THE TAMIL NADU INFRASTRUCTURE DEVELOPMENT RULES, 2012.

In exercise of the powers conferred by Section 30 of the Tamil Nadu Infrastructure Development Act, 2012 (Tamil Nadu Act 22 of 2012), the Governor of Tamil Nadu hereby makes the following rules:-

1. Short Title, Extent, Application:- (1) These rules shall be called the Tamil Nadu Infrastructure Development Rules, 2012.

(2) They shall come into force at once.

2. Definitions:- In these rules, unless the context otherwise requires:-

(a) **"Act"** means the Tamil Nadu Infrastructure Development Act, 2012 (Tamil Nadu Act 22 of 2012);

(b) **"Annuity"** means annual or periodic contract consideration payable by the sponsoring agency to the private sector partner for delivery of services as per the terms and conditions of the Concession Agreement and where the user charges, if any, are levied, collected and retained by the public agency;

(c) "**Board"** means the Tamil Nadu Infrastructure Development Board;

(d) **"CEO"** means Chief Executive Officer of the Board;

(e) "**Executive Committee"** means the Executive Committee of the Board;

(f) **"Financial Model"** means a forecast of the project's outlays and future cash flows including the capital expenditure, operation and maintenance expenses, debt service costs and tax payments and the revenues to be generated, which is developed based on specifically indicated assumptions to facilitate the estimation of financial parameters and to enable an informed investment decision;

(g) **"Multi sector project"** means a project that involves stakeholders from more than one sector as mentioned in Schedule-I of the Act and where responsibility for implementation may not be conveniently assigned to a single public agency dealing with anyone of the sectors, that the Board may specifically declare to be a Multi sector project;

(h) **"Total Project Cost**" means the lowest of the total project cost mentioned in the tender documents or actual capital cost of the Project upon completion of the Project as certified by the Independent Engineer; or total project cost as set forth in the financing documents;

3. Tenure of experts appointed by the Executive Committee:- (1) The tenure of the non-official expert members of the Executive Committee shall be three years from the date of their assumption of charge as members;

(2) An expert member may be reappointed:

Provided that no such expert member may continue for more than two consecutive terms of 3 years each;

(3) An expert shall on nomination make a declaration of any direct or indirect interest in any of the infrastructure projects under the consideration of the Board and shall recuse himself from the meeting or proceedings of the Executive

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Committee, or of other Committees of which he is a member, which is considering any matter in which he is interested;

(4) An expert member may be removed at any time before the expiry of his tenure by the Chairperson of the Board.

4. Fees and Allowances payable to the Expert Members of the Executive Committee:- (1) An expert member of the Executive Committee shall be paid a sum of Rs.3,000/- for each meeting of the Executive Committee or of any other Committee constituted under Section 12 of the Act of which he is a member.

(2) An expert member shall be eligible for travel and daily allowances eligible on par with the Grade A officers under the Tamil Nadu Travelling Allowances Rules for travel from their ordinary place of residence or work to the venue of the meetings.

5. Fees and Allowances payable to non-official special invitees and members of other Committees:- (1) Non-officials who are specially invited by the Chairperson to attend meetings of the Board or of the Executive Committee or who are members of any other Committee constituted under Section 12 of the Act, shall be paid sitting fees of Rs.3,000/- for each meeting they attend.

(2) Such non-officials shall also be eligible for travel and daily allowances eligible on par with the Grade A officers under the Tamil Nadu Travelling Allowances Rules for travel from their ordinary place of residence or work to the venue of the meeting.

6. Website for Publishing Project list:- (1) The details of the projects recommended by the Board under sub-section (5) of section 14 of the Act shall be published on the official website of the Government of Tamil Nadu (www.tn.gov.in) and the official website of the Board (www.tnidb.org) in the format contained in Appendix-I;

(2) The Board shall assign a unique project identity code number for each of the projects recommended by it, which shall be referred to in all correspondences with the Board relating to the project.

7. Projects where the Board will be Procuring Entity:- The Board itself may be the procuring entity for the following classes of projects:

(a) Multi-sector projects where the Government is of the view that the Board would be the most appropriate procurement entity;

(b) A complex or innovative project for which the Board is unable to identify an appropriate public agency;

(c) Any other project for which the Government may specifically designate the Board as the procuring entity.

