PUMPED HYDRO STORAGE PURCHASE AGREEMENT

(PHSPA)

BETWEEN

ANDHRA PRADESH DISCOMs Namely

1. Andhra Pradesh Central Power Distribution Corporation Limited (APCPDCL),

AND

2. Eastern Power Distribution Company of Andhra Pradesh Limited. (APEPDCL),

AND

3. Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL)

AND

[Insert name of the Generator]

For

Procurement of 500 MW Energy Storage Capacity (8 hours per day, with a maximum of 6 hours continuous discharge) from Fully Commissioned or Partly Commissioned Pumped Storage Projects, anywhere in India, with input power from APDISCOMs through Competitive Bidding for a period of 5 years

Tender No.: APPCC/PSP-01/2026-27

Dated: 24-Sep-2026

PUMPED HYDRO STORAGE PURCHASE AGREEMENT

This Pumped Hydro Storage Purchase Agreement (hereinafter referred to as the "Agreement") is entered into on this …….. day of …… month, of …… year

BETWEEN

1. Andhra Pradesh Central Power Distribution Corporation Limited, a company incorporated under the Companies Act 2013,having its registered office at Corporate Office, besides Government Polytechnic, ITI Road, Vijayawada, Andhra Pradesh, herein after referred to individually, as 'APCPDCL.

And

2. Eastern Power Distribution Company of Andhra Pradesh Limited, a company incorporated under the Companies Act 1956 having its registered office at APEPDCL Corporate Office, P&T Colony Seethammadhara, Vishakhapatnam, Andhra Pradesh, hereinafter referred to individually, as 'APEPDCL'

And

3. Southern Power Distribution Company of Andhra Pradesh, a company incorporated under the Companies Act 1956 having its registered office at APSPDCL, Corporate Office, #19-13-65/A, Tiruchanoor Road behind Srinivasa Kalyana Mandapam, Keshavayanagunta, Tirupati, Andhra Pradesh. hereinafter referred to individually ,as 'APSPDCL'

(Here in after referred to as APCPDCL, APEPDCL and APSPDCL generally referred to as "DISC0M" or" Buying Entity/ Buying Utility" which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the FIRST PART.

AND

4. ……., incorporated under the Companies Act, 2013, having its registered office at ……., India (hereinafter referred to as the "Generator", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) of the SECOND PART.

The Generator and APDISCOMs shall be individually referred to as a "Party" and collectively as the "Parties".

WHEREAS:

A. The Procurer has resolved to procure Energy Storage Capacity of ……. MW, capable of a cumulative discharge of up to 8 (eight) hours per day with a maximum continuous discharge of 6 (six) hours, from Pumped Storage Project/s ("PSP") for a period of 5 (five) years, in accordance with the terms and conditions set forth in this Agreement.

B. The Procurer invited proposals by its Tender No: APPCC/PSP-01/2026-27 dated 24/09/2026 prescribing the technical and commercial terms and conditions for selection of Bidders for procurement of 500 MW of Energy Storage Capacity from Fully Commissioned or eligible Part-Commissioned Pumped Storage Project/s connected to the CTU or STU system and located anywhere in India, for a period of 5 (five) years. Pursuant thereto, APPCC received proposals from Bidders.

C. The Hon'ble Andhra Pradesh Electricity Regulatory Commission (APERC), vide its order or letter dated ……, accorded in-principal approval for procurement of the said Energy Storage Capacity. After evaluation of the proposals received, APPCC accepted the Bid of …… for procurement of …… MW of capacity from the Pumped Storage Project at [insert location of the PSP] and issued its Letter of Award No. ……., dated ……. (hereinafter called the "LOA") to the said Successful Bidder, requiring, inter alia, the execution of this Agreement.

D. The Generator, being the single legal entity that submitted the Bid in response to the APPCC Tender for procurement of ---- MW of Energy Storage Capacity from Pumped Storage Project/s, and having

been declared the Successful Bidder pursuant to issuance of the LOA dated _____, has agreed to undertake and perform all obligations and exercise all rights in accordance with the terms of this Agreement.

E. The Procurer, having accepted the Generator as the Successful Bidder under the APPCC Tender and having issued the said LOA, has accordingly agreed to enter into this Agreement with the Generator for procurement of Energy Storage Capacity from the Pumped Storage Project, subject to and on the terms and conditions set forth hereinafter.

F. The Procurer acknowledges that simultaneously with the execution of this Agreement, the Generator has submitted a Bank Guarantee towards Performance Security for the amount and in the manner set out in Clause 4.4.

G. The Request for Selection (RfS) No. …….. dated ……. prescribed the technical and commercial terms and conditions for selection of Bidders for procurement of 500 MW of Energy Storage Capacity, with a cumulative discharge of up to 8 hours per day and a maximum continuous discharge of 6 hours, for a period of 5 (five) years, and shall also form part of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

Contents

PUMPED HYDRO STORAGE PURCHASE AGREEMENT 2
Contents 4
ARTICLE 1: DEFINITION AND INTERPRETATION 8
1.1 Definitions 8
1.2 Interpretation 8
1.3 Measurements and arithmetic conventions 9
1.4 Priority of agreements, clauses and schedules 10
ARTICLE 2: SCOPE OF THE PROJECT 10
2.1 Scope of the Project 10
2.2 Part-Commissioned Projects 11
ARTICLE 3: TERM OF AGREEMENT 11
3.1 Effective Date 11
3.2 Term of Agreement 11
3.3 Period of Supply 12
3.4 Early Termination 12
3.5 Survival 12
ARTICLE 4: CONDITIONS SUBSEQUENT 12
4.1 Conditions Subsequent 12
4.2 Conditions Subsequent for the Generator 12
4.3 Conditions Subsequent for the Procurer 12
4.4 Consequences of Non-fulfilment of Post-Execution Obligations 13
ARTICLE 5: OBLIGATIONS OF THE GENERATOR 13
5.1 General Obligations 13
5.2 Specific Obligations 13
5.3 Equity Lock-in and Continuing Financial Capacity 14
5.4 Compliance with Dispatch and Scheduling 15
5.5 Metering and Data Communication 15
5.6 Payment of Charges and Taxes 15
5.7 Performance Security 15
5.8 Cooperation with the Procurer and APSLDC 15
5.9 Target Annual Availability and Liquidated Damages for Shortfall 15
ARTICLE 6: OBLIGATIONS OF THE PROCURER 16
6.1 General Obligations 16
6.2 Coordination with APSLDC 16
6.3 Provision of Energy for Charging 16
6.4 Grid Interface and Delivery Point 17
6.5 Payment and Billing Obligations 17
6.6 Regulatory and Statutory Coordination 17

ARTICLE 7: REPRESENTATIONS AND WARRANTIES 17
7.1 Representations and Warranties of the Generator 17
7.2 Representations and Warranties of the Procurer 18
7.3 Obligation to Notify Change 18
ARTICLE 8: DISPATCH 18
8.1 Scheduling and Dispatch 18
8.2 Alternate Source of Supply 19
ARTICLE 9: METERING 19
9.1 Meters 19
9.2 Measurement of Energy 20
9.3 Reporting of Metered Data and Parameters 20
ARTICLE 10: INSURANCE 20
10.1 Insurance 20
10.2 Application of Insurance Proceeds 20
10.3 Effect on Liability of the Procurer 21
ARTICLE 11: APPLICABLE TARIFF 21
11.1 Tariff Structure 21
11.2 Normative Availability 21
11.3 Liquidated Damages for Shortfall in Annual Availability 21
11.4 Cycle Loss Adjustment Mechanism 21
11.5 Operational Conditions for Tariff Applicability 22
11.6 Payment and Adjustments 22
11.7 Liquidated Damages for Delay in Making Capacity Available 22
ARTICLE 12: BILLING AND PAYMENT 23
12.1 General 23
12.2 Delivery and Content of Monthly Bills and Supplementary Bills 23
12.3 Payment of Monthly Bills 23
12.4 Late Payment Surcharge 24
12.5 Rebate 24
12.6 Payment Security Mechanism 24
12.7 Performance Guarantee 25
12.8 Disputed Bill 25
12.9 Annual Reconciliation and Final Settlement 25
ARTICLE 13: FORCE MAJEURE 26
13.1 Definition 26
13.2 Exclusions from Force Majeure 27
13.3 Notification of Force Majeure 27
13.4 Duty to Perform and Duty to Mitigate 27
13.5 Relief for Force Majeure 27

13.6 Performance Excused 27
13.7 Termination Due to Force Majeure Event 28
13.8 No Liability for Other Losses 28
ARTICLE 14: CHANGE IN LAW 28
14.1 Definitions 28
14.2 Relief for Change in Law 28
ARTICLE 15: TERMINATION 29
15.1 Termination for Generator Event of Default 29
15.2 Termination for Procurer Event of Default 29
15.3 Procedure for Generator or Procurer Event of Default 29
15.4 Termination Payment 30
15.5 Survival 30
ARTICLE 16: LIABILITY 30
16.1 Limitation on Liability 30
16.2 Duty to Mitigate 31
ARTICLE 17: GOVERNING LAW AND DISPUTE RESOLUTION 31
17.1 Governing Law 31
17.2 Amicable Settlement and Dispute Resolution 31
17.3 Dispute Resolution 31
17.4 Performance during Dispute 31
ARTICLE 18: ASSIGNMENT AND CHARGES 31
18.1 Assignments 31
ARTICLE 19: MISCELLANEOUS 32
19.1 Confidentiality 32
19.2 Waiver of Immunity 32
19.3 Waiver 32
19.4 Depreciation 32
19.5 Exclusion of Implied Warranties 33
19.6 Survival 33
19.7 Entire Agreement 33
19.8 Severability 33
19.9 No Partnership 33
19.10 Third Parties 33
19.11 Successors and Assigns 34
19.12 Notices 34
19.13 Delayed Payments 34
19.14 Counterparts 34
ARTICLE 20: DEFINITIONS 34
20.1 Definitions 35

SCHEDULE I: PROJECT PARTICULARS 39
EXECUTION 40

ARTICLE 1: DEFINITION AND INTERPRETATION

1.1 Definitions

a) The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 20) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

b) APPCC has issued this RfS as the Bid Coordinator, acting on behalf of and as the authorised representative of the APDISCOMs. APPCC may develop a suitable monitoring mechanism to monitor the performance of the Projects and carry out random checks to verify compliance with the provisions of the RfS and PHSPA

