 02-02/8176/SPC/225 dated 13.05.2019 by MPPMCL to the Govt. of M.P., Energy Department with regard to review meeting for assessment of Long Term Power Demand in the State of Madhya Pradesh and capacity addition programme for State of Madhya Pradesh.
- (vi) Letter No- 23011/15/2016-CPD/CLD by Government of India, Ministry of Coal to Coal India Limited with regard to signing of Fuel Supply Agreement (FSA) with Letter of Assurance (LoA) holders of Thermal Power Plants-Fading Away of the Existing LoA-FSA Regime and Introduction of a New More Transparent Coal Allocation Policy for Power Sector, 2017- SHAKTI (Scheme for Harnessing and Allocating Coal in India)
- (vii) Commission's Order Dated 17th September' 2019 in IA No 03/2019 in Petition No 27 of 2019.

- (viii) Copy of Resolution passed in the 85th Meeting of the Board of Directors of the MPPMCL held on Tuesday, 25th June 2019.
 - (ix) Report by PWC on long Term Procurement Options for MP.
 - (x) Energy Department GoMP's Letter No. F-3/22/2018/13 dated 21st Aug' 2019 with regard to procurement of 2640 MW power through competitive bidding route to meet the Long Term requirement of power in the State.
7. With all aforesaid submissions, the petitioner has prayed the following:
- a) *"Approve the deviations to the Model Bidding Documents as requested herein.*
 - b) *Approve commencement of process of inviting bid with deviations as indicated above for setting up of a new power plant of 1320 MW Installed capacity within the State of MP for procurement of entire net power from such plant.*
 - c) *Allow MPPMCL to file additional submissions at a subsequent stage regarding the deviations not covered in the instant petition."*
8. Vide Commission's order dated 24th September' 2019 in the subject petition, the deviations from the Model Bidding Document (issued by the Ministry of Power) in "Request for Qualification" (RFQ) document as filed by the petitioner were approved by the Commission with the directions to petitioner to ensure filing of Corrigendum if any, issued after holding pre-application conference in the subject matter. The deviations from Model Bidding Document in other two documents i.e. "Request for Proposal "(RFP) and "Power Supply Agreement"(PSA) as filed in the subject petition were under scrutiny with the Commission.
9. In the next hearing held on 15.10.2019, the Commission observed the following:
- (i) Vide letter No. 05-01/1347 dated 04.10.2019, M.P. Power Management Co. Ltd. has filed the copy of the corrigendum to the RFQ document alongwith the rationale for corrigendum in each clause of RFQ. The petitioner has also filed the copy of the Applicant's queries and the response of the petitioner to all such queries.
 - (ii) Vide letter No. 05-01/1385 dated 14.10.2019, the petitioner has filed a copy of modified Appendix VI of the Request for Proposal (RFP) regarding details of allocated coal linkage.
 - (iii) Vide letter NO. 05-01/1409 dated 18.10.2019, the petitioner has filed another corrigendum dated 18.10.2019 with regard to revision of application due and date of announcement of pre-qualified applicants as part of RFQ.
10. During the next hearing held on 30.10.2019, the Commission expressed its observations on some of the deviations proposed by the petitioner from Model Bidding Document in various clauses of RFP and PSA documents filed in the subject petition. These

observations on the deviations proposed by the petitioner were mainly with regard to the following issues:

- (i) Obligations related to the arrangement for evacuation of power
- (ii) Transmission charges and losses
- (iii) New provision related to infirm power
- (iv) Period of satisfaction of Conditions Precedent by supplier
- (v) Provisions related to maintenance obligations
- (vi) Provisions regarding milestones for construction of power station
- (vii) Provisions regarding Merchant Capacity and Open Capacity
- (viii) Reasons for addition/omission of some clauses and reasons for editorial changes made in RFP and PSA documents
- (ix) Definition of Power Station

11. On the above observations of Commission, Ld. Counsel of the petitioner stated that in light of the observations expressed by the Commission, the deviations in RFP and PSA proposed in the subject petition shall be reviewed by the petitioner and thereafter, the revised RFP and PSA documents incorporating appropriate changes shall be filed by the petitioner alongwith the rationale for each deviation within three days' time. The petitioner was allowed to file the revised documents mentioning the rationale for each deviation made from the Model Bidding Documents by 2nd November' 2019.

12. During the next hearing held on 05.11.2019, it was observed that the petitioner submitted the revised RFP and PSA documents on 4th November' 2019, incorporating appropriate deviation alongwith the rationale for the same. On going through the said submission, the Commission expressed its observations on some specific deviations as well as certain other deviations filed by the petitioner on 4th November' 2019. The representatives of the petitioner stated that in light of Commission's observation, the deviations proposed in RFP and PSA documents shall again be reviewed and if necessary, the revised RFP and PSA documents incorporating appropriate deviation shall be filed with the Commission by 6th November'2019 alongwith the rationale for all such deviations.

13. During the same hearing held on 05.11.2019, it was also noted by the Commission that vide Letter bearing No. 05-01/1489 dated 01.11.2019, MPPMCL submitted that a Corrigendum to RFQ has been issued by it on 01.11.2019 with regard to definition of New Power Station or Power Station or Project. The copy of aforesaid Corrigendum was also enclosed by MPPMCL.

14. Vide its letter No. 05-01/1509 dated 06.11.2019, the petitioner filed the deviations from Model Bidding Document in its PSA document and Revised PSA document along with the statement indicating rationale for each deviation. For approval in this Order, the Commission has taken on record the following documents:

- (i) The deviations in "Request for Proposal" (RFP) document from Model Bidding

Document along with the statement of rationale for each deviation and the revised RFP document with seal and sign of OIC of the petitioner in this matter filed with the Commission on 04th November'2019

- (ii) The deviations in "Power Supply Agreement" (PSA) document from Model Bidding Document along with the statement of rationale for each deviation and the revised PSA document with seal and sign of OIC of the petitioner filed with the Commission on 06th November'2019

Deviations/ Changes in RFP Document

15. On perusal of the deviations in RFP documents for which the approval is being sought by the petitioner, the Commission has observed that the deviations/changes in RFP from Model Bidding Document issued by Ministry of Power are broadly on the following reasons;

- (a) Being state-specific Bid, the Bidders are required to develop a new capacity of 1320 MW in the State of MP. The reasons for state specific project has been highlighted by petitioner.
- (b) The minimum requirement specified is for "Super Critical Technology" or "Ultra Super Critical technology" to welcome superior and efficient technology. Accordingly, changes/deviations are made at all relevant places in documents.
- (c) Coal shall be procured under SHAKTI Policy hence, relevant changes/deviations are made at all relevant places in documents.
- (d) DEEP portal is used hence relevant changes are made at various places
- (e) Being state-specific Bid, the Bidders are required to develop a new project of 1320 MW capacity in the State of MP. Therefore, part capacity need not be quoted, hence deleted at relevant places.
- (f) Cost of bidding documents has been incorporated in accordance with RFQ.
- (g) The MRFP-DBFOO specifies Bid Security amount to be not less than Rs. 3 Lakh /MW and not exceeding Rs. 7.5 Lakh/MW. As High Bid Security amount will add to the expense and may impact the quoted tariff, Utility has made appropriate changes
- (h) As the bid process will be conducted online on DEEP Portal, the clauses has been modified
- (i) Validity of the Bid Security to be made in line with the Bid Validity.
- (j) After the issuance of LOA, Utility shall not consider the next eligible Bidder, as the Bid process shall end. Hence modifications have been made in the documents
- (k) Lodging of FIR and Investigation should not form basis for disqualification, until & unless, convicted by Court of Law. Hence Charge sheet has been removed as a basis for disqualification (Appendix I-12, 13(A))
- (l) No SPV has been incorporated by the Utility. Hence, word SPV has been deleted (Appendix I-18)
- (m) Table for fuel charge computation parameters has been added in Appendix I.

Deviations in PSA Document

16. After going through the deviations in PSA document for which the approval is being sought by the petitioner, the Commission has observed that the deviations/changes in PSA from Model Bidding Document issued by Ministry of Power are broadly on the following counts;
- (a) Appropriate changes have been made at all relevant places including Recitals of PSA being state-specific Bid to develop a New capacity of 1320 MW in the State of MP using coal linkage allocated under SHAKTI Policy and supply of entire power to the MP State.
 - (b) Period of 54 months is provided for achieving CoD. Being a supply contract and the ownership and responsibility of O&M lies with the Supplier, the role of Utility's Engineer has been kept till CoD only .
 - (c) The SBD does not provide for when the Agreement would be effective. Hence for clarity and with a view of avoid dispute and ambiguities, the same has been expressly mentioned in the document.
 - (d) As period of Supply Contract is inclusive of construction period, the period has been kept as 30 Years including 54 Months.
 - (e) Since the Project involves setting up of a new capacity in the state, the selected bidder shall have to acquire land in the state which would require significant time to complete the process. Hence, the period for Conditions Precedent for Supplier is proposed as 18 months, during which it would be required to, inter alia, acquire land in MP and shall achieve Financial Closure for the Project.
 - (f) The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be the responsibility of the Utility. Hence, Supplier is not required to obtain Line ROW and as the Power Station will be connected to State Transmission Network and the power is being delivered in the same state, RLDC shall not be involved. Thus, the provisions related to dedicated transmission system are also deleted. The clause for sharing penalty on account of delay in construction of transmission line has been added.
 - (g) While the Utility is responsible for obtaining consent of Coal India Limited for execution of FSA under SHAKTI Policy, it will be the obligation of Supplier to execute FSA. Hence the same has been added as Supplier's obligation.
 - (h) There is no provision in the Model Biding Document for Start-up power hence, the same has been added and linked to the Tariff rates as approved by the Commission
 - (i) Period of Performance Security has to be changed from 2 years to 54 months to cover the period during construction also.
 - (j) Under the DBFOO model, the ownership of the plant is that of the Supplier, which is required to commission the same by the required Completion Date. In case of non-achievement of SCOD, the provisions for penalty to be imposed on the supplier for per day delay are made. The provisions of penalty on interim project milestones is relevant in case of large projects such as UMPP's hence, the provisions for imposing penalties linked to interim project milestones are not required.

- (k) There is no provision in the Model Bidding Document with respect to Infirm Power. For clarification and with a view to avoid future disputes / litigations, the same has been added in line with MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (RG-26(III) of 2015).
- (l) Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, hence mentioning of Committed Capacity would not be applicable. Open Capacity and Merchant Capacity also not applicable in view of aforesaid.
- (m) Normative PLF as per MPERC Regulations is 85%. Further, for the purpose of Coal Linkage, the Normative PLF has been made to 85%.
- (n) New Clause added for Supplementary Invoice, so that any billing on account of Change in Law or Adjustment is billed separately than the Monthly Invoice.
- (o) Provision has been added for raising of Provisional bills which provides for extra rebate / discount to the Utility. This would translate into lower power purchase cost for Utility and benefit for the consumers.
- (p) Clarity on issue of Supplementary Invoice has been provided in the document
- (q) New Provision is added for incorporating treatment for Change in Law claims.

17. The Commission has noted that the petitioner has also filed a few changes in all three documents which do not fall under the category of Deviation in terms of Model Bidding Documents itself. Further, the subject petition has been filed pursuant to Commission's order dated 17.09.2019 in IA No. 03/2019 in petition No. 27 of 2019 wherein the petitioner has been allowed to commence the process of procuring 1320 MW power through competitive bidding route subject to outcome of the main petition. The Commission has already accorded approval to the deviation/changes in "Request for Qualification" (RFQ) vide order dated 24.09.2019 in the subject matter. The details of deviations/changes in RFP and PSA documents filed with the Commission for approval are enclosed as Annexure A and Annexure B as part of this Order.

