

# **Power Purchase Agreement**

**Procurement of 150 MW power from  
Wind-Solar hybrid power project in  
India on long term basis**

**[Insert Name of Hybrid Power  
Developer]**

**and**

**CESC Limited**

**..... [Insert month and year]**

This Power Purchase Agreement is made on the [Insert date] day of [Insert month] of \_\_\_\_\_ 2023 at Kolkata

between

..... [Insert name of the Hybrid Power Developer], a Company within the meaning of Companies Act 1956 or Companies Act 2013, having its registered office at ..... [Insert address of the registered office of Hybrid Power Developer] (hereinafter referred to as “Hybrid Power Developer or HPD”, 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

CESC Limited, a company within the meaning of the Companies Act 1956 or Companies Act 2013, having its registered office at CESC House, Chowringhee Square, Kolkata-700001 (hereinafter referred to as “CESC”, or “Procurer” or “Buying Entity/ Buying Utility” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the Second Part; CESC Limited being a Distribution Licensee as per Electricity Act, 2003 and involved in the business of distribution of power in the city of Kolkata and its suburbs.

The HPD and CESC are individually referred to as ‘Party’ and collectively referred to as ‘Parties’.

WHEREAS:

- A. The Ministry of New and Renewable Energy, Government of India has issued the “Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind Solar Hybrid Projects” vide F. No. 238/78/2017-Wind dated 14.10.2020, including subsequent amendments and clarifications, if any.
- B. CESC had initiated a Tariff Based Competitive Bid Process for procurement of 150 MW power generated from the ISTS connected Wind-Solar Hybrid Power Projects, on the terms and conditions contained in the Request for Selection (herein after referred to as ‘RFS’) issued by CESC vide RFS No \_\_\_\_\_ dated \_\_\_\_\_
- C. \_\_\_\_\_ [Insert name of the Bidding Company] has been selected in the Competitive Bidding Process {in case Bidding Company is executing the Project through SPV}, has constituted a Special Purpose Vehicle [Insert the name of SPV] (hereinafter referred to as ‘HPD’) for development, generation and supply of electricity from the \_\_\_\_\_ MW Hybrid Power Project to be established by HPD anywhere in India and for supply of such electricity to CESC;
- D. CESC has issued the Letter of Award No \_\_\_\_\_ dated \_\_\_\_\_ in favor

of the [Insert the name of Bidding Company], the HPD for development and establishment of the \_\_\_\_\_ MW Hybrid Power Project in the State of \_\_\_\_\_ as per the terms and conditions contained in the RfS, draft of this Power Purchase Agreement circulated at the time of the bidding and other bidding documents as well as the conditions contained in the Letter of Award;

- E. In terms of the RfS and the Bidding Documents, the HPD has furnished the Performance Bank Guarantee in the sum of Rs \_\_\_\_\_/MW in favor of CESC as per the format provided as a part of the Bidding Documents and a copy of the Performance Bank Guarantee provided is in Schedule-1 to this Agreement;
- F. The HPD has fulfilled the terms of the bidding and the terms of the Letter of Award for signing this Power Purchase Agreement as a definitive agreement for establishing the Hybrid Power Project of \_\_\_\_\_ MW at \_\_\_\_\_, [Insert Project location] for generation and sale of electricity by the HPD to CESC;

The parties have agreed to execute this Power Purchase Agreement in terms of the provisions of the RfS, the bidding documents and the Letter of Award in regard to the terms and conditions for generation and supply of Hybrid Power by the HPD to CESC from the Hybrid Power Project at \_\_\_\_\_, [Insert name of state]

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

## ARTICLE 1: DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

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

“Act” or “Electricity Act, 2003”	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Adjusted Equity”	<p>shall mean the Equity funded in Indian Rupees and adjusted on the first day of the current month (the “Reference Date”), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring between the first day of the month of Appointed Date (the date of achievement of Financial Closure) and the Reference Date;</p> <ol style="list-style-type: none"><li data-bbox="523 1111 1396 1357">i. On or before Commercial Operation Date (COD), the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date;</li><li data-bbox="523 1384 1396 1525">ii. An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the “Base Adjusted Equity”);</li><li data-bbox="523 1552 1396 1883">iii. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.333% (zero point three three three percent) thereof at the commencement of each month following the COD [reduction of 1% (one percent) per quarter of an year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date;</li></ol> <p>For the avoidance of doubt, the Adjusted Equity shall, in the event of termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no</p>

	reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the PPA period is extended, but the revision on account of WPI shall continue to be made.
“Agreement” or “Power Purchase Agreement” or “PPA”	shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;
“Appropriate Commission”	Appropriate Commission shall mean Central Electricity Regulatory Commission/State Electricity Regulatory Commission, as applicable
“Bill Dispute Notice”	shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
“Business Day”	shall mean with respect to HPD and CESC, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Delhi/Kolkata;
“Buying Entity” or “Buying Utility” or “Discoms” or Procurer	Shall mean CESC Limited (CESC) which is a Distribution licensee in the State of West Bengal, who has agreed to purchase the wind-solar hybrid power from the HPD(s) and execute the Power Purchase Agreement (PPA). CESC requires hybrid power to fulfil its Solar and other RPO under respective RPO regulations as well as to meet demand requirement;
“Capacity Utilization Factor” or “CUF”	shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time; However, for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity;  In any Contract Year, if ‘X’ MWh of energy has been metered out at the Delivery Point for ‘Y’ MW Project capacity,  $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$ ;  Declared CUF for this Project shall be % (to be revised as applicable).
“CERC”	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
“CTU” or “Central	shall mean the Government Company notified by the Central

Transmission Utility”	Government under Sub-Section (1) of Section 38 of the Electricity Act, 2003.
“Change in Law”	shall have the meaning ascribed thereto in Article 12 of this Agreement;
“Commissioning”	The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA.
“Commercial Operation Date (COD)”	shall be considered as the actual date of commissioning of the project as declared by the nodal agency of the state where project is located/Commissioning Committee constituted by the procurer. In case of part commissioning, COD will be declared only for that part of project capacity which has actually been commissioned;
“Competent Court of Law”	shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;
“Consents, Clearances and Permits”	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/or supply of power;
“Consultation Period”	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a HPD/Buying Entity Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
“Contract Year”	shall mean the period beginning from the Effective Date of PPA and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that:  i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled

	<p>Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and</p> <p>provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement</p>
“Contracted Capacity”	<p>shall mean ..... [Insert the capacity] MW, which is the AC capacity contracted with CESC for supply by the HPD to CESC at the Delivery Point from the Hybrid Power Project. It shall be equal to the Project Capacity as defined.</p>
“Controlling Shareholding”	<p>shall mean more than 50% of the voting rights and paid-up share capital in the Company/ Consortium;</p>
“Day”	<p>shall mean a day, if not a Business Day, the immediately succeeding Business Day.</p>
“Debt Due”	<p>shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:</p> <ul style="list-style-type: none"> <li>i) The principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the ‘Principal’) but excluding any part of the principal that had fallen due for repayment prior to the Transfer Date;</li> <li>ii) All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub- clause (i) above until the Transfer Date but excluding: (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Utility Default, and (iv) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost.</li> </ul> <p>Provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed not to be Debt Due even if no such conversion has taken place and the principal thereof shall be dealt with as if such conversion had been undertaken.</p>

	<p>Provided further that the Debt Due, on or after COD, shall in no case exceed 80% (eighty percent) of the Total Project Cost.</p>
<p>“Delivery Point”</p>	<p>shall mean a single point or multiple points at the voltage level of 220 kV or above of the ISTS Sub-station(s) including the dedicated transmission lines connecting the Project with the substation system as specified in the RfS document. Metering shall be done at this interconnection point(s) where the power is injected into. For interconnection with grid and metering, the HPD shall abide by the relevant and applicable regulations, Grid Code notified by the CERC or and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed thereunder by the appropriate commission or CEA.</p> <p>Pursuant to Article 4.2.6, all charges and losses related to Transmission of power from project up to Delivery Point (including but not limited to open access, GNA, Connectivity with grid, transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC/SLDC charges etc.) as notified by the competent authority / regulator shall be borne by the HPD and beyond the Delivery Point, all charges and losses as notified by the competent authority / regulator from time to time shall be borne by CESC. In case it is paid by CESC on behalf of HPD, the same shall be recovered from the HPD (as applicable);</p>
<p>“Dispute”</p>	<p>shall mean any dispute or difference of any kind between CESC and the HPD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;</p>
<p>"Due Date"</p>	<p>shall mean the forty-fifth (45th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the CESC or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by the CESC.</p>
<p>“Effective Date”</p>	<p>shall have the meaning ascribed thereto in Article 2.1 of this Agreement;</p>
<p>“Electricity Laws”</p>	<p>shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with</p>

	amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Energy Accounts"	shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month or part of the month or period (as per their prescribed methodology), including the revisions and amendments thereof or where such regional energy accounts/state energy accounts are not issued, Joint Meter Reading (JMR) will be considered; CESC reserves the right to choose from JMR/SEA/REA, based on where the Delivery Point(s) are located;
"Event of Default"	shall mean the events as defined in Article 13 of this Agreement;
"Expiry Date"	Shall mean the date occurring as on twenty-five (25) years from the Scheduled Commissioning Date (SCD) subject to condition that the supply of power shall be limited for a period of 25 years from the Scheduled Commissioning Date unless extended by the Parties as per this Agreement;
"Financial Closure"	shall mean compliance with the requirements under Article 3.1 of this Agreement;
"Financing Agreements"	shall mean the agreements pursuant to which the HPD has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of CESC;
"Force Majeure" or "Force Majeure Event"	shall have the meaning ascribed thereto in Article 11 of this Agreement;
"Guidelines" or "Scheme"	shall mean the "Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind Solar Hybrid Projects" issued by the Ministry of New and Renewable Energy vide F.No. 238/78/2017-Wind dated 14.10.2020, including subsequent amendments and clarifications issued until the bid submission deadline for the referred RfS;
"Grid Code"/	shall mean the Grid Code specified by the CERC under

“IEGC” or “State Grid Code”	Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub- section (1) of Section 86 of the Electricity Act 2003, as applicable;
“Indian Governmental Instrumentality”	shall mean the Government of India, Governments of state(s) _____ [Insert the name(s) of the state(s) in India, where the Power Project, CESC and HPD are located] and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or the above state Government(s) or both, any political sub-division of any of them; including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
“Insurances”	shall mean the insurance cover to be obtained and maintained by the HPD in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on HPD’s side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;
“Invoice” or “Bill”	shall mean either a Monthly Bill/Supplementary Bill or a Monthly Invoice/Supplementary Invoice raised by any of the Parties;
“ISTS”	shall mean the Inter-State Transmission System;
“Joint Control”	shall mean a situation where none of the promoter shareholders has at least 51 % shareholding in the paid-up share capital and voting rights in the HPD, and the control is exercised jointly;
“Late Payment Surcharge”	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement and will be as per Late Payment Surcharge Rules,2022 (LPS Rules) and subsequent amendments thereof
“Law”	shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance,

	regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;
“Letter of Credit” or “L/C”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“MNRE”	shall mean the Ministry of New and Renewable Energy, Government of India;
“Month”	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
“Party” and “Parties”	shall have the meaning ascribed thereto in the recital to this Agreement;
“Payment Security Mechanism”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“Performance Bank Guarantee” or “PBG”	shall mean the irrevocable unconditional bank guarantee, submitted by the HPD to CESC in the form attached hereto as Schedule 1;
“Pooling Substation/ Pooling Point”	means a point where more than one project may connect to a common transmission system. Multiple projects can be connected to a pooling substation from where common transmission system shall be constructed and maintained by the HPD(s) to get connected to the Delivery Point. The voltage level for such common line shall be 220 kV and above. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS substation. However, the voltage level of transmission system of individual projects up to the pooling substation may be at 33 kV and above. Sub-meters shall be installed at the pooling substation for metering and forecasting and scheduling of individual projects. The losses in the common transmission system up to the injection point shall be apportioned to the individual Projects for the purpose of billing. In such case, it shall be responsibility of the HPD to obtain and furnish the meter reading jointly by the HPD and any competent authority

	(State Government or Central Government) (if applicable).
“Power Project” or “Project” or “Wind-Solar Hybrid Power Project”	<p>shall mean the Wind-Solar hybrid power generation facility of Contracted Capacity of _____ [Insert capacity as per LoA] MW, where the rated power capacity of one resource is at least 33% of the Contracted Capacity, located at _____ [Insert name(s) of the village(s)] in _____ [Insert name(s) of the District(s) and State(s)] having a separate control system, metering and a single/multiple point(s) of injection into the grid at Delivery/Interconnection/Metering point(s) at ISTS substation or in case of sharing of transmission lines, by separate injection at pooling point. The rated capacities of the various components are as follows:</p> <p>Solar PV component: _____ MW  Wind Power component: _____ MW</p> <p>(to be filled as per project configuration).</p> <p>This includes all units/modules and auxiliaries and associated facilities, bay(s) for transmission system in the switchyard, dedicated transmission line up to the interconnection/ Metering Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility, whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power to CESC;</p>
“Preliminary Default Notice”	shall have the meaning ascribed thereto in Article 13 of this Agreement;
“Project Capacity”	shall mean the Contracted Capacity of the Project of 150MW at the point of injection/Delivery on which the Power Purchase Agreement has been signed.
“Prudent Utility Practices”	<p>shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of:</p> <p>a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be</p>