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires:

a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

b) references to the laws of the State of Andhra Pradesh, laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, by-laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

c) references to a "person" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, Government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above, and shall include successors and assigns;

d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

e) the words "include" and "including" are to be construed without limitation and shall be deemed to be followed by "without limitation" or "but not limited to", whether or not they are followed by such phrases;

f) references to "operation", "maintenance" or similar expressions shall, unless the context otherwise requires, include all activities relating to the safe, reliable and efficient functioning, upkeep, repair, testing, scheduling and performance optimisation of the Pumped Storage Project;

g) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

h) any reference to a day shall mean a reference to a calendar day;

i) references to a "business day" shall be construed as a reference to a day (other than a Sunday) on which banks in Vijayawada, Andhra Pradesh generally open for business;

j) any reference to a month shall mean a reference to a calendar month as per the Gregorian calendar;

k) references to any date or period shall mean and include such date or period as may be extended pursuant to this Agreement;

l) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

m) the words importing the singular shall include the plural and vice versa;

n) references to any gender shall include the other and the neutral gender;

o) "lakh" means a hundred thousand (1,00,000) and "crore" means ten million (1,00,00,000);

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

q) references to the "winding-up", "dissolution", "insolvency" or "reorganisation", the declaration of a Corporate Insolvency Resolution Process (CIRP) or the liquidation process of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business, including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;

r) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as a reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this sub-clause shall not operate so as to increase the liabilities or obligations of the Procurer hereunder or pursuant hereto in any manner whatsoever;

s) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party in this behalf, and not otherwise;

t) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

u) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;

v) the damages payable by either Party to the other, as set forth in this Agreement, whether on a per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "Damages"); and

w) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Generator to the Procurer shall be provided free of cost and in three copies; and if the Procurer is required to return any such Documentation with its comments and/or approval, it shall be entitled to retain two copies thereof.

1.2.3 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning; and for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system. All numerical values, including tariffs, charges and losses, shall be expressed up to a maximum of two (2) decimal points. Where rounding is

required, values of five (5) or more in the third decimal place shall be rounded upward, and values below five (5) rounded downward.

1.4 Priority of agreements, clauses and schedules

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement, are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

a) this Agreement; and

b) all other agreements and documents forming part hereof or referred to herein, including the RfS, i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail; and between Schedules and Annexes, the Schedules shall prevail;

c) between any two Schedules, the Schedule relevant to the issue shall prevail;

d) between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2: SCOPE OF THE PROJECT

2.1 Scope of the Project

The scope of the Project (the "Scope of the Project") shall mean and include, during the Term of this Agreement:

a) Energy Storage Capacity of …… MW contracted from the Generator's Pumped Storage Project (PSP), on a Finance-Own-Operate (FOO) basis, for a period of 5 (five) years from the Effective Date, extendable by up to 2 (two) years on the same terms and conditions, ending on the Expiry Date.

b) The Generator shall make available to the Procurer a Contracted Capacity of …… MW, capable of a cumulative discharge of up to 8 (eight) hours per day with a maximum continuous discharge of 6 (six) hours, as specified in the dispatch schedule provided by APSLDC. The fast transition between operating modes shall be 7 – 15 minutes, with a minimum discharge as per the minimum rated capacity of the generating unit(s) in any block.

c) Operate and maintain the Pumped Storage Project and make available the Contracted Capacity to the Procurer in accordance with the dispatch schedule issued by APSLDC, Good Industry Practice, Prudent Utility Practices, Applicable Law and the terms and conditions of this Agreement.

d) Ensure that the Pumped Storage Project has, and shall continue to maintain throughout the Term of this Agreement, valid grid connectivity and General Network Access (GNA) with the Inter-State Transmission System (ISTS) or the concerned State Transmission Utility (STU), as applicable, for both charging (pumping) and discharging (generation) operations. Where the GNA held as at the Effective Date covers injection only, the Generator shall obtain the necessary amendment from the CTU to include drawl rights for charging (pumping) prior to the Supply Start Date of the Commissioned Capacity.

e) The Generator shall bear all expenses, charges and losses from the Project up to and including the Delivery Point, in accordance with Applicable Law and the provisions of this Agreement.

f) Annual Availability: the Generator shall maintain an Annual Availability of not less than 90% for the Contracted Capacity during each Contract Year of the Term of this Agreement. The Generator shall declare its availability to APSLDC in accordance with Applicable Regulations and the dispatch instructions of APSLDC. In case of any shortfall below the required Annual Availability, the Generator shall be liable for Liquidated Damages as specified in Article 11 of this Agreement, consistent with the provisions of the Tender.

g) Cycle Loss performance: the Generator shall operate and maintain the Pumped Storage Project in a manner that ensures the actual monthly Cycle Loss does not exceed the declared Cycle Loss. The declared Cycle Loss shall remain fixed for the entire Term of this Agreement and shall not exceed 25%. In the event that the actual Cycle Loss exceeds the declared value, the applicable Monthly Fixed Charge (MFC) shall be adjusted in accordance with Article 11. If the actual Cycle Loss exceeds 25% in any month, no MFC shall be payable for that month.

h) Where the Project is a Part-Commissioned PSP, the Generator shall commission and make available the Balance Capacity to the Procurer on or before its CAD, in accordance with Clause 2.2 and Article 11.

2.2 Part-Commissioned Projects

a) Where the Project offered by the Generator is a Part-Commissioned PSP, the particulars of the total Project capacity, the capacity commissioned as at the Bid Due Date, the Contracted Capacity and the Balance Capacity shall be as set out in Schedule I to this Agreement, as declared by the Generator in its Bid. The CAD for each tranche shall be as defined in Article 20.

b) The Generator shall commission the Balance Capacity and make it available to the Procurer on or before its CAD, being 1st April 2027,or actual date of supply which ever is earlier. Supply of the Balance Capacity shall end on the common Expiry Date.

c) The Commissioned Capacity shall be made available for scheduling and dispatch from its Supply Start Date.

d) Failure to commission and make available the Balance Capacity by its CAD shall attract Liquidated Damages and the consequences set out in Clause 11.7.

ARTICLE 3: TERM OF AGREEMENT

3.1 Effective Date

This Agreement shall come into effect on the date of execution of this Agreement by the Parties, and such date shall be referred to as the "Effective Date". The obligations to make capacity available and to pay the Monthly Fixed Charge shall commence from the applicable Supply Start Date.

3.2 Term of Agreement

The Term of this Agreement shall commence from 1st January 2027 for a period of 5 (five) years, extendable for an additional period of up to two years – on the same terms and conditions as the current PHSPA, ending on the Expiry Date. The Parties may, 180 (one hundred and eighty) days prior to the Expiry Date, decide to extend the Term of this Agreement on same terms and conditions as the current PHSPA. The Expiry Date shall be common to the Commissioned Capacity and any Balance Capacity.

3.3 Period of Supply

The Generator shall make available the Commissioned Capacity and any Balance Capacity from their respective Supply Start Dates until the Expiry Date (the "Period of Supply").

3.4 Early Termination

This Agreement shall stand terminated before the Expiry Date if either the Procurer or the Generator terminates the Agreement pursuant to Article 15 of this Agreement.

3.5 Survival

The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive Liquidated Damages as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination, including those under Article 13 (Force Majeure), Article 15 (Termination), Article 16 (Liability), Article 17 (Governing Law and Dispute Resolution) and Article 19 (Miscellaneous), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement.

ARTICLE 4: CONDITIONS SUBSEQUENT

4.1 Conditions Subsequent

The Generator shall, within 7 (seven) days from the date of issuance of the Letter of Award, furnish the Performance Security in accordance with Clause 4.4 of this Agreement. Except for the furnishing of such Performance Security and, in the case of a Part-Commissioned PSP, the commissioning of the Balance Capacity by the Committed Availability Date, the Parties acknowledge that no other conditions subsequent relating to project development, land acquisition, statutory approvals, financial closure or commissioning are applicable under this Agreement in respect of the commissioned capacity.

4.2 Conditions Subsequent for the Generator

The Conditions Subsequent required to be satisfied by the Generator shall be deemed to have been fulfilled when the Generator shall have ensured that:

a) the Pumped Storage Project continues to hold and maintain, throughout the Term of this Agreement, all valid statutory approvals, permits, consents and licences required for its operation;

b) valid grid connectivity and General Network Access (GNA) for the Contracted Capacity, covering both drawal for charging (pumping) and injection for discharging (generation), are maintained throughout the Term of this Agreement in accordance with Applicable Law and relevant grid regulations;

c) the Pumped Storage Project continues to maintain valid approvals or authorisations for water use or allocation required for its operation during the Term of this Agreement, and copies thereof are provided to the Procurer upon request; and

d) in the case of a Part-Commissioned PSP, the Balance Capacity is commissioned and made available to the Procurer on or before the Committed Availability Date.

4.3 Conditions Subsequent for the Procurer

The Conditions Subsequent required to be satisfied by the Procurer shall be deemed to have been fulfilled when the Procurer shall have:

a) within a reasonable period from the date of execution of this Agreement, submitted this Agreement to the Hon'ble Andhra Pradesh Electricity Regulatory Commission (APERC) and obtained an order for adoption of the Tariff under Section 63 of the Electricity Act, 2003, and submitted a copy of this Agreement to APERC in accordance with the applicable regulatory requirements.

4.4 Consequences of Non-fulfilment of Post-Execution Obligations

a) Each Party shall perform its respective obligations set forth in Clauses 4.1 to 4.3 within the time period specified therein.

b) For the due and punctual performance of all obligations of the Generator under this Agreement, the Generator shall furnish to the Procurer an irrevocable and unconditional Performance Bank Guarantee issued by a scheduled commercial bank or a nationalised bank acceptable or Demand Draft or Insurance Surety Bond issued by any General Insurance Company registered with IRDAI to the Procurer, for an amount of INR 10,00,000 (Indian Rupees Ten Lakh only) per MW of the Contracted Capacity (the "Performance Security"). The Performance Security shall be provided in the form of a Demand Draft or Bank Guarantee or Insurance Surety Bond in favour of the Procurer, substantially in the format set out in APPENDIX II-B & APPENDIX II-BB of the Tender Document, and shall remain valid until 3 (three) months beyond the Expiry Date, including any extension under Clause 3.2, to cover settlement of final claims.

c) In the case of a Part-Commissioned PSP, the Performance Security shall cover the full Contracted Capacity, including the Balance Capacity, from the date of issuance of the LOA, and shall additionally secure the Liquidated Damages payable under Clause 11.7 for delay in making any Commissioned Capacity or Balance Capacity available.