18. In view of all aforesaid and considering the reasons explained by the petitioner during various proceedings in this matter based on the rationale submitted by the petitioner for each deviations by its letters dated 04.11.2019 and 06.11.2019, the Commission hereby accords approval, in terms of clause 4 under terms and conditions of the Guidelines issued by the Government of India, Ministry of Power vide resolution dated 6th March, 2019, to the deviations in RFP and PSA from the Model Bidding Documents as filed by the petitioner by its aforesaid letters.

Ordered accordingly.

(Shashi Bhushan Pathak)
Member

(Mukul Dhariwal)
Member

(Dr. Dev Raj Birdi)
Chairman

ANNEXURE A

DEVIATIONS IN RFP

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
Letter before Disclaimer	<p>Pursuant to your application in response to our Request for Qualification- DBFOO for the above said project (the "RFQ-DBFOO "), you are pre-qualified as a Bidder, and required to remit the fee of Rs. 6,15,000 (Rs. Six Lakhs Fifteen Thousand Only) as the cost of procuring the Bidding Documents by Demand Draft in the name of "MP Power Management Company Limited" payable at Jabalpur and submit the same in the office of the MPPMCL at Jabalpur within a week from the date of this letter. You may download the Bidding Documents from the DEEP Portal by visiting website https://www.mstcecommerce.com and/or by visiting MPPMCL's website www.mppmcl.com</p> <p>You are requested to participate in the Bid Stage and submit your financial proposal (the "Bid") for the aforesaid project in accordance with the RFP-DBFOO.</p> <p>Please note that the MP Power Management Company Limited reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever.</p>	<p>Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of 1320 MW in the State of MP.</p> <p>Modifications are done accordingly.</p>
1.1.1	<p>The M.P. Power Management Company Limited (the "Utility"), on behalf of the three Discoms viz Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Ltd, Madhya Pradesh PoorvKshetra Vidyut Vitran Company Ltd and Madhya Pradesh Paschim Kshetra Vidyut Vitran Company Ltd. which are engaged in the distribution of electricity in their respective distribution area, in accordance with the "Management and Corporate Functions Agreement" executed on 05th June 2012, is authorized to procure power for the requirements of these Discoms. As part of this endeavour, the Utility has decided to procure electricity on a long term basis from a New Power Station of 1320 MW capacity to be set up on Super Critical technology or UltraSuper Critical technology in the State of Madhya Pradesh (the "Project") through Public Private Partnership (the "PPP") on Design, Build, Finance, Own and Operate (the "DBFOO") basis by sourcing fuel from the Allocated Coal Linkage arranged by the Utility as per SHAKTI Policy, and has decided to carry out the Bidding Process for selection of a corporate entity as the Bidder to whom the contract may be awarded for production of electricity and supply thereof as per the terms and conditions specified in the Bidding Documents.</p> <p>The term "New Power Station" or "Power Station" or "Project" means units of the generating station of which the construction is commenced after the Date of Letter of Award (LoA) and grid synchronization, commissioning and COD of its Unit are achieved as per the terms of the Power Supply Agreement (PSA) and as described in Schedules A and B of the PSA-DBFOO. For the avoidance of</p>	<p>Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of 1320 MW in the State of MP.</p> <p>The minimum requirement specified was for "Super Critical Technology". Power Station of superior technology and better efficiencies is also welcome. For avoidance of doubt, Ultra Super Critical technology has been added in the clause.</p>

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Cl. No.	Clause as Proposed By MPPMCL in RFP			Rationale for Change						
	doubt, it is clarified that construction for this purpose would mean that the Bidder has placed the order for supply of Boiler, Turbine and Generator package after the date of Letter of Award (LoA).									
1.1.1	<table><tr><th>Installed Capacity (in MW)</th><th>Capacity Required (in MW)</th><th>Period when supply must commence</th></tr><tr><td>1320</td><td>1230</td><td>54 months from Appointed Date</td></tr></table>	Installed Capacity (in MW)	Capacity Required (in MW)	Period when supply must commence	1320	1230	54 months from Appointed Date	<p>In line with MPPMCL's requirement, Installed Capacity of 1320 MW and the Capacity Required of 1230 MW is considered. Also, as per the SLC (LT) MoM, coal under SHAKTI B (iv) would be made available to the state from FY 26. Hence supply commencement date has been added accordingly.</p> <p>Capacity Required has been arrived at by considering the auxiliary consumption as per Norms of MPERC and considering additional 1% of auxiliary consumption for FGD as the Norms for auxiliary consumption for FGD are not available at present.</p>		
Installed Capacity (in MW)	Capacity Required (in MW)	Period when supply must commence								
1320	1230	54 months from Appointed Date								
1.1.2	The Bidder who is issued Letter of Award (LoA) (the “ Selected Bidder ”) shall accept the LoA (the “ Successful Bidder ”). The Successful Bidder, who is either a company incorporated under the Companies Act, 1956/2013 or undertakes to incorporate as such prior to execution of the Power Supply Agreement (the “ Supplier ”), shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the Power Station for production of electricity and supply thereof under and in accordance with the provisions of a long-term agreement for supply of power (the “ Power Supply Agreement-DBFOO ” or the “ PSA-DBFOO ”) to be entered into between the Successful Bidder and the Utility in the form provided by the Utility as part of the Bidding Documents pursuant hereto.			Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of 1320 MW in the State of MP. Consequently, part capacity cannot be quoted. Thus, there will be only one successful bidder.						
1.1.4	Bidders may Bid for the capacity specified in Clause 1.1.1 at National e- Bidding Portal (“ DEEP Portal ”) developed by PFC Consulting Ltd.			Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of 1320 MW in the State of MP. Consequently, part capacity cannot be quoted. Hence deleted.						
1.2.1	The Utility has adopted a two-stage process (collectively referred to			Cost of Bidding Documents						

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
	as the " Bidding Process ") for selection of the Bidder for award of the Project. The first stage (the " Qualification Stage ") of the process involved pre- qualification of interested parties/ Consortia in accordance with the provisions of the RFQ-DBFOO. At the end of the Qualification Stage, the Utility pre- qualified Applicants are eligible for participation in this second stage of the Bidding Process (the " Bid Stage ") comprising Request for Proposal-DBFOO. Prior to participating in the e-Bidding events, the Bidder shall pay to the Utility a sum of Rs 6,15,000 (Rupees Six Lakh Fifteen Thousand Only) inclusive of taxes as the cost of the RFP-DBFOO process by Demand Draft in the name of "MP Power Management Company Limited" payable at Jabalpur and submit the same in the office of the Utility at Jabalpur or as provided for in Clause 1.4 and obtain the acknowledgement of the Draft.	has been incorporated in accordance with the Clause 1.2.4 of RFQ-DBFOO.
1.2.2	<OMITTED>	The fee has to be submitted once and has already been submitted by the Bidder during the RFQ Stage hence omitted.
1.2.5	A Bidder is required to deposit, along with its Bid, a bid security of Rs 61.50 Crores (Rupees Sixty-One Crores Fifty Lakh Only) of required capacity (the " Bid Security "), refundable not later than 180 (One Hundred and Eighty) 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 PSA-DBFOO. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee as prescribed in Clause 2.20.1 of RFP-DBFOO.	<p>1. The MRFP-DBFOO specifies Bid Security amount to be not less than Rs. 3 Lakh /MW and not exceeding Rs. 7.5 Lakh/MW. As High Bid Security Amount will add to the expense and may impact the quoted tariff, Utility has decided the amount calculated at Rs. 5 Lakh per MW.</p> <p>2. Format for the Bank Guarantee has already been provided in Appendix-II which is acceptable to Utility.</p>
1.2.8	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 in Clause 3 of this RFP-DBFOO, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Lowest Bidder, the Utility may, in its discretion, either invite fresh Bids from	Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of 1320 MW in the State of MP. Consequently, part capacity cannot be quoted. Hence deleted.

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
	the remaining Bidders or annul the Bidding Process.	
1.2.11	Any queries or request for additional information concerning this RFP- DBFOO shall be submitted in writing by speed post/courier/special messenger and e-mail attaching queries or request in Microsoft Word File to the officer designated in Clause 2.11.5 below. The envelopes/ communication shall clearly bear the following identification/title:	Clause modified as per standard practice for official communication and aligned with the relevant Clause 1.2.11 (earlier Clause 1.2.10) of RFQ-DBFOO
2.1.5	The Bid should be uploaded online on DEEP Portal 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 authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.	As the bid process will be conducted online on DEEP Portal, the clause has been modified accordingly.
2.1.7	The Bidder shall deposit a Bid Security as specified in Clause 1.2.5 with the Utility along with other documents as mentioned in Clause 2.11.2 of this RFP-DBFOO. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee, as per format at Appendix-II.	Format for the Bank Guarantee has already been provided in Appendix-II which is acceptable to Utility.
2.1.8	The validity period of the Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 180 (One Hundred and Eighty) 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 PSA-DBFOO.	Validity of the Bids is 120 Days and claim period is 60 Days. Accordingly it is required that the Bid security shall be refundable no later than 180 days from Bid Due Date.
2.1.15	... For the avoidance of doubt, this disqualification and forfeiture of Bid Security or Performance Security shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to Bid Due Date. Nor will this disqualification and forfeiture will apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of this Project.	1. Clause reworded for avoidance of doubt. 2. At the RFP stage, Bid Due Date is applicable instead of Application Due Date.
2.2.1 (c)	the substitute / New Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member/ Associate of any other Consortium bidding for this Project.	Only substitution of members is allowed. Addition of members is not allowed at RFP Stage.
2.2.4	... Provided, however, that no Member of such Consortium shall be a Bidder or the Member of a Consortium which has been pre-qualified or participated in the Qualification Stage.	Members of the disqualified Consortium shall not be allowed to participate in RFP.