	<p>incorporated in the Power Project;</p> <p>b) the requirements of Indian Law; and the physical conditions at the site of the Power Project</p>
“RBI”	shall mean the Reserve Bank of India;
“Rebate”	shall have the same meaning as ascribed thereto in Article 10.3.5 of this Agreement;
“RLDC”	shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
“RPC”	shall mean the relevant Regional Power Committee established by the Government of India for a specific region in accordance with the Electricity Act, 2003 for facilitating integrated operation of the power system in that region;
“Rupees”, “Rs.”, “₹”	shall mean Indian rupees, the lawful currency of India;
“Scheduled Commissioning Date” or “SCD” of the Project”	shall mean [insert date 24 months from date of execution of PPA];
“SERC”	shall mean the Electricity Regulatory Commission of any State in India constituted under Section-82 of the Electricity Act, 2003 or its successors, and includes a Joint Commission constituted under Subsection (1) of Section 83 of the Electricity Act 2003;
“SLDC”	shall mean the load dispatch center established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point is located;
“SLDC Charges”	shall mean the charges levied by the SLDC of the state wherein the Hybrid Power Project is located;
“Solar Photovoltaic Project” or “Solar PV Project”	shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the HPD to provide Solar Power to CESC as per the terms and conditions of this Agreement;
“Solar Power”	shall mean power generated from the Solar Photovoltaic Power Project;
“State Transmission	shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of

Utility” or “STU”	Section 39 of the Act;
“Sub-pooling Substation”	shall mean the intermediate pooling point where power from the Solar and Wind Project components of the Hybrid Power Project is injected into and from where the hybrid power is evacuated through a single transmission line and injected into Delivery Point;
"Tariff" or "Applicable Tariff"	Shall have the same meaning as provided for in Article 9 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
“Termination Notice”	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;
“Term of Agreement”	shall have the meaning ascribed thereto in Article 2 of this Agreement;
“Unit/Part Commissioning”	Subject to the compliance of conditions / procedure as detailed under Schedule-3 of this Agreement, Unit / Part Commissioning shall mean the Hybrid Power Capacity (AC MW) to be commissioned as per provisions of this Agreement and RfS document. The minimum capacity for acceptance of first part commissioning at one project site shall be at least 50 MW, without prejudice to the imposition of penalty, in terms of this PPA on the part which is not commissioned. The projects can further be commissioned in parts of at least 25 MW batch size, with last part could be the balance capacity;
“Unit Commercial Operation Date (UCOD)”	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Power Project subsequent to the demonstration of the compliance of commissioning as per this Agreement and witnessed by the Committee duly constituted and also start of injection and scheduling power from the Power Project to the Delivery Point and availability/installation of all necessary arrangements/equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation;
“Week”	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;
“Wind Power”	Shall mean power generated from the Wind Power Projects;

“Wind Power Project”	shall mean the project that uses wind for conversion into electricity and that is being set up by the HPD to provide Wind Power to Buyer as per the terms and conditions of this Agreement;
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## **Interpretation**

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

- 1.1.1 “Agreement” shall be construed as including a reference to its Schedules and/or Appendices and/or Annexures;
- 1.1.2 An “Article”, a “Recital”, a “Schedule” and a “paragraph/clause” shall be construed as a reference to an Article, a Recital, a Schedule and a paragraph/clause respectively of this Agreement;
- 1.1.3 A “crore” means a reference to ten million (10,000,000) and a “lakh” means a reference to one tenth of a million (1,00,000);
- 1.1.4 An “encumbrance” shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;
- 1.1.5 “Indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.1.6 A “person” shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;
- 1.1.7 “Rupee”, “Rupees”, “Rs” or new rupee symbol “₹ ” shall denote Indian Rupees, the lawful currency of India;
- 1.1.8 The “Winding-up”, “dissolution”, “insolvency”, or “reorganization” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, Winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;
- 1.1.9 Words importing the singular shall include the plural and vice versa;
- 1.1.10 This Agreement itself or any other agreement or document shall be construed

as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;

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

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

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

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

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

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

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

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

1. Power Purchase Agreement
2. RfS Documents

## **ARTICLE 2: TERM OF AGREEMENT**

### **2.1 Effective Date**

- 2.1.1 This Agreement shall come into effect from (Enter the date as on 30<sup>th</sup> day of the issuance of Letter of Award to the HPD, or any further date, as applicable) and such date shall be referred to as the Effective Date.
- 2.1.2 The Parties agree that decisions pertaining to adoption of the Tariff and approval of the same, for procurement of contracted capacity, shall be binding on all Parties concerned, as contained in the Electricity Act, 2003 and any amendments thereof.
- 2.1.3 Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that, within 120 days after the Effective Date of the PPA, CESC shall obtain adoption of tariff from SERC and/or CERC, on the terms and conditions contained in this Agreement. The Parties agree that in the event, the order of adoption of tariff as mentioned above is not issued by the SERC and/or CERC (as applicable) within the time specified above, the provisions of Article 2.1.4 shall apply.
- 2.1.4 Pursuant to Article 4.2.6, if parties have mutually extended the time period as stipulated under Article 2.1.1 and the order from the SERC and/or CERC (as applicable) is issued within the timeline as per Article 2.1.3, no extension for Financial Closure or Scheduled Commissioning Date shall be given. However, if the requisite SERC and/or CERC (as applicable) order is issued after the timeline as per Article 2.1.3, this shall entail a corresponding extension in Scheduled Financial Closure and the Scheduled Commissioning Date for equal number of days for which the SERC and/or CERC order has been delayed beyond such period as specified in Article 2.1.3.

### **2.2 Term of Agreement**

- 2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a term from the Effective Date until the Expiry Date. This Agreement may be extended for a further period by CESC or HPD by giving written notice to the other party at least one hundred eighty (180) days prior to the Expiry Date, on mutually agreed terms and conditions with approval of SERC, if required.
- 2.2.2 The HPD is free to operate their plants beyond the Expiry Date if other conditions like land lease/Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by the CESC, CESC shall not be obligated to procure power beyond the Expiry Date.

### **2.3 Early Termination**

- 2.3.1 This Agreement shall terminate before the Expiry Date if either CESC or HPD

terminates the Agreement, pursuant to Article 13 of this Agreement.

## **2.4 Survival**

- 2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive penalty as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 11, Article 13, Article 14, Article 16, Article 17 , and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.

## **ARTICLE 3: CONDITIONS SUBSEQUENT**

### **3.1 Satisfaction of conditions subsequent by the HPD**

The HPD agrees and undertakes to duly perform and complete all of the following activities including Financial Closure at the HPD's own cost and risk by \_\_\_\_\_ [Enter the date as on 12 Months after the Effective Date], unless such completion is affected by any Force Majeure event, or for the activities specifically waived in writing by CESC:

- a) The HPD shall make Project financing arrangements for its Projects(s) and shall provide necessary certificates to CESC in this regard.
- b) The HPD shall submit details of all planned/proposed solar panels, inverters and wind turbine generators, along with necessary purchase order/agreements for the project. The HPD shall submit to CESC the relevant documents as stated above, complying with the Conditions Subsequent, within twelve (12) months from the effective Date.
- c) Any other details sought as per the checklist communicated by CESC in line with Annexure-A of the RfS.

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

3.2.1 In case of a failure to submit the documents as above, CESC shall encash the Performance Bank Guarantee, terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the HPD in writing of at least seven (7) days, unless the delay (subject to the conditions that HPD has made/is making all possible efforts) is on account of Force Majeure. Unless extended as per provisions of Article 3.2.1(i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.

3.2.1.(i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of HPD, on payment of Rs. 1,000/- per day per MW to CESC. Such extension charges are required to be paid to CESC in advance, for the period of extension required. In case of any delay in depositing this extension charge, HPD shall pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI-MCLR (1Year). In case such delay in making payment of the extension charges to CESC is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7th day. In case of the HPD meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the remaining amount deposited by the HPD shall be returned by CESC without interest. This extension will not have any impact on the Scheduled Commissioning Date. Any extension charges paid so by the HPD, shall be returned to the HPD without any interest on

achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioned Date. However, in case the HPD fails to commission the Contract Capacity by Scheduled Commissioning Date, the extension charges deposited by the HPD shall not be refunded by CESC.

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

3.2.3 In case of inability of the HPD to fulfil the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event.

Further, any delay in adoption of tariff by the Appropriate Commission, beyond 120 (one hundred twenty days) days after the Effective Date of this Agreement, shall entail a corresponding extension in the deadline as stipulated in Article 2.1.4

3.2.4 Provided that due to the provisions of this Article 3.2.1, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

### 3.3 Performance Bank Guarantee

3.3.1 The Performance Bank Guarantee (PBG) having validity from the date of submission of PBG until 9 (nine) months after Scheduled Commissioning Date, having a value of Rs. 36.167 Lakh/MW (Rs. 36,16,700/MW), to be furnished under this Agreement shall be for guaranteeing the commencement of the supply of power up to the Contracted Capacity within the time specified in this Agreement as per format provided in Schedule 1.

3.3.2 The failure on the part of the HPD to furnish and maintain the Performance Bank Guarantee shall be a material breach of the term of this Agreement on the part of the HPD.

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

### 3.4 Return of Performance Bank Guarantee

3.4.1 Subject to Article 3.3, CESC shall return/release the Performance Bank

Guarantee immediately after completion of three months from the date of the successful Commissioning of the Project and commencement of power supply under this PPA; after taking into account any liquidated damages/penalties due to delays in commissioning as per provisions stipulated in this Agreement.

- 3.4.2 The return/release of the Performance Bank Guarantee shall be without prejudice to other rights of CESC under this Agreement.

## **ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT**

### **4.1 HPD's Obligations**

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

- a) The HPD shall be solely responsible and make arrangements for Land & associated infrastructure for development of the Project and for Connectivity with the ISTS System for confirming the evacuation of power by the Scheduled Commissioning Date and all clearances related thereto;  
  
On or before (as least 3 months) Scheduled Commissioning Date or extended Scheduled Commissioning Date, the HPD shall demonstrate possession of 100% (Hundred Percent) of the land identified for the Project in its name for a period not less than the complete Term of this Agreement. In this regard, the HPD shall submit documents/Lease Agreement to establish possession /right to use 100% of the required land in the name of the HPD or its Affiliate. In case the land is in the name of the Affiliate, the land should be transferred in the name of the HPD prior to the SCD (at least 3 months before). Wherever leasing of private land is involved, the lease should allow transfer of land to the lenders or CESC, in case of default of the HPD. The HPD shall submit a sworn affidavit from the authorized signatory of the HPD listing the details of the land and certifying that total land required for the Project is under clear possession of the HPD;
- b) Obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement. CESC shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Project. The HPD shall, on his own, obtain permissions/sanctions from Government authorities, if any required for establishing the Project. Any steps that may be taken by CESC in regard to grant of such consents and permits or any other approval to be taken by the HPD shall only be a voluntary endeavor with no intention of being bound by any legal or binding obligation.
- c) designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
- d) the commencement of supply of power up to the Contracted Capacity to CESC no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;
- e) connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point; the HPD shall make adequate arrangements to connect the Power Project switchyard with the Interconnection Facilities at

Interconnection/Metering/Delivery Point.

- f) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15.
- g) ensuring that the Successful Bidder maintains at least 51% shareholding in the HPD up to a period of one (1) year after Commercial Operation Date of the Project in line with Clause 25 of the RfS, except with prior approval of CESC. In case of the Successful Bidder itself being the HPD, it shall ensure that its promoters shall not cede control (Control shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors), till 01 (one) year after the COD, except with the prior approval of CESC. However, in case the Project is being set up by a listed Company, this condition will not be applicable.
- h) fulfilling all obligations undertaken by the HPD under this Agreement.
- i) Obtaining Connectivity and executing connectivity agreement as per provision of GNA/LTA regulation, as applicable, issued by CERC, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement.
- j) The HPD shall be responsible to for directly coordinating and dealing with the CESC, Load Dispatch Centers, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of hybrid Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations, acknowledging that the HPD and the CESC are the Grid connected entities in respect of the Hybrid Power contracted under this Agreement.
- k) The HPD shall fulfil the technical requirements according to criteria as per Schedule 4 of this Agreement. Further, the type-certified wind turbine models listed in Revised List of Models and Manufacturers (RLMM) issued by MNRE as updated as on the date of commissioning of the Projects will be allowed for deployment under this Agreement. The modules used in the Project shall be sourced only from the models and manufacturers included in the List-I under the “Approved Models and Manufacturers of Solar Photovoltaic Modules (Requirement of Compulsory Registration) Order, 2019-Implementation-Reg.” as published by MNRE, and valid as on the date of invoicing of such modules.
- l) The wind power projects will be developed as per Guidelines issued by the Government on Development of Onshore Wind Power Projects.
- m) Further, the Project being implemented under this Agreement shall fulfil the criteria as per Central Electricity Authority (Technical Standards for

Connectivity to the Grid) Regulations, 2007, and subsequent amendments and clarifications thereof,

- n) As part of scheduling of power from the Project, the HPD will be required to punch-in their respective schedules and subsequent revisions, by themselves, at the interfaces of all the RLDCs/SLDCs concerned for the corridor of power flow, including the RLDC/SLDC of the CESC, as per the Regulations in force. The HPD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.
- o) applying start up/auxiliary power required for the plant from relevant utility and make payment for start-up/auxiliary power, reactive power as per applicable Regulations is the sole responsibility of the HPD;
- p) All charges pertaining to OA, scheduling charges and any other charges, losses upto the Delivery Point shall be borne by HPD.
- q) The HPD shall submit fortnightly and monthly progress report (soft copies) along with catch up plans against slippages (if any) in order to achieve the Financial closure and commissioning of plant on time as per PPA schedule. The progress report shall be in a form acceptable to the CESC and shall indicate: (a) Land acquisition status, (b) Design completion status, (c) Status of financial closure, (d) percentage of supply materials/equipment procured status and (e) percentage of civil & Erection work completion.