8. Powers of the Board relating to Project Conceptualization and Monitoring:- (1) The Board may seek such information from and issue such lawful directions as it deems fit in connection with the conceptualising or implementation of any project to any public agency and such agency shall provide all such information and comply with all such directions;

(2) Where the bottlenecks in the execution of a project appear to be due to impediments requiring policy changes or where a project is creating an impact

which the Board on enquiry is satisfied is adverse, it may make recommendations to the Government for appropriate corrective actions.

9. Type of incentives that can be offered to the concessionaire:- In addition to the incentives mentioned in sub clause (vii) of Clause (v) of Section 2 of the Act, the Government may offer the following incentives :

(a) Exemption from payment or deferred payment or refund or loan in lieu of payment of cesses, royalties, siegnorage or other statutory levies;

(b) Right to trade any specially created development rights on land or property;

(c) Any other incentive that the Government may specifically notify.

10. Use of Tamil Nadu Infrastructure Development Fund:- (1) The Tamil Nadu Infrastructure Development Fund may be used to provide financial support for projects undertaken under the public- private partnership mode in the following forms:

(a) Subsidy or capital grant during the construction period of the project intended to improve the viability of the project;

(b) Operational grants during the operational period or part thereof of the project;

(c) Annuity payments for a specified period in the life of the project;

(d) Equity investment in the entity implementing the project including a special purpose vehicle created for the purpose;

(e) Loans to the entity implementing the project including a special purpose vehicle created for the purpose;

(f) Any other form of project financing which Government may notify from time to time.

(2) The financial support from the Tamil Nadu Infrastructure Development Fund shall constitute state support under the Act.

(3) The total financial support from the Tamil Nadu Infrastructure Development Fund for a particular project in any of the forms under sub rule (1) including annuity payments, shall not in the aggregate exceed 20 per cent of the total project cost:

Provided that in the case of projects where the Board itself is the procuring entity and sponsoring agency, such financial support excluding annuity payments shall not exceed 40 per cent in the aggregate of the total project cost.

(4) Financial support from the Tamil Nadu Infrastructure Development Fund shall ordinarily be approved only after the opportunities to avail state support and other public financial support from the Sponsoring agency's own resources or regular departmental budgetary resources or Central Government Support have been exhausted.

11. Limits on State Support and Public Financial Support:- (1) State support for a project in the form of subsidy, capital grant, and equity participation during the period of construction of the project shall not in the aggregate exceed 20 per cent of the total project cost;

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(2) Total public financial support for a project in the form of subsidy, capital grant, equity participation, net present value of operational grants, loans and the net present value of quantifiable tax incentives shall not exceed 40 per cent of the total project cost;

(3) The ceiling for state support and public financial support prescribed under sub-rule (1) or (2), shall not include any annuity payable to the concessionaire under the concession agreement.

12. Intimation of need for Financing and Application for Financing:- (1) At the stage when the Board recommends projects for implementation to the Government under subsection (4) of Section 14 of the Act, the Board shall provide a preliminary indication of the extent and form of state support and specifically support from the Tamil Nadu Infrastructure Development Fund and for this purpose the Board may obtain necessary information from the Sponsoring Agency in such manner as may be prescribed in the Regulations;

(2) Before the Board finalizes the project scope and structuring, under section 17 of the Act, if the project requires financial support from the Tamil Nadu Infrastructure Development Fund, the sponsoring agency shall prepare a financial model in the manner prescribed in the regulation and if any state support including the support from the Tamil Nadu Infrastructure Development Fund is required, they may submit an application for assistance to the Board in the format as prescribed in Appendix II along with a financial model for the project;

(3) In cases where the extent of financial support from the Tamil Nadu Infrastructure Development Fund is proposed to be a tender criterion, this shall be clearly indicated in the application of the sponsoring agency;

(4) The Board may after a consideration of the application, the project scope, structure and the financial model, approve the extent and form of proposed financial support from the Tamil Nadu Infrastructure Development Fund with such modifications as it considers necessary:

Provided that the Board may also recommend to the Government some other form of state support or direct the sponsoring agency to approach the Central Government for public financial support;