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
2.6.2	Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification/rejection on account of material misrepresentation occurs after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then the Utility reserves the right to:	Any disqualification/rejection on account of material misrepresentation will allow the Utility to invite bids from other Bidders or take action as it may deem fit.
2.10.2	The Bid shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page of the Bid (including Appendix and annexures), in blue ink before uploading on DEEP Portal. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid before uploading on DEEP Portal.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.11.1	The Bidder shall upload the Bid in the format specified at Appendix-I, online on the DEEP Portal together with the documents specified in Clause 2.11.2.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.11.2 (e)	If applicable, Joint Bidding Agreement for Consortium in the format at Appendix-IV of RFQ-DBFOO	Applicable for any change in composition of Consortium
2.11.3	<Omitted>	As the bidding will be conducted on DEEP Portal, this clause has been deleted.
2.11.4	The envelope containing the “Enclosures of the Bid” as mentioned in Clause 2.11.2 shall clearly bear the following identification: “Bid for the 1320 MW MP Power Project” and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of the envelope. All the documents forming part of the “Enclosures to the Bid” shall be signed by the authorised signatory in blue ink and bound in hard cover and page numbered serially.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.11.5	Each of the envelopes shall be addressed to: ATTN. OF: Mr. Rajeev Keskar DESIGNATION: CGM Comm -2 ADDRESS: MP Power Management Company Limited, Regional Office, E-4, Opp. Bhojpur Club, Arera Colony, Bhopal, Madhya Pradesh 462016 FAX NO: 0755-2423046 E-MAIL ADDRESS: rajeev.keskar@mppmcl.com The envelope specified in Clause 2.11.4 should reach the aforementioned address on or before the Bid Due Date. The Bidders	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
	are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.11, the documents uploaded online shall prevail.	
2.11.6	If the Bid is not uploaded/submitted as instructed in this RFP-DBFOO, the Utility assumes no responsibility for rejection of the Bid and consequent losses, if any, suffered by the Bidder	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.11.8	In the Bid stage, all Bidders after uploading on the DEEP Portal the Bid as per the RFP and digitally signing the same must click on "Final submit" button to finally submit their Bid, without clicking the "Final submit" button the system will not consider the Bid.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.12.1	Bids should be submitted online and Enclosures of the Bid to be submitted at the address provided in Clause 2.11.5 in the manner and form as detailed in this RFP-DBFOO latest by 1500 hours IST on the Bid Due Date.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.13	Bids and Enclosures of the Bid received by the Utility after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.15.1	The Bidder may modify, substitute or withdraw its Bid after submission, prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date. The DEEP Portal shall provide the option to Bidders, after submission of the Bid as per this Bidding Document, to withdraw and delete the Bid. Clicking on withdraw, system will withdraw the Bid and no further submission will be allowed whatsoever for the Bidder(s). While clicking on delete, system will delete all the encrypted data saved on the DEEP Portal and the Bidder(s) may submit fresh Bid prior to the Bid Due Date.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
2.15.2	<Omitted>	As the bidding will be conducted on DEEP Portal, this clause deleted.
2.17	The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Utility. In the event, the validity of the bid is extended, the validity of Bid Security should also to be extended by the Bidder.	Validity of the Bid Security should be in line with the Bid Validity. Hence, the clause is suitability modified.
2.20.1	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 issued by a nationalised bank, or a Scheduled Commercial Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one	For the Selected Bidder, the Bid Security shall be valid till the Performance Security is submitted. Hence, the clause is suitability modified.

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
	thousand crore), in favour of the Utility in the format at Appendix-II (the “ Bank Guarantee ”) and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Utility and the Bidder from time to time. In case of Selected Bidder, the validity of the Bank Guarantee shall be extended till the submission of Performance Security. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised 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	Also, to avoid BG from Cooperative Banks, the clause is suitably modified
2.20.2	Bid Security can also be in the form of a demand draft issued by a Scheduled Commercial Bank in India, drawn in favour of “MP Power Management Company Limited” payable at Jabalpur (the “Demand Draft”). The Utility shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.	Suitably modified.
2.20.4	Save and except as provided in Clause 1.2.5 above, the Bid Security of unsuccessful Bidders will be returned by the Utility, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Utility, and in any case within 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).	For refund of the Bid Security, Utility shall not draw Demand Draft in the favour of any person. Demand Draft shall only be drawn by the Utility in the name of the Bidder.
3.1	The Utility shall open the Bids on DEEP Portal at 1600 hours (IST) on the Bid Due Date.	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
3.2.1	Prior to evaluation of Bids, the Utility shall determine whether each Bid is responsive to the requirements of this RFP-DBFOO. A Bid shall be considered responsive only if: (a) it is submitted online on DEEP Portal as per the format at Appendix-I; (b) it is submitted online on DEEP Portal and Enclosures of the Bid are received at the address as specified in Clause 2.11.5 by the time and date as specified in Clause 2.12.1 including any extension thereof pursuant to Clause 2.12.2; (c) it is duly signed by authorized signatory of the Bidder;	As the bidding will be conducted on DEEP Portal, this clause has been modified accordingly.
3.3.1	Subject to the provisions of Clause 2.16.1 and 2.16.2, the Bidder	Relevant clause reference

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
	whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the lowest Tariff offered to the Utility in conformity with the provisions of Clause 3.5 shall be declared as the selected Bidder (the "Selected Bidder"). In the event that the Utility rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.	inserted.
3.3.2	In the event that two or more Bidders quote the same amount of Tariff for the Capacity Required; (the " Tie Bidders "), the Utility shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.	Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of minimum 1320 MW in the State of MP. Consequently part capacity cannot be quoted. Hence deleted.
3.3.3	In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance (the "first round of bidding"), the Utility may at its discretion, annul the bidding process or invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Lowest Bidder (the "second round of bidding"). If in the second round of bidding, only one Bidder matches the Lowest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Lowest Bidder in the second round of bidding, then the Bidder whose Bid was lower as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth lowest Bidders in the first round of bidding offer to match the said Lowest Bidder in the second round of bidding, the said third lowest Bidder shall be the Selected Bidder.	As the party capacity cannot be quoted by the Bidders, clause has been suitably modified.
3.3.4	<Omitted>	As bidding is for a large quantum of 1320 MW and bidding for part capacity is not allowed. Conducting the third round of bidding is not feasible. Hence omitted.
3.3.5	After selection, a Letter of Award (the " LOA ") shall be issued, in duplicate, by the Utility to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Utility may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA.	After the issuance of LOA, Utility shall not consider the next eligible Bidder, as the Bid process shall end. Hence the clause suitably modified.
5.1	Pre-Bid conferences of the Bidders shall be convened at the designated date, time and place as specified in Clause 1.4. Only those	Relevant clause reference inserted for avoidance of doubt.

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
	persons who have purchased the RFP-DBFOO document shall be allowed to participate in the Pre-Bid Conferences. A maximum of three representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.	Since clarification/queries will be submitted by Bidders in writing, and the response to the queries will be sent to Bidders in writing, maximum number of representatives has been restricted to three.
6.2 (b)	communicate with any Bidder in order to receive clarification or further information;	The word “Consult” is inappropriate in the given context hence replaced with “communicate”
APPENDIX - I		
Letter comprising the Bid Clause 6	I/ We certify that in the last three years from Bid Due Date, we/ any of the Consortium Members ^t or our/ their Associates 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.	Reference date for determining the period has been clarified for the avoidance of doubt.
9	I/ We declare that we/ our Consortium continue to satisfy the Net Worth criteria and meet(s) the requirements as specified in the RFQ-DBFOO document.	As per Clause 2.7.3 of RFQ-DBFOO, Bidder can be disqualified, if it is found that he failed to meet the eligibility criteria, even if he has already been issued the LOA or has entered into the PSA-DBFOO, as the case may be.
12	I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or any agency of the Government.	Lodging of FIR should not form basis for disqualification, until & unless, convicted by Court of Law. Hence Chargesheet has been removed as a basis for disqualification
13 (A)	I/ We further certify that I / any member of the Consortium or our/their Associates have not been convicted for any offence(s) under IPC for which the minimum period of imprisonment is two years or more.	Investigation should not form basis for disqualification, until & unless, convicted by Court of Law. Hence investigation has been removed as a basis for disqualification

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
13 (B)	(B) I/we certify that in the last 3 (three) years from the Application Due Date, I/we have neither failed to perform on any contract, as evidenced by imposition of a penalty by judicial authority or a judicial pronouncement against us/ any Member of Consortium or our/their Associates, nor have 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 us/ any Member of Consortium or our/their Associates	In line with change in RfQ
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 qualification requirements as prescribed in the RFQ-DBFOO, we shall intimate the Utility of the same immediately.	Terms of disqualification have been prescribed in RFQ-DBFOO. The Clause has been modified accordingly for the avoidance of doubt.
17	I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of pre-qualification under and in accordance with the RFQ-DBFOO, I/We shall inform the Utility forthwith along with all relevant particulars and the Utility may, in its sole discretion, reject our Bid 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 PSA-DBFOO but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the PSA-DBFOO shall be liable to be terminated without the Utility being liable to us in any manner whatsoever.	Qualification/Disqualification is at RFQ stage.
18	I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/2013, or shall incorporate as such prior to execution of the PSA-DBFOO.	No such SPV has been incorporated by the Utility. Hence deleted.
20	In the event of I/We being declared as the Selected Bidder, I/we agree to enter into a PSA-DBFOO 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.	Editorial change for consistency.
23	I/ We agree to offer a Capacity of 1230 MW from the 1320 MW MP Power Project which conforms to clause 1.1.1 of the RFP-DBFOO.	Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of minimum 1320 MW in the State of MP. Consequently, part capacity cannot be quoted.

Cl. No.	Clause as Proposed By MPPMCL in RFP	Rationale for Change
24	I/ We offer a Bid Security of Rs 61.50 Crores (Rupees Sixty-One Crore Fifty Lakh Only) to the Utility in accordance with the RFP-DBFOODocument.	Suitably modified.
25	The Copy of Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.The Original has been submitted along with “Enclosures of the Bid” at the address specified in Clause 2.11.5	Suitably modified.
31	<Omitted>	Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of minimum 1320 MW in the State of MP. Consequently, the said plant would be connected to the State grid while delivery point would be the interconnection point of Genco with the STU. Hence no transmission charges / losses would be required to be borne by the Bidder. Hence deleted.
32	<Omitted>>	Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of minimum 1320 MW in the State of MP. Consequently, the said plant would be connected to the State grid while delivery point would be the interconnection point of Genco with the STU. Hence no transmission charges / losses would be required to be borne by the Bidder. Hence deleted.
34	I/ We hereby submit the following Bid and offer, as on the Bid Due Date, in accordance with the provisions of the Power Supply Agreement and Clause 3.5 of this RFP-DBFOO: The fuel charge quoted above is based on the following parameters:	Table is added to get the source of data used by the Bidders to submit their bids.

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Cl. No.	Clause as Proposed By MPPMCL in RFP				Rationale for Change
	S.No.	Parameter	Unit	Value	
	1	CIL’s Notified price for Coal	Rs./Tonne		
	2	GCV of Coal	kCal/kg		
	3	Freight payable to Indian Railways for transportation by rail	Rs./Tonne		
	4	Average CIL Cost of Washing	Rs./Tonne		
	*Fixed Charges and Fuel Charges should be quoted upto three decimal places				
APPENDIX - II					
Bank Guarantee for Bid Security	It is required that the Bank Guarantee be provided on a non-judicial stamp paper of requisite Value as per applicable law.				Bank Guarantee on Plain paper or on Letter Head shall not be accepted by Utility.
APPENDIX - III					
Power of Attorney for signing of Bid	It is required that the Bank Guarantee be provided on a non-judicial stamp paper of requisite Value as per applicable law.				Power of Attorney on Plain paper or on Letter Head shall not be accepted by Utility.
	... 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 1320 MW MP Power Project proposed by the *** (the “Bidder”) including but not limited to signing and submission of all applications,...				Project shall be developed by the Bidder and not the Utility. Hence corrected.
Common Seal Stamp	THE COMMON SEAL OF has been affixed pursuant to the resolution passed by the Board of Directors of the at its meeting held on the day of 20..... hereunto affixed in the presence of, Director, who has signed these presents in token thereof and, Company Secretary / Authorised Officer who has countersigned the same in token thereof.				Common Seal Format has been added as in PSA.
APPENDIX - IV					
Power of Attorney for signing of Bid	It is required that the Bank Guarantee be provided on a non-judicial stamp paper of requisite Value as per applicable law.				Power of Attorney on Plain paper or on Letter Head shall not be accepted by Utility.