#### 4.2 Information regarding Interconnection Facilities

- 4.2.1 The HPD shall be required to obtain all information from the STU/CTU /concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the HPD's side of the Delivery Point to enable delivery of electricity at the Delivery Point. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the HPD at his own cost.
- 4.2.2 Penalties, fines and charges imposed by the CTU/STU under any statute or regulation in relation to delay in commissioning of Project shall be payable by the HPD to the extent the delay is attributable to the HPD.
- 4.2.3 The responsibility of getting connectivity with the transmission system up to the Interconnection Point/ Delivery Point, will lie with the HPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the HPD at his own cost. The maintenance of Transmission system up to the designated point as per the applicable terms and conditions shall be the responsibility of the HPD. All costs and charges including but not limited to the wheeling charges and losses (taxes, royalty, cess, duties and any other involved costs whatsoever)

up to the Delivery Point and including at the Interconnection Point associated with this arrangement will also be borne by the HPD.

- 4.2.4 In case of Pooling substation, losses in the transmission line shall be apportioned among the HPDs who share such a Pooling arrangement and duly signed by all HPDs, based on their monthly generation.
- 4.2.5 The arrangement of connectivity shall be made by the HPD through a dedicated transmission line. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the Project up to the Interconnection Point/Delivery Point will be borne by the HPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the HPD, provisions of Article 4.10 shall be applicable. It is to be noted that while the HPD is free to choose multiple points of injection for supply of power in the ISTS network, the quantum of connectivity to be sought by the HPD at each location shall not exceed the Contracted Capacity as per the PPA for the said Project. However, HPD shall also ensure that the quantum of power scheduled to CESC in any of the time blocks is not more than the contracted capacity.

For example, in case the Contracted Capacity of a Project is 100 MW under a single PPA, and the HPD chooses to seek connectivity and GNA/LTA at 2 separate injection points for “A MW” and “B MW” respectively, the quantum of connectivity sought at each location should not exceed 100 MW.

- 4.2.6 Government of India, from time to time, issues order for waiver of inter-state transmission system (ISTS) charges on transmission of wind and solar power till a certain date. In case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver, arising out of any reasons whatsoever, CESC shall bear no liability with respect to transmission charges levied, if any. However, in case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver/extended SCD as above, due to reasons attributable to the HPD, the liability of transmission charges/GNA/LTA charges would be to the account of the HPD.

In case of any extension in SCD beyond 30.06.2025 (which is the last date at present to get waiver of ISTS charges), decision of getting ISTS waiver will be taken by MNRE, in line with the OM issued by Ministry of Power vide No. 23/12/2016-R&R dated 23.11.2021 read with amendment dated 30.11.2021, and subsequent amendments/clarifications thereto, if any.

The provisions of PPA in regard to liability of the CESC/HPD to pay the ISTS charges shall stand modified by such exemption/waiver provided as per the above Office Memoranda, as applicable.

#### 4.3 Purchase and sale of Contracted Capacity

- 4.3.1 Subject to the terms and conditions of this Agreement, the HPD undertakes

to sell to CESC and CESC undertakes to pay Tariff for all the energy supplied at the Delivery Point as per REA corresponding to the Contracted Capacity.

#### 4.4 Right to Contracted Capacity & Energy

4.4.1 The Bidder has declared the annual CUF of \_\_\_\_\_ for the Project(s) during the submission of the Bid and the HPD will be allowed to revise the same once within first three years after COD of the Project. For any Contract Year, the HPD shall maintain generation so as to achieve annual energy supply not less than \_\_\_\_\_ MUs (Individual MUs i.e., Solar & wind energy components to be mentioned along with total MUs) corresponding to the minimum annual CUF of 90% (insert declared Minimum annual CUF) and not more than \_\_\_\_\_ MUs (Individual MUs i.e., Solar & wind energy components to be mentioned along with total MUs) corresponding to the maximum annual CUF of 120% (insert Maximum annual CUF) and CESC shall be obligated to purchase the same during the entire Term of this Agreement.

(a) Note Used

(b) If for any Contract Year, except for the Contract Year ending on 31<sup>st</sup> March immediately after the COD of the Project, it is found that the HPD has not been able to supply at Delivery Point to CESC, minimum annual energy corresponding to Minimum CUF on account of reasons solely attributable to the HPD, the HPD shall be liable to pay a compensation to CESC. It is clarified that the shortfall in energy supply will be calculated based on the total annual energy commitments, and not on the solar and wind energy units as indicated above. The energy corresponding to Minimum CUF will, however be relaxable by CESC to the extent of Generation Compensation due to grid non-availability to the Project for evacuation which is beyond the control of the HPD as determined under provisions of Article 4.10. The amount of such compensation shall be calculated @ 50% (fifty percent) of the PPA Tariff for the shortfall in energy terms in accordance with the terms of the PPA. This compensation shall not be applicable in events of Force Majeure identified under this PPA affecting supply of power by HPD. Compensation amount shall be adjusted by CESC through Debit/credit note as applicable from the unpaid monthly bills and/or supplementary bills raised by the HPD.

It shall not be construed that the compensation is payable by the HPD only if the Buying Entity is required to pay compensation for such not meeting of RPOs or that the Buying Entity or the HPD shall be required to prove or establish such payment of compensation for not meeting the RPOs.

(c) The HPD shall agree that the methodology specified herein above for calculation of liquidated damages payable by the HPD for shortfall in generation is a genuine and accurate pre-estimation of the actual loss that will be suffered by CESC. The HPD shall further acknowledge that the

amount of the liquidated damages or the method of calculating the liquidated damages specified in this document is a genuine and reasonable pre-estimate of the damages that may be suffered by the CESC in each case specified under this Agreement.

- 4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by CESC at 75% of the tariff in terms as per Article 9 unless CESC refuses to purchase such power. While the HPD would be free to install the DC solar field as per its design of required output, including its requirement of auxiliary consumption and to repower the Project from time to time during the term of the PPA in line with applicable MNRE guidelines, it will not be allowed to sell any excess power to any other entity other than CESC (unless refused by CESC). Further, any addition to the installed capacity (including but not limited to solar panels and/or wind turbines) subsequent to commissioning of the full capacity/part capacity of the Project (as applicable), shall not be eligible for any future claims made by the HPD, seeking compensation on account of any changes in the applicable provisions covered under Change in Law as defined in this Agreement.

The HPD will be free to re-power their plants during the PPA duration. However, after repowering, the minimum ratio of both the resources shall be maintained.

The HPD shall be required to intimate CESC about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 60 days prior to the proposed date of commencement of excess generation. CESC shall be required to intimate its approval/refusal to the HPD, for buying such excess generation not later than 30 days of receiving the above offer from the HPD. In the event the offer of the HPD is not accepted by CESC within the said period of 30 days, such right shall cease to exist and the HPD shall, at its sole discretion, may sell such excess power to any third party.

However, in case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the HPD will have to forego the excess generation and reduce the output to the rated capacity and shall also have to pay the penalty /charges (if applicable) as per applicable regulations/requirements/guidelines of CERC/SERC/SLDC or any other competent agency.

Any energy produced and flowing into the grid before Scheduled Commissioning Date shall not be at the cost of CESC. CESC may agree to buy such power at PPA tariff.

#### 4.5 Extensions of Time

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

- a) any CESC Event of Default; or
- b) Force Majeure Events affecting CESC, or
- c) Force Majeure Events affecting the HPD,

the Scheduled Commissioning Date and the Expiry Date shall be deferred, for a reasonable period but not less than 'day for day' basis, to permit the HPD or CESC through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the HPD or CESC, or till such time such Event of Default is rectified by HPD or CESC.

4.5.2 The Entities (HPD and CESC) as indicated in the Detailed Procedure issued under the GNA or LTA Regulations as applicable, will be responsible for their respective obligation as notified in the Detailed Procedure irrespective of the provisions of the RfS and PPA. It is clarified that in case the Detailed Procedure under the GNA regulations are not enforced until the Project commissioning, the HPD and the CESC shall abide by the current Procedure under applicable CERC regulations. In such a scenario, the responsibility of obtaining LTA will be that of the HPD. In the alternate scenario, no such requirement will be applicable on the HPD. For sale of power to CESC from SCD, HPD shall have LTA. Subsequent to grant of connectivity, in case there is a delay in operationalization of GNA by the CTU and/or there is a delay in readiness of the ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network until SCD of the Project, and it is established that:

- i The HPD has complied with the complete application formalities as per RfS,
- ii The HPD has adhered to the applicable Procedure in this regard as notified by the CERC/CTU/STU, and
- iii The delay in operationalization of GNA/LTA and/or delay in readiness of the ISTS substation at the Delivery Point, including readiness of power evacuation and transmission infrastructure of the ISTS network, is a factor attributable to the CTU /STU/ transmission licensee and is beyond the control of the HPD;

The above shall be treated as delays beyond the control of the HPD and SCD for such Projects shall be revised as the date as on 60 days subsequent to the readiness of the Delivery Point and power evacuation infrastructure and/or operationalization of GNA/LTA as applicable. Decision on requisite extension on account of the above factor shall be taken by CESC.

Further, any delay in adoption of tariff by the Appropriate Commission, beyond 120 days after Effective Date of this Agreement, shall entail a corresponding extension in Scheduled Commissioning Date.

Further, in case of delay in Project commissioning on account of reasons solely attributable to the HPD, resulting in any liquidated damages/penalty levied on the CESC under the GNA/LTA Regulations, such damages/penalty shall be passed on to the HPD.

- 4.5.3 In case of extension due to reasons specified in Article 4.5.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of 180 days from the date of the Force Majeure Notice, any of the Parties may choose to terminate the Agreement as per the provisions of Article 11.10. In case neither party terminates the Agreement under this clause, the Agreement shall stand terminated on the expiry of twelve (12) months of the continuation of the Force Majeure event unless the parties mutually agree to extend the Agreement for the further period.
- 4.5.4 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article 16.
- 4.5.5 As a result of such extension on account of Article 4.5.1 or Article 4.5.2, the newly determined Scheduled Commissioning Date and newly determined Expiry Date shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.
- 4.5.6 Notwithstanding anything to the contrary contained in this agreement, any extension of the SCD arising due to any reason envisaged in this agreement shall not be allowed beyond the date pursuant to Article 4.6.2
- 4.5.7 Delay in commissioning of the project beyond the scheduled commissioning date for reasons other than those specified in Article 4.5.1 & Article 4.5.2 shall be an event of default on part of the HPD and shall be subject to the consequences specified in the Article 4.6.
- 4.6 Liquidated Damages not amounting to penalty for delay in Commissioning
  - 4.6.1 The Project shall be fully commissioned within the Scheduled Commissioning Date as defined in this Agreement. If the HPD is unable to commission the Project by the Scheduled Commissioning Date for the reasons other than those specified in Article 4.5.1 and 4.5.2, the HPD shall pay to CESC, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:
    - a) Delay beyond the Scheduled Commissioning Date upto (& including) the

date as on 6 months after the Scheduled Commissioning Date, as part of the liquidated damages, the total PBG amount for the Project shall be encashed on per day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 240 MW capacity, if commissioning of 100 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be:  $PBG \text{ amount} \times (100/240) \times (18/180)$ . For the purpose of calculations of liquidated damages, 'month' shall be considered consisting of 30 days.

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

4.6.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee shall be limited to 6 months after the SCD of the Project. In case, the Commissioning of the Project is delayed beyond 6 months after the SCD, it shall be considered as an HPD Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced / amended to the Project Capacity Commissioned within 6 months after the SCD and the PPA for the balance Capacity will stand terminated and shall be reduced from the project capacity.

4.6.3 The HPD further acknowledges that the amount of the liquidated damages fixed is genuine and reasonable pre-estimate of the damages that may be suffered by CESC as specified under this Agreement.

4.7 Acceptance/Performance Test

4.7.1 Prior to synchronization of the Power Project, the HPD shall be required to get the Project certified for the requisite acceptance/performance test as may be laid down by Central Electricity Authority or an agency identified by the central government to carry out testing and certification for the Hybrid power project.

4.8 Third Party Verification

4.8.1 The HPD shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to CESC and a third Party nominated by CESC/Indian Governmental Instrumentality for inspection and verification of the works being carried out by the HPD at the site of the Power Project. The HPD shall provide full support to CESC and/or the third party in this regard.