(5) For Public- Private Partnership projects of a value upto Rs 100 crores, the powers to approve financial support from the Tamil Nadu Infrastructure Development Fund are delegated to the Executive Committee;

(6) The Sponsoring agency shall not issue a Request for Proposal under the Tamil Nadu Transparency in Tenders (Public- Private Partnership Procurement) Rules, 2012 until the Board's approval is obtained under sub rule (4);

(7) The sponsoring agency intimating the acceptance of a tender under Sub-section (4) of Section 18 of the Act, shall also indicate in cases where public financial support is the bid criterion, the extent and form of public financial support sought by the bidder and the Chief Executive Officer of the Board shall forthwith communicate such information to the Government.

13. Releases from the Tamil Nadu Infrastructure Development Fund:- (1) The releases of assistance from the Infrastructure Development Fund shall be in accordance with the schedule provided for in the Concession Agreement and subject to fulfillment of the conditions laid down therein;

(2) The Sponsoring Agency shall make an application for release of the support from the Infrastructure Development Fund in the format provided in Appendix IV duly certifying the fulfillment of all conditions including that the concessionaire and the lending institutions have fulfilled their respective commitments;

(3) Upon satisfying himself that the release is in accordance with the Board's approval and the conditions laid down in the Concession Agreement, the Chief Executive Officer shall recommend to the Government the release of funds to the sponsoring agency or the Lead Financial Institution or the Concessionaire, as the case may be;

(4) The Chief Executive Officer may, in order to avoid any delay in payments, recommend a release in advance of the due date to the Sponsoring Agency and such agency shall be responsible for ensuring compliance with the conditions laid down in the concession agreement before further release of financial support to the Lead Financial Institution or to the Concessionaire;

(5) The Government in the Finance (Infrastructure Cell) Department shall sanction releases of funds from the Tamil Nadu Infrastructure Development Fund based on the approvals and recommendations of the Board.

14. Manner of managing the Tamil Nadu Infrastructure Development Fund:- (1) The Tamil Nadu Infrastructure Development Fund shall form part of the public account of the State of Tamil Nadu;

(2) The balances of the Fund may be maintained in the public account as part of the general cash balances of Government or as a separate bank account or both as may be directed by the Government from time to time;

(3) The Secretary to Government, Finance (Infrastructure Cell) Department shall be the custodian of the Fund to authorize releases from the Fund;

(4) The Chief Executive Officer of the Board shall be the drawing and disbursing officer of the Fund and shall maintain accounts which shall be subject to audit;

15. Use of Project Preparation Fund:- (1) The Project Preparation Fund may, in addition to the purposes specified in sub-section (4) of Section 25 of the Act, be used for the following purposes:

(a) Any technical study required to finalize the technical, legal or financial parameters of a project including legal reviews and commercial assessment studies;

(b) Preparation of Impact Assessment Studies including Environmental Impact Assessment Studies;

(c) Preparation of tender documents including standard tender documents;

(d) Preparation of other essential project documentation prior to signing concession agreement;

(e) Training; and

(f) Conduct of outreach events including seminars and conferences.

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(2) Any public agency will be eligible to apply for support from the Project Preparation Fund for hiring of experts and consultants, preparation of feasibility studies, detailed project studies and the activities specified in clauses (a), (b), (c) and (d) of sub-rule (1) intended for a specific project, whether already recommended by the Board under sub-section (4) of Section 14 of the Act or not.

(3) Such application shall be made in the format contained in Appendix III;

(4) The Board may also utilize the Project Preparation Fund for any of the activities covered under sub-rule (1);

(5) The expenditure related to the conduct of the meetings of the Board or the Executive Committee, sitting fees and allowances of expert members and any staff recruited by the Board may also be met from out of the Project Preparation Fund;

(6) Financial assistance from the Project Preparation Fund shall not be utilised for the following purposes:

(a) Expenses incurred by the Public Agency on its own staff;

(b) Expenses incurred for engagement as Consultants of any serving employees of Government by the Board or a public agency.

16. Manner of managing the Project Preparation Fund:- (1) The Project Preparation Fund shall be a Fund of the Board;

(2) The balances of the Project Preparation Fund shall be maintained in the public account or part of the Government cash balances in a separate bank account or both as may be decided by the Board.