ARTICLE 5: OBLIGATIONS OF THE GENERATOR

5.1 General Obligations

The Generator shall, at its own cost, risk and expense, operate and maintain the Pumped Storage Project in a safe, reliable and efficient manner and make available the Contracted Capacity to the Procurer in accordance with the provisions of this Agreement, the dispatch instructions issued by the Andhra Pradesh State Load Dispatch Centre (APSLDC), Good Industry Practice, Prudent Utility Practices, Applicable Law and the APPCC Tender Document for procurement of 500 MW of Energy Storage Capacity from Pumped Storage Projects.

5.2 Specific Obligations

Without prejudice to the generality of the foregoing, the Generator shall:

a) ensure that the Pumped Storage Project remains technically and operationally capable of supplying the Contracted Capacity with a cumulative discharge of up to 8 (eight) hours per day and a maximum continuous discharge of 6 (six) hours, fast transition between operating modes shall be 7 – 15 minutes, with a minimum discharge as per the minimum rated capacity of the generating unit(s) in any block, or such other profile as may be instructed by APSLDC from time to time within these limits;

b) maintain an Annual Availability of not less than 90% of the Contracted Capacity during each Contract Year of the Term of this Agreement, and be subject to applicable Liquidated Damages for any shortfall in accordance with Article 11;

c) maintain the declared Cycle Loss (in %) as specified in Clause 2.10 of the Tender Document, which shall remain fixed throughout the Term of this Agreement. The Generator shall ensure that the actual Cycle

Loss does not exceed the declared Cycle Loss, failing which the adjustment under Clause 2.10(d) of the Tender Document and Clause 11.4 of this Agreement shall apply; and in no event shall the actual Cycle Loss exceed 25% in any month, failing which the Monthly Fixed Charge for such month shall not be payable;

d) operate and maintain all Project components, including electro-mechanical, civil and auxiliary systems, in accordance with Good Industry Practice and the relevant codes and standards prescribed by CEA, CERC and APERC;

e) maintain valid statutory approvals, consents, licences and clearances required for the continued operation of the Project, including water use authorisation, and furnish copies thereof to the Procurer upon request;

f) ensure that valid grid connectivity and General Network Access (GNA) for the Contracted Capacity, covering both drawal and injection, are maintained throughout the Term of this Agreement in accordance with the CERC (Connectivity and General Network Access to the Inter-State Transmission System) Regulations and any subsequent amendments thereto;

g) bear all costs, charges and losses up to and including the Delivery Point, including transmission charges and losses, SLDC and scheduling charges, open access charges and any other applicable charges as per the Tender Document and this Agreement, for both charging (pumping) and discharging (generation);

h) comply with all scheduling, dispatch and metering instructions issued by APSLDC, including real-time communication of charging (pumping) and discharging (generation) data through the agreed interface and telemetry systems;

i) submit periodic operational reports, including availability declarations, daily charge-discharge logs and monthly performance summaries, in the manner prescribed by the Procurer or APSLDC;

j) not undertake any material modification, upgradation or augmentation of the Project that may affect its operational performance or technical parameters without the prior written consent of the Procurer, except for routine maintenance, repairs or replacements;

k) continue to own, operate and maintain the Project on a Finance-Own-Operate (FOO) basis, and not transfer, assign or dispose of any interest in the Project in a manner that adversely affects its ability to perform its obligations under this Agreement;

l) ensure that the Pumped Storage Project has Automatic Generation Control (AGC) functionality, as per IEGC 2023 and the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, as amended from time to time; and

m) ensure that the overall efficiency of the Pumped Storage Project generating units is not less than 75% at any point of time.

5.3 Equity Lock-in and Continuing Financial Capacity

a) The Generator represents that it satisfies the Financial Capacity requirements specified under Clause 6.4 of the APPCC Tender Document, including the minimum Net Worth requirement of INR 1.00 Crore (Indian Rupees One Crore only) per MW of the Contracted Capacity as on the last date of the preceding financial year, and the minimum annual turnover requirement of INR 1.00 Crore per MW of the quoted capacity.

b) The Generator's Net Worth has been certified by its Statutory Auditor in accordance with the applicable format prescribed in the Tender Document, being APPENDIX-V where the Generator meets the Net Worth requirement on its own, or ANNEX-II where the Generator meets the requirement by using the financial credentials of its Parent, Ultimate Parent, Affiliate or Group Company. A copy of the applicable certificate, as submitted with the Bid, shall form part of the records of this Agreement.

c) The Generator, or where applicable its Parent, Ultimate Parent, Affiliate or Group Company whose financial credentials were relied upon for qualification, shall maintain at all times during the Term of this Agreement a Net Worth not less than the minimum level specified above, and shall, upon request by the Procurer, furnish an updated certificate from its Statutory Auditor in the same applicable format to demonstrate continued compliance.

d) Where the Generator has relied upon the financial support or Net Worth credentials of a Parent, Ultimate Parent, Affiliate or Group Company, such entity shall continue to maintain its ownership, control or financial support to the Generator for the entire Term of this Agreement.

e) Any change in the ownership or control of the Generator, or in the controlling relationship between the Generator and its Parent, Ultimate Parent, Affiliate or Group Company, that occurs without the prior written consent of the Procurer shall constitute a Generator Event of Default under Article 15 of this Agreement.

5.4 Compliance with Dispatch and Scheduling

The Generator shall comply with all instructions issued by APSLDC regarding scheduling, dispatch and regulation of the Contracted Capacity, and shall ensure that all operations are carried out within the grid parameters and in accordance with the applicable Grid Code, CERC and APERC regulations, and dispatch protocols.

5.5 Metering and Data Communication

The Generator shall ensure accurate and reliable metering at the Delivery Point in accordance with the CEA (Installation and Operation of Meters) Regulations, 2006, and the Grid Code, as amended and revised from time to time and shall provide online real-time data on energy storage, charging (pumping) and discharging (generation) to the Procurer and APSLDC as per applicable regulations.

5.6 Payment of Charges and Taxes

The Generator shall bear and pay all statutory taxes, duties, levies and charges applicable to the operation and maintenance of the Project and to the delivery of the Contracted Capacity up to the Delivery Point.

5.7 Performance Security

The Generator shall maintain the Performance Security in accordance with Clause 4.4, and any failure to do so shall constitute a Generator Event of Default under this Agreement.

5.8 Cooperation with the Procurer and APSLDC

The Generator shall extend full cooperation to the Procurer and APSLDC for all scheduling, metering, billing and verification activities required for the implementation of this Agreement and for ensuring compliance with Applicable Laws and regulations.

5.9 Target Annual Availability and Liquidated Damages for Shortfall

a) The Generator shall ensure a Target Annual Availability of ninety percent (90%) for each Contract Year, calculated at the end of the respective year in accordance with Clause 2.11 of the APPCC Tender Document. The obligation shall apply to the Commissioned Capacity and any Balance Capacity from their respective Supply Start Dates. In any Contract Year in which the two tranches have different Supply Start Dates, or a tranche is available for only part of the year, Annual Availability shall be

computed separately for each tranche, with the number of days in the Contract Year taken as the days from its Supply Start Date.

b) The Annual Availability shall be computed as follows:

Annual Availability = (Sum of all 15-minute time-block Declared Availability in the Contract Year) ÷ (Contracted Capacity × 96 × (number of days in the Contract Year − number of days affected by Scheduled Maintenance, Grid Constraints and Force Majeure))

where the Declared Availability shall be based on availability declarations made to APSLDC for the entire Contract Year, excluding periods of grid unavailability or non-scheduling by APSLDC.

c) In the event that the Annual Availability achieved by the Generator at the end of a Contract Year is less than 90%, the Generator shall be liable to pay Liquidated Damages to the Procurer in accordance with Clause 11.3.

d) If the Annual Availability achieved by the Generator is equal to or greater than 90%, no Liquidated Damages shall be applicable.

ARTICLE 6: OBLIGATIONS OF THE PROCURER

6.1 General Obligations

The Procurer shall discharge its obligations under this Agreement in a timely manner and in accordance with the APPCC Tender Document, Applicable Law and the provisions of this Agreement. The Procurer shall act in good faith and extend all reasonable cooperation required for the scheduling, dispatch, metering and payment processes during the Term of this Agreement.

6.2 Coordination with APSLDC

a) The Procurer shall coordinate with APSLDC for scheduling, dispatch and regulation of the Contracted Capacity in accordance with the Grid Code, APERC regulations and dispatch protocols applicable to energy storage systems.

b) The Procurer shall ensure that dispatch instructions issued to the Generator are in accordance with the day-ahead and real-time schedules approved by APSLDC.

c) The Procurer shall facilitate communication between the Generator and APSLDC for (i) submission of availability declarations, (ii) scheduling of charging (pumping) and discharging (generation) cycles, and (iii) receipt of metering and telemetry data from the PSP.

d) The Procurer shall ensure that APSLDC provides the discharge schedule to the PSP as per system requirement, with an assured minimum continuous discharge schedule of 1 (one) hour.

6.3 Provision of Energy for Charging

a) The Procurer shall arrange for and provide to the Generator the energy required for charging (pumping) the Pumped Storage Project at the Delivery Point, free of cost, up to the extent of the declared Cycle Loss of the Project, in accordance with the dispatch schedule approved by APSLDC and Clause 2.3(i) of the APPCC Tender Document.

b) The Procurer shall ensure that a minimum of 51% (fifty-one percent) of the input energy provided for charging (pumping) on an annual basis is sourced from Renewable Energy sources to avail the waiver on ISTS charges.

c) The energy supplied by the Procurer under this Clause shall be treated solely as input energy for the charging (pumping) operation of the PSP and shall not be billed separately to the Generator.

d) The Procurer shall ensure that such input energy is made available in accordance with the dispatch schedule issued by APSLDC to enable the Generator to achieve the cumulative discharge of up to 8 (eight) hours per day required under this Agreement.

e) Any deviation from the approved dispatch schedule for charging (pumping) or discharging (generation), and the corresponding Deviation Settlement Mechanism (DSM) charges, shall be borne by the Generator in accordance with the applicable CERC (Deviation Settlement Mechanism and Related Matters) Regulations, as amended from time to time.

f) The Procurer shall have no financial or operational liability for any deviation or imbalance caused by the Generator in the drawal (charging) or injection (discharging) of power from the grid.

g) Planned maintenance or reservoir shutdowns shall be notified 15 (fifteen) days in advance to the Procurer and to APSLDC. Annual outage shall not exceed 15 (fifteen) days cumulatively per Contract Year.