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

#### 4.9 Breach of Obligations

4.9.1 The Parties herein agree that during the subsistence of this Agreement, subject to CESC being in compliance of its obligations & undertakings under this Agreement, the HPD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

#### 4.10 Generation compensation for Off-take constraints

4.10.1 Offtake constraints due to Backdown: The HPD and CESC shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. The Government of India, as per Clause 5.2(u) of the Indian Electricity Grid Code (IEGC), encourages a status of “must-run” to wind and solar power projects. Therefore, wind solar hybrid power plant, duly commissioned, should never be directed to back down by a Discom/Load Dispatch Centre (LDC) except grid security or safety of any equipment or personnel where it should be duly recorded, the justification of which can be verified by any third-party agency, and be notified in writing. No back-down/curtailment to be ordered without giving formal/written instruction for the same. The details of back-down/curtailment, including justifications for such curtailment, specifying data to back such curtailment, to be made public by the concerned Load Dispatch Centre. In the event of any backing down, the HPD shall be eligible for a Generation Compensation, in the manner detailed below and there shall be no other claim, directly or indirectly against CESC:

<b>Duration of Backdown</b>	<b>Provision for Generation Compensation</b>
Hours of Backdown during a monthly billing cycle.	<p><i>Minimum Generation Compensation = 100% of [(Average Generation per hour during the month) x (number of backdown hours during the month) X PPA tariff]</i></p> <p>Where, Average Generation per hour during the month (kWh) = Total generation in the month (kWh) ÷ Total hours of generation in the month</p>

The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA)/SEA. It is hereby clarified that for the purpose of Article 4.10, “generation” shall mean scheduled energy based on Energy Accounts. Notwithstanding anything mentioned above, the provisions of Article 4.10 shall be applicable subject to the acceptance of the same by the CESC. No compensation shall be payable, however, if the backdown/ curtailment is on account of considerations of grid security/ safety. Such a backdown will be recorded and reported to RLDC/

NLDC. RLDC/ NLDC will examine the issue of grid safety/ security and give a finding that the issue of grid safety existed.

**ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION**

**5.1 Synchronization, Commissioning and Commercial Operation**

- 5.1.1 The HPD shall give the concerned RLDC/SLDC and CESC at least sixty (60) days' advanced preliminary written notice and at least thirty (30) days' advanced final written notice of the date on which it intends to synchronize the Power Project to the Grid System.
- 5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the HPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 5.1.3 The synchronization equipment and all necessary arrangements/equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the HPD at its generation facility of the Power Project at its own cost. The HPD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned substation/Grid System and checking/verification is made by the concerned authorities of the Grid System.
- 5.1.4 The HPD shall immediately after each synchronization/tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code under intimation to CESC. In addition, the HPD will inject in-firm power to grid time to time to carry out operational/functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization/Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.
- 5.1.5 The HPD shall commission the Project as detailed in "Schedule 3: Commissioning Procedure" within the SCD as per this Agreement. Declaration of COD/UCOD shall only be done subject to the demonstration of the compliances as per Schedule-3 and subsequent upon the successful visit by the Commissioning Committee.
- 5.1.6 There can be part Commissioning of the Project. Part commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid. Part commissioning cannot be construed by just installing one source of generation, the HPD shall install both solar and wind capacities in proposed ratio on pro-rata basis.
- 5.1.7 The Parties agree that for the purpose of commencement of the supply of electricity by HPD to CESC, liquidated damages for delay etc., the Scheduled

Commissioning Date or extended Scheduled Commissioning Date as defined in this Agreement shall be the relevant date.

#### 5.1.8 Early Commissioning

The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the Scheduled Commissioning Date, subject to availability of transmission connectivity and General Network Access (GNA)/ LTA/Medium Term/Short Term whichever is applicable at the time of commissioning.

Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and CESC may purchase the energy from such early commissioned Project at the PPA tariff, only if prior written consent is obtained from CESC for purchase of this power and at the PPA tariff. Such intimation for early commissioning shall be provided to CESC at least 60 days prior to the proposed early commissioning date. In case there is no response provided by CESC within 30 days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been refused by CESC.

In case CESC does not agree to purchase such energy, early part/full commissioning of the Project shall still be allowed and the HPD will be free to sell such energy to a third party; subject to operationalization of GNA/LTA, until SCD or the date of commencement of procurement of power from the Project as notified by CESC, whichever is earlier. In such cases a Provisional Commissioning Certificate will be issued to HPD for period up to SCD or date of commencement of Power Procurement (whichever is earlier), along with a NOC for sale of Power to 3<sup>rd</sup> Party for such period. COD of the Project under the PPA will be declared from the date of commencement of procurement of energy from the Project by CESC

In case, project is ready for early commissioning prior to GNA/LTA and if CESC has agreed to procure such power before SCD/GNA/LTA operationalization, then in this case HPD is required to bear all charges upto the Delivery Point i.e., short term/medium term open access (STOA/MTOA) charges inter alia includes but not limited to MTOA/STOA applications charges (of seller state & region), respective RLDC & SLDC operations charges and NOC charges in accordance to Region or State where project is located etc., and CESC is required to bear any charges beyond Delivery Point i.e. respective RLDC and SLDC application and operation charges (Regions other than seller region, CESC State) and NOC charges etc. In case GNA regulations become applicable and GNA is yet to be operationalized, the applicable charges will be dealt as per the GNA regulations.

#### 5.1.9 In case one of the Project components (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned, so in this case to avoid the stranding of RE power, HPD at its

sole discretion, may be allowed to commission the plant at its own risk without any financial implications/obligations on CESC. However, following should be noted under this scenario:

- i) First right of refusal for such power shall vest with CESC, and if agreed by CESC, power procurement from individual component (Solar or Wind), will be undertaken at 50% of the PPA tariff
- ii) The above scenario does not qualify under the provisions of Part/Early Commissioning under the RfS, PPA. This is a special case wherein in case a project component is ready, the generation from such component is not wasted.
- iii) The terms “COD” and “commissioning” as per the RfS and PPA will not be applicable for such component. Commissioning/injection of power from such component will be allowed only if the same is allowed as per the applicable regulations.
- iv) The above scenario will be applicable until the HPD is ready to commission the Project as per the provisions of “Early and/or Part Commissioning” of the Project.

## **ARTICLE 6: DISPATCH AND SCHEDULING**

### 6.1 Dispatch and Scheduling

- 6.1.1 The HPD shall be required to schedule its power as per the applicable regulations/requirements/guidelines of CERC/SEERC/SLDC/RLDC or any other competent agency and same being recognized by the SLDC or any other competent authority/agency as per applicable regulation/law /direction and maintain compliance to the applicable Codes/Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation/guidelines/directions and any financial implication on account of this shall be on the account of the HPD.
- 6.1.2 The HPD shall be responsible for directly coordinating and dealing with the CESC, State Load Dispatch Centers, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of hybrid Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the HPD and CESC are the Grid connected entities.
- 6.1.3 The HPD shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the HPD.
- 6.1.4 Auxiliary power consumption will be treated as per the concerned Central/State regulations.

### 6.2 Supply Obligation of the HPD

In case the HPD fails to offer the contracted power as per this Agreement to CESC and sells the contracted power without its consent to any other party, the HPD, on a complaint to this effect by CESC to the load dispatch center concerned, shall be debarred from participating in Power Exchanges and on the Discovery of Efficient Electricity Pricing portal (DEEP) and scheduling of any new short-term contracts from the Project for a period of three months from the date on which the default has been taken cognizance by the concerned load dispatch center. The period of debarment shall increase to six months for second default and shall be one year for each successive default. Such debarment of the HPD shall be without prejudice to the rights of CESC for seeking compensation for the default by the HPD under this Agreement.

## **ARTICLE 7: METERING**

### 7.1 Meters

- 7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the HPD and CESC shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.
- 7.1.2 The HPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at HPD's side of Delivery Point.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the HPD shall install Main & Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable Central/State regulations.
- 7.1.4 In case of pooling of multiple Projects, power from multiple Projects can be pooled at a Pooling Substation prior to the Delivery point and the combined power can be fed at Delivery point through a common transmission line from the Pooling Substation. In such cases, ABT compliant sub-meters as per relevant regulation/approval are also to be set up at pooling substation for individual projects in addition to the meters at Delivery Point as described in Article 7.1.3.

### 7.2 Reporting of Metered Data and Parameters

- 7.2.1 The grid connected hybrid power plants will install necessary equipment for continuous monitoring of ambient air temperature, wind resource data (including wind speed), solar resource data and other weather parameters and simultaneously for monitoring of the electric power (both DC and AC) generated from the plant.
- 7.2.2 Online arrangement would have to be made by the HPD for submission of above data regularly for the entire period of this Power Purchase Agreement to the SLDC, CESC, National Institute of Wind Energy (NIWE) and the concerned Ministry or concerned agency as per applicable regulation/directions.
- 7.2.3 Reports on above parameters on monthly basis (or as required by regulation/guidelines) shall be submitted by the HPD to Ministry of New and Renewable Energy/ CESC /National Institute of Solar Energy/ National Institute of Wind Energy for entire Term of PPA.

In addition to the abovementioned data, the HPD shall also be required to submit information, as required by CESC, for regular monitoring of status of the Project.

## **ARTICLE 8: INSURANCES**

### 8.1 Insurance

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

### 8.2 Application of Insurance Proceeds

8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

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

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

### 8.3 Effect on liability of CESC

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

## **ARTICLE 9: APPLICABLE TARIFF**

9.1 The HPD shall be entitled to receive the Tariff of Rs. \_\_\_\_\_/kWh [Insert the Tariff discovered through the bidding process conducted by CESC], fixed for the entire term of this Agreement, with effect from the SCD, for the power sold to the CESC for the scheduled energy as reflected in the Energy Accounts. In case of early commissioning, CESC may purchase the generation at the PPA tariff.

9.2 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by CESC at @ [Insert the value as per 75% (seventy-five per cent) of the Applicable Tariff], provided CESC consents for purchase of such excess generation. While calculating the above value of 75% of the PPA tariff, the digits after 2 decimal places will be ignored. For eg, in case the value of 75% of the PPA tariff is calculated as 2.4567/kWh, the tariff applicable for purchase in case of early commissioning will be read as Rs. 2.45/kWh.

Any energy produced and flowing into the grid before SCD shall not be at the cost of CESC. However, the HPD will not be allowed to sell energy generated prior to SCD or excess energy during any Contract Year to any other entity other than CESC (unless refused by CESC).

9.3 Early Commissioning:

Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and CESC shall purchase the energy from such early commissioned Project at the PPA tariff, only in the case CESC agrees to purchase power from the Project at an earlier date, and at the PPA tariff. Such intimation for early commissioning shall be provided to CESC at least 60 days prior to the proposed early commissioning date. In case there is no response provided by CESC within 30 days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been refused by CESC.

## **ARTICLE 10: BILLING AND PAYMENT**

### 10.1 General

#### 10.1.1 Not Used

10.1.2 From the commencement of supply of power, CESC shall pay to the HPD the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with Article 9. All Tariff Payments by CESC shall be in Indian Rupees.

#### 10.1.3 Not used

10.1.4 The HPD shall be required to make arrangements and payments for import of energy (if any) as per applicable regulations.

10.1.5 The Parties acknowledge and accept that the Electricity (Late Payment Surcharge and related matters) Rules, 2022 [hereinafter referred to as 'Rules'] notified by the Central Government in exercise of the power conferred by Sub-section (1) of Section 176 of the Electricity Act, 2003 shall apply and govern the terms and conditions of this Agreement in regard to matters contained in the said Rules including but not limited to the Late Payment Surcharge, adjustment towards the Late Payment Surcharge, Payment Security mechanism-its operations and consequences, actions of Defaulting Entities, supply obligation of HPD, power not requisitioned by the CESC, the order of payment and adjustment towards late payment surcharge and indemnification. The above shall apply in regard to the present agreement. The Rules referred to hereinabove being statutory shall, to the extent applicable, supersede any provisions in this PPA which are inconsistent or contrary to the provisions of the Rules.

### 10.2 Delivery and Content of Monthly Bills/Supplementary Bills

10.2.1 The HPD shall issue to CESC hard copy of a signed Monthly Bill/Supplementary Bill for the immediately preceding Month/relevant period based on the issuance of Energy Accounts along with all relevant documents (payments made by HPD for drawl of power, payment of reactive energy charges, Metering charges or any other charges as per guidelines of SERC/CERC, if applicable).

10.2.2 Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RPC or any other competent authority which shall be binding on both the Parties. The Monthly Bill amount shall be the product of the energy as per Energy Accounts and the Applicable Tariff. Energy drawn from the grid will be regulated as per the applicable Central/State regulations. HPD shall issue to CESC a signed Bill on any day of the month (hereinafter referred to as "Monthly Bill") prepared based on provisional REA of wind-solar hybrid energy supplied in the preceding month. Monthly Bill shall also include the following:

- i. Monthly bill shall be raised based on the provisional REA, adjustments if any may be done based on the applicable energy account/JMR/Final REA for the power supplied in the preceding months with Credit/Debit Note as applicable.
- ii. Taxes, duties Levies etc. as applicable

10.2.3 As per applicable regulation(s) of the Appropriate Commission(s)/respective SERC(s), all charges pertaining to obtaining general open access and scheduling of power, if any, shall be borne by the HPD.