(3) The power to sanction expenditure from the Project Preparation Fund shall be delegated as follows:

(a)	Upto Rs.5 lakhs	- CEO;
(b)	From Rs.5 lakhs upto Rs.50 lakhs	- A Sub-committee of the Executive Committee comprising Principal Secretary to Government (Finance Department), the CEO and one other member to be nominated by the Executive Committee;
(c)	From Rs.50 lakhs upto Rs.5 Crores	- The Executive Committee;
(d)	Above Rs.5 Crores	- The Board:

Provided that the expenditure sanctioned by authorities other than the Board shall be reported to the Board at its next meeting;

(4) The CEO of the Board shall be the drawing and disbursing officer of the Fund and shall maintain accounts in the appropriate form.

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17. Recovery of expenditures made through Project Preparation Fund:- (1) In every case where the expenditure from the Project Preparation Fund is intended for preparatory activities related to a specific project, the Board shall make a specific determination as to whether the expenditure should be recovered from the tenderers or the successful tenderer or both.

(2) For all cases where the Board determines that the expenditure on project preparation is to be recovered, the public agency or sponsoring agency shall be directed to ensure such recovery through levy of fee on the sale of tender documents or on the successful tenderer or in such other manner as may be specified and to include appropriate provisions in the tender documents.

(3) The amounts collected under sub-rule (2) shall be deposited by the sponsoring agency in the Project Preparation Fund.

18. Board may issue further guidelines on Tamil Nadu Infrastructure Development Fund and Project Preparation Fund:- (1) Subject to the provisions of the Act and the Rules, the Board may issue further guidelines on the management and utilization of the Tamil Nadu Infrastructure Development Fund and Tamil Nadu Project Preparation Fund;

(2) Such guidelines may cover the procedures for application including information to be provided, evaluation of applications approvals including conditions that may be prescribed, releases, monitoring of utilization, recovery and other incidental and attendant issues;

19. Budget of the Board:- (1) The Chief Executive Officer shall prepare a statement of estimated receipts and expenditure from the Tamil Nadu Infrastructure Development Fund, Project Preparation Fund and any other funds for the ensuing financial year along with the revised estimates of receipts and expenditure for the current year and cause such statements to be laid before the Board for its approval;

(2) The annual statement shall be supplemented by an explanatory note highlighting the activities, programmes and projects proposed to be undertaken in the ensuing year;

(3) Any deviation from the expenditure proposed in the annual statement already approved by the Board shall have to be specifically sanctioned by the Board and for this purpose supplemental estimates may also be prepared;

(4) The Board may also authorize such reappropriation of expenditure from one head of estimate to another within its overall budget.

20. Annual Report and Accounts:- (1) The Board shall submit an annual report including an audit report to the Government before the end of the second quarter of the next financial year;

(2) The Board shall maintain proper accounts and other relevant records in such manner as the Government may direct;

(3) The accounts of the Board shall be audited once every year and if so required by the Government concurrently with the compilation of such accounts by an auditor appointed under sub-section (1) of section 226 of the Companies Act, 1956 (Central Act 1 of 1956) who shall be appointed by the Board with the approval of the Government and who shall receive such remuneration as the Board may fix;

(4) The auditor shall have the same rights, privileges and authority in connection with the audit of the accounts of the Board as the Comptroller and Auditor General of India has in connection with the audit of the Government accounts and in particular shall have the right to demand production of books of accounts, connected vouchers and other documents of the Board;

(5) Within fourteen days after the audit and examination of the accounts of the Board have been completed, the auditor shall forward copies of the audit report to the Board specifically stating as to whether in his opinion the accounts exhibit a true and fair view of the state of affairs of the Board;

(6) The accounts of the Board as certified by the auditor together with audit report along with the remarks of the Board thereon shall be forwarded to the Government.

APPENDIX - I

Format for Publication of the Details of Project Recommended by TNIDB to Government in the TNIDB Web-site

(see rule 6)

Sl. No.	TNIDB Project ID	Name of the Project	Sponsoring Agency	Mode of Implementation (Public / PPP)	Total Project Cost	Remarks

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APPENDIX - II

Memorandum for In-Principle Approval for Financial Support from Tamil Nadu Infrastructure Development Fund.