6.4 Grid Interface and Delivery Point

a) The Procurer shall accept delivery of energy at the Delivery Point as defined in this Agreement and in accordance with the APSLDC-approved dispatch schedule.

b) The Procurer shall coordinate with APSLDC and APTRANSCO as the State Transmission Utility to ensure that no curtailment occurs except under directions issued by APSLDC for grid security or operational reasons.

c) Any curtailment or non-scheduling caused by APSLDC or the grid shall not be considered as non-availability of the Generator for the purpose of Annual Availability computation.

d) The Procurer shall be responsible for all transmission charges and losses and any other charges applicable under the respective regulations beyond the Delivery Point.

6.5 Payment and Billing Obligations

a) The Procurer shall make payments to the Generator for the Contracted Capacity in accordance with Articles 11 and 12.

b) The Procurer shall establish and maintain the Payment Security Mechanism as specified in Clause 12.6.

c) The Procurer shall ensure that all invoices are verified and that undisputed amounts are released within the period specified in this Agreement.

6.6 Regulatory and Statutory Coordination

a) The Procurer shall submit this Agreement to APERC and obtain adoption of the Tariff under Section 63 of the Electricity Act, 2003, in accordance with Clause 4.3(a).

b) The Procurer shall comply with all applicable APERC and CERC directions, regulations and approvals required for implementation of this Agreement.

ARTICLE 7: REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Generator

In addition to any other representations and warranties contained in this Agreement, the Generator represents and warrants that:

a) it is duly organised, validly existing and in good standing under the laws of India;

b) it possesses all valid and subsisting consents, clearances, licences, permits and approvals, including certificates of commissioning and other statutory authorisations required for lawful operation of the PSP and for the supply of energy storage services to the Procurer;

c) it is the owner and operator of the Pumped Storage Project offered under this Agreement, and the said Project (or, in the case of a Part-Commissioned PSP, the commissioned portion thereof) was commissioned and operational prior to the Bid Due Date in accordance with Applicable Law and the eligibility requirements specified in the APPCC Tender Document;

d) it meets and shall continue to maintain all technical and financial eligibility requirements stipulated under the Tender Document, including (i) compliance with the eligibility conditions for a Fully Commissioned or eligible Part-Commissioned PSP with untied capacity, (ii) compliance with the financial criteria specified in Clause 6.4 of the Tender, including a minimum Net Worth of INR 1.00 Crore per MW of Contracted Capacity and minimum annual turnover of INR 1.00 Crore per MW of quoted capacity, and (iii) submission of a certificate from the Statutory Auditor in the format prescribed under APPENDIX-V or ANNEX-II of the Tender Document, as applicable;

e) it has not misrepresented or concealed any material facts in the Bid submitted pursuant to the APPCC Tender, and confirms that all information, representations and certificates submitted remain true, complete and valid;

f) the execution, delivery and performance of this Agreement by the Generator has been duly authorised by all necessary corporate actions and does not violate any law, judgment, decree, contract or agreement applicable to it;

g) it has not been declared insolvent or bankrupt, and has not been blacklisted or debarred by any Government entity, public sector undertaking or electricity distribution utility in India;

h) neither it nor any of its Affiliates has been declared a wilful defaulter by any lender; and

i) it acknowledges that the Procurer has entered into this Agreement relying upon the truth and accuracy of the representations and warranties made herein, and undertakes to promptly notify the Procurer in writing of any event or circumstance that would cause any of these representations or warranties to become untrue or inaccurate in any material respect.

7.2 Representations and Warranties of the Procurer

The Procurer hereby represents and warrants to the Generator that, as of the date of execution of this Agreement and continuing throughout the Term:

a) it has full power and authority to enter into this Agreement and has taken all necessary action to authorise the execution, delivery and performance of this Agreement; and

b) this Agreement constitutes the Procurer's legal, valid and binding obligation, enforceable against it in accordance with the terms hereof.

7.3 Obligation to Notify Change

In the event that any of the representations or warranties made or given by a Party ceases to be true or stands changed, the Party which had made such representation or given such warranty shall promptly notify the other of the same.

ARTICLE 8: DISPATCH

8.1 Scheduling and Dispatch

a) The Pumped Storage Project shall maintain compliance with the applicable Grid Code, Central Electricity Authority regulations and Central or State guidelines, requirements and directions, if any, as specified by the concerned SLDC or RLDC from time to time.

b) The Generator shall declare the availability of the Project to APSLDC on a day-ahead basis, including the availability for discharge and the corresponding charging (pumping) requirements. Dispatch instructions issued by APSLDC shall be binding on both Parties.

c) The Generator shall ensure that the Project is capable of a cumulative discharge of up to 8 (eight) hours per day with a maximum continuous discharge of 6 (six) hours, in line with the APPCC Tender Document and as scheduled by APSLDC.

d) APSLDC shall take dynamic decisions depending upon grid conditions and the state of charge of the PSP for the available quantum of power required for charging (pumping) and discharging (generation), and shall provide the discharge schedule to the PSP as per system requirement, with an assured minimum continuous discharge schedule of 1 (one) hour.

e) The Procurer shall have the right to schedule the discharge of the PSP at its discretion in any number of discharges within the daily cumulative limit of 8 (eight) hours, provided that adequate charging (pumping) power has been made available prior to such discharge, and subject to the provision of adequate transition time between generation and pumping modes.

8.2 Alternate Source of Supply

a) During the Term, if the Generator is unable to provide the Contracted Storage Capacity to the Procurer from the Power Station, except due to a Force Majeure Event or a Procurer Event of Default, the Generator, with the prior written approval of the Procurer and not otherwise shall supply the Contracted Storage Capacity from an alternative generation source (only from a PSP project) to meet its obligations under the PHSPA. Such capacity shall be supplied to the Procurer at the same charges as per the terms of the PHSPA. The Generator shall bear all applicable charges and losses up to the Delivery Point, including ISTS/STU transmission charges, transmission losses, open access charges, scheduling charges, deviation charges and any other statutory or regulatory charges.

b) Where the Generator proposes to utilise an alternate Pumped Storage Project as the source for providing the storage service, such change of the plant from which the service is supplied shall be permitted only upon the prior approval of the Procurer, and shall be subject to such terms and conditions as the Procurer may determine. Any storage service supplied from an alternate Pumped Storage Project without such prior written approval shall not be eligible for billing or payment under this Agreement. Only after obtaining such approval may the Generator raise the invoice for the Monthly Fixed Charge on the alternate PSP entity supplying the storage service. In such a case, the name of the contracting entity in this Agreement shall be modified accordingly by way of an addendum, with all other terms, conditions and parameters remaining unchanged.

ARTICLE 9: METERING

9.1 Meters

a) For installation of meters, meter testing, meter calibration, meter reading and all matters incidental thereto, the Generator and the Procurer shall follow and be bound by Applicable Laws, including the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, and the Grid Code, as amended and revised from time to time.

b) The Generator shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters up to the Inter-Connection Point.

c) In addition to ensuring compliance with the applicable codes, the Generator shall install main and check meters at the Inter-Connection Point along with stand-by meter(s) as per the applicable Central and State regulations.

9.2 Measurement of Energy

a) Measurement of electrical energy shall be done at the Inter-Connection Point or points by the metering system. Metering shall be at the CTU or STU (ISTS or In.STS) sub-station. For commercial settlement, the Inter-Connection Point or Delivery Point shall mean the point at the sub-station of the CTU or STU.

b) All costs, charges and losses up to the Delivery Point during discharge mode shall be to the account of the Generator.

c) All costs, charges and losses up to the Delivery Point during pumping mode shall be to the account of the Procurer for the Period of Supply.

9.3 Reporting of Metered Data and Parameters

a) The Generator shall install the necessary equipment at the Project site for regular monitoring of operating parameters, including minimum head level available in the reservoir, conversion cycle loss and auxiliary consumption, and simultaneously for monitoring of the electric power generated in generation mode and consumed in pumping mode.

b) The Generator shall make online arrangements for regular submission of the above data to the RLDC, APSLDC and the Procurer for the entire Term of this Agreement.

c) Reports on the above parameters shall be submitted by the Generator to the RLDC, APSLDC and the Procurer on a monthly basis for the entire Term of this Agreement.

d) The PSP SCADA shall be compatible with the RLDC and APSLDC SCADA systems, as upgraded from time to time. All real-time online data shall be accessible to the RLDC, APSLDC and the Procurer. Web-based monitoring shall be available and shall not be machine dependent, and it shall be possible to download reports from a remote web client in PDF or Excel format.

e) The Generator and the Procurer shall follow the forecasting and scheduling process as per the prevailing regulations issued by APERC and CERC in this regard.

ARTICLE 10: INSURANCE

10.1 Insurance

The Generator shall effect and maintain, or cause to be effected and maintained, at its own cost and expense, throughout the Term of this Agreement, insurances against such risks, with such deductibles and with such endorsements and co-insured(s) as Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements.

10.2 Application of Insurance Proceeds

a) Save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Project or any part of the Project shall first be applied to reinstatement, replacement or renewal of such loss or damage.

b) If a Force Majeure Event renders the Project no longer economically and technically viable, and the insurers under the Insurances make payment on a "total loss" or equivalent basis, the Procurer shall have no claim on such proceeds.

10.3 Effect on Liability of the Procurer

Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured, or for which the Generator can claim compensation under any Insurance, shall not be charged to or payable by the Procurer.

ARTICLE 11: APPLICABLE TARIFF

11.1 Tariff Structure

a) The tariff for procurement of Energy Storage Capacity by the Procurer from the Generator under this Agreement shall be based on the Annual Fixed Charge (AFC) determined in accordance with Clause 6.12(a) of the APPCC Tender Document, following the e-Reverse Auction.

b) The AFC shall be expressed in INR/MW/Annum, up to a maximum of 2 (two) decimal places, and shall remain firm and fixed for the entire Term of this Agreement.

c) The Monthly Fixed Charge (MFC) payable to the Generator shall be a derived value, computed as follows:

MFC (INR/MW/Month) = AFC (INR/MW/Annum) ÷ 12

d) The AFC shall be derived from the Total Annual Storage Cost discovered at the end of the e-Reverse Auction, by adjusting the Declared Cycle Loss, as follows:

AFC = Total Annual Storage Cost ÷ (1 + Cycle Loss %)

11.2 Normative Availability

The quoted tariff is based on a Target Annual Availability of ninety percent (90%) of the Contracted Capacity. Availability achieved below 90% shall attract Liquidated Damages as provided in Clause 11.3, while no additional payment shall be due for availability above 90%.