### 10.3 Payment of Monthly Bills

10.3.1 Subject to the provision of Article 10.3.4, CESC shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the HPD, as shall have been previously notified by the HPD as below.

10.3.2 All payments required to be made under this Agreement shall also include any deduction or set off for:

- i. deductions required by the Law; and
- ii. amount claimed by CESC, if any, from the HPD, will be adjusted from the monthly energy payment. In case of any excess payment adjustment, surcharge, if any, will be applicable as per Article 10.3.3.

The HPD shall open a bank account (the “HPD’s Designated Account”) for all Tariff Payments (including Supplementary Bills) to be made by CESC to the HPD and notify CESC of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. CESC shall also designate a bank account at Kolkata (“CESC Designated Account”) for payments to be made by the HPD to CESC, if any, and notify the HPD of the details of such account ninety (90) Days before the Scheduled Commissioning Date. CESC and the HPD shall instruct their respective bankers to make all payments under this Agreement to the HPD’s Designated Account or CESC’s Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

### 10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by CESC beyond the Due Date, a Late Payment Surcharge shall be payable by CESC to the HPD on the outstanding payment as per LPSC Rules, 2022 and amendments or its substitution.

The Late Payment Surcharge shall be claimed by the HPD through the Supplementary Bill.

10.3.4 Subject to the Article 9 of this Agreement, in the event of early Commissioning

of the Project and subject to acceptance by CESC, the payment for the power fed to the grid may be accounted from the date of UCOD/COD (as applicable), and HPD would be allowed to raise Bills against such power as per Article 10.2.1, subject to the conditions as stipulated in Article 9. However, payment against the 1<sup>st</sup> such bill raised by the HPD, will be made subject to acceptance of the bill by the CESC.

#### 10.3.5 Rebate

For payment of any Bill on or before Due Date, the following Rebate shall be paid by the HPD to CESC in the following manner.

- a) A Rebate of 1.5% shall be payable to the CESC for the payments made within a period of 10 (ten) days of the presentation of hard copy of Bill.
- b) Any payments made after ten (10) Days upto and including the 30<sup>th</sup> Day after the date of presentation of Bill through hard copy, shall be allowed a rebate of 1%.
- c) For the above purpose, the date of presentation of Bill shall be the next Business Day of delivery of the physical copy of the Bill at CESC.
- d) No Rebate shall be payable on the Bills raised on account of Change in Law (except in case of annuity tariff model being implemented, where rebate will be applicable) relating to taxes, duties, cess etc. and on Supplementary Bill.

For the above purpose date of presentation of bill shall be the same day of delivery in hard copy. However, for consideration of rebate, next business day shall be considered.

#### 10.4 **Payment Security Mechanism**

10.4.1 **A. Letter of Credit (LC):** CESC shall provide to the HPD, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained which may be drawn upon by the HPD in accordance with this Article.

##### B. Payment Security Fund:

CESC shall maintain Payment Security Fund suitable to support payment for at least 3 (three) months billing

10.4.2 Before the start of supply, CESC shall, through a scheduled bank open a Letter of Credit in favor of the HPD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:

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

billing;

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

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

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

10.4.5 CESC shall cause the scheduled bank issuing the Letter of Credit to intimate the HPD, in writing regarding establishing of such irrevocable Letter of Credit.

10.4.6 CESC shall ensure that the Letter of Credit shall be renewed not later than its expiry.

10.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by CESC.

10.4.8 If CESC fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 10.4.6 & 10.5.2, the HPD may draw upon the Letter of Credit, and accordingly the bank shall pay, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

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

## 10.5 Disputed Bill

10.5.1 If CESC does not dispute a Monthly Bill or a Supplementary Bill raised by the HPD within thirty (30) days of receiving such Bill shall be taken as conclusive.

10.5.2 If CESC disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 50% of the invoice amount and it shall within thirty (30) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:

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

10.5.3 If the HPD agrees to the claim raised in the Bill Dispute Notice issued pursuant

to Article 10.5.2, the HPD shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.

10.5.4 If the HPD does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the CESC providing:

- i) reasons for its disagreement;
- ii) its estimate of what the correct amount should be; and
- iii) all written material in support of its counter-claim.

10.5.5 Upon receipt of the Bill Disagreement Notice by the CESC under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the CESC and HPD shall meet and make best endeavors to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

10.5.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.5.4, the matter shall be referred to Dispute resolution in accordance with Article 16.

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

## 10.6 Quarterly and Annual Reconciliation

10.6.1 The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to quarterly reconciliation within 30 days of the end of the quarter at the beginning of the following quarter of each Contract Year and annual reconciliation at the end of each Contract Year within 30 days to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

10.6.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the HPD and CESC shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the HPD shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the

date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.

#### 10.7 Payment of Supplementary Bill

10.7.1 HPD may raise a ("Supplementary Bill") for payment on account of:

- i Late Payment Surcharge
- ii Change in Law as provided in Article 12, or
- iii Payment under Article 4.10,

And such Supplementary Bill shall be paid by the other Party.

10.7.2 CESC shall remit all amounts due under a Supplementary Bill raised by the HPD to the HPD's Designated Account by the Due Date, except open access charges, RLDC or scheduling charges and transmission charges (if applicable). For Supplementary Bill on account of payments under Article 4.10, Rebate as applicable to Monthly Bills pursuant to Article 10.3.5 shall equally apply.

10.7.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 10.3.3.

## **ARTICLE 11: FORCE MAJEURE**

11

### 11.1 Definition of Force Majeure

A 'Force Majeure' (FM) would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly or partly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under the relevant Power Purchase Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices. An Affected Party means CESC or the HPD whose performance has been affected by an event of Force Majeure.

### 11.2 Categorization of Force Majeure Events:

#### 11.2.1 Natural Force Majeure Event

- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if it is declared/notified by the competent state/central authority/agency (as applicable), or verified to the satisfaction of Procurer;
- b) radioactive contamination or ionizing radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Project by the Affected Party or those employed or engaged by the Affected Party;
- c) the discovery of geological conditions, toxic contamination or archaeological remains on the Project land that could not reasonably have been expected to be discovered through an inspection of the Project land;  
or
- d) any event or circumstances of a nature analogous to any of the events as specified under Article 11.2.1 (a), 11.2.1 (b) and 11.2.1 (c).

#### 11.2.2 Non-Natural Force Majeure Event

- a) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action;
- b) nation/state-wide strike, lockout, boycotts or other industrial disputes which are not directly and solely attributable to the actions of the Affected Party, but does not include strike or labour unrest limited to the Affected

Party or its contractors;

- c) nationalization or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the HPD, as a result of which the HPD or its shareholders are deprived (wholly or partly) of their rights or entitlements under the Power Purchase Agreement. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Procurer or any other Government Authority as a result of any breach of any of the Applicable Laws or the Applicable Permits by the HPD or the HPD related parties;
- d) action of a Government Authority having Material Adverse Effect including but not limited to Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 12 of this Agreement; any unlawful or unauthorized or without jurisdiction revocation of, or delay in, or refusal, or failure to renew or grant without valid cause, any Permits of the HPD or any of the clearance, license, authorization to be obtained by the contractors to perform their respective obligations under the relevant PPA and/or the Project Documents; provided that such delay, modification, denial, refusal or revocation did not result from the HPD's or any contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such Permits or clearance, license, authorization, as the case may be.

### 11.3 Force Majeure Exclusions

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

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

- ii. Failure to comply with an Indian Law; or
- iii. Breach of, or default under this Agreement.

#### 11.4 Notification of Force Majeure Event

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

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

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

#### 11.5 Performance Excused

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

11.5.2 For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the generator shall be entitled for a day to day extension of the period provided for Financial Closure or Scheduled Commissioning Period or the PPA period, as the case may be.

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

11.5.4 Provided further that, nothing shall absolve the Affected Party from any

payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

11.6 No Liability for Other Losses

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

11.7 Resumption of Performance

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

11.8 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Article 11.2, the Affected Party shall continue to perform its obligations pursuant to this Agreement, in line with provisions of Article 11.5. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

11.9 Available Relief for a Force Majeure Event

Subject to this Article 11:

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

- b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 4.5;
- c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.
- d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.

#### 11.10 Termination Due to Force Majeure Event

##### 11.10.1 Termination due to Natural Force Majeure Event

- a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Natural Force Majeure Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a Natural Force Majeure Event is likely to continue beyond such 180 (one hundred and eighty) Day period or any extended period agreed in pursuance of Article 11.5 (Performance Excused); or that it is uneconomic or impractical to restore the affected Unit, then the Parties may mutually decide to terminate the PPA, and the termination shall take effect from the date on which such decision is taken.
- b) Without prejudice to the provisions of Article 11.10.1.(a) above, the Affected Party shall, after the expiry of the period of 180 (one hundred and eighty) Days or any other mutually extended period, be entitled to forthwith terminate the PPA in its sole discretion by issuing a notice to that effect.
- c) On termination of the PPA pursuant to Article 11.10.1(b):
  - i. no Termination Compensation shall be payable to the HPD.
  - ii. the HPD shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event.

##### 11.10.2 Termination due to Non-Natural Force Majeure Event

- a) Upon occurrence of a Non-Natural Force Majeure Event, the HPD shall, at its discretion, have the right to terminate the PPA forthwith after the completion of the period of 180 (one hundred and eighty) Days from the date of the Force Majeure Notice.
- b) On termination of the PPA pursuant to Article 11.10.2(a):
  - i. the HPD shall be eligible for undisputed payments under outstanding Monthly Bill(s) before the occurrence of Force Majeure Event.

## **ARTICLE 12: CHANGE IN LAW**

### 12.1 Definitions

In these rules, unless the context otherwise requires, -

12.1.1 In this Article 12, the term “Change in Law” shall refer to the occurrence of any of the following events pertaining to this project only after [Insert last date of bid submission] including any enactment or amendment or repeal of any law, leading to corresponding changes in the cost requiring change in tariff, and includes-

- i. a change in interpretation of any law by a competent court or
- ii. a change in any domestic tax, including duty, levy, cess, charge or surcharge by the Central Government, State Government or Union territory administration leading to corresponding changes in the cost,
- iii. a change in any condition of an approval or license obtained or to be obtained for purchase, supply or transmission of electricity, unless specifically excluded in the agreement for the purchase, supply or transmission of electricity, which results in any change in the cost,

but does not include-

- i Any change in any withholding tax on income or dividends distributed to the shareholders of the generating company or transmission licensee; or
- ii change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission.

12.1.2 The term “law” in this Article includes any Act, Ordinance, order, bye-law, rule, regulation, notification, for the time being in force, in the territory of India.

### 12.2 Relief for Change in Law

12.2.1 On the occurrence of a change in law, the monthly tariff or charges shall be adjusted and be recovered in accordance with the Change in Law Rules, 2021 notified by the Ministry of Power on 22.10.2021 (and subsequent amendments, if any) to compensate the affected party so as to restore such affected party to the same economic position as if such change in law had not occurred.

12.2.2 For the purposes of Article 12.2.1 above, the affected party, which intends to adjust and recover the costs due to change in law, shall give a 21 days’ prior notice to the other party about the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.

12.2.3 The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the

occurrence of the change in law or on the expiry of 21 days from the date of the notice referred to in Article 12.2.2 above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.

12.2.4 The impact of change in law to be adjusted and recovered may be computed as one time or monthly charges or per unit basis or a combination thereof and shall be recovered in the monthly bill as the part of tariff.

12.2.5 The amount of the impact of change in law to be adjusted and recovered, shall be calculated in accordance with the formula given here under to calculate adjustment in the monthly tariff due to impact of change in law, which is non-recurring in nature.

Let financial impact of change in law = P

Then the modification in the monthly tariff (MT) for compensating the financial impact is given by  $MT = (Y/X)$

Where X = estimated monthly electricity generation in kWh =  $(1/12) \times$  [Contracted Capacity of the power plant as per the Agreement (in MW) x CUF in % x 8760 hours x 10] &

$$Y = [(P \times Mr) \times (1 + Mr)^n] / [(1 + Mr)^n - 1]$$

Where -

n = No. of months over which the financial impact has to be paid (subject to maximum of 180 months in case of the non-recurring fixed amount but in case of recurring impact it will be till the impact persists);

Mr = monthly rate of interest =  $R/(12 \times 100)$  and

CUF = declared or revised CUF as indicated in the Agreement;

R = annual rate of interest on loan component (in %) as considered by the CERC in its order for Tariff Determination from Conventional or Renewable Energy Sources (Whichever is applicable) for the year in which the Project is commissioned. In absence of relevant orders of CERC for the concerned year, the interest rate shall be average interest rate plus 200 basis points above the average State Bank of India marginal cost of funds based leading rate, of one- year tenor, prevalent during the last available six months for such period.

Further, generating company or intermediary procurer or the trading licensee shall true up the MT annually based on actual generation of the year so as to ensure that the payment to the affected party is capped at the yearly annuity amount.

Any such change, shall be considered upto three digits after the decimal point, and remaining digits, if any, shall be ignored.