DEVIATIONS IN POWER SUPPLY AGREEMENT (PSA)

CI No.	Clause as proposed by MPPMCL	Rationale for Change
Recital (A)	The Utility had resolved to procure electricity from a New Power Station to be set up in the State of Madhya Pradesh that would dedicate a Contracted Capacity of 1230 MW for production of electricity and supply thereof to the Utility on design, build, finance, own and operate (the “ DBFOO ”) basis by sourcing fuel from the Allocated Coal Linkage arranged by the Utility as per SHAKTI Policy in accordance with the terms and conditions to be set forth in a power supply agreement to be entered into under and in accordance with the provisions of the Electricity Act, 2003.	In view of the significant benefits to the MP State and its consumers in setting up a 1320 MW TPP, envisaged by the GoMP and as further approved by the GoMP Cabinet, approval is being sought in the present petition for a State-specific Bid requiring the Bidders to develop a New project of 1320 MW in the State of MP using coal linkage allocated under SHAKTI Policy and supply of entire power to the MP State.
Recital (B)	The Utility had accordingly invited proposals by its Request for Qualification- DBFOO dated *** (the “ Request for Qualification-DBFOO ” or “ RFQ-DBFOO ”) for pre-qualification of Bidders who would design, build, finance, own and operate a New Power Station and offer to supply electricity therefrom, and had pre-qualified certain Bidders including, inter alia, the selected Bidder	In view of the significant benefits to the MP State and its consumers in setting up a 1320 MW TPP, envisaged by the GoMP and as further approved by the GoMP Cabinet, approval is being sought in the present petition for a State-specific Bid requiring the Bidders to develop a New project of 1320 MW in the State of MP using coal linkage allocated under SHAKTI Policy and supply of entire power to the MP State.
Recital (C)	The Utility had prescribed the technical and commercial terms and conditions by its Request for Proposal- DBFOO dated *** (the “ Request for Proposals-DBFOO ” or “ RFP-DBFOO ”), and invited Bids in accordance with the Guidelines issued by the Central Government under Section 63 of the Act vide Notification No. 23/17/2013 – R&R (Vol – VI) dated 5 th March 2019 and Resolution No. 23/17/2013 – R&R (Vol – VI) Part 4 dated 6 th March 2019 read with the deviations permitted by the Madhya Pradesh State Electricity Regulatory Commission vide its order dated *** from the Bidders pre-qualified pursuant to the RFP-DBFOO for undertaking the Project	Approval is being sought in the present petition for a State-specific Bid requiring the Bidders to develop a New project of 1320 MW in the State of MP using coal linkage allocated under SHAKTI Policy and supply of entire power to the MP State. Reference to approval for GoMP Cabinet has been incorporated.
2.2	<p>Effectiveness of the Agreement</p> <p>This Agreement shall come into force and effect from the date of execution of this Agreement by the Parties and</p>	The SBD does not provide for when the Agreement would be effective. For clarity and with a view to avoid disputes and ambiguities, the same has been expressly mentioned.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	shall remain valid until the Transfer Date.	
3.1.1	Subject to and in accordance with the provisions of this Agreement, Applicable Laws and the Applicable Permits, the Utility hereby awards to the Supplier the supply contract set forth herein including the right and authority to utilise the Allocated Coal for producing electricity at the Power Station for supply thereof to the Utility (the “ Supply Contract ”) for a period of 30 (Thirty) years commencing from the Appointed Date, and the Supplier hereby accepts the Supply Contract and agrees to implement the same subject to and in accordance with the terms and conditions set forth herein.	As period of Supply Contract is inclusive of construction period, the period has been kept as 30 Years including 54 Months.
3.2.2	Notwithstanding anything to the contrary contained in this Agreement, save and except the extension of Contract Period specified in the Proviso of Clause 3.1.1 and in Clause 31.4, in the event that extension of the Contract Period due to the Supplier in accordance with the provisions of this Agreement is not granted by the Utility for any reason, the Utility shall, within 30 (thirty) days of the expiry of this Agreement, pay to the Supplier a lump sum amount equivalent to Termination payment as specified in Clause 31.3.2. The Parties further agree that the payment of such amount shall be deemed to form part of the Secured Obligations and may be recovered by the Supplier under and in accordance with Article 23.	Termination payment applicable, in case extension is not granted, has been specified in Clause 31.4.
4.1.2 (e)	executed and procured execution of the Substitution Agreement, if required	As per the SBD, the Substitution Agreement is to be executed by the Supplier, Lender and the Utility. Hence, if required, the Utility would execute the same.
4.1.3	The Conditions Precedent required to be satisfied by the Supplier within a period of 18 (eighteen) months from the date of this Agreement shall be deemed to have been fulfilled when the Supplier shall have:	Since the Project involves setting up of a new plant in the State, the selected bidder would be required to acquire land in the MP state which would require significant time to complete. Hence, to provide for the same, CP period for Supplier has been proposed to be changed to 18 months, in which period it would be required to, inter alia, acquire land in MP as well as achieve Financial Closing for the Project
4.1.3 (C)	<Omitted>	
4.1.3 (F)	acquired the real estate for the Power Station in the State of Madhya Pradesh for the purpose of the Project	
4.1.3 (I)	<Omitted>	
4.1.3 (J)	<Omitted>	
4.1.3	Provided that notwithstanding anything contained herein, the provisions relating to Performance Security and	Article 9 contains Performance Security related provisions and

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	Financial Close shall be governed by Article 9 and Article 20 respectively.	Article 20 contains Financial Closure related provisions. Same have been referred for clarity and avoidance of doubt.
4.5	Without prejudice to the provisions of Clauses 4.2 and 4.3, and subject to the provisions of Clause 9.2, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before the 2 nd (second) anniversary of the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Supplier under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Supplier, and the Power Supply Agreement shall be deemed to have been terminated by mutual agreement of the Parties.	Period for satisfying Conditions Precedent has been proposed to be changed to 18 months. Accordingly, deadline for occurrence of Appointed Date has been modified.
5.1.4	<p><i>Explanation:</i></p> <p>Availability of the Power Station to its full capacity shall, in respect of any hour, mean the capacity of the Power Station to the extent it is offered by the Supplier for producing and supplying electrical energy equal to 932 (nine hundred and thirty two) kWh per mega watt of Contracted Capacity over a period of one hour, after accounting for auxiliary consumption, and for any month or year, as the case may be, the hours during that month or year when the Contracted Capacity of the Power Station is fully available for production of electricity shall be expressed as a percentage of total hours in that month or year, as the case may be, and shall include the deemed availability for and in respect of the events described in Clause 15.8 (the “Availability”)</p>	<p>In line with MPPMCL’s requirement, Installed Capacity of 1320 MW and the Capacity Required of 1230 MW is considered.</p> <p>Capacity Required has been arrived at by considering the auxiliary consumption of 5.75% as per Norms of MPERC and considering additional 1% of auxiliary consumption for FGD as the Norms for auxiliary consumption for FGD are not available at present.</p>
5.1.5 (a)	make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars as may be required for obtaining Applicable Permits, other than those set forth in Clause 4.1.2, and obtain and keep in force and effect such Applicable Permits in conformity with Applicable Laws..	<p>The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL.</p> <p>The power evacuation arrangement shall be the responsibility of the Utility.</p>
5.1.5 (e)	procure the Station Premises and maintain the same	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be done by the Utility hence Supplier is not required