11.3 Liquidated Damages for Shortfall in Annual Availability

If, at the end of any Contract Year, the Annual Availability of the Project is less than 90%, the Generator shall pay to the Procurer Liquidated Damages, computed in accordance with Clause 2.12 of the APPCC Tender Document, as follows:

Liquidated Damages (Availability) = 1.5 × AFC (INR/MW/Annum) × Contracted Capacity (MW) × (90 – Actual Availability in %) / 100, pro-rated for any partial Contract Year.

where the Actual Availability is the Annual Availability achieved during the Contract Year, computed in accordance with Clause 5.9(b) and certified by APSLDC. The Liquidated Damages amount shall be deducted from any of the unpaid existing monthly bills or the subsequent monthly payments due to the Generator. No Liquidated Damages shall apply if the Annual Availability is equal to or greater than 90%.

11.4 Cycle Loss Adjustment Mechanism

a) The cost of supplying pumping energy up to the Delivery Point shall be borne by the Procurer up to the extent of the Declared Cycle Loss, in accordance with Clause 6.3.

b) If, for any month, it is found that the Generator has not adhered to the Declared Cycle Loss, such shortfall in performance shall be adjusted in the Monthly Fixed Charge payable to the Generator for that month in accordance with the formula below.

c) The tariff adjustment for deviation between the Declared Cycle Loss and the actual Cycle Loss shall be applied as follows:

Adjusted MFC = MFC − [(Input Energy at Actual RtE − Input Energy at RtE calculated on the Declared Cycle Loss) × Additional Input Energy Charges]

The Additional Input Energy Charges shall be as set out below:

Cycle Loss deviation from Declared Cycle Loss	Excess Input Energy to be billed at
≤ 10%	1.5 × simple average of the MCP of the DAM for the relevant month
> 10%	2 × simple average of the MCP of the DAM for the relevant month

where Cycle Loss Deviation (%) = Actual Cycle Loss in the month (%) − Declared Cycle Loss (%).

d) If the actual Cycle Loss exceeds 25% in any month, no Monthly Fixed Charge shall be payable for that month.

11.5 Operational Conditions for Tariff Applicability

a) The output (discharge) energy during the Term shall at all times correspond to the Contracted Capacity, subject to declared availability and dispatch instructions issued by APSLDC.

b) Based on the machine availability declared by the Generator, APSLDC or the Procurer shall provide the time blocks for pumping and generation and schedule the corresponding injection into the grid. Any deviation from the schedule shall be governed and settled in accordance with the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, as amended from time to time. All deviation charges, liabilities and penalties under the DSM Regulations shall be borne by the Generator.

c) Reactive energy billing: reactive power charges and charges against power drawn from the grid, as per CERC and APERC regulations, shall be payable by the Generator.

11.6 Payment and Adjustments

The Procurer shall make monthly payments to the Generator based on the Contracted Capacity and the Monthly Fixed Charge, subject to adjustment for (i) Cycle Loss adjustments under Clause 11.4 on a monthly basis, as certified by APSLDC, and (ii) Liquidated Damages for shortfall in Annual Availability below 90%, computed at the end of each Contract Year based on APSLDC certification (iii) any others, if any.

11.7 Liquidated Damages for Delay in Making Capacity Available

a) If the Generator fails to make any part of the Contracted Capacity, whether Commissioned Capacity or Balance Capacity (the "Delayed Capacity"), available for scheduling and dispatch on or before its CAD, other than by reason of a Force Majeure Event or a Procurer Event of Default, the Generator shall be liable for Liquidated Damages as follows, with days of delay counted from the later of the CAD and the Effective Date. No Liquidated Damages shall accrue in respect of any period before the Effective Date.

(i) for a delay of up to 60 (sixty) days: LD = Performance Security × (Delayed Capacity ÷ Contracted Capacity) × (days of delay ÷ 60), recoverable by encashment of the Performance Security;

(ii) for a delay beyond 60 (sixty) days: the Performance Security attributable to the Delayed Capacity shall be encashed in full, and the Generator shall in addition pay a penalty equal to 3 (three) months' MFC for the Delayed Capacity.

Illustration: Contracted Capacity of 200 MW, of which 50 MW is delayed.

Delay of 10 days: LD = Performance Security × (50/200) × (10/60).

Delay beyond 60 days: LD = Performance Security × (50/200) × (60/60) + 3 × MFC (INR/MW/Month) × 50 MW.

b) Where the delay exceeds 60 (sixty) days, the Procurer may further, at its option, reduce the Contracted Capacity by the Delayed Capacity or terminate this Agreement in respect of such capacity, without prejudice to any other right or remedy available to it.

c) The Monthly Fixed Charge shall be payable in respect of each tranche of capacity from its Supply Start Date until the Expiry Date, pro-rated for any part month. No Monthly Fixed Charge shall be payable for any Delayed Capacity until it is made available.

d) Procurer may, in addition, claim penalties and consequential damages available under law.

e) Where any capacity achieves COD, or is otherwise ready for scheduling and dispatch, before its Supply Start Date, the Procurer may, by not less than 7 (seven) days' written notice to the Generator, elect to schedule such capacity from a date specified in the notice, being a date on or after the Effective Date (the "Early Scheduling Date"). Save as aforesaid, no deemed availability, deemed dispatch, deemed generation, Monthly Fixed Charge or other compensation shall be payable on account of early COD or early readiness of any capacity.

ARTICLE 12: BILLING AND PAYMENT

12.1 General

The Generator shall raise a Monthly Bill on the Procurer for the Contracted Capacity made available during each billing month in accordance with Article 11. The Bill shall be prepared based on the declared availability, scheduling and certification issued by APSLDC.

12.2 Delivery and Content of Monthly Bills and Supplementary Bills

a) Commencing from the month following the month in which the first Supply Start Date occurs, the Generator shall issue to the Procurer a signed Monthly Bill or Supplementary Bill for the immediately preceding month, by the 5th (fifth) day of each succeeding month or, if such day is not a Business Day, the immediately following Business Day, along with all relevant documents.

b) Each Monthly Bill shall include all charges as per this Agreement for the Contracted Capacity made available for the relevant month, based on energy accounts issued by the RLDC, APSLDC or any other competent authority, which shall be binding on both Parties.

12.3 Payment of Monthly Bills

a) The Procurer shall, within 45 (forty five) days of receipt of a Monthly Bill or Supplementary Bill in accordance with Clause 12.2(a) (the "Payment Due Date"), make payment of the amount claimed directly, through electronic transfer, to the nominated bank account of the Generator, save and except any amounts which it determines as not payable or disputed (the "Disputed Amounts").

b) The due date for making payment shall be the 45th day (or, if such day is not a Business Day, the immediately succeeding Business Day) after the bill is received by the Procurer by email at [insert email ID] up to 12:00 hours; a bill received after 12:00 hours shall be treated as received on the next day. For the purpose of determination of the due date, day 1 shall be the X+1 day, where X is the date of receipt of the bill by the Procurer.

c) All payments required to be made under this Agreement shall be subject to any deduction or set-off for (i) deductions required by law, and (ii) amounts claimed by the Procurer from the Generator through an invoice and not disputed by the Generator within thirty (30) days of receipt of such invoice, such deduction or set-off to be made to the extent of the amounts not disputed.

d) The Generator shall open a bank account at [insert place] (the "Generator's Designated Account") for all payments, including Supplementary Bills, to be made by the Procurer to the Generator, and shall notify the Procurer of the details of such account within 15 (fifteen) days from the Effective Date and in any event before the dispatch of the first Monthly Bill.

12.4 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by the Procurer beyond its due date, a Late Payment Surcharge shall be payable to the Generator as per the Electricity (Late Payment Surcharge and Related Matters) Rules, as amended from time to time or any subsequent re-enactment thereof. The Late Payment Surcharge shall be claimed by the Generator through a Supplementary Bill.

12.5 Rebate

For payment of any Bill on or before the due date, the following rebate shall be allowed to the Procurer:

a) if the Procurer makes payment within five (5) working days from the date of submission of a valid Monthly Bill, a rebate of 2% shall be allowed on the payable amount (excluding taxes and statutory levies);

b) if payment is made within thirty (30) working days from the date of submission of a valid Monthly Bill, a rebate of 1.5% shall be allowed;

c) no rebate shall apply for payments made after thirty (30) days.

The counting of days shall be exclusive of the day of submission of the invoice.

12.6 Payment Security Mechanism

a) The Procurer and the Generator shall, within 30 (thirty) days from the Effective Date and in any event before the first Supply Start Date, execute a default escrow agreement with the Procurer's bank substantially for the establishment and operation of the default escrow account (the "Default Escrow Account") in favour of the supplier. The Parties agree and acknowledge that the Default Escrow Account shall be established and maintained at a bank where at least 30% (thirty per cent) of the Procurer's total monthly Revenues are normally deposited (the "Default Escrow Bank"). The Procurer expressly agrees and undertakes that throughout the term of the Contract Period, no less than 30% (thirty per cent) of its total Revenues shall continue to be deposited at that bank or any substitute thereof that the Parties may by mutual agreement determine and Revenues equivalent to 100% (one hundred per cent) of the Monthly Fixed Charges payable for the Contracted Capacity (the "Maximum Monthly Payment") shall be routed every month through the Default Escrow Account in accordance with the provisions of the Default Escrow Agreement.

b) The Procurer and the Generator shall, within 30 (thirty) days from the Effective Date and in any event before the first Supply Start Date, execute a deed of hypothecation, whereby the Procurer shall

hypothecate to the Generator an amount equal to Maximum Monthly Payment, to be deposited every month in the Default Escrow Account for discharging the liabilities arising out of and in relation to the Secured Obligations.

c) The Generator has the first priority charge on the Revenues deposited into the Default Escrow Account, in accordance with the terms of the Default Escrow Agreement and the Deed of Hypothecation, but not exceeding the Maximum Monthly Payment for and in respect of any month.

12.7 Performance Guarantee

a) The Performance Security shall be furnished, maintained and extended in accordance with Clause 4.4.

b) Intentionally left blank.

c) The Procurer shall have the right to invoke or encash the Performance Security, partially or fully, upon the occurrence of a Generator Event of Default, non-performance or failure to meet contractual obligations, without any prior notice to or consent from the Generator, in the manner set out in the Tender and this Agreement.

d) Upon invocation, the Generator shall replenish or restore the Performance Security to its full value within fifteen (15) days, failing which such non-replenishment shall constitute a Generator Event of Default.

e) The Performance Security shall be released by the Procurer 3 (three) months after the Expiry Date, provided the Generator has duly performed all its obligations and no claim remains outstanding.