*For e.g. in case the change in tariff payable is calculated as Rs. 0.14678/kWh, it shall be modified as Rs. 0.146/kWh*

12.2.6 The recovery of the impacted amount, in case of the fixed amount shall be,

- a. In case of generation project, within a period of one-hundred eighty months; or
- b. In case of recurring impact, until the impact persists.

12.2.7 The Appropriate Commission shall verify the calculation and adjust the amount of the impact in the monthly tariff or charges within sixty days from the date of receipt of the relevant documents under Article 12.3.1.

12.2.8 After the adjustment of the amount of the impact in the monthly tariff or charges under Article 12.2.7, the HPD, as the case may be, shall adjust the monthly tariff or charges annually based on actual amount recovered, to ensure that the payment to the affected party is not more than the yearly annuity amount.

12.2.9 If the event of any decrease in the project cost by the HPD or any income to the HPD on account of any of the events as indicated above, HPD shall pass on the benefit of such reduction at a rate as provided in Article 12.2 to CESC. In the event of the HPD failing to comply with the above requirement, CESC shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1<sup>st</sup> Monthly Tariff Payment Bill, HPD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.

### **12.3 Notification of Change in Law**

12.3.1 The HPD shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in the monthly tariff or charges. For the purposes of Article 12.2.1 above, the affected party, which intends to adjust and recover the costs due to change in law, shall give a 21 days' prior notice to the other party including full details of the Change in Law events along with detailed computations of the proposed impact.

12.3.2 Any notice service pursuant to this Article 12.3.1, shall provide, amongst other things, precise details of the Change in Law and its effect on the Project Cost, supported by documentary evidences including Statutory Auditor Certificate to this effect so as to establish one to one correlation and its impact on the Project Cost.

12.3.3 'Project Cost' wherever applicable under this Article, shall mean the cost incurred by the HPD towards supply and services only for the Project concerned, upto the Actual Commissioning Date of the last part capacity or

Scheduled Commissioning Date or extended Scheduled Commissioning Date, whichever is earlier. For example, in case the Actual Commissioning Date of the last part capacity is 15.04.2022, Scheduled Commissioning Date is 15.03.2022 and extended Scheduled Commissioning Date is 01.04.2022, the Project Cost shall be determined as the cost incurred by the HPD upto 01.04.2022.

## **ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION**

### 13.1 HPD Event of Default

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

(i) the failure to commence supply of power to CESC up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of Contracted Capacity to CESC after Commercial Operation Date throughout the term of this Agreement, or

if

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

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

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

(ii) if (a) the HPD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the HPD, or (c) the HPD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the HPD will not be a HPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the HPD and expressly assumes all obligations of the HPD under this Agreement and is in a position to perform them; or

(iii) the HPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from CESC in this regard; or

- (iv) except where due to any CESC's failure to comply with its material obligations, the HPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the HPD within thirty (30) days of receipt of first notice in this regard given by CESC.
- (v) change in shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or
- (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the HPD.
- (vii) except where due to any CESC's failure to comply with its material obligations, the HPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the HPD within thirty (30) days of receipt of first notice in this regard given by CESC.
- (viii) Revoking of connectivity of the HPD on account of non-compliance by the HPD.

## 13.2 CESC Event of Default

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

- (i) CESC fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the HPD is unable to recover the amount outstanding to the HPD through the Letter of Credit,
- (ii) CESC repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the HPD in this regard; or
- (iii) except where due to any HPD's failure to comply with its obligations, CESC is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by CESC within sixty (60) days of receipt of notice in this regard from the HPD to CESC; or if
  - CESC becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or
  - any winding up or bankruptcy or insolvency order is passed against CESC, or
  - CESC goes into liquidation or dissolution or a receiver or any

similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that it shall not constitute a CESC Event of Default, where such dissolution or liquidation of Buyer or CESC is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to CESC and expressly assumes all obligations of CESC and is in a position to perform them; or;

(iv) Occurrence of any other event which is specified in this Agreement to be a material breach or default of CESC.

### 13.3 Procedure for cases of HPD Event of Default

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

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

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

13.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the HPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, CESC may terminate this Agreement by giving a written Termination Notice of sixty (60) days to the HPD.

13.3.5 Subject to the terms of this Agreement, upon occurrence of a HPD Event of Default under this Agreement, the HPD shall be liable to pay to CESC, liquidated damages, as provided in Article 4.6 of the PPA for failure to commission within stipulated time and Article 4.4.1 for failure to supply power in terms of the PPA. For other cases, the HPD shall be liable pay to CESC, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity. CESC shall have the right to recover the said damages by way of forfeiture of bank guarantee/, if any, without prejudice to resorting to any other legal course or remedy. In addition to the levy of damages as aforesaid, the lenders in concurrence with the CESC,

may exercise their rights, if any, under Financing Agreements, to seek substitution of the HPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the HPD and performing the obligations of the HPD. However, in the event the lenders are unable to substitute the defaulting HPD within the stipulated period, CESC may terminate the PPA

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

13.3.7 In the event the lenders are unable to substitute the defaulting HPD within the stipulated period, CESC may terminate the PPA. may acquire the Project assets for an amount equivalent to 90% of the debt due, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

#### 13.4 Procedure for cases of CESC Event of Default

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

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

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

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or CESC Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, CESC under intimation to the HPD shall, subject consent of the HPD, novate its part of the PPA to any third party, including its Affiliates within the stipulated period. In the event the aforesaid novation is not acceptable to the HPD, or if no offer of novation is made by CESC within the stipulated period, then the HPD may terminate the PPA and at its discretion require CESC to either (i) takeover the Project

assets by making a payment of the termination compensation equivalent to the amount of the Debt Due and 110% (one hundred and ten per cent) of the Adjusted Equity, less Insurance Cover, if any, or, (ii) pay to the HPD, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the HPD.

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

## **ARTICLE 14: LIABILITY AND INDEMNIFICATION**

### 14.1 Indemnity

14.1.1 The HPD shall indemnify, defend and hold CESC harmless against:

- a) any and all third party claims against CESC for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the HPD of any of its obligations under this Agreement or due to the HPD's willful misconduct, gross negligence or fraudulent behavior or violations of Applicable Law; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by CESC from third party claims arising by reason of a breach by the HPD of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the HPD, for which specific remedies have been provided for under this Agreement).

14.1.2 CESC shall indemnify, defend and hold the HPD harmless against:

- a) any and all third-party claims against the HPD, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by CESC of any of their obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the HPD from third party claims arising by reason of a breach by CESC of any of its obligations.

### 14.2 Procedure for claiming Indemnity

#### 14.2.1 Third party claims

- a) Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 14.1.1(a) or 14.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 14.1.1(a) or 14.1.2(a) in respect of which it is entitled to be indemnified.

Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:

- i) the Parties choose to refer the dispute in accordance with Article 16.3.2; and
- ii) the claim amount is not required to be paid/ deposited to such third party pending the resolution of the Dispute,

the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.

- b) The Indemnified Party may contest the claim by referring to the Appropriate Commission for which it is entitled to be Indemnified under Article 14.1.1(a) or 14.1.2(a) and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified party. However, such Indemnified Party shall not settle or compromise such claim without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.
- c) An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

#### 14.3 Indemnifiable Losses

14.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of nonpayment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

#### 14.4 Limitation on Liability

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

operation of law or otherwise.

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

#### 14.5 CESC's Liability

14.5.1 The payment of money becoming due from the CESC to the HPD under this Agreement for supply of Power to the extent of the Contracted Capacity will be as per the recourse under the Payment Security Mechanism provided in the PPA

14.5.2 The parties agree that in respect of the obligations other than the tariff payment obligation specifically mentioned herein above, in the event the HPD has any claim against the CESC in regard to the performance of any obligation of the CESC under this Agreement or enforcement of any right of the HPD against the CESC under this Agreement.

#### 14.6 Duty to Mitigate

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

## **ARTICLE 15: ASSIGNMENTS AND CHARGES**

### 15.1 Assignments

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party, except to the Project Lenders or Lender's Representative as security for their debt under the Financing Agreements, other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by CESC subject to the compliance of provisions contained in this Agreement and more specifically to the provisions of Article 4.1.1 of this Agreement. In no case, such assignment shall be permissible prior to the declaration of COD.

Provided that, CESC shall permit assignment of any of HPD's rights and obligations under this Agreement in favor of the lenders to the HPD, if required under the Financing Agreements.

Provided that, consent of HPD shall not be withheld if CESC seeks to transfer to any transferee all of its rights and obligations under this Agreement.

The enforcement of the rights and obligation between the HPD and the CESC provided in this Agreement shall not be treated as an assignment but an enforcement of the terms agreed under this Agreement.

Provided further that any successor(s) or permitted assign(s) 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. An amount of Rs. 5 Lakh per Transaction as Facilitation Fee (non- refundable) shall be deposited by the HPD to CESC. Provided further that, such consent shall not be withheld by the HPD if CESC seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a New Entity, an amount of Rs. 10 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the HPD to CESC.

### 15.2 Permitted Charges

15.2.1 HPD shall not create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement, other than as set forth in Article 15.1 and the Guidelines.

## **ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION**

### 16.1 Governing Law

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

### 16.2 Amicable Settlement and Dispute Resolution

#### 16.2.1 Amicable Settlement

- i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (“Dispute”) by giving a written notice (Dispute Notice) to the other Party, which shall contain:
  - (a) a description of the Dispute;
  - (b) the grounds for such Dispute; and
  - (c) all written material in support of its claim.
- ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 16.2.1(i), furnish:
  - (a) counter-claim and defences, if any, regarding the Dispute; and
  - (b) all written material in support of its defences and counter-claim.
- iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16
  - (a) if the other Party does not furnish any counter claim or defence under Article 16
  - (b) or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1.
  - (c) the Dispute shall be referred for dispute resolution in accordance with Article 16.3

### 16.3 Dispute Resolution

#### 16.3.1 Dispute Resolution by the Appropriate Commission

- i) Where any Dispute or differences arises in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well as claim made by any Party for any change in or determination of the Tariff or any matter

related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.

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

16.3.2 Not used.

#### 16.4 Parties to Perform Obligations

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

## **ARTICLE 17: MISCELLANEOUS PROVISIONS**

### 17.1 Amendment

17.1.1 This Agreement may only be amended or supplemented by a written agreement between the Parties.

### 17.2 Third Party Beneficiaries

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

### 17.3 Waiver

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

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

### 17.4 Confidentiality

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

- a) to their professional advisors;
- b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
- c) disclosures required under Law, without the prior written consent of the other Party.

### 17.5 Severability

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

### 17.6 Notices

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

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

Address :

Attention :

Email :

Fax. No. :

Telephone No.:

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

Address :

Attention :

Email :

Fax. No. :

Telephone No.:

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

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

## 17.7 Language

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

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

## 17.8 Restriction of Shareholders/Owners' Liability

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

#### 17.9 Taxes and Duties

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

17.9.2 CESC shall be indemnified and held harmless by the HPD against any claims that may be made against CESC in relation to the matters set out in Article 17.9.1.

17.9.3 CESC shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the HPD by CESC on behalf of HPD.

#### 17.10 Independent Entity

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

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

#### 17.11 Compliance with Law

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

#### 17.12 Not Used

17.13 Breach of Obligations

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

17.14 Order of priority in application

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

- i. applicable Law, rules and regulations framed thereunder;
- ii. the Grid Code; and
- iii. the terms and conditions of this Agreement;

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

For and on behalf of CESC

For and on behalf of [HPD]

Name, Designation and Address  
Signature with seal

Name, Designation and Address  
Signature with seal

Witness:

Witness:

1.

1.

2.

2.

SCHEDULE 1: FORMAT OF THE PERFORMANCE BANK GUARANTEE

(to be submitted separately for each Project)

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

Reference: .....

Bank Guarantee No.: .....

Date: .....

In consideration of the \_\_\_\_\_ [Insert name of the Bidder] (hereinafter referred to as 'selected Hybrid Power Developer') submitting the response to RfS inter alia for \_\_\_\_\_ [Insert title of the RfS] of the capacity of \_\_\_\_\_ MW, at \_\_\_\_\_ [Insert name of the place], for supply of power there from on long term basis, in response to the RfS dated \_\_\_\_\_ issued by CESC Limited (hereinafter referred to as CESC) and CESC considering such response to the RfS of \_\_\_\_\_ [Insert name of the Bidder] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Project of the Hybrid Power Developer and issuing Letter of Award No \_\_\_\_\_ to \_\_\_\_\_ (Insert Name of selected Hybrid Power Developer) as per terms of RfS and the same having been accepted by the selected HPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Hybrid Power Developer or a Project Company, M/s \_\_\_\_\_ a Special Purpose Vehicle (SPV) formed for this purpose], if applicable.

As per the terms of the RfS, the [Insert name & address of Bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to CESC at [Insert Name of the Place from the address of the CESC] forthwith on demand in writing from CESC or any Officer authorized by it in this behalf, any amount up to and not exceeding Indian Rupees [Total Value] only, on behalf of M/s \_\_\_\_\_ [Insert name of the selected Hybrid Power Developer/Project Company]

This guarantee shall be valid and binding on this Bank up to and including \_\_\_\_\_ and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to INR \_\_\_\_\_ (Indian Rupees \_\_\_\_\_ only).

Our Guarantee shall remain in force until \_\_\_\_\_. CESC shall be entitled to invoke this Guarantee till \_\_\_\_\_.