(See rule 12)

S. No.	Parameters	Response
1.	**General**	
1.1	TNIDB Project ID	
1.2	Name of the Project	
1.3	Sector	
1.4	Sponsoring Agency	
2.	**Project Description**	
2.1	Brief description of the project	
2.2	Justification for the project	
2.3	Type of PPP (Refer Schedule II of the Act) (Tick the appropriate type)	
	O Build-Operate-Transfer (BOT) O Build-Own-Operate (BOO) O Build-Own-Operated-Transfer (BOOT) O Build-Transfer-Operate (BTO) O Design-Build-Finance-Operate-Transfer (DBFOT) O Management Agreement O Lease Management Agreement O Built-Lease-Transfer (BLT) O Rehabilitate-Operate-Transfer (ROT) O Rehabilitate-Own-Operate (ROO)	
2.4a	Estimated Total Project Value (please refer Explanation under Section 1(3)	Rs.
2.4b	Estimated total project cost (refer Rule 2(h)) with break-up under major heads of expenditure and the basis of cost estimation	Rs.
2.5	Phasing of investment	
2.6	Project Implementation Schedule	
a	Probable date of bidding:	
b	Probable date of LOA:	
c	Probable date of signing of Concession Agreement:	

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S. No.	Parameters	Response
d	Probable date of COD:	
e	Duration of Concession:	
3.	**Financing Arrangements**	
3.1	Has the financial model for the projects been developed If yes, attach a copy of the same	Yes / No
3.2	Indicate the revenue streams of the Project (annual flows over project life). Also indicate the underlying assumptions	
a	Direct recovery from the project through user charges	Rs.
b	Real estate development, if any?	Rs.
c	Advertisement revenue	Rs.
d	Others, if any (Please specify).	Rs.
e	Total	Rs.
3.3	Resources to be raised by the Concessionaire	
a	Equity base of Concessionaire of which–	
	1. Authorized capital	Rs.
	2. Equity capital structure	Rs.
	3. Preference share capital	Rs.
b	Debt to be raised of which	
	1. Senior Debt	Rs.
	2. Subordinate Debt	Rs.
	3. Any other	Rs.
3.4	Public Financial Support expected	Yes / No
3.5	Type of Public Financial Support Expected:	
a	Subsidy/Capital Grant during construction period	Rs.
b	Operational grants during construction period	Rs.
c	Equity	Rs.
d	Loans (with interest or without)	Rs.
e	Government guarantee	Rs.
f	Escrow Account	
g	Development rights on land (including tradable development rights)	

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S. No.	Parameters	Response
h	Incentives from Government in the form of concessions on payment of taxes, duties and other statutory levies (Please specify)	
i	Any other concession from Government (please specify)	
3.6	Sources of Public Financial Support:	
a	Sponsoring Agency's internal resources	Rs.
b	Budgetary allocation, if any	Rs.
c	Eligibility for accessing Government of India VGF	Yes / No
d	Accessing Government of India VGF	Yes / No
e	Extent of Government of India VGF envisage	Rs.
f	Other financing arrangements, if any	Yes / No
g	Extent of other financing arrangements	Rs.
h	Sub-total	Rs.
3.7	Financial support expected from TNIDF	
a	Support from TNIDF envisaged and reason for seeking such support?	Yes / No
b	Extent of financial support from TNIDF envisaged?	Rs.
c	Form of support	
	1. Subsidy/Capital Grant during construction period	
	2. Operational Grant during operations period	
	3. Annuity	
	4. Equity	
	5. Loan	
	6. Sub-total	
d	Is State Support including support from TNIDF to be a tender criterion?	
3.8	Indicate the revenue streams of the Project (annual flows over project life). Also indicate the underlying assumptions.	
	1. Direct recovery from the project through user charges.	
	2. Real estate development, if any?	