12.8 Disputed Bill

a) If the Procurer disputes any part of a Monthly Bill or Supplementary Bill, it shall, within thirty (30) days of receiving such Bill, issue a Bill Dispute Notice specifying (i) details of the disputed amount, (ii) its estimate of the correct amount, and (iii) all supporting documents.

b) If the Generator accepts the claim raised in the Bill Dispute Notice, it shall issue a revised Bill in the next billing cycle and refund any excess payment with interest at the Late Payment Surcharge rate, applied from the date on which such excess payment was made up to and including the date on which the refund is received.

c) If the Generator disagrees, it shall issue a Bill Disagreement Notice within fifteen (15) days stating reasons and its counter-amount. Both Parties shall meet within fifteen (15) days to attempt amicable resolution.

d) If unresolved, the dispute shall be referred to Article 17.

f) Failure to issue a Bill Dispute Notice within thirty (30) days shall render the Bill conclusive and binding, subject to annual reconciliation under Clause 12.9.

12.9 Annual Reconciliation and Final Settlement

a) The Parties shall undertake annual reconciliation of all accounts pertaining to each Contract Year within sixty (60) days from the end of such Contract Year.

b) The reconciliation shall include (i) verification of Annual Availability and computation of Liquidated Damages, if any, for shortfall below 90%; (ii) adjustment of Cycle Loss as per Clause 11.4; (iii) reconciliation of Supplementary Bills or corrections raised during the year; (iv) accounting of rebates as per Clause 12.5; (v) verification of the 51% renewable energy content of input energy under Clause 6.3(b); and (vi) any other adjustments, taxes, duties or mutually agreed true-ups.

c) The reconciliation shall be based on certified data from APSLDC and verified metering records at the Delivery Point.

d) Upon completion of reconciliation, the net amount payable, if any, shall be settled within thirty (30) days.

e) Any delay in payment of reconciled amounts shall attract Late Payment Surcharge as per Clause 12.4.

f) Upon expiry or termination of this Agreement, the Parties shall carry out a final settlement of all accounts within sixty (60) days, covering all outstanding Liquidated Damages, rebates, adjustments and pending claims.

ARTICLE 13: FORCE MAJEURE

13.1 Definition

"Force Majeure" means any event or circumstance, or combination of events or circumstances, stated below which wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party, could not have been prevented or overcome by the exercise of due diligence and Good Industry Practice, and have a Material Adverse Effect on the Affected Party:

a) acts of God, including lightning, floods, earthquakes, landslides, cyclones or other natural disasters;

b) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

c) compulsory acquisition in the national interest or expropriation of any Project Assets or rights of the Generator or of its contractors;

d) any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and which causes the operation of the Project to be financially unviable or otherwise not feasible;

e) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

f) any judgment or order of any court of competent jurisdiction or statutory authority made against the Generator in any proceedings, for reasons other than (i) failure of the Generator to comply with any Applicable Law or Applicable Permit, (ii) breach of any Applicable Law or Applicable Permit or of any contract, (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement;

g) unlawful, unauthorised or without-jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Generator or any of its contractors to perform their respective obligations under this Agreement, provided that such delay, modification, denial, refusal or revocation did not result from the Generator's or any contractor's inability or failure to comply with any condition relating to the grant, maintenance or renewal of such approval;

h) the discovery of geological conditions, toxic contamination or archaeological remains on the Project site that could not reasonably have been expected to be discovered through an inspection of the Project site, or any event or circumstance of a nature analogous to any of the foregoing; and

j) an event of force majeure affecting the concerned STU or CTU, thereby affecting the evacuation of power.

13.2 Exclusions from Force Majeure

Force Majeure shall not include:

a) unavailability of the Project or its equipment due to breakdown, wear and tear, routine maintenance, or water unavailability under normal operating conditions;

b) failure or negligence of the Affected Party, or its contractors, suppliers or employees;

c) financial hardship, fluctuations in market prices, or shortage of funds;

d) failure to achieve the Target Annual Availability due to operational inefficiencies;

e) reservoir management or internal operational constraints under the control of the Generator; or

f) strikes at the facilities of the Affected Party.

13.3 Notification of Force Majeure

a) The Affected Party shall give written notice of the occurrence of a Force Majeure Event to the other Party within seven (7) days of its occurrence, describing in reasonable detail the nature of the event, its estimated duration and its likely impact on performance.

b) The Affected Party shall continue to perform all obligations not affected by the Force Majeure Event and shall use all reasonable efforts to mitigate its impact.

c) The Affected Party shall notify the cessation of the Force Majeure Event within seven (7) days of such cessation.

d) Each Party shall maintain records and documents evidencing the occurrence and duration of the Force Majeure Event.

13.4 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Clause 13.1, the Affected Party shall continue to perform its obligations pursuant to this Agreement, and shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

13.5 Relief for Force Majeure

a) No Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event.

b) Each Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including those specified under Articles 5 and 6.

c) For the avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to the occurrence of a Force Majeure Event shall be suspended or excused due to the occurrence of such event.

13.6 Performance Excused

a) The Affected Party, to the extent rendered unable to perform its obligations or any part thereof under this Agreement as a consequence of a Force Majeure Event, shall be excused from performance of such obligations for a period equal in length to the duration for which such Force Majeure Event subsists, provided that such period shall not exceed 120 (one hundred and twenty) days from the date of issuance of the Force Majeure notice, or any extended period as mutually agreed.

b) For the period during which performance is excused, the Term of this Agreement may be extended on a day-to-day basis as mutually agreed by the Parties.

c) A Party shall be excused from performance only to the extent reasonably warranted by the Force Majeure Event.

d) Nothing shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

13.7 Termination Due to Force Majeure Event

In the event a Force Majeure Event subsists for a period of more than 6 (six) months during the Term of this Agreement, either Party shall be entitled to terminate this Agreement by issuing a Termination Notice to the other Party. Upon such termination, the Performance Security shall be returned to the Generator and no termination compensation shall be payable by either Party, save for amounts accrued and payable up to the effective date of termination.

13.8 No Liability for Other Losses

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

ARTICLE 14: CHANGE IN LAW

14.1 Definitions

In this Article 14, "Change in Law" means the occurrence of any of the following events after the Bid Due Date, resulting in any additional recurring or non-recurring expenditure by the Generator or any income to the Generator:

a) the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India of any Applicable Law, including rules and regulations framed pursuant to such law;

b) a change in the interpretation or application of any Applicable Law by any Government Instrumentality having the legal power to interpret or apply such law, or by any competent court of law; or

c) any change in taxes and duties, or the introduction of any taxes and duties, made applicable to the supply of energy storage services by the Generator as per the terms of this Agreement. The Generator shall consider all prevailing taxes and duties applicable on the date of submission of the Bid while submitting its Bid. If any such prevailing taxes and duties are not considered, omitted or ignored, it shall be deemed that the Generator has considered all such taxes and duties in its Bid. Any change in law pertaining to taxes and duties after the date of submission of the Techno-Commercial Bid shall be to the account of the Procurer, and an appropriate proportionate change in tariff, whether an increase or a decrease, shall be made as per Clause 14.2;

but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the Generator, (ii) any change on account of regulatory measures by the Appropriate Commission, or (iii) any change in the Appropriate Commission's approved tariff as compared to the approved tariff existing as on the Bid Due Date.

14.2 Relief for Change in Law

a) The aggrieved Party shall be eligible for such compensation as would restore it to the same economic position as if the Change in Law had not occurred, and shall be required to approach the Appropriate Commission for approval of the Change in Law.

b) The decision of the Appropriate Commission to acknowledge a Change in Law, the date from which it becomes effective, and the relief provided, shall be final and binding on both Parties.

ARTICLE 15: TERMINATION

15.1 Termination for Generator Event of Default

The Procurer may terminate this Agreement by issuing a Termination Notice to the Generator upon the occurrence of any of the following events (each a "Generator Event of Default"):

a) the Generator repudiates this Agreement or evidences an intention not to be bound by it;

b) failure of the Generator to perform any material obligation under this Agreement, if such failure is not remedied within sixty (60) days after receipt of notice from the Procurer requiring its remedy;

c) failure of the Generator to maintain the Performance Bank Guarantee as required under Clause 12.7, or failure to replenish or renew it within fifteen (15) days of receipt of notice from the Procurer;

d) the Generator becomes insolvent, is adjudged bankrupt, or is subject to winding-up proceedings;

e) assignment or transfer of this Agreement or any part thereof without the prior written consent of the Procurer, except as permitted under this Agreement;

f) failure to make available the Contracted Capacity for a continuous period of ninety (90) days, excluding Force Majeure or APSLDC curtailment periods, without the Procurer's approval;

g) any representation or warranty made by the Generator under this Agreement is found to be materially false or misleading;

h) repeated or wilful violation of APSLDC scheduling or grid-discipline directions resulting in sustained deviation or penalties attributable to the Generator; or

i) failure to make available any Commissioned Capacity or Balance Capacity within 60 (sixty) days from its CAD (or from the Effective Date, if later), in accordance with Clause 11.7(b).

Provided that non-achievement of the Target Annual Availability or excess Cycle Loss shall not constitute a Generator Event of Default and shall instead be dealt with through Liquidated Damages in accordance with Article 11.

15.2 Termination for Procurer Event of Default

The Generator may terminate this Agreement by issuing a Termination Notice to the Procurer upon the occurrence of any of the following events (each a "Procurer Event of Default"):

a) failure by the Procurer to pay any undisputed amount due under this Agreement within ninety (90) days from the due date, and failure to cure such default within thirty (30) days after receipt of notice from the Generator;

b) repudiation of this Agreement or any act evidencing an intention not to be bound by it;

c) material breach of this Agreement that remains uncured for more than sixty (60) days after receipt of written notice from the Generator;

d) the Procurer becomes insolvent, is adjudged bankrupt, or is wound up by a court of competent jurisdiction.

15.3 Procedure for Generator or Procurer Event of Default

a) Upon the occurrence of any Generator Event of Default or Procurer Event of Default, the non-defaulting Party shall issue a Notice to Cure specifying the default and requiring its rectification within sixty (60) days, unless a shorter period is expressly provided in this Agreement.

b) If the defaulting Party fails to cure the default within the applicable Cure Period, the non-defaulting Party may issue a Termination Notice specifying the effective date of termination, which shall not be earlier than thirty (30) days from the date of such notice.

c) During the Cure Period and until the effective date of termination, both Parties shall continue to perform their respective obligations to the extent not prevented by the default.

d) Termination under this Article shall not relieve either Party of obligations accrued prior to the effective termination date.