CI No.	Clause as proposed by MPPMCL	Rationale for Change
		to obtain Line ROW. Hence the said change.
5.1.5 (n)	Executed the Fuel Supply Agreement	While the Utility is responsible for obtaining consent of CIL for execution of FSA, it should be the obligation of the Supplier to execute the FSA. Hence the same has been added as Supplier obligation.
5.5	<Omitted>	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. Due to this, plant will be connected to STU network hence there would be no transmission charge obligation on the Supplier. Hence clause has been deleted.
5.6.1	<Omitted>	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be the responsibility of the Utility.
5.6.2	<Omitted>	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. Due to this, plant will be connected to STU network hence there would be no transmission loss obligation on the Supplier. Hence clause has been deleted.
5.7	Obligations relating to SLDC charges The Supplier shall be liable for payment of all the charges, due and payable under Applicable Laws by the Supplier to the SLDC for and in respect of all its supplies to the Utility.	As the Power Station will be connected to State Transmission Network, and the power is being delivered in the same state, RLDC shall not be involved.
5.8	The Supplier shall pay, at all times during the subsistence of this Agreement, all taxes, levies, duties, cesses and all other statutory charges payable in respect of the Power Station.	Clause modified and catered in new clause added at 6.1.7
6.1.2 (a)	upon written request from the Supplier, and subject to the Supplier complying with Applicable Laws, provide reasonable support and assistance to the Supplier in procuring the Applicable Permits, including	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	environmental or forest clearances, required from any Government Instrumentality for implementation and operation of the Project;	The power evacuation arrangement shall be the responsibility of the Utility.
6.1.4	The Utility shall make available, the transmission system required for evacuation of power from the Point of Grid Connection at least 6 (six) months prior to the Scheduled Completion Date, failing which, the Utility shall pay to the Supplier from the Commercial Operation Date, an amount equal to 50% (fifty percent) of the Fixed Charges based on Normative Availability as Damages till the time transmission system is made available, provided the Power Station was ready for achieving the CoD on the Scheduled Completion Date.	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be the responsibility of the Utility. Upon commissioning of the plant, if the evacuation system is not ready, Supplier is still liable to make payments to lenders. Hence, due to non-commissioning of transmission infrastructure which is the onus of the Utility, Supplier will be entitled to receive full fixed charges.
6.1.5	The Utility shall execute the Fuel Supply Agreement	As the fuel is being sourced under SHAKTI B(IV), Tripartite agreement/FSA will be signed. Hence this clause has been added.
6.1.6	The Utility shall ensure that the Supplier is provided an electrical connection for reasonable construction, commissioning and Start up Power at the Power Station as reasonably requisitioned by the Supplier by written intimation to the Utility, on the then prevalent terms and conditions as applicable to such consumers.	There is no provision in the SBD for ROW Start-up power hence the same has been added and linked to the Tariff rates approved by this Hon'ble Commission.
6.1.7	The Utility agrees to reimburse upon receipt of particulars all payments made by the Supplier with respect to taxes or duty, if any, levied on the electricity supplied to the Utility.	Modifications in Clause 5.8 catered in this Clause
9.1.1	The Supplier shall, for the performance of its obligations hereunder, provide to the Utility no later than 60 (sixty) days from the date of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs.246.00 Crore (Rupees Two Hundred and Forty-Six crore) in the form set forth in Schedule-D (the " Performance Security "). Provided, however, that the Supplier may provide a Performance Security hereunder for a period of 54 (fifty-four) months and shall, no later than 60 (sixty) days prior to the expiry thereof, substitute it by a like Performance Security.	Period of Performance Security changed from 2 years to 54 months to cover the period during construction.
9.4.1	The Supplier shall, for the performance of its obligations hereunder during the Operation Period, be deemed to provide to the Utility upon occurrence of COD, an irrevocable and unconditional guarantee pursuant to the	Date specified to provide clarity as on when the fixed charge to be calculated for arriving at the amount.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	provisions of this Clause 9.4 (the “ Performance Guarantee ”), for a sum equivalent to the Fixed Charge due and payable by the Utility to the Supplier as on COD for Normative Availability in respect of a period of 15 (fifteen) days in accordance with the provisions of this Agreement. The Performance Guarantee shall constitute the first and exclusive charge on all amounts due and payable by the Utility to the Supplier, and the Utility shall be entitled to enforce the Performance Guarantee by making a deduction from the amounts due and payable by it to the Supplier in accordance with the provisions of Clause 9.5. For the avoidance of doubt, the Parties agree that no amounts shall be earmarked, frozen or withheld for securing payment of any potential Damages that may fall due at a subsequent date, and only the amounts which shall have become due and payable by the Supplier upon occurrence of Supplier Default shall be liable to appropriation hereunder.	
9.4.2	Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Guarantee is not submitted in accordance with clause 9.4.1 or is not effective , the Utility may encash the Performance Security and appropriate the proceeds thereof as Damages for not meeting the obligations of the Supplier under this agreement	Editorial change
10.1	The site of the Power Station shall comprise of the real estate required for the power station and associated services as described in Schedule-A, (the “ Station Premises ”). For the avoidance of doubt, it is hereby acknowledged and agreed that references to the Site shall be construed as references to the real estate required for the Power Station as set forth in Schedule-A	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be done by the Utility hence Supplier is not required to obtain Line ROW. Hence the said change.
10.2	<Omitted>	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be done by the Utility hence Supplier is not required to obtain Line ROW. Hence the said change.
10.4	It is expressly agreed that mining, geological or archaeological rights do not form part of the rights or interest granted to the Supplier under this Agreement and the Supplier hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals,	Editorial Change. No licence is being granted under the PSA.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Station Premises shall vest in and belong to the Utility or the concerned Government Instrumentality. ...	
11.2.1	The Supplier shall complete construction of the Power Station as specified in Schedule-B, and in conformity with the Specifications and Standards set forth in Schedule-C. The 54 months from the Appointed Date shall be the scheduled date for completion of the Power Station (the “ Scheduled Completion Date ”) and the Supplier agrees and undertakes that construction of the Power Station shall be completed on or before the Scheduled Completion Date..	<p>The present project requires the Supplier to construct a new power plant in the MP State, which would also require land acquisition. Considering the complexities involved in the same as well as in construction of new plant and also as per Utility’s experience, the Utility has decided to allow the Supplier 4.5 years for construction of the plant. Moreover, the said change is not a deviation as per the SBD and is a project specific requirement which may be changed at Utility discretion.</p> <p>The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved and hence provision has been deleted</p>
11.2.2	In the event that the Supplier fails to achieve Scheduled Completion Date unless such failure has occurred due to Force Majeure or for reasons attributable to the Utility, it shall pay Damages to the Utility in a sum calculated at the rate of 0.2% (zero point two per cent) of the amount of Performance Security for delay of each day provided that ; provided that in the event the Supplier agrees and undertakes to supply from an alternate source, the whole or part of the entitlement of the Utility from electricity that would have been produced from Contracted Capacity during the period between the Scheduled Completion Date and COD, and on the terms specified in this Agreement, the Damages payable under this Clause 11.2.2 shall be reduced in the same proportion that such supply shall bear to the entitlement of the Utility in supply from Contracted Capacity. For the avoidance of doubt, the Parties agree that in the event the Power Station is not completed and COD does not occur within 365 (three hundred and sixty five) days from the Scheduled Completion Date, unless the delay is	Under the DBFOO model, the ownership of the plant is that of the Supplier, which is required to commission the same by the Required Completion Date. The provisions of penalty on interim project milestones is relevant in case of large projects such as UMPP’s. Hence it is proposed to delete the penalties linked to interim project milestones. In case of non-achievement of SCOD penalty is imposed on the supplier for per day delay.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	on account of reasons attributable to the Utility or due to Force Majeure, the Utility shall be entitled to terminate this Agreement and such termination shall constitute Supplier's Default.	
13.4.3	The Utility shall accept and receive all infirm power generated during the testing and commissioning of the Power Station. The infirm power shall be accounted as deviation and shall be paid for from the regional / state deviation settlement fund accounts in accordance with the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and Related matters) Regulations, 2014, as amended from time to time or any subsequent re-enactment thereof, applicable for the year in which the concerned Unit/Power Station is synchronized or commissioned.	There is no provision in the SBD with respect to Infirm Power. For clarification and with a view to avoid future disputes / litigations, the same has been added in line with MPERC (Terms and Conditions for determination of Generation Tariff) Regulations, 2015 (RG-26(III) of 2015)
13.6	The Power Station may, for the purposes of completion, be divided into [2 (two) distinct Units, namely, Unit A comprising about 660 MW and Unit B comprising about 660 MW and the Provisional Certificate may be issued separately for each of the Units, whereupon the Tariff based on the Availability of such Unit shall become payable and the provisions of this Agreement shall apply <i>mutatis mutandis</i> to each such Unit. For the avoidance of doubt, the Parties agree that upon completion of any Unit hereunder, the provisions of this Agreement shall apply to that Unit as if it is the Power Station, and the rights and obligations of the Supplier for and in respect of that Unit shall be construed accordingly. The Parties also agree that if the Provisional Certificate for Unit A is issued at any time after the 5 th (fifth) anniversary of the Appointed Date, the provisions of Clause 14.1.2 shall not apply. The Parties also agree that the Supplier may, by notice issued to the Utility no later than the 1 st (first) anniversary of the Appointed Date, determine the Scheduled Completion Date of the 1 st (first) Unit to be a date which may be upto 365 (three hundred and sixty five) days prior to the Scheduled Completion Date of the Power Station as specified in Schedule-E, and in such an event the provisions of Clause 14.1.2 shall apply as if the Scheduled Completion Date specified therein is substituted by the scheduled completion date determined under this Clause 13.6	54 Months have been provided for achieving CoD. Hence the change.
14.1.1	The Power Station or any Unit thereof, in accordance with the provisions of this Agreement. The Parties further agree that for determination of Tariff under Article 21, COD of the both the Units shall be deemed to be the COD of the Power Station.	COD of single unit cannot be deemed as the COD of the Power Station. Hence the clause has been modified to align with the definition of Power Station.
15.7.1	Save and except, as provided in Clause 15.6, the Supplier shall not shut down or de-commission any Unit of the Power Station comprising the Contracted Capacity for	As this is a supply contract and the ownership and responsibility of O&M lies with the Supplier, role of

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	undertaking maintenance or repair works, not forming part of the Maintenance Programme, except with the prior written approval of the Utility. Such approval shall be sought by the Supplier through a written request to be made to the Utility at least 7 (seven) days before the proposed closure of such Unit and shall be accompanied by particulars thereof. Within 3 (three) days of receiving such request, the Utility shall grant permission with such modifications as it may deem reasonable and necessary in conformity with the Maintenance Manual and Maintenance Programme.	Utility's Engineer has been kept only till the CoD.
15.9	<Omitted>	The Supplier is required to maintain Normative Availability in order to claim full fixed charges. In case of failure to maintain the same, Fixed Charges are reduced. Hence, the penalty provision in said Clause is leading to double penalty on the Supplier in terms of already reduced fixed charges plus the added penalty. Hence, the said clause has been deleted. This would lead to reduced risk premium thus translating to lower tariff in the interest of MP consumers.
15.12	Provided, that any such Non-Availability and particulars thereof shall be notified by the Supplier to the Utility without any delay	As this is a supply contract and the ownership and responsibility of O&M lies with the Supplier, role of Utility's Engineer has been kept only till the CoD.
16.1	Monthly statusreports During Operation Period, the Supplier shall, no later than 7 (seven) days after the close of each month, furnish to the Utility a monthlyreport stating in reasonable detail the condition of the Power Station including its compliance or otherwise with the Maintenance Requirements, Maintenance Manual, Maintenance Programme and Safety Requirements, and shall promptly give such other relevant information as may be required by the Utility. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.	As this is a supply contract and the ownership and responsibility of O&M lies with the Supplier, role of Utility's Engineer has been kept only till the CoD.
16.2	<Omitted>	As this is a supply contract and the ownership and responsibility of O&M lies with the Supplier, role of Utility's Engineer has been kept only till the CoD.
16.3	<Omitted>	As this is a supply contract and the ownership and responsibility of

CI No.	Clause as proposed by MPPMCL	Rationale for Change
		O&M lies with the Supplier, role of Utility's Engineer has been kept only till the CoD.
18.1	The Supplier acknowledges and agrees that it shall set up and operate the Power Station with an installed capacity of 1320 MW (the " Installed Capacity ").	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL.
18.2	Pursuant to the provisions of this Agreement, the Supplier shall dedicate a generating capacity of 1230 MW to the Utility as the capacity contracted hereunder (the " Contracted Capacity ") and the Contracted Capacity shall at all times be operated and utilised in accordance with the provisions of this Agreement.	In line with MPPMCL's requirement, Installed Capacity of 1320 MW and the Capacity Required of 1230 MW is considered. Capacity Required has been arrived at by considering the auxiliary consumption of 5.75% as per Norms of MPERC and considering additional 1% of auxiliary consumption for FGD as the Norms for auxiliary consumption for FGD are not available at present.
18.3	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Committed Capacity would not be applicable.
18.4	<Omitted>	Open Capacity requirement of 20% envisages that the developer shall sell such capacity in the open market to recover its associated costs. The quantum, time of sale and duration of sale of the open capacity is not certain and cannot be predicted by the bidder at the RFP stage. Moreover, sale of power at such short notice may not be practically feasible to the Seller. Given the above, it is quite likely that as a risk mitigation measure, the developer shall gross up its quoted fixed charge by such margin so as to recover losses arising out of such uncertainty thereby inflating the tariff for the utility. Hence it is proposed that the clause and related provisions to Open Capacity be removed. Moreover, given the fact that the bid envisages setting up a new project in the state to meet the state's power requirement, the provision related to

CI No.	Clause as proposed by MPPMCL	Rationale for Change
		Open Capacity may be deleted.
18.5	Sale of unutilized Contracted Capacity	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Committed Capacity would not be applicable.
18.5.1	In the event that any part of the entitlement of the Utility to the Contracted Capacity is not utilised by the Utility or its nominees and such unutilized Contracted Capacity, , is utilised for production of electricity and sale thereof to any other Buyers the Fixed Charge due and payable for and in respect of such Contracted Capacity shall, subject to the provisions of Clause 18.5.2, be recovered by the Supplier from such Buyers as if the electricity has been supplied to the Utility. Provided that the use of Allocated Coal, if any, for production of electricity from such Capacity shall be governed by the provisions of Clause 22.6. For the avoidance of doubt, the Parties agree that supply of electricity to a nominee of the Utility shall be subject to provision of adequate payment security either by the nominee or by the Utility. The Parties further agree that in the event any such Contracted Capacity remains unsold hereunder, the Fixed Charge in respect thereof shall be due and payable by the Utility to the Supplier	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Committed Capacity would not be applicable.
18.5.2	<Omitted>	The entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, and there will be only one agreement and no other Distribution Licensees involved. Hence this clause has been deleted.
18.5.3	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Committed Capacity would not be applicable.
18.6	Substitute Supply In the event the Availability of the Power Station is reduced on account of Scheduled Maintenance, Unscheduled Maintenance or Force Majeure, the Supplier may, with prior consent of the Utility, which consent the Utility may deny in its sole discretion or convey acceptance with such conditions as it may deem fit, supply electricity from any alternative source, and such supply shall, for payment of Fixed Charge and Fuel Charge, be deemed to be supply under and in accordance with the provisions of this Agreement.	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Merchant Capacity would not be applicable. Clause suitably modified.
18.7	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Merchant Capacity would not be applicable.
19.1.1	Subject to the provisions of Clause 19.1.2, the Utility	As this is a supply contract and the