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S. No.	Parameters	Response
	3. Advertisement revenue	
	4. Others, if any (Please specify)	
3.9	Indicate the NPV of revenue streams with discount rate	
3.10	Who will fix the tariff/user charges? Please specify the process in detail.	
3.11	Will the project have predetermined user charges/tariffs	
3.12	Can the user charges/tariffs be increased for reducing the State support? If no, please furnish an undertaking for the same.	
3.13	Can the concession period be increased for reducing the state support? If no, please furnish an undertaking for the same.	
3.14	Can the total project costs be restricted or phased out for reducing the state support? If no, please furnish an undertaking for the same.	
4	**IRR**	
4.1	Economic IRR (if computed)	
4.2	Financial IRR, indicating various assumptions (attach separate sheet if necessary)	
5	**Clearances**	
5.1	Status of environmental clearances	
5.2	Clearance required from the State Government and other local bodies	
5.3	Other support required from the State Government	
6	**Concession Agreement**	
6.1	Is the Concession Agreement based on a duly approved model concession agreement? If yes, indicate the details thereof (in a note to be attached).	
6.2	Draft Concession Agreement been vetted by the Board? If not enclose copy.	
7.	**Criteria for short-listing of the private sector participant**	
7.1	Is short-listing to be in one stage or two stages?	

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S. No.	Parameters	Response
7.2	Indicate the criteria for short-listing (attach separate sheet if necessary)	
8.	**Others**	
8.1	Remarks, if any	

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APPENDIX - III

Application for Assistance from Project Preparation Fund

(See rule 15)

S. No.	Parameters			Response
1.	Name of the Project. Project Id number (if available)			
2.	Sector			
3.	Public Agency implementing the project			
4.	Details of Preliminary studies undertaken, if any. Attach relevant documents / reports.			
5.	Whether REOI floated? Attach relevant documents.			
6.	Estimated Project Cost , may furnish a break up.			
7.	Does the project have linkages with similar projects?			
8.	**PPF to be used for:**			
a.	Preparation of Feasibility Study			
b.	Detailed Project Study			
c.	Any other technical/economic/legal study – Please specify			
d.	Consultancy services – Please specify nature of services			
e.	Preparation of tender documents			
f.	Capacity Building – Training, seminar, conference, workshop (please specify)			
g.	Research			
h.	Sitting fees, honoraria and payment for professional charges			
i.	Any other			
9.	**Estimated Preparatory Expenses**			
	Item	**Unit Cost**	**Number of Units**	**Total Cost Rs. Lakhs**
	Specialists / Experts			
	Event related costs (please list)			
	Any other costs			
	Total Estimated			

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S. No.	Parameters			Response
	Costs			
10.	Amount of support sought from PPF.			
11.	Is there a possibility of recovering costs? If so, by what mechanism.			

Certificate

It is certified that no portion of the financial support sought from the PPF will be incurred on:

i. Expenses on own staff of the applicant department.

ii. Expenses incurred for engagement as Consultants of any serving employees of Government.

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APPENDIX - IV

Format for Release of State Support

(See rule 13)

S. No.	Parameters	Response
1	TNIDB Project ID	
2	Name of the Project	
3	Sector	
4	Type of PPP (Refer Schedule II of the Act.)	
5	Sponsoring Agency	
6	Total Project Cost (TPC)	Rs.
7	Brief description of the current status of the project	
8	Project Implementation Schedule	
9	Details of in-principle sanction of State Support from TNIDF (copy of order to be enclosed) Date of Sanction Amount sanctioned Form of support (Capital grant/ operational grant / annuity/ equity / loan) Percentage of TNIDF support to TPC	
10	Any other form of State Support (details)	Rs.
11	Any Government of India VGF accessed? Details	
12	Phasing of disbursal of TNIDF support Phase 1 – Description – Rs. Phase 2 – Description – Rs. Phase 3 – Description – Rs. Phase 4 – Description – Rs.	
13	Extent of TNIDF Support already availed / released	Rs.
14	Extent of State Support requested in this request	Rs.
15	Conditions to have been met under the Concession Agreement for eligibility for release:	
	▪ Concessionaire·	

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S. No.	Parameters	Response
	▪ Financial Institutions release of debt· ▪ Certification by Independent Engineer/Auditor· ▪ Any other	
16	Agency to whom the amount has to be released	
17	A certificate to the effect that all the conditions for release have been met or waived by the competent authority	(To be attached)
18	Remarks or any information	

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