15.4 Termination Payment

a) Upon termination due to a Generator Event of Default, the Performance Bank Guarantee furnished under Clause 12.7 shall be invoked in full by the Procurer. The Procurer shall have no further liability for any capacity or energy payments beyond the effective date of termination.

b) Upon termination due to a Procurer Event of Default, the Generator shall be entitled to receive (i) payment for all undisputed Monthly Fixed Charges accrued up to the effective date of termination, and (ii) release or refund of the Performance Bank Guarantee within thirty (30) days of the effective date of termination.

c) Termination payments shall be subject to reconciliation under Article 12 and shall exclude any amounts disputed in good faith.

d) The Generator shall pay to the Procurer, as termination compensation, an amount equal to three (3) months of Monthly Fixed Charges (MFC), which shall become due and payable upon the effective date of termination. Procurer may, in addition, claim penalties and consequential damages available under law.

15.5 Survival

Notwithstanding termination of this Agreement, the rights and obligations of the Parties under Articles 11 (Applicable Tariff), 12 (Billing and Payment), 13 (Force Majeure), 16 (Liability and Indemnification) and 17 (Governing Law and Dispute Resolution), together with any other provisions which by their nature are intended to survive, shall continue in effect until fully discharged.

ARTICLE 16: LIABILITY

16.1 Limitation on Liability

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

The Procurer shall have no recourse against any officer, director or shareholder of the Generator, or any Affiliate of the Generator or any of its officers, directors or shareholders, for such claims excluded under this Article. The Generator shall have no recourse against any officer, director or shareholder of the Procurer, or any affiliate of the Procurer or any of its officers, directors or shareholders, for such claims excluded under this Article.

16.2 Duty to Mitigate

The Parties shall endeavour to take all reasonable steps so as to mitigate any loss or damage which has occurred under this Article 16.

ARTICLE 17: GOVERNING LAW AND DISPUTE RESOLUTION

17.1 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of India. Subject to the jurisdiction of the Appropriate Commission under the Electricity Act, 2003, any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the exclusive jurisdiction of the competent courts at Vijayawada / Amaravati, Andhra Pradesh.

17.2 Amicable Settlement and Dispute Resolution

a) Either Party is entitled to raise any Dispute by giving a written notice (the "Dispute Notice") to the other Party, which shall contain (i) a description of the Dispute, (ii) the grounds for such Dispute, and (iii) all written material in support of its claim.

b) The other Party shall, within thirty (30) days of issue of the Dispute Notice, furnish (i) its counter-claim and defences, if any, regarding the Dispute, and (ii) all written material in support of its defences and counter-claim.

c) Within thirty (30) days of issue of the Dispute Notice, if the other Party does not furnish any counter-claim or defence, or within thirty (30) days from the date of furnishing counter-claims or defences, both Parties shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Clause, the Dispute shall be referred for resolution in accordance with Clause 17.3.

17.3 Dispute Resolution

If any Dispute is not settled amicably under Clause 17.2, the same shall be referred by either Party to the Appropriate Commission for dispute resolution in accordance with the provisions of the Electricity Act, 2003.

17.4 Performance during Dispute

Pending the submission of and decision on a Dispute, the Parties shall continue to perform their respective obligations under this Agreement, subject to any interim order that may be passed, without prejudice to a final adjustment in accordance with such decision.

ARTICLE 18: ASSIGNMENT AND CHARGES

18.1 Assignments

a) This Agreement shall be binding upon, and enure to the benefit of, the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party other than by mutual consent between the Parties, to be evidenced in writing.

b) Provided that the Procurer shall permit assignment of any of the Generator's rights and obligations under this Agreement in favour of the lenders to the Generator, if required under the financing agreements.

c) Provided further that any successor or permitted assign identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement.

d) The Procurer may assign or novate this Agreement, in whole or in part, to any of the APDISCOMs, and the Generator shall execute such documents as may reasonably be required to give effect to such assignment or novation.

ARTICLE 19: MISCELLANEOUS

19.1 Confidentiality

The Parties undertake to hold in confidence this Agreement and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except (a) to their professional advisors; (b) to their officers, contractors, employees, agents or representatives and financiers who need to have access to such information for the proper performance of their activities; or (c) where disclosure is required under law.

19.2 Waiver of Immunity

Each Party unconditionally and irrevocably (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purposes; (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets; (c) waives any right of immunity which it or its assets, property or revenues now has or may acquire in the future; and (d) consents generally in respect of the enforcement of any judgment or award against it in any such proceedings.

19.3 Waiver

a) Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement; (ii) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and (iii) shall not affect the validity or enforceability of this Agreement in any manner.

b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder, nor time or other indulgence granted by a Party to the other Party, shall be treated or deemed as a waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

19.4 Depreciation

For the purposes of depreciation under Applicable Laws, the property representing the capital investment made by the Generator in the Project Assets shall be deemed to be acquired and owned by the Generator. For the avoidance of doubt, the Procurer shall not in any manner be liable in respect of any claims for depreciation to be made by the Generator under Applicable Laws.

19.5 Exclusion of Implied Warranties

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

19.6 Survival

Termination shall (a) not relieve the Generator or the Procurer of any obligations hereunder which expressly or by implication survive termination hereof; and (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination. The obligations intended to survive shall remain in force until all outstanding liabilities, payments or disputes are fully discharged, or for a maximum of twelve (12) months following expiry or termination, whichever is earlier.

19.7 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless agreed to in writing by the Parties and duly executed by persons specially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties agree that any obligations of the Generator arising from the Request for Selection shall be deemed to form part of this Agreement and treated as such.

19.8 Severability

If for any reason whatsoever any provision of this Agreement is or becomes invalid, illegal or unenforceable, or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provision, as nearly as is practicable to such provision.

19.9 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

19.10 Third Parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

19.11 Successors and Assigns

This Agreement shall be binding upon, and enure to the benefit of, the Parties and their respective successors and permitted assigns.

19.12 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

a) in the case of the Generator, be given by email and by letter delivered by hand to the address given and marked for the attention of the person set out below, or to such other person as the Generator may from time to time designate by notice to the Procurer;

b) in the case of the Procurer, be given by email and by letter delivered by hand and be addressed to the Chief General Manager (Power Purchase & Legal), Andhra Pradesh Power Coordination Committee, Vidyut Soudha, Gunadala, Vijayawada – 520 004, Andhra Pradesh, or such other person as the Procurer may from time to time designate by notice to the Generator; and

c) any notice or communication given in accordance herewith shall be deemed to have been delivered when in the normal course of post it ought to have been delivered, and in all other cases on the actual date and time of delivery, provided that in the case of email it shall be deemed to have been delivered on the working day following the date of its delivery.

19.13 Delayed Payments

a) The Parties acknowledge and agree that the Electricity (Late Payment Surcharge and Related Matters) Rules, and any subsequent amendments thereto, shall be applicable. In the event of payment by the Procurer beyond the due date, a Late Payment Surcharge shall be payable by the Procurer to the Generator on the outstanding payment. The rate of Late Payment Surcharge for the first month of default as well as for successive months of default shall be as per the terms of the said Rules. If the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years.

b) Late Payment Surcharge shall be claimed by the Generator through a Supplementary Bill. All payments by the Procurer to the Generator shall be first adjusted towards Late Payment Surcharge and thereafter towards monthly charges, starting from the longest overdue bill. All bills payable by the Procurer to the Generator shall be time-tagged with respect to the date and time of submission of the bill, and the payment made by the Procurer shall be adjusted first against the oldest bill and then to the second oldest bill and so on, so as to ensure that payment against a bill is not adjusted unless and until all bills older than it have been paid.

19.14 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

ARTICLE 20: DEFINITIONS

20.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meanings hereinafter respectively assigned to them:

1. **"ACCOUNTING YEAR"** shall mean the financial year commencing on the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year.
2. **"AFFILIATE"** shall mean a Company that, directly or indirectly:
    a. controls, or
    b. is controlled by, or
    c. is under common control with, the Bidder/s or the Generator/s;
3. and "control" means ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such company, or the right to appoint a majority of its Directors;
4. **"ANNUAL FIXED CHARGE"** or **"AFC"** shall mean the annual cost of storage payable to the Generator/s at the Delivery Point for the Contract Period of 5 (five) years. The Annual Fixed Charge shall be quoted and payable in INR/MW/Annum, up to a maximum of 2 (two) decimal places.
5. **"APDISCOMs"** shall mean the distribution licensees of the State of Andhra Pradesh, being Andhra Pradesh Central Power Distribution Corporation Limited (APCPDCL), Andhra Pradesh Eastern Power Distribution Company Limited (APEPDCL) and Andhra Pradesh Southern Power Distribution Company Limited (APSPDCL), and their respective successors.
6. **"APERC"** shall mean the Andhra Pradesh Electricity Regulatory Commission, constituted under the Electricity Act, 2003.
7. **"APPCC"** shall mean the Andhra Pradesh Power Coordination Committee, acting for and on behalf of the APDISCOMs for the purposes of this Tender.
8. **"APSLDC"** shall mean the State Load Despatch Centre of Andhra Pradesh, established under Section 31 of the Electricity Act, 2003.
9. **"APTRANSCO"** shall mean Transmission Corporation of Andhra Pradesh Limited, the State Transmission Utility of Andhra Pradesh.
10. **"BALANCE CAPACITY"** shall mean that portion of the Contracted Storage Capacity offered from a Part-Commissioned PSP which had not achieved COD as on the Bid Due Date.
11. **"BIDDER/S"** shall mean a Bidding Company (including a foreign company). Any reference to the Bidder/s includes the Bidding Company as the context may require. "Company" means a company registered and incorporated under the Companies Act, 1956/2013, and "foreign company" means a company registered and incorporated under the applicable law of that country pari materia to the Indian Companies Act.
12. **"CHARTERED ACCOUNTANT"** shall mean a person or firm registered with the Institute of Chartered Accountants of India and entitled to practice the profession of Chartered Accountant in India under the applicable provisions of the Chartered Accountants Act, 1949.
13. **"COMMERCIAL OPERATION DATE"** or **"COD"** shall mean, in respect of any capacity of a PSP, the date on which such capacity was declared commercially operational, as recorded in the commissioning certificate or trial operation certificate issued by the competent authority. For Commissioned Capacity, the COD shall fall before the Bid Due Date. For Balance Capacity, the COD shall be deemed achieved on submission of such certificate to the Procurer together with evidence of synchronisation with the concerned SLDC/RLDC for scheduling purposes.