The Guarantor Bank hereby agrees and acknowledges that CESC shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit.

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

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by \_\_\_\_\_ [Insert name of the selected Hybrid Power Developer/Project Company as applicable] and/or any other person. The Guarantor Bank shall not require CESC to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against CESC in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Kolkata shall have exclusive jurisdiction.

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

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

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly CESC shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the selected Hybrid Power Developer/Project Company, to make any claim against or any demand on the selected Hybrid Power Developer/Project Company or to give any notice to the selected Hybrid Power Developer/Project Company or to enforce any security held by CESC or to exercise, levy or enforce any distress, diligence or other process against the selected Hybrid Power Developer / Project Company .

This BANK GUARANTEE shall be effective only when the Bank Guarantee issuance message is transmitted by the issuing Bank through SFMS to \_\_\_\_\_ (Name of CESC's Bank) and a confirmation in this regard is received by CESC.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to INR \_\_\_\_\_ (Indian Rupees only) and it shall remain in force until \_\_\_\_\_ (Provide for two additional months after the period of guarantee for invoking the process of encashment). We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if CESC

serves upon us a written claim or demand.

Signature:

Name:

Power of Attorney No.

For

[Insert Name and Address of the Bank]

Contact Details of the Bank:

E-mail ID of the bank:

Banker's Stamp and Full Address.

Dated this day of , 20

Witness:

1. ....

Signature

Name and Address

2. ....

Signature

Name and Address

Notes:

- 1) The Stamp Paper should be in the name of the Executing Bank and of appropriate value.
- 2) The Performance Bank Guarantee shall be executed by any of the Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of bank guarantee. Bank guarantee issued by foreign branch of a Scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State bank of India (SBI).

**SCHEDULE 2: Not Used**

### SCHEDULE 3: COMMISSIONING PROCEDURE

- 1) "Project" or "Hybrid Power Project" or "Power Project" – shall mean the Solar PV and Wind Power generation facilities where the rated power capacity of one resource (wind or solar PV) is at least 33% of the total Contracted Capacity, having a single point of injection into the grid at Interconnection/Delivery/Metering Point, or in case of sharing of transmission lines, by separate injection at Pooling Point and having control systems and metering. The HPDs shall demonstrate the rated capacities of each component (Solar, Wind) separately at the input side of the Sub-Pooling Substation.
- 2) **Connection:** A Project shall be deemed to be connected to the grid when the transmission lines originating from the Project physically meet the common bus bar of the incoming feeder of CTU substation. The line may or may not be charged at this stage.
- 3) **Synchronization:** The project (Solar-wind- equipment) shall be deemed to be synchronized to the grid when the transmission line and the incoming feeder at the CTU Substation have been charged and power flows from the Solar panel through Inverter, transformer & into the grid, power flows from the Wind turbine to the grid. The same shall be reflected through a meter reading/SCADA at the CTU SS /RLDC.
  - a. The Project configuration shall be allowed as submitted by HPD to CESC as per RfS condition:

Sr. No.	Solar PV Project Capacity committed /submitted /Declared to CESC.	Minimum Rated Inverter Capacity* $\sum_{i=1}^{i=n} P_i \times Q_i$ MW	Wind capacity as committed/ submitted/ Declared to CESC	Rated WTG Capacity** $\sum_{i=1}^{i=n} P_i \times Q_i$ MW	Maximum AC Capacity Limit at Delivery point (contracted capacity)
1	___ MW	___ MW	___ MW	___ MW	___ MW

\*In case the rated inverter capacity is mentioned in kVA, the IEC test certificate declaring the power factor of the Inverter/PCU at rated power has to be submitted and the power factor shall be multiplied by the kVA rating to calculate the rated capacity of the inverter in kW. For a Solar comprising 'P' no. of Inverters, each 'Pith' Inverter having a unique rating of 'Qi' MW, the total installed capacity shall be equal to

$$\sum_{i=1}^{i=n} P_i \times Q_i \text{ MW,}$$

which shall be greater than or equal to the committed capacity of solar in the project configuration.

\*\*For a Wind project comprising 'n' no. of wind turbines, each 'Nith' turbine having a unique rating of 'Mi' MW, the total installed capacity shall be equal to

$$\sum_{i=1}^{i=n} Ni \times Mi \text{ MW,}$$

which shall be greater than or equal to the committed capacity of wind in the project configuration. *(HPDs may configure the project with different turbine/Inverter capacity, subject to the above upper limit of injection at the Delivery point.)*

The HPD shall be required to demonstrate compliances with the "Technical Requirements for Grid Connected Hybrid power project" as mentioned in the RfS and Guidelines.

*Higher DC capacity arrays can also be allowed, subject to the condition that the AC capacity limit as mentioned in (i) above for scheduling at the Delivery Point as per Article 4.4 "Right to Contracted Capacity & Energy" of the PPA is complied with.*

*For commissioning of the Project, cumulative capacity of DC arrays and cumulative capacity of the inverters & cumulative capacity of interconnected Power Transformer installed shall be considered. In case of part commissioning of the Project, it shall be required to have the DC Arrays Capacity, capacity of inverters & interconnected Power Transformer capacity be installed not less than the proposed part commissioning capacity.*

*If generation at any time block found exceeded the maximum permissible AC capacity at the delivery point, the excess generation during that period may not be considered under PPA.*

#### 4) **Commissioning Capacity:**

The Project will be considered as commissioned if all equipment as per rated project capacity has been installed and energy has flown into grid, in line with the Commissioning procedures. Commissioning Capacity will be declared on contracted capacity with respect to the capacity of individual summation of Solar inverter capacities and summation of wind turbines installed as per the declared Project configuration. The commissioning capacity formulae is given hereunder;

Summation of installed capacities of Solar + Wind (A)\* =

$$\sum_{i=1}^{i=n} Pi \times Qi \text{ MW} \quad + \quad \sum_{i=1}^{i=n} Ni \times Mi \text{ MW}$$

\*A shall be satisfied solar-wind hybrid project condition

'P' no. of Inverters, each 'Pith' Inverter having a unique rating of 'Qi' MW

'n' no. of wind turbines, each 'Ni th' turbine having a unique rating of 'Mi' MW

Declared project capacities (B) = Declared solar capacity + Declared wind capacity

Commissioning Capacity = A x (Contracted capacity/B)

5) **Project Commissioning:**

The Project should satisfy the Wind Solar Hybrid Power Project conditions and the Project will be considered as commissioned if all equipment as per rated project capacity has been installed and energy has flown into grid, the commissioning capacity shall be calculated as per the above Recital 4. The date of Commissioning of the Project shall be indicated in the Commissioning Certificate issued for the Project. Commissioning certificates shall be issued by the State Nodal Agency or CESC after successful commissioning.

6) **Part Commissioning:**

The minimum capacity for acceptance of first part commissioning at one project site shall be as specified in the respective RfS/ PPA document. The HPD shall be allowed to propose Hybrid capacities as per MNRE guidelines. The proposed solar and wind capacities shall be installed by the developer before final commissioning. If any shortfall found in the commissioning of project configuration, such PPA capacities shall be reduced on pro-rata basis.

### **Commissioning Procedure**

- 1) Hybrid Power Developer (HPD) shall give to CTU/PGCIL, State Nodal Agency (SNA), Concerned RLDC and CESC at least thirty (30) days' final written notice, of the date on which it intends to synchronize the Project to the Grid System. The HPD shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the commissioning schedule of the Project.
- 2) HPD shall ensure that all the equipment Solar panels, Inverters, transformers Wind Turbine Generators (WTGs) have been installed and completed in all aspects and the Project is synchronized to the grid in order for it to be declared as being commissioned. Such certificate shall be provided by HPD with Authorized Signatory of Company.
- 3) Part Commissioning of Project would be considered subject to the condition specified in the respective RfS and PPA documents.
- 4) Early Commissioning of a Project prior to the SCD is allowed. In order to facilitate this, HPDs shall inform the concerned agencies and CESC well in advance regarding the date it intends to synchronize the Power Project to the Grid System.
- 5) Prior to being declared as being commissioned, the Project shall be inspected by the CEIG/CEA (as applicable) and all the approval for all the equipment of solar, wind hybrid project including transmission lines to be ensured. The approval such as the CEA under Section 68 and Section 164 of the Electricity Act, shall be obtained by the HPD prior to be declared as fit for synchronization of the Project.
- 6) The approval of CEA under Section 177 Technical standard for connectivity to the Grid regulations, 2007 on 21.02.2007 & amendment of these regulations notified on 15.10.2013 and 06.02.2019 and any of its amendment from time to time to be obtained by the HPD.
- 7) In line with CERC Order No. 1/14/2015-Reg.Aff. (FSDS-Proced.)/CERC dated 03.03.2017, HPD shall provide data telemetry with combination of solar component and for wind at the WTG level to the concerned RLDC. Line of confirmation received from RLDC/CTU with regards to above is required.
- 8) The Commissioning of the Project shall be declared only upon synchronization of minimum cumulative capacity required to declare part commissioning of the Project under the RfS.
- 9) The HPD shall provide the SCADA login details to CESC for online real time data analysis and monitoring of the Project. SCADA work shall be completed in all respects so as the WMS data, SMU data, Inverter, WTGs data, , ABT / MFM meter data at Substation end should be available. So that CESC shall validate the data. If the SCADA is not IOT based, then the required data shall be provided by HPD to CESC like WMS irradiation, each Inverter generation data, each WTG generation data, substation MFM data, etc.,

- I. All the equipment installed at site along with (AC and DC as applicable) SLD SMU installed details (if applicable) along with string connected details to be provided to CESC.
  - II. By use of SCADA, CESC may analyse the generation data per string, inverter against the WMS irradiation data. Also, each WTGs data shall be monitored to verify the overall generation at MFM/ABT data.
  - III. For central inverters each inverter shall charge with concerned RLDC. Line of confirmation received from RLDC with regards to each inverter (with S.no) charging is required.
  - IV. For String inverters each IDT level (solar block) shall charge with concerned RLDC. line of confirmation received from RLDC with regards to each IDT / solar block (S.no of IDT) is required.
  - V. Each WTG shall charge with concerned RLDC. Line of confirmation received from RLDC/CTU with regards to each WTG of charging is required.
- 10) No personnel shall be deputed from CESC for physical verification/ witnessing of the commissioning.
- 11) Finally, Project may be declared commissioned subject to HPD fulfilling the points listed below and the Commissioning Certificate, in line with Annexure- II, shall be issued by CESC.

### **Documents to be submitted to CESC Prior to Commissioning**

Based on the above procedure, the following documents shall be submitted to CESC subsequent to commissioning of the Project:

- a. Synchronization certificate as per Annexure-I of Commissioning Procedure.
- b. Board Resolution for the nomination of HPD's representative pertaining to commissioning
- c. Clearance from Financial Closure Committee, if any. HPD shall submit the documentary evidence of possession/right to use of 100% of the land identified for the Project till revised Scheduled Commissioning Date of the Project. However, in case of part-commissioning of the project, land corresponding to the part capacity being commissioned shall be required to be demonstrated by HPD prior to declaration of commissioning of the said part capacity.
- d. Affidavit from the authorized signatory of the HPD, stating that the solar PV modules, inverters, inverter transformer, Power transformer, WTG, , panels, substation equipment, transmissions lines are installed in the said Project have been procured from a manufacturer listed MNRE (if any). Also, the WTGs have been procured from a manufacturer listed in the RLMM by MNRE, Solar Modules have been procured from a manufacturer listed in the ALMM by MNRE as applicable/specified in the RfS.
- e. Plant Layout along with the SLD, clearly mentioning the details of solar PV modules, , inverters, inverter transformer, Power transformer, WTG along with all equipment size, capacity, serial numbers, their locations, feeder details, transmission line details 230/220/33kV Pooling Sub Station and Grid Substation.
- f. Reading of all the inverters (instantaneous and total generation) along with its serial number of a particular date.
- g. Reading of ESS inverters and transformers along with its serial number of a particular date.
- h. CEIG/CEA Certification of all equipment along with serial No. of all equipment like solar panel capacity, inverters, Transformers, panels, WTGs, etc.,
- i. CEIG/CEA approval for all Transmission Line(s) feeder (s), substations and CTU bays etc.,
- j. Copy of Transmission Service Agreement along with Permission for LTA/MTOA and connectivity.
- k. Snap shots of the plant from various angles, including but not limited to, solar panels, Inverters, transformers, panels, WTGs, switchyards\ switchgears, Power Transformers, substation bays, CTU bays and SCADA. (screenshots with time stamped WMS data and Energy generation data), metering

(Main, Check and Standby Meters as applicable) at delivery point etc.)

- l. Relevant documents from SLDC/RLDC acknowledging successful data communication between plant end and SLDC/RLDC. RLDC Registration certificate and Charging code/Permission for charging the generating station issued by respective RLDC/SLDC etc.
- m. Letter from State Nodal Agency (SNA) as applicable to the state policy regarding approval of WTGs Locations, solar plot as applicable shall be provided.
- n. Confirmation of compliance to all requirements of grid by concerned RLDC.
- o. Joint meter reading duly signed by representative of HPD and CTU/PGCIL.
- p. An undertaking /synchronization certificate stating that the information provided for commissioning of the Project are complete in all respects and true by the HPD to be provided.
- q. Based on the analysis by CESC with data available on SCADA, CESC may physically verify the project post commissioning, if required.