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	shall appoint a consulting engineering firm substantially in accordance with the selection criteria set forth in Schedule-I, to be the Utility's consultant under this Agreement (the "Utility's Engineer"). The appointment shall be made no later than 180 (one hundred and eighty) days from the date of this Agreement and shall be for the period upto CoD. On termination of the aforesaid appointment, the Utility shall appoint a Utility's Engineer for the remaining period till CoD in accordance with the provisions of Schedule-I.	ownership and responsibility of O&M lies with the Supplier, role of Utility's Engineer has been kept only till the CoD.
19.1.2	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, this clause would not be applicable. Role of Utility's Engineer has been kept only till the CoD.
19.2.3	<Omitted>	Communication between Utility and Utility's Engineer is confidential. Hence this clause deleted.
19.6	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, this clause would not be applicable.
20.1.1	The Supplier hereby agrees and undertakes that it shall achieve Financial Close within 365 (three hundred and sixty five days) from the dated of this Agreement and in the event of delay, it shall be entitled to a further period not exceeding 60 (Sixty) days, subject to payment of Damages to the Utility in a sum calculated at the rate of 0.05% (zero point zero five per cent) of the Performance Security for each day of delay; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 365 (three hundred and sixty five) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred as a result of any default or delay by the Utility in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder shall be in addition to the Damages, if any, due and payable under the provisions of Clause 4.3.	As per MP Genco experience, land acquisition and financial closure is a highly time -consuming process requiring around 2 years. Given that the present project would be an IPP, it is considered prudent to allow a time period of 12 months to archive financial closure. Also, given that the entire power sector is in stress
20.2.2	Upon Termination under Clause 20.2.1, the Utility shall be entitled to encash the Bid Security or Performance Security and appropriate the proceeds thereof as Damages; provided, however, if Financial Close has not occurred due to Force Majeure or as a result of the Utility being in default of any of its obligations under Clause 4.1.2, it shall, upon Termination, release the Bid	Editorial change.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	Security or Performance Security, as the case may be, forthwith along with the Damages due and payable under Clause 4.2	
21.2.2	In the event the Completion Certificate specifies a Station Heat Rate that is lower than the Station Heat Rate specified in Schedule-C, the Initial Fixed Charge shall be increased such that for every improvement of 1% (one per cent) as compared to the Station Heat Rate specified in Schedule-C, the amount specified in Clause 21.2.1 shall be increased by 1.5% (one point five per cent) thereof. Provided, however, that in case the source of Fuel is situated within 100 (one hundred) kilo metres of the Power Station, such increase shall be restricted to 1% (one per cent) and if the Fuel is procured from overseas or from the open domestic market, such increase shall be the lower of, (a) 2.5% (two point five per cent) for every improvement of 1% (one per cent); and (b) actual cost of transportation per kWh. For the purpose of calculation of SHR improvement percentage, any improvement in fraction of 1% shall be ignored. For illustration, an improvement of 1.55% in SHR shall be considered as 1%.	For avoidance of doubt, “actual cost” and methodology for computation of SHR improvement percentage specified.
21.2.3	In the event the Completion Certificate specifies a Station Heat Rate that is higher than the Station Heat Rate specified in Schedule-C, the Initial Fixed Charge shall be decreased such that for every increase of 1% (one per cent) as compared to the Station Heat Rate specified in Schedule-C, the amount specified in Clause 21.2.1 shall be decreased by 2% (two per cent) thereof. Provided, however, that in case the source of Fuel is situated within 100 (one hundred) kilo metres of the Power Station, such decrease shall be restricted to 1.5% (one point five per cent) and if the Fuel is procured from overseas or from the open domestic market, such decrease shall be the lower of, (a) 3% (three per cent) for every reduction of 1% (one per cent) in SHR; and (b) actual cost of transportation per kWh. For the purpose of calculation of percentage increase in SHR, any increase in fraction of 1% shall be ignored. For illustration, an increase of 1.55% in SHR shall be considered as 1%.	This clause was inconsistent with Clause 21.2.3. Hence modified.
21.4.2	Upon occurrence of a shortfall in the Minimum Fuel Stock, Availability shall be deemed to be reduced in accordance with the provisions of Clause 21.5.2. .	As the Fuel is provided under SHAKTI B (iv) Policy, any remedy for shortage of Fuel will be governed by the provisions of FSA.
21.4.3	In the event that any shortfall in supply of electricity to the Utility occurs on account of deficiency in transmission from the Point of Grid Connection, the Non-Availability arising as a consequence thereof shall, for the purposes of payment of Fixed Charge, be deemed	In instant case, Point of Grid Connection is the delivery point.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	to be Availability to the extent of 50% (fifty per cent) of the Non-Availability hereunder. Provided, however, that the Supplier may, in its sole discretion, Despatch the Power Station to the extent of full or part Non-Availability hereunder for supply to other Distribution Licensees or Buyers, as the case may be, and to the extent of such Despatch, the Utility shall not be liable to payment of any Fixed Charge due and payable in accordance with the provisions of this Clause 21.4.3. Provided further that the provisions of this Agreement for and in respect of Tariff and Revenue Share shall apply to such supply. For the avoidance of doubt, the Parties expressly agree that if such deficiency in transmission is caused by an action or omission attributable to the Supplier, it shall not be reckoned for the purposes of computing Availability hereunder.	
21.4.4	The obligations of the Utility to pay Fixed Charges in any Accounting Year shall in no case exceed an amount equal to the Fixed Charge due and payable for and in respect of the Normative Availability of 90% (ninety per cent) computed with reference to the entitlement of the Utility in Contracted Capacity (the “ Capacity Charge ”). Provided, however, that in the event of Despatch of the Power Station beyond such [85% (Eighty five per cent)], Incentive shall be payable in accordance with the provisions of Clause 21.6.1.	Normative PLF as per MPERC is 85%. Further, for the purpose of Coal Linkage, the Normative PLF is 85%.
21.4.5	Pursuant to the provisions of Clause 21.4.4, the Supplier shall not, for and in respect of any day, be entitled to receive payment of Fixed Charge for Availability exceeding 90% (ninety per cent) thereof and in the event it supplies electricity to the Utility in excess of such 85% (eighty five per cent), such excess supply shall be eligible only for payment of Fuel Charge, save and except the payment of Incentive due under the provisions of Clause 21.4.4	Normative PLF as per MPERC is 85%. Further, for the purpose of Coal Linkage, the Normative PLF is 85%.
21.5.3	In the event that any shortfall in supply of electricity to the Utility occurs on account of any deficiency in transmission from the Point of Grid Connection , the Availability shall be deemed to be reduced to the extent of reduction in transmission of electricity, and the reduction referred to hereinabove shall be deemed as Non-Availability on account of deficiency in transmission. For the avoidance of doubt and by way of illustration, the Parties agree that if such deficiency in transmission is equal to 20% (twenty per cent) of the entitlement of the Utility in the Contracted Capacity, the Availability shall be deemed to be 80% (eighty per cent) and the Non-Availability hereunder shall be notified by the Supplier to the Utility forthwith.	In instant case, Point of Grid Connection is the delivery point.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
21.9.2	The Tariff and Incentives payable by the Utility under this Article 21 shall be exclusive of Taxes and Duties, if any, levied on the electricity supplied to the Utility, and shall be paid by the Supplier and reimbursed by the Utility upon submission of necessary particulars along with documentary evidences by the Supplier.	Taxes on electricity supplied to the Utility will be reimbursed by the Utility. The Clause lacked clarity on the point. Hence, corrected.
21.10.2	The Supplier shall, with each Monthly Invoice submit, (a) a certificate that the amounts claimed in the invoice are correct and in accordance with the provisions of the Agreement; (b) proof of Availability and Despatch as given by SLDC in State Energy Account for the period billed, comprising evidence of communications regarding the extent of Non-Availability from time to time; (c) official documents in support of the variation in WPI as specified in Clause 21.3; (d) detailed calculations of the Fixed Charge for Availability in accordance with this Article 21; (e) detailed calculations of the Fuel Charge, in respect of the electricity dispatched, computed in accordance with Article 22; (f) detailed calculations of the Incentives and/or Damages in accordance with Clause 21.6; (g) details in respect of taxes/duties payable/reimbursable in accordance with the provisions of this Agreement; (h) details of the Fixed Charge to be adjusted by the Supplier in respect of sale of power to Buyers; (i) details in respect of Damages or Incentives payable in respect of Key Performance Indicators in accordance with the provisions of Article 17; and (j) the net amount payable under the Monthly Invoice.	For the purpose of Monthly Billing, SLDC's State Energy Account will be referred to. Hence the same has been incorporated. As Point of Grid Connection is the Delivery Point in the instant case, the transmission losses and charges are being borne by Utility and hence sub clause (j) & (k) have been deleted.
21.11	<p>21.1 Supplementary Invoice</p> <p>21.1.1 Either Party may raise a bill on the other Party ("Supplementary Invoice") for payment on account of:</p> <ul style="list-style-type: none"> i. Adjustments required by the State/Regional Energy Account (if applicable); or ii. Change in Law as provided in Article 34, <p style="padding-left: 40px;">and such Supplementary Bill shall be paid by the other Party.</p> <p>21.1.2 The Utility or the Supplier, as the case may be, shall pay the amount payable under the Supplementary Bill on or before the Due Date.</p> <p>21.1.3 For the payment of the Supplementary Invoice, prior to its Due Date, the Utility shall be entitled to deduct 0.5% (zero point five percent) of the amount stated in the concerned</p>	New Clause added for Supplementary Invoice, so that any billing on account of Change in Law or Adjustment is billed separately than the Monthly Invoice.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	<p>Supplementary Invoice by way of discount for early payment. However, no rebate shall be applicable on Supplementary Bills raised on account of Change in Law relating to Taxes.</p> <p>i. In the event of delay in payment of a Supplementary Invoice by either Party in accordance with Clause 21.11.2 above, interest for the period of delay shall be payable as per Clause 38.4.</p>	
21.13	<p>Provisional Monthly Invoice</p> <p>A Provisional Monthly Invoice shall, be raised by the Supplier on the last Business Day of the month where the Fixed Charges shall be based on the declared Availability and the Fuel Charge shall be based on the Despatch of energy up to the 25th (twenty fifth) day of the month.</p>	Provision has been added for raising of Provisional bills which provides for extra rebate / discount to the Utility. This would translate to lower power purchase cost for Utility and benefit the consumers.
21.14 (Earlier 21.12)	<p>Discount for early payment</p> <p>21.14.1 The Parties expressly agree that in the event the Utility pays the Tariff within 2 (two) days of the date of submission of the Monthly/Provisional Invoice thereof, it shall be entitled to deduct 2% (two per cent) of the amount comprising the Tariff by way of discount for early payment</p> <p>21.14.2 Where the payments are made after the period as mentioned in clause 21.13.1 above and by the Payment Due Date, a rebate of one percent (1%) of the amount paid shall be allowed by the Supplier.</p>	Provision aligned with existing norms of MPERC.
22.2.2	<p><i>Explanation:</i></p> <p>Landed cost of Fuel shall be the weighted average price of Fuel, in Rs. per kilogram, which is due and payable by the Supplier for procuring Fuel in accordance with the provisions of Clause 22.2.3, and shall include the cost of transportation thereof as specified in Clauses 22.2.4 and the cost of washing, if any, as specified in Clause 22.2.6 (the “Landed Fuel Cost”). Provided, however, that the Landed Fuel Cost shall in no case exceed the actual cost incurred by the Supplier. For the avoidance of doubt, the Parties expressly agree that in the event of any deviation from the GCV specified in Clause 22.2.3/ the FSA or AFSA, as the case may be, the Landed Fuel Cost shall be deemed to be adjusted and modified such that the Fuel Charge payable by the Utility shall be the same as if the</p>	Clause suitably modified as the cost of crushing is not applicable in case of Linkage coal.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	GCV is in accordance with the value specified in Clause 22.2.3/ the FSA or AFSA, as the case maybe	
22.2.5	<Omitted>	As the Supplier shall be getting Allocated coal supplied by CIL, imported fuel and associated costs shall not be involved. Hence this clause has been deleted.
22.3.4	One-half of the quantity of each sample collected in accordance with the provisions of Clause 22.3.3 shall be stored and made available for testing thereof by the Utility at any time within a period of 1 (one) month from the date of sampling at the Power Station.	Role of Utility's Engineer has been kept only till the CoD.
22.3.6	For determining the actual GCV of Fuel, the Utility shall be entitled to inspect the relevant records of the Supplier, and may, at its own cost, conduct or cause to be conducted, sampling and testing of stored Fuel in accordance with Good Industry Practice, to determine its conformity with the Specifications and Standards and also with the tests conducted by the Supplier pursuant to the provisions of Clause 22.3.3.	Role of Utility's Engineer has been kept only till the CoD.
22.4.1	Prior to the Appointed Date, the Supplier shall have executed an agreement with a supplier of Fuel for supply of Fuel sufficient for generating electricity at no less than 85% (eighty five per cent) of the Contracted Capacity during each month for a period of at least 25 (twenty five) years commencing from COD, substantially in accordance with the provisions of Clause 22.5 (the " Fuel Supply Agreement " or " FSA ")	Since the fuel sourcing is through allocated coal linkage arranged by the Utility, this part has been modified accordingly. Respective change has also been done in Clause 22.5 (a) under square parenthesis.
22.4.3	The Fuel procured under the FSA shall be utilised by the Supplier for production of electricity to be supplied to the Utility as part of the Contracted Capacity and only for the sale of the unutilized capacity to Buyers, if any, subject to the provisions of Clause 22.6.	Entire capacity is being procured by the Utility and so Open Capacity or Merchant Capacity is not there. Only sale of unutilized capacity is permitted.
22.6.1	Upon the Supplier meeting its obligations for and in respect of the supply of electricity to the Utility as part of the Contracted Capacity, or if Utility is not able to schedule any part of the Contracted Capacity, it may generate electricity from Allocated Coal for sale thereof to Buyers subject to payment of Revenue Share to the Utility, in an amount equal to the higher of, (a) Fixed Charge and (b) 30% (thirty per cent) of the gross sale revenue accrued from Buyers for each kWh of electricity sold to any Buyer.	Entire capacity is being procured by the Utility and so any capacity not utilized by the Utility, may be allowed for sale to Buyers. Hence, the clause has been modified suitably.
22.8.2	<Omitted>	Since the fuel sourcing is through allocated coal linkage arranged by the Utility, Non-availability on account of Fuel-Shortage will not be paid for.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
22.12.1	In the event the statements provided under Clause 22.11 during the course of any quarter establish that the average actual SHR is better than the SHR specified in the Completion Certificate and the difference between the average actual SHR and specified SHR in Completion Certificate exceeds 1% (one per cent), the specified SHR in Completion Certificate shall be reduced by one-half of such difference and the SHR so determined shall be the specified SHR of the Power Station for purposes of this Agreement, including for determination of the Fuel Charge under this Article 22. For the avoidance of doubt and by way of illustration, if the specified SHR in Completion Certificate of the Power Station is 2,200 and the average actual SHR is 2,160, the specified SHR shall be revised and fixed at 2,180.	Changes made for clarity.
24.1.3	<Omitted>	Entire capacity is being procured by the Utility and so Open Capacity is not there.
27.1.1	The Supplier shall maintain books of accounts recording all its receipts (including Tariff, revenues from sale of power to the Utility, other Distribution Licensees and Buyers, and all incomes derived/collected by it from or on account of the Power Station and/or sale of electricity from the Power Station), income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Supplier shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they.	The Statement is corrected, as the Accounts of the Supplier will not form the basis of payment. Payment shall be based on the provisions of the PSA.
28.1	Force Majeure As used in this Agreement, the expression “ Force Majeure ” or “ Force Majeure Event ” shall, save and except as expressly provided otherwise, mean occurrence in India of, including but not limited to, any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 28.2, 28.3 and 28.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “ Affected Party ”) of its obligations under this Agreement and which act or event (a) is beyond the reasonable control of the Affected Party, and (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.	Changes for Clarity.
28.2 (d)	<Omitted>	To avoid burden of events occurring