14. **"COMMISSIONED CAPACITY"** shall mean that portion of the Contracted Storage Capacity which achieved COD before the Bid Due Date, being the whole of the Contracted Storage Capacity for a Fully Commissioned PSP, and the commissioned portion for a Part-Commissioned PSP.
15. **"COMMITTED AVAILABILITY DATE" or "CAD"** shall mean the date by which the Generator shall make the relevant capacity available to the Procurer for scheduling and dispatch, being: (a) for Commissioned Capacity, 1st January 2027; and (b) for Balance Capacity, 1st April 2027, actual date of supply whichever is earlier.
16. **"CONTRACT PERIOD"** or **"TERM OF AGREEMENT"** shall have the following meaning: The Term of the PHSPA shall commence from 1st January 2027 for a period of 5 (five) years, extendable for an additional period of up to two years, ending on the Expiry Date. The Contract Period shall be read as five (5) years, extendable for an additional period of up to two years, upon mutual agreement between Procurer and Generator wherever applicable in this Tender Document and the PHSPA. The Contract Period and the Expiry Date shall be common to the Commissioned Capacity and any Balance Capacity. Any extension shall be on the same terms and conditions.
17. **"CONTRACT YEAR"** shall mean each period of 12 (twelve) consecutive months commencing on the Effective Date and on each anniversary thereof until the Expiry Date.
18. **"CONTRACTED STORAGE CAPACITY"** or **"CONTRACTED CAPACITY"** shall mean the capacity, in MW, of the Pumped Storage Project contracted with the Procurer for charging (pumping) and discharging (generation) by the Generator at the Delivery Point, being 500 MW. The Project shall be capable of a cumulative discharge of up to 8 (eight) hours per day with a maximum continuous discharge of 6 (six) hours.
19. **"CONVERSION EFFICIENCY"** shall have the following meaning: Conversion Efficiency, measured at the Delivery Point and in reference to a complete cycle (full charge (pumping) and full discharge (generation)), is the ratio of output energy to input energy at the Delivery Point. The output energy at the Delivery Point shall be net of auxiliary consumption, line losses and any other applicable losses.
20. **"CONVERSION LOSS"** or **"CYCLE LOSS"** shall have the following meaning: Cycle Loss = 100% − Conversion Efficiency. The Cycle Loss shall be declared by the Bidder and shall not exceed 25% (twenty-five percent).
21. **"CTU"** shall mean Central Transmission Utility, as defined in sub-section (10) of Section 2 of the Electricity Act, 2003.
22. **"DAM"** shall mean the Day-Ahead Market of a Power Exchange recognised by the Central Electricity Regulatory Commission.
23. **"DECLARED AVAILABILITY"** shall mean the ability of the Project to execute the discharge function when called upon to do so as per schedule, subject to minimum system ratings.
24. **"DELIVERY POINT"** or **"INTER-CONNECTION POINT"** or **"METERING POINT"** shall mean, for AP STU-connected Projects, the nearest APTRANSCO sub-station. For all other PSP/s, any point in the Inter-State Transmission System where the power station of the Generator delivers power through ISTS connectivity. Metering shall be carried out at the point of injection into the Inter-State Transmission System. For interconnection with the grid and metering, the Bidder/s shall comply with the relevant CERC/APERC Regulations, the Grid Code and the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.
25. **"EARLY SCHEDULING DATE"** shall have the meaning given in Clause 2.15(h).

26. **"EFFECTIVE DATE"** shall mean the date of signing of the Pumped Hydro Storage Purchase Agreement (PHSPA) between the Procurer and the Generator. The obligations to make capacity available and to pay the Monthly Fixed Charge shall commence from the applicable Supply Start Date.
27. **"EXPIRY DATE"** shall mean the date occurring at the end of 5 (five) years from 1st January 2027 of the PHSPA, unless extended in accordance with the PHSPA, and shall be common to all capacity contracted under the PHSPA, including any Balance Capacity.
28. **"FULLY COMMISSIONED PSP"** shall mean a Pumped Storage Project the whole of the capacity offered under this Tender of which has been commissioned, is grid-connected and is operational prior to the Bid Due Date, and which holds a valid commissioning certificate or trial operation certificate issued by the competent authority.
29. **"FOO"** shall mean Finance-Own-Operate.
30. **"GENERATOR/S"** or **"PSP GENERATOR/S"** shall mean the Bidder/s selected through the e-Reverse Auction process to provide energy storage capacity from an eligible Pumped Storage Project under this Tender, as defined in the PHSPA.
31. **"GROUP BUSINESS ENTITY"** or **"GROUP COMPANY"** shall mean, in relation to a Company: (a) a Company which, directly or indirectly, holds 10% (ten percent) or more of the share capital of the Bidding Company; or (b) a Company in which the Bidding Company, directly or indirectly, holds 10% (ten percent) or more of the share capital; or (c) a Company in which the Bidding Company, directly or indirectly, has the power to direct or cause to be directed the management and policies, whether through ownership of securities, agreement, arrangement or otherwise; or (d) a Company which, directly or indirectly, has the power to direct or cause to be directed the management and policies of the Bidding Company, whether through ownership of securities, agreement, arrangement or otherwise; or (e) a Company which is under common control with the Bidding Company, where control means ownership by one Company of at least 10% (ten percent) of the share capital of the other.
32. **"In.STS"** shall mean Intra-State Transmission System.
33. **"ISTS"** shall mean Inter-State Transmission System.
34. **"LETTER OF AWARD"** or **"LOA"** shall mean the letter issued by APPCC to the Successful Bidder/s pursuant to this Tender, for signing of the Pumped Hydro Storage Purchase Agreement (PHSPA).
35. **"MCP"** shall mean the Market Clearing Price discovered in the Day-Ahead Market (DAM) of a Power Exchange, as referred to in Clause 2.10.
36. **"MONTHLY FIXED CHARGE"** or **"MFC"** shall mean the monthly cost of storage payable to the Generator/s at the Delivery Point, computed as the Annual Fixed Charge (AFC) divided by twelve (12) and expressed in INR/MW/Month up to a maximum of 2 (two) decimal places.
37. **"OPERATING PERIOD"** shall mean, in respect of any capacity, the period from its Supply Start Date to the Expiry Date.
38. **"PARENT"** shall mean a Company which holds more than 50% of the voting rights and paid-up share capital, either directly or indirectly, in the Project Company or in a Member of a Consortium developing the Project.
39. **"PART-COMMISSIONED PSP"** shall mean a Pumped Storage Project in respect of which, as on the Bid Due Date: (a) a portion of the capacity offered (the Commissioned Capacity) has achieved COD and is capable of being made available to the Procurer; and (b) the remaining portion (the Balance Capacity) has not achieved COD and shall be commissioned and made available to the Procurer on or before its CAD, in accordance with Clause 2.6.

40. **“PRICE BID”** shall mean the Total Annual Storage Cost, being the combination of the Annual Fixed Charge (AFC) and the declared Cycle Loss, as defined in Clause 2.9(c).
41. **“PROCURER/S”** shall mean the Andhra Pradesh Power Coordination Committee (APPCC) acting for and on behalf of the APDISCOMs, and, upon assignment or novation in accordance with the PHSPA, the relevant APDISCOM.
42. **“PROJECT”** or **“PUMPED STORAGE PROJECT/S”** or **“PSP/s”** shall mean a Fully Commissioned or eligible Part-Commissioned Pumped Storage Project having untied capacity, comprising all the various components for charging (pumping) and discharging (generation), and having a single point of injection into the grid at the Inter-Connection / Delivery / Metering Point.
43. **“PUMPED HYDRO STORAGE PURCHASE AGREEMENT”** or **“PHSPA”** shall mean the agreement between the Procurer and the Successful Bidder setting out the terms for procurement of energy storage capacity or stored energy from the Pumped Storage Project. The agreement is based on a tolling arrangement.
44. **“RtE”** or **“ROUND-TRIP EFFICIENCY”** shall mean the ratio of energy discharged (generation) at the Delivery Point to energy taken in for charging (pumping) at the Delivery Point over a complete cycle, expressed as a percentage. RtE = 100% − Cycle Loss. RtE has the same meaning as Conversion Efficiency.
45. **“SUCCESSFUL BIDDER/S”** shall mean the Bidder/s to whom an LOA has been issued pursuant to this Tender.
46. **“SUPPLY START DATE”** shall mean, in respect of the Commissioned Capacity or any Balance Capacity, the later of its CAD and the Effective Date, or the Early Scheduling Date where the Procurer has elected early scheduling under Clause 2.15(h).
47. **“TENDER DOCUMENT”** or **“TENDER”** shall mean this Tender, the Pumped Hydro Storage Purchase Agreement (PHSPA), including all annexures, amendments and corrigenda thereto.
48. **“TOTAL ANNUAL STORAGE COST”** or **“TASC”** shall mean the bid parameter for selection, computed as TASC = AFC × (1 + Cycle Loss %), expressed in INR/MW/Annum, in accordance with Clause 2.9(c).
49. **“ULTIMATE PARENT”** shall mean a Company which owns more than 50% (fifty percent) of the voting rights and paid-up share capital, either directly or indirectly, in the Parent and Affiliates.

SCHEDULE I: PROJECT PARTICULARS

The particulars of the Project contracted under this Agreement are as follows:

Particulars	Details
Name and location of the Pumped Storage Project	
Total Project capacity (MW)	
Contracted Capacity (MW)	
Capacity commissioned as at the Bid Due Date (MW)	
COD of Commissioned Capacity (as per certificate)	
Balance Capacity (MW)	
No of Reverse Pump Turbines (Nos) & Rated Capacity of the pumps	
CAD for Commissioned Capacity	1st January 2027
CAD for Balance Capacity (if applicable)	1st April 2027 or actual date of supply, which ever is earlier.
Whether Fully Commissioned or Part-Commissioned	
Cumulative daily discharge capability (hours)	
Maximum continuous discharge capability (hours)	
Declared Cycle Loss (%)	
Annual Fixed Charge (INR/MW/Annum)	
Monthly Fixed Charge (INR/MW/Month)	
Delivery Point	
Connectivity level (CTU / STU) and GNA quantum (MW)	
Effective Date	
Expiry Date (common to all capacity)	

EXECUTION

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

For and on behalf of the Procurer	For and on behalf of the Generator
Andhra Pradesh Central Power Distribution Corporation Limited (APCPDCL) Signature: ____________________ Name: ____________________ Designation: ____________________ Date: ____________________	
Eastern Power Distribution Company of Andhra Pradesh Limited. (APEPDCL) Signature: ____________________ Name: ____________________ Designation: ____________________ Date: ____________________	[Insert name of the Generator] Signature: ____________________ Name: ____________________ Designation: ____________________ Date: ____________________
Southern Power Distribution Company of Andhra Pradesh Limited. (APSPDCL) Signature: ____________________ Name: ____________________ Designation: ____________________ Date: ____________________	

WITNESSES:

1. Signature _______________ Name: _______________ Address: _______________
2. Signature _______________ Name: _______________ Address: _______________