**Physical verification, if required, will be as stated in 1(P) above or based on the above documents, the project shall be acknowledged as having been commissioned and Commissioning Certificate shall be issued by CESC or the nodal agency of the state where project is located, as applicable. Issuance of COD Certificate will enable scheduling of the Project at the earliest. However, CESC will have full right to revoke the commissioning certificate if any discrepancy is found in the data provided by the HPD.**

Note:

- I. The HPDs may initiate synchronization of individual inverters with the grid, as per their project completion schedule, under intimation to RLDC, SLDC, CESC, SNA etc., The Commissioning of the Project shall be declared only upon synchronization of minimum cumulative capacity required to declare part commissioning of the Project under the RfS.
- II. The HPDs may initiate synchronization of individual WTG with the grid, as per their project completion schedule, under intimation to RLDC, SLDC, CESC, SNA etc., The Commissioning of the Project shall be declared only upon synchronization of minimum cumulative capacity required to declare part commissioning of the Project under the RfS.
- III. It is re-iterated that the date of project commissioning shall be as per the dates indicated on the Commissioning Certificate issued by the CESC. Energy accounting of the Project shall commence from the date based on the declaration of COD of the project in line with the provisions of the RfS and

PPA.

- IV. Hybrid Power Developers would be required to plan commissioning at least ten days ahead of the last permissible date for commissioning in accordance with MNRE guidelines/RfS. If not done so, whole responsibility for not meeting the deadline for commissioning rests solely with the HPD.
- V. Subsequent to commissioning, the HPD shall provide the SCADA login details to CESC for online real time data monitoring of the Project. The HPD may be required to push the required plant related data to CESC designated server in xml/json formats or any other format as required.

## Synchronization Declaration

(To be issued by HPD)

It is certified that \_\_\_\_\_MW (Capacity) of Hybrid Power Project of M/s. \_\_\_\_\_, located at \_\_\_\_\_ Village \_\_\_\_\_ Tehsil/Taluka, \_\_\_\_\_ District was synchronized with the grid on \_\_\_\_\_ (Date) supply of power into the grid from the Project connected on \_\_\_\_\_ (Date). The hybrid project consists of \_\_\_\_\_ MW (capacity) of Solar and \_\_\_\_\_ MW (capacity) of Wind.

Details of the Solar and Wind components are as follows:

S. No.	Description	Details
<b>A</b>	<b>Contracted capacity</b>	
1.	Hybrid project configuration	
2.	Solar capacity	
3.	Wind capacity	
<b>B.</b>	<b>Proposed capacity for commissioning (MW)</b>	
1.	Solar capacity	
2.	Wind capacity	
<b>C.</b>	<b>Capacity already commissioned (MW)</b>	
1.	Solar capacity	
2.	Wind capacity	
<b>D.</b>	<b>Technology used</b>	
1.	(Mono/Multi Crystalline/thin film/ Others; please specify along with capacity of each type)	
2.	Type of Tilt (Fixed Tilt/Seasonal Tilt/Tracking)	
3.	Rating of each module (Wp)	
4.	Number of modules installed of each type (along with Serial Nos. of all the modules installed)	
5.	Make of Module(s) installed of each type (including name of the Supplier and country of origin)	
6.	Number of PCUs/Inverters installed (along with Serial Nos. of all the PCUs/Inverters installed)	
7.	Make of the PCUs/Inverters (including name of supplier and country of origin)	
8.	Rating of PCUs / Inverters	
<b>E.</b>	<b>Date of installation of full capacity (as per capacity</b>	

	<b>proposed to be commissioned)</b>	
1.	PV arrays	
2	PCUs/Inverters Date wise commissioned details along with capacity	Enclosed in Annexure-1
3.	Inverter transformer and Power transformers	
4.	WTG's date wise commissioned details along with capacity	Enclosed in Annexure-2
<b>F.</b>	<b>Capacity of the Project (MW)</b>	

Note: Self-declaration of synchronization is required to be submitted along with copy of communication received from CTU/RLDC for charging of each element i.e. Modules, Inverters, Transformers, 220 kV and above Bay, EHV Line, Pooling Substation and 33kV Bay and WTGs (If applicable).

Name and signature of Authorized Signatory

### **Inverters synchronized/commissioned Details**

Inverters

No. of Inverters: \_\_\_\_\_

Rating of each Inverter: \_\_\_\_\_ MW.

Cumulative Capacities of Inverter Synchronized: \_\_\_\_\_ MW.

Sl. No.	Inverter S. No.	Rated Capacity of Inverter (MW)	Date of Synchronization with Grid
	<b>Total (MW)</b>		

Name and signature of Authorized Signatory

### WTGs synchronized/commissioned Details

No. of WTG machines: \_\_\_\_\_

Rating of each WTG: \_\_\_\_\_ MW.

Cumulative Capacities of WTGs Synchronized: \_\_\_\_\_MW.

Sl. No.	WTG No.	Rated Capacity of WTG	WTG Location (Village, Taluk, Dist.)	Feeder No	Date of Synchronization with Grid
<b>Total (MW)</b>					

Name and signature of Authorized Signatory

Annexure-3

Not Used

Sample Part Commissioning/Full Commissioning Certificate of Hybrid Power  
Project (To be issued by the CESC on its letterhead)

Ref:

Dated:

This is to certify that M/s \_\_\_\_\_ (insert name of the HPD) has successfully commissioned \_\_\_\_\_ (insert installed Project capacity) MW ISTS-connected Hybrid Power Project [Project ID: \_\_\_\_\_] consisting of \_\_\_\_\_ MW (Insert Solar capacity) Solar capacity, \_\_\_\_\_ MW Wind capacity at \_\_\_\_\_ Villages in \_\_\_\_\_ District in the State of \_\_\_\_\_, under the RfS for Setting up of \_\_\_\_\_ MW ISTS-connected Hybrid Power Projects issued by CESC. Commercial Operation Date (COD) of \_\_\_\_\_ MW ISTS-Connected Hybrid Power Project is to be considered from 00:00 hrs. of \_\_\_\_\_.

With the present part-commissioning of \_\_\_\_\_ MW, the cumulative capacity stands at \_\_\_\_\_ MW against the awarded capacity of \_\_\_\_\_ MW.

This certificate has been issued on the basis of submission of complete set of documents by M/s \_\_\_\_\_ on and confirmation of successful data communication established with all \_\_\_\_\_ nos. of WTGs and \_\_\_\_\_ Nos. of Inverter from RLDC vide email dated \_\_\_\_\_.

(\_\_\_\_\_)

Name and signature of the Authorized signatory of CESC

Enclosure: Annexure-4

**Inverter details**

Sr. No.	Inverter Location	Inverter capacity and rating	IDT Transformer s. no. and rating	Village/State	Commissioned	
					Date	Time
1						
2						
3						

**WTG**

Sr. No.	WTG Location ID	Location ID as per RLDC	SN A ID	33 kV Feeder No.	Village	Taluka	District	State	Coordinates	
									X Coordinate	Y Coordinate
1										
2										
3										

#### **SCHEDULE-4: TECHNICAL PARAMETERS OF PV MODULE AND VARIOUS OTHER COMPONENTS FOR USE IN GRID CONNECTED SOLAR POWER PLANTS**

The Project selected under the RfS shall strictly adhere to the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, as amended vide the Central Electricity Authority (Technical Standards for Connectivity to the Grid) (Amendment) Regulations, 2019, and subsequent amendments and clarifications.

All components of the PV plant shall be in accordance with technical specifications given in relevant IS/ IEC Standards. The design and commissioning also shall be as per latest IS/ IEC standards. The following are some of the technical measures required to ensure quality of the major components used in grid connected solar power Projects.

##### **1. SPV MODULES**

- a. The SPV modules used in the grid solar power Projects must qualify to the latest edition of any of the following IEC PV module qualification test or equivalent BIS standards.
  - Crystalline Silicon Solar Cell Modules IEC 61215
  - Thin Film Modules IEC 61646
  - Concentrator PV modules IEC 62108
- b. In addition, SPV modules must qualify to IEC 61730 for safety qualification testing at 1000 V DC or higher. The modules to be used in a highly corrosive atmosphere throughout their lifetime must qualify to IEC 61701.

##### **2. POWER CONDITIONERS/ INVERTERS**

The Power Conditioners/Inverters of the SPV power plants must conform to the latest edition of IEC/ equivalent Indian Standards as specified below:

Efficiency Measurements	IEC 61683
Environmental Testing	IEC 60068-2/ IEC 62093
Electromagnetic Compatibility (EMC)	IEC 61000-6-2, IEC 61000-6-4 & other relevant parts of IEC 61000
Electrical Safety	IEC 62103/ 62109-1&2
Anti-Islanding Protection	IEEE1547/IEC 62116/ UL1741 or equivalent BIS Standards

##### **3. OTHER SUB-SYSTEMS/ COMPONENTS**

Other subsystems/ components used in the SPV Power Plants (Cables, Connectors, Junction Boxes, Surge Protection Devices etc.) must also conform to the relevant international/national Standards for Electrical Safety besides that

for Quality required for ensuring Expected Service Life and Weather Resistance. It is recommended that the Cables of 600-1800 Volts DC for outdoor installations should comply with the BS EN 50618:2014/2pfg 1169/08.2007 for service life expectancy of 25 years.

#### 4. AUTHORIZED TEST CENTRES

The PV modules/ Power Conditioners deployed in the Power Plants must have valid test certificates for their qualification as per above specified IEC/ BIS Standards by one of the NABL Accredited Test Centres in India. In case of module types like Thin Film and CPV / equipment for which such Test facilities may not exist in India at present, test certificates from reputed ILAC Member body accredited Labs abroad will be acceptable.

#### 5. WARRANTY

- a. PV modules used in grid connected solar power plants must be warranted for peak output wattage, which should not be less than 90% at the end of 10 years and 80% at the end of 25 years.
- b. The modules shall be warranted for at least 10 years for failures due to material defects and workmanship.
- c. The mechanical structures, electrical works and overall workmanship of the grid solar power plants must be warranted for a minimum of 5 years.
- d. The Inverters/ PCUs installed in the solar power plant must have a warranty for 5 years.

#### 6. IDENTIFICATION AND TRACEABILITY

Each PV module used in any solar power Project must use a RF identification tag. The following information must be mentioned in the RFID used on each module (This can be inside or outside the laminate, but must be able to withstand harsh environmental conditions):

- i Name of the manufacturer of PV Module
- ii Name of the Manufacturer of Solar cells
- iii Month and year of the manufacture (separately for solar cells and module)
- iv Country of origin (separately for solar cells and module)
- v I-V curve for the module at Standard Test Condition (1000 W/m<sup>2</sup>, AM 1.5, 250C)
- vi Wattage, I<sub>m</sub>, V<sub>m</sub> and FF for the module
- vii Unique Serial No. and Model No. of the module
  - a. Date and year of obtaining IEC PV module qualification certificate
  - b. Name of the test lab issuing IEC certificate

- c. Other relevant information on traceability of solar cells and module as per ISO 9000

Site owners would be required to maintain accessibility to the list of Module IDs along with the above parametric data for each module.

#### 7. PERFORMANCE MONITORING

All grid solar PV power projects must install necessary equipment to continuously measure solar radiation, ambient temperature, wind speed and other weather parameters and simultaneously measure the generation of DC power as well as AC power generated from the plant. They will be required to submit this data to Procurer and MNRE or any other designated agency on line and/or through a report on regular basis every month for the entire duration of PPA. In this regard they shall mandatorily also grant access to Procurer and MNRE or any other designated agency to the remote monitoring portal of the power plants on a 24x7 basis.

#### 8. SAFE DISPOSAL OF SOLAR PV MODULES

The developers will comply with the requirements under Hazardous & other Waste (Management and Transboundary Movement) Rules, 2016, as amended from time to time, as applicable. They will also ensure that all Solar PV modules and ESS components, if any, from their plant after their ‘end of life’ (when they become defective/ non-operational/ nonrepairable) are disposed of in accordance with the “e-waste (Management and Handling) Rules, 2011” notified by the Government and as revised and amended from time to time.

#### 9. CAPACITY OF SOLAR PV PROJECTS

- i) The rated capacity to be installed shall be considered as minimum DC Arrays Capacity and maximum AC Capacity at the delivery point as described below:

Sr. No.	Solar PV Project Capacity Bid	Minimum DC Arrays Capacity to be installed	Minimum Rated Inverter Capacity	Maximum AC Capacity Limit at Delivery point

- ii) Higher DC capacity arrays so as to achieve AC capacity limit as mentioned above for scheduling at the delivery point in compliance to Article 4.4 “Right to Contracted Capacity & Energy” of the PPA is allowed.
- iii) For commissioning of the Project, capacity of DC arrays installed shall be considered in multiple of 10 MW per unit. In case of part commissioning of 20 MW Project, each unit shall be required to have minimum 10 MW DC Arrays Capacity be installed.
- iv) Provisions of Article 4.6.1 of the PPA with SPD shall apply for the capacity not

commissioned by the scheduled commissioning date.

- v) If generation at any time exceeds the maximum permissible AC capacity at delivery point, the excess generation during that period shall not be considered under PPA.