CI No.	Clause as proposed by MPPMCL	Rationale for Change
		outside India, the clause has been omitted.
28.6.2 (b)	after COD, whereupon the Supplier is unable to transmit electricity to the Grid despite making best efforts or it is directed by the Utility, RLDC or SLDC or any Government Instrumentality to suspend generation during the subsistence of such Force Majeure Event, the Contract Period shall be extended by a period equal in length to the period during which the Supplier was prevented from generating electricity on account thereof; provided that in the event of reduction in generation on account of partial inability or suspension, as the case may be, which cause the Availability on any day is to decline below 80% (eighty per cent) of the Average Daily Availability, the Utility shall extend the Contract Period in proportion to the loss of such Availability due to Force Majeure. For the avoidance of doubt, loss of 25% (twenty five per cent) in Availability for 4 (four) days as compared to the Average Daily Availability shall entitle the Supplier to extension of 1 (one) day in the Contract Period	
28.7.1	For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses and all other costs directly attributable to the Force Majeure Event, but shall not include loss of Tariff, revenues from sale of electricity to other Distribution Licensees and Buyers, or debt repayment obligations, and for determining such costs, information contained in the Financial Package may be relied upon to the extent that such information is relevant. If there is any Dispute with respect to the determination of the costs for a Force Majeure Event payable by the Utility to the Supplier, such Disputes shall be settled through the Dispute Settlement mechanism provided in this Agreement.	The clause has been revised to clarify how the dispute shall be addressed.
29.1	<p>Compensation for default by the Supplier</p> <p>In the event of the Supplier being in material breach or default of this Agreement at any time after the Appointed Date, it shall, upon receipt of the demand supported by necessary particulars thereof, pay to the Utility by way of compensation, all direct costs suffered or incurred by the Utility as a consequence of such material breach or default; provided that no compensation shall be payable under this Clause 29.1 for any material breach or default in respect of which Damages are expressly specified and payable under this Agreement or for any consequential losses incurred by the Utility. For the avoidance of doubt, the Parties agree that the compensation payable under this Article 29 shall be in addition to, and not in</p>	To bring clarity

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	substitution for, or derogation of, Termination Payment, if any. The Parties further agree that the non-defaulting Party shall make all reasonable efforts to mitigate or limit the costs and damage arising as a result of breach of Agreement by the other Party.	
30.1.3	During the period of Suspension hereunder, all rights and liabilities vested in the Supplier in accordance with the provisions of this Agreement shall continue to vest therein and the Supplier undertakes to indemnify and reimburse the Utility for all costs incurred, including additional cost incurred for procurement of power from alternate sources, during such period.	During the period of suspension, the Utility shall be reimbursed for all cost incurred for procurement of power from alternate sources.
31.1.1	Subject to Applicable Laws and save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Supplier fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 120 (one hundred and twenty) days, the Supplier shall be deemed to be in default of this Agreement (the “ Supplier Default ”), unless the default has occurred as a result of any breach of this Agreement by the Utility or due to Force Majeure. The defaults referred to herein shall include the following:	As this clause triggers the Termination, Cure Period increased.
31.1.1 (c)	the Supplier does not achieve the latest outstanding Project Milestone or the Scheduled Completion Date, as the case may be, due in accordance with the provisions of Schedule-E and continues to be in default for 365 (three hundred and sixty five)days;	As this clause triggers the Termination, Period increased to 365 days, as termination is the last resort.
31.1.1 (e)	the Supplier fails to make any payment (a) of an amount exceeding Rupees 1 (One) Crore required to be made to Utility under this Agreement, within three 3 (three) Months after the Due Date of an undisputed invoice /demand raised by the Utility on the Supplier or (b) of an amount upto Rupees 1 (One) Crore required to be made to Utility under this Agreement within six (6) Months after the Due Date of an undisputed invoice/demand;	For clarity
31.1.1 (x)	The Supplier commits a Financial Default in terms of the Substitution Agreement Clause 5.1	Added as this is not covered.
31.1.3	Provided further that in the event that no Nominated Company acceptable to the Utility is selected and recommended by the Lenders” Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2 of the	Added as this is not covered.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	Substitution Agreement, the Utility may terminate this Agreement forthwith in accordance with the provisions thereof.	
31.2.1 (b)	the Utility fails to pay (with respect to a Monthly Bill or a Provisional Bill) an amount exceeding 15% (fifteen percent) of the undisputed part of the most recent Monthly/Provisional Bill for a period of 90 (ninety) days after the Due Date and the Supplier is unable to recover the amount outstanding through the Payment Security provided under Article 23 of this agreement; or	For clarity.
31.8	<Omitted>	Substitution is applicable in case there are multiple Procurers from same power station. As in this case only one PPA is there, transfer is not possible, and this clause is not relevant. Hence Deleted along with the sub clauses.
32.2	<Omitted>	This situation may not arise as there is only one procurer and full capacity is being tied up. Hence the clause has been deleted.
32.3	Not earlier than 60 (sixty) days prior to Termination but not later than 15 (fifteen) days prior to the effective date of such Termination, the Utility shall verify, after giving due notice to the Supplier specifying the time, date and place of such verification and/or inspection, compliance by the Supplier with the provisions of this Agreement	Role of Utility's Engineer has been kept only till the CoD.
34.1	Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Supplier may by issuing a Supplementary Invoice require the Utility to pay an amount that would place the Supplier in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such Supplementary Invoice, along with particulars thereof, the Utility shall pay the amount specified therein; provided that if the Utility shall dispute such claim of the Supplier, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 34.1 shall be restricted to changes in law directly affecting the Supplier's costs of performance for its obligations under this Agreement.	Clarity on issue of Supplementary Invoice
34.1	Provided further that in case the matter is referred to be settled through Dispute Resolution Procedure as provided for under this Clause 34.1, the Utility shall,	New Provision added for incorporating treatment for Change in Law claims.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	<p>pending settlement of the claim of the Supplier on account of Change in Law by the Appropriate Commission, within a period of 60 (sixty) days of the date of receipt of such Supplementary Invoice, compensate the Supplier for at least 50% (fifty percent) of such increase in cost or other financial burden, in order to place the Supplier in the same financial position as it would have enjoyed had it not been for the occurrence of the Change in Law resulting in such increase in cost or financial burden to the Supplier.</p> <p>The Supplier shall refund any excess payment made by the Utility, or the Utility shall pay the balance compensation amount, as the case may be, within a period of 10 (ten) days from the date of decision of the Appropriate Commission along with Carrying Cost at a rate to be decided by the Commission/adjudicating authority.</p>	
34.6	<p>34.1 Exclusions to the Change in Law</p> <p>The term 'Change in Law' shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the Supplier, or (ii) change in respect of the UI charges or frequency intervals by the Commission.</p>	New Provision added for incorporating treatment for Change in Law claims.
34.7	<p>34.7 Notification of the Change in Law</p> <p>In the event the Supplier is affected by a Change in Law, whether adversely or beneficially, and wishes to claim a Change in Law under this Article, it shall give notice to the Utility of such Change in Law as soon as reasonably practicable after becoming aware of the same or should reasonably have known of the Change in Law giving in details about the Change in Law and the effects of the same on the Supplier.</p> <p>The obligation to notify the Utility shall be mandatory. In the event the Supplier fails to adhere to this requirement in the event of being beneficially affected by a Change in Law, the Utility shall have the right to issue such notice to the Supplier.</p>	New Provision added for incorporating treatment for Change in Law claims.
38.4.1	The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30	Interest payable for delayed payment has been aligned with that mentioned in Clause 31.3.4

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	(thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 3% (three per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.	
	<p>“Change in Law” means the occurrence of any of the following after the Bid Date:</p> <ul style="list-style-type: none"> (a) the enactment of any new Applicable Law including rules and regulations framed pursuant to such Applicable Law; (b) the repeal, modification or re-enactment of any existing Applicable Law; (c) the commencement of any Applicable Law which has not entered into effect until the Bid Date; (d) a change in the interpretation or application of any Applicable Law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the Bid Date; or (e) any change in the rates of any of the Taxes or introduction of any new Taxes that have a direct effect on the Project; 	Modified suitably to incorporate all applicable laws in the definition.
Committed Capacity	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Committed Capacity would not be applicable.
	“Construction Works” means all works, equipment and things necessary to complete the Power Station in accordance with this Agreement;	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
	<p>“Cure Period” means ...</p> <p>...</p> <p>...</p> <p>provided that if the cure of any breach by the Supplier requires any reasonable action by the Supplier that must be approved by the Utility hereunder, the applicable Cure Period shall be extended by the period taken by the Utility to accord its approval;</p>	Role of Utility’s Engineer is only till CoD.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
Dedicated Transmission System	<Omitted>	Mentioned clause has been deleted
Line ROW	<Omitted>	Mentioned clause has been deleted
O&M Inspection Report	<Omitted>	Mentioned clause has been deleted
Operating Capacity	<Omitted>	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL, Open Capacity would not be applicable.
	<p>“Power Station” or “New Power Station” for the purpose of this PSA-DBFOO, means Units of the generating station of which the construction is commenced after the Date of Letter of Award (LoA) and grid synchronization, commissioning and COD of its Units are achieved as per the terms of the Power Supply Agreement (PSA) and as described in Schedules A and B of the PSA-DBFOO. For the avoidance of doubt, it is clarified that construction for this purpose would mean that the Bidder has placed the order for supply of Boiler, Turbine and Generator package after the date of Letter of Award (LoA) and shall include Project Assets, Project Facilities, and the allocation of Allocated Coal which is linked to or attached with the Project;</p>	<p>Approval has been sought in the instant petition for a State-specific Bid requiring the Bidders to develop a new project of minimum 1320 MW in the State of MP.</p> <p>Accordingly, definition of “Power Station” has been suitably modified.</p>
	<p>“Project Assets” means all physical and other assets relating to and forming part of the Project including:</p> <p>(a) rights over the Site or otherwise;</p>	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be done by the Utility hence Supplier is not required to obtain Line ROW. Hence the said change.
	“Provisional Monthly Invoice” means the invoice raised in accordance with provisions of Clause 21.12	New Clause has been added and accordingly this definition has been incorporated.
1 Schedule-A	<p>The Site</p> <p>Site of the Power Station shall include the land, buildings, structures as described in Annex-I of this Schedule A</p>	The proposed plant would be set up in the State of MP and entire generation would be contracted with MPPMCL. The power evacuation arrangement shall be done by the Utility hence Supplier is not required to obtain Line ROW. Hence the said change.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
3 Schedule-B Dedicated Transmission System	<Omitted>	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
Annex I	Description of the Power Station A. B. E. Switchyard (i) kV switchyard a) Transformer Bays (No.) b) Line Bays (No.) c) Bus Section + Bus coupler (No.) d) ICT bay (No.) e) Transfer bay + Switchable shunt reactor (No.)	Switch yard is part of the Power Station, hence added.
Annex-II Description of Dedicated Transmission System	<Omitted>	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
3 Schedule-C Dedicated Transmission System	<Omitted>	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
Annex-II Specifications and standards for the Dedicated Transmission System	<Omitted>	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
11 Schedule-D	This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of 54 (fifty-four) months from the date hereof or until it is released earlier by the Utility pursuant to the provisions of the Agreement	Period has been revised to 54 months. Hence, the clause suitably modified.
Schedule-E 2,	2.1 Project Milestone-I shall occur on the date falling on the completion of 24 months from the Appointed Date	In line with the timelines as mentioned in RFQ & RFP

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	(the “ Project Milestone-I ”).	
3 --do--	3.1 Project Milestone-II shall occur on the date falling on the completion of 36 months from the Appointed Date (the “ Project Milestone-II ”).	In line with the timelines as mentioned in RFQ & RFP
4 --do--	The Scheduled Completion Date for completion of the Contracted Capacity of the Power Station shall be the 54 (fifty four) months from the Appointed Date	In line with the timelines as mentioned in RFQ & RFP
2 Schedule-F	In pursuance of the provisions of Clause 13.1.2 of this Agreement, the Supplier shall carry out Tests for determining the compliance of the Power Station with Specifications and Standards as specified in Paragraphs 3, 4 and 5 of this Schedule-F.	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
3.2 Schedule-F	SHR Test The Utility’s Engineer shall carry out, or cause to be carried out, Tests specified in the Performance Testing Code - 4 (PTC – 4) and Performance Test Code - 6 (PTC – 6) of ASME Standards for boilers and turbines respectively, and Tests specified in other applicable codes in respect of associated equipment, to determine the Station Heat Rate at 100% (hundred per cent) maximum continuous rating (MCR) of the Power Station, after accounting for auxiliary consumption, and the Station Heat Rate shall be lower of SHR so determined after including [2% (two per cent)] ⁵⁹ increase to account for potential variations arising from temperature, humidity,	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
4 Dedicated Transmission System	<Omitted>	The power evacuation arrangement shall be done by the Utility and delivery point is the plant bus-bar. Hence there is no Dedicated Transmission System involved
1 Schedule-G	I/We,(Name and Designation of the Managing Director of the Supplier), acting as the Supplier, under and in accordance with the Power Supply Agreement dated (the “Agreement”), for construction and operation of the Power Station with a capacity of 1320 MW on design, build, finance, own and operate (the “DBFOO”) basis, hereby certify that the Tests specified in Article 13 and Schedule-F of the Agreement have been successfully undertaken to determine compliance of the Power Station with the provisions of the Agreement, and I/We am/are satisfied that the Power Station can be safely and reliably placed in commercial service of the	Since the entire capacity of the plant would be dedicated to the Utility i.e. MPPMCL. Clause is suitably modified.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	Utility	
4 Schedule-H	The Supplier shall, through its engineer, undertake a periodic visual inspection of the Power Station in accordance with the Maintenance Manual and maintain a record thereof in a register to be kept in such form and manner is required as per Good Industry Practice. Such record shall be kept in safe custody of the Supplier and shall be open to inspection by the Utility at any time during office hours.	As this is a supply agreement, role of Utility's engineer has been kept till CoD only. Adherence to maintenance schedule is Supplier's prerogative. Hence this clause has been deleted.
4 Schedule-I	Period of the Contract of the Utility Engineer The Utility Engineer shall be appointed for the total Construction Period.	Utility Engineer shall be appointed for the total construction period. Hence, the clause suitably modified.
Annex – I	1.2 This TOR shall apply to construction, of the Power Station. 3(iv)<Omitted>; 5. <Omitted>	Role of Utility Engineer from Operation and maintenance period is removed as the ownership of the plant is with the successful bidder. Hence, role of Utility engineer in the O&M Phase is removed.
Default Escrow Agreement Schedule-J	11. Indemnity 11.1 General indemnity 11.1.1 The Utility will indemnify, defend and hold the Supplier and the Default Escrow Bank harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Utility of any of its obligations under this Agreement or on account of failure of the Utility to comply with Applicable Laws and Applicable Permits other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Supplier, its officers, servants and agents.	Modified for strengthening the clause.
Deed of Hypothecation Schedule-K	7. Indemnity 7.1 General indemnity 7.1.1 The Utility will indemnify, defend and hold the Supplier harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Utility of any of its obligations under this Deed or on account of failure of the Utility to comply with Applicable Laws and Applicable Permits which material and adversely affects the performance of the Supplier's obligations under this Deed, other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions	Modified for strengthening the clause.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	by the Supplier, its officers, servants and agents.	
	10.3 Priority of agreements In the event of any conflict between the Power Supply Agreement and this Agreement, the provisions contained in the Power Supply Agreement shall prevail over this Deed.	Priority of the agreements shall be set so that the PSA prevails over any Deed.
Letter of Credit Schedule-L	1.On the instructions of the Utility, we hereby establish this Letter of Credit in favour of the Supplier in the maximum aggregate amount of Rs. ... (Rupees)\$\$(the “Minimum Monthly Payment ”), payable not more than once in a month upon notice received from the Supplier to this effect	Modified as per the provisions of the PSA
	9.Partial drawal shall be permitted hereunder, provided that the maximum drawdown in any month shall not exceed the Minimum Monthly Payment	Modified as per the provisions of the PSA
	10.The Utility shall cause the Letter of Credit to be replenished to the equivalent of Minimum Monthly Payment within 7 (seven) days of a drawdown	Modified as per the provisions of the PSA
Panel of Chartered Accountants Schedule-N	The Utility shall invite offers from all reputable firms of Chartered Accountants who have conducted statutory audit of the annual accounts during last 5 years of twenty companies registered under the Companies Act, 1956/2013, including any re- enactment or amendment thereof, of which at least three should have been public sector undertakings; and neither the firm nor any of its partners should have been disqualified or black-listed by the Comptroller and Auditor General of India or the Utility.	The qualification of CA firms does not require such stringent conditions of 100 companies. Hence the clause relaxed.
Substitution Agreement 3.3.2 Schedule-P the Utility shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days; provided further that the Lenders’ Representative may at any time withdraw its representation hereunder and upon such withdrawal, the Utility may terminate this Agreement in accordance with the provisions hereof;	Withdrawal of Lender representative will not be allowed.
3.4.1	The Utility and the Supplier hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Utility under Clause 3.3.2, as the case may be, the Lenders’ Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Power Station including the Power Supply Agreement to the Nominated Company upon such Nominated Company’s assumption of the liabilities and obligations of the Supplier towards the Utility under the Power Supply Agreement and towards the Senior Lenders under the	Editorial change.

CI No.	Clause as proposed by MPPMCL	Rationale for Change
	Financing Agreements	
3.4.5	The transfer of Contract hereunder to a Nominated Company may, notwithstanding anything to the contrary in this Agreement and the Power Supply Agreement, be undertaken by transfer of no less than 75% (seventy five per cent) of the equity of the Supplier to the Nominated Company, and upon such transfer hereunder, the Nominated Company shall be deemed to be the Supplier under and in accordance with the provisions of this Agreement and the Power Supply Agreement.	Modified as per the provisions of PSA